

[2022] EWFC 167 (B)

IN THE FAMILY COURT SITTING IN LIVERPOOL

CASE NUMBER: LV21C01426

IN THE MATTER OF THE CHILDREN ACT 1989

AND IN THE MATTER OF 4 CHILDREN

BEFORE HIS HONOUR JUDGE GREENSMITH

16th December 2022

BE T W E E N:

ST HELENS COUNCIL

APPLICANT

-and-

M

FIRST RESPONDENT

-and-

F1

SECOND RESPONDENT

-and-

F2

THIRD RESPONDENT

-and-

W,X,Y and Z

(by their children's guardian Madelaine Jones)

FOURTH RESPONDENTS

**Yvonne Healing for the Local Authority; Mr Kadhim for M; Mrs Gosling for F1;
Miss Johnson for F2 and Mr Rogan for the Children through their Guardian.**

JUDGMENT

HHJ GREENSMITH

1. The applications before the Court

The Court is concerned with the welfare of four children. The children are:

W (7 ½) a boy born on 18 May 2015;

X (4 ¾) a boy born on 16 January 2018;

Y (3 ¾) a girl born on 1 April 2019;

Z (2 ½) a boy born on 2 June 2020

2. The mother of the children is M. The father of W is F2. The father of X, Y and Z is F1. Each parent has played an active part in these proceedings. F2 has, through no fault of his own, come to the proceedings quite late because of late notification but has nevertheless had the opportunity to file evidence and to give oral evidence at the final hearing as have the other two parents.
3. The children's current placements, whilst under interim care orders, are that W and X are placed together in foster care and Y and Z are also placed together in foster care.
4. The applications before the Court are for care orders in respect of each child and placement for adoption orders in respect of each child. The plan of the local authority is that W should be placed for adoption on the basis of a time-limited search of six

months and in default should be placed in long-term foster care. The local authority plan is that the other three children should be placed for adoption together as a sibling group.

The parties' positions

5. The mother and F1 who reside together wish for all the children returned to their care. They acknowledged that immediate return may not be appropriate and that there may be a period of transition. They would agree to the children being placed with them under care orders. In default of the children being returned to them, the mother and F1 contest the making of placement orders for any of the children and would wish them to be placed in long-term foster care.
6. F2, the father of W, wishes W to be settled and happy. He acknowledges that he is not able to offer to care for W. Whilst F2 would like W to be placed in long-term foster care in default of him being able to return to his mother, he understands that adoption may give W the best way of achieving stability.
7. The children's Guardian Madeleine Jones does not agree that the local authority's plan will best serve the children's welfare. The Guardian's view is that W should not be placed for adoption and should remain in long-term foster care. Further, the Guardian does not agree that it will be appropriate for X to be placed as a sibling group for adoption with Y and Z. Whilst the Guardian agrees that placement for adoption would be the right outcome for the three younger siblings, she does not agree that they should be placed together.

The key issue: sibling separation

8. Immediate placement of any of the children with the parents is not an outcome which would serve any of the children's welfare. This case, therefore, involves decisions surrounding the issues involved in finding the best outcome for a large sibling group

considering the complex dynamics involved in probable diverse placements including, but not limited to, ongoing sibling attachment and contact.

9. The complexity of the case is exacerbated by several factors. The ages of the children are significant. W is 7 ½ years old; he has spent all his life developing and maintaining relationships with his siblings and currently lives with his four year old brother X. X at 4 ½ is of an age that would commonly be considered as relatively advanced to be made the subject of a placement order and has, himself an ongoing relationship with all his siblings. The ages of Y and Z are perhaps more conducive to placement orders commonly being made although it must be noted that they have, themselves ongoing relationships with their brothers.
10. The younger children's relationship with W is of particular note as unfortunately, as is often the case with grossly deficient parenting, W is regarded by his siblings as a constant and reliable factor in their lives. It is impossible to consider any outcome without having due regard to the sense of loss (which may manifest itself as a bereavement) that the younger siblings will suffer in the event that W suddenly no longer forms a part of their lives and that W would have if permanently separated from his younger siblings, particularly X for whom he has taken a caring role.
11. The case of ABCDE (Children Care Plans) [2017] EWFC B65 (24 August 2017) is a decision of HHJ Bellamy. The facts of this case are remarkably similar to the current case in that HHJ Bellamy also had to grapple with various options for placement of a large sibling group. The judgment emphasises how complex the issues are and the need for the assessments upon the children's possible separation to consider all the permutations and the effect the possible outcomes will have on each child. The learned judge concluded that the final hearing in ABCDE had to be adjourned. In order to conclude the matter fairly, the judge took the view that it was necessary for

further psychological evidence to be obtained dealing with the very issues that I have outlined above. In his case His Honour Judge Bellamy had the *advantage* that the case had until the point of the final hearing been conducted only just outside of the statutory six month period and he was able to justifiably say that further delay was necessary to conclude the case fairly. The timetable in this case is very different. The local authority issued its application on 10 May 2021 which means that the case is now in its 82nd week. Considering the ages of the children, it would be impossible to justify delay for any further assessment. None of the parties seek such a delay and therefore the case must be decided on the evidence that is available.

The background: the children's lived experience

12. The local authority was first involved with the mother and F2 in August 2016 when W was just over a year old. Throughout 2016 and 2017 there was a high level of involvement by the local authority and involvement of the police arising from incidents of domestic violence between the mother and F2. W became subject to a child in need plan on 8 November 2017, as did X following his birth in January 2018. The plan remained in place until February 2018. W returned to be the subject of child in need planning on 18 March 2018 until 1 October 2018. In October 2018 just one week following the closure of W's child in need plan the police again became involved as a result of a domestic violence incident which involved drugs. Allegations were made by the mother against F1 in February 2019 and the mother reported to the maternity unit that F1 had kicked her in the back and caused bruising to her arm and elbow when she was seven months pregnant with Y.
13. The local authority reports that throughout the child in need planning there was limited parental engagement. The lifestyle of the mother, and now F1, continued in such a way throughout 2019 and 2020 that the children were continuously subject to

domestic violence and continued to be exposed to drug and alcohol abuse by their parents.

14. There are reports of the parents taking steps to improve their position. For example, in December 2020 the mother and F1 reported that they self-referred to CGL in an effort to address drug use. Despite the efforts of the parents the domestic violence and drug use continued. Outside agencies expressed concern. On 11 December 2020 the social worker received information from the nursery reporting concerns that the mother had been seen on a field opposite the nursery and appeared to grab Y in an aggressive manner whereupon she ran from her mother. The nursery staff raised concerns of the mother who was observed to shake hands with a male and appeared to pass the male a small package suggesting that the mother was then involved in either dealing or receiving drugs.
15. It is fair to summarise the concerns of the local authority as being the parents and children's home conditions, the parents' use of drug and alcohol, the parents' involvement in criminal behaviour and health issues of the children as a result of neglectful care they received from their parents.
16. The above summary serves only to paint a picture of what life was like for the children whilst in the care of the mother and F1 and earlier for W alone when he was in the care of the mother and F2. I do not consider it necessary to detail the children's shared life experience in the care of their parents further as I am pleased to report that the parties have agreed threshold is met for the making of care orders in respect of all four children the threshold being set out in an agreed document annexed to this judgment.

The Law

17. The threshold for making a care order is set out in Section 31(2) of the Children Act 1989. In this case the threshold for making an order has been agreed and the wording is set out in the threshold document
18. In deciding whether it serves the child's welfare for a care order to be made the Court must have regard to the welfare checklist contained in s1(3) of the Act placing the welfare of the child as the Court's paramount consideration.
19. When considering making a placement order, the Court should place the child's welfare throughout its life as its paramount consideration and deem that making of such an order to be proportionate: F (A Child : Placement Order: Proportionality) [2018] EWCA Civ 2761.
20. The circumstances in which a Court should make a care order and approve a care plan of the child living at home have been addressed by The Public Law Working Group and set out in its Report published in March 2021 which is approved by the President of the Family Division as sound guidance:

34.The making of a care order on the basis of a plan for the child to remain in the care of her parents/carers is a different matter. There should be exceptional reasons for a Court to make a care order on the basis of such a plan.
21. The parents' consent to the making of such an order can be dispensed with by the Court pursuant to s52 of the ACA if the Court is satisfied that the welfare of the child requires such.
22. The justification for making a child the subject of a placement order has been clarified by the judgments in Re B (2013) and Re B-S(2013). The established principle is that an adoption order should only be made if nothing else will do to serve the child's welfare.

23. A fundamental element of the Court’s analysis of whether the test for adoption is met is an evaluative analysis of all the options available. In Re H-W (Children) [2022] UKSC 17 at para 62 the Court emphasised the need to evaluate the risk of harm that would be suffered by separating children from parents and “*no less importantly their siblings*” [para 62] to ensure such steps are necessary and proportionate.
24. In the subsequent case of Re D (A Child Placement Order) [2022] EWCA Civ 806 Peter Jackson LJ said, in summary - *As emphasised in the recent Supreme Court decision of H-W (Children), a decision leading to adoption requires rigorous evaluation and comparison of all the realistic possibilities for a child's future in light of any factual findings. The Court must evaluate the family placement, assess the nature and likelihood of the harm that the child would be likely to suffer in it, the consequences of the harm arising, and the possibilities for reducing the risks of harm or for mitigating its effects. There must then follow a comparison of advantages and disadvantages of that family placement with the advantages and disadvantages of adoption (and of any other realistic placement outcome short of adoption). Only through this process can the Court conclude that adoption is the only outcome that can provide for the child's lifelong welfare – that it's necessary and proportionate.*
25. Upon the making of placement orders the Court has the power to make a contact order under s26 Children and Adoption Act 2002 . When considering whether to make a s26 order the Court must afford paramount consideration to the child’s welfare and in doing so have regard to the s1(4) factors.
26. The local authority’s duty to consider contact when making a decision regarding adoption is set out on The Adoption Agencies Regulations 2005 (Reg 46):

(1) This paragraph applies where an adoption agency decides that a child should be placed for adoption.

(2) Where paragraph (1) applies and subject to paragraph (3), the adoption agency must consider what arrangements it should make for allowing any person contact with the child once the agency is authorised to place the child for adoption (“the contact arrangements”).

(3) The adoption agency must—

(a) take into account the wishes and feelings of the parent or guardian of the child and, where regulation 14(3) applies and the agency considers it is appropriate, the father of the child;

(b) take into account any advice given by the adoption panel in accordance with regulation 18(3); and

(c) have regard to the considerations set out in section 1(2) and (4) of the Act,

Discussion as to the issues surrounding the effect of sibling separation

27. A key message contained in a report authored by Daniel Monk and Jan Macvarish, commissioned by Birkbeck University of London and funded by the Nuffield Foundation, Siblings, contact and the law: an overlooked relationship? [2018] includes the following observation:

“There is strong recognition of the importance of sibling relationships: that they are the most enduring or longest lasting relationships in most people’s lives. They are increasingly considered as a relevant factor in care and adoption proceedings, but the significance attached to them is easily and routinely outweighed by other considerations. The resulting tension is such that decisions which impact on siblings are sometimes described as the hardest, the most difficult, and heartbreaking.”

28. This report draws on a significant number of interviews with stakeholders including practising lawyers, young people and judges. The report informs that whilst all the stakeholders interviewed, recognised the importance and significance of sibling relationships post placement the approaches to this conundrum are diverse.

29. It seems the key to the cause of the manifestation of difficulties in making decisions with regard to the separation of sibling is the lack of consistency in sibling assessments. Under the heading assessing sibling relationships the following observations are made:

Sibling relationships are acknowledged to be a relevant factor in legal decision making, but although recommended in official and practice guidance, there is no statutory underpinning for formal assessments of them. Practitioners often referred to sibling assessments as 'the Together and Apart' or 'the BAAF', indicating that Lord and Borthwick's good practice guide, Together or Apart? Assessing Siblings for Permanent Placement (BAAF, 2001, 2008), has achieved a degree of embeddedness. A substantially revised edition, by Shelagh Beckett, has recently been published: Beyond Together or Apart: Planning For, Assessing and Placing Sibling Groups (Coram BAAF, 2021). However, from the practitioners' descriptions of sibling assessments, there did not seem to be a universal model for practice; different local authorities were reported as using adapted versions of 'the BAAF' or various other procedures.

There was concern, especially from judges, that sibling assessments are often hastily commissioned after separation has been determined as the likely outcome. As a consequence they may lack the rigour to 'pull apart' and interrogate assumptions. This suggests that assessments are more often viewed as necessary evidence to support a prior decision to separate siblings, than as open-ended investigations to

inform decision making. An inadequate sibling assessment, or the lack of one, was considered by some judges to constitute grounds for delaying proceedings beyond 26 weeks, but there was a perception that judicial attitudes varied considerably.

There were also differing views about the kind of expertise required to perform an assessment. Although usually described as a job for social workers, some professionals, including social workers themselves, thought that child psychologists were under-used, with some citing the restrictions on the commissioning of experts introduced by the 2014 Public Law Outline as a factor.

30. Key research to which the Court has been referred is Beyond Together or Apart: Planning for, assessing and placing sibling groups 2021, a Coram Baaf Good Practice Guide, Shelagh Beckett (Beckett 2021). This comprehensive work brings together social science research in the area concerned and highlights the factors to be considered when considering siblings together and apart. Chapter 2 of the guide examines the development and progression of sibling relationships and notes how these develop from the first two years of life onwards. Chapter 9 considers contact between separated siblings. There is emphasis on the importance of having the ability to explain to children the reasoning behind decisions affecting sibling contact. Regarding contact between adopted children and siblings in long-term foster care/with family members Beckett says:

Planning for “no contact” may sometimes seem to be the safest option. Social workers may focus on the possible risks of continuing sibling contact when older siblings remained in foster care and younger ones are placed for adoption. Typically, the older siblings will retain some level of contact with parents. However, continuing contact with parents should not be used as a blanket reason to terminate sibling contact. Ending contact between brothers and sisters involves risks and losses for

children and their families, for example, young children may be distressed, resent contact ending and find it very hard to settle or trust their adoptive parents. There is a danger that risks and losses are insufficiently recognised and considered. Contact issues should always be fully explored, allowing for flexibility and openness. Potential risks and gains, benefits and losses should be assessed and carefully balanced. Some risks may be small and manageable. Safeguards and commitment to contact can reduce risks. [page 122].

31. There are particular concerns to consider when children who have undertaken a protective role for another sibling. The study by Catherine MacAskill Safe Contact: Children in Permanent Placement and Their Birth Relatives [2002] says:

The most deeply traumatised children in this study were those who have undertaken a protective role for a sibling while living in the birth family and who found that sibling relationship severed against their wishes. [Page 96]

Section 26 ACA 2002: contact orders during placement

32. Monk and Macvarish's report includes within it a discussion regarding the making of a post placement order, contact order under section 26 of the Adoption and Children Act 2002. The findings of the report regarding the dearth of such orders being made are summarised as follows:

Determining contact provision in placement proceedings, when adopters have not yet been identified, was considered by some to be inappropriate and unrealistic.

However, the most overarching explanation for not making Section 26 orders was the concern that they would 'constrain the search for adopters'

33. Whilst an order made under s21 would only remain in force during the period when placement options were explored a mirror or similar order could be made upon an

adoption order being made under s51A of the Act when the Court must carry out a fresh welfare analysis to ascertain whether the contact order continued to serve the welfare of the child.

Social media

34. Over the last couple of years or so, there has been an exponential growth in use of social media. I note the most recent draft bill dealing with children's access to social media platforms aims to limit the ability of a child to open an account to 13 years old. I make no comment on the merit or efficacy of this aspiration. I do take judicial notice however that my experience of conducting many children cases is that children much younger than this regularly access social media and have a detailed understanding as to how to make it work for them. The children involved in this case are very young, but W is 7 ½. It will not be long before W (if he doesn't already) will have access to all sorts of means to contact his siblings. Who knows what methods will be available in a very short period? I do not know of any research in this area, but I do have judicial experience of adoptions breaking down where the child's use of social media to make covert contact with birth parents has contributed to the breakdown. In one such case the contact was instigated by a sibling who located the adopted child via social media with disastrous effects. In that case it was the secrecy of the contact that caused the problem rather than the contact itself. I do wonder, therefore, whether in this case the issue of sibling contact is being treated in a blinkered way.

The Mother and F1

35. Both mother and F1 have filed statements of their evidence and both have given oral evidence to the Court. In essence it is the evidence of both parents that they accept that the care they have given to all the children has been significantly compromised by their lifestyle and their use of drugs and alcohol. It is both parents' position that

they have learned lessons from their experiences and from these proceedings which have caused them to take stock and to improve their positions. They both asked the Court to accept that they are motivated to accept professional support to enable them to stop using alcohol and drugs and to maintain abstinence. It is to their credit that they identify the self-improvement of their home conditions as an indication of their willingness and ability to change.

36. The mother and F1 have, throughout the proceedings, sought to be assessed as joint carers for the children and on this basis, they have been the subject of two parental assessments; a local authority assessment and an assessment by an independent social worker, Mr David Butterworth, who carried out his assessment under the PAMS model acknowledging the parents' cognitive difficulties. The initial report of Mr Butterworth was dated 20 August 2021. Mr Butterworth filed a brief non-compliance report on 18 February 2022 and an addendum report for the purpose of the final hearing which was filed on 3 November 2022. Neither the local authority nor Mr Butterworth support the placement of any of the children in the care of the mother or F1 either alone or jointly.

37. It is the conclusion of Mr Butterworth that the ability of both parents properly to care for their own children is significantly compromised by the parents own early life experiences. In the case of the mother Mr Butterworth opines that her experiences prevent her from understanding the difficulties in intimate relationships in adult life, her use of illegal substances to self medicate, her unresolved feelings and long-standing difficulties in parenting. Mr Butterworth describes the experiences of F1 which he says will have caused him anxiety and anger. It is stated that F1's use of cannabis is described by him as the only way that he could feel normal and that is use

has been ongoing for 10 years. This is described as F1 resulting to further unhealthy and unhelpful strategies to absent himself from the pressures of his life.

38. Mr Butterworth recommends in his report that the mother and F1 require a long-term intervention of counselling or therapeutic sessions and confirmed that these will take place for a period of 12 months to be effective.
39. The independent social worker does give credit to the parents for improving their home conditions but qualifies this by doubting that the parents would be able to maintain improvement if simultaneously they have the care of children.
40. I have had the benefit of oral evidence from both the mother and F1. The mother tells me that she would do anything she could to have the children come home. My overall impression of the mother's evidence was that she was evasive and avoidant of the main issues of the case. Whilst I'm sure that the mother's indication that she would do whatever it takes to have the children home is sincere and well meant, I have formed the view that the mother does not understand the significance of the failure to provide a safe environment for the children. I note that the mother has recently self referred, again, to a drug support agency however she has missed her first appointment. There is no evidence of the appointment being rearranged. In any event the mother's history is sufficient for me to find that even if the mother did initially engage voluntarily in therapeutic help this would not be sustained.
41. The Court accepts Mr Butterworth's opinion that professional intervention is required. The length of time the therapy would take to complete and the addition of an assessment period to evaluate the sustainability of the treatment would be outside of a reasonable timetable and would be contrary to the children's welfare to postpone a decision on permanent placement for the children until such therapy has been evaluated.

42. F1's ongoing drug use is of serious concern. Recent tests prepared for the purpose of these proceedings contained in a report dated 2 November 22 confirm ongoing use of cannabis cocaine and opiates. In his evidence F1 minimises his drug use and naïvely says that it would take him a month (which he clarified to be 28 days) to "get clean".
43. The ongoing lifestyle of the parents between removal of the children from their care to the present day is of grave concern. The police have been involved on two significant occasions. On one occasion the police forced entry into the home of the mother and F1 (where the children would have been living but for their removal) and a search revealed a list of contraband including drugs, drug paraphernalia and offensive weapons including a knuckle duster. I found F1's explanation for his possession of these items to be unconvincing. Even if F1's explanations that he was forced to hold the drugs for a third party, that the sword was purely an ornament and that the knuckle duster was simply found in a back alley were true, the fact of these items being found in the home, where the children would have lived, demonstrates the parents' inability to understand the importance of providing a safe home; it raises significant concern over the lifestyle to which the children could be exposed if they were to live with the mother and F1.

The options for the children

44. Without, at this stage, making any forecast as the appropriateness of any particular outcome, I pause to outline the possible outcomes (if immediate rehabilitation to the parents is deemed not to serve the children's welfare) of the effect other placement options would have upon inter-sibling contact and their ongoing relationships:

All children placed for and successfully adopted: this could result in the children maintaining contact with each other provided it was maintained through their respective adopters;

Placements being divided between foster placements and adoptive placements:

the adopted children would not maintain direct contact with those in foster care;

All children in foster care: all children would maintain direct contact with each other;

All children to be returned home: the sibling relationships would be fully maintained.

The Children: pen portraits

45. W was born to the mother and F2. After initially living with his mother and his father until they separated when W was about 18 months old. He then lived with his mother and F1 until 10 June 2021. At the age of six years one month, W was placed with his current foster carers together with his brother X. W and X have remained in the care of the current carers who expressed a desire to care for the boys long-term. Shortly before the final hearing the foster carers informed that they no longer considered themselves able to offer long-term care for either W or X. Whatever the outcome of these proceedings both boys will have to be placed in an alternate placement or placements.
46. W is described in his permanent placement report as a happy and sociable child with a streetwise maturity and impeccable manners. It is said that W likes everything to be planned and organised and thrives on routine. It is noted that unfortunately W has a negative view of himself and can think that he is unliked or unpopular. Pastimes W enjoys are gymnastics and football. The foster carers report that W does not like playing on his own and likes to have lots of attention and reassurance. Although W has a cheerful and engaging disposition it is said that he also presents as anxious and hypervigilant; he's very worried about his future. He exhibits anxiety regarding contact with his parents of whom he holds a negative view.

47. The foster carers report that W had developed a caring role for his little brother. He would save half his meals for X when first entering foster care until he was assured X would be provided with his own meal.
48. W does not have any memories of his father and considers F1 to be his 'Dad'. It is reported that he considers he feels he is treated differently to his younger siblings.
49. X was 3 ½ when he was placed with the foster carers he shares with W. In X's permanent placement report he is described as a really active little boy who loves going to the park in the playground and has a cheerful disposition. It is reported that X loves to play with his brother W and follows him wherever he goes.
50. Y was just over two years of age when she was placed with foster carers together with Z. Y is described as a silent girl who is becoming increasingly confident and tearful. Y is nervous when meeting new people and requires significant reassurance. The current foster carers described Y as a caring and big sister to her brother Z.
51. When the children were removed from their parents' care Z was only one year of age. Z's foster carers described him as a happy and content child who whilst appears confident can be anxious around unfamiliar people; they report a strong connection with his sister Y to whom he looks for reassurance at home.

Siblings together and apart assessments

52. The social worker has prepared an initial assessment which was intended to be a together and apart assessment of the four children. The initial report is not as helpful as it could be. As a "together" report, it supports the children remaining together either with their parents or in an adoptive placement (para 11). As an "apart" report it says:
53. "I fully accept that the potential severing of ties with siblings may have a huge emotional impact upon W. However, X, Z and Y are very young and it may be unfair

for them to have a care plan of long term fostering just so they can maintain direct contact with W.”

54. The report concludes with the following notable paragraphs:

I expect that the bond between W and X is stronger at this time, but in the case of adoption I would not recommend all four together. I am of the view that W would not settle in adoption whereas, X, Y and Z may well do given their young age. I do believe that the separation from X, as opposed to Y and Z would have more of an emotional impact at this time for W given they have been in care proceedings together. However, X is a small child who I believe would be able to transfer his attachments to another carer and there will be no long-term impact upon X should he be separated from W via adoption, especially if he was to be placed with Y and Z.

I would be of the opinion that there would be a significant impact upon W if his brother and her sister were to be placed for adoption and he would certainly need some support or perhaps therapy to address this. But, I believe that W' attachment to his mother and stepfather is much stronger and the impact of that severance would have a huge impact upon him more so than the loss of his siblings. As whilst the siblings have been raised together W does not speak about his siblings and observation in contact and that he tends to play on his own.

If the plan were adoption, then I would not recommend that W be placed in an adoptive family alongside his siblings. I would be of the view that X, Z and Y could be placed together. I base this opinion on the emotional needs of W i.e. his strong attachment to his mother and stepfather and an adoptive family having to manage this as well as three young children.

55. In my judgment the together and apart assessment is of limited value. Whilst there is significant emphasis placed upon the effect upon W of separating him from his siblings there is limited evidence based analysis of the effect on the siblings of being separated from W, in particular the effect this will have on X who has lived with W all his life. I share the concern of the independent social worker that the opinion is based on limited information obtained during observations of the children and unfounded or unsupported suppositions regarding the effect separation will have on each of the siblings individually.

The Children's Guardian: Miss Madelaine Jones

56. In an attempt to address the limitations of the social workers together and apart assessment the children's Guardian Madeleine Jones, in her analysis, has supplemented the evidence with information she has obtained from the foster carers. The Guardian's analysis deployed strengths and difficulties questionnaires (SDQs) put to the carers which resulted in a table of scored answers contained within the analysis. The Guardian is critical of the together and apart assessment and says, "I have considered the sibling assessment completed by the local authority. Unfortunately, this has not considered the most recent guidance (Beckett, 2021) who recommends the strengths and difficulties questionnaires were completed in respect of each child."

57. The Guardian analyses the scores in her analysis and concludes that in respect of the local authority's plan for X to be placed with Y and Z she is extremely concerned, given the significant difficulties all three children have with their social skills and relationship building that such a placement would be doomed to fail.

58. Regarding the conclusion at the time of her initial analysis was to support the plan of adoption for X Y and Z whilst expressing significant concern about the proposal of

them being placed together. The Guardian supported the making of a care order in respect of W and asked the local authority to make further enquiries as to whether his current carers would accept a long-term placement.

59. Unfortunately, shortly before the final hearing W' current carers withdrew from being considered as long-term carers.

60. The Guardian's final recommendation was that W should be placed in long-term foster care, that X should be placed for adoption alone and that Y and Z should be placed for adoption together.

61. In relation to W the Guardian said in her evidence, with regard to adoption, "If the right placement could be found it would be wonderful."

62. In the Guardian's evidence both written and oral she laid great store on the potential for adoptive placement breakdown in the case of both W and X. With regard to W the Guardian was so concerned of a likely adoption breakdown that she considered long-term foster care to be the better option. In the case of X, the Guardian was of the view that if he was placed with his sisters the placement of X would destabilise a placement for all three siblings and that it was better that X be placed on his own.

63. In her evidence the Guardian relied upon a research report by adoption UK titled Strengthening Families: improving stability for adopted children 2021.

64. On the question of the Court introducing and relying upon research evidence Ms Johnson has helpfully referred me to the following: Introducing Social Science Evidence in Family Court Decision-Making and Adjudication: Evidence from England and Wales. 2019. Robertson and Broadhurst. International Journal of Law, Policy and the Family, Volume 33, Issue 2, August 2019, Pages 181–203. This is an enlightening piece of research which highlights the pitfalls the Court can fall into by adopting referenced research without any analysis of its legitimacy or efficacy.

65. Returning to the Adoption UK research I am concerned that the conclusions contained within the report are premised by a stated agenda. The purpose for writing and presenting the report was to encourage relevant authorities both locally and nationally to provide more resources for adoptive placements. Whilst I do not in any way criticise a report for these good intentions, I am sceptical as to the extent the report should be relied on as being sufficiently independent to inform a judicial decision.
66. In his closing submissions on behalf of the Guardian Mr Rogan emphasised that the Guardian relied on her recommendations upon the research of Selwyn (2014) which she says also relies on SDQ scores and it is the Guardian's view that the SDQ scores of the children are an indicator of a likelihood of placement breakdown if the children were not placed in the manner that she recommends.
67. The possible adoption pathway for the children. Tracey Barton (Adoption Manager)
Tracy Barton is the adoption manager for the local authority and is the person best placed to inform the Court as to the steps the local authority would take to place each of the children in a suitable adoption placement. The Court was impressed by the local authority's overall approach to securing sustainable adoptive placements. Whilst the approach is somewhat formulaic in the sense that she adopts a model used by another local authority (East Anglia) Miss Barton evidenced a professional and caring approach to the placement of children by this local authority.
68. Miss Barton's evidence explained how searches were conducted and outlined timetables for appropriate searches. Of particular significance within her evidence Miss Barton explained support the children and prospective adopters would receive to promote sustainability of placements. There was reference to specialist support services such as deploying therapeutic work.

69. Under cross-examination it became increasingly apparent that whilst the local authority has very clear intentions to support ongoing adoptive placements, at this stage the local authority was unable to be clear as to what support would be needed and for how long the support would last. This is understandable. What is important is that this is the local authority that in my judgment is taking great care to ensure the adoptive placement of children is as sustainable as possible and is fully alive to the need to provide ongoing support to children and adoptive parents following placement.
70. With regard to finding a successful placement for W Ms Barton explained all searches that are being deployed and confirmed that one placement to be identified as being potentially viable and that placement will be further explored if a placement order would be made. In the event that placement is not considered to be suitable it will be the local authority's plan to continue searching for a placement W for six months and then if unsuccessful to place W in long-term foster care.
71. Ms Barton confirmed that during observations and work with the children she had become to know them well and of particular note of W it was Miss Barton's evidence that W' main relationship is with his siblings not as parents, a view held by the Children's Guardian but not the Social Worker whose opinion was exactly the opposite.
72. The position regarding sibling contact in the event of a child being placed for adoption was confirmed as resulting in no further contact taking place between siblings unless all the siblings having contact were either in long-term foster placement or they all had been adopted. As stated above this would mean that if W were to be the subject of long-term foster care and his siblings adopted W will have no ongoing direct contact with his adopted siblings and they would have no ongoing

direct contact with him. This is expressed to the Court as a commonly held view. There is certainly no restriction (absent an order prohibiting such) against inter-sibling contact where one child is adopted and the other in long term foster care.

Analysis of issues

73. This Court is in a similar position as HHJ Bellamy was in ABCDE. I do not have a reliable assessment that determines how I should approach the effect of separating the children in such a way that will deny them the option of sibling contact in the short and long term. Judge Bellamy had the time available to the children to order a psychological assessment. Whilst I do not have the option of extending the timetable, I would, in any event be slow to do so even if time were on my side. I am not being asked to consider the consequences of sibling contact orders that will extend beyond adoption; it would be premature to do so at this stage.

74. Acknowledging from the research evidence referred to above that the consequences of contact post adoption, especially in the case of a large sibling group, require careful consideration at the point of adoption, the best I can do is to make an order requiring that contact continue during the placement process up to the point that one of the children is the subject of an application for an adoption order. This will ensure the local authority does not reduce the sibling contact during the placement process for any of the children. It will also alert any prospective adopters as to the potential for an order to be made under s51A. I am told that any order for contact will limit the pool of prospective adopters. I accept this is probably the case.

Options and Re B-S analysis

75. If one, any or all of the children were to be placed in their parents care they would potentially benefit from receiving daily love and affection from their parents. They would preserve their status within their family and would benefit from guidance from

their parents on all issues as they grow up. Unfortunately, the risks of placing the children with their parents is that they would continue to be exposed to the parents' chaotic lifestyle which would continue to expose them to a significant risk of ongoing emotional harm.

76. Whilst there is not a plan for foster care for any of the children save the Guardian recommending long-term foster care W, it is very much the wish that the parents of the children should be returned to them if not now then at some time in the future. The benefit of children being placed in long-term foster care is that it would leave the door open for the parents to make an application to discharge one or more than one care orders in relation to the children. Foster care would also result in the local authority having an obligation to promote contact between the parents and the children and it would enable the children to maintain contact with each other. This would maintain their sibling relationships the importance of which is spelt out above. Foster placement for the children would result in them receiving all the support that local authority will be obligated to provide now and for the foreseeable future. The children in foster care would have contact with their parents and with those siblings who are also in foster care.

77. The constraints of foster care are significant and become more manifest as a child grows older. There would be restrictions on freedom, constant reviews and involvement of the local authority, medical checks and the like.

78. In this case successful adoption of any of the children would present the child with stability in the short and long-term. The adopted child would become a part of his or her adopted family and would develop lifelong relationships resulting in sustainable care.

79. There would, however, be high prices to pay for the advantages which adoption would bring. I have outlined above the net effect of various orders being made and the inevitable effect which it would have on sibling contact.

80. In my judgment the risks of the children not having ongoing contact presents a potentially greater welfare risk than would be gained by not addressing contact and thus making a search for adopters easier. It may be the case that pursuant to a s51A welfare assessment a future Court takes the view that adoption without ongoing direct sibling contact does not serve the welfare of the child to be adopted and that this scuppers the adoption. This is a welfare balance that will have to be undertaken at the time.

Welfare checklist factors

81. As part of the requirement to ensure that any decision that is made in relation to adoption serves the lifelong welfare of the child the Court has carefully considered the welfare checklist as set out above. I acknowledge that none of the factors are more important than the others.

82. It is not immediately clear where the effect of making an order reduces the pool of prospective adopters fits into the welfare factors list. In my judgment it would, however, be inconsistent with the need to consider the child's overall welfare needs not to have regard to this as being of relevance and I will do so in my welfare analysis.

83. Making of a contact order may reduce the pool of possible adopters during the period of placement. I acknowledge this may happen, but this has to be balanced against the advantages of preserving sibling contact.

Conclusion

84. The order that I'm going to make in respect of each of the children are care orders and orders enabling each of the children to be placed for adoption with sibling contact orders. My reasons for so doing are:
85. In my judgment rehabilitating these children with their parents presents risks to their emotional welfare which cannot be managed by the local authority. I accept that the parents would very much like to have the children return to them and in default for the children to be placed in a way such that they would make rehabilitation the future more possible.
86. Neither the mother nor F1 has sufficient understanding of the issues which have resulted in the children being removed from their care, to enable them safely to parent the children at this time. Placing any of the children in the care of the parents would expose them to an unmanageable risk which will be likely to cause further emotional harm to the children. It would not serve the children's welfare to consider allowing more time to lapse while the parents are given further opportunity to develop safe parenting skills.
87. It is fundamental to my decision making that this Court has great confidence in the adoption team and in particular and Miss Barton the team manager. I am satisfied that Miss Barton and her colleagues will do everything they can to ensure each of the children is placed in the best placement possible and that following placement this local authority will continue to support the placements.
88. There is no order which would suffice for any of the children other than a placement order for as long as there was a realistic prospect of the children being placed within an appropriate period of time. in so far as the parents will not consent to such orders being made I consider the welfare of each child to require their parents' consent to be dispensed with and so order. I have considered carefully the parents' and the

children's human rights to a family life and have reflected this in the orders I am making.

89. With regards to W, it would not serve his welfare needs to deny him the opportunity of being matched with the current prospective adopter. In the event however that W and the adopter are not proved to be a good match and a match cannot be found within six months, or thereabouts, the Court would endorse the local authority's proposal to discontinue its efforts to place W in an adoption placement and to transfer those efforts into finding a long-term foster placement.

90. On the question of whether X should be placed with his siblings, I have carefully considered the guardians reservations as to the sustainability of such a placement having particular regard to the threat to the stability of the placement if the children were to be placed together. I have more confidence in the local authority than the Guardian does, both with regard to the local authority's ability to find the placement for all three children and then to support the placement. The advantages to X, Y and Z of being brought up together as a sibling unit, in my judgment, should not be denied the children simply on the basis of concerns that X may adversely affect the placement. It might be that the local authority takes a view further down the line that one of the children should be placed separately from the others be that X, Y or Z. The Court has sufficient confidence in the local authority to enable it to form its judgment and only to make an application for an adoption order when it is satisfied that such a step will serve the welfare of the children.

91. I turn now to the very difficult area of sibling contact. Looking at the welfare factors I have identified above, I note that the three younger children are not of a sufficient age and understanding to express an informed view as to whether they wish to maintain contact with their siblings. W, though, is approaching his eighth birthday. There is no

record of W having been asked to reflect upon being permanently separated from his siblings. If sibling contact is considered upon an application for adoption being made, I would expect W's wishes and feelings to be obtained in an age sensitive way. For the purpose of these applications, it is therefore for the Court to assess the effect of sibling separation. Whilst the local authority has optimism that each of the children will be placed for adoption, albeit less so with W, neither the local authority nor the Court is able to predict with any degree of certainty what will be the children's fate. This is a sibling group of two boys who have lived together since their separation from the parents and two siblings who initially lived with their brothers but then move to a placement together. Each of the siblings has a strong relationship with the others. The lack of good parenting and the effect of their parents' inadequacies have resulted in a dynamic between the children which the research informs will be long-lasting. As I stated I do not consider myself able to rely upon the findings of the inter-sibling assessment as being definitive. I can also reasonably find that the effect of severing direct contact between the siblings or any one of them will have a dramatic effect.

92. An aspect of the local authority's stated plans which has caused me real concern is the rather uncertain position with regard to sibling contact during placement finding. My concern extends to the local authority's emphatic refusal to countenance sibling contact following placement for adoption unless all children are placed. Without an order the children would be destined, over a relatively short period of time to have their entire sibling-dynamic fundamentally changed. In my judgment this is unsustainable in the circumstances of this case.

93. In the circumstances I will make an order under section 21 of the Adoption and Children Act 2002 that the children's contact with each other remains constant and takes place in the same routine as presently exists during the existence of each child's

search for a placement under the placement order that I will make. That is the only way the children's options regarding contact post adoption can be preserved.

94. In the event of an application for adoption is made in respect of any of the children I expect the local authority to highlight to the Court at that time that post adoption contact should be very carefully considered pursuant to section 51A of the Act. The placement order will, as is commonly the case, provide for any future applications relating to the children to be adjudicated by myself if available. If I am not available, however, I trust that the local authority will remind itself of my request stated within this paragraph and ensure that a copy of this judgment is available to the presiding judge.
95. I will make care and placement orders for each of the children and contact orders as explained above.