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CASE NO: OX16C00126

IN THE FAMILY COURT SITTING AT OXFORD IN THE MATTER OF s38
CHILDREN ACT 1989

Date: 7th March 2017

Before : HHJ Vincent

Between :

OCC

Applicant –

and

(1) FG (mother)

(2) HI (father)

(3) J and K (by their guardian SS)

Respondents

Oliver Powell (instructed by Oxfordshire County Council) for the Applicant

Monica Payne of Oxford Law Group for the mother

Matthew Brookes-Baker (instructed by Truemans solicitors) for the father

Melanie De Freitas (instructed by Reeds solicitors) for the guardian

Hearing dates: 28th February, 1st, 3rd, 7th March 2017

JUDGMENT

Introduction

1. The local authority brought applications on 13th September 2016 in respect of J, who turned ten during the week of the final hearing, and K, who is a month away from her seventh birthday.
2. The children's parents are FG and HI.
3. I heard the local authority's application for interim care orders in the first week of October 2016. After a hearing which took place over three days, I granted those orders, and provided a written judgment to the parties.
4. The children were removed into foster care within county so they have continued to attend their primary school.
5. I set out the background to the proceedings within my first judgment as follows:
6. *"The local authority has been involved with this family since before J's birth. At that time there were concerns about the parents' drug misuse, domestic violence and concerns about their mental health. The father has successfully combatted an addiction to heroin and now takes methadone. The children's mother is still struggling with drug misuse and her mental health well-being and currently is homeless. Their relationship has been very up and down.*
7. *A child born to the mother in October 2011 was placed for adoption in April 2012.*
8. *In June 2013 the children's mother left the family home and the tenancy was transferred to their father, who obtained a residence order. The father appears to have been the children's main carer for the next few years although local authority involvement continued, and significant concerns about the children's educational development, emotional welfare and behaviour continued. Nonetheless in October 2015 the case was closed on the basis that the father was not to allow the children to see their mother. However, by January 2016 the father had invited her to return to live with the family. The case was re-opened and the children put on child protection planning. Concerns of social work professionals continued throughout the summer and into September, eventually leading to these proceedings being issued."*
9. Since the children were removed from their father's care, they have spent regular time with him in supervised contact sessions. He has been assessed by Professor Perkins, psychologist. The children have been assessed by Dr Richer, a paediatric psychologist, who has also within his report made an assessment of the father. The local authority has prepared a parenting assessment of the father. The mother was assessed by Dr Gwen Adshead.

Parties' positions

10. In its final care plan the local authority seeks care orders with a plan for the children to remain in foster care throughout their childhoods and for them to see their father four times a year.
11. The mother's health has continued to be very poor; she has not been able to attend the final hearing. She accepts that she is not currently in a position either to see the children or to put herself forward as their carer. She supports the local authority's proposal that the children be placed in long-term foster care. She would like her father to have regular contact with the children.
12. The father strongly opposes the local authority plans. He does not accept that there were deficiencies in his parenting at the time the children were removed, nor that they have suffered any emotional harm as a consequence of anything he may or may not have done. He asserts, as he has done consistently throughout these proceedings, that he has continually asked for support from the local authority, but not received it.
13. The father asserts that the parenting assessment carried out by the social worker Mrs M is fundamentally flawed and cannot be relied upon. He says that he has evidence in the form of voice recordings of conversations between her and him which would show that there was very poor communication between them, that he did not understand what she was saying to him, and that he requested an interpreter. He suggests this evidence might also demonstrate that Ms M has been factually inaccurate in some of her evidence to the Court.
14. The father asks that the Court does not make final orders but adjourns the proceedings further to enable transcripts to be taken of all the voice recordings he has on his phone.
15. Further or in the alternative, he submitted a draft form Part 25 application for an independent social worker to carry out a parenting assessment of the father, and asks that the proceedings be adjourned for such an assessment to be carried out.
16. The guardian supports the local authority's plans.
17. The local authority and the guardian strongly resist the suggestion of any adjournment of these proceedings.
18. The local authority is represented by Mr Powell. The father is represented by Mr Brookes-Baker, the mother by Mrs Payne. The guardian is represented by Miss de Freitas. I am grateful to them all for their assistance.

The law

19. In every care case the Court must ask itself two questions. Firstly, has the child suffered or is at risk of harm caused by the care given by his parents? Secondly, what, if any, orders should the Court make?

Threshold criteria

20. The first question is answered by consideration of whether the threshold for making orders, set out at section 31(2) of the Children Act 1989, is passed.
21. What is significant harm? At paragraph 27 of Re B (a child)(Care proceedings: threshold criteria) [2013] UKSC 33, Lord Wilson refers to the case of Re L (Children)(care proceedings: significant harm) [2006] EWCA Civ 1282:

27. In *Re L (Children) (Care Proceedings: Significant Harm)* [2006] EWCA Civ 1282, [2007] 1 FLR 1068, the Court of Appeal allowed an appeal by parents against a judge's conclusion that their children had suffered and were likely to suffer significant harm and it remitted the issue for re-hearing. The professional evidence had been that the parents' deficiencies had had "subtle and ambiguous consequences" for the children; and it was not difficult for me, at para 31(a) of my judgment in that court, to conclude that such consequences could not amount to significant harm. The rehearing was conducted by Hedley J and, by his judgment reported as *Re L (Care: Threshold Criteria)* [2007] 1 FLR 2050, he declined to hold that the threshold was crossed. He observed, at para 50, that "*society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent*"; and, at para 51, that "*significant harm is fact-specific and must retain the breadth of meaning that human fallibility may require of it*" but that "*it is clear that it must be something unusual; at least something more than the commonplace human failure or inadequacy*".

22. I have been referred by Mr Brookes-Baker to the case of Re A (a child) [2015] EWFC 11, in which the President of the Family Division emphasises that in any case it is for the local authority to prove, on a balance of probabilities, the facts upon which it seeks to rely, and that findings of fact must be based on evidence (including inferences that can properly be drawn from the evidence), and not suspicion or speculation.

23. At paragraph 9 of his judgment, the President said:

'It is a common feature of care cases that a local authority asserts that a parent does not admit, recognise or acknowledge something or does not recognise or acknowledge the local authority's concern about something. If the 'thing' is put in issue, the local authority must both prove the 'thing' and establish that it has the significance attributed to it by the local

authority.'

24. At paragraph 12 he said as follows:

'The second fundamentally important point is the need to link the facts relied upon by the local authority with its case on threshold, the need to demonstrate why, as the local authority asserts, facts A + B + C justify the conclusion that the child has suffered, or is at risk of suffering, significant harm of types X, Y or Z. Sometimes the linkage will be obvious, as where the facts proved establish physical harm. But the linkage may be very much less obvious where the allegation is only that the child is at risk of suffering emotional harm or, as in the present case, is at risk of suffering neglect. In the present case, as we shall see, an important element of the local authority's case was that the father "lacks honesty with professionals", "minimises matters of importance" and "is immature and lacks insight of issues of importance". May be. But how does this feed through into a conclusion that A is at risk of neglect? The conclusion does not follow naturally from that premise. The local authority's evidence and submissions must set out the argument and explain explicitly why it is said that, in the particular case, the conclusion indeed follows from the facts.'

25. Put another way, it is not sufficient only to identify that the threshold has been crossed. I am required to be more specific in my analysis. I have regard to the words of Baroness Hale in Re B [2013] UKSC 33 at paragraph 193:

'When deciding whether the threshold is crossed the court should identify, as precisely as possible, the nature of the harm which the child is suffering or is likely to suffer. This is particularly important where the child has not yet suffered any, or any significant, harm and where the harm which is feared is the impairment of intellectual, emotional, social or behavioural development.'

Welfare

26. If threshold is crossed, the second question to be answered is what order should the Court make? That decision is made with reference to the factors set out in the welfare checklist at section 1(3) of the Children Act 1989.

27. In reaching my decision the welfare of the children is paramount and their welfare has been at the forefront of my mind throughout this hearing. I also have regard to the principle that any delay is likely to be harmful to the children.

28. The best place for a child is to live within their own family. Further I remind myself that the European Convention on Human Rights applies in every case of this nature. Article 8 provides that *'1. Everyone has the right to respect for his private and family life, his home and his correspondence.*

2. There shall be no interference by a public authority with the exercise of his right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.'

29. In the case of Re B (Care: Interference with Family Life) [2003] 2 FLR 813, Thorpe LJ said that a judge must not sanction the removal of a child from his family under a care order, *'unless he is satisfied that it is both necessary and proportionate and that no other less radical form of order would achieve the essential end of promoting the welfare of the children'*.

30. In Re B-S, and more recently, Re H [2016] EWCA Civ 1131, the Court is reminded of the essential need for a Court carrying out an adoption evaluation to have proper evidence from professionals showing they have undertaken a full evaluation of the options for the children and have given a reasoned account of any recommendation that is made. While adoption is not suggested as an option in this case, the same approach applies. The second essential is that the judge carries out a full comprehensive welfare evaluation of all the relevant pros and cons. In Re G [2013] 3 FCR 293, at paragraph 44 the President of the Family Division said:

'We emphasise the words "global, holistic evaluation". This point is crucial. The judicial task is to evaluate all the options, undertaking a global, holistic and multi-faceted evaluation of the child's welfare which takes into account all the negatives and the positives, all the pros and cons, of each option. ...

"What is required is a balancing exercise in which each option is evaluated to the degree of detail necessary to analyse and weigh its own internal positives and negatives and each option is then compared, side by side, against the competing option or options."'"

31. At paragraph 143 of Re B [2013] UKSC 33, Lady Hale said:

'We are all frail human beings, with our fair share of unattractive character traits, which sometimes manifest themselves in bad behaviours which may be copied by our children. But the State does not and cannot take away the children of all the people who commit crimes, who abuse alcohol or drugs, who suffer from physical or mental illnesses or disabilities, or who espouse anti-social political or religious beliefs.'

32. I have all these authorities firmly in mind as I have considered this case.

33. In support of his application for an adjournment in order to obtain transcripts of the father's voice recordings, Mr Brookes-Baker relies on the

case of Re F [2016] EWHC 2149 (Fam). I have read and considered this judgment by Mr Justice Hayden.

Evidence

34. I have read the contents of the trial bundle and checklist bundle. I heard oral evidence from Ms S, Mrs M, Dr Richer, Professor Perkins, the father and the guardian.

Ms S

35. Ms S is the family's home-school link worker. She has known the children since J started at primary school six years ago, and has worked extensively with both him and K. She gave evidence at the application for interim care orders and was called back to the final hearing to update the Court on the children's progress since they were taken into care.
36. She reports that there has been a very significant transformation in the children. She said their self-esteem has increased and they are more confident; they were willing to answer questions in class, putting their hands up to be involved in activities, and had started saying hello to teachers they met in the corridors. Educationally they are both making huge progress. J was still receiving significant adult support but has been able to complete a number of tasks without an adult to help him, whereas before she said he needed an adult to complete every task. In maths he has been assessed as having progressed by 10 months in a period of 3 months. K is assessed as having progressed by 14 months in the same time period. In literacy, she has also made very dramatic progress.
37. Ms S has seen much less of the father since October, but has often seen him at school when he has been having contact with the children; she thought she had seen him about once a week. She told me that she tended to pop her head round the door to see if everything was OK. She said the father had various complaints and she had done her best to deal with them or direct him to the right person if she could. On 17th November 2016 she witnessed a difficult contact. Before the children arrived the father spent some time complaining to Ms S about the contact room and the lack of activities provided, Ms S asked him three times to lower his voice and to stop shouting. After the children arrived the contact note records that the father continued shouting and was again asked three times by the contact supervisor to lower his voice. The contact note records that K put her hands over her ears then her face while this was happening and Ms S confirms that she saw this.
38. I was very impressed by Ms S as a witness when she first gave evidence and equally so at the final hearing. She knows the children extremely well and has given what I regard as very fair and insightful evidence about them and their father. She acknowledges that he loves his children and is happy

to see them but that *'he still finds it hard to listen and hear responses to questions he has asked.'* She continues,

'When I have seen and interacted with him he has been complaining loudly about something and will talk without waiting for a response. He talks loudly and does not make it easy for me to respond. When he does stop talking he doesn't listen to the response fully without talking again. Because of this I am not confident that he ever really hears a response to any query that he has.' She writes, *'I do not think that HI is aware when his voice is raised; he does not seem to know that he is shouting and that he actually can sound intimidating.'*

39. Ms S is clear that the children are uncomfortable when their father 'rants' at her or another member of staff; K covers her ears or will often start acting like a cat. J can make jokes or act as though he is oblivious to what's going on. Ms S is clear however that the father has been asked consistently not to discuss his complaints in front of the children but he continues to do so.
40. Ms S's experiences and observations of the father are consistent with those of social work professionals and the experts more recently instructed. Her description of him finding it hard to listen to a response was consistent with my impressions of the way the father gave his evidence, both when speaking English at the last hearing or with the benefit of a Farsi translator at final hearing.

Ms M

41. Ms M does speak quite softly and with an accent and at times I had to listen carefully to make sure I heard her correctly, and very occasionally I needed to clarify to make sure I had properly understood her. However, in general I would describe her as a clear and straightforward communicator. Her oral evidence was consistent with her written statements and parenting assessment, which I found to be well structured, with considered analysis supported by evidence obtained by Ms M from her own interactions with the father as well as drawing from other sources of evidence, notably the observations of Ms S and the expert psychologists.
42. She had a good recall for conversations she had had with the father. She is a person who seems to me to listen not just to what is being said but is observant of, and had good recall for, the context, and the prevailing emotions. For example she said that at a meeting on 4th January 2017 (which came relatively soon after the father's consultation with Professor Perkins) that the father had at first told her he was interested in doing some work to address his own issues if that would enable him to get his children back. She said she was encouraged by this but told him that ultimately it would be the Court's decision and a number of factors would be taken into account. She said his mood then changed quickly to as it had been with her

and others on previous occasions and he became agitated, repeated himself and was hostile and frustrated, once again blaming others for his situation.

43. She was asked to produce the case notes of meetings she has had with the father, which she has done. The notes provided are obviously rough and she ought to have typed them up into more formal case reports. However, I have not spotted any inconsistencies between the contents of the notes and the large body of evidence she has submitted to the Court in the form of her social work statements, the parenting assessment, the care plans and her oral evidence.
44. It was put on behalf of the father that he had a particular difficulty understanding Ms M. This is not a matter he raised at the first hearing and is not raised in either of the witness statements he has provided within these proceedings. The father consistently says that he does not feel listened to and that if he appears angry or aggressive to others it is only because he feels the need to repeat himself to ensure he gets his point across. There can to my mind be no doubt at all that Ms M has understood the father very well. She had a good recollection of conversations with the father and recounted that his view remains the same, that he has asked for help from the local authority but they have done nothing, that he himself had done nothing wrong. She was not challenged as to the accuracy of her recollections of these conversations. They are consistent with what the father has said to other professionals, and also consistent with his written and oral evidence.
45. In my judgment the criticism levelled at Ms M's parenting assessment on behalf of the father is not justified.
46. The assessment is detailed and thorough and is based on Ms M's knowledge of the father built up as a result of being the family's social worker since August last year, as well as incorporating information from other sources. The assessment was based on Ms M's observations in both informal and planned settings. Although it is not easy to assess someone's parenting skills when the children have been removed from their care, Ms M made arrangements for father to bring food to some contacts so the children could have lunch with him. On one occasion she asked him to bring food in so that he could prepare a meal from scratch, so that as part of the assessment she could see how he managed to prepare a meal and at the same time keep an eye on the children and look to their needs. This is evidence of her trying to recreate home conditions as part of the assessment. But after initially agreeing the father was resistant to the idea and argued against it. He made sandwiches for the children instead, which met their need for lunch but not the needs of the assessment. In circumstances where social work professionals have gone to very lengthy efforts to support and assist the father in being able to plan, shop for and prepare meals for his children, but still been concerned that he has not been

able to make meaningful progress, this element of the assessment was significant.

47. While it is acknowledged that for K, but evidently for J as well, there are longstanding and complex issues about eating, the father has not shown during the period of assessment any ability to reflect on the part his parenting is likely to have played in causing these issues to arise. He has brought in food for the children on Wednesday contacts, but his consistent position has and continues to be that K should have been provided with a nutritionist to help her and there is nothing he needs to change about his own approach.
48. It was said on behalf of the father that no person has ever sat down with him to explain what it was said the deficiencies were in his parenting and how he might take steps to improve. When one looks at the whole history of local authority involvement with this family starting in 2007 and continuing through these proceedings, that assertion is not in my judgment justified.
49. Ms M describes within her statements the many conversations she has had with the father and the attempts she has made over a period of many months to try to get him to see the impact of his behaviours on the children. The notes of core group meetings show issues being raised and discussed with the father, but very often he is not receptive to such discussions and refuses to listen to any comments which might be perceived as critical of his parenting. That is consistent with what Ms M told me in evidence, and is a consistent theme throughout the evidence from Ms S, the two psychologists and the guardian. The father spent a total of twelve hours in consultation with Professor Perkins and the issues were examined in turn. At a hearing which took place over three days in October 2016 the concerns the local authority and the children's school had about the children were put to the father meticulously. He may not accept those concerns but the overwhelming evidence is that a great number of people, not least Ms M, have invested a lot of time and energy into explaining to him what they are worried about, the impact upon the children, and actions he could take to improve the situation for them.
50. Ms M was not challenged on any specific alleged inaccuracies in her report in cross-examination, it was only after the conclusion of all the evidence that it was suggested that the father's voice recordings may show discrepancies between her account of conversations and what actually took place.

Dr Richer

51. Dr Richer is a consultant paediatric psychologist. He was asked to present a psychological report on J and K, and in respect of their attachment to their father. He also met with the father on his own and interviewed him.

He said the father *'tended to go off at a tangent in his answers and was often difficult to follow. He tended to answer by giving a narrative of events, interspersed with justificatory remarks'* and *'tended to divert conversation to complaints about social services and others.'*

52. Dr Richer's conclusions about the children were not challenged. He notes that both were born withdrawing from heroin and their histories are *'full of security threatening events and circumstances'*. J's attachment to his father is *'one of considerable insecurity where he uses mainly an avoidant strategy'*. ... *'He tries to be emotionally independent and has developed a strategy of crisis management, surviving each moment in the short term. This has impacted his ability to focus on problems and in particular on school work, and so he cannot sustain concentration for long and quickly becomes impulsive and careless and then easily gives up.'* Dr Richer notes some 'role reversal' where *'the child looks after the parent or at least is aware not to upset them'*. J's jokey approach is identified as appeasement of others, demonstrated by both children who have been seen to smile and giggle under stress.
53. He identified that K also has difficulties with concentration, she too tended to be impulsive and careless and to give up easily. On one questionnaire she gave very positive responses about her father which Dr Richer described as *'in line with her very attention seeking behaviour with him at contact – staying close to him, cuddling, giving him raspberry kisses etc'*. Dr Richer concludes that she too is insecure in her attachment status, probably more so than J. He considers that her attention-seeking behaviour could be seen as controlled and manipulative and that she is a child with *'a strong motivation that her environment does not get out of control.'* She is phobic about trying new foods. Dr Richer notes, *'food faddiness usually starts at about two years old. At this vulnerable age K was in poor accommodation with her stressed father and not with her mother and was eating at McDonalds. The combination of great insecurity and poor eating regime probably triggered the phobia of new foods which has remained with her, maintained by the ongoing stress and insecurity in their lives.'* Dr Richer notes that the foster carers have not been able to make much progress, and suggests that addressing K's food refusal may have to wait until she is settled and feeling more secure.
54. Dr Richer's opinions about the children were not challenged. His written reports are clear, well-explained and well-reasoned, he draws on his own significant experience and expertise. His conclusions chime very much with the observations of Ms M, Ms S (though I note that she also provided significant information to Dr Richer), and the guardian, and what is noted of the children's behaviours in contact.
55. In his oral evidence he was almost exclusively asked about the father's personality. While he said that he would defer to Professor Perkins on matters of adult psychology, essentially he reaches a broadly similar view.

Dr Richer referred to the father's childhood in Iran and took into account that his culture and life experiences would contribute to the way in which he interacts with others, but he said that over and above that it was the father's personality regardless of his culture that led him to blame others or not to think through risks and consequences, or take responsibility for his own actions. So for example when he invited (or allowed) the children's mother back to live with the family, a part of that decision would have been influenced by his strong cultural belief that children should be cared for by their mother, and that he should be hospitable to her. He has also said that he was struggling to cope with the children alone in this country without support and struggling to deal with his own physical and emotional health, so she came back in part because he needed her to help him. The mother's addiction and mental health issues at that time were such that she could not care for the children without putting their physical and emotional well-being at risk. The father was not either not able or not willing to recognise the potential impact on the children of that decision. That was not due to his cultural background but to his personality.

56. Dr Richer expressed the view that it would be good if it were 'recognised by all' that the father could not care for the children full time but could be a part of their lives and see them often. However, in his view this would be conditional on the father being able to 'absorb and convey the message' that the father loves them dearly but knows 'they will have a more successful childhood if they are looked after by others for most of the time.'

Professor Perkins

57. Professor Perkins very kindly attended the final hearing by telephone, calling into the Court from his holiday after there had been a mix-up over dates. He had the bundle in front of him including his report. He had good recall of the interviews and answered questions clearly and helpfully. In all he spent twelve hours with the father. Professor Perkins was satisfied that the father understood the questions he was being asked and that if he was not sure of meaning he asked Professor Perkins to clarify. Professor Perkins acknowledged that the results of the psychometric tests on their own could be affected by the stresses of the current proceedings and cultural factors, but he noted that his conclusions accorded with the father's presentation to him and to other professionals.
58. Whether or not the father could be described as having insight into the local authority's concerns, Professor Perkins noted, as Dr Richer did, that the father's belief in his own point of view overwhelmed any ability to acknowledge or address those concerns. He also cited as an example the father's strong belief that children should have their mother in their life as overwhelming his ability to take any risks into account. Professor Perkins said that it was very difficult for the father even to hear or process a question that was contrary to his own viewpoint, which meant he was

unable to consider others' point of view. He referred to another example; the father had confided and sought advice from a man called D. D is a man the father respects very much and he likes him, but when D gave him advice he did not like, he was not able or willing to follow it.

59. Professor Perkins did not accept the proposition put to him on behalf of the father that if the father were justified in his complaints about the local authority and that no one was listening to him, then it was unfair to criticise him for continuing to complain. Professor Perkins said that the father's criticisms appeared disproportionate even on the basis of his own account of his treatment.
60. Professor Perkins' conclusions are based on his significant experience and expertise and having spent up to twelve hours with the father. His conclusions are well-reasoned and supported by the evidence he obtained and psychometric tests carried out, the results appropriately moderated by him to take account of other factors. His oral evidence was consistent with his report and with the conclusions and observations of others. I found his evidence persuasive and compelling.

HI

61. The father gave evidence on the afternoon of the second day and on the morning of the third day, about an hour and a half each time. He had the benefit of an interpreter who interpreted extremely patiently and skilfully. As can be the case with a person with good English the father often understood the question without the need for translation, so was either already giving his answer or was well on the way to it by the time the question had been translated into Farsi for him. While the translator was telling us what he had said in English, the father often started giving the next part of his answer in Farsi. The effect was that he was often speaking over the translator. As when he had given his evidence in English, his answers often came even before a question had been put, were long, and frequently strayed from the point of the question back to his own difficulties and grievances, in particular about the local authority's treatment of him.
62. His presentation was very similar to when he gave his evidence in English. As before, he was visibly stressed at times and this led him to speak fast, to raise his voice, and to appear agitated, but he did not lose his temper and he was not aggressive or angry.
63. There is no doubt that he loves his children very much, that he has overcome a great deal of difficulties to care for them as a single parent without any network of support in this country and he is very committed to his children.

64. However, as has been described by other witnesses, he did not appear to me to have moved on since the last hearing. He still maintains there were no deficiencies in the care he provided and that if they had suffered emotional harm it was not caused by him. He said any emotional harm suffered was due to bullying by children at school and in the neighbourhood where they lived and not to his care. He did not demonstrate an ability to reflect upon the impact of some of his behaviours on the children or to imagine what their feelings might be, but is seen to prioritise his own needs before their feelings. An example of this is when in contact he is seen over the course of two sessions to put pressure on J to write a letter for the Court to say he is missing home and wants to come back home. Even after being advised not to do this, he continued to ask J. Eventually J did write something the supervisor identified as saying '*I love you dad you're the best*' and his father took it and said, '*this isn't enough*'.
65. The father maintained his position that the children have not suffered any emotional harm in his care, that when their mother was living with them things were fine - it was the social services who decided to start proceedings when all he had done was ask for some help. Before that when the children were with him he says he repeatedly asked the local authority to help him to enable the children to see their mother because when he was out in town with the children they repeatedly bumped into her as she was street-homeless at the time. He was highly critical of the children's school and said that the current improvements were now because support measures had been put in place which he had been asking for and had not been made available to him before.

SS, children's guardian

66. Mr S is a very experienced guardian to whose views I pay close attention.
67. His experiences of the father chime with those of all other professionals. In his opinion the father continues to be emotionally stuck and has not moved on from where he was in October. The guardian considers that if the children were returned to their father's care they would be at risk of significant physical and emotional harm. The guardian's reports in this case are well reasoned, and supported by an analysis of all relevant evidence.
68. When he last saw the father, the father told him that he had not understood the reports of the psychologists and that the local authority had not contacted him. The guardian's solicitor sent an email to the father's solicitor to check whether the reports should be translated for the father but was told no, he had read the reports and translation was not required. The local authority declined to provide copies of all emails, records of phone calls and meetings at such short notice before the final hearing and suggested that if the father wished to have disclosure of such documents this could be raised at the final hearing. No such request was made.

Dr Adshead (written evidence)

69. I have read the report of Dr Gwen Adshead about the children's mother. The mother has been suffering from an addiction to heroin for the past seventeen years and while it is hoped that she will recover from this addiction, the process is long and hard and, as Dr Adshead says, is very difficult if one is also struggling with homelessness and mood dysregulation problems, which is what she diagnoses in respect of the children's mother. Dr Adshead hopes that the mother may soon be able to establish regular contact with the psychiatric team who could prescribe medication for her mood disorder, they then might be able to support her in attending drug misuse services and in due course the complex needs service.
70. At this time the mother has recognised that she is not able to start this process at the moment, but she has been able to pass letters and gifts to the children through her father, and hopes that he may continue to see them regularly so that she hears from him how they are, and in turn he can keep her present in their minds by telling them about her.

Threshold

71. The father was directed to respond to final threshold by 1st March 2017 but did not do so. At the final hearing his initial position was a blanket denial of all matters but he modified this following further consideration. Mr Powell has very helpfully annotated the final threshold document by putting in italics those matters which were the subject of my first judgment, and although not formally accepted, are not challenged. The sections underlined indicate what is positively accepted, and the remaining parts in normal font are matters not accepted.
72. I have annexed Mr Powell's threshold document to this judgment.
73. Paragraphs 1 to 7 concern mother's mental health and drug use. Mr Powell has helpfully made reference to the evidence in support of each allegation and none of that evidence has been challenged. I have considered the evidence and am satisfied on a balance of probabilities that each of these allegations is made out.
74. Paragraphs 8 to 11 concern father's mental health and drug use. Again Mr Powell has included references to the evidence within the bundle in respect of each paragraph. While there might to my mind be some question as to whether it can be said that at the time protective measures were taken the father had the specific personality disorders identified by Professor Perkins some months later, having regard to all the evidence, I am satisfied on a balance of probabilities that paragraph 8 is made out.

75. The source for the allegation at paragraph 9 that the father was suffering from a combination of severe anxiety and depression at the time protective measures were taken is a letter from his general practitioner dated 3rd October 2016. On a balance of probabilities I am satisfied this is proved.
76. Paragraphs 10 and 11 concern the father's history of drug use. Paragraph 10 cites the drug test results which showed that the father has been a regular user of metandienone (an anabolic steroid) over the three month period immediately before his hair specimen collection on 28th October 2016. While I accept this evidence, which is not challenged, there is no evidence that this in itself has led to the children suffering or being at risk of suffering significant harm as a consequence.
77. The same applies to paragraph 11 which asserts that the father used to be a heroin addict and is now on a methadone script of 3mls. The bare fact is proved on a balance of probabilities, given the evidence submitted, but it does not of itself necessarily establish a risk of physical or emotional harm to the children or that they have suffered actual harm as a result.
78. Paragraph 12 concerns neglect and largely rehearses findings I made at the interim hearing. It is accepted that K's refusal to eat a normal diet puts her at risk of physical harm. There is an issue at 12(c) which arises again at paragraph 20 concerning the father not taking the children to medical appointments or missing appointments with professionals. I have had regard to the evidence of Ms M and considered what the father has said about this. I have had regard to social work notes recording that texts were sent, or conversations were had reminding the father of appointments. I appreciate that these notes are not direct evidence but hearsay and I must be cautious about what weight they are given, if any. However, having regard to all the evidence and in particular those sections of the bundle to which Mr Powell has referred, I am satisfied that the father did miss appointments to which he had been invited, and that when the children were in his care, he did not always take them to medical appointments or sessions when needed.
79. Allegations 12 to 16 are either not challenged (by virtue of having been dealt with at the October hearing) or accepted and concern the children being exposed to the parents' volatile relationship, and the father lying to professionals about the mother having moved back into the family home in January 2016 in breach of the written agreement. Paragraph 15 concerns the children's exposure to their parents' mental health difficulties. Paragraph 16 simply rehearses that the local authority has been involved with the family since 2007 and since that time there have been repeated cycles of the parents' illicit drug use and poor mental health.
80. Paragraphs 17 to 19 and 21 are either not challenged or accepted and allege that the father prioritises his own needs before the children, that he discusses adult matters and has been hostile to professionals in front of

them, and that in August 2016 he said he would refuse social workers access to his home making it difficult for social workers to monitor the children's safety and well-being.

81. Paragraph 22 is accepted and states that both children suffer from global developmental delay and are approximately three years behind their peers.
82. Having regard to all the matters on the threshold document, I am satisfied the local authority has proved its case to the standard of a balance of probabilities that at the time protective measures were taken the children have suffered or are at risk of suffering significant harm attributable to the care given to them by their parents within the meaning of section 31 of the Children Act 1989. However, for reasons given, I would exclude paragraphs 10 and 11 from the document.

Welfare checklist

83. The threshold for making public law orders having been crossed, I now turn to consider what orders I should make by reference to section 1(3) of the Children Act 1989.
84. When applying the checklist, the welfare of the children is my paramount concern.
85. During the course of the five day hearing, the presence of these two children rather faded, obscured by the number of questions to all witnesses about the father, and the evidence the father gave himself, which returned again and again to his own situation and his particular grievances with the local authority. Even the child psychologist seemed to be asked predominantly questions about the father, and not about the children he had been asked to assess. At times to my mind the final hearing itself seemed to be turning its focus too much upon the father at risk of proper consideration of the children's welfare. However, the children have remained at the forefront of my mind throughout. I am grateful to the father for showing me some short video clips from his phone so I have had a chance to see them and hear them speak and to carry a clear picture of the children in my mind. In preparation of this judgment I have revisited my notes of all the evidence including that of Ms S's descriptions of the children and their current progress. I have read all the evidence in the bundle including the contact records, school reports, Dr Richer's assessment and the guardian's two reports, and I am satisfied that there is in fact a wealth of material to enable me to carry out a proper checklist analysis having regard to all relevant factors relating to both the children and their mother and father.

- (a) **the ascertainable wishes and feelings of the children concerned (considered in the light of her age and understanding);**

86. The children have at times said they would wish to return home to their father but I am cautious about giving too much weight to this for the reasons set out below.
87. Firstly there has to be a question of whether these are true reflections of the children's wishes and feelings in light of Dr Richer's assessment of the children's deeply troubled attachments to their father. This is also an observation the guardian makes. Within the contact records there are a great many examples of behaviours which are consistent with Dr Richer's descriptions of the children's attachments. Both children compete for their father's attention. J is sometimes very detached from his father, at other times the role reversal described is there; he can be defiant and will not do as asked or else take on a parental role. At other times he is affectionate, but can switch to being petulant and angry with his father. K can be affectionate but as Dr Richer observes, often in quite an overbearing way, which he identifies as controlling or manipulative. The children are also described as being compliant and appeasing of adults and Dr Richer therefore considers that while they may say they wish to live with their father to please him, if asked by the foster carer or by the guardian they may say something different.
88. Secondly, there is evidence that the father has sought to put pressure on the children to express a particular view. He apparently persuaded J to say that he did not want to go on a holiday with the foster carers because he would be too far away from his father. He has asked the children to draw pictures or write letters saying how much they love him. He appears sometimes to perform somewhat in contact and then express a wish that social workers or the judge was there to see. Dr Richer was asked about this in evidence and was clear that seeking to influence the children's wishes and feelings was not only disrespectful to them and hampered their ability to form a sense of their own identity, but it would also contribute to the complex and troubled attachment the children had to their father as they would be conscious of needing to say certain things to please him.
89. Thirdly, these children are of a young age (in terms of their real age but also having regard to their developmental ages) to bear the burden of their wishes and feelings being determinative of their futures. Their wishes and feelings are but one factor to take into account.
90. I make it clear that I certainly do not disregard their wishes, just approach with caution in all the circumstances of this case. As Dr Richer emphasised, these children do have an attachment to their father, but the attachment is troubled. There is no doubt however, that they love him, and would want to live with him if that were possible.
91. The notes of contact between the children and their maternal grandfather are lovely and it is clear they have a loving and affectionate bond with him

which one can assume they would wish to continue wherever they are placed.

(b) their physical, emotional and educational needs;

92. In my previous judgment I wrote this:

93. *“These children are still of an age where they are heavily reliant upon the adults around them to meet all their daily needs. They need to be kept safe, to have stability of routine, to be washed, fed, clothed appropriately, to be supported in their education and friendships.*

94. *Both children have been assessed as having learning ages considerably lower than their peers and need significant extra support to help them make progress.*

95. *Both children need help to build their emotional health. They need to know that the adults responsible for their care can keep them safe. They need to be able to ask for help if they need it. They need to be able to express their true emotions and feelings and be supported with managing those feelings. They need help in making friendships and developing attachments to other people, starting with each other and their parents, but including school friends and teachers. At the moment the strong impression from the evidence is that they are living their life in a social vacuum, isolated because they are unable to connect to others.*

96. *K needs support with her eating disorder. There is plainly no immediate fix to this problem which has been longstanding, but it is arguable, as both Ms S and the guardian feel strongly, that time is running out.*

97. *The children have been placed at risk of harm from their mother. Although the father has said that at the moment he does not trust her to care for the children and he would call the police if she returned, I treat that evidence with some caution. He promised in October 2015 that he would not let the children see their mother, but within a couple of months he found her sleeping on the streets, and found he could not refuse her a visit to the house. In my judgment he is likely to find it difficult to keep such a promise again, particularly in circumstances where he does not accept any of the concerns raised by the local authority about the children’s mother ability to care for them over the past few months.”*

98. Having regard to all the evidence that has been put before me at final hearing, my view is that the children’s needs remain broadly the same. The need for stability of care is perhaps more pressing now than ever. Dr Richer writes:

‘To state the obvious, the children need a stable supportive home which provides them with interesting experiences which advance their

development. They behave as if they have experienced some good care from their parents, but its unreliability plus the many stresses they have experienced have generated considerable insecurity, which they mainly express using the avoidant strategy.'

(c) the likely effect on them of any change in their circumstances;

99. The two realistic options are a return home to their father's care or else for them to remain in long-term foster care.

100. If the children return home, they would be able to live with their father who they love, and they could stay at their current school where they are now doing well. However, they would once again be exposed to the inconsistent care that their father provides, which has directly led to difficulties for them in all aspects of their lives in the ways described by Dr Richer in particular but also Ms M and previous social workers, and Ms S. In my judgment the progress they have recently made at school is likely to be put in jeopardy, the prospects of K's eating disorder being successfully treated would be at risk, and the children would once again live in a stressful environment where they were uncertain of their basic physical and emotional needs being met consistently.

101. The children's current foster carers are not putting themselves forward to care for both children long-term, so they will not stay in that placement, although they have committed to caring for both children until a permanent placement is found, and it is accepted that may take some time, even up to two years.

102. Placement in foster care would therefore mean continuing stability in the short-term. The children are doing well, they are improving at school to an extraordinary degree, and credit must be given to the foster carers for the stable, caring and supportive environment they have created. The children would on any view see less of their father than they do now, and they would grow up for the rest of their childhoods as children in care, the subject of meetings, assessments, and life with a corporate parent. They are highly likely to have to move from their current placement within a year or two and it is not guaranteed that they will be placed together. J is currently in year 5 at school, he may have a very uncertain and disrupted start to secondary school if he has to move after the start of year 7. Foster carers do not sign up for life and foster placements can breakdown suddenly and unexpectedly, causing further disruption to already very vulnerable children.

103. Longer term, the right foster placement would provide the children with stability, consistent care with routines and boundaries, and support for their physical and emotional development, to build secure friendships and relationships with their peers and adults, and to help build a foundation towards independence in adulthood.

(d) their age, sex, background and any characteristics of theirs which the court considers relevant;

104. In my earlier judgment I wrote, *‘although the children are half English and half Iranian their father said he does not speak Farsi to his children so they will not struggle with language issues or miss that if placed in foster care.’* The children’s cultural heritage is important, but I am satisfied that whatever order is made, their father will continue to play a significant role in their life and will be able to continue to instill in them a knowledge of their Iranian family and culture.

(e) any harm which he has suffered or is at risk of suffering;

105. In my previous judgment, I described the situation for the children at home:

‘The evidence is of a chaotic situation at home with the children not responding to basic attempts to manage their behaviour. They appear to have no settled routine for eating and sleeping and seem to be left to their own devices whether inside or outside the flat for long stretches of time without adult supervision.’

106. *The particular concern raised by professionals are in respect of emotional harm suffered in the past and a continuing risk of emotional harm.*

107. *Mr Brookes-Baker argued that because the children are not visibly scared of their father or watchful or guarded around him, and because they are described as lovely, exceptionally well behaved children, who are well-liked by teachers, they cannot be suffering emotional harm to the degree identified by professionals.*

108. *I respectfully disagree with this analysis. I was impressed by each of the professionals who gave evidence about these children, in particular by Mrs S who knows the children very well. The emotional harm she and others identify is clear and very concerning. I do not regard it as an issue to be looked at over the long-term but at a point of crisis and something to be addressed urgently. That the children are compliant and well-behaved at school does not mean they are not suffering from emotional harm. I accept the description of them as guarded, isolated, emotionally vacant, and unable to express emotions. There are instances of the children’s presentation mis-matching the situation in which they find themselves. The children have been described as present when their father has been ‘ranting’ to professionals and to be wholly unresponsive, or to laugh. Ms S and Ms M described these presentations as the children’s coping mechanisms; they say the children are simply surviving, just getting along, but not progressing academically or emotionally. The picture which was*

presented to me and which I accept, was that they are rather alone in the world without a strong bond with each other or having any adult they can rely on to look out for their needs as the priority.

109. *K's eating disorder is another manifestation of the emotional harm she has and continues to suffer.*

110. *The children have suffered emotional harm because their parents have cared for them in a disordered and at times chaotic manner. The father has not in my judgment managed to meet their basic emotional needs. They have no routine they don't appear to know where they are going to be or what they are doing or who is looking after them from one moment to the next. Mealtimes appear to be totally haphazard. The father did not demonstrate to me in evidence that he was able to think about his children's lived experiences, for example he did not seem concerned that he had left the children at school at 8.15 in the morning with no preparation for the change of plan, no plan for who was going to collect them or at what time. He did not seem able to see that this might be difficult for them.*

111. *The father has exposed the children to arguments he has had with the social services, to the complaints he has made to his doctor in their presence and to other professionals including Mrs S. While he does not regard his manner as aggressive I am satisfied that he has, as he did in the witness box, allowed himself to get 'wound up' and expressed anger and resentment to professionals, and that he has done so in front of the children. The children have also, I am satisfied on the evidence before me, been exposed to arguments between their mother and father.*

112. *In my judgment the children have been given very mixed messages from their father about their mother and whether or not she poses a risk to them. On the one hand the father says he would call the police if she arrives, but he could not identify any way in which he felt she had let him down or that she posed an actual risk to the children. He said it was just social services putting that idea into their heads that just because she was a drug addict and homeless she was a risk, but he thought the children benefited from their mother's presence.*

113. *I consider the father would be unable to act protectively towards the children so far as their mother is concerned.'*

114. *Having had regard to all the evidence before the Court, in my judgment if the children were returned to their father's care, they would continue to suffer and be at risk of the physical and emotional harm in the same ways described above, because since the last hearing their father has not accepted any need to change and has not implemented any changes to his parenting nor shown any understanding of the need to change. He*

would be unable or unwilling to parent them in a different way than he did before.

(f) the capability of the parents or any other relevant person to meet the child's needs.

115. The father loves his children very much and wishes the best for them.
116. As identified by Ms M and Ms S, there are some positives about the care the father provides to the children. In his care they had a good attendance record at school, they arrived on time and there were no concerns about their clothes. They are well-liked by their teachers and there were no instances of them behaving badly at school or being unkind to other children.
117. There continues to be evidence of the children behaving affectionately to their father although there is sometimes a competitive or manipulative element to it.
118. The father has made some progress in terms of finding activities to do with the children in contact but he has had a lot of support and direction, he has not found it easy to think of activities his children might like to do beforehand. There are instances of contact going well and him playing games or doing drawing with the children, but there are also lots of examples of the children and the father being bored and frustrated and the father having no real ability to direct play or distract the children onto a new activity. If he is having a bad day he appears to be incapable of putting his own concerns to one side and prioritising the children; his mood dominates. He has continued to 'rant and rave' in front of the children and to share his adult worries and concerns with them or in front of them. When he was asked about what activities he did with the children when they lived with him he described only day trips out or holidays, he did not recall to mind any sort of shared day-to-day activity like reading, drawing, playing games. The impression I have formed from the contact records is that these sorts of activities have been a new experience for them all. I am not confident he would be able to engage the children in such activities independently.
119. All professionals report that the father has continued to 'rant and rave' about his own concerns in front of the children and such that he is unable to detach himself from his focus on his complaints and look to the children and what they need physically or emotionally. This is evident in a great number of the contact records. In her evidence, Mrs M also records a concern of hers that the father has said he does not want the children to see their maternal grandfather. On Mrs M's account, which was not challenged, the father had been keen for maternal grandfather to be assessed as a potential carer for the children but then changed his mind after he tried to contact maternal grandfather and he did not return his calls.

This would appear to be an example of the father putting his own feelings about maternal grandfather before the children's interests in seeing him. Persuading J to say he did not want to go on holiday with the foster carers so that the father would not miss out on his contact is another example of him putting his own needs before J's.

120. Professor Perkins considered that while the father said that he would not bring the children into contact with their mother and the relationship was over, he was in fact much more ambivalent in subsequent statements. The father has said before he would refuse contact, and signed written agreements to that effect, but within a short time the children were out walking with him in Oxford and bumping into her, and within a short time after that he allowed her to move back home and then lied about it. He continued to be ambivalent in his evidence to the Court - saying that he would not let the children see their mother but not accepting to any degree that the children had suffered harm when their mother was living with them in 2016 and maintaining that everything would have been OK but for social services interfering.

121. I have to consider whether the father could meet the children's needs with additional support being provided by the local authority or other persons or agencies. I am satisfied that an enormous amount of support has been given to the family over a period of nearly ten years. There have been times when progress appeared to be made, not least in January 2014 when a child protection plan was down-graded to a child in need plan, and again in October 2015 when the child in need plan came to an end. However, it is clear from the core group notes from that period of time that progress was not always maintained – within a very short time of signing the agreement the father was allowing the children to have contact with their mother in January 2016. The concerns that led to the local authority bringing proceedings have been a consistent theme for many years.

122. It was submitted on behalf of the father that he has not been given a fair opportunity to effect change because of language difficulties and a misunderstanding of his culture, he has not been able to grasp a proper understanding of the local authority's concerns and what he would need to do to bring about change.

123. I do not accept this analysis. There is overwhelming evidence that a number of professionals over many years have spent time with the father explaining their concerns, which have not significantly changed over that time, and he has not accepted them. I agree with Mr Powell's submission that if there is any misunderstanding of the local authority's concerns it is not because the father doesn't understand what the concerns are themselves, but because fundamentally he doesn't understand why the local authority has concerns when he himself doesn't see a problem.

124. This analysis is borne out by the evidence of the two psychologists and the guardian who all satisfied themselves at length as to the father's level of understanding of English, and have all separately formed similar conclusions as to the father's insight and understanding. Their views are consistent with Ms M's and Ms S's professional opinions, formed over many months of time of involvement with the family. The father's presentation when he gave evidence was consistent with this analysis. It is an essential part of his character that he becomes so focused on his own viewpoint that he is incapable of or unwilling to admit an alternative one which conflicts with his own view.

125. He continues to show hostility to the local authority and now blames them for not giving him the support he considers he should have received. I accept the local authority and the guardian's evidence that an enormous amount of support has been given to no lasting positive effect.

126. In all the circumstances I have no confidence that the father could benefit from any further support from the local authority to enable him to make the changes that would be required within the timescale of these children. I accept the evidence of Professor Perkins that he remains at this time in the 'pre-contemplative' stage so far as recognition of a need to change is concerned.

(g) the range of powers available to the court under this Act in the proceedings in question.

Application for adjournment

127. I have regard to the overriding objective set out at paragraph 1.1 of the Family Procedure Rules 2010 to deal with cases justly, having regard to any welfare issues involved.

128. I reject the application for an adjournment in order to enable the father to obtain transcripts of voice recordings of meetings between him and the local authority having regard to the following:

- The evidence has not yet been obtained, let alone disclosed to the other parties in advance of the application being made;
- Following an adjournment, and the transcripts being prepared, the parties would have to consider the transcripts, check against contemporaneous notes of meetings or with attendees of meetings to check their accuracy. It is potentially an enormous task;
- Such a task would inevitably lead to significant delay of final decisions about the children;
- Following that exercise a number of the witnesses who have given evidence at this hearing would have to be recalled and maybe further witnesses identified, requiring further Court hearing days;

- The father did identify some alleged discrepancies; a note of Ms M's that a phone call took an hour and three quarters which the father says was only 39 minutes, that the father had made a specific request for an interpreter as he did not understand her, and evidence that the father had said the children's bikes could be collected from a locker (although there is also evidence of him saying this to J during contact);
- the father did not identify how these alleged inconsistencies would undermine the social worker's parenting assessment or her final conclusions, save that it was said that he did not understand Ms M and she did not understand him. Neither of his witness statements raise issues of understanding as a concern, or challenge the methodology or factual basis for the parenting assessment, although its conclusions are challenged;
- The father dealt fully in his oral evidence with his assertion that he found it difficult to understand Ms M. He said the same about the two psychologists and Ms S and the guardian, but the overwhelming evidence is that any communication difficulties due to language or culture were dealt with through clarification of meaning, other communication difficulties if they exist are as a consequence of the father's difficulty in hearing and processing what is said to him because he has an overwhelming need to repeat his own viewpoint;
- There is no other evidence before the Court to corroborate the father's assertion that Ms M's evidence is factually inaccurate in terms of the number of times she has met with the father or the information obtained as part of the parenting assessment. Her rough 'case notes' are not detailed, but they do not conflict with her written evidence;
- For reasons given within this judgment, I do not accept that on the evidence that was before me are reasonable grounds to assert that the social worker's parenting assessment is fundamentally flawed in that or any other respect;
- I have regard to the father's article 6 and article 8 rights and also to those rights so far as the other parties, particularly the children are concerned.

129. I have read and considered the case of Re F [2016] EWHC 2149 (Fam). In that case a mother had recorded the assessment sessions she attended with a clinical psychologist and the transcripts of the recordings showed that the expert had very significantly misrepresented what she had said in his report. A large part of his report contained sentences in italics and contained in speech marks which he attributed to the mother but in fact the recordings showed she had not said what was recorded and he had made it up. That case might help me as to the approach in the event that similar evidence were available in this case, but it does not tell me in what circumstances the Circuit Judge hearing the original case had decided it was appropriate to adjourn so that full transcripts of the psychologists' assessment could be obtained and put before the Court.

130. . It may be the case that obtaining transcripts of the voice recordings provides some glimmer of hope to the father that he may be able to identify differences in the recordings of conversations from the note taken. However, having regard to the weight of all the other evidence that I have read and heard, the likelihood of delay, the prospects of the evidence obtained being such as to undermine the local authority's evidence to the extent asserted as a possibility, in my judgment an adjournment to obtain transcripts would be disproportionate and not in the interests of disposing with the case justly and expeditiously. For these reasons, I dismiss the application.

Application for independent social work assessment

131. I also dismiss the application for an independent social work assessment. I have had regard to the overriding objective, to the parties' Article 6 and 8 rights and to all the evidence I have heard and read. The evidence of all professionals in this case is overwhelmingly consistent, I do not accept the criticisms levelled at the parenting assessment for the reasons given, and in all the circumstances in my judgment a further adjournment to obtain the view of a further social work professional would be disproportionate. It cannot be said that such assessment is necessary in order to determine the issues in this case.

Conclusions

132. I have had regard to all the evidence in the case and to the factors on the welfare checklist, and comparing the potential advantages and disadvantages of the two realistic options against each other, I have come to the firm conclusion that a public law order is required to meet the children's welfare needs and that order should be a care order.

133. Although there was a recent viability assessment of the father's sister, who lives in Germany, that was negative and has not been challenged in Court. She does not speak English, is not known to the children and does not propose to come to this country for longer than six months in order to care for the children before returning with them to Germany. This option is not realistic.

134. I approve the local authority's plan to place the children in long-term foster care.

135. In short, my reasons are as follows:

- I was impressed with the evidence of the local authority witnesses for reasons I have given. I found collectively their evidence to be thorough, based on insightful and compassionate understanding of the children and their experiences, consistent, and compelling;

- I was impressed by the evidence of the psychologists in the case and accept their conclusions;
- While I am in no doubt of his commitment and his love for his children, the father's presentation in Court was strikingly similar to how it was in October and evidently consistent with how he came across to all professionals who have worked with him. It is not his fault, but he is so focused on his own difficulties in life that he is unable to prioritise the needs of the children before his own. In my judgment if the children were to return to his care he would once again find himself overwhelmed and unable to meet their needs so as to protect them from the risk of physical and emotional harm;
- No order, or a child arrangements order to father with a supervision order would be a less interventionist approach, but in my view would not be sufficient to safeguard the children's welfare in circumstances where I am satisfied they would be at risk of significant harm in their father's care, and he would not be able to work with the local authority in a collaborative way so as to minimise the risk and bring about necessary changes for the benefit of the children within their timescale;
- The experienced guardian's views are consistent with all the professionals and experts. His recommendations are well reasoned, supported by overwhelming evidence and there is no good reason in my view to depart from them.

136. I agree with the guardian's recommendation, and having regard to the together and apart assessment and the current evidence of them having settled well in foster placement, that if at all possible these children should continue to be placed together.

Contact

137. The local authority proposes that the children should have contact with their father four times a year but Ms M indicated she does not disagree strongly with the guardian's preference for six times a year as a starting point.

138. The local authority proposes the mother should have letterbox contact four times a year and the children should have contact with their maternal grandfather four times a year, which is consistent with the guardian's written recommendation, but in evidence he told me that he would approve a care plan with six contacts a year to the grandfather. Mrs Payne on behalf of the mother urges the grandfather's contact to be increased to six times a year and for it to progress to be unsupervised.

139. I have had regard to the evidence I have read and heard and in my view the children should have contact with their father six times a year, letterbox contact with their mother four times a year and in the first instance, contact with their maternal grandfather six times a year.

140. I have read what Mr S says about the potential benefits of that contact, and note no negatives specifically identified, and having regard to the very positive contact notes concerning paternal grandfather, and that he has an important role to play so far as helping them to see their mother in a more positive light, I am persuaded that there should be an increase. On balance I consider a starting point of once every eight weeks rather than once every twelve weeks would be of benefit to the children. I anticipate the letterbox contact from mother will actually be via the maternal grandfather and that he will give the children letters and cards from her.
141. The burden of potentially twelve contacts a year can be reduced by spreading them out so that they mostly take place in school holidays. The burden can be further reduced if as is proposed they happen on the same day, although it is in my view helpful to have some separate ones as well early on so that the impact of contact can be properly assessed and reviewed.
142. I would agree with the guardian that while there may be a need to support the children when having contact with their grandfather at the very beginning, there would appear to be no good reason why contact between them and him would continue to require supervision.
143. I agree with the proposal that father's contact is supervised. Although he was not pleased at all with the suggestion that it be time limited to around three hours in the first instance, having regard to some of the difficulties that have arisen in contact I would consider this needed to be kept under review as it has contact during these proceedings has not always been easy and has lasted far less than three hours. I would propose starting with a slightly shorter contact and build up to longer periods if successful.
144. Contact must and of course will be kept under review and may be increased or decreased depending on the children's needs.
145. I acknowledge that my decision will cause enormous pain to the father, and that it will not be at all easy for the children to be separated from him. I am sorry to be the cause of that pain. However, for the reasons given, I am satisfied that the orders I make are necessary and represent a proportionate intervention into this family's life in order to meet the welfare needs of these two children, who have had many challenging life experiences already, and require now to be kept safe from harm and to have stability and consistency of care for the rest of their childhoods.

Joanna Vincent

Her Honour Judge Vincent
10th March 2017

Annex 1: threshold

FINAL THRESHOLD DOCUMENT

References – [x] – are to the hearing bundle as of 10.2.2017

The Local Authority contends that the Threshold Criteria pursuant to s.31 Children Act 1989 are satisfied on the basis that, as at the date of initiation of protective measures (being 13 September 2016), J and K had suffered and were likely to suffer significant harm, that harm being attributable to the care given or likely to be given to them by their parents, FG and HI.

In satisfaction of the s.31 Threshold, the local authority relies on the following facts, in particular:

Mother's mental health

1. The mother has a mild to moderate degree of borderline personality disorder [E121];
2. The mother has suffered a mental health breakdown [C136] and has been sectioned under s.136 of the Mental Health Act 1983 [G58];
3. The mother has self-harmed and has made threats to commit suicide [G58, G60, E114];
4. The mother has been heard talking to herself in public [C16] shouting at the children then stopping to have a conversation with an imaginary third party [C17]

Mother's drug misuse

5. The mother is suffering from opioid dependence disorder [E121];
6. The mother has a long history of drug misuse, including the use of heroin, which is on-going [C8, E115];
7. The children and their half-brother L were born withdrawing from their mother's use of illicit drugs and/or methadone [C11]

Father's mental health

8. The father has an 'Unspecified Personality Disorder', with Turbulent, Narcissistic, Dependent and Histrionic features, and with clinical syndrome diagnoses (in order of their clinical significance: Bipolar Disorder (with psychiatric features), Substance Use Disorder and Adjustment Disorder with Anxiety [E132, E137];
9. The father is suffering from a combination of severe anxiety and depression [E32, E77];
10. The father has been a regular user of metandienone over the three month period immediately before his hair specimen collection on 28th October 2016 [E49]

Father's drug misuse

11. The father use to be a heroin addict and is now on a methadone script of 3mls [C8, C49]

Neglect

12. The children have suffered neglect in their parents' care and in their father's sole care. They have, or the father has,

- a. *Not fed them properly or promoted a proper diet [C14, C58, C60, C64, C67, C116-117];*
- b. *Not supervised them properly [C16, C68, F1c, F14-16, G26, G104];*
- c. *Not taken the children to appointments or sessions when needed [C14, E7, E12a, Fa, Fc, F14-15, F33];*
- d. *Not played with them or stimulated them enough [C121, Cc8e];*
- e. *Not maintained routines or boundaries [C53, G102];*
- f. K has refused to eat a normal diet preferring to eat junk food or just toast, which puts her at risk of physical harm caused by poor diet [C2]

The parents' relationship

13. *The parents have a relationship which featured arguments, which continued following the mother moving back into the family home at the beginning of 2016 [C10-11, C13, C19].*

14. The father lied to professionals about the mother having moved back into the family home [C15, F1c] and breached a written agreement that provided for him not to allow the mother back into the home.

15. *The children are exposed to the parents' mental health difficulties, their anxiety and depression, aggression and unpredictable behaviour [C2, C17, C19, CC15, CC51, F31].*

16. The family has been known to Social Services since 2007 and since that date there have been repeated cycles of the parents' illicit drug use and poor mental health [C8].

17. *The father discusses adult matters in front of the children and makes inappropriate comments directly to the children [C19, E6, E11, CC8r, CC8u, CC9, CC12, CC15, CC17, CC26-27, CC35, CC39, CC41, CC43, CC51, CC65, CC71a].*

18. *The father prioritises his own needs over the needs of his children [C3, C55, C57, C64, C67, C69, C132, E7, E142, Fd].*

19. *The father has been hostile and aggressive to professionals, often witnessed by the children [C17, C87, C118, C158-159, E32, Fd].*

20. The father has missed appointments with professionals [C17, C155, C157].

21. On 8th August 2016 father stated that he would no longer allow social workers to enter his home and it became increasingly difficult for social workers to monitor the safety and wellbeing of the children [C17].

22. Both children suffer from global developmental delay and are approximately 3 years behind their peers at school.

Oliver Powell

On behalf of Oxfordshire County Council

21st February 2017