

This judgment was delivered in private. The Judge has given leave for this version of the judgment to be published on condition that, irrespective of what is contained in the judgment, in any published version of the judgment 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.

IN THE FAMILY COURT

Case Number: WD19C01317

11th August 2020

Before His Honour Judge Middleton-Roy

Between:

A LOCAL AUTHORITY

Applicant

- and -

M

1st Respondent

F

2nd Respondent

**C and D
(The Children
through their Children's Guardian)**

3rd and 4th
Respondents

Mr J. Holmes, Counsel, instructed by the Local Authority
Mr P. Lynch, Counsel, instructed by R A Savage and Co. for the 1st Respondent
Miss V. Burgess, Counsel, instructed by Hepburn Delaney Solicitor for the 2nd Respondent
Miss S Ashby, Solicitor, Machins Solicitors for the 3rd and 4th Respondents

Hearing dates: 27th to 31st July 2020

JUDGMENT

Crown Copyright ©

His Honour Judge Middleton-Roy:

Anonymity

1. The names of the children and the adult parties in this judgment have been anonymised, pursuant to the Practice Guidance of the President of the Family Division issued in December 2018 having regard to the implications for the children of placing personal details and information in the public domain. The anonymity of the children and members of their family must be strictly preserved. All persons must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

The Parties and Applications

2. The children with whom the Court is concerned are age 2 and 1 years respectively. Child C is the oldest and Child D is the youngest. Their mother (“M”) is the First Respondent in the proceedings. Their father (“F”) is the Second Respondent.
3. Local Authorities owe a duty in law to safeguard and promote the welfare of all children within their area who are in need. In carrying out that duty in law, the Local Authority must promote the upbringing of children by their families and must provide services appropriate to the needs of children who are children in need. The applications before the Court are the Local Authority’s application for a Care Order, issued on 30th October 2019 and the Local Authority application for a Placement Order issued in July 2020. The Local Authority is concerned in this case that the children have both suffered significant harm in the care of their parents and that the children are at risk of suffering significant harm in the future. The Local Authority’s concerns are in respect of the parents’ alcohol and substance misuse and the impact of this on their parenting, domestic violence between the parents and the impact on the children, the father’s mental health and whether the parents are able to prioritise the needs of the children and meet their basic care needs and emotional needs.
4. The Local Authority’s applications for Care and Placement Orders are supported by the Children's Guardian.
5. The parents both vehemently oppose the Local Authority applications. The mother wishes for the children remain in her sole care. The father supports the children remaining in the sole care of their mother. He accepts he is not in a position to care for them either now or in the foreseeable future. Further, he accepts that any contact between him and the children should be supervised and that there will need to be a further risk assessment. Furthermore, he accepts that if the mother and child are re-housed, their address should be withheld from him.
6. The background facts are largely not in dispute. Both parents have other children from previous relationships, none of whom live with M or D. The father has five older children. The mother has one older child. The father has a significant criminal history, including convictions for violence and drug related offences. Both parents have a history of substance misuse, including the mother’s misuse of alcohol and cocaine whilst she had care of her eldest child, who is not the subject of these proceedings. There are reports of domestic violence between the parents dating back to 2017.
7. Prior to the commencement of these Court proceedings, the mother engaged with a Domestic Abuse Practitioner and the Wellbeing Service for support with her mental health. The father

completed a domestic abuse programme, “Better Me, Better Us.” In December 2018 a report was received that the mother was misusing alcohol whilst pregnant with the youngest child and that the father had punched her in the face. The mother tested positive for cannabis use in April 2019. The family home was observed to smell of cannabis during a visit in May 2019 when both children and three of their half-siblings were present. The father is said to have become aggressive towards the Children’s Practitioner who attended. The father tested positive for cannabis and cocaine use in June 2019 but denied having used cocaine for 2 years. He was arrested in September 2019 for drug offences after being stopped by the police whilst driving with the mother and both children in the vehicle. The police reported a strong smell of cannabis. An offensive weapon, cannabis and drug paraphernalia were found in the car, some of which is said to have been close to the children. When the police attended the family home in October 2019 to arrest the father for dangerous driving and possession with intent to supply, it is reported that both parents were obstructive and verbally aggressive. The father is reported to have struggled with police and fought with them close to where the youngest child is reported to have been on the floor hidden under a blanket. The mother is reported to have been verbally abusive towards the father and police officers in the presence of the children and is reported to have sworn at the children. Class B drugs were said to have been located around the baby’s bottles and food.

8. On 1st November 2019 the Local Authority applied to this Court for an urgent Interim Care Order with the plan of removal of both children from the care of their parents. The Local Authority plan was not then supported by the Children's Guardian. The Court refused the Local Authority’s application for an Interim Care Order. The Court found that the interim threshold criteria for the making of a public law Order was met. However, the Court was not satisfied that separation of the children from their mother was necessary, in the best interests of the children nor proportionate to the risks. The father was by then living separately from the mother and the children. The father gave an undertaking to the Court not to go within 100 meters of the mother’s home. Both parents entered into a written agreement with the Local Authority, the terms of which included agreement that the mother would not consume alcohol to excess and would not smoke cannabis or any form of illegal substances in the family home or whilst the children are in her care, that the father would not go to the family home and in the event that the father did go to the home, the mother should not allow him to enter and should inform the Local Authority immediately.
9. The children have remained in the care of their mother under an Interim Supervision Order throughout these Court proceedings.
10. During the course of the Court proceedings, the Local Authority developed further concerns. On 21st November 2019, the youngest child was observed to have a small bruise on the top of her head. The mother told the GP that the child had hit herself with a toy. The GP accepted the explanation given. The Local Authority does not pursue a finding that the bruising was non-accidental. The father was referred to a ‘Caring Dads’ programme in December 2019 but subsequently did not engage with the service. His driving licence was revoked in December 2019. He was since observed to be driving without a licence in January and February 2020. Despite giving an undertaking to the Court not to go within 100 metres of the family home, the father was seen by the Social Worker and Family Practitioner at the family home when he is said to have had slurred speech and appeared to be ‘under the influence.’ The mother is reported to have said that she did not know the father was planning to attend the home.

Hertfordshire Constabulary reported on 19th February 2020 that the father was seen leaving the mother's home. The police officer says he was able to identify the father due to the father's history with the police. The mother is reported as having said that it was not the father who was leaving her home and that the police were mistaken.

11. Hair strand testing for drugs was undertaken in respect of the father. In a report dated 23rd January 2020, the father tested positive for cannabis use. There was no evidence of cocaine use between October and December 2019 and the results also do not suggest chronic alcohol consumption. The father was arrested on 23rd February 2020 for possession with intent to supply Class B drugs (cannabis), possession of an offensive weapon in a public place and possession of a large amount of herbal cannabis.
12. The mother underwent hair strand testing for drugs. In a report dated 15th February 2020, the mother is recorded as having tested positive for cannabis but negative for cocaine use. The mother informed Children's Services on 26th February 2020 that she had separated from the father. She is said to have been considering separation ever since receiving a psychiatric report relating to the father, obtained in these proceedings. The mother, however, indicated that she was still in daily contact with him.
13. During an unannounced visit on 27th February 2020, the youngest child was observed to have a small bruise to her left cheek. The GP identified no safeguarding concerns in respect of the bruise but raised concerns in relation to the mother's lack of supervision whilst at the GP surgery as the oldest child had tried to leave the building when the mother was on the telephone. The Local Authority is not seeking any finding that the bruising was non-accidental.
14. The mother left a Local Authority core group meeting on 10th March 2020 whilst speaking with the father by telephone following his arrest close to the venue of the core group meeting.
15. The mother reported on 26th March 2020 that the youngest child had an injury to her left eyelid. She explained that this was caused when the oldest child had been playing with a pram and it had fallen onto the youngest child. The GP saw the injury by video and accepted the mother's explanation was plausible. The Local Authority is not seeking any finding that the injury was non-accidental.
16. The mother reported to her CGL drug support worker on 26th March 2020 that she was "smoking a joint every other night" while the children were in bed. She informed her CGL worker on 23rd June 2020 that she smokes half a joint of cannabis daily in the evenings when the children are in bed.
17. On 24th April 2020 the mother contacted the police reporting that she was scared that the father would come to her home and hurt her. She reported persistent telephone calls and that the father had threatened to beat her and sexually assault her. On 26th April 2020, the father was arrested. He was remanded in custody and remains on remand as at the date of this Final Hearing. In his police interview of 26th April 2020, the father said that the mother regularly uses cocaine, consumes alcohol daily, that her behaviour is erratic, that they have been in an intimate relationship with each other throughout the proceedings and that they had both gone to lengths to conceal their relationship from Children's Services by deleting messages and call logs. He asserted that the mother had 'cheated' the hair strand test by bleaching her hair

repeatedly and purchasing a hair detox treatment kit. The father has since retracted the allegations.

18. The mother reported to the police on 27th April 2020 that she was being harassed by the father's sister to withdraw her allegations. Concerns were raised about the father's inappropriate sexual behaviour towards young people. The Local Authority does not seek any findings in respect of these allegations.
19. The Social Worker was concerned that during a telephone call with the mother on 28th April 2020, glass bottles were heard 'clinking' in the background and the mother became defensive when challenged on this.
20. The mother contacted the police on 7th May 2020 following receipt of a letter from the father from prison. Concerns were raised in the letter about both parents' cocaine use. On 11th May 2020 the mother obtained a Non-Molestation Order against the father. On 26th May 2020 the father pleaded guilty to possessing of class B drugs. He pleaded not guilty to two counts of coercive control. His trial is pending.
21. During a home visit on 25th June 2020, the mother had various bruises on her arms and legs. It was also observed that the mother left the children unsupervised in a shallow paddling pool and she was advised not to do this. The Local Authority was concerned that the mother failed to attend two health appointments for the youngest child's immunisations and that their development checks remained outstanding. The mother has since attended those health appointments and the children's health checks have been undertaken.
22. The first known cases of coronavirus or Covid-19 in the United Kingdom were reported in January 2020. The United Kingdom government imposed restrictions on social movement and in March 2020, the United Kingdom went into lockdown. Restrictions on social movement, although subsequently relaxed, have continued in varying forms since then. The 26-week period within which the Local Authority's application for a Care Order was to conclude expired on 28th April 2020. Having regard to the national public health emergency, pursuant to s.32(5) of the Children Act 1989 the Court extended the period within which the Local Authority application must be disposed, beyond 26 weeks, to 31st July 2020 to enable the Court to resolve the proceedings justly.
23. In the in exceptional circumstances of the ongoing national public health emergency the Court determined pursuant to Family Procedure Rule 2010 r 4.1(3)(e) that the Final Hearing was suitable for hearing as a hybrid hearing, in that the professional parties and witnesses attended the hearing remotely by video conference whilst the parents and their Counsel attended Court physically. The father was physically produced from prison each day to facilitate his participation in the Final Hearing. The Court heard evidence over five days, including evidence from Dr Campbell, Psychologist, from the Local Authority Social Worker and Team Manager, from the mother, the father and from the Children's Guardian. The Court heard full and helpful submissions from each party. At the conclusion of the hearing the Court informed the parties of its decision, with these detailed reasons to follow. The Court informed the parties that the Local Authority's application for a Placement Order was dismissed and that the Local Authority's care plan for removal of the children from their mother was not approved. The Court invited the Local Authority to accept a Supervision Order.

24. A great deal of documentary evidence has been prepared. The Court has considered all the documents filed and all the evidence heard, whether or not referred to in this judgment.

The Relevant Law

25. In any application for a Care Order the Court must apply both section 31 and section 1 of the Children Act 1989, to each relevant child individually.
26. Section 31(2) of the Children Act 1989 provides that a Court may only make a Care Order or Supervision Order if it is satisfied that the child concerned is suffering, or is likely to suffer, significant harm and that the harm, or likelihood of harm, is attributable to the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him or the child being beyond parental control. The category of a child being beyond parental control does not apply in this case. These provisions are commonly called the threshold criteria.
27. Sections 31(9) and 105 of the Children Act 1989 provide that “*harm*” means ill-treatment or the impairment of health and development including, for example, impairment suffered from seeing or hearing the ill-treatment of another. “*Development*” is defined as meaning physical, intellectual, emotional, social or behavioural development. “*Health*” is defined as meaning physical or mental health.
28. Practice Direction 12J sets out the following further helpful definitions:
“*domestic abuse*” includes any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, psychological, physical, sexual, financial, or emotional abuse. Domestic abuse also includes culturally specific forms of abuse including, but not limited to, forced marriage, honour-based violence, dowry-related abuse and transnational marriage abandonment;

“*coercive behaviour*” means an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim;

“*controlling behaviour*” means an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

Welfare

29. If satisfied that the threshold criteria are made out in respect of the child, the Court must proceed to consider section 1 of the Children Act 1989. At this second stage, the welfare of the child is the Court’s paramount consideration.
30. Section 1(1) of the Children Act 1989 provides that when a court determines any question with respect to the upbringing of a child, the child’s welfare shall be the court’s paramount consideration.
31. Section 1(3) of the Children Act 1989, commonly referred to as the “welfare checklist,” provides that the Court shall have regard in particular to—
(a) the ascertainable wishes and feelings of the child concerned (considered in the light of their age and understanding);

- (b) the child's physical, emotional and educational needs;
 - (c) the likely effect on the child of any change in her circumstances;
 - (d) the child's age, sex, background and any characteristics of the child which the court considers relevant;
 - (e) any harm which the child has suffered or is at risk of suffering;
 - (f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting the child's needs;
 - (g) the range of powers available to the court under this Act in the proceedings in question.
32. Under Section 1(5), the Court should not make any Order with regard to a child unless it is satisfied that it is better for the child to make that Order rather than to make no Order at all.
33. In this case the Local Authority's Care Plan for the children is one of adoption and an application for a Placement Order was issued. When considering an application for a Placement Order, section 1 of the Adoption and Children Act 2002 applies to the relevant child. The paramount consideration of the Court is then the child's welfare throughout that child's life.
34. Section 1(4) of the Adoption and Children Act 2002 provides that the Court must have regard to the following matters, among others—
- (a) the child's ascertainable wishes and feelings regarding the decision (considered in the light of the child's age and understanding),
 - (b) the child's particular needs,
 - (c) the likely effect on the child (throughout her life) of having ceased to be a member of the original family and become an adopted person,
 - (d) the child's age, sex, background and any of the child's characteristics which the court or agency considers relevant,
 - (e) any harm (within the meaning of the Children Act 1989) which the child has suffered or is at risk of suffering,
 - (f) the relationship which the child has with relatives, and with any other person in relation to whom the court or agency considers the relationship to be relevant, including—
 - (i) the likelihood of any such relationship continuing and the value to the child of its doing so,
 - (ii) the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the child can develop, and otherwise to meet the child's needs,
 - (iii) the wishes and feelings of any of the child's relatives, or of any such person, regarding the child.
35. In this case, the children's parents do not consent to the children being placed for adoption. The Court cannot dispense with the consent of any parent to the child being placed for adoption or to the making of an Adoption Order in respect of the child unless the Court is satisfied that (a) the parent or guardian cannot be found or is incapable of giving consent, or (b) the welfare of the child requires the consent to be dispensed with.
36. The Human Rights Act 1998 applies to these proceedings. Under Article 8, there is a right to private and family life. Each individual family member in this case has that right, including the children individually, their mother, their father and the wider family. These rights must be balanced. Any interference with the right to private and family life must be a necessary interference and must be proportionate, having regard to the risks.

37. I remind myself also of the principle that, if a Court decides that someone has lied about something, it does not mean that they have lied about everything. There might be reasons for them lying, such as shame, embarrassment, panic, fear, confusion or emotional pressure.

Threshold

38. The Local Authority asserts that that at the relevant, date being the date when the Local Authority commenced proceedings on 29th October 2019, the children were both suffering significant harm in the form of emotional harm and neglect and were at risk of suffering from significant harm in the form of physical harm, the harm or likelihood of harm being attributable to the care given or likely to be given by the parents, not what is reasonably expected a parent to give a child.
39. The Local Authority relies on the following:
- (1) The children have suffered emotional harm and are at risk of suffering further emotional harm:
- a. Both parents misuse alcohol and illicit drugs and whilst under the influence of alcohol and illicit drugs they are emotionally unavailable to the children: *The mother accepts that this was sometimes the case when she was with the father but asserts that it does not happen anymore. The father accepts the allegation in part. He asserts that at the relevant time he had not misused alcohol for two years. He asserts that he misused cocaine on one isolated occasion in approximately September / October 2019. Prior to that he asserts that he stopped using cocaine over 2 years ago. The father does not accept being emotionally unavailable to the children.*
- b. There has been and continues to be domestic violence between the parents which the children have been exposed to: *The mother accepts the Local Authority's assertions, save that, since the father has been in prison she asserts she will protect herself and the children in the future. The father accepts the Local Authority assertion in part. He accepts that there have been verbal altercations between the parties and there was some domestic violence in the past but he asserts that this has been historical. He asserts that this is no longer an issue. .*
- c. The father has diagnoses of Dissocial Personality Disorder and Poly Substance Dependence Syndrome and the children have been exposed to their father's deteriorating mental health: *The mother accepts the diagnoses relating to the father. The father accepts he has suffered from depression in the past and sought medical attention. He asserts he also has a diagnosis of ADHD. He does not agree with Dr Jones as he does not believe his behaviour or presentation meets the relevant criteria.*

- d. The children have been exposed to the mother's inappropriate use of language, swearing and shouting directed at home: *The mother accepts she has directed swearing and shouting at the father or sometimes his older children. She accepts that both the subject children would have heard this and she says she regrets this. The father accepts there have been arguments between the parents which the children have witnessed and that this likely included bad language. The father asserts he has never heard the mother swear or be aggressive towards the children.*
- e. The children have been exposed to the mother's poor mental health and struggles with depression and anxiety and the mother has not engaged in the therapy required to mitigate this risk: *The mother accepts this although she asserts she is getting better now. She asserts she has tried to get therapy and she hopes to be starting this shortly. The father accepts that the mother has had difficulties particularly as a result of the death of her mother and a number of other family members all to suicide within a 12-month period. However, in the father's view is that the mother has not allowed this to impact on her parenting. The father asserts he has witnessed personally how hard the mother has tried to access counselling.*
- f. The family home has been found with drug paraphernalia, a large amount of money, excessive amounts drugs and dealing equipment. People have been observed to come in and out of the home. The children have been exposed to the parents' drug related activities: *The mother accepts this although asserts that the father is responsible for this. The father accepts this in part. He accepts he smokes cannabis but asserts this is for medical reasons as it assists with pain relief. He accepts there has been some drug paraphernalia in the home but asserts this is related to his own personal use and is not within the reach of the children. He asserts the money in the property was from a compensation claim and he has provided bank statement to the police to support this.*
- g. The father is currently being investigated by the police for driving offence, drug related offences and domestic violence against the mother: *This is accepted by the mother. This is also accepted by the father. He has pleaded guilty to the driving matters. He asserts he has not been charged in respect of the drugs offences. He has pleaded not guilty in respect of the matters relating to the mother and is awaiting trial.*

- h. The children have been exposed to their parents' criminal behaviour which includes witnessing their father being arrested for driving without a licence, under the influence of illicit drugs and found with a weapon, drugs and drug paraphernalia and witnessing their parents resisting arrest: *The mother accepts this but asserts the father is responsible for this. The father accepts there are two isolated incidents in September and October 2019 when the children were present when he was arrested.*

(2) The children have suffered neglect and are at risk of suffering further neglect:

- a. Whilst under the influence of drugs and alcohol and whilst struggling with their own mental health, the parents have neglected the needs of the children: *The mother accepts she has struggled but she does not accept the children are now at risk of neglect. She accepts she has placed them in danger by not leaving the father earlier. The father does not accept that the parents' drug use resulted in the children's care needs being neglected.*

(3) The children are at risk of suffering physical harm:

- a. On 10th September 2019 the father was driving a vehicle with the children aboard whilst under the influence of cocaine and cannabis: *This is accepted by the mother. She asserts she did not know he was under the influence at the time. The father accepts this in part. He asserts that the cocaine consumption was after he had been stopped by the police.*
- b. The children have been observed with drugs and drug paraphernalia within their reach: *The mother accepts this but asserts that the father is responsible and that she did not know about this. The father denies that there has ever been drug paraphernalia within reach of the children.*
- c. The children are at risk of being caught in the crossfire of the domestic violence between the mother and the father particularly due to the mother's lack of honesty in disclosing the domestic violence perpetrated by the father: *The mother and father both accept this. They both assert it will never happen again.*

40. Both parents accept that the threshold for the making of public law orders is crossed. It is overwhelmingly apparent that at the time proceedings were taken on 29th October 2019, both children were suffering significant harm in the form of emotional harm and neglect and were at risk of suffering significant harm. Here the facts are plain and the likelihood of harm arises from them. The facts undoubtedly disclose risks of significant harm that cannot sensibly be ignored. In this case the threshold under section 31(2) of the Children Act 1989 is not only met, it is

obviously met. In so far as the individual and specific Local Authority threshold assertions are not accepted by either parent, the Court makes findings in accordance with the Local Authority's pleaded threshold statement, for the reasons set out in this judgment.

Welfare

41. Having found threshold to be met, the Court proceeds to consider the issue of welfare.
42. I turn first to consider the father.
43. In the course of the proceedings, a psychiatric report was prepared in respect of the father by Dr Jones, Consultant Forensic Psychiatrist, dated 7th January 2020. The report records that the father experienced his own difficult childhood. At the age of 8, he lost his own father to suicide. He recalled his father assaulting his mother regularly, in particular one incident when his father placed a knife to her throat. He remembered his mother describing his father as "a nice man until he became addicted to drugs." The report records that F has had considerable input from psychiatric services throughout his life, since the age of 8, being admitted to hospital three or four times on account of his mental ill-health, including when he was only 10 years old, when he was admitted for eight weeks to a child psychiatric hospital. It is recorded from the medical notes that his mother was finding it very difficult to cope and F was aggressive and violent. At the age of 17, he was reviewed by a child psychiatrist, having just left prison, where he was reported to be hearing voices, seeing things and paranoid. He was treated with antipsychotic medication. In early 2008, he presented again with hearing voices, seeing things and paranoia. Again, he was treated with antipsychotic medication. In October 2008, he had a three-week psychiatric admission from prison. He is reported to have attempted to hang himself in prison and was apparently psychotic and again hearing voices. He was admitted to a psychiatric secure unit which was boundaried and contained.
44. To Dr Jones, F described his relationship with M as "toxic," at the start of their relationship, as they both abused alcohol, cocaine and cannabis. He told Dr Jones that he and M both stopped taking drugs after a few months and their relationship improved. He said that he took cocaine again two months before the consultation (around September or October 2019), which was the first time in two years. He was stopped in his car by the police who found a bag of cannabis and a small amount of cocaine. A swab test was positive for cocaine. He admitted to abusing cocaine over the years but said he was completely abstinent for five years until he started again two years ago. He then stopped again after a few months, relapsing again following his arrest. He has smoked cannabis daily for many years.
45. In Dr Jones' professional opinion, the father had insight into his current situation. The father said he wished to return to live with his partner and children and was willing to do whatever was required of him to optimise his chance of this. He described feeling much calmer in the recent months. He also described having "calmed down" with age.
46. Dr Jones summarised the father's "concerning behaviours and symptoms" as including:
 - (a) a long history of offending, including acts of violence, theft and drug related crimes resulting in multiple prison sentences;
 - (b) a long history of marked aggression to the police and general public;
 - (c) a long history of domestically violent relationships, including being sent to prison because of such domestic abuse and blaming his partners for the conflict;
 - (d) a long history of sustained anxiety and emotional dysregulation, including suicidality;
 - (e) a long history of hearing voices, seeing things and paranoia when under excessive stress
 - (f) a long history of using substances heavily and chaotically.
47. In Dr Jones' professional opinion, the father suffers from a Dissocial Personality Disorder. He has had fixed maladaptive behaviours which preceded adolescence, beginning in childhood. Further, this disorder overlaps with complex post-traumatic stress disorder, directly caused by

sustained trauma and attachment difficulties in childhood. In Dr Jones' opinion, this leads to a heightened sense of fearfulness, dissociative experiences and emotional dysregulation. Further, F suffers from Poly Substance Dependence Syndrome. He has been dependent on alcohol, cocaine, cannabis and probably other opioids. In Dr Jones's opinion, this diagnosis more clearly emphasises the entrenchment of the addiction. Also, it clarifies the requirement for abstinence from all substances, before sobriety is attained. In Dr Jones' opinion, all the other symptoms such as hearing voices and low mood can be understood in the context of these conditions, particularly as they interact with each other. Dr Jones is of the professional opinion that these behaviours have resulted in risks to the general public and F's partners. Dr Jones considered that the domestic violence in the father's relationships can be explained, at least in large part, by the psychiatric diagnoses. It is therefore likely that the psychiatric difficulties and this behavioural pattern will continue indefinitely in the absence of appropriate treatment.

48. In respect of treatment, Dr Jones recommends that the first step would be for F to fully engage with the Community Addiction Service. Dr Jones is of the opinion that no treatment for the personality disorder can be expedited while using substances. In addition, Dr Jones is of the opinion that addiction therapy can be helpful for personality disorders. In Dr Jones' opinion, there must be full openness by the father about his level of substance misuse, including alcohol, cannabis and prescription painkillers, otherwise his likely success in achieving complete abstinence from all substances will be very low. Dr Jones recommends that with his key worker allocated at the community addiction service, F can agree upon a plan that works towards full abstinence. Once abstinence has been achieved or is being worked towards, addiction group therapy is important. Further, Dr Jones recommends that throughout this process, F would benefit from review by the NHS addiction psychiatrist. In addition, it may be appropriate after approximately nine months of recovery work, to move to personality disorder therapy.
49. Having regard to the risk of relapse in drug use, Dr Jones is of the opinion that after a year of abstinence and engagement with the recommended intervention, the risk of relapse markedly reduces to approximately 50%.
50. The father does not fully accept Dr Jones' diagnoses of Dissocial Personality Disorder or Post Traumatic Stress Disorder. Further, he does not fully accept Dr Jones' description of his childhood. He accepts, "to a certain extent" the diagnosis of Poly Substance Dependence Syndrome. Dr Jones' evidence, however, was not challenged. I find no reason to depart from the professional conclusions reached by this independent expert in her comprehensive and helpful report. In so far as those professional conclusions relate to threshold, I make findings in accordance with paragraph 1(c) thereof.
51. A parenting assessment of the father was completed by the Local Authority in April 2020. The social work assessment records that, at times, the father can show an understanding of the concerns and can recognise that some of his behaviours have placed his children at risk of harm. The assessment records that the father can also down-play or be dismissive of some of the concerns. The assessment records that the father can show insight at times into his drug misuse, however, he is also often dismissive about professional views that his cannabis use could have an impact upon his behaviour and he has consistently expressed that cannabis has no impact upon him. He has made some attempts to work with CGL drug support services and has said that he plans to be abstinent from cannabis, however he has also relapsed. The assessment records that both parents have argued with one another at times during the contact sessions in front of the children and contact workers have had to intervene. There have been times when the father has been able to accept his behaviour and actions have placed his children at risk. He has also been able to reflect upon his history and how this may have impacted on him but he has done very little to change his behaviour. The assessment records that the father has asked for support but does not always accept the support when offered. Further, the report records that the father can present as verbally abusive and will shout and raise his voice at professionals if something is said to him that he does not agree with. Furthermore, the assessment records the significant

concern that the father did not abide by the undertaking given to the Court and the concern that both parents breached a written agreement that the father would not come to the mother's address nor have unsupervised direct contact with the children. The parenting assessment concludes that neither the father nor the mother have been honest with Children's Services. The assessment records that the father has reflected at times and has stated that he would not want his children to have the same experiences as him. He is able to acknowledge that his behaviour is not acceptable but this does not stop him repeating the same behaviour at a later stage.

52. The Social Work assessment also records several positives. The children present as being happy in their father's care during contact and have been observed to have a positive interaction with him. The father has been observed to tell both children that he loves them and he will actively praise them. Further, the assessment notes that it is positive that the father has attended the 'Better Me, Better Us' domestic violence programme, noting also that the father has previously attended this course and has had one-to-one interventions from a domestic abuse worker. Further, the report records positively that the father has been proactive in accessing a parenting course and there has been positive feedback about his attendance. It is also noted, to his credit, that he engaged with the parenting assessment and has been open to exploring the identified risks and concerns.
53. Overall, the assessment concluded negatively, noting that, whilst the father can reflect and accept some of the identified concerns, he continues to dispute and dismiss a number of the significant concerns. The Local Authority assessment concluded that, as the father does not accept the psychiatric assessment, he would be unlikely to be able to meaningfully engage with the recommendations from this assessment. Further, he has continued to demonstrate impulsive and risk-taking behaviour. The assessment concluded that the father is unable to offer safe care for his children and he has not been able to demonstrate that he has made any significant changes.
54. To his credit, the father accepts he is not able to care for the children now or following his release from prison. Further, to his credit, the father has actively engaged in these proceedings and was keen to participate fully in the Final Hearing. He accepts that on one occasion in January 2020 he breached the undertaking given to this Court by attending the mother's property. He tells the Court he was concerned about the mother's health, after she told him she had been unwell. Further, he accepts that on the day he was arrested, he was intending to go to her property again. He described himself as being drunk and having overdosed on medication. On both occasions, the father tells the Court he was not invited to the property by the mother and he did so of his own volition. In his oral evidence, he accepted also that he had met the mother and children outwith the family home in a public place, in a café. He told the Court he knew they were not supposed to do that and that he put pressure on the mother: "I told her to come and if she did not come to me I would come to her. She was frightened I would come to the house. She thought it would be better to come out in the view of the public and cameras and she felt more protected that way. She was in fear. She has been honest. Like the letter I sent her from prison, she came forward and did not try to hide it. She gave it to the police. She has tried to be open and honest."
55. In his oral evidence, the father told the Court that prior to the government's introduction of restrictions on social movement, he was engaging with a further domestic violence course and engaging with his key worker and CGL drug support worker. He told the Court he was attending for regular drugs tests: "I started to do really well, then covid kicked in and my depression got really bad and I drank regularly. I found it difficult not getting contact." He told the Court that his accommodation situation was poor and he had no access to support services remotely: "I tried to ring up but got no response. I was told the drug worker was shielding or in quarantine. I was never getting anywhere and I started drinking." The father accepted in his oral evidence that by February 2020, his behaviour towards the mother was, "not very good at all. I was abusive a lot. I was paranoid, very, very paranoid." Further, he accepted that this would have made the

mother upset and distressed and that it was not good for the children to witness that. He told the Court he accepts that on his release from prison, he would be required to have supervised contact with the children, “because I pose a risk because I have not sustained abstinence. I have gone back to it when things have gone wrong. I was not able to get services during covid and when I could not, I went about it the wrong way.” The father told the Court he now accepts his relationship with the mother is over. Although they had attempted to reconcile on occasions in the past when they had separated for a short period of time, he told the Court he now accepts that he will not rekindle the relationship and he will not return to the house.

56. In his oral evidence he described the mother as, “a completely different person now, minus the stress of the case...I would not support the girls staying at home if she had fallen back to old ways. I want what’s best for my daughters. The bond they have with their mother is so strong. My children cling to her. They are her world and my world. It is more important for the children to remain with their mother. They only have one mother.”
57. The father must be given credit for acknowledging many of the concerns of the Local Authority. The father himself is a vulnerable person on account of his unmet mental health needs. I accept Dr Jones’ view that the father has insight into his current situation. He presented to the Court in his evidence as frank. He gave his evidence in a direct manner, without evasion. I accept the father as having insight into the areas of the negative aspects of his relationship with the mother, the effect on the children of his aggressive behaviour towards the mother and the effect of his behaviour on the mother, insight into what is required of him in the future in terms of distancing himself physically and emotionally from the mother, insight into the need for his contact with the children to be risk assessed and supervised and a developing insight into the need to control and seek help in respect of his substance misuse. The father does not fully have insight into the effect of his substance misuse on his emotional availability to parent the children nor does he fully have insight into his mental health.
58. The father would do well to follow the professional advice to continue to access support in respect of his drug use through the Community Addiction Service, to develop his understanding of the effects of his drug use and the impact in respect of his mental health, and then to access support in respect of his mental health needs. The expert evidence is clear that treatment for the father’s underlying mental ill health cannot be expedited while he is using substances. Once abstinence has been achieved or is being worked towards, the father would do well to access addiction group therapy. I find no reason to depart from the conclusion reached by Dr Jones that, notwithstanding the father’s insight, it is likely that the same behavioural patterns will continue without the treatment recommended. Further, I find no reason to depart from the conclusion of Dr Jones that after a year of abstinence and engagement with the recommended intervention, the risk of relapse, although markedly reduced, will remain at around 50%.
59. It is not yet known when the father will be released from custody. He anticipates he will remain in custody until at least the end of this year. His release may be sooner. I accept his frank evidence when he told this Court that he now accepts his relationship with the mother is over. I accept also that having spent three months in custody, he has had the time to reflect on the impact on the children of the ‘toxic’ parental relationship. In my judgement, there remains a risk that if the father does not continue to address his substance misuse and seek support for his mental health, he may revert to impulsive and risk-taking behaviour, which he has demonstrated by breaching the terms of the undertaking given to the Court, thereby placing the children at risk of significant harm in the future.
60. I turn to consider the mother.
61. Previous cognitive test results from Dr Timberlake’s clinical psychology report dated 15th August 2018 suggest the mother’s overall level was low average.

62. Dr Adam Campbell, Consultant Clinical Psychologist, prepared a report for the Court dated 22nd June 2020. Dr Campbell notes significantly that the mother lost her own mother through suicide four years ago and additionally lost her first partner, also through suicide, in early 2020. The mother's older child, aged 6years, lives with the child's father. The mother attributes this to having, "had a breakdown a year after my mum died." Dr Campbell noted, "she has a difficult history and she is now carrying around a lot of legacy that I feel warrants the use of the word 'haunted' - she is haunted by her past and she needs some liberating from the painful mental material weighing her down."
63. The mother reported to Dr Campbell that she and F commenced their relationship in January 2017 and separated, "about 2 or 3 months ago," that is, around April 2020. Those dates for separation are consistent between the mother and father. The mother told Dr Campbell, "We split and got back together 3 or 4 times. He wouldn't take no for an answer...I didn't leave because I was scared and depressed because he'd threaten to have me like his sister, who's had her kids removed".
64. Dr Campbell noted that M started using cannabis when she was 14 years old and began using cocaine when she was 17 years old. She told Dr Campbell that she has undertaken three domestic violence courses, "all since I got with [F]." When asked what she feels she has learned from these courses, she replied, "The way they speak to you, control". She said more than once the words, "finding the strength to leave him." Asked what changes she needs to make to become a better parent, she said, "Stay away from men. I have a police alarm in the house." Asked why she does not stop using cannabis, the mother told Dr Campbell, "It helps me sleep. My stress is bad."
65. Dr Campbell recorded that the mother presented as essentially cooperative and pleasant. She has a history of being a fragile person and remains so. There are clear signs of emotional and social problems from adolescence onwards. She has had a few difficult relationships with men and she had a difficult mental health reaction to her mother dying, which Dr Campbell suggests is not surprising, in the circumstances. Dr Campbell records that it seems the mother became fearful of abandonment and, for example, held on to her relationship with F for what might be seen as far too long. Her children were exposed to adult conflict. Dr Campbell is of the opinion that there may well have been a substance misuse co-dependency component to their relationship. The mother appears to have tolerated the father doing more with drugs than being a user.
66. Dr Campbell told the Court in his report that he sees the mother as continuing to be a woman with significant unmet emotional needs that arose many years ago. She also showed signs of being quite poor at problem-solving, that is, in terms of managing her difficult relationship with F, and this affected her role as a mother.
67. Dr Campbell notes that it is positive that the mother clearly loves her children and would like to be doing a lot better than she is and has been. This is something, Dr Campbell says, could in theory be built on if she engages with support, becomes less defensive and more capable of looking at herself and this includes engaging with some form of psychological treatment. Dr Campbell told the Court, she of course needs to phase out the cannabis.
68. Dr Campbell notes, "I would also say she is coming across as difficult to help because she easily gets defensive and deflecting and brittle. This can be seen as both pathological but also as a sign of how fragile she remains. Defensive and deflecting people are usually protecting themselves from painful thoughts and feelings and reminders and their defensiveness can feel, to the receiver, quite offensive. Her functioning has not been very good because she was in a messy, unhappy and ultimately destructive relationship with her male partner [F] and she was not focused enough on creating and maintaining good enough conditions for her two younger daughters. This in my view is an example of how a parent with perpetuated unmet needs behaves – they can't manage to do all the doing and giving and self-denial that good enough parenting

demands. Another way of describing this is to say she has quite a damaged personality. It would not however be appropriate to go as far as to say she has a personality disorder.” Dr Campbell continued, “She is anxious, depressed and possibly a little traumatised. She is crying out for support.”

69. Dr Campbell recommended at least 12 months of weekly therapeutic sessions, given how damaging her history has been and what has since arisen in her life out of that history: “She is very troubled and has not coped, she has tolerated damaging relationships and used substances to get by. She has not done well as a parent to date and this further affects her.” The therapeutic model recommended by Dr Campbell, which he describes as, “not all that difficult to come by,” is Acceptance and Commitment Therapy (“ACT”), an action-oriented approach to psychotherapy that stems from traditional behaviour therapy and cognitive behaviour therapy where the person learns to stop avoiding, denying and struggling with their inner emotions. “With this understanding, clients begin to accept their issues and hardships and commit to making necessary changes in their behaviour.”
70. Factors that would indicate positive change at this early stage of the process of the mother ‘turning herself around,’ were identified by Dr Campbell as including, (a) reducing then stopping cannabis use, (b) engaging with therapy and (c) cooperating with professionals. Dr Campbell is of the professional opinion that the mother has a good enough basic understanding that domestic violence is a problem for her and her children. The issue, he says, will be how to change so that she does not get into some sort of similar relationship in future. This is part of what it is hoped she would gain from psychological treatment. Dr Campbell reported, “regardless of her intention to be ‘good,’ she is psychologically and emotionally highly defended and this gets in the way of being open and honest because of the need to self-protect. I would say this is something that might improve with psychological treatment...she remains vulnerable, despite very possibly being more aware than she was a few months ago or last year.” Dr Campbell continued, “a person’s style of relationship choice has both conscious and unconscious aspects and her needs run deep and in my view, remain unresolved. She therefore needs to be careful and I recommend she remain firmly single for the time being.”
71. Further, Dr Campbell was of the opinion that the mother needs to continue engaging with CGL drug support services which will assist her in managing stress. Acknowledging that the mother has had a great deal of stress, Dr Campbell observed that stress management is not something she is practised at: “Such is the lot of the long-term substance user. Their capacity to deal with stress with a clear head diminishes over time along the lines of an atrophy.”
72. When asked in written questions to provide expert opinion on the likelihood of the mother resuming her relationship with the father upon his release from prison, Dr Campbell reported, “there is more than a negligible potential for this.” In his oral evidence, he clarified that, ‘more than negligible’ means, “low...below the half way line.”
73. In his report, Dr Campbell noted, “She told me she would give evidence against him and indicated she wants to move on and do better by her girls...there can be complicated psychological and emotional reasons why a person goes back to the wrong person for the wrong reason. She could do this and she has to be diligent about making sure she becomes less vulnerable so that she can shore up her capacity to avoid slipping backwards. Unfortunately, it would not be accurate to describe her as someone who is in control of herself. In my view [M] is currently only in the early stages of the big changes she needs to make.” Dr Campbell recommend that he re-assess the mother four months *after* the start of her psychological treatment to determine progress made.
74. In an addendum report dated 7th July 2020, Dr Campbell told the Court, “I see [M] as needy and tending to be dependent on others. The risk therefore centres on her capacity to be firmly boundaried with anyone who shouldn’t be coming into her and her children’s lives...she has a

more than negligible potential for not protecting her children properly.” Dr Campbell continued, “she can be dependent. Being without the support she derived to an extent from [F] and / or relocating will solve some problems and create others. Being disconnected from [F] if he is in prison is safer in some ways but she will need new sources of support. Relocating will likely leave her feeling out on a limb and under-supported...She is likely to find therapy very challenging and her chances of making what I would call good enough progress is far from certain. Such is the extent of her defensiveness, as I see it...I see her as being aware intuitively that she is part of the problem, but being able to use this nascent insight, i.e. to harness it and get moving with change is a process she is only in the early stages of...I see her as also feeling guilty and ultimately quite avoidant of thinking about and getting in touch with the feelings she has about this. I see her primary risk as her being socially and emotionally needy and getting into a relationship that will eventually see more conflict. She also came across to me as not all that ready to address her cannabis use, as she needs it to feeling calmer and perhaps detached. If she has insight into how her cannabis use diminishes her functioning then she did not show awareness of this.”

75. Having regard to reducing the risk of harm while she is caring for the children, Dr Campbell was of the professional opinion that the mother could begin with bereavement counselling, which would fit with her losses and help her with thinking about herself and her emotional life. Such counselling often is a fairly brief intervention of 4 to 6 sessions, and it would initiate the process for her. Further, she needs to reduce her drug use and she needs social support that is genuinely supportive: “Essentially, she needs a fresh start somewhere and be supported to do so...this is unlikely to be something she wants.” He suggested a Family Support Worker would assist in providing such support. Dr Campbell observed that he would not expect to see an immediate improvement, or even an early improvement, given her history and the current way she is feeling about change and having to rebuild: “If she has to relocate, which may feel like starting over, then she may well see a deterioration in her mental health. She is likely to find change stressful if she happens to be reducing her cannabis use at the same, perhaps while waiting for a new anxiety medication to take effect. She will need time to settle into the process and find her way with it. If pressed then I would say 3 months into it might be a reasonable time to see improvement. Improvement in the early stages is showing signs that they feel it is helping them and is useful, with clear signs of reduced substance use...I see her as needing time to access treatment and make progress before she might be seen as being or moving closer to being much more settled, self-contained and focused on what I would call the bigger and longer-term picture.”
76. In his oral evidence to the Court, Dr Campbell acknowledged that the mother has separated from the father, that she is taking prescribed antidepressant medication and that essentially, her situation has changed considerably since the start of the Court proceedings. Dr Campbell noted in his oral evidence that his written reports appear to have been helpful to the mother in identifying what was wrong and right and what to do differently, the reports acting as a communication to the parent as well as to the Court. He told the Court it is positive the mother is showing an open mind and a willingness to think. Dr Campbell told the Court that when he first assessed the mother, she was defensive but she has moved in and out of being able to think in a calm way and not just react with agitation, anger or deflection. He described this as being a more positive learning attitude that had the possibility of her making more headway. Dr Campbell told the Court that it appears to him the mother has begun the process of reflecting and acting on concerns: “If she is looking at things differently and realises adults are not out to get her and allows learning to come in and not blame others, that’s a good thing...it’s painful to look at oneself and acknowledge the problem. There are signs she is starting to, and that is very positive.” Dr Campbell described the mother as “not a hopeless case” and “not to close the door on her.” He went on to add, “there are big challenges for her. She hasn’t changed all that much but it takes time and in this current strange world [the national public health emergency] there has been little room to manoeuvre. It’s about laying the groundwork for what needs to change.”

77. Dr Campbell added that, concluding the Court proceedings, removing the pressure associated with the proceedings and removing the potential for taking away her children would reduce the sense of pressure and difficulty for the mother. "If she has a sense of hope, it may help."
78. Further, having regard to the father's ongoing incarceration, Dr Campbell observed that this could be a golden opportunity for the mother to engage. He told the Court that the father's incarceration, "removes one big complication for her, probably the biggest difficulty for her, not just externally, not just the physical presence but also the attachment. She needs to detach." Dr Campbell observed in his oral evidence that sight of his reports and sight of the father's psychiatric report from Dr Jones may have given the mother a better understanding of the need for separation from the father. It was put to him that the mother's actions in ending the relationship, calling the police in respect of the father, giving a statement to the police and supporting a prosecution of the father was all evidence of the mother moving from a precontemplation stage to contemplation and action stages. Dr Campbell told the Court, "she's been very confused...if she reads these messages and thinks and is not defensive or deflective...I agree she has moved from precontemplation to contemplation. There has been movement, breaking through to conscious thinking...it's a good sign of progress."
79. Furthermore, Dr Campbell acknowledged that the changes the mother had shown were all evidenced while the children have remained in her care, "with no particular issues and they have been fine." Dr Campbell concluded that the proposed therapeutic interventions could be completed with the children in her care.
80. In respect of the mother's ongoing cannabis use, Dr Campbell told the Court, "cannabis is a bit of a sedative and slightly emotionally blunting and can make the person feel a bit detached. Therapists do not like people using drugs much. Therapists often ask the person to deal with drug use first and come with a clean head...cannabis, being so commonly used, it is difficult to exclude everyone who uses it. [The mother] needs to be on the right track and reducing her usage. Therapists don't like people coming with chemicals. Chemicals are stronger than words. It could be a problem."
81. In my judgement, Dr Campbell's expert evidence to the Court was thorough, balanced and fair. Dr Campbell acknowledged the difficulties the mother faces in addressing her problems. He was also plain in his evidence that the mother has the capacity to change, she has begun to demonstrate change and that with support, the therapeutic interventions proposed can be completed safely with the children remaining in her care.
82. A parenting assessment of the mother completed by the Local Authority in April 2020 noted that the assessment was difficult to progress with several sessions cancelled by the mother. The assessment noted that the mother has always been the children's primary carer. The children presented as being happy in their mother's care and have a good bond with her. They enjoy spending time with her, which contributes to their feeling of stability. The children were observed seeking and receiving comfort from their mother. Further, the mother appeared to be able to recognise safety issues in the home and had actively put measures in place to ensure their safety. Furthermore, the mother was noted to interact positively with both children and speak affectionately about and to both children. The mother was noted to recognise positive things that the children are able to do and comment favourably on them.
83. At times of stress, the mother was observed to swear and raise her voice in front of the children. Further, at times the mother spoke about finding it hard to manage the varying interventions by professionals and managing the differing expectations upon her. The mother had been observed to find it hard to remain focused during the parenting assessment sessions and it had been difficult to maintain her attention. The mother also referred to feeling overwhelmed and said that she could not be happy whilst she had Children's Services involvement. The mother was noted to seem frustrated by professional input at times. The primary concerns identified were the

mother's drug misuse and not being able to demonstrate that she can protect against the risks posed by the father, including a disregard for the written agreement.

84. The assessment recommended that the mother work with CGL drug support services to address her cannabis misuse, to continue to work with the Family Centre worker around parenting strategies and consider re-engaging in protective behaviour work and to engage with the Wellbeing Service to address her mental health.
85. Drug testing was completed through samples of the mother's hair in February 2020. The toxicology report records that the mother declared the use of bleach, applied in October 2019. The report records that the results are, "likely to have been lowered due to the use of bleach." It was also declared that the mother had used serum on her hair. The Hair Strand Test report records that the mother tested positive for two metabolites of cannabis, which cover the approximate time from the middle of July 2019 to the middle of January 2020, consistent with the use of cannabis in the low range. There was no evidence of use of cocaine in the same approximate period.
86. The toxicology report notes, "it is well documented that the use of chemical hair treatments, such as bleach can have the potential effect of reducing the concentration of any drugs, metabolites and alcohol markers present in hair. As such, the use of chemical hair treatments can reduce low level detected results to below the cut off level and as such to a 'not detected' result. The report records, "The results in this care are likely to have been lowered due to the use of bleach." In respect of the allegations that the mother used a drug detox kit available on the internet, the toxicology expert notes that, "research has found them to be no more detoxifying than normal shampooing."
87. The mother plainly found giving evidence in Court to be stressful. She accepted frankly that she is 'very defensive and needy': "When the Social Worker talks about my kids going into care, I get very defensive. I'm scared. They are my kids." There were aspects of her oral evidence where the mother spoke frankly. She accepted that she took the children to meet with their father in breach of the written agreement. She told the Court, "Its wrong, I know." There were other aspects of her evidence where she was less frank, including in respect of her cannabis use. She accepted in her oral evidence that she had made mistakes. She was particularly firm in her evidence that she had ended her relationship with the father and that she did not want the children to have contact with him while he is in prison. She told the Court that it took time for her to get the strength to leave F, taking the opportunity to do so when he went to prison. She told the Court, "I had not been strong enough before...I needed to find the courage for my kids. I have not got [F] around controlling me now" and that since she has taken that decision, "I have my family and friends back. They are back in my life now I've got rid of him." She told the Court she has packed her belongings from the house she has lived in for 23 years and understands the professional recommendation to move to a new house, "so [F] can't find us again. I'm in the process of getting that sorted. If he can't find me, he can't hurt me again."
88. I turn to consider the evidence of the Local Authority Social Worker and the Team Manager. It was plain from their oral evidence that in undertaking the welfare analysis, the Social Worker and Team Manager both fell into error in taking into consideration disputed information contained in a letter from the father, which included allegations of the mother misusing alcohol and taking cocaine, and further taking into consideration disputed allegations of the father's sexual behaviour towards young girls, notwithstanding the Local Authority's clearly stated position at the outset of the case that it was not seeking findings on those disputed allegations. The inclusion of those factors when reaching welfare conclusions in relation to the children, without any evidential foundation, has resulted in a flawed analysis.
89. I accept also the submission made on behalf of the parents, that in addition to allowing those factors to cloud the welfare analysis, the Local Authority viewed other factors through a

negative lens. That includes, for example, the Local Authority being overly concerned regarding bruising to the children and reaching a conclusion that the bruising resulted from poor parenting and a lack of supervision, without adequately putting into the balance factors such as the young ages of the children, their general lively behaviour and the absence of any medical concern as to the nature and cause of the injuries.

90. The father's positive engagement with CGL drug support services and his engagement with parenting courses was not adequately reflected in the Local Authority evidence. Furthermore, conclusions were reached by the Local Authority about the mother arising from remote social work visits that appear overly negative and without proper justification. In her oral evidence, the Social Worker told the Court that during the national public health emergency, direct physical social work visits to the mother's home took place when a number of different social work practitioners each identified that the children were well presented, they appeared to be happy, they were well, they were comfortable with their mother and their basic needs were being met. Remote social work visits were undertaken by the Social Worker whose oral evidence the Court heard. It was striking that in her evidence, this Social Worker told the Court that she, "was able to see only what the mother wanted me to see because she was in control of the camera." The social worker's negative assessment of this aspect of the evidence was in contradiction to the otherwise positive evidence obtained during the direct physical meetings undertaken by the other practitioners. Furthermore, this Social Worker, in her oral evidence declined to accept positive conclusions reached by the independent expert, Dr Campbell, whose live evidence she heard. Further still, the Local Authority criticised the mother for failing to engage with remote cognitive behavioural therapy during the pandemic, without appearing to give proper consideration to the difficulties encountered by the mother during the pandemic, being required to engage in difficult and distressing therapy as a sole carer of the children whilst the children were present.
91. The Children's Guardian in his initial analysis did not support removal of the children from the mother's care. The Children's Guardian reported in November 2019, "I am highly concerned by the recent incidents involving [the father] and the allegations about his drug misuse and the potential that he has been dealing drugs. I am further concerned about [the mother's] use of cannabis and her volatility. In terms of the balance of harm...at this stage, it may be more emotionally harmful, to remove the children from their mother. However, this balance may tip at any time during these proceedings."
92. Whilst acknowledging that the children appear comfortable and relaxed in the mother's care and that the home environment has improved since the father moved out of the property and further acknowledging that the mother had, "come forward and admitted she has been the victim of domestic violence at the hands of the father," in his final analysis, the Children's Guardian no longer supported the children remaining with their mother and now supports removal of the children from their mother's care. Further, the Children's Guardian supports the Local Authority plan for forced adoption of the children, without the parents' consent.
93. The Children's Guardian identifies in his analysis the following concerns: (a) The father's use of drugs (cocaine and cannabis), (b) the father's long-reported history of mental health difficulties, (c) the mother's use of cannabis, (d) the mother's history of mental health difficulties and (e) the prevalence of domestic violence in the parents' relationship.
94. In his oral evidence to the Court, the Children's Guardian acknowledged that, whilst the father is in prison, he does not present an immediate risk to the children either from drug taking, criminality or from domestic violence.
95. The Children's Guardian told the Court in his oral evidence that he agreed with the evidence of Dr Campbell that the mother, "is not a hopeless case." The Children's Guardian told the Court that the concerns relating to the mother, "can be remedied, potentially." He accepted that the

mother had evidenced, “to an extent,” that things had changed and that there was evidence she wants to make changes, including reporting F to the police. Further, the Children's Guardian accepted that concerns in relation to the mother’s cannabis use, in isolation, are not grounds for removal of the children from the mother’s care. Furthermore, the Children's Guardian accepted in his oral evidence that Dr Campbell identified a golden opportunity for the mother. The Children's Guardian also accepted there was a golden opportunity for the children. The Children's Guardian accepted that it is necessary, “to do all we can to ensure the children remain with the family.” Furthermore, the Children's Guardian accepted that the expert advice to the Court falls outside his area of expertise and that of the Social Worker. The Children's Guardian also accepted frankly that his written reports contain no analysis of the father’s relationship history, namely of difficult relationships characterised by domestic abuse followed by separation and then those relationships improving. Yet further, the Children's Guardian accepted frankly that his reports include no analysis of the mother’s relationship history, with no evidence of the mother “jumping in and out of relationships.” Whilst remaining concerned about the mother being open and honest and that her engagement with services has been sporadic, the Children's Guardian accepted in his oral evidence that the mother has appeared to engage more with the Local Authority and police over recent months and she has started the process of disclosure of domestic abuse.

96. There is incontrovertible evidence concerning the background events and a solid wall of evidence relating to the mother’s and father's personal histories. Those facts undoubtedly disclose risks of significant harm that cannot sensibly be ignored. In my judgement, however, when considering the best interests of the children, the Local Authority and the Children's Guardian have approached their final welfare evaluations without attaching appropriate weight to the significant changes in the family dynamics and the progress made by the mother. Further, their respective analyses do not, in my judgement, attach sufficient weight to the independent expert evidence, particularly that of Dr Campbell in respect of the mother.
97. It is a well-established principle that intervention by the State in family life may be appropriate but the aim should be to reunite the family or in this case, to ensure that the family unit remains intact, when the circumstances enable that. All effort should be devoted towards that end. Severing the relationship between a child and a parent is only justified by the overriding necessity of the interests of the child.
98. Furthermore, it is well-established in law that, in deciding issues in respect of the child’s welfare, the Court's task is not to improve on nature or even to secure that every child has a happy and fulfilled life. The best person to bring up a child is the natural parent, provided the child’s physical and emotional health are not in danger. Diversity of background means that, inevitably, children will have very different experiences of parenting and unequal consequences flowing from it. Some children will experience disadvantage and harm. Others will flourish in atmospheres of loving security and emotional stability. It is not the provenance of the State to spare children all the consequences of parenting. The State cannot improve on nature.
99. When exercising the jurisdiction to control or to ignore the right to family life, the Court must act cautiously and must act in opposition to the parent only when judicially satisfied that the welfare of the child requires that the parental right should be suspended or superseded. The test for severing the relationship between parent and child is very strict and is justified only in exceptional circumstances and where motivated by overriding requirements pertaining to the child's welfare. In every case, it is necessary to explore and attempt alternative and less draconian solutions. A Placement Order with the plan of adoption is a “very extreme thing,” “a last resort,” as it would be very likely to result in the child being adopted against the wishes of

both her parents. The interests of a child would self-evidently require her relationship with her natural parents to be maintained unless, “no other course was possible in her interests.”

100. Mr Justice Mostyn articulated the seriousness of a forced adoption in EK (A Child), Re [2020] EWFC 25: “Severing the bond between parent and child, is a momentous thing. It has been said that with the abolition of capital punishment it is arguably the most serious order that a judge in this country can make. The child will grow to adulthood in a completely different family to that which nature had intended. The child will grow with a completely different set of values and experiences to that originally anticipated. It is because of the momentous nature of the decision that the law, both domestic and from Strasbourg, insists that the powers cannot be exercised until there has been proved past serious harm, or the risk of future serious harm. Even then, the powers cannot be exercised in the manner claimed unless the child's welfare demands such a solution and where no other solution can be found consistent with the child's welfare. This much is clear from *Re B* [2013] 1 WLR 1911, a decision of the Supreme Court, where Lady Hale stated at [198]: “Nevertheless, it is quite clear that the test for severing the relationship between parent and child is very strict: only in exceptional circumstances and where motivated by *overriding requirements* pertaining to the child's welfare, in short, where nothing else will do.”
101. The Court’s assessment of the parents' ability to discharge their responsibilities towards the child must take into account the assistance and support which the authorities would offer. The Court must be satisfied there is no practical way of the State providing the requisite assistance and support.
102. Presently, there are no concerns in respect of the physical presentation of the children. The children are reported throughout the social worker’s involvement and throughout the proceedings as being well fed, well clothed, happy children. The mother’s basic care of the children is not in question. As Dr Campbell put it, the children have remained in the mother’s care, “with no particular issues and they have been fine.”
103. The mother has no diagnosed mental illness. Whilst admitting to daily cannabis use, the mother has not been diagnosed as having any substance addiction. There is no evidence of current alcohol misuse nor any evidence of current cocaine misuse in the period tested dating back to July 2019. The primary risk identified by the Local Authority and the Children's Guardian of the children remaining in the mother’s care is that of exposure of the children to domestic violence perpetrated by their father against their mother and the future risk of the mother engaging in another relationship characterised by domestic violence.
104. The parental domestic abuse in this case is significant. There is no evidence in this case that the children have suffered any direct physical harm from either parent. Nevertheless, it is well-established that domestic abuse is harmful to children and puts children at risk of harm, whether they are subjected to domestic abuse directly or witness one of their parents being violent or abusive to the other parent or live in a home in which domestic abuse is perpetrated, even if the child is too young to be conscious of the behaviour. Children may suffer direct physical, psychological and/or emotional harm from living with domestic abuse and may also suffer harm indirectly where the domestic abuse impairs the parenting capacity of either or both of their parents.
105. Notwithstanding the Local Authority’s application at the outset of the proceedings for an Interim Care Order seeking removal of the children from their parents’ care, the children have remained in the care of their mother throughout. On the evidence, as acknowledged by Dr Campbell, the mother has been physically separated from the father since April 2020 when he was remanded in

custody. It is plain that the mother has acted proactively in applying for and obtaining from the Court a Non-Molestation Order under the Family Law Act 1996. Further, she has proactively supported a criminal prosecution against the father, she has prepared a statement in criminal proceedings, she has taken steps to report to the police that the father wrote to her from prison. She has told the Court of her intention to give evidence against him in the criminal proceedings. In this regard, the mother has demonstrated that she has taken direct, proactive steps to address the issue of domestic abuse. She has also shown insight into the potential risk of harm to the children by witnessing domestic abuse from their father. This follows learning obtained by the mother from domestic abuse courses and following the advice of professionals. The mother's cannabis use, in isolation, is not a ground for removal of the children from the mother's care. Further, as acknowledged by Dr Campbell, the mother is taking her prescribed antidepressant medication, is showing positively an open mind, a willingness to think, a more positive learning attitude, is reflecting and acting on concerns and is showing signs of progress. Dr Campbell recognised that essentially, the mother's situation has changed considerably since the start of the Court proceedings. In my judgement, the evidence of the Local Authority and Children's Guardian does not adequately take into consideration those significant, positive changes.

106. The father does not present an immediate risk to the children either from drug taking, criminality or from domestic violence in view of his incarceration. As Dr Campbell put it, the father's incarceration, "removes one big complication" for the mother, "probably the biggest difficulty for her, not just externally, not just the physical presence but also the attachment." In my judgement, the mother has demonstrated through her actions that she has begun the process of detachment from the father.
107. There remains a risk that, following his release from custody, the parents will resume their relationship. There also remains a risk that the parents will not be honest with professionals, should they resume their relationship. It is plain that the mother, like the father, has not been fully open and frank with Local Authority. She failed to disclose to the Local Authority that she and the children were meeting the father, contrary to the written agreement they entered into with the Local Authority at the outset of the proceedings. That placed the children at further risk of harm. Both parents engaged in truly reckless behaviour. It is inevitable that the Local Authority and the Children's Guardian are concerned about the mother's ability to work openly and honestly with professionals in the future, to keep the children safe. The father told the Court he placed pressure on the mother to bring the children to meet him. His evidence was consistent with that of the mother. The mother told the Court she was fearful of the father and of his threats that the children would be removed from her care if she did not comply with his requests. The father's behaviour complained of by the mother is the type of coercive and controlling behaviour defined in Practice Direction 12J. The deception the mother has shown to professionals must properly be seen in that context. Dishonesty is significant to the extent that it affects the welfare of the children and to the extent it undermines systems of protection designed to keep the children safe. Although the mother was not fully open with the Local Authority at the outset of the proceedings, she has managed to be more frank subsequently, since the father has been incarcerated and she has had the physical and emotional space to detach.
108. The mother would do well to accept the unanimous professional advice to relocate from her current home, even though she would prefer not to. As Dr Campbell said in his evidence, relocating will solve some problems and will create others. It will have the advantage for the children of the mother being disconnected from the father. Relocating will also likely leave her feeling "out on a limb" and under-supported. She may need to adjust her support network. Additionally, she will find the commencement of therapy to be very challenging. Immediate improvement, or even an early improvement, is not to be expected.

109. In my judgement, the Local Authority and the Children's Guardian have not adequately taken into consideration the "golden opportunity" for the mother and the children identified by Dr Campbell. Dr Campbell was plain in his evidence that the mother has the capacity to change, she has begun to demonstrate change and with support, the therapeutic interventions proposed can be completed safely with the children remaining in her care. In my judgement, there is practical assistance which the Local Authority can and should offer to support the mother in discharging her responsibilities towards the children. In addition to universal services including the Health Visitor, GP and nurseries, such assistance and support from the Local Authority could include ongoing social work visits on an announced and unannounced basis, the support of a Family Support Worker, signposting and assisting the mother in access wellbeing and mental health services and therapy and further assisting the mother and children in the final stages of moving home. In my judgement, on the totality of the evidence, the chances of significant harm to the children happening in the future can be reduced or mitigated by the support services that are or could be made available.
110. The mother and father both vehemently oppose the Local Authority's care plan for adoption.
111. The children are not able express their wishes and feelings in light of their age. Neither are of an age where they can understand the long-term consequences of being placed for adoption. I accept the Children's Guardian's assumption that if they could fully express their wishes, it is likely the children would want to remain in the care of their mother. Neither child has any specific characteristics beyond those of other children of their age which are of particular relevance to the Court's decision making. I accept the Children's Guardian's assessment that the children both need a loving family, with safe carers who can meet all their needs in a positive and consistent manner. Both children's main attachment is to their mother. I accept the Children's Guardian's assessment that both children recognise their mother as playing a significant and major part in their life. They also have an attachment to their father with whom they have had frequent contact.
112. There will be a significant emotional impact on both children of ceasing to be a member of their birth family and becoming an adopted person. Whilst, having regard to their ages, it is likely that both children could integrate into a new family unit, the children will inevitably have a significant loss of identity. That will include loss in respect of the wider family, which in this case includes also their half siblings. Inevitably, the Local Authority plan of adoption would sever the children's ties with their birth family on a permanent basis. There is no likelihood of those relationships between the children and their birth family continuing post-adoption, beyond letter-box contact.
113. The two viable options for the children are remaining in the care of their mother as their sole carer or adoption. The latter option is stark. Long-term foster care is not considered by any of the professionals to be a suitable or realistic option for the children in light of their ages and their need for a permanent and stable home without continued State intervention throughout their minorities. Further, there are no other family members or friends who have been assessed positively to care for the children as kinship carers of Special Guardians.
114. The totality of the evidence leads to a firm conclusion that the mother is capable of meeting the needs of the children. Continued placement of the children with their mother is not without risk of harm for the children as identified. The significant advantage to the children of remaining in the care of their mother is that they will retain their sense of identity throughout their lives and they will grow up within their birth family with a mother who clearly loves them. They will

likely retain contact with the wider family which is also significantly positive for their identity. They will have the opportunity to spend regular time with their father, who similarly clearly loves them. They will have those essential bonds with direct family members which is very important to young children of their respective ages.

115. Placement of the children with adoptive carers outside the family, with carers who would be committed to the children throughout their lives, could mean that their physical and emotional needs might be met consistently. The patent disadvantage is that the children's direct ties with their birth family, including their parents, half siblings and wider family would be severed entirely. It will be emotionally harmful to remove the children from their mother. Furthermore, as the children grow older and become more aware of their adoption, their observations about families may trigger a sense of being different and an awareness of their loss. Some children feel the loss most keenly in adolescence when they are striking out for independence and trying to determine an identity which is in some way different and separate to that of their parents. Adulthood and perhaps becoming a parent, for others is a time of deliberation. Placing the children in an adoptive family will mean that they are denied permanently the opportunity of being cared for by their mother, enjoying a range of birth-family relationships and having their father playing a direct role in their lives. This is a very significant loss indeed, the extent of which will only be realised and felt as the children become aware of and understand the enormity of adoption. The children are likely to develop an adoptive identity, which may become their primary identity.
116. In light of the above, the welfare advantages and disadvantages of the children both growing up with their mother compared with those of adoption fall firmly in favour of the former. Ultimately, is adoption necessary and proportionate in this case? That question must firmly be answered in the negative. Lacking the components identified, the Local Authority and Children's Guardian's respective analyses do not provide an adequate foundation for adoption in a case where the need for such a profound Order is not immediately obvious.
117. The welfare needs of the children do not demand the making of an Order of "*last resort*." It is not enough that it would be "better" for the children to be adopted than to live with their natural family. The Court is required to make the least interventionist Order when protecting the welfare of the children. The making of a Care Order is a step that is neither necessary nor proportionate when a less radical form of Order in the form of a Supervision Order would achieve the essential end of promoting the welfare of the children. Further, in the judgement of this Court, the welfare needs of the children do not demand the very extreme remedy of a Placement Order, leading to adoption. On the specific facts of this case, there is another suitable course available which is in the best interests of both children, individually and collectively. The exceptional circumstances necessary to sever the relationship between parent and child motivated by overriding requirements pertaining to the child's welfare are not present.
118. The high degree of justification needed under Article 8 if a decision is to be made that a child should be adopted or placed in care with a view to adoption against the wishes of the child's parents, has not been made out by the Local Authority. The interests of the children individually or collectively do not render it necessary to make an adoption order. Article 8 protects the right to respect for the private and family life of both children individually in this case and the private and family life of their mother, father and wider family. No interference with the exercise of this right is permissible by a public authority, including the Local Authority and the Court, 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.

119. Whilst a Supervision Order in respect of each child is an interference with the Article 8 rights of the children, their mother, father and the wider family, such an Order is made in accordance with the law and with the legitimate aim of promoting the welfare of the child. That interference, in my judgement, is necessary and is the proportionate response, having regard to the risks and having regard to the welfare evaluation. Where there is a conflict between the welfare of the child and the rights of an adult, the child's interests will predominate. There is no such conflict here. On the facts of the case, the interference in the Article 8 rights of each child and the relevant adults, including the mother and the father, that would result from the extreme nature of a Placement Order leading to adoption, would amount to an unnecessary interference or one that is disproportionate to the essential end of promoting the welfare of the child.
120. Furthermore, on the facts of this case, the welfare of the children does not demand dispensing with the consent of their mother and father to the making of a Placement Order, pursuant to Section 52 (1) 9 (b) of The Adoption and Children Act 2002.

Conclusion

121. For the reasons given, the Court dismisses the Local Authority application for a Care Order. The Court dismisses the Local Authority application for a Placement Order. The Court does not approve the Local Authority care plan for separation of the children from their mother.
122. The Court invites the Local Authority to consider accepting a Supervision Order and to file amended care plans setting out the support it will provide to the family.
123. The Non-Molestation Order made on 11th May 2020 will continue until noon on 11th May 2021.

HHJ Middleton-Roy
11th August 2020

Postscript: Following delivery of this judgment, the Local Authority accepted the making of a Supervision Order for a period of 12 months, which was not opposed by the Respondents. The Court is grateful to the Local Authority for preparing amended care plans, which the Court approved.