

Neutral Citation Number: [2024] EWFC 316 (B)

Case No. SD23C50183

**IN THE FAMILY COURT AT SUSSEX**

**Before : HHJ EARLEY**

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**In the matter of P (A Child)**

Ms Troy instructed for the Local Authority, Brighton and Hove City Council

Ms Folkes instructed for the Mother

Ms Le Prevost instructed for the Father

Mr Chaloner instructed for the CAFCASS Guardian, Ms Ingledew

Hearing dates: 26, 29, 31 July and 1 August 2024

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**APPROVED JUDGMENT**

This judgment was handed down remotely at 10.30am on 22 August 2024 by circulation to the parties or their representatives by e-mail and thereafter by release to the National Archives

**IMPORTANT NOTICE**

**This judgment was given in private. The court permits publication of this judgment on condition that (irrespective of what is contained in the judgment) in any published version of this judgment the anonymity of the child and members of their family must be strictly preserved. All persons, including the parents, their legal representatives, legal bloggers and representatives of the media, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court.**

**HHJ EARLEY:**

1. These proceedings concern a little girl who has just turned one year, I will refer to her as P. P is currently in a foster care placement and has regular supervised contact with both her parents. P's proceedings

started very shortly after she was born and therefore, P and her family have been waiting her whole life for decisions to be made about her future.

2. In accordance with the 26-week timetable for public law cases, these proceedings should have finished in February 2024, however there were delays caused by a variety of factors, including a significant change in the local authority care plan for P and a need for the father to undergo a succession of assessments, following a serious deterioration in his mental health.
3. P's mother is in her thirties. She had a very traumatic and abusive childhood which has impacted on her mental health and functioning and she has been diagnosed with anxiety and depression, with elements of PTSD. She is currently being assessed for ADHD. P is her third child. Her older children, I will refer to as L and M, are aged 10 and 6. They are living with L's father following care proceedings that concluded in February 2023. The mother has supervised contact with L and M. Within those proceedings the local authority concluded that the mother was not able to meet L and M's needs and they would not be safe in her care. Whilst the mother did not accept this conclusion, she did not challenge the plan for L and M not to return to her care, accepting that they were settled with L's father. By the end of those proceedings the mother was pregnant with P and, no doubt, focused on her wish to be able to care for her new baby. Just a few weeks before the final hearing for L and M there was a violent incident between P's parents involving the police which, the mother reported to L and M's Guardian, left her *struggling to cope*. The mother asserts she is now stable and drug free and she wishes to resume care of P immediately. The mother attended days 1 to 3 of this final hearing in person and was provided with special measures by way of a secure entrance and waiting area and screening in court, to ensure she did not come into contact with the father. This was in light of the past volatility in their relationship and cross allegations of abuse and harassment. The mother did not attend the final day in person, stating she was unwell; however she did attend by way of video link and there was no application to delay the proceedings for her attendance in

person.

4. P's father is in his late twenties; P is his first child. His paternity was confirmed by DNA testing within the proceedings. Prior to his relationship with the mother, he had no involvement with child protection agencies; however, he was involved in assessments concerning L and M given his relationship with the mother. In 2020 he experienced psychosis as a result of illicit drug use and was detained under s.2 of the Mental Health Act 1983. He did not engage with the intervention plan following his release and was discharged from mental health services. In March 2024 he was again detained in hospital following a deterioration in his mental health and presenting with delusions; he remained in hospital for two weeks and was discharged upon improvement, having taken his prescribed medication. There was a further deterioration in his mental health in May 2024 which resulted in the originally listed final hearing having to be adjourned to enable a capacity assessment to be undertaken. The father wishes to be further assessed to care for P. He has made an application for a residential assessment at Jamma Umoja which would take 12 weeks to complete. As an alternative he has proposed that he move into P's current foster placement in order that there can be an assessment of his capacity to care for P. He has not presented a positive case that P should move to his care now. The father was supported by his sister throughout the final hearing.
5. The local authority have concluded that P would not be safe in the care of either of her parents, for reasons I will expand on later in this judgment. Given P's young age the local authority therefore ask the court to approve a plan of adoption for P in order that she can be placed with adopters who, in due course, can become her legal family and care for her throughout her life. P's Guardian has reached the same conclusion and supports the plan of adoption.

### Background summary until P's birth

6. The longstanding concerns in relation to the mother's parenting are best set out in a summary of the threshold findings I made at the conclusion of proceedings for L and M. I concluded that L and M had suffered significant emotional harm and neglect because the care their parents gave them was abusive and inadequate. In relation to the mother, the findings I made included the following:

(i) the mother's home was unhygienic and cluttered for long periods, with one of the children not able to access their bedroom.

(ii) the mother would spend long periods in bed and the children were not consistently supervised, washed, fed or provided with clean clothes.

(iii) the children were not consistently taken to health appointments.

(iv) there was no routine for M and M lacked proper stimulation.

(v) the mother used high levels of cocaine and cannabis between April and September 2022; her home often smelt of cannabis. She failed to disclose her cocaine use until testing took place.

(vi) the mother's relationships with the fathers of L and M were volatile and acrimonious. The mother breached a safety plan for the children to have no contact with M's father. The safety plan was in place following his conviction for violent offences.

(vii) the mother's mental health (depression, PTSD and anxiety) negatively impacted on the care she provided the children.

7. P's parents' relationship commenced in Spring 2022. Within assessments relating to L and M the mother reported that this relationship was positive and there was no domestic abuse. Both parents were clear that they wanted to co-parent P together, once born, and were committed to stopping their use of illicit drugs and alcohol, which were a feature of their relationship. However, in February 2023 there was an incident which resulted in the police attending the father's home address. The mother was located in an intoxicated and highly distressed state; at the time she was 15 weeks pregnant with P and had been drinking excessively and using cannabis. The parents have made cross allegations that the other was violent and aggressive that night; both accept that there was a physical altercation between them and the mother ended up hurt and on the floor and she was taken to hospital.

8. The parents report that their relationship ended a few days before this incident took place. However, the parents continued to make cross-allegations of harassment and abuse of each other in the months that followed. Once these proceedings were issued the parents clearly stated that their relationship was over and they wanted to parent P independently of each other.
  
9. Despite the mother's professed commitment to make changes to her life to enable her to parent P once born, her actions between February and August 2023 suggested otherwise. In May 2023 the police attended her home in response to an allegation that she was harassing the father. The police describe the home as *filthy with clear signs of cannabis and alcohol being consumed*. The mother told the police she was using cannabis, despite being pregnant with P. During a meeting with social workers in June 2023 she reported having stopped using cannabis in March 2023. However, when a sample of her hair was taken for drug testing a few weeks later she reported using cannabis daily. She also reported not having used cocaine since November 2022. The analysis of her hair sample was positive for the active use of cannabis between March and April 2023 and the possibility of later ongoing use could not be excluded or confirmed. Testing was not carried out for cocaine use at that stage.
  
10. The father was also tested for illicit drug use prior to P's birth. At the point the sample was taken in June 2023 he reported that he had last used cocaine in December 2022 and last used speed in August 2022. He reported daily use of cocaine until cessation. The test results were supportive of a conclusion that there had been active cocaine use between April and June 2023. The testing company acknowledged that the positive results may be supportive of a reduction in use and a recent cessation.

#### Events since P's birth

11. The local authority initial care plan was for the mother and P to live together in the community, supported by an interim supervision order and a safety plan. The local authority acknowledged that this plan was

high risk, give the mother's previous parenting of L and M. However, the local authority did not consider it was proportionate to seek to separate P from her mother and acknowledged the progress that the mother had made in the period leading up to P's birth, in particular she had maintained some improvement in the home conditions, engaged with professional support services and was reporting full abstinence from illicit drugs and alcohol.

12. The matter came before a deputy district judge for first hearing on 4 September 2023. The Guardian was not supportive of the initial care plan, given the risk that P would not be safe in her mother's care in the community. The Guardian had visited the mother at home a few days before and was concerned that the home conditions had deteriorated and that the mother has been *emotional, upset and shouted* following a recent incident involving the father speaking to her friend on the phone. Having heard submissions, the judge was in agreement with the Guardian's analysis and urged the local authority to identify a parent and child foster placement where the mother's care of P could be supervised and supported.
13. A suitable foster placement was identified and the mother and P moved there on 19 September 2023 and an interim care order was made the same day. They remained in this placement until 13 November when they moved back into the community. During the mother's time in placement she was loving and caring towards P and able to meet her needs for feeding, bathing, stimulation and warmth. There were however concerns about the mother's ability to ensure a routine and to organise her life in a way that was compatible with parenting a young baby. The mother was encouraged to return to her home each day and to work with professionals to remove the clutter and improve the home conditions. The mother was repeatedly late returning to the foster care placement, reporting difficulties with public transport and time management.
14. The local authority Baby Team undertook an initial assessment between P's birth and 2 November 2023. This assessment concluded that the mother had shown commitment to P and working with professionals to

make changes to enable her to care appropriately for P. The report recommended that the mother and P return to live at the mother's home address and further assessment take place of the parents' individual abilities to care safely for P. The report again acknowledged that this plan had *very significant potential risks*, in particular: conflict between the parents, potential for ongoing and concealed drug use and lack of progress addressing the clutter in the mother's home address.

15. The parents signed a succession of written agreements, aimed at ensuring P's safety in her mother's care. Central to these agreements were the following points: P's needs to remain the focus of both parents, no use of drugs or alcohol, full engagement with professionals, including substance misuse services, no contact between the parents, including no messaging, and P's contact with her father to be arranged and supervised by the local authority contact team, progress to be made on clearing the home. The mother signed up to these expectations, which also included a commitment to being honest at all times. In December the agreement was updated to allow for the father to have contact with P supported by his family members and for there to be limited contact between the parents, solely in relation to the arrangements for P.
16. It later transpired that the parents were in contact with each other in breach of the written agreement dated 13 November 2023. Within a week of the mother and P returning to the community, the father stayed overnight with the mother and P, at the mother's home, The parents accept they resumed a sexual relationship over this period and the father was spending time with P. There is a dispute between the parents as to how frequently this contact took place, however it was concealed by both parents until January 2024.
17. An important element to the safety plan, under which the mother was caring for P in the community, was her commitment to remain abstinent from illicit drugs and alcohol and engage with relapse prevention services. During the period from November 2023 to January 2024, when the mother was caring for P at home, she repeatedly did not attend sessions at POCAR (16-week substance support course) stating she

was unwell or missing appointments due to running late. Between December 2023 and June 2024 her attendance was only 50%.

18. In late December and early January 2024 further drug test results were received which raised significant concern that the mother had continued to use cocaine and alcohol since P's birth, throughout the time in placement and whilst caring for P in the community. The mother challenged the accuracy of those results, maintaining that she ceased cocaine use in November 2022 and had only consumed minimal amounts of alcohol. Further questions were asked of the testing company who were clear in their response that the hair strand test results were not consistent with the mother's assertions. I will return to these test results later in my judgment.
19. The matter returned to court for an urgent hearing on 15 January 2024 and the court approved P's removal from her mother's care and she was placed in the care of the foster carer who provided the parent and child placement and was thus a familiar person to P. P has remained in this placement since that time with regular supervised contact with each of her parents.
20. In advance of the hearing on 15 January 2024 the father informed the Baby Team worker, Mr Heritage, that P had sustained injuries in the care of her mother, including bruising to her ribs and sores to her bottom. The father had photographs of these injuries taken between 18 December 2023 and 4 January 2024. When asked why he had not shared these concerns with any professional or sought medical attention for P, the father stated that he did not trust the social worker.
21. Further drug testing was undertaken of the mother and at her request an alternative testing company was approved. A sample of the mother's hair was taken in February 2024; at this date the mother reported ongoing use of cannabis and a low level of alcohol use. The results were consistent with the ongoing use of cocaine between August 2023 and February 2024, with an increase in usage in the later months and use of cannabis between August and October 2023. The results were consistent



with the mother's reporting of low-level alcohol use.

22. In May 2024 the mother was given the opportunity to enter a residential rehabilitation programme to address her long-standing substance misuse issue and support her reported abstinence. However, the mother did not take up the offered place, stating she was *not ready as her belongings were not packed up*. In discussions with the rehabilitation team the mother reported last using cannabis in March 2024 and using as a *means of dealing with difficult situations*.
23. On 19 March 2024 a report was prepared by the father's consultant psychiatrist within the NHS. The report states that the father's mental state had deteriorated over the last 4 months, resulting in him repeatedly presenting at A&E in early March with the support of his sister. The report sets out that the father has a diagnosis of Bipolar Affective Disorder and was suffering from a manic episode with psychotic features (reporting he was a prophet, the son of God, could control the weather and could take people's breath away), lacked insight into his illness and was refusing medication (other than medication to assist with sleep).
24. The father was discharged from hospital on 26 March 2024 following improvement in his mental health and his agreement to take prescribed medication; however, he soon stopped taking the medication after discharge. As a result of his ill health the father was not able to attend contact with P for 5 weeks and this was upsetting for him as contact is a positive experience for both P and her father. Contact resumed in April 2024 and went well for P; however the father expressed some further delusional beliefs during contact time, stating he had missed contact as he was engaged with military training. During a contact session in early May, which was observed by P's Guardian, the father switched from being engaged and focused on P, to expressing delusional beliefs relating to working for the secret service, being the King and having magic powers.
25. Following this contact, arrangements were made for the father's sister to join his sessions of contact. She is a familiar person to P and is able to

offer support to the father in his care of P and interactions with professionals. At the start of proceedings she put herself forward to care for P long term and there was a positive initial assessment; however she withdrew from the assessment process, stating that she needed to focus on her own daughter and was concerned about managing the mother alongside caring for P.

26. The father has undergone two capacity assessments to establish whether he has the ability to understand these proceedings, receive advice and give instructions to his legal team. The first assessment took place in April 2024 shortly after his discharge from hospital and simply confirmed that the father had capacity, although the psychiatrist advised that this may change were he to use illicit substances, stop taking his medication or suffer periods of stress.
27. The second assessment was undertaken in June 2024 following a further deterioration in the father's mental health, as observed in contact, and his solicitors raising a professional concern as to his capacity to give instructions. The father met with Dr Iyer, consultant psychiatrist, in person. Dr Iyer concluded that the father continued to have capacity to instruct his legal representatives and did understand the nature of these proceedings and the potential options for P. When asked about his behaviour in contact the father told Dr Iyer that he did not recall this. The report also set out that the father does not agree to take medication, however he was willing to engage with psychological therapy. Dr Iyer advised that the father is no longer psychotic, however he does present with low grade paranoia and suspiciousness and there is a high chance of relapse were he to return to illicit drug use in the future.

### Legal Principles

28. The burden of proof for any disputed facts is on the local authority and the standard of proof is the balance of probabilities. The local authority seek Care and Placement Orders for P. These orders are the most serious orders the Family Court can make and thus can only be made where the facts justify it, where it is in the child's best interests and where such orders are both necessary and proportionate.

29. Because the local authority's primary plan for P is adoption, section 1(2) of the Adoption and Children Act 2002 requires that the welfare of P *throughout her life* to be the court's paramount concern. I must also consider the welfare checklists in section 1(4) of the Adoption and Children Act 2002 and s. 1(3) of the Children Act 1989, particularly in this case P's needs and the capacity of her parents to meet her needs, the effect on her of ceasing to be a member of her original family and becoming an adopted person, the risk of harm and the likelihood and value of ongoing relationships with her family.

30. Family life for P and her family would change in the most fundamental way for the rest of their lives if she were placed for adoption. Thus, the court has to be satisfied that nothing else short of adoption will do: *Re B (A Child) (Care Proceedings: Threshold Criteria)* [2013] UKSC 33, *Re B-S (Children) (Adoption Order: Leave to Oppose)* [2013] EWCA Civ 1146, *Re R* [2014] EWCA Civ 1625. As Baroness Hale said in *Re B*

*“the test for severing the relationship between parent and child is very strict: only in exceptional circumstances and where motivated by overriding requirements pertaining to the child's welfare, in short, where nothing else will do.”*

This reflected what the Strasbourg Court said in *Y v United Kingdom* (2012) 55 EHRR 33, [2012] 2 FLR 332, para 134:

*“family ties may only be severed in very exceptional circumstances and ... everything must be done to preserve personal relations and, where appropriate, to ‘rebuild’ the family. It is not enough to show that a child could be placed in a more beneficial environment for his upbringing. However, where the maintenance of family ties would harm the child's health and development, a parent is not entitled under article 8 to insist that such ties be maintained.”*

31. All that said, there is no legal presumption or right for a child to be brought up within her family. The only right is *“for the arrangements for the child to be determined by affording paramount consideration to her welfare throughout her life (in an adoption case) in a manner which is proportionate and compatible with the need to respect any ECHR Art 8*

*rights which are engaged*”: *Re W (A Child)* [2016] EWCA Civ 793 (McFarlane LJ as he then was).

32. When analysing all the placement options for P, I need to have in mind the principles from *Re W (A Child)* [2013] EWCA Civ 1227 and in particular as per Ryder LJ at §81: *“It is ... not open to the local authority within proceedings to decline to identify the practicable services that it is able to provide to make each range of placement options and orders work in order to meet the risks identified by the court ... If the local authority were able to decline to join with the court in the partnership endeavour of identifying the best solution to the problem, then there would be no purpose in having a judicial decision on the question raised by the application... It is only by such a process that the court is able to examine the welfare implications of each of the placement options before the court and the benefits and detriments of the same and the proportionality of the orders sought.”*
33. I would also need to be satisfied, before I could make a placement order, that P’s welfare requires that the parents’ consent be dispensed with pursuant to section 52(1) of the 2002 Adoption and Children Act.
34. A conclusion that a witness has lied about one matter does not inevitably and inexorably mean they have lied about all matters, including the main issue at stake. Witnesses lie for many reasons, for example through shame, fear, humiliation, loyalty, panic, distress and confusion. A lie does not go to support an allegation unless it is found on evidence to be a lie, was deliberate, it related to a material issue and was motivated by desire to avoid the truth.
35. As the father is requesting further assessment, which would result in a further extension of these proceedings, I have reminded myself of the principles set out in *Re S* [2014] EWCC B44: *These appraisals must be evidence based, with a solid foundation, not driven by sentiment or a hope that 'something may turn up'. Typically, three questions will have to be addressed. First, is there some solid, evidence based, reason to believe that the parent is committed to making the necessary changes? If so, secondly, is there some solid, evidence based, reason to believe that the parent will*

*be able to maintain that commitment? If so, thirdly, is there some solid, evidence based, reason to believe that the parent will be able to make the necessary changes within the child's timescale?*

### Threshold

36. On 26 April 2024 I determined that threshold was met in respect of P at the date proceedings were issued, a few days after P's birth. I was satisfied that upon her birth P was likely to suffer significant harm in the care of her parents as a result of the following matters:

- (i) the harm suffered by L and M in the mother's care and the mother's lack of insight into her responsibility for this harm;
- (ii) the parents' long standing use of illicit substances and their lack of honesty about their usage;
- (iii) the volatile relationship between the parents, the incident of violence in February 2023 and the ongoing cross allegations after separation;
- (iv) longstanding concerns about the mother's neglect of her home conditions;
- (v) the mother's vulnerability to periods of poor mental health, depression and anxiety.

37. A number of factual matters remain in dispute between the parties.

These can be summarised as follows:

- (i) the extent of the parental breaches of the safety plan in November 2023;
- (ii) whether the volatile nature of the parents' relationship will impact on their future care of P;
- (iii) whether the mother continued to use illicit drugs, namely cocaine and cannabis, after P's birth and whilst caring for P in the foster placement and in the community;
- (iv) whether the mother was avoidant of professionals before P was born;
- (v) the care the mother has provided to L and M since the end of their proceedings.

### Witnesses and Assessments

38. During the course of the final hearing I heard evidence from the assessing social worker, the allocated social worker, the mother, the paternal uncle, the father and the Guardian. I also reviewed the evidence in the bundle which runs to over 2000 pages and includes detailed foster care and contact records and police disclosure.
39. The local authority undertook a Strengthening Families assessment before P was born. The purpose of this assessment was to explore the harm suffered by L and M and identify the support the mother would need to enable her to care for P. Twelve parenting sessions were undertaken with the mother before P was born to try and address the local authority concerns. The assessment concluded that the mother expressed commitment to parent P, however she struggled to accept responsibility for the significant neglect of L and M. The father was not assessed before P was born, as he was querying paternity and wanted a DNA test before he committed to the baby. The assessment report noted ongoing conflict between the parents and a high level of abusive texts and phone messages between them, despite both reporting a separation.
40. In his oral evidence the assessing social worker, Mr Heritage, explained that between P's birth and the conclusion of his report in January 2024 he met with the mother almost weekly. That included visits to her in placement, at home and sessions in the community. Mr Heritage was concerned that throughout his sessions the mother was distracted by issues relating to the father and ongoing conflict with him; he explained that there would be a succession of crises between the parents and ongoing cross allegations of harassment, which dominated his work with both parents. In his words he was constantly trying to *put out the fires* rather than focusing on P and the changes the parents needed to make to provide her with appropriate care.
41. Throughout his work with the mother Mr Heritage was concerned that she was not able to make progress on de-cluttering her home and after 5 months the spare bedroom, which was to be P's room in time, remained full of boxes and bags and was not habitable. This was despite the mother being offered professional support to address the issue and

having support from L's father and purporting to have support from her brother. Mr Heritage was also concerned that the mother was evicted from her home in January 2024 and had been served with an eviction notice, but failed to inform the social work team about this until the last minute. This prevented the local authority from planning to support the mother in housing P and Mr Heritage considered this was a continuation of the pattern of the mother living in chaos and not being open with professionals about her needs for support.

42. Mr Heritage was an impressive witness who acknowledged the many positives P's parents have to offer her. He rightly acknowledged the love they have for P and their ability to show P affection and ensure her contact time is positive. Fundamentally however, he was clear that P would not be safe in the care of either parent. I am satisfied he worked exceptionally hard to facilitate change in their capacity to safely parent P and to reduce the conflict in the parental relationship. However, the work he was doing with the parents was wholly undermined by their dishonesty in relation to resuming contact with each other in November 2023. I was struck by Mr Heritage's evidence as to the father's duplicity in complaining angrily about not being allowed to care for P overnight, at the same time he was secretly staying with P and the mother in breach of the written agreement.

43. Mr Heritage also expressed a high level of concern for the father's actions in failing to report the injuries he saw to P. It was on 10 January during a planned visit that the father told Mr Heritage about these injuries and showed him photographs that he had been taking since 18 December. I accept Mr Heritage's evidence that, such was his level of concern, that had he seen the injuries in person at the time he would have arranged a Child Protection medical for P the same day. He tried to explore with the father the reasons why he did not take P for medical attention, or report his concerns to any professional; the father's response was that he did not trust the social worker as she was *a liar*. The social work team visited P the same day and there was no bruising or severe nappy rash; however, there was some evidence of healed wounds on her right buttock. P was examined and weighed by the

health visitor on 2 January and there were no concerns.

44. I accept the evidence of Mr Heritage that he had clear conversations with both parents about the impact on P of the volatility and hostility in their relationship and that throughout his work they both remained in a cycle of creating conflict with each other, with no insight into how this would impact on P and her emotional wellbeing. The social work team tried to mediate between the parents and encourage them to focus on P and not the issues they had with each other. I accept that the written agreements were clear and am satisfied that the parents both knew that they were not to have contact with each other, other than for planned handovers for contact time from December onwards. I agree with Mr Heritage that the significant dishonesty of the parents, in spending time together (including overnights) in breach of the safety plan, undermined the work he was doing with them and highlighted their lack of insight into the risks the volatility in their relationship presents to P.

45. Mr Heritage did not support an extension of the proceedings to enable the father to be assessed to care for P in a residential unit. He was clear that the father has the ability to provide basic care to P and has positive support from his family. A residential assessment will not address the fundamental issues of his mental health and his dishonesty with professionals. Mr Heritage acknowledged that the father's mental health crises do not, in and of themselves, rule him out as a carer for P, however he was concerned that the father was not engaging with his treatment plan and lacked insight into the impact this may have on his parenting of P.

46. Ms Gander is the allocated social worker for P and concluded that adoption is the only safe plan, based on Mr Heritage's assessment and the evidence gathering since P's birth. Ms Gander does not support further assessment of the father and does not consider a residential assessment would serve any useful purpose in determining whether P could be safely cared for in her family.

47. Ms Gander accepted that the mother's basic care of P was good enough when in the foster care placement, although there remained concerns



about the levels of chaos in her life and her inability to implement a routine for P or address the state of her home. Ms Gander accepted that there were no professional sightings of the mother using drugs or being under the influence of drugs after P's birth. However, there was a home visit in early January 2024 which noted that the mother's home smelt of cannabis. Ms Gander also noted a possible link between the mother's chaos in placement, in terms of poor time keeping, lack of planning and constant need to borrow money from the carer, to her ongoing purchase and use of cocaine as suggested by the repeat drug test results.

48. In relation to the father, Ms Gander acknowledged that he expressed frustration about what he perceived as slow progress in his relationship with P. Ms Gander explained that P had many changes in her life between birth and November and, whilst the social work team were open to progressing to P staying overnight with her father, they felt this needed to be taken slowly. Whilst acknowledging the father's frustration Ms Gander was clear that his decision to visit the mother's home and stay overnight with P and the mother was not justified. Ms Gander was concerned that neither parent thought about the risk this presented, either to themselves or to P. Ms Gander confirmed that the mother only told her about the breach of the written agreement in response to the father making allegations about injuries to P. When the father spoke to Ms Gander concerning these injuries, he stated he was *collecting evidence* against the mother. These concerns were shared with the mother and the next day the mother told Ms Gander the father had stayed at her address on two consecutive nights and showed her a photo of the father asleep in her bed with P.

49. In her oral evidence the mother maintained that she has not used cocaine since November 2022 and ceased cannabis use in March 2023. She could not explain the ongoing positive hair strand tests for cocaine, other than stating that the testing is not accurate. She asserted that she is fully engaged with drug support services and has a helpful key worker and is still hopeful of getting a place at a rehabilitation unit in order that she can get assistance with *regular testing, therapy and groups, to prove not using drugs*. She also asserted that it would not have been possible for her to use cocaine when caring for P, either in the

placement or once she returned home and she constantly busy with travel and meetings with professionals. She rejected the suggestion that her chaotic behaviour in placement was caused by her use of drugs and whilst she accepted she could be disorganised, suggested that this may be linked to ADHD for which she is undergoing assessment.

50. In relation to her relationship with the father, she accepted she sent him emails and messages in October and November 2023, in breach of the safety plan, but denied these were either abusive or suggesting they resume their relationship. She stated by the time she left the foster care placement in November the parents were exchanging messages and they were both willing participants. The mother struggled to explain her decision making around the father coming to her home in November 2023; she stated she wanted closure following the incident in February 2023 and *why he attacked me*. She stated he came for the day and then stayed for the weekend. She stated the weekend ended badly as he told her he was having unprotected sex with other women. The mother showed no insight into the risks to herself or P from having the father in her home for a weekend; this is despite claiming he attacked her in February 2023, when she was pregnant, and that he had harassed her and made false allegations since their separation. The mother denied the father's assertion that he had stayed over at her home on many other occasions during the time she and P were in the community. She did accept that she again breached the written agreement by asking the father to care for P in December when she had a meeting with her drug support worker, as she did not want to use the creche facility.

51. The mother accepted that these secret arrangements were in breach of the agreements she signed upon leaving the foster care placement. She stated she kept it a secret and did not tell anyone, including her brother and mother, as she feared it would be *used against us*. The mother denied any link between the father reporting injuries to P on one day, and her reporting the breaches of the agreement the following day; she stated this was just a coincidence. She denied causing any injuries to P, either deliberately or by neglect. She explained that P did get regular nappy rash, which she treated with cream and changed the brand of nappies she was using. She asserted that the photos produced by the

father have been edited or photoshopped and the father was lying about injuries to P.

52. The maternal uncle, K, was assessed as a potential carer for P in January 2024; however, the assessment was negative, concluding that he was unable to prioritise P's needs over those of his sister. I heard evidence from K in March 2024 and as part of the final hearing. In March I dismissed the application for an independent social work assessment of K determining that further assessment was not necessary and would not bring about a different outcome to the local authority assessment.
53. During the final hearing K gave evidence in support of the mother's wish to resume care of P. He confirmed that he currently sees the mother every few weeks, but felt he could visit every day if P was in her care. He has a full-time job, and works long hours, so it is difficult to see how this is workable. When asked about the mother's drug test results within these proceedings, he was clear that he does not consider hair strand testing to be reliable; he expressed the belief that the mother had not taken the amount of cocaine shown in the testing and he later stated that the mother told him that she had not taken cocaine *in that amount*. He stated that the mother does not pose any risk to P and whilst he clearly wants to support his sister, he did not demonstrate any understanding of the harm she caused L and M and the risks she presents to P.
54. The father underwent a cognitive assessment in June 2023 which clarified that he has a low average IQ with no significant impairment, however he struggles with his working memory. The father was questioned appropriately and given appropriate breaks in his evidence as times when he became upset or struggled to focus.
55. In his evidence the father denied fabricating any of the evidence regarding injuries to P. He has produced some photographs, however it is not possible for me to draw conclusions from these about the severity of P's nappy rash or any potential injuries. The father stated that he raised concern with the social worker and the mother about P's nappy

rash and was rebuffed; he did not feel his concerns were taken seriously. When asked why he did not take P for medical attention or raise the matter with a professional before 10 January he stated he was *gathering evidence against the mother*; he failed to see that this placed P at risk of further harm. He acknowledged that he attended a GP appointment with the mother and P in early January 2024, however he did not raise his concerns during this consultation or use the opportunity to seek medical attention or to obtain advice for his baby daughter.

56. In relation to his mental health, the father confirmed that he is not taking his prescribed medication. He explained that this causes him side effects he does not like. The father was clear that he does not accept there is any risk from not taking his medication and expressed that does not consider there is a risk of future relapses if he has the right support. He feels that the episode of psychosis in March 2024 was triggered by the stress of these proceedings and would not re-occur if he was caring for P. He explained that he was aware his mental health was deteriorating in March 2024, as he was starting to lose his temper and did not feel right. He does not recall expressing any delusional beliefs during contact time in May 2024.

57. When asked about the diagnosis of Bipolar Affective Disorder, contained in the medical report from March 2024, the father stated he was not aware of this diagnosis. I asked him about information contained in a *Mental health risk assessment and management plan* from March 2024, which included that he was a risk of violence and aggression to others, as he had made verbal threats to kill and used physical violence on another patient whilst sectioned. The father told me he had not read this report and did not accept it was accurate. I asked him to clarify reference in Dr Iyer's report to him self-reporting *anger issues*. Again, the father told me he has not read this report, but he accepted he had said this to Dr Iyer. When I asked him what he meant by *anger issues*, he spoke of *getting angry and punching a wall*; he could not explain when or how often this occurred. I note in L and M's proceedings, there was a report of the father punching a hole in a door in the family home and this causing M fear and distress. At no point in his assessment sessions

with the social worker team did the father speak about his anger and any support he would need to manage this whilst parenting P.

58. I am concerned that the father has chosen not to read important material relating to his mental health and that he was not aware of his diagnosis of Bipolar. The father accepted that he had been sent documents by his solicitor and initially suggested he read everything he was sent, but then commented he did not as it was *too much*. The father stated he is currently on the waiting list for therapy through his GP; when asked what the therapy was to address, he could not really tell me why he wanted therapy or why this had been recommended. I have no information from the father's GP about the referral or the waiting time. Dr Iyer advised that the father engaging in psychological therapy *could help in gaining more insight into his mental health symptoms and his need for medication if it worsens*.
59. The father accepted he has a history of drug and alcohol misuse. Testing undertaken in December 2022 with regards to L and M was positive for cocaine, cannabis and excessive alcohol; he confirmed he accepted those results were accurate and explained in his written statement that he *spiralled out of control* after he met the mother in April 2022. He also accepted that he was not honest with children's services in relation to his own and the mother's drug use in the proceedings for L and M; including the period the mother was providing care to those children. He stated that he ceased drug use in December 2022, but accepted a relapse and using cocaine in September 2023; he continues to drink socially.
60. In his oral evidence, the father also accepted that his relationship with the mother had been volatile in the past, but stated this would not be an issue in the future, as he would use a third party to deal with handovers. In my judgment this response showed very limited insight into the conflictual issues in their relationship or the emotional enmeshment between them. In relation to the events of November 2023, the father was honest that if the mother had not told the social worker about their meetings, he would have kept this a secret. He explained that he and the mother discussed it and had an agreement to *keep quiet*; although he

knew this was *not a good idea*, he *went along with it*. He claimed to have been to the mother's home on seven separate occasions to see P, including the weekend where he stayed over. He stated that the parents had sex on some of those visits, both over the weekend and on other visits.

61. Shortly before the final hearing the father was asked by the Guardian about his current relationship status, and told her that he is *seeing someone*. This person has a young daughter and lives locally; they have known each other about 7 months. The father refused to tell the Guardian the name of this person or her child, stating he is not in a relationship with her. In evidence he did say he would tell me (the judge) her name; of course, I am not in a position to undertake any safeguarding checks on individuals and this would need to be done by the social work team. The Guardian was, in my judgment, rightly concerned that the father's unwillingness to share this information was indicative of his inability to work openly with professionals.

62. The Guardian, Ms Ingledew, took over from the previously allocated Guardian who went on long term sick leave in April 2024. Having listened to the evidence, the Guardian's recommendation remained that P would not be safe in the care of her parents and the plan of adoption was in her best interests. The Guardian stressed that P urgently needs a decision as to her future placement and she did not support any delay for further assessment of the father. The Guardian highlighted that P is receiving physio as she is developmentally delayed in her gross motor skills. The Guardian also provided information from P's foster carer that, in her opinion, P had regressed in her period she was in the mother's care in the community and the carer was concerned that P had not been properly stimulated in the mother's care.

63. The Guardian explained that the change in the father's presentation during the observed contact in May was marked and rapid. She acknowledged that P would not have understood the delusional beliefs expressed by the father and accepted he remained gentle with P, however the sudden shift in his wellbeing and the lack of warning signs left her highly concerned for the impact on P should the father become

her primary carer.

64. The Guardian obtained a recent update from the mother's substance misuse key worker, which confirmed that the mother presents as abstinent and the plan for the mother to attend residential rehabilitation was to address the reasons why she self-medicates with substances. Despite the planning put in to secure a place for the mother, she was not able to take up this opportunity as she did not pack up her belongings in time. This lack of planning is consistent with the mother's repeated late returns to the foster care placement and frequent late attendances to contact with P.

65. I asked the Guardian about her views on long term contact, were P to be placed for adoption, as both parents have been clear that they would want to maintain direct contact with P and she also has a sibling relationship with L and M. The Guardian expressed the view that P's need to attach to her new adoptive carers must take priority and direct contact in the first few years of placement is likely to be disruptive and confusing for P.

#### Findings on relevant disputed issues

66. There are many matters in dispute between the parties, however it is not necessary for me to resolve all of these to make decisions in relation to P's future. An example of this is the incident in February 2023, when the police attended the father's home address. Both parents allege the other was aggressive and abusive; the father was arrested and issued with a Domestic Violence Prevention Notice; however the mother was not willing to support a criminal prosecution. Both parents accept their relationship was unhealthy and volatile and presented a risk of harm to P. Both parents acknowledge that they breached the written agreement, contacted each other, met up and stayed overnight with each other, despite their previous allegations of abuse and harassment. It is these factors that present a risk of future harm to P, rather than which of the parents is at fault for the events that took place in February 2023.

67. Given the parents' accounts of harassment and abuse of each other after February 2023 it is difficult to understand their decision making in

spending time together, with P, last autumn, in breach of the written agreement. I acknowledge that there were likely to be ongoing and intense feelings and emotions, both as ex partners and as P's parents. However, throughout the period from P's birth to December 2023 both parents were working with the assessing social worker and were expressing certainty that their relationship was over and repeatedly complaining about the other's actions. I have no doubt that both parents understood the terms of the written agreements and the implications for breaching those and the very serious repercussions in terms of their working relationship with the social work team and their wish to care for their daughter.

68. I accept the evidence of the father that this took place around 7 times and was not limited, as the mother claims, to one weekend. In my judgment there is no reason for the father to lie about this and when the mother was asked in her oral evidence her response was *that's not my recollection*, rather than to actually deny this had happened. It is however concerning that when the mother told the social worker about these breaches, she chose to minimise the times the father had been to her home. Whilst, as I say above, I do not doubt the parents' understanding of some of the consequences of their actions, I am not satisfied that they understood the risks for P.

69. On the parents' accounts, the last time they spent time together, in February 2023, there was a drug and alcohol fuelled incident that resulted in the mother being taken to hospital and the father being arrested. They had made repeated allegations against each other since their separation, including the father alleging that the mother continued to use cocaine whilst pregnant with P and made threats to his life. The mother was aware that domestic abuse was a significant concern for the social work team, as she had been referred for domestic abuse support in proceedings for L and M, and again following her separation from the father. Having listened carefully to their evidence it is apparent that neither parent considered the likelihood of them arguing, or the possibility of a further physical altercation, thereby exposing P to the harmful atmosphere of domestic abuse.



70. In my judgment their decision making around this issue highlights that they were focused on meeting their own needs (to spend time together and have sex) rather than what was best for their daughter. Having evaluated all the evidence I agree with the view of the Guardian that the parents *remain pre-occupied with each other* and there remains an *intensity of conflict* between them, such that they are unable to prioritise P above their feelings for each other, whether those be positive or negative at any particular time.

71. In relation to the allegation that the mother has used illicit drugs after P's birth I am rightly urged by Ms Folkes to survey the wide canvass of evidence, rather than simply focus on the hair strand test results. In support of the mother's assertion that she has not used cocaine since November 2022, I have given particular consideration to the following matters:

- (i) The mother was visited almost daily between P's birth and her move to foster care in September, there was no professional concern about ongoing substance use;
- (ii) The mother was under scrutiny in the foster care placement from September to November and the foster carer did not report seeing direct evidence of drug use. However, the foster care has reported concerns that the mother was using excessive mouthwash, that the mother's behaviour was chaotic at times and that she was frequently having to borrow money despite being in receipt of benefits.
- (iii) Following their return to the community the mother and P were visited frequently. There was one occasion a report was made of the home smelling of cannabis. There was also a social work visit in the new year during which the mother presented oddly and agitated and disappeared for a period upstairs. Apart from these reports there was no professional concern that the mother was using substances.

72. I have also considered the following evidence which raises concern about the mother's long standing addiction issues and her honesty regarding her use of substances:

- (i) The mother did not consistently attend her drug support service after P's birth and the report from the services states her attendance was only 50% up until June 2024. This undermines the mother's assertion that she was committed to working with services to maintain abstinence.
- (ii) Within the proceedings for L and M the mother was dishonest about her drug use and denied using cocaine, until hair strand testing revealed she was using this alongside cannabis. Once the test results were available the mother explained that her cannabis dealer *provided her with cocaine for free* and she would use this in the evening when L and M were in bed.
- (iii) The mother has used cannabis for many years and in L and M's proceedings she reported stopping when pregnant and then starting again. The hair strand test results are consistent with this pattern, as she tested negative of cannabis use in the later stages of her pregnancy with P and then positive for cannabis use from end of August onwards.
- (iv) The mother was inconsistent and dishonest about her cannabis use, in that she told the social worker in June 2023 that she ceased cannabis use in March 2023, however she later told the drug testing company and the police that she was continuing to use throughout that period. The drug testing company recorded that the mother declared using cannabis *everyday* until June 2023 when the sample was taken on 1 July; however, in her response to threshold the mother denied making this declaration. I have no reason to doubt the accuracy of the recording of the testing company who also detailed the mother's self-reporting of using *3.5grams over 2 days*.
- (v) The father reported witnessing the mother used cocaine in July 2023 when pregnant with P. Dr Iyer recorded in his report that the father told him that the mother was using illicit drugs in the home during the times he visited in Autumn 2023. However, in his oral evidence the father denied saying this and said he did not see the mother using drugs after P was born.
- (vi) The mother has self-reported that she used cannabis in January and February 2024 and informed the rehab team that she used in response to difficult situations. In my judgment this is evidence

that she is vulnerable to relapse and, despite being enrolled with drug support services since February 2023, she has not developed appropriate tools for dealing with stress and has resorted to using illicit substances.

- (vii) Despite the mother asserting in her statement of 9 May 2024 that she has not used alcohol and signing a succession of written agreements that include a prohibition on use of alcohol, I note the mother told the drug testing companies that she drank alcohol at Christmas and in February 2024.
- (viii) K's evidence was that the mother was not using cocaine to the levels suggested by the hair strand test results; he stated that this was his view and it was what the mother told him.

73. The mother underwent hair strand testing by DNA Legal following a sample taken on 18 December 2023. The results were consistent with active cocaine use between June and December 2023. The mother's hair strand results also suggested excessive alcohol use over the same period, however this could not be confirmed as a result of chemical products used on the hair. Cannabis was not tested for at this time.

74. The mother sought to challenge these results and posed a number of questions to DNA Legal, who responded and ruled out a number of possible scenarios (such as contamination and the effect of hair treatment products). In summary they advised as follows: *On the balance of probabilities, the results demonstrate the active use of cocaine and are not consistent with the declared cessation in November 2022. It must be remembered that hair strand testing should never be considered conclusive or determinative with respect to drug use. The expert evidence should be placed within the context of the wider picture which may include social work evidence, medical reports and an evaluation of any additional evidence.*

75. Given the mother's insistence that she had not used cocaine since November 2022 I permitted the mother to instruct another company to undertake further testing. A further hair sample was taken on 29 February 2024 and analysed by Cansford Laboratories. The report confirmed that the test results were consistent with the use of cocaine

by the mother between August 2023 (the report says 2022 but this must be a typo as this was not in the period tested) and February 2024. The results suggested an increase in the amount of cocaine used in recent months. Cannabis analytes was detected in the older section of the hair root (August to October 2023), but not in recent months. Hair and blood samples suggest low or no alcohol use between August 2023 and February 2024.

The mother did not seek to ask any questions of Cansford Laboratories and neither testing company was challenged by way of oral questions at the final hearing.

76. In light of the mother's extensive dishonesty in relation to her drug use, both in L and M's proceedings and in pre-birth assessments relating to P, it is difficult to attach weight to her assertions of now being honest about her abstinence. The hair strand test results from two different companies are consistent with each other in terms of their general findings, which do not support the mother's assertion that she has not used cocaine since November 2022. I note there are very limited professional reports of her using drugs or being under the influence after P's birth, however the mother had ample opportunity to both purchase and use drugs, as she had many hours each day in the community when she was in the foster care placement. I also note that her previous pattern of cocaine use was to use in the evenings when L and M were in bed, and professional visits invariably took place during working hours.

77. Despite her expressed wish to maintain abstinence for P, on her own reporting she has continued to use cannabis at times of stress and failed to take up a rehabilitation place that was planned to support her use of drugs. I note in the support email from April 2024 the rehab service refers to the mother needing *support with her recovery .... having a goal of abstinence... using cannabis to blunt her emotions which prevents her addressing her emotional wellbeing and mental health in a meaningful way*. Having reviewed all this evidence I am driven to the conclusion that the substance misuse remains a live issue for the mother and continues to impact the safe care she would provide to P in the future. I also find that the mother has continued to be dishonest with

safeguarding professionals and the court about her continued drug use through her pregnancy and since P was born, which I find included the use of cocaine and cannabis.

78. The local authority seek a finding that the mother was at times avoidant of professionals visiting her home. The local authority assert that this is relevant to the longstanding and ongoing issue of the mother not being able to work openly with professionals to ensure the safety and wellbeing of her children. I note from the social work chronology that between May and August 2023 there were six planned professional visits to the family home that the mother avoided, giving a variety of reasons such as a flea infestation, she was unwell or a dog was unwell. I also note that in May 2023 the police attended her home and described it as being filthy, full of clutter, with evidence of drugs and alcohol being used. When the social worker was able to gain access to the property in late July it remained cluttered, although the description suggests it had improved since May. Whilst I accept the mother may have had some valid reasons for missing some of the home visits, in my judgment it is likely that she avoided visits and concocted reasons as she was trying to hide the neglectful state of her home, which had been an ongoing issue for many years.

79. Finally, in respect of disputed facts, the local authority seek a finding that the mother's contact with L and M had to be reduced following the end of their proceedings, as the mother was not able to meet their emotional needs, even in a supported contact. The mother disputes this and asserts that whilst changes were made to her contact with L and M, this was to ensure that both children had 1-1 time with her which they were requesting. I have very limited information about this issue and about the progress of L and M since their proceedings concluded. That is not surprising, given they are not the subjects of these proceedings. I heard no evidence on this issue and am not satisfied that there is sufficient cogent information for me to make a finding on this matter.

### Father's Application for Residential Assessment

80. On 17 January 2024 the father's wish to be assessed to care for P in a parent and child placement was recorded on the order of the same date. No formal application had been made and no directions were given to progress this issue. At that hearing the judge approved the plan for P to be separated from her mother and placed in foster care. This was in light of the drug test results and the parents' breaches of the written agreement.
81. The matter first came before me on 26 February 2024; it was listed for an Issues Resolution Hearing (IRH). The 26-week time statutory limit to conclude public law cases had already passed. I was informed that the case would not be ready for final hearing until May, as the local authority needed to present the case to their Agency Decision Maker to consider the plan of adoption and the parents needed time to respond thereto. At the time I was concerned about the delay for P and the lack of parallel planning which would have avoided some of the significant delay to the timetable. The father repeated his request to be assessed to care for P in a residential placement, however no formal application had been made and there was no information as to availability. I therefore placed a time limit of 2 weeks on the father making such an application and gave him permission to disclose the case papers to suitable placements.
82. Shortly thereafter the father was admitted to hospital, following the deterioration in his mental health, and therefore no such application was made. At the adjourned IRH on 26 April I extended the time for the father to make any such application to 13 May, but directed that full information relating to the father's recent episode of psychosis be provided to any proposed residential placements. After this hearing there was a concern that the father had lost capacity and his solicitors were not able to obtain instructions to progress this application. As such, no application was made for a residential assessment of the father until 12 July, 5 months after the original direction was made. I listed the matter for determination at the final hearing.
83. The father has been offered a 12-week assessment place at Jamma Umoja in Bromley, starting immediately. The cost of the assessment

would be in excess of £40,000. I understand that Jamma Umoja have read the case papers provided and I have seen their generic assessment plan and response to some specific questions. There is no information provided by Jamma Umoja as to whether they have undertaken a risk assessment in relation to the father's mental health or the support they would have in place to manage any periods of psychosis or symptoms of his bipolar disorder.

84. An assessment pursuant to s.38(6) Children Act 1989 can only be permitted if it is:
- (i) an assessment of the child, and
  - (ii) is necessary to resolve the proceedings justly.
85. Fundamentally, I agree with the submissions of the local authority and the Guardian that the proposed assessment at Jamma Umoja is not an assessment of P. I have sufficient information in relation to P and her current and future care needs, from the evidence of the social work team and the Guardian. I also have sufficient evidence about the father's ability to provide for P's basic care needs, his love for P and wish to care for her. There are some cases where a residential assessment is necessary to inform the court about the relationship between the parent and child or about the parents' ability to respond appropriately to the child's physical and/or emotional needs. None of this information is disputed in respect of P and her father.
86. The issues which are a potential barrier to the father caring for P relate to his conflictual relationship with the mother, his ability to work openly with professionals to ensure P is prioritised and kept safe and his understanding and insight into his mental health and his capacity to manage that safely for P. A residential assessment is not necessary for me to draw clear conclusions in relation to those matters.
87. I am satisfied that the father has been fully and fairly assessed throughout these proceedings. The outcome of his parenting assessment was impacted by his dishonesty in relation to breaches of the written agreement, and his failure to prioritise P and seek medical attention for her or raise concerns about injuries he observed. Since that assessment

was filed in January there have been repeated and significant concerns about the father's mental health. The decision making for P was rightly delayed from May to July to ensure that the father could properly engage in the proceedings, instruct his legal team and challenge the care plan of adoption.

88. I am clear that further delay to these proceedings for any further assessment of the father, whether that be in a residential setting or in the community, is not necessary and the delay it would cause would have a significant impact on P, who urgently needs a decision as to her long-term placement. There is no cogent evidence on which I can be confident, or even optimistic, that further delay would bring about changes to the outcome of the current assessments before the court.

#### Placement Options

89. The realistic placement options for P are:

- (i) return to the care of her mother, supported by a Supervision Order;
- (ii) placement with the father, supported by a Supervision Order.

Although the father has not advanced a case that P should be placed in his care now, in my judgment it is important to consider this as an option for P given the father's understandable opposition to the plan of adoption;

- (iii) placement for adoption.

#### Welfare Checklists

90. My analysis of each of the relevant matters in the welfare checklists in The Children Act 1989 and The Adoption and Children Act 2002, in light of the realistic placement options for P is as follows:

91. Wishes and Feelings – at just a year-old P is too young to express her wishes and feelings, however I accept that she is likely to want to be cared for by her birth family if this was safe. If she cannot live with them, I accept she will want to grow up having knowledge of her parents and wider family and a relationship with them. In particular, it is likely that she will want to maintain a relationship with L and M.



92. Needs – P is a young baby who has had a disrupted first year of her life and she has experienced multiple changes to her care arrangements. She lived at home with her mother, then in a foster care placement, then back at home with her mother and then in the primary care of the foster care. She has experienced interruptions in her relationship with her father, as there have been periods when his mental health has necessitated a suspension of contact. P is generally a happy and smiley baby; however she has developmental delay in her gross motor skills. She now needs to move to carers with whom she can build secure and long-lasting attachments and who can provide her with stability and security. P needs carers who can ensure she regularly attends appointments with professionals, including her physio appointments. P also needs to maintain a relationship with her birth family in a way that is safe for her and consistent with her welfare.

93. The effect on P of ceasing to be a member of her birth family and becoming an adopted person and the impact of change – if placed for adoption P will suffer the loss of her current foster carers and her parents and siblings. Like many adopted children she is likely to question why she could not be brought up by her family and this will need to be carefully explained to her through life story work. To permanently remove a child from her birth family is a very significant matter for that child and will result in the loss of their parents and wider family members. Should P move to an adoptive placement this is likely to be unsettling for her, as she has built an attachment to her foster carer and is showing separation anxiety when her carer is out of sight. Any future adoptive carers will be supported to manage the transition. Were P to move to the care of either of her parents, they are familiar to her through contact and this is likely to be an easier transition. P has contact with L and M and they enjoy spending time together. All 3 children could maintain sibling relationships were P to be cared for by her mother. The relationship between the father and L and M's carer is hostile and sibling contact is likely to be a difficult and emotive subject for both fathers. L's father has expressed his willingness to meet any adopters for P and support post adoption sibling contact if this was proposed in the future.

94. Age, sex, background and relevant characteristics – P is now a year old and needs to achieve permanence as soon as possible. This is achievable in a move to the care of either of her parents; the timescale for a move to an identified adoptive placement is uncertain, however given her young age it is not anticipated there will be difficulties identifying suitable adopters. Given P's parents have both suffered with long term addiction and mental health issues, there is a risk that P may also face challenges with her mental health in the future. It is likely that P will need some emotional or therapeutic support in the future, particularly in light of the disrupted start to her life. P has a complex and rich heritage, as her maternal family are from Africa and her paternal family have Native American roots. It is important that P is supported to understand this heritage as she grows up.

95. Harm – I am satisfied that P was placed at significant risk of harm in utero as a result of her mother's use of cocaine, cannabis and alcohol and her dysregulated behaviours. I am clear that she would suffer further harm if she were placed with carers who could not meet her needs because of their addiction to illicit substances. P would also suffer harm if she were exposed to conflict in her parents' relationship or episodes of unstable mental health. These issues of substance abuse, mental health and domestic abuse are known as the 'toxic trio' in safeguarding. The parents need to meaningfully engage with skilled professionals to address these issues before they could safely care for a child. Were P to be placed for adoption with carefully matched carers it is likely that she would be protected from future harm, however I accept she would suffer some harm by way of a loss of a full and meaningful relationship with her birth family.

96. Relationships – If placed for adoption P will have a limited relationship with her parents and siblings, although it is planned that a link will be maintained through letterbox contact and potentially some direct contact if this is in P's interests in the future. The local authority are committed to only searching for an adoptive family who are supportive of P maintaining these important relationships and willing to engage with future support from the adoption agency around family contact. I am clear that this link will be of value to P in helping her understand

her background and that her parents love her very much and continue to care about her, even if she cannot live with them. Were P to be cared for within her birth family, she would be able to develop her relationships with her parents, siblings and wider family.

97. Capacity to meet her needs - I have come to the clear conclusion that the parents are not able to meet P's needs. This is the collective view of all the professionals, and it is also my judgment having read and heard all the evidence. Whilst I acknowledge the love the parents have for their daughter and that they are able to meet her basic care needs, the risks that were apparent when P was born remain.

98. I agree with the view expressed by Mr Heritage that the mother faced an uphill struggle to safely parent P just 6 months after proceedings concluded for L and M. As he says:

*To progress from the very impaired capacity identified in [L and M's proceedings] to a standard that meets the "good enough" test within the space of a year would have been a substantial task for a parent unaffected by substance misuse and living a conflict-free lifestyle, with stable living arrangements and a capacity to work honestly and collaboratively with professionals. Sadly, [the mother] has not benefited from these dynamics of stability.*

99. Over the years the mother has become entrenched in a pattern of being dishonest with professionals and choosing which information to share and when. In the proceedings for L and M the mother breached a safety plan designed to ensure her children were not exposed to the risk of violence from M's father. Just a week after she returned home with P, in November 2023, she breached the safety plan designed to protect P from conflict in her parents' relationship and was dishonest about this to the social work team and minimised the breaches in her evidence to the court. It is clear therefore that she has not learnt from her past mistakes and continues to make decisions based on her own needs, rather than what is best or safe for her children.

100. Given the findings I have made about the mother's continued reliance on substances, her dishonesty about this issue and her failure

to take up the offer of a place in rehab in May, despite telling the court just a month before that this was something she was committed to, I have no confidence that she would not revert to her previous pattern of using drugs and/or alcohol to manage her emotions, even were P in her care. She has not yet reached a stage in her work to address her addiction problems where she is able to be truly open with support services; this honesty is needed to overcome her past traumas and bring about the changes needed to enable her to safely parent her children. I understand the offer of a place in rehab may still be available in the future, and I very much hope this is something she will be able to take up. For now, P needs a carer who can provide her with a high level of care and attention to help her feel settle and secure. She needs a carer who is committed to attending all necessary appointments, such as physio. Unfortunately, the mother's life remains chaotic and, in my judgment, were P to return to her care she would likely be neglected in the same way as L and M. I accept that the mother would not intend this, however her long standing addiction issues, the instability caused by conflict in her relationships and her inability to work openly with professionals make this outcome almost inevitable.

101. K offers to support his sister to care for P. I accept he is well intentioned and I acknowledge the commitment he showed in engaging in an initial assessment and attending court on two occasions to give evidence. However, he was available to support his sister when L and M were in her care and was not able to prevent the harm that they suffered. I note that during her pregnancy with P, the mother stated that K was going to help her clear her home to ensure it was suitable for P. However, this did not come to fruition and when the Guardian visited shortly after P's birth the home remained cluttered and full of rubbish; the mother told her Guardian that K had been too busy at work to help her. I note that K's own home was observed to be cluttered and dirty during the assessment that was carried out of his own capacity to care for P and it seems likely that he does not regard the neglectful state of the mother's home to be relevant to her care of P.

102. I also note that K suffered has with poor mental health in the past, as a result of his own addiction to cannabis and, whilst he states he

would not tolerate the mother using drugs around P, his evidence did not persuade me that he understands the very deep rooted addiction his sister has and the impact this has had on her parenting of all of her children and would have on her future care of P. Ultimately I am not satisfied that K would be able to make up for the significant deficits in the care the mother is able to provide to P and I do not consider he is a sufficient safeguard to mitigate against the risks she poses.

103. In relation to the father, as set out above, he has not presented a positive case that P should be placed in his care now. His case has focused on the need for further assessment, either in a residential placement or in the current foster placement. In relation to the latter option this was not explored with the social worker in evidence and there is no information before me to suggest this is viable. In any event, for the reasons I have set out above I do not consider an extension to these proceedings to be necessary or in P's interests.

104. I am in no doubt as to the love the father has for P and his wish to care for her. However, I do not agree with the assertion in his final statement that he has not been given a chance to care for his daughter. I accept that the father has made significant changes to his life, in terms of ceasing his use of illicit drugs. However, he was abstinent from cocaine for nearly a year from November 2022 until September 2023 and then relapsed when he was experiencing a period of stress relating to P and these proceedings. In my judgment he therefore remains vulnerable to future drug use at periods of stress. Whilst he states that his life will not be stressful if he is caring for P, I cannot accept this. Caring for a young child who has experienced a disrupted start to her life, and who will need to transition from her primary attachment figure, will be stressful and a very different parenting experience to the relaxed and fun time the father and P spend together in contact. Given the father's previous dishonesty with professionals, I have no confidence he would report any feelings of stress in himself or distress in P, for fear it would result in P being removed from his care. I consider it likely that the father would seek to manage this situation himself and this would place him under further stress and likely impact on the care

he would provide P.

105. The most significant risk in relation to the father's care of P relates, however, to his mental health. Having carefully considered all the evidence on this issue I am concerned as to the lack of insight the father has into his mental health difficulties and the potential impact this has on his parenting of P. A mental health diagnosis does not render a parent unable to safely parent their child, however it does present vulnerabilities and it is crucial that the parent has insight into their emotional wellbeing, their mental health diagnoses and prognosis and is receptive to professional advice and support. The father's presentation, when he is unwell, presents a risk of harm to P; both in terms of emotional harm from the father's delusional beliefs and also potential physical harm from any aggressive behaviour he displays.

106. The father has very significant mental health difficulties that have presented with periods of delusion and psychosis. When unwell the father is recorded to have acted in an aggressive and threatening manner, that he claims not to recall. He was clear in his oral evidence that he does not consider there is a risk of future relapses. This statement, combined with the facts that the father professed not to be aware of his own diagnosis of Bipolar, had not read the letter from his treating psychiatrist, Dr Iyer's report or the mental health risk assessment, leaves me concurring with the conclusion of his treating mental health team that he *lacks insight into his illness*. The father has been clear that he is not willing to take prescribed medication to stabilise his mental health. Whilst a competent adult has the freedom to choose whether to take prescribed medication, a parent who wishes to be the primary carer for a vulnerable young child has the responsibility to be fully informed of their mental health diagnoses and work with support services to maintain stability. Unfortunately, the father has not demonstrated a willingness or commitment to take these steps. Whilst I accept the father's evidence that he is on a waiting list for therapy through his GP, I have no evidence as to the timescales involved, how this will assist to manage his bipolar disorder or prevent the reoccurrence of psychotic episodes in the future.

107. The father's conduct since P has been born evidences that he is not able to prioritise P and keep her safe. His decision making is skewed and is focused on his own needs, rather than those of his young daughter. His actions in breaching the written agreement and spending time with the mother and P, in the mother's home, and his dishonesty about this serious matter, highlight that he was unable or unwilling to consider the potential consequences for P. Further, his failure to seek medical attention for P, or to inform any professional about possible injuries to her whilst in her mother's care, demonstrates that his primary focus remains on his ongoing conflict with the mother, rather than ensuring P's safety and wellbeing. I accept the father's regret at these decisions is genuine, however I have no confidence that he would act differently in the future.

108. I am aware of the support the father has from his sister and wider family; although they have not filed statements and I have not heard from them in evidence. However, that support has been available throughout and has not prevented the deterioration in the father's mental health or his assisted in his understanding and acceptance of his diagnoses. I also note that the father lied to his sister in relation to his whereabouts and actions when he was staying with the mother last autumn, and therefore I am not reassured that the father would be open with his sister in relation to the levels of support he would need in the future.

109. I have considered whether the local authority could put in place support and / or services to assist the parents and compensate for their difficulties. I am fully satisfied that they have tried to engage with the parents pre-birth and throughout these proceedings. Any future support under a Supervision Order or Child in Need plan would depend on the parents being able to be open and honest about their difficulties and accepting of support.

### Balancing Exercise

110. Having considered all aspects of the Welfare Checklists and reminding myself that P's welfare is paramount and any orders I make

must be both necessary and proportionate I have drawn the following conclusions.

111. There are significant advantages to P remaining in her birth family; however, for the reasons set out above I have concluded that she would suffer harm in either of her parents' care. There is no additional support or protective orders that would mitigate the divide between the level of care that P needs, both now and in the near future, and what her parents are able to provide her.
112. Approval of the plan for adoption will on the other hand provide her with a path to permanence with minimal risks and maximum security and stability. A plan of long term foster care is not proposed by any party. It would not provide P with stability and she would be a child in care for the next 17 years.
113. In reaching my decision I am driven by P's need for safety, security and stability. Having considered all the advantages and disadvantages of adoption and a placement in her family I am clear that it is only an adoptive placement that will meet P's needs. In short nothing but adoption will do. I am acutely conscious of the break this will cause in family relationships; however, I am clear that being in a secure permanent placement must take priority for P. I therefore dispense with the parents' consent and approve the care plan of adoption.
114. The parents' love for P is very clear and I hope that they can support her in her future adoptive placement. As she grows up it is important that she is aware of the love her parents have for her and their wish that she could remain within her birth family. I very much hope that the parents can meet her adopters, in due course, and maintain a relationship with P throughout her childhood. In my judgment, however, the sibling relationship between L and M and P must be given priority in future planning for P's contact post adoption.

I therefore make the following orders:



115. I make Care and Placement Orders to Brighton and Hove City Council and I dispense with the consent of the parents to the making of a Placement Order.

HHJ EARLEY