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**IN THE WEST LONDON FAMILY COURT  
SITTING AT BARNET  
IN THE MATTER OF THE CHILDREN ACT 1989  
AND IN THE MATTER OF TWO SIBLINGS, R AND S**

**Case No: ZW20C00286**

**Date: 31 March 2022**

**Before:**

**HER HONOUR JUDGE MCKINNELL**

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**RE R AND S (CHILDREN) (WELFARE : LONG-TERM FOSTER CARE)**  
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**BETWEEN:**

**LONDON BOROUGH OF ENFIELD**

**Applicant**

**and**

**A MOTHER**

**1<sup>st</sup> Respondent**

**and**

**A FATHER**

**2<sup>nd</sup> Respondent**

**and**

**TWO SIBLINGS ("R" AND "S")  
(by their Children's Guardian, MATILDA CLODE)**

**3<sup>rd</sup> and 4<sup>th</sup> Respondents**

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**Mr William Dean (instructed by the Local Authority's solicitor) for the Applicant Local Authority**

**Ms Alison Brooks (instructed by Barnes and Partners) for the Respondent Mother**

**Ms Amanda Meusz (instructed by Goodman Ray) for the Respondent Father**

**Ms Natasha Webb for the Respondent Children by their Children's Guardian**

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**Hearing dates: 28 February – 4 March 2022**  
**Draft Judgment circulated on 26 March 2022**  
**Judgment handed down on 31 March 2022**  
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**Her Honour Judge McKinnell :**

**This Judgment**

1. This is the final welfare judgment in proceedings concerning R (a girl, now aged 11) and S (a boy, now aged 6). Their parents are the mother and the father. Their Children’s Guardian is Matilda Clode (“the Guardian”). The applicant Local Authority is the London Borough of Enfield (“the Local Authority”).
2. This judgment is written for the parents and for the children. It must be read with my Fact-Finding Hearing Judgment dated 10 September 2021 and my Addendum Judgment dated 20 September 2021. The father does not accept the findings made, including that he beat R on numerous occasions, sometimes beat S, made R sleep overnight in a shed as punishment and exposed S to the father’s mistreatment and abuse of R. The father’s application for permission to appeal was refused by the Court of Appeal on 2 December 2021. The findings previously made stand.
3. The final welfare hearing took place between 28 February – 4 March 2022. During that hearing, I considered documents contained in four electronic bundles, namely:
  - (1) Main bundle (“MB”), containing 2,678 pages;
  - (2) Supplemental bundle (“SB”), containing 178 pages;
  - (3) Updated foster carer logs (“FCB”), containing 8 pages; and
  - (4) Previous social service bundle (“SSB”), containing 1,610 pages.
4. I also considered evidence from 5 witnesses, namely:
  - (1) Dr Eracleous, who carried out a psychological assessment of the children;
  - (2) Maureen Edwards, who carried out parenting assessments of the parents;
  - (3) Lili Meadows, the allocated social worker (“ASW”);
  - (4) the father; and
  - (5) Matilda Clode, the Children’s Guardian.
5. The following written expert evidence was not challenged and I accept it:
  - (1) Dr Campbell, adult consultant psychologist, who assessed the father (report dated 20 October 2020, addendum report dated 18 February 2022);
  - (2) Dr McEvedy, adult consultant psychiatrist, who assessed the mother (report dated 12 March 2021).

6. Following the completion of evidence and oral final submissions, Mr Dean and Ms Meusz each sent me an email containing references/attaching documents containing references to contact notes in support of their submissions. That was an agreed way forward in order to complete final submissions within the 5 day trial window. Mr Dean's email is dated 7 March 2022. Ms Meusz's email (with two attachments) is dated 10 March 2022.
7. In this judgment, I am not going to refer to everything that I have read and heard. Even if I do not refer to a specific piece of evidence/submission made, I have taken everything that I have read and heard into account. This judgment must be read as a whole.
8. The welfare of each of the children is the Court's paramount consideration.

#### **Summary of my decisions**

9. I make the additional findings sought by the Local Authority [**SB, A3-A4**], subject to the wording of paragraph 1 [**SB, A3**] relating to the father being revised to take account of paragraph 11 of Dr Campbell's addendum psychological report dated 18 February 2022 [**SB, E7**]. The additional findings are supported by the written evidence and were not challenged at the final hearing. Dr Campbell's addendum report does not affect my assessment of the risks to the children if they were returned to the father's care. The father does not accept the findings made, including that he beat, hit, and punished his children, including making R sleep overnight in an outside shed.
10. For reasons set out in this judgment, I make final care orders in respect of R and S. Final care orders are necessary, proportionate and in each of the children's best interests. I approve the Local Authority's final care plan of long term foster care ("LTFC") for both children. The search for the right placement for both children to live together in a long term foster care placement is ongoing.
11. For clarification, and as set out in the evidence (including **MB C134, MB E303** and in the oral evidence), the father currently has weekly contact alternating between remote and face to face contact. His face to face contact is fortnightly. The mother is currently scheduled to have fortnightly face to face contact. Both parents contact (remote and face to face) should reduce. Until a permanent placement is identified, the children's face to face contact with each of their parents should reduce from once a fortnight to once a month, with a remote (video/telephone) contact mid-way through the month, at the two week stage. That will mean that the children have the opportunity to speak to their parents every two weeks. The children need to settle into their new permanent living arrangement and the contact arrangements must focus on the children's needs, not the adults around them.
12. Once a permanent placement is identified, contact with each parent should reduce further so that the children have face to face contact with each parent once every six

weeks, with the precise dates of that face to face contact arranged to coincide with the children's school breaks/holidays. Contact with the wider family (including the paternal grandmother and the paternal grandmother) should be three times a year. The paternal grandparents have been able to join the father's contact since January 2022 but have not yet done so.

13. Contact (including indirect contact) must be kept under review and should not just be considered at the six-monthly Looked After Children ("LAC") reviews. It should remain dynamic, focusing on the children's wishes, feelings, presentation, needs and best interests. The Guardian has confidence in the ASW (Ms Meadows) and the Team Manager (Ms Hallaways) and that confidence extends to contact arrangements. Ms Meadows and Ms Hallaways have worked hard to meet the children's needs, particularly R's. I share the Guardian's confidence in them. In their final submissions, all the parties said that they did not seek a contact order. I agree that a contact order would be too inflexible and is neither necessary nor proportionate.
14. The mother and the father clearly love their children and the children love their parents. During these proceedings, the father has regularly attended contact and the contact notes are generally positive. However, the father continues to deny hitting and beating his children and making R sleep in a shed overnight as punishment. He does not accept the findings made. He does not accept responsibility for his actions. He blames the mother and these proceedings for R's ongoing difficulties. He lacks insight. He lacks honesty. He is unable to provide R or S with the reparative and enhanced parenting that they need. If they returned to his care, he is likely to revert to hitting, beating and punishing his children. He is unlikely to be honest about what is going on in his household. The children would not be physically or emotionally safe in his care. The mother is unable to safely care for the children. She needs to focus on her own health.

### **The mother**

15. The mother did not attend the final hearing. The children have lived with her in the past. Following an argument in a park with the father in May 2018, the children began living with the father. They remained living with him until they were removed by the police in July 2020. None of the findings of physical and emotional abuse of the children are against the mother. During these proceedings, the mother has once again been able to spend time with her children. She undoubtedly loves them. The mother has not attended as many contact sessions with the children as the father has. However, the mother has struggled with her physical and mental health and has spent time in hospital. The mother knew that the final hearing was taking place. She attended, and gave evidence at, the fact finding hearing. R is clear that she wants to spend equal amounts of time with her mother and her father. The children enjoy their time with their mother. The mother is an important person in the children's lives. The father is too. I hope that the mother is getting the support that she needs and that

she continues to see the children. The mother has been supportive of C, the foster carer, in the past. She believed that C was providing the children with good and safe care. The mother is not able to care for the children at this time.

### **The father**

16. The father is also an important person in the children's lives. He is able to provide the children with basic care. He clearly loves his children and they love him. He has attended over 80 supervised contact sessions in these proceedings. The contact notes are generally positive. On a few occasions, the father has shown favour to S and put pressure on R about her care of S or her school work. He may not have meant to do so but he has. Supervised contact sessions are very different to real life. The father listened to advice given by the contact centre workers. He appears to have a good relationship with them. The father has not done any work to address the findings made in September 2021. He has been offered two parenting courses. He declined them both. He has said several times that he does not need help in parenting R or S. In his oral evidence, he said that he knew R better than anyone. He also said that he agrees that he needs help with R but not with S. I found that he had beaten S too. The father agrees that R needs trauma based work but denies any involvement in the trauma suffered by R. He continues to blame others, including the mother, for R's challenging behaviour. The father is not able to provide the children, particularly R, with the enhanced care that they need. He does not see that he has done anything wrong and it is difficult to see how anything would be different if the children returned to his care. The father has had the benefit of extended proceedings to show meaningful change. He has had the opportunity to reflect on the findings made at the Fact-Finding hearing. He does not accept the findings made against him. He has not shown meaningful change. The children would not be physically or emotionally safe in his care.

### **Ground Rules in respect of the father**

17. Ms Meusz prepared a Ground Rules document at the start of this hearing setting out a number of recommendations. Throughout this final hearing, the father was supported by an experienced and clearly competent intermediary, Ms Kitto. Ms Kitto was helpful and proactive in ensuring that the recommended breaks were provided to the father. The father had 20 minute breaks every 40 minutes except when he gave his evidence. When he gave his evidence, the father had 10 minute breaks every 25-30 minutes. Ms Kitto also assisted the advocates in framing their questions/cross-examination of the father. Ms Kitto confirmed in Court that the ground rules had worked well for the father during this final hearing. They were essentially the same measures that were in place for the father at the fact-finding hearing.

### **Avoiding further delay**

18. This hearing has had to take account of a number of additional unexpected matters. They include Ms Meusz's unavoidable absence for part of Day 2 (1 March 2022), tube

strikes and a concerning incident at school involving R on Day 4 (3 March 2022). Ongoing discussions and agreement between the parties about the best way forward to finish the evidence and final submissions within 5 days has meant that this case did not have to be adjourned part-heard. If it had been adjourned part-heard, it would not have been possible to get the advocates back together again for at least 6 weeks. Part of the ongoing discussions and agreement involved the parties agreeing that the Guardian would give her evidence before the father, on Day 4 (3 March 2022), when Ms Meusz was attending remotely at her own request (having discussed and agreed her remote attendance with the father, the intermediary and the father's solicitor). This meant that Ms Meusz could be in court with the father when the father gave his evidence on Day 5 (4 March 2022), as the father requested.

19. It was important to finish the evidence and final submissions by the end of Day 5 because delay is not in the children's best interests. The children need to know where they are going to live. The parties have been involved in proceedings for over 18 months. A final decision needs to be made. R is clearly struggling and she is likely to benefit from knowing whether or not she is going to return to live with her family.
20. No corners have been cut. All the witnesses have had the opportunity and time to give their evidence, both in writing and orally, and arrangements were made and followed to ensure that the father was able to give his best evidence. No party suggested that an adjournment was necessary or that more Court time was required. There are no gaps in the evidence. The parents have had more than 19 months to show meaningful change. Whilst the father says that his parenting assessment is old and incomplete, he had the opportunity to fully engage but did not do so and, having considered all of the evidence, it is clear that the father has shown no meaningful change and the risks to the children in his care remain high.

#### **Proceeding in the absence of the mother**

21. An adjournment was not sought on the mother's behalf. The mother was represented throughout the final hearing. The mother had made enquiries with her solicitors about the final hearing before it started. She knew it was taking place. Ms Brooks continued to try to contact the mother throughout the final hearing. This final hearing has been listed for some time and the children have been involved in proceedings for over 18 months. It was appropriate to proceed in the mother's absence.

#### **Article 6 compliant hybrid final hearing**

22. This hybrid final hearing has been Article 6 compliant and fair to all parties, including the father and the children. The father, his intermediary, an outdoor clerk and Ms Meusz (except on 3 March 2022, when Ms Meusz attended remotely) attended Court every day, as did Mr Dean (representing the Local Authority). Everyone else (witnesses and advocates) attended remotely. Nothing was lost by the hybrid nature of the hearing. The hybrid arrangements were agreed by all parties.

### The Law

23. In care proceedings there are two main questions. Firstly, are the threshold criteria for making a care order under section 31 of the Children Act 1989 satisfied. Secondly, what order, if any, should the Court make. The second question is the welfare question.
24. When looking at the welfare questions, the Court has to decide what order is in each of the children's best interests and whether that outcome is necessary and proportionate to the problem. The risk of harm is an important part of the welfare decision. When looking at the risk of future harm, the following questions must be considered:
  - (1) what is the type of harm that might arise;
  - (2) what is the likelihood of it arising;
  - (3) what consequences would there be for the child if it arose;
  - (4) what steps could be taken to reduce the likelihood of harm arising or to mitigate the effects on the child if it did.
25. The following legal principles apply.
  - (1) The Local Authority must prove any fact it wants to rely on.
  - (2) In proving any fact, the legal test is the balance of probabilities. In other words, "more likely than not."
  - (3) Where there is a dispute of facts, it is either proven or it is not. The court cannot sit on the fence and say it might have happened.
  - (4) Any findings must be based on evidence. Findings must not be made on suspicion or speculation.
  - (5) The court has to consider the evidence in the context of all other evidence. The court should not consider a piece of evidence on its own.
  - (6) All the evidence is admissible notwithstanding its hearsay nature, including Local Authority case records or social worker chronologies, which are often second or third hand hearsay. However, the court should bear in mind that such evidence is hearsay and give it the weight it considers appropriate.
  - (7) The court can consider written evidence even if the person who writes that evidence does not come to court. However, the court has to remember that if someone does not come to court, that person cannot be asked questions if their written evidence is disputed. Also, the court cannot see that person to assess and decide whether they are telling the truth or not. The court has to decide how much importance they will give to that sort of written evidence.
  - (8) If a fact is in dispute, the best evidence is primary evidence.
  - (9) The expert's job is to provide an opinion. The court's job is different. The court decides the case. The expert does not decide the case.
  - (10) The evidence of the parties is important. When a party or witness gives oral evidence in court, the court has a chance to assess whether that person is telling the truth. The oral evidence has to be considered against all the evidence and I remind myself of the fallibility of memories and/or oral evidence. The content,

consistency and probability of oral evidence has to be considered against all the other evidence. As Peter Jackson LJ recently said (20 September 2021), although *“no judge would consider it proper to reach a conclusion about a witness’s credibility based solely on the way that he or she gives evidence”*, in family cases *“a witness’s demeanour may offer important information to the court about what sort of person the witness truly is, and consequently whether an account of past events or future intentions is likely to be reliable”*: **Re B-M (Children: Findings of Fact [2021] EWCA Civ. 1371**.

- (11) The court has to remember that if a witness lies about one thing, it does not mean that they lie about everything. People lie for lots of different reasons. They might be embarrassed, they might think it makes them or their case look or sound better and so on.
- (12) The Local Authority has to show that significant harm, or the risk of significant harm, is caused by the parent’s care of the child or that the child is beyond parental control.
- (13) Any delay in a decision is likely to be against the best interests of a child.
- (14) The child’s welfare is the court’s paramount consideration.
- (15) The court should not make an order unless it is better for the child to make an order than to not make an order.
- (16) Any order should be the least interventionist order that meets the child’s welfare needs.
- (17) The court must apply the welfare checklist set out in section 1(3) of the Children Act 1989. The children’s wishes and feelings must be considered but they are not determinative.
- (18) Where the court is looking at the different options for the child, the court must not knock out any options and see which one is left standing. The court has to consider all the realistic options side by side. The court has to balance them against each other. The court has to look at the advantages and disadvantages in each realistic option and decide which option is best for the child.
- (19) Parents and children have Article 8 rights to a private and family life. The court can only interfere with those rights if it is necessary, proportionate and in the best interests of the child. The need to safeguard a child’s welfare justifies interfering with the parents’ and the child’s Article 8 rights.
- (20) In respect of an application for an adjournment of the final hearing/final decision, the guidance is set out in **Re S A Child [2014] EWCC B44 (Fam)**. Commitment to making necessary changes, ability to maintain that commitment and ability to make the necessary changes within the child’s timescales have to be considered.
- (21) Care proceedings should conclude within 26 weeks. That statutory period can be extended but any extension must be justified and the length and effect of delay must be considered from the child’s perspective.



## The witnesses

### **Dr Eracleous**

26. In her report dated 27 April 2021 and her addendum report dated 25 January 2022, Dr Eracleous considered that R's emotional development had been impacted by significant adverse childhood experiences ("ACEs"). R was also experiencing uncertainty in respect of her long term placement, change in her transition to secondary school and the onset of puberty. Dr Eracleous considered that R's behaviour (including shoplifting and running away) was likely to be a response to R's emotional struggles and unmet needs. She reported that R had demonstrated strong feelings of confusion and uncertainty about where she wants to live and ambivalent feelings towards her caregivers. She considered that R was demonstrating struggles with emotional regulation, which is often a symptom of trauma as a result of ACEs. Dr Eracleous reported that possible reasons for R's behaviour were emotional and physical abuse, witnessing significant parental discourse, being abruptly separated from her parents and feeling split loyalties towards family members as well as possible fear of repercussions. Dr Eracleous was clear that R's increased emotional needs would need to be addressed by her caregiver as well as professionals involved. She recommended a trauma informed approach in the light of R's experience of significant ACEs. Whatever the cause of the trauma, Dr Eracleous was not aware of the father getting any help for R whilst R was living with him.
27. In her evidence, Dr Eracleous said that the father had struggled to meet R's needs when R lived with him in the past. R's needs were arguably greater now and there was no evidence that the father would respond any differently than he had in the past. Dr Eracleous did not consider that the father could meet R's enhanced needs. In her evidence, Dr Eracleous said that she was not sure that the father would be able to meet/manage the challenges in respect of R.
28. Dr Eracleous reported that the children looked forward to contact with the father. She described the father's responses to the children as mostly loving, interested and warm. She said that at times the father seemed demanding of R about her schooling and once accused R of lying. She described the father as less demanding of S's achievements. Dr Eracleous described overall positive contact and had no other concerns about the parents' contact with the children. When Ms Meusz suggested that the father's contact was "*largely delightful*" with "*lots of emotional warmth*", Dr Eracleous said : "*a lot of the time, that's the case. Not all of the time.*" Dr Eracleous reported that contact enabled the children to develop of a sense of identity and self-esteem. However, she noted that over time, R has become confused about where she would like to stay and loyalties have appeared split. Dr Eracleous reported that the attention and gifts R was recently receiving in supervised contact were likely to be different to R's experience when she was living at home. That could be confusing for R and may make her think that she is better off with one of her parents. Dr Eracleous

described the children's conflicted feelings when they see their parents – excited, happy and confused.

29. Dr Eracleous was clear that contact needed to be monitored and reviewed to make sure that it is in the best interests of the children. Dr Eracleous' evidence was that unsupervised contact between the father and the children would be too risky without appropriate interventions and change on the part of the father. Dr Eracleous' saw no evidence that the father would be able to manage or make sense of R's behaviours without resorting to punitive measures as he has in the past. She said that caring for the children would be a very different experience to supervised contact in a contact centre.
30. Dr Eracleous considered that contact once every 6 weeks was appropriate once a LTFC placement was found. Until then, she agreed that contact once every 3-4 weeks was appropriate. Dr Eracleous' evidence was that R should move to the LTFC placement before her brother, giving her time to settle before S joined her.
31. I have no hesitation in accepting Dr Eracleous' written and oral evidence. Her evidence was balanced, child focused, fair, considered, insightful and clear. She is undoubtedly an expert in her field. I agree with her evidence.

### **Maureen Edwards**

32. Ms Edwards prepared two parenting capacity assessment reports. Her parenting assessment of the father is dated 31 March 2021. Her parenting assessment of the mother is dated 15 June 2021. Neither assessment is positive. Ms Edwards' recommendation was that the children cannot safely return to either the mother's or the father's care.
33. In this judgment I focus on Ms Edwards' assessment of the father because that assessment was challenged by the father. Ms Edwards' assessment of the mother was unchallenged and I accept it. Ms Edwards considered that the mother's poor mental health appears to be a very significant obstacle to the mother being able to consistently meet her children's basic care needs. Ms Edwards considered that until the mother accepts the need to engage with mental health services, her parenting capacity is unlikely to improve. The mother has had substance misuse issues in the past, she has reported being involved in abusive relationships and she has no real family support. Ms Edwards saw the children with the mother and said that the children "*greatly enjoyed*" their contact with their mother and that the mother, for the most part, demonstrated considerable emotional warmth and responded sensitively and appropriately to them. The mother spoke about a lack of communication with the children in the past and how that led to her losing the bond with her children. The mother did not have contact with the children before these

proceedings began. During her assessment, the mother spoke very positively about the children's progress in foster care. Ms Edwards considered that if the mother was able to address her mental health issues, she would benefit from a positive parenting programme.

34. Turning to the father's parenting assessment, the father attended three face to face interviews (each lasting 1.5 hours) and two telephone appointments. He did not attend the other four planned interviews, nor did he cancel the appointments in advance or respond to calls or messages. Ms Edwards also observed two contact sessions between the father and the children. Ms Edwards was clear that she was able to capture the father's views in the assessment sessions she had with him.
35. In her assessment of the father, Ms Edwards recorded that the father blamed his relative for R's mistreatment and that he was insistent that he has never hit his daughter, R. On several occasions during his oral evidence at this final hearing, the father said he did not hit his children. At the fact-finding hearing, I found that he did. During Ms Edwards' assessment of the father between November 2020 and March 2021, the father was unwilling to accept any responsibility for the injuries R sustained. That unwillingness to accept any responsibility was clear during the father's oral evidence. Ms Edwards reported that the father appeared unable or unwilling to reflect on why his daughter might be unsettled in his care.
36. In her report, Ms Edwards was concerned about the father's insistence that he has no difficulties in parenting his children and his inability/refusal to accept that he may benefit from help to learn new strategies to manage his children's behaviour. She considered that the father either lacked honesty or insight. She found the father to be *"rather fixed or rigid in his thinking and unable to place himself in his children's mind to see things from their perspective."* She recognised that the father was keen to work to provide materially for the children but considered that he struggled to understand the children's emotional care needs and to regulate his own emotions when he becomes frustrated or angry. She reported that the father struggled to show empathy towards R around her treatment and punishment at home. She saw little evidence to suggest that the father would work in a collaborative way with the mother to meet the children's needs. She also found the father to be quite demanding of R around education and caring for S. She described the father's parenting style as *"very authoritarian"* and she said that he appeared to have a limited understanding of the children's emotional care needs. Ms Edwards saw no evidence of the father's motivation to change. She considered that his capacity to make any changes was very poor. By the time of the final hearing, some 11 months after Ms Edwards' report, the father had still not taken part in any parenting work. In her oral evidence, Ms Edwards said: *"I have not seen any positive indicators of change in the father. I have seen his statement. He will attend parenting classes but it is one year too late for the timescales for the children.... The father is still not showing any remorse for his actions. The father is not taking accountability for what [R] and [S] experienced in his care. He is not*

*showing any motivation to change. It is limited now, at the end of proceedings, how he is saying he wishes to change."*

37. Ms Edwards' report refers to some parenting strengths shown by the father. She said that he attended contact on time. He showed emotional warmth. He provided some stimulation and fun activities. He cares deeply about the children's education and he wants them to achieve academically. She said that the children look forward to contact and enjoy seeing the father. Ms Edwards' recommendation was that the father's contact with the children remained supervised and limited in frequency to six times a year in holiday periods. She recommended that contact was subject to regular reviews and hoped that the father would be able to play a positive role in his children's lives. Ms Edwards' view remained that the children would be at high risk of significant harm if they were returned to the father's care.
38. During cross examination, Ms Edwards accepted that her assessment of the father took place some time ago. She noted that despite speaking to the father in November 2020 about bringing food for the children to contact, there was an occasion when he did not do so in June 2021. That was one of the issues that had not been resolved some months later. She agreed that the father's contact with the children was positive but did not agree that it was "*overwhelmingly positive*" as Ms Meusz suggested. Ms Edwards noted that the father gave R a keyboard and said that he expected R to learn a tune in two weeks' time. In her oral evidence, Ms Edwards said that nothing she had read had caused her to change her recommendations. She readily agreed that no-one should describe R as a "*pathological liar*" (as C is alleged to have done). Ms Edwards was asked questions about C (the foster carer) and rightly said that she had not assessed C. As I said during the final hearing, I make no findings about what C has or has not said to R. These proceedings are not about C. They are about the parents' ability to care for the children. The Court is required to consider the permanence provisions of the care plan, not the detail/approval of a particular foster carer. This has been made clear in the President's recent "**Make Every Hearing Count**" **Case Management Guidance in Public Law Children Cases : March 2022**" document dated 9 March 2020, released after the completion of evidence and closing submissions. During cross examination by Ms Meusz, Ms Edwards was asked a number of questions about events (including a contact note dated 21 August 2021 at **MB, G59**) that took place after her parenting capacity assessment of the father was prepared. Ms Edwards could not have referred in her report to interactions/contact sessions (whether positive or not) that had not yet occurred. During her evidence, Ms Edwards recognised both the positives and the negatives in the father and in the contact sessions. Her evidence was balanced and fair. In this case no-one has disputed that contact has been generally positive.
39. I found Ms Edwards to be a fair and child focused witness. She recognised the positives in both parents, including in contact. She readily agreed that the father's response to R's letter from the mother [**MB, G75**] was attuned and sensitive.

However, she remained firm in her assessment that the children would be at risk of significant physical and emotional harm if they returned home. Having considered all the evidence, I agree with her assessments and accept her evidence.

### **Lili Meadows**

40. Ms Meadows has prepared a number of statements in these proceedings. She knows the children and the family well. She is clearly a hard-working, sincere, honest and dedicated social worker. In her evidence, Ms Meadows was fair and child focused. She recognised the positives in both parents. She was concerned about any further delay in concluding these proceedings. She wanted the children to settle into their permanent arrangements. She was concerned about R running away but she was working with R on that. She was also concerned about R not wearing underwear and about her shoplifting. Ms Meadows spoke of the need for stability for R before focused pieces of work could be done effectively. Ms Meadows has made a number of referrals (Child and Adolescent Mental Health Services (“CAMHS”), mentor and independent visitor) and has provided a lot of support for the children, particularly R. In addition, Ms Meadows is getting general advice and guidance from CAMHS and a chance to reflect on this case and on what the children need. Ms Meadows did not believe the allegations that C (the foster carer) had hit R. She said that C is an experienced foster carer, that she is known to the children’s schools and that there have been no concerns about C in the past. It was notable that the Guardian, Ms Clode, also said that she did not consider C to be an abusive carer. The mother has always been supportive of C. The father has not. Ms Meadows explained the context around C’s comment about therapy and said that both C and R have spoken positively about each other. She did not see the situation as being as negative as some were portraying.
  
41. Ms Meadows described a lot of anxiety for C around adolescence, secondary school and these proceedings. Ms Meadows did not believe that fortnightly face to face contact was in the children’s best interests. She said that they needed to settle. Ms Meadows wanted to keep contact equal for both parents. That was what R wanted too. Ms Meadows said that the mother’s mental health had to be taken into account in contact arrangements but she was clear that the children’s relationship with both of their parents was important. She recommended a reduction in contact from weekly virtual contact and fortnightly face to face contact to face to face contact once every four weeks with an indirect (phone/video) contact at the two week stage until a permanent placement is identified. Once a placement is identified, she recommended that contact further reduces to once every six weeks. She agreed that contact needed to be kept under review and not just at the six monthly LAC reviews. She said that contact once every three weeks would be hard for the contact centre to manage and would not help the children settle as well as if contact was once every four weeks. Dr Eracleous, Ms Edwards and Ms Clode all agreed that four weekly contact was reasonable. Ms Meadows’ evidence was that the extended family, including the

paternal grandparents, had been told (in January 2022) that they could join the father's contact if they wanted to but that they had not done so to date.

42. Ms Meadows was clear that she had offered the father two parenting courses. One was offered towards the start of proceedings but the father did not take it up. Another was offered more recently, on a date in February 2022, but the father told Ms Meadows that he did not feel that he needed it. Ms Meadows said that during her time working with the father, the father had not asked for any support or trauma informed work. Ms Meadows became the children's ASW in August 2020, over 18 months ago. Ms Meadows evidence was that when she offered the father the parenting course at the start of February 2022 : *"the father said "no, I'm alright" with a laugh."* She said that he *"shot it down."* She told the father that he could call her back if he wanted to. The father did not call her back. Ms Meadows' clear recollection was that the father told her that he did not think that he needs help. The father later sought to explain this away as a misunderstanding. I did not believe the father's evidence that it was a misunderstanding. I accept Ms Meadows' evidence as more credible than the father's. Ms Meadows is a professional social worker who has worked with this family for over 18 months. She has worked hard to support and help the family. She is well aware of the recommendations regarding parenting work for the father. She has offered him courses twice. I am in no doubt whatsoever that Ms Meadows offered the father a parenting course (again) at the start of February 2022 and that the father declined it because he does not think he needs it. That has been the father's consistent theme during these proceedings. His written final statement dated 24 February 2022 does not match his stance throughout these proceedings when he has told a number of professionals and the Court (including at the final hearing) that he knows his children better than anyone else and that he does not need help. I accept Ms Meadow's evidence that the father declined both offers of a parenting course, the last one being just weeks before the final hearing in these long and extended proceedings.
43. Ms Meadows said that she was willing to start trauma informed parenting work with the father but had difficulty in seeing how far that would progress if the father continued to not accept the findings made, including the findings that the father was responsible for some of the trauma experienced by the children, particularly R. Ms Meadows considered that the father needs to show insight into his involvement in the trauma caused to the children. She agreed that work could start even though the father does not accept the findings. Her concern was about how successful it would be if the father did not accept the findings. Ms Meadow's view was that the father needs to want to change but she did not believe that he currently wants to change. Having read all the documents and having heard the evidence in both the fact-finding hearing and this final hearing, it is clear to me that the father has not made any significant progress around his insight, understanding, responsibility or willingness to change.

44. Ms Meadows was fair in her evidence. She recognised the positives in both parents and in the father's contact with the children. She readily accepted that the children love the father and that he loves them. She readily accepted that the father has maintained stable employment. She was concerned that there were times when the father put pressure on R about her school work and care of S. There was an occasion when the father was competitive about the presents given by him and by the mother. Ms Meadows agreed that the father's contact with the children was generally positive. She did not agree with Ms Meusz's suggestion that the father's contact with the children was "*overwhelmingly*" positive. Ms Meusz took Ms Meadows to a number of contact notes. Each time, Ms Meadows accepted the positives recorded. She had observed the children's contact with the father four or five times. She remained of the view that whilst the father's contact was positive and the children and the father enjoy it, there were still some concerns around emotional harm, lack of insight and not accepting responsibility for the children's traumatic experiences. She said that it was important to closely supervise contact and ensure that it did not have a detrimental effect on R in particular. Ms Meadows considered that there was a risk of emotional harm to R if contact was unsupervised. She also considered that contact needed to be closely monitored and supervised until the outcome of the criminal proceedings was known, including whether or not R would need to give evidence in any criminal proceedings.
45. Ms Meadows' evidence was that the father did undermine the placement with C. She said that he questioned the children about what they were doing with C. Ms Meadows noticed that S was given more expensive gifts than R, when it was R who liked things of value more than S. Ms Meadows agreed with the Guardian's observation that R got less affection and gifts than S. She said R has not consistently said that she wants to return home. She described a lot of references to R saying that she does not want to return home or being ambivalent about it. She said that S was very settled with C, calls her mummy and would find a move from C difficult. C has been S's primary carer for one third of his life. When she gave her evidence, Ms Meadows was clear that a long term placement with C was not off the table.
46. During her evidence, when Ms Meadows could not remember something (such as R getting a keyboard from the father at Christmas), she said so. Otherwise, she had a clear recollection of events. Her evidence was entirely child focused. She has clearly given careful consideration to the support she can provide to the children and the need to keep them safe. She was clear that she was looking for the right placement, not just any placement. She said that R should be placed first, giving her a chance to settle before S joins her. She had not ruled C out as a long term foster carer for the children. She has a good relationship with the children and confirmed that she will remain their allocated social worker. I have no hesitation in accepting her evidence. Her evidence was truthful, considered, fair, insightful, balanced and child focused.

### **3 March 2022 incident at R's school**

47. After Ms Meadows finished giving her evidence, the Court was told about a concerning incident at school involving R on 3 March 2022. The Local Authority's case note dated 3 March, updated on 4 March 2022, details the incident and R's move to a residential placement on a short term basis. It is clear from that case note that R was very distressed and said that she wanted to return home. There will undoubtedly be fresh events in the children's lives, which the Local Authority will have to manage as a corporate parent. The need for a final resolution to these proceedings was clear to Ms Meadows and to all the professionals concerned. It is equally clear to the Court. In the recent "**A View for The President's Chambers : March 2022 Make Every Hearing Count**", the President states: *"A feature of Family cases, whether relating to children or finances, is that, unlike Crime or Civil (where the primary focus is confined to evaluating a past event), the Family Court works in a dynamic context where the life of the participants continues to be lived and where it is not unusual for fresh events to occur and for these then to be evaluated within the ongoing court proceedings. The longer it takes to reach a final decision, the more likely it is that the court will have to engage with some new development and for this to delay any final decision yet further. Backlog and delay in the Family Court are not, therefore, static; like dough proofing on a baker's shelf, they have the potential to feed on themselves and grow the longer cases are left without a final resolution."* The recent event involving R illustrates this only too clearly.

### **Matilda Clode**

48. The Guardian gave her evidence before the father in order to accommodate the father's wish to have his advocate, Ms Meusz, in Court when he gave his evidence.
49. Ms Clode is a well-known and highly respected Guardian. As expected, she has carried out her own enquiries and has prepared considered, detailed and child focused reports (Re W dated 5 May 2021, Addendum Re W dated 2 July 2021 and Final Analysis dated 22 February 2022).
50. In her final analysis, Ms Clode states (at paragraph 17, **MB, E290**) : *"If [the father] is not able to accept any past difficulties or shortfalls, he cannot realistically expect to address them and the risk of the pattern [of] abuse continuing in my opinion is high. I do appreciate that [the father] will have felt judged, I also appreciate that there are ongoing criminal investigation which may prevent him from being as open as he might like."* She goes on to observe (at paragraph 20, **MB, E291**) : *"It has been over four months since the fact-finding hearing, I can see no evidence that [the father] has at any point since, reflected on the past and said he would like things to be different for the children and his family in the future."*
51. Ms Clode did not support the children returning to the care of the mother or the father. She recognised the need for the mother's mental health to be stable before



she could safely care for the children. Ms Clode did not believe that either the mother or the father have the insight or capacity to keep their children in mind for long enough to meet their emotional needs or keep them safe. She considered that contact every four weeks was reasonable. She trusted Ms Meadows and Ms Hallaways to arrange contact in accordance with the children's best interests at the time. She said that she was *"very confident in the social work team. They have worked incredibly hard with the children."* She agreed that contact had to be closely reviewed but could not be set in stone. She said that she had *"great faith in the social work team."* She agreed that it would be helpful and reassuring (to the children as well as to the father) for the father to meet the foster carer in the foster carer's home. She said that it was important to set contact arrangements with the mother that she could commit to bearing in mind her mental health issues. Ms Clode supported the Local Authority's application for a care order and she supported long term foster care for both children.

52. Ms Clode was concerned that R was feeling weary of being asked her views and had expressed frustration about having to attend *"meeting after meeting after meeting."* Ms Clode said that concluding these proceedings would be helpful to the children. Not knowing what was happening had caused R in particular a great deal of distress. The children needed a stable, consistent and permanent placement. She described R as very traumatised, upset and unsettled. She said that it was possible that contact was unsettling for R. Although R wanted to see her parents more frequently than the Local Authority was proposing, R also wanted her parents to get together. Ms Clode said that it was important for the children to have a plan around contact. Overall, Ms Clode spoke positively about the father's supervised contact with the children but said that there was scope for improvement in some areas and suggested that the father could do with some more support. Ms Clode had seen the father asking the children a lot of questions about their placements, described the father's questioning as *"quite constant"* and said that it can feel quite difficult for a child. She did not know whether the father was aware of that. Ms Clode had noticed that S did not tell his father about all the activities (including swimming) that he was involved in.

53. Like other professionals, Ms Clode recognised the positives in both parents. She agreed with many of the positives about the father which Ms Meusz put to her. Ms Clode spoke about the father's good relationship with the contact centre staff and about how the father listened to their advice and guidance. She agreed that the father would benefit from trauma informed parenting work but said that the father had to take some personal responsibility. She said that it was important that R did not grow up and feel blamed and stigmatised by the paternal family for speaking about her experiences in the father's care. Like other professionals, Ms Clode readily agreed that the father loves the children very much and that they love him. In her oral evidence Ms Clode spoke about the children's faces lighting up when the father arrived at contact and about how she could see that the father *"had real pleasure in seeing his children."*

54. Ms Clode spoke positively about the care C provided to the children. She described C as consistent with boundaries and said that to describe C as an abusive placement is not right. She agreed that C's foster carer logs were not good but was clear that decisions were based on discussions amongst the professionals and not just on C's foster carer logs.
55. Ms Clode did not support the children returning home even with a robust package of support. She pointed out that there was uncertainty about whether the father and R may have to give evidence in criminal proceedings against the father. She considered that until the criminal proceedings concluded, contact needed to be quite closely supervised in the contact centre. At this final hearing, no-one knew whether a charging decision had been made.
56. I have no hesitation in accepting Ms Clode's evidence. It was considered, fair, balanced, insightful and child focused. The Local Authority has reflected on Ms Clode's contact recommendations, including that waiting 4 weeks for contact with the father was too long for the children. Having considered all the written and oral evidence, I agree with Ms Clode's analysis and recommendations.

#### **The father**

57. The father wants his children to come home. If they cannot come home, he wants contact to stay as it is. In his oral evidence he spoke about how he understands his children, how he understand R *"better than anyone else"*, how he knows everything, how he understands R *"a lot, without courses"*, how important it is for the children to be with their family, how damaging it would be for the children if they did not return home and about his love for them. He does not accept the findings made. He denies that he was violent towards R and S. He denies that he made R sleep in the shed overnight. He denies that he is sometimes aggressive. He does not accept the risk of physical and emotional harm to the children if they were returned home and he does not say that he would do things any differently if the children did return home. His evidence was not consistent. At one point (in examination in chief), he said that he needed help with R and that R needed to help him. Later (in cross examination), he suggested that he did not need help with R. When he was asked whether he did anything wrong when he had R at home, he said: *"Yes...I involved too many people in my kids. I should have done more to support the kids rather than speak to my [relative] or my previous partner. I should have got professional help to understand why [R] was doing what she was doing and why she acts the way she acts."* It was notable that the father made reference to his *"previous partner"* when he has denied in the past that the person in question was. Later in his evidence, he described her as his *"friend."* It was also notable that he took no responsibility for R's challenging behaviour, continued to blame others and has no insight whatsoever into the significant harm he has caused to his children. He denied treating his children differently in the past. He described R as *"a bit demanding."* He could not recall telling Ms Edwards that R was manipulative and said that he did not think she was. He denied putting pressure on R

about her school work. When he was asked why Ms Meadows is worried about him hitting R, he said : *"I don't know. I don't hit my kids. I don't do that."* He later said : *"I don't hit my kids. I never have done. I never will."* When he was asked how he would control his anger in the future, he said : *"I haven't got anger."* When he was asked about punishing his children, he said : *"I don't punish kids."* His evidence was that there would be no risks to the children if they lived with him. It was clear that the father lacks insight into his harmful parenting. He also lacks insight into the risk of physical and emotional harm that he poses to his children. He said more than once that he does not feel that he needs a parenting course.

- 58.** In his oral evidence, the father accepted that he told Ms Meadows that he did not feel that he needed a parenting course. However, he said that he did not say no to it. His evidence was that Ms Meadows was going to come back to him with more information about the course but that she did not do so. I found Ms Meadows' account of this conversation far more credible than the father's. Ms Meadows was clear about what was said. The father clearly did not want to attend the course because he did not feel that he needed to. The father spoke about wanting help and support. However, when he has been offered it, he has not taken it up.
- 59.** In his final statement, the father said that he wanted to take part in trauma informed parenting work. That statement is dated 24 February 2022 and comes very late in these proceedings. At other times, and in his oral evidence at the final hearing, the father said that he knew his children and knew how to parent them. He does not accept the findings made, including that he hit, beat and punished his children, including making R sleep overnight in the shed. The father continues to blame the mother and others for R's behaviour. When he was giving his evidence, he became quite animated when he spoke about the abuse he alleged R had seen and heard when she lived with the mother. In his evidence, the father said that the only thing he is responsible for is letting other people look after his children when he should not have done. He accepts no other responsibility. He continues to deny hitting, beating and punishing his children. He lacks remorse, insight or empathy. He would not be able to support the children in managing the trauma they suffered at his hands because he denies doing anything wrong.
- 60.** In his evidence, the father denied that his previous cannabis misuse affected the way he looked after the children. He agreed to take part in hair strand testing if the children lived with him, before the children stayed with him or before they had any unsupervised contact with him. He spoke of his own positive experience of having a mentor. He said that he would support R going to CAMHS and having a mentor and that he would work with social services if the children returned to his care. If the children remained in foster care, he said that he would keep on going to contact and would support their foster carer.

61. I accept that the father loves his children very much and that they love him. However, he does not accept the serious and significant findings made. He has not taken up the offers of parenting courses. He denies causing the children harm in the past. He has not said or done anything that gives anyone any confidence that things would be different in the future if the children returned to his care. His written and oral evidence gives the Court no confidence that the children would be safe in his care, despite the love he has for them. He spoke about trauma but denied his part in it. The father is still not being honest with the Court or with professionals. The father has a learning disability but that does not prevent him from knowing and understanding that he must not hit, beat, punish and put his child into a shed overnight. His learning disability does not prevent him from accepting the findings made. As long as he continues to deny causing harm to his children, the trauma informed work with him can only go so far and his ability to make meaningful change is limited.

#### **The addendum threshold findings**

62. As stated above, the addendum threshold findings are supported by the evidence, were not challenged at the final hearing and I make the findings sought (subject to the revised wording to reflect Dr Campbell's addendum assessment).

#### **Welfare findings**

63. I incorporate into this part of the judgment the findings I have already made in this judgment and in the fact-finding judgment. I have abbreviated below the wording in section 1(3) of the Children Act 1989 but have had regard to the matters set out more fully in section 1(3)(a)-(g).

64. **Wishes and feelings:** S has consistently said that he wants to return to live with his father. He has been settled and happy in C's care. He is likely to find a move from C's care difficult but there is no certainty that he can remain with C on a long term basis. R has been less consistent about what she wants. She is clearly a conflicted child with a strong sense of loyalty towards her family. During the recent incident at school, she was clear that she wanted to return home. Both children will want to feel and be safe wherever they live. They will want a carer who can empathise, understand and help them to manage their traumatic experiences. They will not want to be punished, beaten, hit or made to sleep in a shed. They will want a carer who can put their needs first and ensure that they are emotionally supported as they grow up. They will want a carer who acknowledges the abuse that they have suffered in the father's care.

65. **Physical, emotional and educational needs:** The children need enhanced and attuned care. They need trauma informed care. They need consistent, boundaried, safe and reliable care. They need to be physically and emotionally safe. They need to be supported (but not pressurised) in their education. They need to experience life as a child and not take on the responsibility of caring for their younger brother. They need to live with a carer who will not expose them to aggression, anger, abuse and violence.

66. **Likely effect of any change in circumstances:** If the children return to the father's care, they will be returning to a home where they suffered physical and emotional harm. They will return to a parent who denies their experiences, blames others, has made no changes, shows no intention of changing and says that he does not need parenting help and guidance. A return to the mother's care would be difficult and unsafe. The mother experiences mental ill health through no fault of her own. The children have not lived with the mother for some time and S does not really remember his early years with her. The mother has not attended contact regularly. A return to either parent would be worrying for the children and for professionals. Whilst the children would probably be happy at first to return to the father's care, family life with him is likely to return to what it was before – aggression, pressure on R, hitting, beating, punishing and possibly sleeping in the shed again as punishment.
67. **Age, sex, background and any relevant characteristics:** This has been dealt with elsewhere. The children's cultural needs need to be met. They could be met at home, in a suitable long term foster carer's home or through contact with their family whilst they live in long term foster care.
68. **Harm suffered or at risk of suffering:** The findings previously made stand, whether the father accepts them or not. The children remain at risk of physical and emotional harm in the father's care. R in particular remains at risk of being hit, beaten, punished and mistreated, particularly when she displays challenging behaviour. S is at risk of the same but he has always been treated better than R. S is at risk of seeing his sister being mistreated, beaten and punished by his father. Both children are at risk of experiencing the father's anger and aggression towards them and towards other adults in the father's life.
69. **Parents' ability to meet the children's needs.** It is clear that the parents love their children and want to care for them. It is also clear that the children love their parents and enjoy spending time with them.
70. The father will be able to meet the children's basic care and material needs. He has fed and clothed them. He has bought them presents and they have enjoyed activities with him. He values and promotes their education. He has maintained steady employment. He attended the fact-finding hearing and this welfare final hearing. He has stopped using cannabis in these proceedings. He has attended almost every contact session (over 80) available over the last two years and the notes of those sessions are generally positive. He entertains the children in contact and they enjoy spending time with him. However, supervised contact sessions are very different to everyday life away from supervision and proceedings. Supervised contact is for a limited time, there is instant feedback, the children are kept safe, the father is monitored and the environment is controlled. It has to be. The father has been

physically and emotionally abusive to the children in the past and he does not believe that he needs to change. He does not accept that he has done anything wrong.

71. The father continues to deny the children's lived experiences in his care. He does not accept that he has harmed his children. He denies responsibility for the physical and emotional harm suffered by the children in his care. He lacks insight. He lacks empathy. He has not accepted offers of parenting courses. He does not believe that he needs help in safely parenting the children. He is unlikely to work honestly or openly with professionals. He does not accept the Court's or the professionals' concerns about his parenting. He is unlikely to accept help because he does not see the need for it. He is unable to see things through his children's eyes. His style of parenting is rigid, punitive and harmful. He has punished, hit and beaten the children in the past and there is no evidence to suggest that he will behave/treat them any differently in the future. R will return to live with someone who beat her, made her sleep overnight in a shed, continues to say that she has lied about her experiences in his care and treats her less favourably than her brother, S. The father was unable to manage R (including her running away) in the past and he is unlikely to be able to manage her now. The father is not able to provide the children with the enhanced, attuned, reparative and trauma informed parenting that they clearly need. He is likely to put pressure on R to have more of a caring role for S. The father has not shown any change or willingness to change. His learning disability does not prevent him from understanding that it is wrong to hit, beat and punish his children. It does not prevent him from accepting the findings made. He has made no meaningful progress in these extended proceedings. The children would not be physically or emotionally safe in his care.
72. The mother is not able to meet the children's needs whilst she continues to experience mental and physical ill-health. She wants the children to be safe and to receive consistent and attuned care. She supported the children in foster care and has spent time with them when she has been well enough to attend contact.

### **The realistic options**

#### **Return to the father's care**

73. The advantages of the children returning to the father's care are:
- (1) S has consistently said that he wants to live with his father. R has waived between wanting to spend time with her parents and wanting to live with her father. During the incident at school on 3 March 2022, R was clear that she wanted to return home;
  - (2) The children enjoy their contact with their father. They love him and he loves them. Their contact with their father is generally positive. The father has consistently attended contact – over 80 sessions over the last 18 months or so;

- (3) The children would grow up together, within their birth family with frequent contact with their wider family including their paternal grandparents. They enjoy seeing their grandparents and are loved by them;
- (4) The children's cultural needs would be met. They would be provided with a positive sense of identity living within their birth family;
- (5) The children have lived with the father before;
- (6) The father says that he will take part in parenting work. However, that statement has to be considered against the father's repeated assertion to various professionals and to the Court that he does not need any help. His assertion that he will do that work comes very late in these extended proceedings. The Local Authority has offered him parenting work in the past but he has refused it. He was not able to say what has changed to make him now willing to undertake work that has been recommended for some time;
- (7) The father is able to manage some areas of his life. He has been able to maintain steady employment for some time and to stop his cannabis use in these proceedings;
- (8) The father and paternal family want the children to live with the father;
- (9) The father states that he would take part in further hair strand testing and would support R going to CAMHS and having a mentor. He said that he is willing to work with social workers in the future.

74. The disadvantages of the children returning to the father's care are:

- (1) The children are likely to suffer further significant physical and emotional harm in the father's care;
- (2) The father does not accept the findings made, including that he hit, beat and punished his children and made R sleep overnight in the shed;
- (3) The father is unable to accept responsibility for the harm he has caused to the children, especially R who received worse treatment than S;
- (4) The father lacks empathy, remorse, insight or understanding of his children's emotional needs;
- (5) The father is unable to provide the children with the enhanced reparative care that they need, particularly R;
- (6) The father has not taken any steps towards improving his insight, understanding or parenting capacity. He declined the parenting programmes offered by the Local Authority. He continues to believe that he understands his children better than anyone else and he does not believe that he needs help to parent his children. The children's experiences in the father's care are unlikely to change. He has not shown any change or willingness to change. He does not accept that he has done anything wrong;
- (7) The father blames the mother and others for R's challenging behaviour. He is unlikely to promote contact between the children and the mother if they are returned to his care. He is quick to blame R's challenging behaviour on the mother;

- (8) The father is likely to lose his temper with the children or with others when his children are around. His children will be exposed to his anger and frustration with them and with others with whom he disagrees. He is likely to put pressure on R to take on more of a caring role for S;
- (9) The father is unlikely to work openly or honestly with professionals. He has lied to the police, to professionals and to the Court and nothing has changed between the fact-finding hearing and the final hearing. He continues to deny that he harmed his children. In doing so, he continues to say that R and S have lied about their experiences in his care;
- (10) None of the professionals support the children returning to the father's care. The professionals all say that the children would not be safe in the father's care. At a previous hearing, the mother did not support the children returning to the father's care;
- (11) No amount of support could keep the children safe from the risk of physical and emotional harm in the father's care.

#### **Return to the mother's care**

75. The advantages of the children returning to the mother's care are:

- (1) The mother has previously said that she wants to care for the children;
- (2) The mother loves the children and they love her. She has a close relationship with R and is getting to know S after three years of no contact. The children enjoy their contact with the mother when it takes place;
- (3) The children have lived with the mother before. She was able to meet their needs in the past;
- (4) The children's cultural needs would be met. They would be provided with a positive sense of identity living within their birth family.

76. The disadvantages of the children returning to the mother's care are:

- (1) There is no evidence that the mother's physical and mental health and housing situation is stable;
- (2) The mother has been unable to consistently attend contact in these proceedings;
- (3) The mother did not attend the final hearing. There is no evidence that the mother is now able to provide the children with the safe, reliable, consistent and enhanced care that they need;
- (4) The children are likely to be exposed to ongoing disputes and bad feeling between the parents;
- (5) None of the professionals support the children living with the mother;
- (6) The father continues to blame the mother (and others) for R's behaviour. He would not support the mother caring for the children.



## **Long Term Foster Care (“LTFC”)**

77. The advantages of LTFC are:

- (1) The children will be safe. They will not be at risk of suffering further significant physical and emotional harm. They will be placed with carers who have been assessed as able to meet their enhanced needs. They are likely to be placed together;
- (2) The children will spend time with their mother, their father and their extended family (assuming their extended family attend the contact sessions offered). Their contact will be supervised. The father’s ability to portray the mother in a bad light will be limited by supervision of his contact. The children will be safe during supervised contact;
- (3) The children will benefit from consistent care. They will not be left with the father’s relative or other people who may harm them;
- (4) The children will benefit from support and services as Looked After Children;
- (5) The Local Authority, as a corporate parent, will put the children’s needs first and will be able to provide trauma informed care;
- (6) All the professionals support the children living in long term foster care.

78. The disadvantages of LTFC are:

- (1) A suitable placement may take some time to find;
- (2) The children may not settle in their placement;
- (3) The children may have to move more than once;
- (4) R’s behaviour may worsen if she does not return home. She may run away. She may shoplift. She may self-harm. She may put herself at risk if she does not return home;
- (5) Whilst they are in separate placements (as they are now), the children will miss each other and their parents;
- (6) Whilst they are living apart from each other and from their parents, the children will experience loss. If they move again, they will experience loss;
- (7) R may have to be placed separately from her brother;
- (8) The children will miss living within their birth family. Their cultural needs may not be met in long term foster care. They may lose their sense of identity as part of their birth family. Contact with their family will go some way towards addressing these issues;
- (9) The father opposes the children living in long term foster care.

## **Conclusion**

79. Having considered all that I have read and heard, I find that it is in each of the children’s best interests that final care orders are made for R and S. Final care orders are necessary, proportionate and in the children’s best interests in the light of the risks in this case.

80. I approve the Local Authority's final care plan for long term foster care. I also approve the Local Authority's revised contact plan for both parents (until a permanent placement is identified) of fortnightly contact alternating between remote and face to face contact. Once a permanent placement is identified, contact for both parents should reduce to face to face contact once every six weeks, to coincide with the children's school holidays, with no intervening remote contact. Face to face contact was arranged for two occasions before the end of April 2022 and monthly after that with video contact two weeks between those dates. Contact will have to be kept under review (and not just at six monthly LAC reviews) to take into account the children's needs at the time.
81. I invite the Local Authority to draft a final version of the Threshold Findings made both at the Fact-Finding Hearing and at this Final Welfare Hearing. I will attach it to this Judgment. It is important that there is a single record of all the findings made. I trust the advocates will be able to agree the revised wording to reflect Dr Campbell's addendum assessment of the father.
82. I am pleased that Ms Meadows will remain the children's ASW. She has a good relationship with the children. It is clear to me that both Ms Meadows and Ms Hallaways have worked hard for the children and have put the children's interests first. I hope that the father now commits to the parenting work offered. It will help him and his children. He has much to offer the children but he needs to work on accepting responsibility for the harm that he has caused to his children and finding a way to make things better in the future. If he makes no changes, his contact is likely to remain supervised. That will be for the Local Authority to determine as a corporate parent. The mother also has much to offer the children. I hope that the mother is getting the support that she needs. I wish both parents well.
83. I am grateful to the advocates and to all the professionals involved in this matter for their hard work. After this judgment is handed down on 31 March 2022, a copy of my judgments (fact finding and welfare) should be sent to the experts instructed in this case.
84. I wish the family well. I hope that R settles in her new placement once it is identified and that S can join her soon. The children have been through a lot. They need a lot of support. They need time and space to settle into their new permanent arrangement. They certainly need these proceedings to end. I wish R and S the very best.
85. Following circulation of the draft judgment to the advocates, Mr Dean updated the final threshold document to include an agreed re-drafted version of paragraph 1 on the second page to take into account Dr Campbell's addendum report in respect of the father. I approve that re-drafted wording and the document as a whole. The

updated complete threshold document is attached, headed **Final Threshold Findings**, dated 31 March 2022 and is incorporated into this judgment

86. That is my judgment.

**HHJ McKinnell**

**Barnet Family Court**

**31 March 2022**

## FINAL THRESHOLD FINDINGS

**The court made the following factual findings at the Fact-Finding Hearing (judgments on 10<sup>th</sup> and 20<sup>th</sup> September 2021):**

### **Father**

2. Father's manner can be aggressive and he needs to learn to manage his anger [C29, E36].
3. Father permitted his relative to beat R on the bottom with a spatula causing bleeding. He told R that if she did not stop crying in response, he would put sellotape on her mouth [Police B114].
4. Father used as a punishment (most recently in early July 2020) requiring R to spend a night in the family's garden shed, thereby causing emotional harm [Police B101-2].
6. Father has repeatedly beaten R with various implements, including a metal broom, a spatula and a leather belt. This has caused bruising, including (or alternatively, some of) approximately 15-16 bruises/marks to the head, neck and limbs visible at the time of a child protection medical examination [E1-, Police B109-, Police B197-]. He has also thrown a chest of drawers on R [Police B213, 218].
7. R went missing from foster care in March 2021, during which time she stayed with a family member and had regular contact with Father unsupervised by the LA [F54, 56]. Father did not disclose R's whereabouts to the police or the LA, despite there being an interim care order in force [C87]. Afterwards R changed her account to professionals, saying she had got it wrong / there had been a mix up, and it had not been Father who hit her but Father's relative instead [F54, E189]. This change (it is to be inferred) was due to the intentional influence of Father.
8. R was hit with a spatula by Father's relative several times on one occasion, and Father failed to protect her and failed to seek any medical attention for her [Police B166-].
9. S will have been aware of at least some of the above physical abuse of R, and the requirement on her to sleep in the shed, which will have been emotionally harmful for him [C10].
10. Father has sometimes beaten S with a leather belt [Police B117].

### **Father's relative**

11. Father's relative has physically abused R by beating her, on one occasion, several times, with a spatula causing bleeding [Police B113-4].

### **Mother**

13. The children have not lived with the Mother since 2017/2018, and thereafter did not have regular contact [E41].
14. Mother is homeless [C27]. This has impacted on her ability to manage her type 1 diabetes [E41].

### **Both parents**

22. The parents' relationship was characterised by allegations and counter-allegations of domestic violence. The children have been aware of the animosity between the parents, which has been at such a level that it has caused the children emotional harm.

**The court made the following further factual findings at the Final Hearing (judgment 31<sup>st</sup> March 2022):**

**Father**

1. Father has global learning disabilities, with poor thinking skills, very limited reasoning capacities, a poor memory and essentially no ability to read. His intellectual abilities and interpersonal skills are such that he would require support and training to identify his children's needs, problem-solve and negotiate with boundary-setting, etc. [E33-34; SB E7], with the reasonable prediction being that he will struggle for intellectual reasons, without such support and training, to be an appropriate and safe parent [SB E7].

**Mother**

15. Mother has a paranoid psychotic illness [E143] which has led to her being admitted to hospital under s.2 of the Mental Health Act for a few days in September 2020 and then 8-30 December 2020 [E135-140]. Her illness is severe in nature [E145]. She needs mental health treatment, including at least 1-2 years' antipsychotic medication [E146].

16. Her insight into her mental health is poor [E144]. She does not consider she has mental health difficulties, contending her confusion is solely due to poor diabetic control and that she was admitted to hospital in September 2020 simply to bring her blood sugar levels under control [A37-8], which is incorrect. She incorrectly told Dr McEvedy (expert psychiatrist in these proceedings) that in her December 2020 admission she had received no psychiatric diagnosis, she was not asked to continue taking medication and psychiatric follow up had not been intended [E144].

17. Her vulnerability, linked to her mental illness, means she would not be able to look after dependent children adequately at present [E145].

18. Mother has not consistently engaged with the assessments directed of her in these proceedings, thereby failing to prioritise the children.

19. Mother has not to date complied with hairstrand drugs tests directed in these proceedings, from which it is to be inferred that she is using harmful drugs that would impact on her parenting. When admitted to hospital in December 2020 she tested positive for cannabis [E139].

20. She has not been honest about her drug use, denying this to Dr McEvedy [E141] and the social worker [E42].

HHJ McKinnell

31 March 2022