

IMPORTANT NOTICE

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IN THE FAMILY COURT SITTING AT LEICESTER
IN THE MATTER OF THE ADOPTION AND CHILDREN ACT 2002
AND IN THE MATTER OF THE CHILDREN ACT 1989

LE23C50124

Date: 30 July 2024

Neutral Citation Number: [2024] EWFC 289 (B)

Before:

HIS HONOUR JUDGE REDMOND

Re Z (Care and Placement Orders)

LEICESTERSHIRE COUNTY COUNCIL

-AND-

X (MOTHER)
Y (FATHER)
Z (A CHILD)

Counsel for the Local Authority: Richard Posner
Counsel for the Mother: Helen Sampson
Father was represented by counsel on day 1 and acted in person on day 2
Counsel for the Children: Samuel Coe

JUDGMENT

Hearing dates: 22 & 23 July 2024

This judgment was handed down at a hearing on 30 July 2024

1. In these proceedings I am dealing with an application for care and placement orders in relation to Z, a boy who is 7 months old. For the purposes of anonymisation of this judgment I will refer to his mother as X and his father as Y, although in court we have used the proper names of all throughout.
2. Z is the first child of X and Y, although X has several other children and they have been the subject of care proceedings previously: A (17), B (16), C (13) and D (rising 7). A lives with his mother, having previously been subject to a supervision order. B, C and D are each subject to care orders to the local authority and reside in long-term foster care, with C and D in the same placement.

Parties' positions

3. The local authority seek care and placement orders for Z saying that no other welfare avenue is suitable for him. They are supported in that by Z's children's guardian, who was also the guardian for the older children.
4. X and Y both adamantly oppose adoption. X would like Z placed with her, although in evidence did accept that could not happen immediately. If there could not be a return to her care, she would want him to live in long-term foster care rather than be adopted. Y supports X, though does not put himself forward to care. He did raise the question of a fresh parenting assessment for him, although such application was previously dismissed by the Designated Family Judge and circumstances have not changed.
5. Having read and listened to all of the evidence, these are my reasons for making care and placement orders for Z. I have come to the conclusion that no other option is appropriate for his welfare needs taken globally in this multi-faceted and very sad case. This judgment is a summary of my findings and reasons for making orders. It will not cover every piece of evidence I have read and heard, but I have taken account of it all.

Law

6. In relation to a factual dispute, this is comprehensively detailed by Baker J (as he then was) in **Devon County Council v EB [2013] EWHC 968**:

- a) The burden of proof is at all times on the local authority. The parents do not have to prove anything.
- b) The standard of proof is the civil standard, namely the balance of probabilities, and that test does not modify according to the seriousness of the allegations.
- c) A finding is based on evidence, including any inferences properly drawn from the evidence. It should avoid suspicion and speculation.
- d) Each piece of evidence must be placed into context with all other pieces of evidence; invariably the court surveys a wide canvas of evidence.

7. In relation to that wide canvas, I note the description of **Lord Nicholls in Re H and R [1996] 1 FLR 80**:

"The range of facts which may properly be taken into account is infinite. Facts include the history of members of the family, the state of relationships within a family, proposed changes within the membership of a family, parental attitudes, and omissions which might not reasonably have been expected, just as much as actual physical assaults. The court will attach to all the relevant facts the appropriate weight when coming to an overall conclusion on the crucial issue."

8. In order to make any public law order, I must first be satisfied at the point of intervention that Z was suffering or was likely to suffer significant harm and that the harm or likelihood of harm is attributable to the care given to him, or likely to be given to him if the order is not made, not being what it would be reasonable to expect a parent to give or that the child is beyond parental control. That is the 'threshold criteria' and is found at section 31(2) of the Children Act 1989.

9. The first application of the local authority is for a care order in relation to Z. The second application of the local authority is for a placement order to enable the local authority to place Z for adoption pursuant to section 21 of the Adoption and Children Act 2002. I must consider a full welfare analysis taking into account all of the circumstances and, in particular, the welfare checklist in section 1(4) of the 2002 Act. Ultimately, Z's welfare, throughout his life, is my paramount consideration.

10. In considering my welfare analysis, I also bear in mind the following principles:
- a) That I must only make an order where doing so is better for the child than making no order.
 - b) I must take the least interventionist approach that I consider is commensurate with the best interests of the child.
 - c) I must consider and carefully balance the child's and each party's article 8 rights to private and family life, interfering with those rights only where it is necessary and proportionate to do so. However, where there is tension between the parents and child's article 8 rights, it is the child's that ought to prevail.
11. I am clear that placing a child for adoption is a draconian order and remind myself of the considerations in **Re B [2013] UKSC 33**. It is an order of last resort when there is no other order compatible with the child's long-term welfare. It must be both necessary and proportionate; in short, nothing else will do. I entirely accept that this is because the interests of the child self-evidently require his or her relationship with his or her natural parents to be maintained unless no other course is possible in the child's interest. Contact post-placement order also falls to be considered, and I remind myself that stopping contact and the legal relationship between the child and his or her family is only justified by the overriding necessity of the interests of the child.
12. In the absence of parental consent to adoption, I can only make a placement order if I am satisfied that parental consent should be dispensed with. Pursuant to section 52(1), I would need to be satisfied that the welfare of the child requires the consent to be dispensed with. In **Re P [2008] EWCA Civ 535**, the word 'requires' is clarified as having "the connotation of the imperative, what is demanded than what is merely optional or reasonable or desirable."
13. The Court of Appeal considered the proper application of **Re B** above in **Re B-S [2013] EWCA Civ 965** and re-emphasised the stringency of the welfare test when considering whether to dispense with parental consent. There is a necessity for a global, holistic and multi-faceted evaluation of all realistic placement options before coming to a decision and to avoid a linear process whereby each option is looked at in isolation to be discounted leaving only one option remaining.

14. I remind myself that I am to consider the welfare of the child as a whole recognising differing standards of care. Of particular note are the comments of Hedley J in **Re L [2007] 1 FLR 2050**:

"society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent. It follows too that children will inevitably have both very different experiences of parenting and very unequal consequences flowing from it. It means that some children will experience disadvantage and harm, while others flourish in atmospheres of loving security and emotional stability. These are the consequences of our fallible humanity and it is not the provenance of the state to spare children all the consequences of defective parenting. In any event, it simply could not be done."

Background

15. Very sadly, X and her children have been involved with the local authority since 2010. The previous care proceedings concluded on 21 April 2023. In those proceedings threshold was agreed by the parties, and found by the court, on the following basis:

- a) *X had a relationship with [a previous partner] who threatened to throw acid in her face. [previous partner] was known to the police for drugs, weapons, violence and threats of violence against children. X remained in a relationship with him despite the police informing her of these risks. X says she ended the relationship when he became violent.*
- b) *X accepts that she made mistakes in the past and that the children have been emotionally harmed through exposure to risky adults witnessing her being abused and through incidents where she and the children have been threatened by third parties.*
- c) *X accepts that both she and third parties have been arrested at her home which has been witnessed by the children, for offences relating to drugs and violence. Two of the arrests were for X herself (March 2020, 13.07.2020, 21.05.2021, 20.08.2022, PPN 21.05.202).*
- d) *X accepts that two of the children were present on the 20th July 2022 when the police raided the family home which will have been frightening for them.*

- e) *X is in a relationship with Y who is currently incarcerated on drugs offences. In December 2021 the police informed X that there was a threat to Y's life and X did not consider this a risk to herself or the children and he remained in the family home until his arrest on 26 December 2021. X has continued her relationship with Y since his release from prison.*
- f) *X has failed to address weight concerns having missed calls from professionals, forgetting some appointments, missing 2/3 appointments with the dietician and 3 appointments with the GP impacting on physical and emotional health. This now requires specialist referral due to her weight affecting her liver function.*
- g) *Very poor school attendance, with one child not attending school since December 2021 and another rarely attending on the reduced 3 days timetabled unless supported by Reach.*
- h) *X was misusing cocaine and opiates from the end of July 2022 to the end of January 2023 which will have affected her ability to meet the needs of the children whilst in her care.*
- i) *On 24 April 2022 B was arrested for theft of a moped and later de-arrested.*
- j) *On 4 November 2022 C contacted the police stating that her brother had hurt her mum and they needed help. B had strangled the first respondent mother, threatened her with a knife and punched A. B was subsequently arrested.*
- k) *The family home has been reported by professionals to smell of cannabis and the first respondent mother alleges it is B who is smoking this.*

16. The local authority rely on those threshold findings found by the court as recently as one year ago at the date of this final hearing and only 6 months prior to Z's birth. However, they have also agreed the following threshold points and I have reviewed the same while considering the evidence:

- a) *X uses illegal drugs, to include throughout her pregnancy, placing Z at risk of significant physical harm. At times X is under the influence of substances, she is not available for Z, and this places him at risk of emotional harm. For example:*

- i) *On 12th October 2023, X's toxicology results were interpreted by specialist midwifery services and positive for cannabis, paracetamol, codeine, morphine (metabolite of codeine), norcodeine (metabolite of codeine), 6-Monoacetylmorphine (indicating heroin use within the previous 24 hours), cocaine and metabolites. There were also indications of alcohol use on a further sample.*
 - ii) *On 24th November 2023, X told the Social Worker she was smoking heroin once per week and showed the Social Worker where she stores this in her home.*
 - iii) *Through Turning Point, X has provided the following positive drug test results: On 28 November 2023 X provided an oral swab and tested positive for cocaine and 6MAM (heroin metabolite suggesting use within previous 24 hours and tested negative for methadone; on 6 December 2023 X provided a urine sample and tested positive for benzodiazepines, cocaine, opiates and cannabis, and negative for amphetamines, buprenorphine and methadone; on 22 and 23 December 2023, X tested positive for cocaine; on 27 December 2023, Mother tested positive for cocaine and cannabis metabolites.*
- b) *Y uses illegal substances. At times when he is under the influence, he is not available to Z. For example:*
- i) *On 9 October 2023, Y tested positive for opiates and cocaine when in police custody.*
 - ii) *In November and December 2023 and January 2024, Y stated to Turning Point staff that he was spending £30 per day on cannabis.*
 - iii) *On 19 December 2023 at Turning Point, Y's oral swab test was positive for cocaine, cannabis and opiates.*
- c) *Both parents are involved in criminal activity, which places Z at risk of emotional harm. If either of the parents were to be imprisoned, they would be unavailable to care for Z. For example:*
- i) *On 3 February 2023, Y was convicted for possession and intent to supply a class A controlled drug, namely cocaine, on 16 August 2019. He pleaded guilty and was sentenced to 12 months in prison.*

ii) *On 3 February 2023, Y was convicted for possession and intent to supply a class A controlled drug, namely crack cocaine, and acquisition/possession of criminal property, on 27 December 2021. Father pleaded guilty and was sentenced to 18 months in prison (to be served concurrently).*

iii) *On 15 June 2023, X was convicted of possession of a controlled drug, namely cocaine on 14 December 2022.*

d) *On 9th October 2023 the police executed a drugs warrant at the mother's home. X, Y and A were present. During the search, class A drugs were found in a man's coat pocket, there were 2 large wraps of white/brown powder and 4 small wraps of white powder along with cannabis located in the property. Y was arrested on suspicion of being concerned in the supply of Class A and B drugs and possession of criminal property. No charges were brought.*

17. The local authority seek further findings above those agreed in relation to threshold and welfare, namely in respect of the drug use of both, their failure to cooperate with professionals for the benefit of a child, the aggressive behaviour of Y, his threats to abduct Z and his criminal lifestyle.

Hearing

18. This hearing has been far from straightforward. It had been listed for three days in a face to face format. Ground rules were considered at the IRH, revisited at the start of this hearing and kept under review throughout to allow everyone to both participate but also give their best evidence. I made modifications as we went along, taking account of **r.3A** and **PD3AA** of the **Family Procedure Rules 2010**.

19. Many cases within the Family Court strike at the heart of our deepest humanity, and as such they provoke the strongest of emotions in parties and professionals alike. This court, along with the professionals, make reasonable allowance for that. However, how we all deal with those matters is also significant. I have had to tightly manage this case to allow us to hear the evidence of all so that I could make the best decisions that I could. It is

never acceptable to throw a bottle of water across a courtroom posing a danger to other court users, as took place before the Designated Family Judge at a previous hearing, or for a professional to feel the way that they have in this case with the confrontation that has taken place. The emotional toll on everyone has been plain to see and hear. As a result of the actions before the Designated Family Judge, the case had been marked by HMCTS and a risk assessment had to be conducted. Such included an increased security presence and other safety measures for all court users.

20. On the morning of day 2, Y's counsel was placed in such a difficult position by an alleged repeated threat to abduct the child that her client was said to have made that she withdrew following professional advice. I invited Y's solicitors to attend at court urgently and am grateful to them for doing so. However, Y subsequently dismissed his remaining legal team despite my advice and explanations, offering him time to reflect and that his solicitors had secured another counsel to attend at court urgently at 2pm. Y was adamant that he could conduct his own proceedings and such is his right. With both Y and a representative from his solicitors in the courtroom, I allowed an oral request for his solicitors to come off the record, which he vociferously supported and endorsed. With a full understanding, Y therefore acted in person from the beginning of the evidence on day 2 at his own express request. I assisted him as best I could throughout, explaining the function of each part of the hearing and helping him to give his evidence in chief, ask questions of the children's guardian and allowing him to give his submissions first.

21. I had to make an injunction to protect against an alleged threat to kidnap the child, whether said meaningfully or in an attempt to antagonise given its repeated nature and the actions within recent contacts, was an unacceptable risk to the child's welfare. Such was in the specific context of how matters unfolded in proceedings and I gave a short judgment. I made such for a time limited period until 31 July 2024 to cover the period that we were in proceedings. The authority did not seek an extension within closing submissions. However, shortly before handing down this judgment they did seek a further extension. I gave a separate ex tempore judgment in that matter and a temporary extension of 3 weeks while relief from the civil courts could be obtained.

22. I was unable not to notice the general commotion emanating from outside my courtroom at a number of points during the hearing. Security took up presence within the courtroom itself at the direction of the Designated Family Judge and even then the behaviour of parties had to be tightly managed and resulted in shouting across the courtroom at times. Y took the view that the professionals should be obliged to simply manage his behaviour and he could act as he chose. X left the courtroom for the bulk of the evidence on day 2, although remained outside and was represented throughout by counsel presenting a skilled argument on her behalf. However, before doing so she became repeatedly and openly hostile to professionals in court despite the presence of security. Y gave his submissions first and then absented himself abruptly. I formed the view that this judgment had to be handed down at a remote hearing for everyone's wellbeing.

Evidence

23. I have read carefully all the evidence filed in this matter to which I have been referred and the background to proceedings. To resolve the matter, I heard oral evidence from the following:

- a) Previously allocated social worker
- b) Allocated social worker
- c) Team Manager
- d) X (Mother)
- e) Children's Guardian
- f) Y (Father)

24. The previously allocated worker's evidence did not assist me greatly. She confirmed that raising the issue of the car seat came from the hospital and was not a concern pursued by the local authority. I will say no more about it. She further confirmed that she had undertaken very little work at all with the parenting assessment and that it would be best placed to explore that with the allocated social worker. It may have been that proper consideration by all to the questions she would be asked could have been resolved in writing without the need to call her orally. Such duty continually falls upon the parties throughout these proceedings.

25. The allocated social worker completed the parenting assessments of both parents together with the local authority's final evidence. He highlighted the concerns in relation to X's parenting from her current problems with addiction and the wider problems of protection from risky individuals. He acknowledged that she was parenting A, but that at 17 he was not within the public law ability of the local authority to make a successful application for an order. At the point the supervision order was relaxed, she was doing better. Fundamentally, the risks and needs of A at 17 are different to Z at 7 months.
26. The written evidence of the allocated social worker has come under some criticism and, due to those criticisms, the Team Manager also gave oral evidence to me. It was accepted that the care plan as presented to me at the commencement of the final hearing was inadequate, in my judgment woefully so. It failed to engage with important care planning such as that for contact with the siblings as well as clarity as to the intention as to cultural and religious heritage. Both of those items are significant in this case and important for Z. A further plan was presented during the hearing itself which engaged properly with all of the issues.
27. However, the amendments to the care plan were eventually made clear in evidence and further endorsed by evidence from the team manager. It was clarified by the authority that they would search primarily for a placement with those of Muslim faith, including nationally, and only when that were not possible would they look further afield for someone who may promote his cultural and religious welfare though not sharing in it. However, I look at that through the additional evidence of the family finder suggesting that a family meeting the primary profile is highly likely. I accept that evidence.
28. The allocated social worker's final statement did not adequately engage with an appropriately robust and comprehensive Re BS analysis in a written format. The local authority endorsed the articulately outlined and written evidence of the guardian as to the competing options for the child. They were also outlined in oral evidence.
29. Overall, when reflecting on the evidence of the allocated worker and team manager, it was clear to me that the authority had considered all of the issues raised by everyone. The failure appeared to result from not writing them down in a comprehensive way, rather than proper consideration of those competing factors when balancing and coming to their

recommendations as a starting point. I hope that learning will be taken from this moving forward and have been assured that it will.

30. The children's guardian is extremely experienced and has the benefit of being the children's guardian for the older children. She therefore knows the family intimately over time and has undertaken what I consider to be a robust and fair Re BS analysis of the options which has assisted me with my own. For her, adoption is simply the only option for Z. She has considered all others, including folding the issues of contact with a complex sibling network, and comes to the conclusion that nothing else but a plan of adoption will do for Z.
31. I was particularly impressed with her evidence, not just as to the Re BS balancing exercise, but also her clear views on contact. She had clearly looked at each sibling's relationship with Z and how that affected both him and them moving forward, but also how each impacted the others as a sibling group and what was right for each, bringing it back to the best interests of Z throughout his life. She made clear that she was an advocate of sibling contact directly in adoptive placements where such was both safe and in welfare interests, but that this case sadly militated against it at this particular time given the current problems that pervade this judgment. It may be that changes allowed that to shift. I will go through each within my welfare analysis below. Overall, I consider that I could rely on the informed and reasoned evidence of the children's guardian in coming to my conclusions.
32. However, the evidence of the professionals is only one part of the jigsaw. The most important evidence comes from X and Y themselves. I had been at pains to have X complete her final evidence, requiring her to complete the bulk of it at court at a previous hearing due to her missing appointments with her solicitor and difficulty engaging in the process. Both were ultimately able to file written evidence and give their oral evidence to me. I listened carefully to each and will record my observations and findings which then feed into the full welfare analysis below.
33. Starting with X, it was abundantly clear the deep love she has for Z. Many of the professionals endorsed her assertion that she could provide basic care to him, and she can

with controls. The question is her consistent availability to him and decision-making, the demons in her own life and her ability to protect him from risk while managing those issues.

34. It was often difficult to reconcile her evidence, both internally and in relation to the questions asked. X was clear to me that she could not work with the present social worker nor team manager as she said they had lied. However, she also levied that allegation at the police. She has previously not been able to work with Turning Point because the plan they laid out for her was not the one she wished to follow. I am not convinced that a change of social work team would change her ability to work with the authority.
35. X's assertion in her oral evidence that no one had criticised her care of her children in 16 years simply did not engage with reality. There have been previous care proceedings resulting in public law orders, with threshold crossed pertaining to her ability to care and linking it with significant harm that had befallen the children. That threshold was agreed at the time and later considered and found by the court. The written evidence details all of the repeated concerns brought to her attention by multiple agencies. Such a statement, made more than once in oral evidence, is reflective of the present limited insight that she holds towards her own difficulties and willingness to engage in them to promote meaningful change at this time in her life. While she does show occasional, albeit brief and limited, glimmers of insight they quickly fade and the disconnect takes over. She is not yet ready in my judgment to make the changes that would be necessary, although I always hold hope for the future. However, the changes made would have to be radical.
36. As a further example of this disconnect, she asserts she is not currently taking illicit substances. However, in the same breath she accepts daily use of unprescribed methadone which is obtained, in her view, not from a drug dealer but from a friend who is helping her. She was reminded that when taken in those circumstances it is a class A drug, but this did not appear to register. I go on to consider the truthfulness of this position and what findings may be drawn from the evidence I have read and heard.

37. I recognise the insidious nature of addiction, but such is not confronted and worked through by a lack of engagement with the real world. X's description of drug use even in her recent statement, with an admission of heroin use in March 2024, is difficult to follow as written. I further have the failure to engage in hair strand testing. That is against a wider background of heroin use regularly in November 2023. While I accept that she was not present at the hearing where it was ordered, that took place in February 2024 and she admits taking heroin the next month in any event. She was aware that she was in care proceedings and the allegations of drug use spanning years, together with her own knowledge of recent use. She was, in my view, taking account of all of the background, well aware that the care proceedings would require drug testing and has failed to engage with it and with her solicitors. Testing in a segmented manner provides information, additional to other evidence, not just as to use per se, but frequency of that use over a plotted period. When I place all of that together with the lengthy history of use and relapse and all of the evidence accepted in the threshold recorded above, I am satisfied that the purpose of testing within these proceedings was known and that failing to engage was in an effort to mislead as to the amount and frequency of that use, together with the substances used. I draw an adverse inference and am satisfied on the balance of probabilities that mother continues to misuse class A substances, which include at times heroin and cocaine in addition to the admitted unprescribed methadone. I very desperately hope that she will engage with help: help that can properly change her prospects and not just those on her own terms.

38. When looking at taking on board assistance offered, sadly X has not engaged with Turning Point in some time. While she has engaged previously, that has dropped off. X asserted in her oral evidence that she would engage with them but told me that when she called only last week: "*I was told Sarah (a pseudonym) is not back until next week.*" Sarah is her previous worker and it appears that has only been recently contacted within a week or so of the final hearing. Such does not readily account for care proceedings going on for some 6 months. X very clearly told me that wants to go onto a program using Subutex and would not complete one using methadone. Such comments, however, do not engage with either the availability of Sarah throughout these proceedings and lack of engagement with her since dropping from assistance and subsequently taking heroin in March 2024, or indeed that the last time she spoke to Sarah, and a reason for coming

away from Turning Point's services in and of itself, is that they did not wish to prescribe her Subutex. In their professional opinion they had offered to treat the addiction using methadone, which is not acceptable to X. The likelihood of hope at this stage of that changing is somewhat forlorn, but even if that is not the case, it has not even begun let alone given any chance of success.

39. Overall, X is only just beginning to approach the foothills of a very steep mountain she must climb. She has not yet, in her own mind, decided that she will climb it. It is often unhelpful to speak of addiction in terms of blame and I want to be clear that this court acknowledges the very real, powerful and abusive nature of addiction in its own right once it has taken hold. However, there must be a measure of personal responsibility and fully open acknowledgement of the circumstances for change to be both motivated and sustainable. That must also include the impact on the child, which is by any logic manifest and profound. I reject her suggestions that she may be available for a child's care while using. She herself agreed that she was not in previous proceedings. The same is true at this point in time in my judgment and any significant change at this stage given X's admissions and my findings is very far in the future.

40. X was asked about her relationship with Y. She told me that they were not in a relationship, but that as the father of her child they saw each other. I should note that Y's written evidence (which he later attempted to distance himself from) was that they were in a relationship. X's evidence evolved into suggesting that they see each other every other day, including sleeping over when he was not sleeping elsewhere. He is of no fixed address. It was abundantly clear to me, taking account of both of their evidence, that the parents remain in an enmeshed emotional relationship of mutual dependence. It is immaterial to this court as to its sexual nature and I need not comment on the same. In my judgment, it is likely to continue. That both of them strained to tell me how they were not in a relationship of consequence before the court was dishonest on their part. They are and they are aware of it.

41. When being asked about the risk that Y posed, X did not consider that there was one. She does not consider that her 16 year old son (B) was exposed to criminal activity in May 2024 when he was stopped by police in a car with Y (along with 3 mobile phones and

£600 in cash) or that it was in any way problematic. I will outline why I consider that to be the case below when considering Y's evidence. X further asserted that if Y was told he could not do something by a court or professional that he would not do it. She was challenged several times on this assertion and her answer simply did not engage with the wealth of evidence directly against this proposition, including Y's own evidence and actions. In my clear judgment, Y is not one to do as people instruct him to; he does what he wishes to do. He enjoys pushing the boundaries, particularly of those in any type of authority. That can be seen throughout these proceedings, but by particular recent example being his actions at contact in June and July. There is a lack of insight by either parent that Y's actions or lifestyle presents a risk to a child in his care or one with whom he lives.

42. Further, when examining whether Y would do a particular thing that was recommended, I have to record that his insight into the impact of his actions on others is extremely limited. For example, in his response to threshold document when it was alleged that both A and B were present during a police raid of the family home on 20 July 2022 and were frightened, he responded: "*partially accepted. Y cannot comment on the experience of the children.*" I am unclear why any responsible adult would be unable to accept that a police raid of their home would not be frightening for children. However, it is entirely in keeping with Y's general outlook and lack of empathy for others that this would not be something he could contemplate. Sadly, on 9 October 2023 a further police raid had to be conducted on the family home, where X, Y and the older child A were present demonstrating that this pattern repeats and were Z to be in their care then he would also have been present. Drugs were found in the property, although it was said they did not belong to X and Y. I have not heard evidence about the same as such was disproportionate to the issues already covered.

43. Turning then to an overall assessment of Y's evidence. I was simply astonished by Y's evidence from the witness box. While making the appropriate allowances for the highest of emotional situations a parent can be in, I cannot describe the manner in which he gave his evidence as anything other than controlling and aggressive. He attempted to control every aspect of the court process during his evidence: what questions were being asked and which he would answer. He often talked over others, was rude to advocates and

would not listen when asked to pause, despite my interventions to assist him or to guide the court process. I explained several times that I wished to hear his evidence so that I could make informed decisions, but that he needed to engage with the questions asked. While he would at times calm down, immediately he would resume his behaviour. He did not apologise, considering that his behaviour was justifiable and that professionals should simply deal with it. Such occurred within the tight confines of a court environment. It is clear to me that if he was asked to do something by a professional that he disagreed with, he would not comply and would instead respond with aggression.

44. I have noted that his explanation for something being said that he could not explain was that it was “*taken out of context*” by a professional. He does not actually give an alternative answer or impression, but just a nebulous reference to it being interpreted incorrectly. When I analyse that I am reminded of his comment in parenting assessment: “*right now I feel like you’re trying to stitch me up and that’s why I’m being a c**t. That’s why I’m giving you answers you can’t make comments on my answers because they’re not straightforward.*” I consider he says certain things to confuse the process rather than his attempt to clarify or give answers he feels are correct or truthful. Ultimately, when I step back and look at the whole landscape of evidence, it is striking that the “*out of context*” comment is said about (among others): the allocated social worker, the contact supervisor, the police, turning point and the guardian. Those are just by way of example. When looking at the evidence through the lens of his credibility, it is more likely that is not being taken out of context, but in fact that the same is being accurately reported by a range of different professionals.

45. When looking at his behaviour with professionals, I remind myself of an entry in the parenting assessment stating: “*I smoke weed to forget all my shit, it’s not because I enjoy the high or anything, it helps me to de-stress. If I didn’t de-stress you would have so much more of a hard time*”. I also note his comment that “*every probation meeting I have been to I have probably been high*”. For the avoidance of doubt, I accept that both of these things were said by him. His comment allegedly made to the ambulance worker and written down very clearly in the notes within quotation marks that “*I will punch her in the head*” referring to the previously allocated social worker at the hospital is entirely in keeping with what he says and the manner in which he conducts himself.

46. Y accepts that he is a daily user of cannabis. He denies use of other substances. There has been an issue as to whether he uses some £30 of cannabis a day, which would be a significantly high amount. That is the amount which he has claimed on several occasions to professionals previously. He said it was not that in his oral evidence and attempted to back away from saying it by claiming that it was “*taken out of context*”, but did not properly elaborate on this and struggled very much when asked direct questions, although was appropriately given the opportunity to comment. He mostly responds with questions around his drug use by pointing out that many others use drugs and are not in care proceedings. He tended to respond to any direct question with deflection and evasion. I reminded him that I am concerned with the welfare of Z and that this was his chance to tell me or correct matters for me and so direct answers would be of assistance.
47. I have taken account of Y’s history of convictions, originating from 2019 and 2021, of possession with intent to supply class A drugs (cocaine on one occasion and crack cocaine on another). He served a significant sentence of imprisonment for that, coming out in around April 2023. I also take account of his failure to comply with the drug testing ordered within these proceedings and reject his explanation in evidence that he “*didn’t need to*” because he knows what he takes. He fails to engage with the point that the court had concluded it necessary to justly resolve the proceedings.
48. I have listened to his explanation for the two positive tests for cocaine and opiates in October and December 2023, which he denies were caused by him actively taking cocaine. He offers that someone could have spiked his spliffs. I look to all of the available evidence when coming to my conclusions, placing it all in context with each other. I reject his explanations and find it more likely there were accurately recorded positive tests taken months apart by different agencies. When I place that failure to engage in testing with his previous positive tests for class A drugs in October 2023 and December 2023, his attitude to the testing and his previous convictions and current lifestyle, I draw an adverse inference and consider the local authority have proven on the balance of probabilities that that he consumes class A drugs, including cocaine and opiates.

49. Y admits he has no job and does not take state benefit. His response to how he clothed and fed himself, never mind his (even on his own admission one time) £30 a day cannabis habit, was due to generous friends and benefactors. He told me that one of these friends may or may not be a millionaire, although he was unclear and evasive on this point in keeping with his other evidence. For the avoidance of doubt, I do not accept his fanciful and frankly ludicrous explanations about friends who generously support him when he openly admits he provides no services for them. That makes it all the more concerning when on 28 May 2024, he is stopped by police in a car which has in it £600 in cash, 3 phones (none of which he says belong to him) and, most concerning of all, A's older 16 year old brother (B) who is currently in the care of the local authority.

50. I have analysed the evidence given about that day from the police logs but also from Y himself. He accepts he was stopped by police in a car with B and that the police found 3 mobile phones and £600 in cash in the car. I have noted the amount of each and folded that into the inherent likelihood of what was happening that day. Y relies on the fact that no drugs were found in the car and that the police did not charge him. However, I am concerned with the wider picture and its implications for welfare. I reject his explanations for the presence of the phones being that different friends use the car and must have left their phones there. I further reject his explanation for having the £600 in cash, noting that he is unemployed and not in receipt of state benefit, because he had to pay some parking tickets and a speeding fine. On the contrary, I find it is more likely that the £600 and the 3 phones are evidence of continued engagement in criminal activity, which is how he funds his lifestyle. B's presence at that time is worrying as to how he considers the impact of his lifestyle on young people around him and how unsafe it was for him to be in a car carrying phones involved in illegal activity or £600 in cash. I have previously noted a threat to Y's own life arising from his problematic associations. Given my findings, I conclude that B was actively exposed to criminal activity on that day, whether in its aftermath or its commission.

51. I should note that when coming to those conclusions above, I have listened carefully to Y's explanations, but also his thought process about why to his mind it simply does not matter. He thinks that because the police did not charge him that it ought not to feature in

Family Court and should be forgotten or glossed over as immaterial. I have reminded him of the standard of proof here and that I am looking at much wider implications on children's welfare than that which is necessarily provable to the criminal standard of beyond a reasonable doubt. Regardless of this, he considers that it is unimportant and certainly immaterial to my decision-making on wider welfare issues as to whether B was in the car or not, because the police did not prosecute him. He is mistaken.

52. Y does not believe that the threats that he makes, which he said in an unguarded moment in evidence were to antagonise, are problematic. He does not understand the profound impact of what he says and does on others, which extends to his child. At contact on 6 June 2024 it was reported that he asked what would happen if he took Z and the contact worker responded that they would call the police to which Y said "*the police won't do shit*". The notes allege that he then went on to assert that he knew Z was living in [city] and that he knows the route that the support workers take which he said was through [local town] and [city]. He said he would not do anything now because he would not want contact stopped but said "*wait and see what happens*" if Z is adopted. The contact recording specifically states that Y said he did not care if all of that was written down, which is in my view entirely in keeping with his general attitude. He then breached the safety plan by walking out of contact directly after it had concluded instead of waiting the prescribed 10 minutes. He did the same at a contact on 13 June 2024 following making these comments the week before. I accept all of that is accurately recorded.

53. Prior to the matter coming in for final hearing there was a significant dispute surrounding contact where it had been alleged that Y had made threats to abduct Z from contact. His direct contact was suspended for a period. One of the concerns was him taking Z outside during contact. A reinstatement meeting was arranged at which a safety plan was presented. There were certain items within that plan that needed amending and so it was not signed on that day but sent to his solicitors. His solicitors replied, presumably on instructions, that the amended version was now agreed. It included a provision not to go outside. When Y next arrived for contact, he voiced knowledge of the plan and accepted he knew of its terms including not going outside and yet he proceeded to take Z outside. He accepted to me in oral evidence that he took Z outside on that occasion despite knowing that it was not permitted in the safety plan. He told me that since he had not

signed the plan in writing, he told me that it “*was not legally binding*”. In a strange turn of events, he criticised the local authority for permitting his contact to go ahead. In my judgment, he fundamentally misses the point of the safety plan, its impact on Z’s welfare and his inability to follow rules designed to provide safety and security to his child and other children at the contact centre.

54. I am reminded of his threat within the parenting assessment, which I find he made, saying “*If I don’t get my child I will be more angry, 100 times angry. I have nothing to lose. I’m not scared of going back to jail.*” I find that F has made threats to remove the child from the care of the authority at various points in the proceedings, which extend to suggesting where Z lived and what route the support workers were taking. Such was in an effort to frighten and scare the professionals working for the local authority at the time they were made, but further I consider there is a real risk on the making of a placement order that he may attempt to carry out that threat. I will give separate judgment on the issues that have arisen since the writing of this judgment.

Threshold & Welfare

55. Having considered all the evidence, I find on the balance of probabilities that the threshold criteria listed as agreed at paragraph 16 is made out on the evidence I have read and heard and I make those findings on the balance of probabilities. The previous threshold findings are pertinent to the risk that existed when proceedings were initiated. Accordingly, I find that the threshold for making public law orders is crossed.

56. Within the context of all I have read, heard and for the reasons outlined above, I also make the following additional findings relevant to welfare on the balance of probabilities:

- a) X continues to misuse class A drugs, including heroin and cocaine, in addition to her admitted unlawful use of unprescribed and unregulated methadone.
- b) Y continues to misuse class A drugs, including opiates and cocaine, in addition to his admitted daily use of cannabis.
- c) Y continues to be involved in criminal activity as evidenced by:

- i) Being in possession of 3 mobile phones and £600 in cash when stopped by the police on 28 May 2024
- ii) Funding a drug habit of up to £30 a day and having £600 in cash while having no legitimate income.
- iii) Exposure of B, a young man of 16 in the care of the local authority, to criminal activity whether its perpetration or its aftermath on 28 May 2024.
- d) The parents have failed to engage with and cooperate with professionals for the benefit of the child.
- e) Y has been aggressive and confrontational with professionals and continues with this behaviour.
- f) Y threatened to remove Z from local authority care on more than one occasion and suggested he knew where they were living and the routes that the support workers take.
- g) Y and Z remain in an emotionally enmeshed relationship that is likely to continue, which would pose a risk to Z due to the findings above.

57. I shall then place all the evidence within the context of the welfare checklist in order to determine which, if any, orders are in the best interests of the child.

Z's ascertainable wishes and feelings (in the light of his age and understanding) which I take together with his particular needs and his age, sex, background and any relevant characteristics

58. Z is a little boy only 7 months old. He is reliant on his adult carers to meet all of his needs. Those needs comprise safety, stability, food, warmth and shelter. He is too young to express his wishes to me, but if he could do, I am sure that he would want to be brought up by his natural family if that were safe for him. The difficulty here is that I must also assess that safety. He does not have any additional care needs highlighted to me at the present time and is too young for education at present. I will address his connections with his older half-siblings below. Z was removed shortly after his birth and has been having contact with both parents, although in recent weeks that has become strained and subject to cessation for a period by the authority following threats that were made that I have covered above.

Any harm which they have suffered or are at risk of suffering which I take together with how capable each of his parents, and any other relevant person, is of meeting his needs;

59. I have outlined the harm that Z is at risk of suffering at length above and will not repeat it here. The risk is multi-faceted and does not lie in one single location. It is also not likely to change in the foreseeable future.

60. X could provide Z with basic care were she emotionally and physically available to do so. Sadly, I have concluded that she still misuses class A drugs and is not ready to embark upon substantial and sustainable change in that regard. She further is unable to recognise any risk that Y poses within the household. While recognising the positives to her care, I accept the outcome of her parenting assessment, in which she struggled to engage, that she is unable to safely care for Z and that there cannot be support put in place that could enable that to happen.

61. Y does not put himself forward to care, although has asked several times for a parenting assessment. Such was refused by the Designated Family Judge, and if any such application is being raised before me, I too dismiss it applying the factors in section 13(7) of the Children and Families Act 2014, noting in brief that there is already a robust parenting assessment of him, that we are in week 30 and that this is the final hearing and that it is not necessary to justly resolve proceedings. I accept the outcome of his parenting assessment that he is unable to safely care for Z, consider it to be properly analysed and based on a solid factual foundation and do not suggest that there ought to be any further assessment of him to justly resolve these proceedings.

62. There are no others who have been positively assessed to care and no one has run a case at this final hearing as to challenge of any of those assessments of connected carers that have concluded negatively. As such, they are not realistic options before the court.

The likely effect on Z (throughout his life) of having ceased to be a member of the original family and become an adopted person taken together with the relationship which Z has with relatives and relevant people (i) the likelihood of any such relationship continuing and the value to Z of its doing so, (ii) the ability and willingness of any

relevant person to provide Z with a secure environment in which the child can develop, and otherwise to meet the child's needs, and (iii) the wishes and feelings of any of any relevant person regarding the child.

63. None of what I have said above changes that both X and Y are two of the most important figures in Z's life. They are his mum and his dad and there are close ties of love and affection with each, which I will describe below. In the main, when Z is being engaged with as opposed to the other problems encountered, is of good quality, showing emotional warmth and lovely engagement. Were X and Y able to safely care, taking on board and engaging in support that would be necessary, then that would likely be seriously considered. However, the risk factors are such that the engagement is not there and in any event the types and gravity of risk, for example class A drug use, do not lend themselves to professional support at this stage which could be done with Z safely in the household. Many of the risks are not recognised at the level I have asserted.

64. When coming to my decisions, I have also been looking at contact for both X and Y.

65. In relation to X, contact is good, but with a caveat of 'mostly'. There are occasions where she does not attend which can be distressing to Z, or an occasion where she fell asleep. There are similarities in her engagement with the parenting assessment, her solicitors or other services designed to assist her; she turns up some of the time and Z would need that to be consistent. I am further concerned about direct contact going forward having a negative effect by virtue of the plan being completely unsupported from X's point of view.

66. For Y again his contact is mostly described as good, and I accept he brings toys and engages Z in play. The children's guardian gave evidence of his interactions in contact. There are some lovely passages of emotional warmth. I am less concerned about observations by the professionals that he is quiet in contact. Indeed, I accept in fairness to him that he struggles with people watching him and that such does not prevent me seeing the emotional warmth displayed. However, his actions at contact to provoke and push boundaries of safety plans are simply unacceptable. I consider that is at real risk of continuing and he simply thinks he has done nothing wrong.

67. Z has four older half-siblings. His relationship with each falls to be considered when assessing what the correct welfare plan is for him, to include contact. Of those four siblings, he has only seen A once, shortly after his birth. A has expressed a wish to see him, but that is complicated in the plans moving forward as A lives with his mother, who in turn is enmeshed in a relationship with Y. B has expressed indifference to seeing Z and has never met him. C does not wish to meet him. D has expressed a wish to see him, but I also take account not only of her young age at rising 7, but also of her stability in a placement with C who has expressed such a clear wish. All of those matters were properly brought to my attention in oral evidence by the guardian who weighed each issue before me. Her conclusion, and mine, is that the only safe contact and that commensurate with welfare were a plan of adoption to be sanctioned would be indirect contact moving forward. There is a risk that the placement could be identified by any other means and in light of my findings about Y's behaviour, there would then be a risk to the placement. That indirect contact would include the provision of pictures and would move in both directions. Both the local authority and the guardian were open in the future to that contact progressing were it to be right and for conditions that currently exist to have significantly changed.

68. When I weigh those considerations on the appropriate plan, I do accept that were there to be a plan of long-term foster care then those relationships could be explored in the safety of direct supervised contact at neutral locations moving forward. However, that is limited to testing exploration rather than continuing an established relationship of love and affection. Further, it does not remove the risk that that a child may divulge their placement unwittingly in conversation, but more importantly it does not appreciate that the only two who wish for contact to occur are A and D, and the problems with D having contact remain the same as to the impact of D's contact upon C. Ultimately, Z does not have an existing relationship with any of his siblings in direct contact so that would not have to cease. On the contrary, it could be more productive in their current dynamic for such to proceed as indirect only at this time and strengthen that bond which may then have an opportunity to be improved upon when circumstances change and it is right for welfare in the future. That does not rule out direct contact in the future. All will know about each other and receive two-way communications, including pictures. Such could be a platform for future development, but achieved in safety.

69. The option of long-term foster care is not currently the local authority's plan, but I could reject their plan of adoption and ask them to reconsider. While that would preserve Z's legal ties to his parents and open the door for a discharge application in due course, I have assessed above the reality of that being brought in the near future. The court would be making an order which lasted until Z was 18. For the whole of that time he would be a looked after child, which would mean that he would be subject to the oversight of a social worker, who may change frequently making parental decisions for him, as well as the intrusion of that in his education and health. There are many benefits to a child being in local authority care, for safety and some measure of stability, but it cannot guarantee that placements would be long-term and does not have the same commitment from a family, an intention that it is lifelong and permanent, that adoption does. If, for example, he wished to go on holiday then such would require permission and there are different provisions that would apply to a foster carer extending that invitation to a child in their care to an adoptive family. These are all factors that must be weighed in the balance when considering what is right for this little boy of 7 months with the current family composition he has.

70. Adoption would sever those legal ties he currently has to both of his parents. That is acutely significant and would result in a loss of the potential of various natural family relationships to his older siblings. He would suffer an emotional loss through this. However, he may also gain other relationships within the family he may find, although I am unable to assess that at this point in time before such has been identified. The professionals tell me that any losses he may experience are somewhat, and I underline somewhat, addressed through indirect contact moving forward as well as life story work that would be done with him. He would know where he came from and be able to put his lived experience and that of his siblings into context. He would also not lose his heritage as I am assured that would be preserved within the matching process and that his religious upbringing would be respected. I accept the intention of the local authority in that regard and would underline the significance and seriousness of this undertaking.

The range of powers available to the court

71. If I made no order, Z would immediately return to the care of his parents. The local authority statutory intervention with the family would end as would all court proceedings. The same would result were I to make private law orders governing with whom he lived and spent time with. I could, however, couple that private law order with a supervision order which would require the authority to advise, assist and befriend the family. No one suggests that is an appropriate order in the circumstances. I could make a care order which would give the local authority enhanced parental responsibility but allow the parents to retain theirs. It is difficult to envisage that they could safely place Z with his parents under that order though it is an option that I could invite them to reconsider their plan. It is more likely in a foster care scenario, which would result in him being in the care of the authority for his minority subject to any discharge application. The final option is for me to make care and placement orders which would both place him into the care of the authority but also free him to be placed for adoption. That final option would require me to dispense with his parents' consent which I could only do if I considered his welfare required it.

72. Taking all of that into account, I come to the following conclusions and balance about the positives and negatives of each realistic option:

a) Placement back with X:

i) Positives: X could provide basic care were she emotionally and physically available to do so. She is his mum and he would love to be cared for by her were that safe. It would maintain legal and emotional ties with his parents, because X still associates with Y. It would allow Z to have the potential of a direct relationship with at least A.

ii) Negatives: It is simply not safe for a number of reasons outlined above. X is still misusing class A drugs and, while she has voiced a desire to stop, the steps towards that are only just being contemplated. She cannot protect yet against any risk associating to her and Z from risky adults, including Y. Her issues are longstanding and not capable of resolution in Z's timescales. She accepts this could not happen immediately.

b) Long Term Foster Care:

i) Positives: Z would be safe from harm. He would maintain contact with his mum and dad in a safe and supervised environment. There is a prospect of a discharge application were significant changes to be made.

- ii) Negatives: Z is not even 1 year old at this point and such commits him to the foster care system for the whole of his minority. He has no established relationship with his siblings at present, two do not seek that relationship. The prospect of a discharge application in the near future or even the medium term given my findings above is unlikely.
- c) Adoption:
 - i) Positives: It would allow Z to find a forever family, which is most likely part of his heritage and faith. It would keep him safe, while also giving him the prospect of a family throughout his life and not just in his minority. It would be free from any stigma or obligations of being a looked after child. He would maintain a two-way contact with his siblings, albeit indirect and his parents would be afforded letterbox contact.
 - ii) Negatives: Adoptions are not perfect, far from it. They can break down, although at a lesser rate than long term foster care. It would mean his legal ties with his parents were severed and that they would only be afforded letterbox contact given their positions and the risk to the placement. It would also mean that he was, at the moment, confined to letterbox contact with his siblings were they to engage rather than directly. While he may not be a looked after child, there is still sometimes a societal ‘difference’ for an adopted child that must be accounted for.

Conclusion & Decision

73. My consideration of the welfare checklist leads me to conclude, when balanced against the other options, that the only appropriate lifelong welfare option for Z is for him to have a chance to be adopted and find a forever family who will love and care for him throughout his life. I do not do so lightly and it is with regret that it has come to this. However, I am unable to place Z back with his mother under any type of order and to do that would be actively unsafe for Z. Nor is there a possibility in the foreseeable future that could occur safely. I similarly do not consider long-term foster care to be appropriate for Z with his particular age, needs and family dynamics when weighed against the negatives.

74. By virtue of my reasoning above, and because I consider this to be the only appropriate plan, I must dispense with his parents' consent to adoption because his welfare demands that I do so.

75. In my judgment the following orders are in Z's best interests and, in light of all the evidence, I consider them to be both proportionate and necessary:

- a) I make care and placement orders for Z.
- b) I approve the local authority's care plan for adoption and I dispense with the consent of the parents to that plan.
- c) I make no orders for contact under section 26 of the Adoption and Children Act 2002 and consider that the present care plan of the local authority for contact is commensurate with his needs.

Permission to appeal

76. During judgment and prior to him absenting himself during the course of it, Y made what I have taken to be an oral application for permission to appeal citing his concerns that my decision was wrong, that he deserved a proper assessment, that they were without a social worker for a period of time. I have listened to those grounds and I apply the test for permission confirmed in **Re R [2019] EWCA Civ 895**. Relying on my evaluation and decision outlined above, I do not consider that any appeal stands a real prospect of success or that there is another compelling reason for the appeal to be heard. I therefore refuse permission to appeal my judgment. Any renewed application for permission lies to the Court of Appeal and must be actioned within 21 days.