

Neutral Citation Number: [2024] EWFC 265 (B)

Case No: SE24C50027

IN THE FAMILY COURT AT SHEFFIELD

Sheffield Designated Family Court
48 West Bar,
SHEFFIELD
S3 8PH

Date: 20th September 2024

Before :

H.H. Judge Marson

Between :

SHEFFIELD CITY COUNCIL

Applicant

- and -

(1) THE MOTHER

(2) THE FATHER

(3) THE CHILD

Respondents

Ms Harriet Jones (instructed by **Sheffield City Council**) for the Applicant
Mr David Horne (instructed by **Best Solicitors**) for the First Respondent Mother
Ms Julie Richardson (instructed by **Norrie Waite & Slater** solicitors) for the second
Respondent father
Mr James Gascoigne (of **Howard & Co LLP** instructed by the children's guardian
Claire Jordan) for the child

Hearing dates: 17th, 18th and 19th September 2024
Judgment handed down on the 20th September 2024

Approved Judgment

This judgment was handed down remotely at 10.30am on the 20th September 2024 by circulation to the parties or their representatives by e-mail and by subsequent release to the National Archives

IMPORTANT NOTICE

This judgment was given in private. The court permits publication of this judgment on condition that (irrespective of what is contained in the judgment) in any published version of this judgment the anonymity of the child/ren and members of their family must be strictly preserved. All persons, including the parents, their legal representatives, legal bloggers and representatives of the media, must ensure that this condition is strictly complied with.

Failure to do so may be a contempt of court.

H.H. Judge Marson:

- 1) The original version of this judgment included the names of the child, parents, other family members and all professionals involved with the family, and specific dates were identified. This published version has been altered to preserve the privacy and anonymity of the family concerned.
- 2) The court is concerned with the welfare of a baby girl called C born in January 2024. C has been represented at this hearing by her solicitor, Mr Gascoigne who in turn takes his instructions from the Children's Guardian, Mrs Claire Jordan.
- 3) C's mother is X and X is represented by Mr Horne. I may refer to X hereafter as 'the mother' for ease of reference.
- 4) C's father is Y. He is represented by Ms Richardson, and I may refer to Y as 'the father' hereafter. He shares parental responsibility for C as he is named as her father on her birth certificate.

- 5) The local authority in this case is Sheffield City Council and it is represented in these proceedings by Ms Jones. I may refer to it hereafter as 'the local authority'. At this final hearing it seeks a final care order in respect of C with a care plan of adoption. For this reason, the care order application is coupled with an application for a placement order.
- 6) If care and placement orders are made it is proposed any contact C has with her birth parents will gradually reduce, and once she is placed in an adoptive family a farewell contact will take place with her parents and future contact will be indirect only via the local authority's letter box system on an annual basis.
- 7) At this final hearing the parents do not agree with the local authority's applications. The parents present as a couple and they would like C to be placed in their care under any form of order. The parents accept C cannot be returned to their care immediately because they are effectively homeless and their living conditions are not suitable for a child to live in. The parents invite the court to adjourn these proceedings for an unspecified period to enable them to obtain accommodation and to make any other changes the court considers it is necessary for them to make. If C cannot be returned to their joint care they would prefer to end their relationship and for C to be placed in the mother's sole care rather than be permanently removed from her birth family by way of adoption.
- 8) The Children's Guardian supports the local authority's applications and the proposed plan for permanency for C by way of adoption. Mrs Jordan is opposed to any further adjournment of these proceedings

which she notes are in week 33, the 26 week statutory timescale having already been extended to accommodate the listing of this final hearing.

9) I have heard oral evidence from the allocated social worker, **Jamie Hague**; from **the mother**; **the father** and from the **children's guardian**. No party sought to challenge any of the other evidence filed. I have read and considered all of the written evidence and reports filed in these proceedings as well as the relevant parts of the evidence from previous proceedings. Although this judgment is being written in sections, consideration of the evidence and the realistic options for C have been undertaken holistically.

10) It should also be noted that where reported speech is given in italics in this judgment it is taken from the written and/or oral evidence and in the latter case it is taken from my own contemporary notes of the oral evidence. This means whilst it is materially and factually accurate it is possible some quotations may not be verbatim due to the speed at which the note was written during live evidence. In accordance with recent guidance from the Court of Appeal, I have addressed only those issues which I consider are relevant, proportionate and necessary to determine the applications before the court.

11) The task for the court is to conduct a holistic evaluation of C's welfare throughout her life and to determine whether her welfare requires her to be made the subject of a final care order and placement order which would have the effect of removing her permanently from her birth family, or whether there is a more proportionate and realistic option namely, placing her in the care of one or both of her parents either immediately or within a timescale which is meaningful for her welfare.

The Law

12) In describing the background and in the narrative parts of this judgment, I may address matters upon which the parties do not agree. I may give my findings on these disputed matters as they arise and when doing so, I apply the following principles derived from the judgment of **Baker J** (as he then was) in the case of **A Local Authority v (1) A Mother (2) A Father (3) L & M (Children by their Children's Guardian) [2013] EWHC 1569 (Fam):-**

- i) The burden of proving an allegation lies with the party who is making it, in this case that is the local authority;
- ii) The standard to which it must prove it is the usual civil standard namely the balance of probabilities.
- iii) Findings must be based on evidence and on inferences which can be properly drawn from the evidence but cannot be based on mere suspicion or speculation.
- iv) Evidence cannot be evaluated and assessed in separate compartments. A Judge in these cases must have regard to the relevance of each piece of evidence to other evidence and exercise an overview of the totality of the evidence in order to come to a conclusion whether the case put forward by the local authority has been made out to the appropriate standard of proof.
- v) Whilst appropriate attention must be paid to the opinion of medical experts, those opinions need to be considered in the context of all the other evidence. It is important to remember that the roles of the court and the expert are distinct and it is the court that is in the position to weigh up the expert evidence against its

findings on the other evidence. It is the judge who makes the final decision.

vi) In assessing the expert evidence..... the court must be careful to ensure that each expert keeps within the bounds of their own expertise and defers, where appropriate, to the expertise of others.

vii) The evidence of the parents and any other carers is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability.

viii) It is common 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 many reasons, such as shame, misplaced loyalty, panic, fear and distress, and the fact that a witness has lied about some matters does not mean that he or she has lied about everything (see **R v Lucas [1981] QB 720**)

ix) As observed by Dame Elizabeth Butler-Sloss P in an earlier case:

- *The judge in care proceedings must never forget that today's medical certainty may be discarded by the next generation of experts or that scientific research would throw a light into corners that are at present dark".*

And the importance of the court taking into account, to the extent that it is appropriate in any case, the possibility of the unknown cause.

13) Care proceedings involve two principal questions, firstly are the threshold criteria for making a care order under section 31 of the Children Act 1989 satisfied? Secondly, if so, what order should the court make, if any?

14) In this case the issue of whether the section 31 threshold criteria are satisfied is agreed by the parents. There is a schedule of facts submitted by the local authority which is amply supported by the unchallenged evidence filed and it reflects the concerns in this case. Accordingly, I approve it as having been established to the requisite standard and proved against both parents.

15) As the statutory threshold for intervention is crossed, the court must go on to apply well-established legal principles and decide what order, if any, should the court make in order to safeguard C's welfare. In doing so, I must bear in mind any Article 8 rights C has with her birth family for the right to respect for family life. Any interference with the rights of parents and a child under Article 8 must be necessary and proportionate. I also bear in mind that adoption is an option of last resort requiring a high degree of justification, it should be made only in exceptional circumstances where nothing else will do to meet the welfare of the child in question.

16) The court must undertake a global, holistic evaluation and analysis of the child's welfare and keep in mind the child's welfare is my paramount consideration. Under section 1(2) of the Children Act 1989 any delay in making decisions concerning C's future is likely to prejudice her welfare. Section 1(3) provides a checklist of factors to be taken into account when determining where her welfare lies and what order should be made. In addition, section 1(3)(g) of the 1989 Act requires this court to have regard to the range of orders available.

17) On the application for a Placement Order, the court applies section 1 of the Adoption and Children Act 2002 (ACA 2002). On such an application, my paramount consideration is C's welfare throughout her life. Once again, I take into account the fact that delay in coming to a decision is likely to prejudice her welfare, and there is a checklist of factors to be taken into account in assessing her welfare set out in section 1(4) of the 2002 Act.

18) Under section 21(3) ACA 2002 a court may not make a placement order unless satisfied either that each parent with parental responsibility has consented to their child being placed for adoption or that his or her consent should be dispensed with. In this case, neither parent has consented to the making of a placement order and both parents share parental responsibility. Under section 52(1)(b) the court may dispense with the parents' consent if the welfare of the child requires their consent to be dispensed with.

19) I have reminded myself of the 'first principles' of adoption as enunciated by the former President, Sir James Munby in **Re B-S [2013] EWCA Civ 1146** :

21. Just how stringent and demanding has been spelt out very recently by the Supreme Court in in re B (A Child) (Care Proceedings: Threshold Criteria) [2013] UKSC 33, [2013] 1 WLR 1911. The significance of Re B was rightly emphasised in two judgments of this court handed down on 30 July 2013: Re P (A Child) [2013] EWCA Civ 963, para 102 (Black LJ), and Re G (A Child) [2013] EWCA Civ 965, paras 29-31 (McFarlane LJ). As Black LJ put it in Re P, Re B is a forceful reminder of just what is

required.

22. *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.*

23. *Behind all this there lies the well-established principle, derived from s 1(5) of the 1989 Act, read in conjunction with s 1(3)(g), and now similarly embodied in s 1(6) of the 2002 Act, that the court should adopt the 'least interventionist' approach. As Hale J, as she then was, said in **Re O (Care or Supervision Order)** [1996] 2 FLR 755, 760:*

"the court should begin with a preference for the less interventionist rather than the more interventionist approach. This should be considered to be in the better interests of the children ... unless there are cogent reasons to the contrary."

24. *Linked with this is the vitally important point made by Wall LJ in **Re P (Placement Orders: Parental Consent)** [2008] EWCA Civ 535, [2008] 2 FLR 625, para 126:*

"Section 52(1) is concerned with adoption – the making of either a placement order or an adoption order – and what therefore has to be shown is that the child's welfare 'requires' adoption as opposed to something short of adoption. A child's circumstances may 'require' statutory intervention, perhaps may even 'require' the indefinite or long-

term removal of the child from the family and his or her placement with strangers, but that is not to say that the same circumstances will necessarily 'require' that the child be adopted. They may or they may not. The question, at the end of the day, is whether what is 'required' is adoption."

20) With respect to the issues of adjournment and any need for further assessment I have had regard to the cases of **Re S (A Child)[2014] EWCC B44 (Fam)** Munby P. and **S-L (Children: Adjournment)[2019] EWCA Civ 1571** and the judgment of Peter Jackson LJ.

In **Re S** the former President gives guidance on the test of necessity which must be satisfied before proceedings may be extended, and guidance as to evaluating the capacity to change:

- (i) Is there some solid evidence-based reason to believe the parent is committed to making the necessary change?
- (ii) Is there some solid evidence-based reason to believe the parent will be able to maintain commitment?
- (iii) Is there some solid evidence-based reason to believe that the parent will be able to make the necessary changes within the child's timetable?

In paragraph 18 of his judgment he also cites the case of **Re J (Residential Assessment: Rights of Audience)[2009] EWCA Civ 1210, [2010] 1 FLR 1290**, para 10, Wall LJ, as he then was said:

"I think it important to remember when one is looking either at the independent assessments by social workers or at applications under section 38(6) of the Act that one needs to be child focused. It is not a question of the mother's right to have further assessment, it is: would

the assessment assist the judge in reaching a conclusion or the right conclusion in relation to the child in question?”

Sir Nicholas Wall, P, para 53, identified the “critical questions” as being:

“(1) does this child’s welfare warrant an assessment under section 38(6) of the Act? And (2) in looking at the timetable for the child, is there evidence that this mother will be able to care adequately for the child within the child’s timetable?”

In the case of **S-L Peter Jackson LJ** gives guidance on the ‘*trade-off between the need for information and the presumptive prejudice to the child of delay, enshrined in section 1(2) Children Act 1989. Judges in the family court are well used to finding where the balance lies in the particular case before them and are acutely aware that for babies and young children the passage of weeks and months is a matter of real significance*’. “*Adjourning a decision should never be seen as pressing the pause button: it is a positive purposeful choice that requires a proper weighing-up of the advantages and disadvantages and a lively awareness that the passage of time has consequences.*”

Background

21)The following facts are agreed except where stated otherwise.

22)C is the mother’s third child all of whom have been fathered by Y, he also has older children by previous partners who he has no contact with. The parents’ eldest two children, a boy called ‘A’ and a girl called ‘B’ were the subject of care proceedings in 2020/21 which resulted in

special guardianship orders being made for both children to their paternal grandmother.

23)'A' had already been the subject of earlier proceedings in 2016/17 and those proceedings concluded with him returning to the care of his parents subject to a supervision order for 12 months. This lapsed in March 2018.

24)In November 2018 both 'A' and 'B' were made the subject of child protection plans which escalated into the PLO process in December 2018. By December 2019, both children were being accommodated by the local authority and placed in the care of their paternal grandmother and ultimately care proceedings were issued.

25)In the proceedings which took place between 2020/21, the statutory threshold was crossed due to the risks the parents presented to their two older children. The findings made by the court included their excessive use of alcohol, the father's use of illicit substances including cannabis, and neglect of the children's welfare when they were left home alone by the mother in November 2018. The police broke into the family home and found the children, then aged [very young] in a dire state. The mother was arrested for child neglect. The parents' relationship was volatile and chaotic. It was characterized by violence and other forms of domestic abuse, the father is also the subject of a restraining order for life due to his assault of a previous partner.

26)The local authority tried to manage the risks the parents posed to their older children but neither parent worked openly or honestly with social care. The mother candidly accepted she had not been honest about the

violence taking place within the family home and agreed she had returned to the family home despite there being police bail conditions in place to prevent this. The father demonstrated disguised compliance with professionals and gave the appearance of cooperating with them but when professional monitoring reduced, he reverted to exposing the children to significant harm by using domestic violence or by prioritizing his own needs to the detriment of the children's welfare.

27) Mr Y made himself homeless by not paying his rent. Neither the mother or Mr Y engaged consistently with social care to make changes.

28) Following the conclusion of those earlier proceedings the parents continued in a similar lifestyle. Their relationship continued to be unstable with it ending and resuming amongst volatile arguments over its 10 year period. It is accepted that in the months leading up to C's birth between October 2022 – May 2023 there were six incidents of significant violence perpetrated by the father upon the mother, including whilst she was pregnant with C. These are known to the local authority due to the mother or other family members calling for police assistance and intervention to resolve them at the time. On at least two of these occasions the excessive use of alcohol and cannabis were involved.

29) The local authority's involvement with the unborn C began with a referral in November 2023 from the South Yorkshire Police and midwifery services. The midwifery service informed social care the mother was pregnant and had no secure accommodation, she was living with the maternal grandfather, Z.

- 30)The mother denied Y was the father of her unborn child and provided a name and telephone number for another male who she asserted she had a short relationship with, although the number did not connect to anyone when attempts were made to contact this person.
- 31)An initial child protection case conference (ICPCC) was convened in December 2023 and the unborn C was made the subject of a child protection plan in the category of emotional harm and neglect.
- 32)On the 5th January 2024, the mother attended an ante-natal appointment with [a health visitor]. The mother told the health visitor she was not in a relationship, that the pregnancy was unplanned and the father was a male who she did not wish to disclose, he would have no parental responsibility and would play no role in the baby's life. The importance of being open and honest with professionals was discussed and the mother stated she would be honest moving forward.
- 33)At a PLO pre-proceedings meeting in January 2024 the mother maintained her assertion Y was not the father of her unborn child as she had not been in contact with him since May 2023 when he presented at her home and the police were called to the property. She explained she was aware of the risks he presented and that he should have no contact with her baby due to the previous domestic abuse. The local authority believed the mother to be telling the truth and believed she was engaging openly and honestly with professionals. It was the local authority's intention at this point in the chronology for the unborn C to remain in the sole care of her mother once she was born.
- 34)On the 14th January 2024, social care received a referral from the safeguarding hub from a relative raising concerns the mother was

living with Z, but Y was also residing at the property. The referral stated Z wanted them both to leave because he had been threatened by Y. The referral stated the parents had been living together with Z for the past three years and whenever Z asks them to leave, Y threatens him.

35)The following day, the 15th January the allocated social worker visited Z who confirmed Y was living at the property and he wanted Y to leave. The mother came downstairs and stated Y was not present despite Z stating he was upstairs. The mother was irate and shouting and refused permission for the social worker to check the bedroom. She remained adamant she had not had any contact with Y and denied concealing information from social care. She now accepts this was a lie.

36)On the 17th January 2024, the allocated social worker visited the mother at [the hospital] and challenged her about what appeared to be her concealment of her relationship with Y and her lack of honesty. The mother maintained her stance that she has worked honestly with social care and continued to deny the father had been at the property.

37)It was following this visit on the 17th January that the local authority's position regarding the mother caring for C changed due to its concern the parents were being dishonest about their ongoing relationship. Due to the risks outlined above and professional curiosity about the child's paternity, the decision was made to issue care proceedings once the child was born with an interim care plan of removal into foster care.

38)In his written evidence the social worker records it was explained that as part of any legal proceedings a recommendation for a DNA testing to establish the child's paternity would be considered. When asked about this by the court in his oral evidence, Mr Hague said "*I don't believe*

DNA testing was discussed prior to C's birth" and therefore his evidence is ambiguous on this point. The mother, in her oral evidence confirmed DNA testing was discussed with her at this meeting on the 17th January and I consider her recollection is more accurate and Mr Hague's written evidence is more accurate than his oral evidence which is mistaken.

39) On the 18th January the social worker received a number of text messages from the mother stating that the messenger had lied about Y living with the mother and that she would make a '*good mum*' and asking Mr Hague not to remove the baby from her. On the same day, another relative called the social worker alleging the father had approached him in the street and 'headbutted' him. He was advised to call the police. Y denies this happened.

40) On the 19th January 2024 the mother attended social care's office with Y and they spoke to the allocated social worker's team manager. Y confirmed he had been in a relationship with the mother for the past two years and then changed this to the past ten years "on and off". He admitted living with the mother at the home of Z and that he was the father of the unborn C. When the parents were asked why they had concealed this information from professionals, Y stated they had not concealed it and described it as '*a little white lie*'.

41) At the time the local authority intervened to protect C it is accepted the father was continuing to use cannabis and was drinking alcohol excessively, although the father went on to deny the latter in his oral evidence and his position is ambiguous on this point. The parents' housing situation was precarious with no secure accommodation of

their own due to their failure to pay their rent or their rent arrears and Z wanting them to leave his home.

42) Due to the above concerns, the local authority issued its application for a care order on the 24th January 2024 and an interim care order was made on the same day by HHJ Baddeley, it was not opposed by the parents. C has been cared for by local authority foster carers throughout these proceedings.

43) All of the above factual matters are set out in the local authority's schedule in satisfaction of the statutory threshold criteria. They are accepted by the parents and now found as proved against them.

44) During these proceedings for C, the court directed hair strand testing of the parents for drug and alcohol use; a parenting assessment of the parents, and an assessment of any friends or family members who wished to be assessed to care for C.

45) The alcohol testing of the mother during proceedings does not suggest she has consumed excessive amounts of alcohol between October 2023 to late March 2024 or between early May 2024 to early August 2024. The local authority concedes the mother has made improvements in this regard since the previous proceedings concluded. The mother accepts she still drinks alcohol but not to excess.

46) The drug and alcohol testing of the father does indicate chronic excessive levels of alcohol consumption in the sample collected and tested in March 2024 and he may have done so in August 2024 but the elevated test result for August may possibly be attributable to his use of

aftershave and/or beard oil which contained alcohol. The results in March/April were not consistent with his declaration at the time because in March he declared the use of no alcohol or medications. The results for August 2024 also confirm his use of cannabis which he admits.

47)The parenting assessment of both parents concluded negatively. The parents attended all of their assessment sessions for the initial report but unfortunately, the social worker's evidence is that they did not evidence they had made sufficient changes in their insight, their relationship, the father's drug use, their accommodation or their honesty with professionals for the social worker to be confident they had made the changes which would be required to care safely for a child.

48)In his oral evidence the father denied drinking alcohol to excess in March/April 2024 but I do not accept his evidence. I prefer the outcome of the hair strand test results in respect of the father's excessive use of alcohol in March and his use of cannabis in August because there is no evidence to suggest the testing process is flawed and it is consistent with his use of alcohol and cannabis in the past. The father admitted to using cannabis to the drug testing company, Lextox as recently as the 2nd August 2024, and confirmed in his oral evidence he continues to use daily, smoking cannabis 4-5 times a day. He told the social worker during the parenting assessment and repeated it in his oral evidence, he would stop using cannabis if C was placed in their care but he has showed no willingness or ability to do so in advance of this happening. His excessive use of alcohol is apparent up until March 2024 but the results from August are ambiguous. The mother conceded in her

updated parenting assessment in August that the father continues to use alcohol but she did not know his level of use. Both parents agree the use of alcohol has contributed to the domestic abuse which has happened in the past.

49) Both parents had a basic understanding of how to meet C's holistic care needs although they needed prompts and encouragement to expand on how they would meet her needs. It is agreed that within the confines of supervised contact the parents can meet their daughter's basic care needs and the contact is a positive experience for C, no concerns have been expressed by the persons who supervise it during these proceedings and the parents have been committed to attending. The children's guardian has observed it twice, once in June and again in September and described it as *'really good'*, *'very positive'*, and *'family time is lovely and if that were the only issue my recommendation would be different'*.

50) The social worker highlighted the likelihood of C being exposed to domestic abuse in the parents' relationship and Y found it difficult to acknowledge or take responsibility for his past behaviour in this respect, he admitted to only one incident having taken place between himself and the mother. The father agreed to enrol on a Caring Dad's programme to aid his insight and understanding of the impact violence and abuse has upon a child but during the course of these proceedings he accepts he has failed to do so.

51) The parents have no wider family support to call upon to help them care for a child and they continue to have no home of their own. Their relationship with their immediate family network is described as poor,

the parents described it as acrimonious and their living environment as 'hostile' because Z wishes them to leave and this is precipitating arguments and tension. The parents concede it would not be compatible with promoting C's welfare to live in that environment and she should not be returned to their care until they have obtained suitable alternative accommodation. Both parents accept they are isolated and have little or no support other than each other. In his oral evidence the father said, "*I am more isolated than [the mother], I've got no one. I don't like it but you get used to it. It wears you down when you don't have any family support*".

52)The mother described her need for mental health support but at the time of the assessment and this final hearing has not accessed any. She reported having experienced violence in the relationship which preceded her relationship with Y and sought relief in alcohol at that time. The mother stated she drank so much alcohol she would collapse and was taken to hospital. She said she then didn't drink alcohol again for over 12 years but resumed doing so in her relationship with the father following a miscarriage.

53)In her oral evidence the mother was asked what would happen about her use of alcohol if C was not returned to her care at the conclusion of the case. The mother candidly stated, "*Yes, I said to him (the allocated social worker) I may revert to alcohol use, I wouldn't if C was with me because I would have something to focus on*". I am persuaded this underscores the fragility of the mother's mental health and her lack of resilience and healthy coping methods to cope with stress.

54)The mother confirmed her relationship with the father has been volatile and he has been violent towards her. In her parenting assessment she admitted to only one incident when Y had headbutted her whilst she was holding 'A' yet in the previous proceedings she had stated Y pushed her up against the wall, headbutted her and pushed her over the sofa as well as perpetrating sexual abuse upon her. In her oral evidence the mother admitted to having been 'headbutted' and pushed over the sofa by the father whilst holding 'A' but denies saying anything about being sexually abused by him.

55)The father described having been sexually abused as a child. He said his family knew of this abuse but did nothing about it, he has never received any support about this but considers it has had no long-lasting impact upon him. Y described himself as a 'loser' and that *'everything turns to shit'* that he is involved with. He described a *'suppressed childhood'* where he had never been able to settle. He explained to the social worker he wanted to find a service to help him keep *'his head straight'* but then clarified he had not made any attempts to access any services and has only browsed them online.

56)The father acknowledges he has a significant criminal record but minimized the seriousness of his convictions and attempted to justify his actions, such as when he was charged with battery, he said he threw the remote control *'by accident'* which had caused injury to his victim.

57)The father largely denied any domestic abuse or violence in his relationship with the mother admitting to only one incident. When the incident where he had hit the mother was discussed, he attributed responsibility for this upon the mother for misusing alcohol because

she was hiding alcohol in the house and always drinking. He was aware the older children were in bed at the time but he was *'fed up'* with the mother's drinking and stated she was *'always going out and coming back drunk'*. The mother accepted this explanation and considered the father was justified in what he did because she was not *'listening'* to him and agreed she was drinking excessively at that time. The social worker was very concerned the mother exculpated Y from responsibility and that she considered his violence to be justified. In her oral evidence the mother stated she had *'been as bad as he was'*, referring to the father, when it came to being responsible for the violence and abuse in their relationship.

58) In their parenting assessment the parents gave conflicting accounts about the violent incident which occurred in May 2023. The police report states the father made threats to *'kick her head in'* referring to the mother, whereas the mother told the social worker that *"I started on [the father] during the incident and threatened to stab him if he did not leave"* and that she had said this out of anger. The mother told the social worker she was sick of their arguments. In her oral evidence the mother admitted this is what happened and, contrary to what she said in her parenting assessment, there has been more than one occasion when the father has been intimidating or threatening towards her and he has *'booted the door'* when asked to leave. When asked, the mother admitted there had been a number of incidents of domestic abuse between them *"quite a few occasions, at least 10 times"*.

59) In her oral evidence the mother accepted the circumstances of the incident in October 2022 when she made an emergency call to the police because the father had hold of her by the throat. She said, *"He*

was trying to restrain me because I was drinking and we were arguing, he was trying to restrain me from drinking not from attacking him” but she agreed C would suffer significant harm if placed in that situation.

60) Having considered the totality of the evidence gathered, the local authority submits the parents are unable to meet the needs of C safely due to a lack of sufficient change and the risks arising from the parents’ relationship and their lifestyle. The local authority has explored potential alternative kinship carers but no other persons who were put forward were positively assessed. As no other suitable carers have been identified, the local authority considers the only realistic and safe care plan it can devise is one of adoption outside of C’s birth family and it is for this reason it seeks care and placement orders.

61)The mother’s case may be summarised as follows, she accepts C cannot return home immediately due to the lack of accommodation and for this reason the proceedings should be adjourned to enable the parents to obtain the same. During any period of adjournment the court should give an indication C should live with her parents and direct the local authority to make more enquiries and effort to obtain suitable housing for the family to live in.

62)In addition, further referrals should be made for the parents to engage with domestic violence support services which they have so far not completed, and further hair strand testing could be carried out to monitor the parents’ drug and alcohol use. A period of adjournment would allow the mother to make contact with her G.P and obtain support for her mental health if it were needed. Finally, the time C

spends with her parents should be increased and take place within the community which would test out the parents' ability to care for their daughter for longer periods and in different settings.

63)The mother relies upon her reduction in the use of alcohol as a positive feature and the absence of any more recent police referrals since May 2023 to evidence improvements in her relationship with the father. The mother asserts her previous excessive alcohol use contributed to the arguments between the couple and as she has demonstrated improvements in that regard, arguments are less likely to happen if C was in their care.

64)The father adopts the same case as the mother and also supports an adjournment. He asserts a period of adjournment would allow him to 'walk away' from his relationship with the mother if it were required by professionals and/or the court. The father could attend a course to minimise the risks of violence in the couple's relationship and he could obtain support to address his cannabis use.

65)Mrs Jordan, the children's guardian, has filed her final analysis and recommendations in a report dated the 17th June 2024. The guardian recommends that C's welfare will be best promoted and protected by a care order, and considers that C's welfare requires a placement order to be granted and that her parents' consent should be dispensed with. Mrs Jordan considers the parents place great reliance and dependency upon each other and have no support from anyone else. This makes it unlikely they will end their relationship. Mrs Jordan's opinion is that the risks the parents present to a child are systemic and cyclical and they haven't changed a great deal over the course of the past 8 years.

Mrs Jordan could not identify any package of support which could be put in place to ameliorate or reduce the risks, not least because of the likelihood of the parents not working honestly and openly with professionals who would have the responsibility of making sure C is safe.

66) Mrs Jordan was opposed to any period of adjournment because she has little grounds for optimism the situation for C would be any different at the end of it. C could be waiting years before the parents find suitable accommodation due to their low priority status and rent arrears. The parents have had 8 months to make changes to their lifestyle, the entirety of C's life to date, and have been unable to do so. Mrs Jordan considers C simply cannot wait any longer for change to happen and needs a decision now.

Welfare Considerations

C's Wishes and Feelings and Needs

67) C is too young to express her wishes and feelings but if they were capable of expression it is likely she would choose to live with and be cared for by her parents if it was safe for her to do so. It is agreed they love her a great deal, they have been committed to attending contact and the quality of the time they spend together within the confines of supervised contact is positive. C enjoys the attention her parents give her and she has developed an emotional connection to them. Both parents spoke very movingly and affectionately about their daughter in their evidence, she is clearly a very much loved and valued little girl.

68) In the child's permanence report, C is described as being white British and is a quiet and happy little girl who likes to smile and be cuddled. The foster carer describes her as a 'perfect little baby' who will happily babble and coo at people all day. C does not like being left alone and wants to be able to see her carer when she is awake. C is meeting all of her developmental milestones, she has no physical, educational, social or health needs which would prevent an adoptive family being found for her or would make her unusually challenging for her parents to care for her. She has a good emotional attachment to her foster carers and to other members of her foster family but this is not an early permanence placement and C cannot remain where she is, therefore there is going to be a need for C to change her care arrangements yet again whatever this court's decision is.

69) C needs permanency and stability and the opportunity to form lifelong attachments to a permanent carer in order to achieve her potential throughout her life, it is well known that disruption to a child's attachments is emotionally and psychologically damaging to them and such disruption needs to be kept to a minimum to avoid causing long term damage to a child's welfare.

70) A child as young as C needs 'parents' not 'carers'. Mrs Jordan agreed, for a care option to be defined as 'realistic' the proposed placement at the heart of the care plan must be assessed as being sufficiently resilient and sustainable to justify the label of permanent. Otherwise, the plan is likely to break down which would be detrimental to C who has already experienced uncertainty about who is going to be caring for her over the first 8 months of her life. Prolonged uncertainty and unpredictability is harmful to children because it can make them

anxious and insecure and it affects their emotional and psychological development not simply in the short term but throughout their life.

71) It would be detrimental to C's welfare if she were returned to the care of her parents and removed at a later date back into foster care if the likelihood of significant harm materialises. In her oral evidence, Mrs Jordan described the impact upon C of this happening would be 'catastrophic'. *"C would be older, more aware of what is going on. The impact on C would be catastrophic to remove her again having been placed back at home. She would have the further impact of trauma affecting her personality and behaviour. It affects a child's development and has an educational impact. It would have a catastrophic impact to go home and to have to come out again."*

The Parents' Ability to Meet C's Needs

72) In the previous proceedings the parents were assessed as being unable to meet the needs of 'A' and 'B'. In order to be a realistic, permanent option to care for C it is common ground there has to be sufficient evidence to be confident they have changed and could meet their daughter's needs without the likelihood of C being removed from their care again in the future as happened with 'A'. I have borne in mind the likely catastrophic impact this would have on C when evaluating the evidence and the likelihood of harm materialising.

73) Y stated in his oral evidence *"how do you know what the future brings, no one can predict what's going to happen, only what has already happened"*. The parents should know that when forming a prediction

about the future risk of harm occurring, the court uses what has already happened and evaluates those facts to predict the likelihood of change. It is not a precise scientific process but one borne out through a careful evaluation of all of the evidence before the court in its context before forming a holistic picture and conclusion.

74) At the start of 2024 there was some degree of optimism the mother could care for C as a sole carer when professionals believed the parents had ended their relationship at least 7 months earlier in May 2023. It is now known this was a lie and professionals were deliberately misled by both of the parents. However sympathetic one may wish to be about a parent's desire to care for a child and the reasons why that lie may be told, at the time it was said and perpetuated by the parents, and by the mother in particular, it did not have C's welfare at the heart of it and it placed her at risk of significant harm. It placed C at risk of significant harm because the local authority may have acted in good faith upon the mother's lie and placed C into an environment which both parents now accept is hostile, acrimonious and not consistent with promoting a child's welfare.

75) Sadly, the assessments conducted in these proceedings and the evidence before the court have evidenced insufficient change in the parents' parenting capacity since the proceedings with 'A' and 'B' ended or during the course of these proceedings. I have been persuaded by and accept the outcome of those assessments for the following reasons.

76) Firstly, there are the facts which underpin the threshold criteria which evidence each parent's ongoing problems with one or more of the following: illicit drugs, alcohol, volatility and violence in their

relationship and an inability to obtain and maintain a secure home. There was a clear and obvious failure to engage openly and honestly with social care about C's paternity and their ongoing relationship which went beyond '*a little white lie*' and was obstructive, dishonest and pervasive being told by the mother to many different professionals on different dates. I consider it likely the parents only came forward to tell the truth about their relationship on the 19th January 2024 when it became apparent to them they had been found out by Mr Hague's visit on the 15th January and by the outcome of the DNA testing which was going to take place. I doubt they would have told the truth at all if they had been confident they could have continued to conceal their relationship. This is likely to have led to significant harm to C but they chose to prioritise their relationship instead.

77) Secondly, when I turn to consider the likelihood of the parents separating and/or achieving change in a timescale which is meaningful for C, I have been persuaded this is unlikely.

78) The parents' relationship has been 'on and off' for the past 10 years and throughout its lengthy duration the same concerns have been raised and persisted. They have shown no ability to separate during the course of these proceedings even though the mother knew the local authority was supportive of her as a sole carer back in January 2024. In my judgment it is now too late to separate because such separation would have to take place and endure for a lengthy period before this court could be confident the parents would not resume their dysfunctional relationship yet again. C cannot wait that long to see if her parents can achieve what they have failed to do over the past 8 months, she cannot

wait for a decision to be made when such delay is likely to prejudice her welfare.

79) In the previous proceedings the mother was assessed by a psychologist, Dr Parsons. In his report dated 22nd July 2016, he states, “*Ms X is an individual who at a very fundamental level, fears that those close to her will let her down and cause her emotional pain, meaning that she will find it very difficult to form close interpersonal relationships and this is consistent with the long gap between her first and second close relationship. Once Ms X has entered into a close relationship and decided she should trust somebody, she will then form a very close bond with a very high level of dependency. Ms X will find it very difficult to form even casual friendships, and will have a very high level of mistrust of others which would extend to professionals working with her*”. In her oral evidence the mother, to her credit, agreed this to be correct. I am persuaded it is correct because it is consistent with her lack of support network from friends and family and her sole reliance upon Y some 8 years later. It increases the likelihood of their relationship enduring.

80) In 2016, in the very first set of proceedings when findings of significant harm relating to ‘A’ were made, they included findings about the father’s drug use and the persons this brought him into contact with, some of whom caused him to leave his home when they attacked him by pouring boiling water on him. He had been violent to a previous partner which led to the restraining order he remains subject to, he had been convicted of indecent assault of an 18 year old female, the father showed anger and aggression towards the allocated social worker and he presented as controlling towards Ms X who was drinking excessively and a vulnerable individual.

81) In 2024, Y continues to use cannabis with the ongoing likelihood this will bring himself, the mother and any child in his care into contact with people who pose a risk to their safety; he failed to enrol on the Caring Dad's course which he suggested he would do to improve his insight into his behaviour but never did; and he continues to deflect and deny responsibility for the violence and volatility in the parents' relationship by justifying and attributing his violence to the mother's alcohol use or their living arrangements. In his parenting assessment he only admitted to a single incident. The mother, who remains vulnerable and enmeshed with him, acquiesces in accepting responsibility for his violence when she is not to blame for it.

82) The father's attitude and interaction with professionals is largely unchanged since 2016. His attitude during this hearing has been at times inappropriate, he cheered in court when Mr Gascoigne stated in cross examination of the social worker he only had one question left to ask.

83) The parents have highlighted the lack of recent police reports of violence between them as indicative of change in their relationship but I am persuaded this is unlikely to be the case and is more likely to be an under-reporting or suppression of incidents. I consider it is likely Y has not changed sufficiently due to the threats he has made against Z in January 2024, and his aggressive behaviour towards the children's guardian in June 2024 when he admits he '*kicked off*', and his irate and surly behaviour towards the social worker who he demeaned by suggesting he lacked experience and was not qualified to do his job. All of which persuades me the father's underlying aggression has not gone

away and is likely to be witnessed by any child in his care. I am further persuaded this is likely to be the case due to the father's failure to engage in any interventions which may have helped him to respond differently to the challenging situations he finds himself in.

84) All of this affords the court no confidence at all C would be kept safe in the parents care. Currently, the parents do not have a home to care for C in, they continue to live with the maternal grandfather in a toxic and hostile environment which is perpetuated by the threats Z asserts the father makes against him when he asks them to leave. It would not be consistent with C's welfare to allow her to live in such an environment and the parents, to their credit, agree. The parents have no support network at all and Z only tolerates the couple living in his home due to his fear his daughter would be homeless if he did not.

85)The parents have been technically homeless for the past 5 years and living with Z for over two of them in what they described as '*diabolical conditions*'. They have the lowest priority status for re-housing and are likely to be waiting for around 10 years for a council property to be allocated to them, not least due to their rent arrears. Y stated they cannot afford to rent privately as they cannot afford the £1000 bond which would be required but I have noted further below, the amount of money the father spends on his drug use which could have been used for that bond had the father made different choices. He could have obtained some regular employment as the mother has done. I am persuaded the likelihood of the parents obtaining any suitable accommodation in the foreseeable future is remote.

86)The mother has evidenced her inability to separate from the father and the risk of violence he poses to herself and to any child in her care. She has known of the risks he poses to her and to any child for some considerable period, it was one of the reasons she no longer cares for ‘A’ and ‘B’, and yet she continues in her relationship with him. I consider it to be unlikely she would now separate from him in any time frame which was meaningful for C when the parents have been in an ‘on and off’ relationship for the past 10 years.

87)The father has failed to achieve any abstinence from illicit substances and continues to use cannabis. In her updating assessment with the social worker in August 2024, the mother gave two different frequencies when asked about the father’s cannabis use stating it was *‘every other day but then said it was twice per week’*, and she lacked understanding about his alcohol consumption, relying on friends to keep her informed. The mother expressed confidence in Y caring for C whilst under the influence of cannabis as *‘lots of people do it’* but asserted if C was in their care, he would not use it. I am persuaded this is a naïve conclusion for the mother to reach. In his oral evidence, Y did not identify any reason at all for why he should stop using cannabis, he stated it improved his appetite and he struggles to eat without using cannabis, he said: *“I don’t have an issue with it...I like the taste of cannabis, why should I stop, I’m struggling to eat. If I waste away I will die, it gives me an appetite”*.

88)The mother was unsure how much the father spends on cannabis but in his oral evidence the father admitted to spending between £80 - £130 per month on buying it. In light of the parents joint monthly household income of £578.30 this is a significant portion being spent on the

purchase of illicit drugs and it diverts essential funds away from their household finances and contributes to their inability to obtain any accommodation of their own or to discharge their rent arrears. There have been no changes in this regard over the past 8 months, if anything the situation has become worse with the mother stating in August that Y was smoking cannabis twice a week when contrasted with his admission in evidence he is smoking it 4-5 times every day.

89) When discussing the parents' finances in the parenting assessment the mother explained she does not have photo identification therefore she does not have her own bank account and her benefits are paid into the father's account. She stated she has access to the account via a banking app on her phone but then went on to state Y was in possession of her phone. The social worker encouraged the mother to obtain her own photo identification via the Citizen Card with the aim of obtaining her own, separate bank account. This highlights the co-dependency the parents have with each other and their shared financial arrangements.

90) I have considered the likelihood of further change being brought about by the parents' stated intention to attend further courses or by accessing interventions regarding their mental health or substance misuse but I consider this is unlikely in any meaningful timescale for C. The father has not shown any commitment to access such courses over the past 8 months or since the previous proceedings concluded. He failed to attend the Caring Dad's course and was not proactive about pursuing this. The mother on the other hand did engage with the Freedom Programme but I am persuaded by the evidence of the children's guardian that the mother *"can talk about domestic abuse in an informed way but putting it into practice with Y is the difficulty"*

because this is consistent with the mother maintaining her relationship with the father despite being able to identify the risks he presents as long ago as November 2023.

91) When I consider the likelihood of the parents working collaboratively with professionals who would have the responsibility of supervising or monitoring C's welfare under any other form of order this court could impose, I consider this to be unlikely. The parents have a longstanding history of oppositional and dishonest engagement with professionals. In August 2024, this court refused the mother's application for further assessment by an independent social worker because it was not necessary but directed the allocated social worker to update his initial assessment which is dated 26 April 2024. The mother, to her credit, engaged with that updated assessment, the father did not. Despite attempts to rearrange his appointment on more than one occasion the father did not engage with it and put forward excuses for not doing so. During the initial parenting assessment Y presented at times as 'frustrated and surly' towards the social worker. I am persuaded he resents the involvement of safeguarding professionals in his life and does not see why it is necessary.

92) When the father met with the children's guardian, Mrs Jordan and she asked him about his hair strand test results, he became aggressive, swearing and raising his voice which led to him being escorted out of the appointment and having to wait for the mother in the reception area. Whilst it is acceptable to be assertive and to disagree, it is never acceptable to intimidate, to threaten or to be aggressive towards professionals doing their job. There has been no engagement by the father in any interventions which would cause this court to believe he

would behave any differently in the future if placed in a similar situation.

93) In his discussion with Mrs Jordan, the father sought to place blame for the removal of 'A' and 'B' from his care upon the previous social worker and his own mother, he blames Z for the local authority discovering his ongoing relationship with the mother at the time of C's birth and he demonstrated no acceptance or remorse for his own dishonesty about it. The mother found it difficult to make her own views known when the father was present with Mrs Jordan, he would often talk over her, interrupting her when she was talking. When the mother became upset when talking about her older children Y made jokes, completely dismissing the mother's feelings. After Y had been escorted out of the meeting, the mother became much more engaged and regretted not being honest with the local authority about her relationship with Y but she '*was scared about what might happen*'. The mother admitted she did not feel it would be safe for C to live with her if she remains at the home of Z due to all of the arguments between the adults in the house, and the arguments were likely to increase if a baby was in the house.

94) I am persuaded and accept the opinion of the professionals about the likely concealment of information and any escalation of risk if C was in the care of her parents. The mother is influenced by, and enmeshed with, the father and his position is one which lacks any level of genuine acceptance or accountability for the situation the parents find themselves in. The mother was able to conceal C's paternity when asked about it during home visits, Core Group meetings, the ICPC, the PLO meetings and with the midwife. The parents only admitted the truth after the allocated social worker already knew it from Z after he visited

his home on the 15th January. A consistent theme in all sets of proceedings has been a lack of openness and honesty with professionals and there is no reason to expect this to change in the near future given the father's lack of insight and understanding into why professionals would need to be involved, and the mother's inability to separate from him or not to be influenced by him and her mistrust of professionals.

95) Accordingly, when I turn to consider the necessity of adjourning these proceedings for further change to be achieved, I am persuaded there is little cause for optimism the nature and degree of change that is required will happen. Taking into account any delay in making a decision for C is likely to prejudice her welfare I am persuaded the adjournment would be prejudicial with no corresponding benefit to offset that prejudice at the end of it.

The Ability of any Other Person to Care for the Child and Child Impact Throughout Her Life

96) There are no other family members who have come forward and been positively assessed. The local authority contacted the paternal grandmother to enquire whether she could become a potential carer for C but [the grandmother] confirmed she was not in a position to do so. The local authority also contacted a maternal aunt, [name redacted] and her partner, and a step-sister, [name redacted] and her partner, but these assessments were either negative or did not progress through the participant's lack of engagement.

97)If C becomes an adopted person it is likely she will lose the potential of her relationship with her full siblings 'A' and 'B' who live with their grandmother. She will lose the potential to be rehabilitated to the care of either parent if they go on to make any changes in the long term future, and she will lose part of her identity as she will no longer be a member of her birth family but will join her own 'forever family'. C has an emotional connection with her parents and enjoys contact with them and this will be a loss to her when it comes to an end.

98)I also take into account that adoption outside of a child's birth family is not always successful and can break down in later years and cause further harm to a child. Fortunately, C is sufficiently young to make this outcome unlikely and the positive attachments she has formed to her foster carers are likely to be transferable to adoptive carers to make it a successful adoption. Any adoptive placement which is found for her will only be progressed after a robust and comprehensive assessment of the prospective adopter/s ability to meet her needs and this minimises the likelihood of any adoptive family placement breaking down. An adoptive placement will keep C safe, it will meet her needs and be free of the risks C is likely to face in the care of her parents.

Conclusion

99)In conclusion, having conducted the holistic balancing exercise and having considered everything I have read and listened to, I have been persuaded that making the care order sought by the local authority is necessary to protect and safeguard C's welfare and is a proportionate response to her situation, it is what her welfare requires. Accordingly, I make a final care order and approve her care plan of adoption. I would

like to say to the parents who have attended court throughout, that these reasons are not intended to add to their distress. Simply, I have to set out my reasons because this is an important decision for C and those reasons have to be recorded.

The Placement Order Application

100) I have read and considered the relevant documents in respect of the application for a placement order, and it is supported by the guardian. I have given specific consideration to the welfare checklist in section 1(4) of the Adoption and Children Act 2002 and the issues which are relevant.

101) I am satisfied that adoption is in the best interests of C and is achievable for her. There is no other realistic option before the court. The parents have not given their unconditional consent and I must formally consider dispensing with their consent on the basis the welfare of C requires it. Having reached the conclusion that adoption is in her best interests in the care proceedings, it follows I must dispense with the parents' agreement to C being placed for adoption in accordance with section 52 of the Adoption and Children Act 2002 in order to implement that plan. Accordingly, I dispense with the parents' consent to placing C for adoption and I make a placement order which authorises the local authority to place her for adoption with prospective adopters of its choice.

102) I direct the advocates to draft the orders arising from this judgment and to incorporate the final threshold within it.

103) In the event any party requires any further clarification or reasons in respect of any issue I reserve the right to provide the same once it has been brought to my attention. I remind the parties that any application for leave to appeal must be made within 21 days of the date of this judgment. In accordance with the judgment of **McFarlane LJ in Re H (Children) [2015] EWCA Civ 583**, the care and placement orders drawn by the court will have this reminder recorded on the face of the order.

H.H. JUDGE MARSON

Dated: 20th September 2024