

IN THE FAMILY COURT SITTING AT OXFORD

Neutral citation number: [2024] EWFC 261 (B)

HEARD ON 16th to 24th September 2024

HANDED DOWN ON 24th September 2024

Before

HER HONOUR JUDGE OWENS

Between

Oxfordshire County Council

Applicant

- and -

M

First Respondent

-and-

F

Second Respondent

-

-and-

A

Third Respondent

and-

C

Fourth Respondent

Representation:

For the Applicant: Miss Reynolds, Counsel

For M, First Respondent: Ms Granshaw, Counsel

For F, Second Respondent: Ms Joao-Manuel, Counsel

For A, acting through his Children's Guardian, Maria Kirnig: Mr Wraight, Counsel

For C, Fourth Respondent: Ms McElroy, Counsel

This judgment is being handed down in private on [24th September 2024]. It consists of 26 pages and has been signed and dated by the Judge. The Judge has given permission for the judgment (and any of the facts and matters contained in it) to be published on condition that in any report, no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by name, current address or location [including school or work place]. In particular the anonymity of the child and the members of his family must be strictly preserved. All persons, including representatives of the media, must ensure that these conditions are strictly complied with. Failure to do so will be a contempt of court. For the avoidance of doubt, the strict prohibition on publishing the names and current addresses of the parties will continue to apply where that information has been obtained by using the contents of this judgment to discover information already in the public domain.

INTRODUCTION, BACKGROUND AND EVIDENTIAL SUMMARY

1. These proceedings concern A, who is now one year old. M and F are his parents and are both young and vulnerable people. M has the support of an intermediary in these proceedings. C is A's biological maternal great grandmother. The Local Authority applied for a care order in relation to A on 25th September 2023.
2. An interim care order was granted on 26th September 2023 and M and A went to a residential unit for assessment. The final report from that assessment was dated 29th December 2023 (C160-194). Sadly, the conclusion in that report was that M could not safely care for A. On 22nd January 2024 the court approved an interim plan for A to be cared for in foster care. A has remained with the same foster carers since then.
3. Both M and F have been the subject of psychological assessments by Dr Clarke-Dowd. Those reports can be found in the Bundle at E22-54 for M and E138-168 for F. They confirm the range of issues and vulnerabilities that M and F face.
4. A parenting assessment of F was completed using the Parent Assess model and is in the Bundle at C263-C290. That assessment concluded that F would require significant levels of support to enable him to understand and develop his parenting, but that, sadly, F was unable to follow professional advice around meeting either his own needs or around caring for A.
5. M was adopted as a child, and during these proceedings made contact with her birth family. Various members of M's adoptive and birth family have been explored as potential carers for A but sadly none were positively assessed. C was the subject of an initial viability assessment as part of considering potential kinship placements. That assessment could not be fully completed because C asked the social workers to leave, and the negative report is in the Bundle at C245-C262. That report noted concerns about C's and her family's history of involvement with

children's services, C's age and health, her history of and ongoing lack of emotional regulation, her history of and ongoing inability to work with professionals, as well as her problematic relationship with both parents and worries about how C would manage this.

6. After completing that assessment, C's position fluctuated about whether she wanted to challenge it, and whether she was putting herself forward to care for A as a sole carer or as a support to M, prior to M becoming the sole carer. The Local Authority was concerned that C's position seemed to change depending on whether she was on good or bad terms with M at the time.
7. At the Issues Resolution Hearing (IRH) on 18th July 2024 C was granted party status by consent. C wants A to be placed with her.
8. During the proceedings M and F's relationship has been concerning. In May 2024 M alleged that F had committed a serious offence in relation to her, and the police became involved. M subsequently withdrew that allegation, and said that she was no longer in a relationship with F. However, F told social workers in late May this year that M was helping him with laundry and personal care.
9. In early July this year C reported that M had told her she was being physically abused by F, and the same day M reported to police that she had been assaulted by F on three occasions in the past week. The reports to the police led to F being arrested and released on police bail with conditions not to contact M directly or indirectly, not to go to her address, not to go to C's address and not to attend any place he reasonably believes M to be. Those conditions are in place until 2nd October 2024.

10. At the end of July this year F re-located to another part of the country and stopped responding to the social worker's attempts to contact him. He also stopped attending family time with A.
11. At the end of July this year it became apparent that M had been living with her birth mother. However, this arrangement then broke down following the two falling out. Prior to this, in mid-June, M and F stayed with C for a couple of days but this arrangement ended abruptly because C was not happy with M and F's behaviour.
12. At the IRH in July the case was timetabled to this final hearing starting on 16th September 2024.
13. Very late in the proceedings, M suggested that F was not in fact the birth father of A. DNA testing was requested by all parties with an application made the week before the final hearing, and the results were received on the morning of 16th September, the first day of the final hearing. Those results confirmed that F is the birth father of A.
14. F made an application to participate in this hearing remotely from his solicitor's offices, which was granted. However, on the first day of the hearing it became apparent that he was not at his solicitor's office, but at home. He assured the court that he was in private where nobody could see or hear the hearing, but during the first part of the hearing it seemed as if he was speaking at points and moved to what looked like a different room. When I stopped the hearing to check if he was still in private and asked him to move the camera around to show the whole room, he took a long time to do this and then only showed me what seemed to be part of the room, though he did say this was because his phone was on charge. As a result, I was concerned that there was a risk of a perception that he was not in private, something that both M and the Local Authority were very concerned about

because they allege that he has not complied with the strict requirement for confidentiality about these proceedings in the past. I decided that he must go to his solicitor's offices if he did wish to participate remotely (which is what had been sought and granted as I have noted). As his case was to support the Local Authority, since his counsel was able to take instructions from him by phone, and F was not going to be giving evidence nor having questions put on his behalf to other witnesses, this seemed to strike the balance in terms of protecting his article 6 rights versus the need to ensure that there was no perception of breaching the confidentiality of these proceedings.

15. I have read the evidence in the Bundle, and heard evidence from the allocated social worker, the initial viability assessor of C, C and the Guardian.

PARTIES' POSITIONS

16. The Local Authority seeks a final care order for A with a final care plan for adoption.

The Local Authority has also applied for a Placement Order for A. The Local Authority plan is to try their utmost to find adopters for A who would support direct contact between A and M after adoption. However, if they are not successful in finding adopters who can support this within two months of the search starting, they will begin the search for alternative adopters (Final Care Plan D20). In evidence to me, the allocated social worker was very clear that support would also be given to both parents to enable them to engage with indirect contact if A is adopted.

17. M made clear through her solicitors last week that she does not seek to actively challenge the Local Authority evidence, and did not want to give evidence herself. She has made a very brave and child-focused decision to accept that she cannot

currently care for A herself and she has written me a very heartfelt letter setting out her views. It is clear from that letter that she loves A very much and wants the best for him. She does not want A to be adopted and is very worried about adoption because of her own experiences as an adopted child. She knows that she needs to take some time, perhaps 2-3 years, to work on her problems but she would like to be able to care for A after this. In the meantime she wants A to be looked after by C.

18. Very bravely F also accepts that he cannot care for A and agrees with the plan for A to be adopted. He has not consented to adoption on the required form, witnessed by either a social worker or the Guardian, so accepts it will be necessary for his consent to adoption to be dispensed with to make a placement order.

19. C does not agree that A should be adopted and wants A to be placed with her, she wanted this to be under a Special Guardianship Order (SGO), but she accepts that there is no Special Guardianship assessment of her. She therefore wants A to be placed with her under any form of order that would enable this to happen, such as a Child Arrangements Order, and would be willing for the Local Authority to have a Supervision Order too. She is also willing for the Court to make a non-molestation order of its own motion to stop M from going to her home address, or she is willing to offer the Court an undertaking not to allow M to go to her home.

20. The Guardian supports the making of a final care order and the Local Authority care plan for A and supports the making of a Placement Order.

RELEVANT LEGAL CONSIDERATIONS

21. In addition to considering section 31 (2) of the Children Act 1989 regarding threshold, I have considered the welfare checklist in section 1(3) of that Act and had regard to the article 8 rights of M, F, A and C. I have also had regard to the article 6 rights of all concerned, including in relation to necessary participation measures with M being afforded an intermediary and F being permitted to participate remotely from his solicitors' offices. I have also considered the options for the child applying the considerations set out in *Re B-S (Children)* [2013] EWCA Civ 1146. I have considered section 1 of the Children Act 1989 with regard to the no order principle and the issue of delay, as well as section 32 with regard to the timetable for public law proceedings. I have also considered the welfare checklist contained in section 1 (4) of the Adoption and Children Act 2002 (ACA).
22. As noted earlier in this judgment, M opposes adoption, and F consents but not in the form required by section 52(7) of the ACA. A placement order can therefore only be granted for A if I am satisfied that A's welfare requires M and F's consent to be dispensed with (section 21(3) ACA).
23. In closing, Ms Granshaw for M referenced the principle set out by Hedley J in *Re L (Care: Threshold Criteria)* [2007] 1 FLR 2050 that society must be willing to tolerate very diverse standards of parenting. The case of *Re H (A Child) (Appeal)* [2016] 2 FLR 1171 considered the applicability of *Re L* to welfare considerations, the first instance judge in *Re H* having quoted *Re L* in support of a "presumption" in favour of a child's birth family. McFarlane LJ in *Re H* made it clear that there is no presumption in favour of a natural parent or family member [89], and pointed out that Hedley J's remarks in *Re L* were "*entirely directed to the question of the threshold criteria*" [89] and that reference to these remarks were "*out of place, as a matter of law, in a case where the issue did not relate to the s.31 threshold, but*

solely to an evaluation of welfare” [93]. As noted in both *Re G (Children)* [2006] 2 *FLR* 629 and *Re C (A Child) (Special Guardianship Order)* [2019] *EWCA Civ* 2281, this does not mean that parentage is irrelevant, it is an important part of considering what birth parents or wider birth family can contribute to the emotional and identity needs of a child.

FINDINGS

24. The final composite threshold document is A62-65. By the start of this final hearing, neither M nor F had responded to the final threshold document. Fortunately, discussions took place on the morning of the first day and during the early stages of this final hearing. As a result, overnight on 16th September a final agreed threshold document was produced and that is appended to this judgment at Appendix A. Having considered the unchallenged evidence in the Bundle about threshold, I agree that threshold is crossed on the basis that all parties have agreed, and I adopt the threshold criteria at Appendix A as my threshold findings for the purposes of section 31 of the Children Act 1989.

25. Very bravely both M and F have accepted that they cannot safely care for A now. F also accepts that adoption is in A’s welfare interests as the only realistic prospect for A’s permanent placement. Again, based on the unchallenged written evidence in the Bundle, it is sadly very clear that neither M nor F can safely care for A within a timescale that meets his needs, and I find that placement with either of them is therefore not a realistic prospect at this point.

26. The issue for this final hearing is therefore whether placement of A with C is a realistic prospect and therefore whether that is in A’s welfare interests, or whether

adoption is the only remaining realistic prospect for A's needs to be met now and throughout his life.

27. C was offered the opportunity to participate in a Viability Assessment. The report of that assessment is at C245-C262, and I also heard evidence from the assessing social worker and the allocated social worker about what happened on 12th April 2024 when they visited C to conduct the assessment. C also gave me evidence about what she says happened, both in her statement at C336 and in her oral evidence to me in this hearing. C alleged that the visit did not last more than about 15 minutes and that the social workers repeatedly told her that she was not able to care for A. In contrast, the assessing social worker was very clear that the visit on 12th April 2024 was far longer than 15 minutes, probably around an hour based on her recollection and checking her records. Both the assessing social worker and the allocated social worker were also very clear that they did not repeatedly tell C that she could not care for A. The assessing social worker gave compelling evidence that she explained the process and what C could do to challenge the assessment if she didn't agree with it. C does not dispute that she did react to the social workers and asked them to leave and seems to accept that she spoke loudly. She disputes that she was angry or aggressive, but it seems clear that even if she didn't mean to be aggressive, she very quickly became agitated, spoke loudly and asked the social workers to leave. The assessing social worker told me that she felt things changed very quickly, she did not know what was going to happen and it was clearly a very unsettling experience for her. C therefore brought the assessment to a very abrupt halt and does not seem to have thought about how her actions might cause alarm to the social workers, something that is concerning given the concerns about her history of involvement with social

services and her volatility being part of that history. It was the attempt to discuss her past involvement with social services that seems to have been the trigger for her ending the assessment, as she accepts. I accept that topic would have been difficult and sensitive to discuss and related to things that were quite some time ago but, as both the social workers and the Guardian told me, it was clearly something that was relevant to the assessment and needed to be discussed. C's behaviour prevented a proper discussion about this during the visit, as the assessment notes at C252 and C accepted in her oral evidence to me, she asked the social workers to leave and would not discuss matters further. C alleged in her statement at C336 that she thinks it was unfair that the assessment did not continue. However, as is detailed at C252 and as the assessing social worker told me, C was contacted by phone about three hours later to understand if she was withdrawing from the assessment. C confirmed that she wanted to continue with the assessment, but again became angry (which she accepts) when she was informed that the assessment would not be recommending her to care for A and the phone call was abruptly terminated. C did call back shortly after to confirm that she wished to proceed and would be speaking to a solicitor to challenge the negative outcome. She also apologised for how she had reacted. In the event, C did not challenge the assessment until the IRH on 18th July 2024. Her reasons for the delay in doing this are that she had trouble obtaining legal advice and assistance, but the assessing social worker was very clear that she gave C a blank C2 application form and encouraged her to seek advice and assistance from the Citizen's Advice Bureau about completing the form. It seems to be agreed that C did not tell anyone that she struggled to read and write until quite some time after the 12th of April meeting, but it also seems clear that the social workers have tried

to carefully explain things to her in a way that did not rely on her literacy both before and after becoming aware of this issue. I have also taken judicial notice of the fact that it is not uncommon for family members to challenge negative viability assessments even if they cannot afford legal advice, and even if they are illiterate. I do not think that C acted sufficiently promptly to challenge the negative assessment of her. In delaying the challenge, she was not putting A first and this is likely to be linked to her changing views about whether she did want to put herself forward to care for A.

28. C has vacillated about whether she did want to care for A, something that C accepts. The social worker's evidence shows that they believe this is because of the volatility in her relationship with M. C's evidence to me about this was that she accepted her relationship with M was *"a little bit on the rocks, up and down a little bit"* and that she had not spoken to her since the IRH until the beginning of this final hearing (though later she said that they had spoken by phone and text in between the hearings). Ms McElroy for C described her as "confused" when C gave me her evidence. I'm afraid that C's evidence about why she kept changing her mind about caring for A, whether she was putting A first when she vacillated, and whether she understood the risks that M would pose to A was not only confused, it was also confusing and at times lacking credibility. She maintained that she always put A first, even when she kept changing her mind about whether she wanted to put herself forward to care for him and denied that whether she had fallen out with M was the reason for her changing her mind. However, the evidence of when she has changed her mind relative to when she has fallen out with M and been ringing social services to complain about M's behaviour, is compelling. It also

seems consistent with a pattern of a very complex and volatile family dynamic that has persisted in the maternal family for years at this point.

29. It is also significant that, despite saying that she has made enquiries about moving house, and that she has looked at things like available nurseries and schools for A in the area, this evidence was only produced at the last minute and is not supported by any independent confirmation that a house-swap would be possible. Whilst I accept that C has demonstrated some commitment to having A placed with her by participating in this final hearing and running a case opposing the Local Authority plan, her lack of actual progress in showing that she has addressed the Local Authority concerns about suitable housing is not helpful in providing clear evidence about what A living with her would look like from a practical perspective. It is not part of the Local Authority case that C could not meet A's basic educational and health needs, and the viability assessment at C259 notes that there are positives about these aspects identified in relation to C, as well as C's day to day availability to care for A, her motivation to keep A within the family and the fact that she would provide A with a connection to his maternal family and heritage. It also acknowledges that she has shown significant commitment and care for A in putting herself forward (C261), which does not support a conclusion that the social worker assessing her approached this assessment having already determined that it would be negative, despite what C believes and has alleged.

30. The allocated social worker told me very clearly that the concerns about C were not just one issue but were a combination and cumulation of concerns. The assessment identified a list of vulnerabilities about C at C259-C261. This lists a number of issues, and notes that many of the concerns are long-standing, for example her ability to manage challenging behaviour, potential to use physical

chastisement as a means of managing challenging behaviour, her ability to manage her own emotions safely, her ability to work effectively with professionals particularly when challenged about any concerns, and the lack of positive relationship between C and M and F which would make it difficult for C to promote and manage contact. The assessment concludes that there is a likelihood for the relationship between C and A's parents to become volatile. The assessing social worker confirmed these conclusions in her oral evidence to me, as did the allocated social worker.

31. They both accepted that communication from C to them had improved since the 12th of April meeting, but both noted that what C was contacting them about was not necessarily demonstrating an ability to put A's needs first. For example, their evidence, including their statements at C351-C372 and C373-C390, details numerous contacts to them from C in which C complained about things that M and F were doing, and C being repeatedly advised to contact the police in relation to some of the allegations that concerned physical abuse. However, for reasons that she has not clearly explained to me, C did not report her concerns to the police and seems to have just continued to contact the Local Authority. On C's own evidence it seems she accepts that it was M who contacted the police eventually. As the social workers told me, this supports a conclusion that C would not actually be able to take necessary action to protect A and would instead rely upon others to act on any concerns.

32. C accepts that there was an incident in early August when, to use her words, it all "kicked off" between M, maternal grandmother and C. The details of this (as told to the assessing social worker by C) are at C359-C360. It seems that M called the police, not C, and the incident resulted in C saying that she couldn't handle

someone like M. C seems to have told the social worker that the biological maternal grandmother's children were present for this incident, and C said that how M behaved was not okay for them and she did not want the maternal grandmother to lose her children. C was asked by the social worker how she would cope if this sort of thing happened again, and C said she would call the police. However, that is not what C did during this incident, she appears to have left it to M to call them. Curiously, by the time of giving me her oral evidence, C denied that there were any children present. She told me that they were taken inside and did not see what happened. That evidence completely ignored the fact that, on her own account, the children must have been present for at least the early stages of the incident and would have been present in the house when it was happening outside so they must have been aware of the incident.

33. One of the fundamental concerns about C is around her insight into M's issues and the impact of those on her ability to parent A safely. There is also C's own history with social services and the concerns about her own volatility and ability to engage positively with professionals if challenged about her behaviour. Apart from that, though, the social workers and Guardian are concerned that C does not either understand or accept the concerns about M in this case. If this is the case, it calls into question her ability to protect A from M.

34. C told me in her evidence that she did not understand what had led to A being removed from M's care. She accepted that she has had access to the Bundle and has had the benefit of legal advice and assistance to understand the evidence in that bundle, but it seems that she still doesn't really understand that the concerns about M are not just about substance misuse and risky relationships. It is difficult to see how C would be able to act to protect A from M if C doesn't understand the

range of risks that M would pose. Whilst it was submitted by Ms McElroy that this concern could be mitigated by an undertaking from C not to allow M to come to her house, or a non-molestation order preventing M from going to the house, and by any contact between M and A taking place either in the community or at a contact centre, it is difficult to see that C would be able to take prompt action to enforce any of those measures if she doesn't really understand or accept why M poses a significant risk of harm to A in other respects apart from drink, drugs or associating with risky individuals. Coupled with C's repeated failure to contact the police about concerns over the summer, despite being told again and again by social services that she needed to do that, it means that it is less likely that C would take prompt action to protect A from M if A were in C's care, I find.

35. C also told me that she thought the negative conclusion about her ability to care for A was simply because people thought she was too old. The assessment does not say that, nor did the social workers or Guardian in their evidence to me. C's age alone is not what has led to a negative conclusion in the viability assessment, as I have already noted there are many other areas of concern identified in that assessment. It is true that C's age is noted, but that is in conjunction with noting that C has a serious and chronic health condition which will not improve, and that C expressed doubts about her ability to care for such a young child at her age. C also told me, as she seems to have said to the social workers in various communications, that she will have her own family to help support her. It is not entirely clear which other family members would be involved since she has not provided much detail about this, but what C has said indicates that she would expect to rely heavily on her daughter, the biological maternal grandmother. Relationships between M and the maternal grandmother are difficult and have

been very volatile recently as I have noted, often involving C in that volatility. The maternal grandmother has also been negatively assessed as someone able to care for A, due in large part to the fact that the maternal grandmother has had to overcome significant challenges to enable her to parent her own children to a good enough standard without significant support from social services. The Local Authority concluded that, although the desire to care for A on the part of the biological maternal grandmother was a genuine commitment, taking on the burden of caring for A would potentially undermine the stability of care for her other children and *“would make an already challenging situation unmanageable”* (C116). It is therefore not clear that C would have as much family support as she claimed.

36. Having noted all the above in relation to C’s parenting capacity and risk of harm arising from her potential care of A, it is fair to note that there are considerable positives for A about a potential placement with C. C is A’s biological great-grandmother and would therefore provide him with a placement within his birth family, with all the benefits to his sense of identity that this would bring. It is also important to note that placement with C would enable A to grow up understanding the family background and culture and to directly experience it for himself. It is also clear that C desperately wants to care for A and, despite only having met him recently, her face lit up when she described him clinging onto her at the end of contact. The contact notes of the few times that C has seen A since she agreed to participate in contact at the end of July this year are broadly positive. However, as the allocated social worker told me, the last contact session was supposed to be equally divided between the maternal grandmother and C and yet this did not happen, and C sat outside the contact room until about 5 minutes were left in the session. C told me that she didn’t know the time when outside the room, but it is

not clear to me why she didn't realise how long she had been outside or make greater efforts to ensure that she didn't miss the time with A since she was the one who proposed the split with maternal grandmother going first. This also seems to have been tied up with C falling out with M and being concerned about whether M would be at the contact. As the allocated social worker told me, this also illustrates the potential impact of the wider maternal family conflict on A because of their failure to sort out this relatively simple issue.

37. There is also a question about whether C would be able to promote and support contact between A and F. It seems clear on the evidence before me that, although C says that she would do this at a contact centre, she has a very negative view of F and blames him for many of the concerns about M. It is difficult to see how C would promote A's relationship with F considering her negative views of him, even if she were to be willing to take A to supervised contact with F. It is also likely that restrictions on contact between M and A would also provoke further friction between M and C based on the acrimonious relationship that C herself has described over the past few months. It therefore seems more likely than not that this would provide another source of familial conflict to which A would inevitably be exposed; whether directly or indirectly matters little since either would be likely to have a significant impact on him.

38. I am also unclear, based on the evidence before me, whether C really would commit to caring for A for the rest of his childhood, or whether she hopes that M will address her issues and be able to care for A on her own. C has vacillated about her willingness to be considered as a carer for A as I have noted, but she has also vacillated about whether she is seeking to care for A on her own or in combination with M. Since the IRH it seems as if they have fallen out, based on

C's evidence, but it is not clear what might happen if they were to reconcile and what that might mean in terms of whether C might then hope that A could return to M's care. Coupled with the absence of understanding or acceptance by C of the full range of concerns about M, it does seem more likely than not that a resumption of a positive relationship between C and M would mean that C would then consider giving A to M. C did tell me that she would only do this if professionals told her that it was okay, but her history of reacting badly when challenged does not bode well for what might happen if professionals don't think that it is okay for A to return to M's care at that point.

39. It is also significant that M herself hopes to have A returned to her care in 2-3 years, I find. M has clearly made considerable efforts to address her issues and is to be congratulated on having found employment and to be contemplating making other changes to address her issues. But it is early days for M, as she herself very bravely accepts. It seems likely that C doesn't really understand quite how much work M must do, nor how long that might take since C doesn't understand or accept the full range of issues M has to tackle.

40. The Guardian also noted a further potential negative for A if placed with C since C was asking the Court to consider a Supervision Order to address some of the concerns. As the Guardian told me, this would mean that A would have a considerable level of professional oversight and involvement in his life which would conflict with his right to a private life. She was also concerned that there was too much uncertainty for A with such a care plan, which would not be robust enough to address the concerns around placement with C to provide A with the long-term security and stability that he needs. Even if such a care plan were to be supported by C undertaking not to allow M to have contact with A directly unless in a contact

centre, or by a non-molestation order to prevent M going to C's address, the Guardian did not consider that this would be robust enough to address the concerns and provide A with necessary stability and permanency.

41. The Guardian was also asked by Ms McElroy about work that could be done with C under a Supervision Order to improve C's understanding and insight into the risks posed by M. The Guardian, as I clarified as well, told me that whilst work could be done through a Supervision Order to improve this, C would be starting from a position of no understanding or insight. C would be doing any work from a very low starting point, which would mean that a lot of work would need to be done which would not be in a timescale that would be in A's welfare interests. It would also continue the need for considerable professional involvement in A's life, which the Guardian was very clear was not in A's welfare interests.

42. In terms of adoption as a possible outcome for A, there are positives and negatives about this option too. I know as a Family Judge that adoption is not a magic solution that provides any adopted child with a perfect outcome. The evidence of the allocated social worker and Guardian confirmed this. Adoption can be at risk of breaking down, and it would mean the severing of A's legal and psychological relationship with his birth family. It can also potentially mean that he loses the opportunity to have direct experience of his family's culture, which in turn can adversely affect his sense of self. These concerns are ones that M has very clearly articulated in her letter to me, partly because of having herself experienced the breakdown of an adoptive placement. However, as the Guardian told me in her evidence, a lot has changed about adoption since M was adopted, and adoption is moving to be more open with much more information about a birth family and some level of contact with the birth family also often maintained post adoption. The

Local Authority plan in this case is to seek prospective adopters who would be willing to support some direct contact between A and M, though if that is not possible within 2 months then they would look for other prospective adopters as I noted earlier. Whether or not there could be direct contact post adoption, the allocated social worker was clear that the plan would be for annual letterbox contact, and that both parents could be supported with that given their vulnerabilities. Of course, whether the parents would engage with that support at the time will be up to them and nobody can guarantee that they will engage and provide A with indirect contact as hoped.

43. Whether or not there is any contact between A and his parents post adoption, the allocated social worker and the Guardian were very clear in their evidence to me that A's identity needs can be met by life story work. This can include the provision of information and support to any adopters about his family culture too if A is placed with adopters who do not share his cultural heritage, as the Guardian told me.

44. The positives of adoption for A, as the social work evidence and the evidence of the Guardian shows, are that A is likely to have permanency sooner than later. The allocated social worker told me that A needs better than good enough parenting to address the trauma that he has suffered whilst in the care of M, something that adopters who have been properly assessed and who are properly supported would be likely to provide. The Guardian also told me that the foster carer had noted that when A first came to her, he would squeeze his eyes shut and cover his ears in reaction to loud noises or a child shouting, which in the Guardian's professional opinion was A reacting to previous experiences of volatility. Adoption would mean that A would not be exposed to the ongoing family conflict that seems to be a constant feature of the maternal family in this case and could potentially be

able to have some limited direct contact with his birth mother if any adopters are willing for this to happen.

45. Balancing the various positives and negatives of the two options that I have identified above, I have concluded that placement with C is not a realistic option. It would expose A to a considerable risk of harm arising from maternal family conflict, as well as C not being able to support A's relationship with F. It would require a considerable level of professional oversight and involvement in A's life which would not be in his welfare interests and would not provide the level of stability and security that A's welfare requires. This means that adoption is the only realistic option left for A at this point. As I have noted, adoption is not something that is entirely without risk nor the sort of magical solution that I think M fears it is seen as. However, it is at this point the only realistic placement option for A to be likely to have a stable and secure permanent placement considering the evidence I have considered in this case. It has been clear to me during this case how much A's parents love A and desperately want the best for him, and it has also been clear that C really wants the best for him too. Despite this, I have concluded that placement with C is not a realistic option and that A's welfare requires that he should be placed for adoption and his parents' consent to that should therefore be dispensed with.

46. I will therefore grant a care order and a placement order to the Local Authority in respect of A.



HHJ Eleanor Owens

APPENDIX A
FINAL AGREED THRESHOLD

The Court finds, that at the time protective measures were taken, namely on 25 September 2023, there were reasonable grounds to believe that A was suffering and/or likely to suffer significant harm, the likelihood of harm being attributable to the care likely to be given to him, that care not being what it would be reasonable to expect a parent to give to him.

The harm suffered of likely to be suffered by the child is in the categories of emotional harm and neglect, on the basis of the following:

1. M has a diagnosed learning disability and a number of diagnoses including Autistic Spectrum Disorder, ADHD and Anxiety Disorder. In order to meet her own basic needs, she requires a lot of regular professional support. There is therefore a risk to A of suffering both harm and neglect in her sole care. For example:
 - a. M requires support to manage her finances and budget for essential items such as food. She has been known to give money to F causing her to be short of funds to meet both the needs of herself and her then unborn baby.

- b. M requires encouragement and prompting to maintain a clean home environment.
 - c. M is diagnosed with anxiety disorder and cannot complete daily tasks, such as attending dentist appointments and using public transport, as a result of her anxiety.
 - d. M is diagnosed with ADHD and ASD, and requires daily support with her relationships with others.
2. M suffers with poor mental/emotional health, is not able to regulate her emotions without support, and behaves impulsively for example:
- a. M is diagnosed with attachment disorder, she attaches great significance to romantic relationships and deterioration in those relationships causes her emotional distress. On 28/06/2023 M said that if she were not able to be in a relationship with F she would “top herself”.
 - b. M becomes angry and hostile quickly and becomes verbally aggressive with adults around her.

At such times it would be frightening and confusing for A if his caregiver is not providing him with consistent and predictable responses, causing him

significant emotional harm. M's behaviour is also likely to cause A's needs not to be met.

3. M is vulnerable to sexual and emotional abuse and is not able to identify risks other people may pose to her and A. This leaves A at risk of harm by witnessing mistreatment of the M, and being exposed to risky individuals inadvertently by M.
4. M is not able to prioritise A's and her own needs over her relationship with F. As a result A is likely to experience neglect in M's sole care as she would not respond consistently and quickly to his needs. For example:
 - a. On 28/06/2023 M said that if she was not allowed to be in a relationship with F she would "reject" the baby.
 - b. On 13/06/2023 M refused to return to her accommodation because she felt unsafe with the other resident. M then stayed with F in the home of an unsafe adult which placed her and unborn baby at risk of emotional abuse and exposure to unsafe adults and substance misuse. M says she did not know about the risks posed by the individual at the time.
 - c. On 16 or 17/09/2023 M was on the phone to F a lot and struggled to wake up to feed A as she was so tired.
 - d. On multiple occasions on 16 to 18/09/2023 M did not wake to respond to A crying and midwives had to settle A.

5. F suffers with poor mental health and behaves in an emotionally abusive way toward M. For example, he harmed himself as a result of an argument between himself and M [SW report for ICPC 29.06] and is emotionally dependent upon M. This would be frightening and confusing for A if his caregiver is not providing him with consistent and predictable responses, causing him significant emotional harm. F's behaviour is also likely to cause A's needs to be neglected.

6. F does not have stable accommodation of his own, he has not engaged with support to maintain his housing and lived for a period of time in the home of the individual identified as a risk (see above paragraph 4b) despite knowing the risks the individual posed to himself and unborn baby. A is likely to suffer significant harm – physical, emotional and neglect – if his caregiver is unable to provide him with shelter and stable accommodation.

7. F poses a risk to children, he is currently (at the date of this document) under police investigation and was subject to bail conditions including that he may have no unsupervised contact with any child under the age of 18 in order to prevent him from exposing any child to risk of sexual exploitation. This prevents F from caring for A at this time and would place him at risk of harm by exploitation.