



Neutral Citation Number: [2024] EWHC 150 (Fam)

Case No: NE23C50777

IN THE FAMILY COURT
Sitting in Newcastle upon Tyne Civil and Family Court

Date: 17/06/2024

Before :

MRS JUSTICE THEIS DBE

Between :

	The Local Authority	<u>Applicant</u>
	- and -	
	The Mother	<u>1st Respondent</u>
	- and -	
	X	<u>2nd Respondent</u>
	- and -	
	C & D (By their Childrens Guardian Ms Nicola Murphy)	<u>3rd & 4th Respondents</u>

Mr Christopher McKee (instructed by **The Local Authority Solicitor**) for the **Applicant**
Mr Nick Stoner KC and Mr Frazer McDermott (instructed by **K Boswell and Company**)
for the **1st Respondent**
Mr David Rowlands (instructed by **DMA Law**) for the **3rd & 4th Respondents**
The 2nd Respondent did not attend

Hearing dates: 11th – 14th June 2024
Judgment 17th June 2024

Approved Judgment

This judgment was handed down remotely at 2.00PM on 17th June 2024 by circulation to the parties or their representatives by e-mail. It will be placed on TNA on 25th June 2024.

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MRS JUSTICE THEIS DBE

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

Mrs Justice Theis DBE :

Introduction

1. This matter concerns a fact finding hearing within care proceedings issued by the local authority in December 2023 relating to two children C, age 4 and D, 9 months. The other parties are the children's mother. C's father has taken no part in C's life and is not a party. D's father, X, remains a party but has taken no active part in the proceedings or been involved with the children since September 2023. His solicitors made an application to come off the record, which was granted on 24 May 2024, as he had not kept in touch with them and when he did make contact stated he wanted to take no part in the proceedings.
2. On 21 November 2023 D, then aged 11 weeks, was taken to hospital by her mother as she had been unwell for about 24 hours, had not been able to retain her milk and was regularly vomiting. At hospital she was pale and unsettled, had a temperature, sunken eyes but a flat fontanelle, a raised pulse and respiratory rate but her oxygen saturation was 100%. The initial diagnosis was a chest infection, although it was considered important to exclude sepsis. Tests were taken and she commenced intravenous antibiotics. Initial tests found D had severe hypernatremia, with a plasma sodium concentration of 180mmol/L. Plans were put in place to measure and record her fluid balance. Management plans concerning this were discussed with the regional paediatric nephrology consultant.
3. The main issue in the case is what caused that high sodium level. The local authority sought findings that the mother had administered salt as D was in her care at the relevant time and was wholly reliant on her. In the alternative, the local authority state the mother failed to protect D and failed to seek prompt medical attention. The mother accepts she failed to protect the children in that she failed to adequately supervise C within the home (who she accepts is likely to have mixed the salt in with the milk powder), she used contaminated milk to feed D and failed to seek medical attention promptly when it was obvious, or ought to have been obvious that D was or was becoming seriously unwell. It is accepted that these concessions meet the threshold criteria under section 31 Children Act 1989.
4. As well as having available the court bundle and the relevant medical records, oral evidence was given by Dr S, medical registrar, Ms J, allocated social worker, Ms R, social worker who supervised contact, DC J, one of the police officers who attended the family home, the maternal grandmother and the mother.
5. At the conclusion of the oral evidence the local authority took stock of their position and came to the conclusion they no longer sought a finding that the mother deliberately contaminated D's milk with salt. They set out in their closing submissions the reasons for doing so, which no other party disagrees with. The local authority produced a revised schedule of findings.
6. In further discussions between the parties they were able to agree a number of facts that could be recited in the order to reflect the local authority wider concerns regarding the mother's mental health difficulties, the history of abusive relationships, and her lack of openness (including regarding her use of cannabis and cocaine) when working with professionals. It is agreed these are not threshold matters but are

recorded in the order so as to inform anyone providing support for the mother and the children in the future.

7. The matters that remained in issue between the parties can be summarised as follows: the local authority seek findings, as part of the failure to protect, that the mother *'failed to appreciate an obvious risk of contamination'* at the time she found C playing with the milk powder with the salt nearby and *'continued to feed or attempted to feed D with contaminated formula milk when it was obvious or ought to have been obvious that she shouldn't'*. Mr Stonor K.C. and Mr McDermott, on behalf of the mother, submitted this is not necessary bearing in mind the concessions the mother had already made and Mr Rowlands, on behalf of the Children's Guardian, saw the force in the local authority position regarding the first but not the second issue.
8. This case has had the benefit of all parties having experienced legal teams. The court is very grateful for the collaborative way they have aided the case management of this case and to each of the counsel for their detailed written documents.

Relevant background

9. The mother, 26 years, reported feeding difficulties to her health visitor regarding C soon after his birth in 2020, including vomiting after feeds and colic. She had separated from C's father in the early stages of her pregnancy, as he didn't want to be a father. The mother kept in contact with her health visitor, seeking advice about the feeding difficulties she experienced with C who was then a few weeks old. There were some reports of the mother re-kindling her relationship with C's father, but that was short lived.
10. By the time C was five months old there were positive reports regarding the mother's care of C. Those positive reports continued when C was 9 months old and there is reference to her new relationship with X in 2021.
11. When C was 11 months of age there were reports of difficulties in the mother's relationship with X, the police reported he had made threats to smash the windows at the mother's property and the mother did not want to report the incident to the police.
12. When C was about two years of age the mother sought to move properties due to alleged abuse from X within their relationship.
13. When C was 3 years old the mother was pregnant with D, having suffered a previous miscarriage and a termination. Following D's birth in late August 2023 the mother described in her statement within these proceedings that she had panic attacks, she was not coping with her mental health and had separated from X just over a week after D's birth. She accepts she was not open in reporting these difficulties to the health professionals she was seeing at the time.
14. The mother describes D suffering from colic when she was a few weeks old, which caused additional stress for her. She describes being exhausted at that time, tried to remain focussed on caring for the children but the days merged into each other and she had limited outside support. She sought support from the maternal grandmother. D's six week check did not record any significant concerns and the mother reported to her health visitor shortly afterwards that she had no feeding concerns with D. The

mother also referred to no concerns with X and they were 'co-parenting' D, the mother accepts that was incorrect.

15. More recently the mother formed a relationship with Y online. According to the mother, they had phone and video contact and in mid November 2023 the mother met him in person for the first time. He came to stay with her. Six days later the police visited the mother on 19 November 2023 and informed her Y is a registered sex offender and he left the property.
16. The following day, 20 November 2023, the mother reports D continued to have colic. That afternoon, following making up a bottle for D in the kitchen in the prep machine, the mother reports clothes were ready to come out of the tumble drier, she took them upstairs leaving the top off the milk powder on the kitchen worktop and was upstairs for about 5 – 10 minutes. The children were in the living room. When she came back down stairs C had pulled a chair up to the kitchen worktop and had been playing with the milk powder. The mother took him off the chair, took him into the living room and returned to clear up the milk powder from the worktop, chair and the floor. She noticed the salt container was next to the milk powder with the top open.
17. In due course the mother gave D her bottle and put her to bed about 8pm, reporting no difficulties. At about 10pm, when D woke for a feed the mother describes making up another bottle using milk powder from the tub of milk powder C had earlier been playing with. She describes giving D about 2oz, then winding her before continuing, which was her practice to manage D's colic. The mother described D being immediately sick all over her when she went to wind her. D was crying, was reluctant to take more milk and when she did was sick again. The mother described in her statement '*it was as if her body was rejecting it, she was not retching she was just sick*'.
18. Following being changed D went to sleep and woke for her second feed in the middle of the night. The mother describes going downstairs to make up the bottle, using the powder from the tub and used a different clean bottle. When she tried to feed D the sick got worse in her statement she states '*I can't really remember much about it, it was all a blur...as I was totally exhausted...I recall thinking at some point (although I cannot remember when) why is she being sick that much. I do recall changing her three times during one feed in the night.*'. The mother moved D into her bed and said during the night she changed the bedding twice and changed her clothes six times.
19. By the morning, 21 November 2023, the mother said that D did not look ill, her breathing was making a noise which she said was usual. The mother took C to nursery and spoke to her friend three times during the day, two were by way of video call, when she asked for her friend's advice about D. According to the mother, her friend suggested she should get D checked out. As there was no change during the day in D's position the mother rang 111 at 3.20pm. The advice was that D should be taken to A&E. After the mother had made arrangements for C's care on return for nursery a taxi collected her and D and they arrived at hospital at just after 7pm. C was cared for by her friend and then by the maternal grandmother.
20. By just after 8pm it was noted that D's sodium levels were very high. D was treated with antibiotics and her fluid levels monitored. D tolerated some milk. The mother stayed overnight in hospital with D.

21. When Dr S (registrar) spoke to the mother the following morning she described D's feeding regime before the recent events. The mother said there had been no prior social services involvement and that she did not have much contact with X. Dr S outlined the plan to the mother that they were going to speak to the renal team as the sodium levels were so high but also maintain antibiotics due to D's temperature which suggested an infection. It was explained to the mother they would not expect such high sodium levels with an infection. They needed to rule out feed as a cause of the high sodium and asked the mother to bring in the milk formula for testing and to bring in D's red book. Dr S's case recording then notes *'Mum spontaneously asked "high sodium is high salt right? I was just thinking my son may have done something to her milk" reports that her toddler drags chair to bench to reach objects at home – mum queried if he could have dropped it in as table salt was next to unopened milk when she found him three days ago – he had taken the milk open onto the floor with the table salt above on the bench – mum stated that she felt that is what the high salt may be and stated she was concerned at the time...'* In her statement for these proceedings the mother referred to having realised this connection when she woke up and that had told *'them as soon as I realised what had happened. When I had come into hospital I had brought two bottles with me and so I asked them to test the milk in the bottles I had brought with me'*.
22. Dr S spoke with the mother a little later, together with Ms O'C (the safeguarding nurse), after he had spoken to the paediatric renal consultant. He informed the mother they would need to make a referral to social services. The mother denied she had given D salt and re-iterated her account about what had happened on Monday when she had found C playing with the milk powder next to the salt.
23. According to the mother and grandmother they had a brief conversation between the discussions with Dr S when the mother informed the grandmother about the connection she had made as the possible cause for D's sodium levels. The grandmother was out with C at the time. On her return to the mother's home the grandmother reports she put her finger in the milk powder and it tasted of salt. She asked C whether he had put salt in the milk powder and, according to the grandmother, he said he had.
24. A strategy meeting was held that afternoon. It was agreed the mother should be supervised when D was in her care.
25. The police attended the mother's home to collect the tub of milk powder and the salt container. The police took a statement from the grandmother and spoke to C, who agreed he had put the salt in the milk powder.
26. Further liaison with the paediatric renal consultant took place and agreed a baseline for reduction in sodium levels over next 24 hours.
27. The mother agreed to the children being accommodated under s 20 and C was placed with foster carers. D remained in hospital and the mother rang the hospital a number of times during the night to ask after D and was informed sodium levels were decreasing.

28. D continued to be monitored, the sodium levels decreased and D was discharged on 26 November 2023 and taken to the same foster carer as had the care of C, where they both remain.
29. The local authority issued these proceedings on 8 December 2023 and an interim care order was made for both children on 8 January 2024. Directions were made, which included the instruction of experts: Dr Coulthard, Consultant Paediatric Nephrologist, Dr Ward, Consultant Paediatrician and Dr Cooper, Consultant Forensic Psychologist.
30. After the hearing in January 2024 the case was allocated to me and I have dealt with all the case management hearings since then. Following the filing of the expert reports and responses to further questions, it was agreed it was not necessary for any of the experts to be called to give evidence.
31. The mother has had contact with both children on three occasions each week. She has been an assiduous attender and the contact is reported to be very positive. The mother and foster carer have established a warm and constructive working relationship.

Oral evidence

32. In his oral evidence Dr S explained that the hospital notes prepared by him on the ward round are taken by the foundation doctor who was with him, checked by him and then uploaded onto the electronic case system. When he spoke to the mother first on 22 November 2023 he described her as being tired from the day before although she gave him all the information he asked her for. He said he was aware the two milk bottles that had been brought in by the mother the night before had been taken from the room for testing. When he spoke to the mother the second time she had been upset. He agreed with Mr Stonor that in his notes the reference to the tub on the floor may be formula as he said it was difficult to get a picture and milk and formula were used interchangeably. Also, when asked about his reference to the mother sweeping the milk powder up he said that is a general term, a reference to it being tidied up. Dr S also agreed with Mr Stonor that other references in the notes to the tub of milk powder being next to the salt was his recollection too as they had discussed that the salt was not usually kept there. Dr S agreed with Mr Rowlands that he had been the first person to discuss sodium levels with the mother. Dr S recalled the mother making the connection between high sodium and salt when he spoke to her.
33. Ms J was allocated the case following the referral to the local authority. She agreed that when she spoke to the mother she had been spoken to by the doctor and the police, the mother was co-operative and was upset that anyone thought she would harm D. Ms R supervised the first contact between the mother and D, agreed with Mr Stonor that the mother behaved entirely appropriately towards D and the mother was clear in her discussions with her she felt she should have been downstairs to supervise C.
34. In her oral evidence the maternal grandmother was clear, she did not consider the mother had given salt to D. She described the phone call she had with the mother on the morning on 22 November 2023 when the mother suspected the salt may have been put in the milk powder by C, the mother informed her she had given the milk bottles to the hospital and they wanted the tub of milk powder and it would be collected later. She did not consider C listened to the call as he was distracted as they were going to

the shops. She said she did not inform C she was going to taste the milk powder, she decided to do that herself, it tasted of salt and C did not see her doing it. When she asked C if he had put salt in the milk powder he replied yes, she did not explore that any further with him. She was pressed by Mr McKee about differences in her statements, for example whether she described being told that C was at the kitchen bench rather than on it. In her police statement she said C had emptied bottles before and described an occasion when he had emptied talcum powder into the toy box. When the police arrived she described C as concentrating on playing on his ipad. When the police spoke to C, she did not consider her presence compelled him to answer in a particular way and the police evidence confirms when they spoke to C he was facing away from his grandmother. She agreed with Mr Rowlands that there were some matters (such as drug taking) the mother had not spoken to her about.

35. In his evidence DC J explained that he was an experienced police officer and had been with the child protection team for over two years. He described the layout of the home when he arrived with his colleague. After he had spoken to the grandmother and collected the tub of milk powder and salt from the kitchen he sat on one of the sofas with the grandmother to take the statement. C was in the same room, playing and speaking to DC J's colleague and when asked C accepted he had put salt in the milk powder. Whilst DC J accepted C may have been influenced by what he was hearing he considered C's narrative was consistent.
36. The mother's oral evidence recounted the background, the difficulties she had with her mental health, her relationship with X, his involvement with drugs and her own drug taking. She detailed how exhausted she was at the time, shocked about what she had been informed by the police about Y the day before and that consequently on 20 November 2023 she was *'not there for the children'*. She agreed she had told Ms H-S, who had undertaken the parenting assessment, that she felt very guilty about what had taken place as she said *'even though not me who put salt in her milk I feel I am being punished and rightly so...I should have been there, my head was gone'*. She recalls the salt being next to the tub of powder when she found C playing with the milk powder. She said it had never crossed her mind that it could be salt causing the difficulties with D's feeding and her being sick; it only crossed her mind when sodium was mentioned and she realised the salt was next to the milk powder. The mother was clear she had not told her mother to say it was C.
37. The mother maintained in her answers to cross examination by Mr McKee that after D's birth that although she was struggling with her mental health she was not struggling to be a mother. She tried her best although accepted that may not have been enough. She described the difficult feelings she had during her pregnancy with D connected with her fears arising from her previous miscarriage, yet when D was born she said she was the double of C and her love for D was no different. Following D's birth she had to manage the shock of X's behaviour in leaving her for someone else and the difficulties she encountered from people who X owed money to relating to his connection with drugs.
38. When pressed about her drug use the mother accepted she had continued to use drugs, maintained she can stop when she wants to and taking drugs can make her mental health better. She also acknowledged she had not been entirely frank at times, for example when asked about her relationship with X and her drug use, as she said *'I was worried about making the situation worse'* and in answer to questions from Mr

Rowlands on this issue she said *'I wanted to give a good impression'*, she wanted them to think everything was *'alright'* and agreed she was not asking for support that she now accepts she did need.

39. Asked about when she told Dr S that she made the connection between D's high sodium levels and salt she denied that she had seen C put the salt in, as she said *'If I had seen it I would not have fed it'*. It was her assumption. When asked about some of the inconsistencies in her accounts she was clear it was the Monday she had seen C playing with the milk powder as she had brought C back from nursery that day, the milk powder tub was on the bench not the floor when she came downstairs and saw C playing with it and the tub was open not closed as she had just been using it. She maintained she doesn't blame C, it was only when talking to Dr S that the connection was made by her and where her statement refers to her making the connection when she woke up that morning was wrong. The mother denied she had given D salt.
40. The mother accepted C had previously moved a chair to climb on, had put talcum in the toy box and enjoyed messy play at nursery. As regards D's position she described C as being sick when he had colic and she thought D was experiencing what C had gone through although acknowledged D was being sick more and that was a change, although the mother said she felt exhausted and would never have thought of salt poisoning. She also acknowledged by the morning of 21 November 2023 D was not taking her feeds properly and that this was another change. She said that is why she made contact with her friend to seek advice, maintaining at no stage did she make the connection then with what she had observed C doing with the milk powder the previous day.

Expert evidence

41. Dr Cooper undertook a psychological assessment of the mother, her full scale IQ score is 83 which indicates low average cognitive functioning. In that report she concluded that whilst the mother did not require the assistance of an intermediary she did require support in the form of regular breaks and the use of simple language, avoiding the use of jargon, to ensure her effective participation in the proceedings. Those steps were taken, in addition to other measures when the mother gave oral evidence to ensure she was able to fully participate, such as all the advocates remaining seated and changing their places in the court room so the person asking her questions was in the same place.
42. In their detailed and comprehensive reports Drs Coulthard and Ward's evidence can be summarised as follows. Dr Coulthard's opinion was D's hypernatremia was due to being fed with milk that had been contaminated with salt. It could not have been caused by either severe dehydration or an inherent abnormality. He ruled out the possibility that D's condition was caused by one large quantity of salt and was more likely to be due to D being serially fed with a number of bottles that had been made-up from a tub of milk formula that had been contaminated with salt over a 22 hour period. He estimates that D ingested a total of approximately 11 grams of salt over a day. In his view it is overwhelmingly likely that the contaminated milk was made up from a partially used tub that had been accidentally contaminated with salt as described with what took place with C. Mr Coulthard described the management of D in hospital had been very effective and it was unlikely D would suffer long term effects from her episode of hypernatremia.

43. In her report Dr Ward defers to Dr Coulthard's expertise although concludes D's clinical presentation was consistent with having been fed formula that had been contaminated by salt and the biochemical findings were not consistent with any underlying medical condition. Having reviewed the medical records for both children Dr Ward considered there was no relevant evidence of factitious and induced illness type behaviours.

Legal framework

44. Mr Rowlands has helpfully provided an agreed summary of the relevant legal principles, in particular those set out by Baker J (as he then was) in *Re IB and EB* [2014] EWHC 369 [82]-[93] as added to by subsequent cases.
45. The burden of proof is on the local authority. The standard of proof is the balance of probabilities. Then court must have regard to the wide canvas of evidence, including the expert evidence. Any findings must be based on facts not speculation although the court can in certain circumstances draw inferences. It is common for witnesses 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.

Submissions

46. In his carefully crafted written submissions Mr McKee set out why the local authority had reached its conclusion not to pursue a finding that the mother had deliberately contaminated D's formula milk with salt. He set the rationale out as follows:
- a. *there is no direct evidence of the first respondent taking steps to contaminate the formula milk;*
 - b. *an inferential case against the first respondent is not easily drawn from the evidence which does exist (the local authority accepts that speculation is to be avoided);*
 - c. *not knowing how long she and [D] were likely to be, the first respondent brought made-up bottles of milk to the hospital (one analysis of this step is that she was attempting to assist the enquiry taking place at the hospital not hinder it);*
 - d. *an act of collusion between the first respondent and her mother cannot be established on the evidence before the court (notwithstanding the admission by the first respondent that she had pressed her mother to correct a detail within her police statement);*
 - e. *any concern that [C] had been coached to "cover" for his mother is not supported by the evidence provided by the police;*
 - f. *the account given by the first respondent – that [C] must have caused salt to enter the formula whilst unsupervised – is not undermined by the expert evidence (it could be argued that the expert evidence in fact supports that account);*

- g. *drawing upon the “wide canvas” evidence, there is evidence which points away from the first respondent having planned and executed a poisoning;*
- h. *having conducted a review of the papers, Dr Ward could not identify features consistent with a propensity to induce illness;*
- i. *Dr Cooper’s assessment of the first respondent points toward vulnerability and the need for support (as opposed to a risk profile consistent with acts of harm toward children).*
47. Mr McKee submits that in relation to the matters that remain in dispute relating to the failure to protect the children the evidence establishes that the tub of milk powder was left with its lid open next to the salt. The mother knew that C had previously moved the furniture to access the kitchen counter and had recent experience of the incident with the talcum powder being tipped into the toy box by C. There was an almost immediate change in D’s presentation and feeding and those changes continued during the evening of 20 November into 21 November 2023. Whilst the mother did start to question why she did not take the next step of seeking professional health advice. Mr McKee submits *‘The reasonable carer, faced with the same circumstances, would have linked the mess in the kitchen, to the significant changes in the child’s behaviour, to the vomiting brought on by feeding (the milk formula having previously been the subject of play), there is a consistency, then, between the admitted failures to supervise and seek medical attention and the thought process of the reasonable carer’.*
48. Mr Stonor submits the court can and should find that the sodium levels found in D when she was admitted to hospital was caused by the accidental contamination of the milk powder by C. He supports this submission by stating this would properly reflect the evidence, provide clarity for anyone working with the family in the future and for the mother, C and D. For the children this would provide clarity as to why they spent time in foster care and their mother was struggling at the time, did not supervise them properly and salt accidentally went into D’s milk.
49. On behalf of the mother he supports the revised position of the local authority not to seek any findings of deliberate contamination by the mother of H’s formula milk. This is supported by the mother’s evidence which has provided a largely consistent account, the evidence from Drs Coulthard and Ward, the police evidence and the evidence from the maternal grandmother.
50. As regards failure to protect he invites the court to consider the acceptance by the mother of this aspect, the evidence of both Drs Coulthard and Ward that if salt had been put into the milk powder it could easily have been missed as it would not have been visible. Also, the mother’s experience of both children suffering from colic and the advice she sought from her friend on three occasions on 21 November 2023 and, if the court accepts the mother’s evidence, as soon as she realised the connection between the sodium levels and salt she informed Dr S what had happened.
51. Turning to the two issues of failure to protect that remain in contention, Mr Stonor submits it is not accepted that there was an obvious risk that whilst the mother was

upstairs A would pour salt into the tub of milk formula. Also, it is not accepted that the mother could reasonably have been expected to know that she was feeding contaminated milk.

52. On behalf of the Children's Guardian Mr Rowlands supports the change in position by the local authority. In relation to the matters that remain in issue regarding the failure to protect he submits that the mother, when confronted with the situation that faced her when she came back downstairs of C on the chair in the kitchen playing with the milk powder with an open container of salt next to it, bearing in mind the mother's previous experience of C's behaviour, could support a finding that she should have done more than she did to ensure the powder had not been contaminated. However, he does not support any finding that a reasonable carer in the circumstances of this case would have made the connection between D's subsequent symptoms and the events of the previous evening due to her previous experience of C's colic, her change in the milk bottle during the night and the advice she sought from her friend the next day.

Discussion and decision

53. The local authority have, in my judgment, taken an appropriate and proportionate response at each stage of this difficult case. Their final position I have no hesitation in accepting is the right course for them to have taken. It was important, bearing in mind the seriousness of the issues and the complexity of the situation that the evidence was tested. D had extremely high levels of sodium on admission to hospital and it is only through the careful management of her condition on admission that there are, fortunately, no long term consequences for her.
54. The detailed expert evidence, in particular from Drs Coulthard and Ward, gave a clear forensic medical framework as outlined earlier in this judgment.
55. The mother's evidence was an important part of the evidential canvas in what she was reported to say by others, as well as in her own written and oral evidence. Mr McKee's thorough, careful and perceptive cross examination explored all those matters, including the differences in accounts she had given. There was, as Mr Stonor submits, a considerable amount of evidence before the court about the mother as a parent. She gave a frank and reflective account of the difficulties she has experienced with her own mental health, her poor choice of partners, her drug use and how these have, on occasion, had a negative impact on her children. Dr Cooper summarised this in her report when she stated the mother can *'take responsibility for her mistakes and understands the need to change for her own benefit, and the benefit of her children'*. It is right the mother has, on occasion, not been entirely frank with professionals but I accept her evidence that she did that at the time as she wanted to give the impression that there were no difficulties in her care of the children. Since then she has shown considerable insight, particularly in her detailed sessions with Dr Cooper, that seeking support in such a situation is necessary for the children's welfare and this increased insight came across in her oral evidence. The mother's evidence was frank and credible in relation to the key issues.
56. The evidence, when looked at as a whole, for the reasons outlined by Mr McKee supports the conclusion that there is no evidence to suggest the mother might be capable of poisoning her child, on the contrary I agree the evidence more likely

established a mother who dearly loves her children and would benefit from therapeutic intervention and support.

57. Having considered the evidence it is more likely than not that the salt contamination of D's milk powder was caused by the accidental contamination of it by C playing with the milk powder and the salt container on the afternoon of 20 November 2023 when he was left unsupervised whilst the mother went upstairs to put the clothes away. That is supported by the timing of the way D responded to the milk bottle that had been made up prior to the mother going upstairs and those made up after she came down. It is also supported by the wider evidence of C's reported previous behaviour involving the talcum powder, the realisation by the mother when she made the connection when sodium was first discussed with her by Dr S on the morning of 22 November 2023, the grandmother's tasting of the milk powder and what is reported to have been said by C both to his grandmother and the police.
58. The mother accepts she failed to protect both children in that she failed to appropriately supervise C within the home, used contaminated milk to feed D and failed to seek medical attention promptly when it was obvious or ought to have been obvious that D was or was becoming seriously unwell. They amount to a serious failure to protect both children.
59. As to whether the mother failed to appreciate an obvious risk of contamination when she came back down stairs and was confronted with the situation she described I consider that is established on the evidence. In her own evidence she describes the salt container being open next to the open milk powder tub that C had been playing with. With the knowledge of her previous experience of C's behaviour of pouring things and enjoying messy play it would have been reasonable for her to have appreciated that risk and taken steps accordingly. Her failure to do that is probably explained by her poor mental state and exhaustion at the time. However, I accept the evidence that short of tasting the milk powder it would not have been obvious from the appearance of the milk powder that it may have had salt in it.
60. As regards the finding that she continued to feed D with contaminated formula milk when it was obvious or ought to have been obvious that she shouldn't, I do not consider that is established to the required standard. D fed relatively well with the bottle that had been made up prior to the mother going upstairs. When the mother encountered difficulties with later bottles she changed the bottle, she had previous experience of C having colic and vomiting and then sought the advice of her friend. Her focus was, understandably, on the issue being with D rather than the milk. The mother has already accepted she should have sought medical attention earlier.

The next stage

61. The local authority have readily indicated in their closing submissions that the remaining safeguarding issues are capable of being tackled with ongoing intensive support. They have the benefit of the detailed second report by Dr Cooper, who has seen the mother on five further occasions during April 2024. They accept the mother has co-operated well and the report acknowledges the mother's improved insight and ability to take on board advice. That was supported by the mother's oral evidence when she volunteered the good working relationship she has established with the foster carer. Her oral evidence was insightful and reflective, she wants the support

that is proposed and the evidence indicates she will benefit from it, which provides a promising foundation for her to work well with those who can support her secure the return of the children to her care in a way that meets their welfare needs.