

Neutral Citation Number: [2024] EWFC 323 (B)

Case No: ZW23C50245

IN THE FAMILY COURT AT WEST LONDON

West London Family Court
Gloucester House, 4 Duke Green Avenue,
Feltham, TW14 0LR

Date: 7 November 2024

Before :

HIS HONOUR JUDGE WILLANS

Between :

THE LONDON BOROUGH OF HOUNSLOW

Applicant

- and -

(1) J
(2) M
(3) N (by his Guardian)

Respondents

Christopher Archer (instructed by **HBB Law**) for the **Applicant**
Jasvir Degun (instructed by **Mannu Law Ltd**) for the **First Respondent Mother**
Tor Alloway (instructed by **Fort & Co Solicitors**) for the **Second Respondent Father**
Rachel Chan (instructed by **McCormacks Solicitors**) for the **Third Respondent Child**

Hearing dates: 7-11 October and 7 November 2024

JUDGMENT

His Honour Judge Willans:

Introductory Points

1. On 3 January 2024 I handed down judgment in this matter following a fact finding hearing in relation to the child, [] (“N”). This judgment is reported as **Re N (A Child) (Fact Finding) [2024] EWFC 2 (B)**. I am now called upon to make final welfare decisions for N following a 5-day welfare hearing. I have considered the papers contained within the final hearing bundle; both the written documents and oral submissions from counsel for each party, and; the live evidence of the witnesses who appeared before me.¹ I will keep all of this information in mind whether or not I specifically refer to it below. The hearing was conducted on an attended basis save Dr Black gave evidence remotely. The parents were assisted by interpreters. In this judgment I refer to the parents as J (N’s mother) and M (N’s father). I intend no discourtesy by doing so. J attended every day of the hearing. M was present to hear the applicant’s evidence but left on the morning the mother was due to commence her evidence and did not return to the hearing. As such he did not give evidence. His lawyers made efforts to contact him without success and I proceeded in his absence. I was unable to provide a reasoned judgment within the time allotted to the case and adjourned to provide this reserved judgment.

The Positions before the Court

2. The applicant seeks final care and placement orders. Its plan is to place N for adoption. It argues (i) N cannot return to either parents’ care at this point in time, and (ii) there is no foundation for believing either will make the necessary changes to provide good enough care for him within his timescales. The guardian agrees. The parents take differing positions. J accepts N cannot return to her care at this time and accepted the making of a care order, but, argued I should not make a placement order as I should proceed on the basis she should have the chance to engage with necessary work so that N could be returned to her care in due course. She did not support N being alternatively placed with M. Prior to leaving the hearing M had argued for N to be placed into his immediate care and opposed both the making of the orders sought or return of N to J’s care.

Legal Principles

3. N’s welfare is my paramount consideration and I am duty bound to assess N’s welfare throughout his life. I cannot consider the public orders sought by the applicant unless the legal threshold is crossed. For this purpose it is sufficient to have regard to the findings made within the fact finding hearing which establish the crossing of the legal threshold as found in section 31 of the Children Act 1989. Those findings include (1) that N had suffered an inflicted injury at the hands of M which was likely caused by a shaking assault; (2) whilst I did not find J to have failed to protect N I did find she delayed seeking medical intervention when she became aware he was unwell as a result of this assault, and; (3) I made findings relating to emotional harm to N arising from the domestic abuse suffered by J at the hands of M. There is no question the threshold has been crossed and that I **can** make the orders sought. The question for me

¹ Sue Clarke (ISW); Dr Fanny Black (Forensic Psychologist); Zayna Hassan (ASW); J, and; Kareen Lain (Guardian)

in this hearing is whether I **should** make the orders sought. It is this question which sits at the centre of my judgment.

4. The approval of a plan for adoption is the most significant of interferences in family life. Such a plan requires a high level of justification before a Court can approve it. It requires the Court to carefully analyse the realistic options relating to the future care of the child and weigh these in a holistic manner identifying both positives and negatives of each option before selecting the appropriate outcome for N. Whilst there is no presumption in favour of parental care it is important to keep in mind that the Court does not expect perfection in parenting. The question for the Court is as to whether a parent can provide good enough parenting for the child within the child's timescales. If a parent can meet this standard then the Court would not be able to support a plan for removal let alone placement. Secondly, the Court has to accept there are a range of acceptable parenting styles and approaches and no fixed norm around which parenting must sit. The nature of the balance that has to be struck is reflected in the principle that adoption should not be endorsed as a plan of action unless there is 'nothing else that will do' so as to meet the child's welfare needs.
5. I repeat §§16-19 of my fact finding judgment as to the approach to be taken when considering whether to make findings of fact.
6. Finally, if I determine a placement order is required contrary to the wishes of the parents then before doing so I must dispense with their consent to the same. I can only do this if the welfare of the child requires me to do so.

The issues in the case

7. The following were the key issues in the case:
 - The parents' continuing relationship and/or ongoing contact and the relevance of the same to the outcome
 - The need for the parents to make changes prior to N's return and the timescales / likelihood the same occurring
 - The inherent vulnerability of the mother combined with her social isolation and absence of support network
 - The extent to which the findings of the Court are accepted and the relevance of the same to ongoing risk
 - The ability of the parents to work openly with professionals
8. It is not in issue that both parents have a genuine and heartfelt love for N and it is particularly noteworthy as to J's commitment to N throughout the proceedings. She has maintained a high level of contact with N notwithstanding her significant working commitments and the obvious emotional impact that the same would have had upon her. Those who have observed contact have recognised the warmth shown by J to N and the affection demonstrated. There is no question that this has been very positive contact for N.

Background matters

9. I do not intend to repeat the history and findings set out in my previous judgment. I keep all of that in mind when considering the right outcome for N.
10. I set out the following as matters of relevance since the fact finding:
 - In the aftermath of the findings the parents filed statements setting out their response to the same. M accepted the finding as to N's injuries but denied being responsible. He accepted elements of domestic abuse in the relationship and explained his previous lack of insight was based on an outdated view of what amounted to abuse. He accepted a need to address his alcohol consumption whilst noting a perceived improvement in the same. He supported J caring for N and appeared to see his role as being within contact. He stated the parties had separated. J accepted the Court's findings and confirmed separation from M. She wished to care for N and agreed to N having contact with M so long as it was assessed as being safe.
 - At a follow-up case management hearing on 26 January 2024 I plotted the future course of the welfare stage of the proceedings. I refused a residential assessment of J and N given basic care was not in issue. I directed a forensic psychological assessment from Dr Black and an independent social work assessment from Ms Clarke (reporting on both risk and parenting). I timetabled final evidence with an issue resolution hearing fixed for late May 2024, later rescheduled to 7 June 2024.
 - I separately dealt with a request by the Metropolitan Police for disclosure. I will not further reference that process within this judgment.
 - It was not possible to reach a conclusion to the case at the IRH and I gave directions for outstanding final evidence and fixed this final hearing.
 - The parents' case is that they separated as set out above. However, they are in disagreement as to the maintenance of this separation. M claims the parties reconciled their relationship and claims they continued a relationship through to about July 2024. J disputes such a suggestion and claims that whilst there was ongoing communication between the two of them this reflected their roles as parents to N only and did not suggest a deeper emotional connection. She complains of M stalking her and reports an incident in July 2024 which led to a final termination of any relationship between them. At the date of final hearing both parents were agreeing they were not in communication. Indeed within the final hearing M has become significantly critical of J and was suggesting she had or might have caused the injuries for which he had been found to be responsible.
 - The parents engaged with the assessments. Dr Black reported in March 2024. Ms Clarke reported in May 2024 and had regard to the psychological report. It is important to note M was not putting himself forward to care for N within the assessment but rather supporting placement with J and seeking a relationship through contact. Ms Clarke reached a negative conclusion with respect to N being cared for by J and the applicant relies on this report to support its case for adoption.

- In July/August 2024 M met with the social worker and disclosed a level of ongoing communication/relationship between himself and J. He shared a number of largely 'Whatsapp' based communications. In a later and separate meeting with the social worker J whilst disagreeing with M disclosed her own copies of similar communications.
- Hair strand tests were obtained shortly before the hearing. These are clear for J, albeit the point is made as to her hair being treated. M provided a sample which was clear with respect to excess alcohol consumption but showed usage of amphetamine.
- Following the fact finding and as referenced in case management orders the applicant indicated its willingness to support the mother with obtaining domestic abuse and other support referenced within the expert reports.
- In the period prior to the final hearing the applicant convened a support network meeting for J to attend with her proposed support network. I have the outcome of this process within the hearing bundle. Understandably, given he was not putting himself forward to be the primary carer, the focus was not on M at that time.

Evidence and analysis

11. I intend to analyse the evidence by reference to the key points of contention.

Ongoing relationship between J and M?

12. J was clear her relationship with M ended in the light of the fact findings made by the Court. She gave evidence of obtaining alternative accommodation and moving out of the shared home. She also gave evidence of forming a strong negative view against M in the light of the findings. Nevertheless, she agreed she had continued to keep in contact with M. She characterised that contact as being of the form to be expected between separated parents in such a circumstance. She accepted that as part of this she had offered him support in obtaining employment roles linked to the businesses in which she was employed. When questioned as to the extent of direct contact between the two she limited this to a very few occasions on which they had met by accident or with a view to purchasing a present for N's birthday. She timed the ultimate breakdown of the relationship to circumstances in which she felt he was stalking her and discovering he was sharing information about taking a picture of her in bed with someone without her knowledge from outside of her flat.
13. In contrast M gave evidence of the relationship enduring following the fact finding even after J had moved out. It is noteworthy that when speaking to the expert he had expressed a hope for a relationship between them. He argued this was a full relationship until he became aware J was seeing another man, L in July 2024. He accepted attending at her property, looking into J's bedroom window and taking a picture of her in bed, asleep, with L lying next to her. A copy of the picture was admitted into evidence. For the avoidance of doubt it is not a sexually intimate picture but does raise a question as to the quality of the relationship between J and L.
14. J explained L was a friend, who had attended early that morning after his night shift to help her install a security camera in the light of M being sighted around the property.

They had fallen asleep but there had been no intimacy between them and the relationship was no more than friendship.

15. In the light of the events of July, M went on to share with the social worker messaging between himself and J in the period around July/August 2024. He provided this to support his suggestion that they had remained in a relationship. Later², as noted above, J provided her own messaging. In the course of the final hearing J was given the opportunity to consider M's message log and comment as to whether she accepted this conversation had taken place. After a chance to reflect she disputed being the author of **any** of the messaging attributed to her on M's log of messages. She claimed he must have hacked her phone to create the same.
16. Whilst the applicant and guardian cannot directly evidence the full truth of this issue they remained suspicious as to the case put by J and on balance appeared to accept the relationship had been more than accepted by J. It is right to note they had a level of concern as to relationship even as described by J. The social worker was able to comment that when initially shown the messaging she had formed the view it was contained on two separate phones and likely extended far beyond that disclosed by J. J's response was that this was due to the social worker seeing historic messaging from a previous period.
17. The ISW expressed concerns as to the relationship between the parents being 'toxic' and 'enmeshed'. Dr Black agreed and suggested the evidence indicated an ongoing bond, whether intimate or not, and included messages in which J was promoting the conversation. She was concerned as to J's vulnerability around unhealthy relationships and how this might appear outside of professional scrutiny. She felt the issue remained as to J's ability to manage unhealthy relationships, and particularly that with the father, prior to engagement in therapy. Whilst she could not comment as to who was correct about the messaging she felt either way it was problematic in either indicating an ongoing relationship or evidence of ongoing abuse by M. She felt evidence of an ongoing relationship would not undermine her assessment as she had concluded J might find it difficult to disengage from abusive relationships and this would be evidence in support of this conclusion.
18. Having considered the evidence I reach a clear conclusion in favour of the account given by M to that given by J. I conclude the parents maintained a relationship beyond that of separated parents and that through the period to late July this was beyond that accepted by J. I accept that by the time of the final hearing there had been a dislocation in their relationship to the point where they are deeply opposed to each other but I bear in mind this is not the first occasion on which such a dislocation has occurred. Within the fact finding judgment one finds a similar dislocation with respect to R which was followed by reconciliation.
19. I reach this conclusion on the following basis:
 - Whilst permitting appropriate leeway for misunderstanding in the use of language as to the meaning of 'relationship' by J, I found the evidence of J to be inconsistent in this regard. I found it very difficult to reconcile her strong emotions in the light of the findings made by the Court with the manner in which she subsequently agrees to have conducted her relationship with M.

² The ordering is incorrect in that it was J who first shared messaging content with M later supplying his own messages

There was no need for her to liaise with him as a separated parent given the role of the applicant in arranging contact. Nor do I find it easy to understand why she felt the need to take steps to assist him with respect to employment. Viewed from any angle this gives an impression of a level of mutual obligation that does not fit with her case. A sense of this obligation can be found in her discussions with the experts in the case.

- I am satisfied the messaging disclosed is genuine and not the consequence of hacking activity or alternative illicit behaviour as: (i) I have significant doubt M has the ability or competence to undertake such hacking activity; (ii) In any event the messaging is structured in such a way as to undermine such a suggestion. Examples are multiple but include the following; (a) Why if M had acted to hack her phone in this way suggested would the subsequent messaging not have been more explicit in detail or content? The assumption is that M hacked J's phone to enable him to do her harm by leaving a trail of damaging messages. This being the assumed purpose why did M wholly fail to do so instead composing somewhat mundane conversations and arguments? (b) How likely is it that M would have composed messaging of the form seen in the log? For instance the log proceeds in a conventional way in that a misspelling is followed by short asterisk with the correct word. I consider it most unlikely such a structure would have been used in a contrived conversation. Rather the content of the messaging gives the strong impression of a genuine conversation and indeed has strong similarities with the messaging accepted by J to be genuine (as disclosed by her). Why would M have gone to this length only to broadly replicate a message log already in existence? (iii) Finally, by the end of her examination, J had accepted the genuineness of parts of M's message log attributed to her. In doing so a significant hole was blown through her case. Throughout her evidence there had been a lack of clarity as to the basis on which she determined the messaging was faked. At times it seemed as if her rationale simply flowed from the fact that the messages were no longer in existence on her phone. However, once it was established that some of the messaging was genuine then, plainly the same messages would at some point have been found on her own device. Any subsequent reliance on the fact the same was no longer present on her phone failed to provide any basis for questioning the authenticity of the same.
- An irony of this messaging was that it added only limited understanding of the communication between the parents. The log provided by J as genuine had many characteristics similar to that found in M's log. This was not a case in which J's log came to be understood in a fundamentally different light when placed next to M's log. Rather M's log was largely a continuation of the form of conversation found in J's log. For my part whilst there were some limited quotes from M's log which were put to J as being significant I did not feel this materially moved my understanding of the communications between the parents or what this said about their relationship. Indeed one of the more striking messages was found on J's own log in which she appears to have called M and messaged that: 'he had said she could call him at any time'. This message suggested stronger ongoing attachment between the two. I was not persuaded this had been accidentally sent to M but intended for someone else. I struggle to understand how J could have been confused as to who the conversation was proceeding with given the messages received had the title 'N's Dad' attached to it.

- A further point relates to the close crossover of timing on the opposing logs. There were days in which the logs closely fitted together in such a way as to suggest they were when taken together the full conversation ongoing between the parents. There was no point at which the timing of the messages conflicted so as to suggest all was not as it appeared to be. There was no point at which one log had a content that sat uncomfortably with the content of the other conversation log taken from a similar point in time.
- I am of the strong view this unsuccessful attempt to distance herself from the messaging provided by M was due to the fact that as part of his disclosure M had provided a separate conversation on a different platform between the two of them in which J appeared to be inviting him to come to her house for sex in early July. Plainly, if this is a genuine message then it fundamentally undermines the case as to relationship put by J. Whilst I am not asked to make a finding as to what happened on this occasion I am satisfied J sent this message. I did not find her evidence as to J having been out of the country in the week or so prior to this to be evidence that undermined the genuine nature of the message. Indeed on my finding it fits well with it. If, as claimed they remained in a relationship then it is not unlikely such a message might have been sent on her return. On balance it is likely the parents retained a relationship in the period post fact finding through to about late July 2024. This unfortunately points to J having a more muddy attitude to the findings made against M within my judgment. It also points to concerns as to transparency in their dealings with the applicant. It is clear on the evidence that these issues would not have been disclosed but for the fallout in the parents relationship on about 20 July 2024.
- I am satisfied the relationship did end in late July 2024. The reasons for this are unclear but there is no doubt M attended J's property the next morning and whilst there took a picture of her lying in bed with L. I am in no doubt he did do to evidence the fact of her having entered into a new relationship. It strongly mirrors his earlier behaviour with respect to R. To have done so was wholly inappropriate. This was a significant invasion of J's privacy. It is clear from the picture that M must have held his phone inside the room through an open window when taking the photo. I am in little doubt the case now put by M which is highly critical of J and seeks to suggest she caused the injuries to N flows from his sense of anger, jealousy and betrayal felt by him.
- I was asked to consider what the photograph suggests about the relationship between J and L. On balance I am not persuaded by J's evidence in this regard. The picture is intimate albeit not sexual and suggested a close intimacy between the two. It is not suggestive of the friendship which derives from the evidence given by J. On balance I find it portrays a relationship with qualities beyond simple friendship.

20. In summary I prefer the evidence of M over J as to the nature of the relationship between the two from around December 2023 to July 2024. I find the relationship essentially continued through this period. In around July 2024 I find it likely J, for reasons unknown, became closer to L and likely associated with this the relationship between J and M ended. The circumstances in which M came to discover this has fostered anger in M towards J and has set the scene for his engagement with the

proceedings since that point. It led to the disclosure of various evidence without which the Applicant and Court would be unaware of the matters set out above.

Acceptance of the Court's findings

21. It is clear M does not accept the findings made against him relating to N's injuries. He is of course entitled to hold this view. Separately he has claimed to have developed some insight into the finding of domestic abuse found against him. He accepts he previously viewed domestic abuse as being solely comprised of actual physical violence but now appreciates it is more nuanced and includes a broader range of behaviour patterns. I have reached the conclusion that his progress in such regards remains at a relatively low point. I have reached this conclusion in the light of his behaviour on 21 July 2024 when he attended J's property, invaded her privacy, and as I find went on to share the photo with third parties. This behaviour is abusive in character. It bespeaks a form of controlling behaviour and suggests continuing impulsive actions. Separate to this I broadly agree with the Guardian in her characterisation of his changed approach to J following her rejection of him. His statement evidence shows signs of vindictive behaviour on his part. He gives the very strong sense of being out to destroy J's case before the Court because he feels hurt by her actions. This is indicative of jealousy and a sense of a wish to achieve retribution against her by hurting her in by impacting on her chance to have N back. This all fits into an abusive framework of behaviour. Finally, in the course of the hearing and just prior to her commencing her evidence M approached J whilst she in the witness box (the Court was not in session). Whilst I do not find he was threatening in his words his actions were such as to undermine her at a very vulnerable point in time. In my assessment M has made little if any progress since the findings were made in recalibrating his behaviour. It is difficult at this point in time to assess when this will change. I find it very difficult to accept the submission that he has either made progress or is ready to commence a process of works to change his attitude or approach. It is difficult to assess how this view might have changed were M to have stayed to give his evidence.

22. In the case of J the position is more complex. She has expressed a clear acceptance of the Court's findings. However, it is difficult to reconcile this acceptance with my findings as to the continued relationship. It is understood that victims struggle to leave abusive relationships. Such victims are more often than not vulnerable with low levels of self esteem and such individuals can often only find any sense of worth in the relationship they have however damaging it is. In this case it seems clear J maintained an emotional commitment to M and did so beyond the findings of the Court. I appreciate there is evidence of a level of equivocation on her part as to the finding as to the injuries to N, with a return to consideration of epilepsy as a potential cause. It may be that this was the only way in which she could continue to justify her relationship with M. However, whichever way this is approached one is left with some real questions as to the level of insight she has shown in the light of the Court's findings. I appreciate her position is now different in that I find an actual separation. But I again remind myself that this is not the first time there has been such a separation and I must be somewhat cautious in my approach to future likelihoods in this regard. In any event her vulnerability and limited individual resilience make her a candidate for future abusive relationships whether or not with M. This is the clear view of the experts in the case.

J's support network

23. A concerning feature of the history of both parents relates to their social isolation and lack of a supportive network. This has contributed to the enmeshed nature of their relationship. My focus within this section relates principally to J although there is no evidence at all of M having a solid support network upon which he can draw. The applicant arranged a support network meeting for J. It is noteworthy that of the three individuals originally identified to attend only one in fact attended. The other two did not and it seems clear J has fallen out with one of the two. On the day three people did attend but of these two were R and L. It troubles the professionals, and the Court, that of the support network two individuals appear to be men with whom J has had some form of relationship. In each case there is a concerning dynamic with respect to M. One might question why they were not original invitees but in any event there is a question as to what support they will in fact be able to provide. The third individual is a female with whom J lives. It seems as if this woman, K, is the closest J comes to a friend. But the relationship is relatively recent and J has had experience of such relationships falling away. It seems all of the named individuals lead busy lives and their availability for J is limited. It is a sad feature of this case that J has very poor social resources. She is living in a foreign country and has not yet developed real competency in the language. Those she lives around are part of the same community and there is a certain sense of dislocation and transience in their lives as they work hard to earn enough to pay their rents and live a relatively modest life. It is difficult to identify someone on whom one could place significant reliance.

Ability to work openly with professionals

24. This has to be viewed in the light of my findings set out above as to the relationship between J and M. It is very easy to understand why J was unwilling to reveal the same and chose to explain the messages as she did by reference to being hacked. I can appreciate why she may have felt an open approach would have damaged the prospects of having N returned to her care. However, this casts a significant doubt on the prospects of her being open and co-operative with professionals in the future were N returned to her care. In a case with these features any return would have to balance the benefits against the real risk of harm to the child were the circumstances previously existing to return. Transparency would be at a premium yet there is little doubt in my mind that the transparency I have in this judgment comes not through J's co-operation but despite her opposition to it. Of course things may change and one hopes that would be the case. The challenge is in reaching such a conclusion when the same has not been readily apparent in the course of very lengthy proceedings and despite the Court reaching very clear and explicit findings.

The need for change and prospects of the same

25. The need for change is not disputed by either parent. Both express willingness to engage and understandably take the view that with opportunity they will be able to make the changes required for N to return to either of their care.
26. In the case of M this position is made very difficult by his decision not to remain within the hearing, leaving prior to J's evidence. He expressed the view, I am told, that the decision had already been taken and there was no purpose in his remaining. In such circumstances it is difficult to reach any positive conclusion as to likely change. Furthermore, in doing so he removed the ability of others to test his basic case. On the information I have there is little to suggest he has yet made the changes required or that he will likely do so within the timescales required by N. As I have noted above

his position as to developing understanding of what comprises domestic abuse is undermined by his lack of insight as to his continuing behaviours. His lack of insight as to the circumstances which led to N's injuries undermines any confidence one could have in a safe placement of N within his care.

27. The sad feature relating to J is that the Court did not make such serious findings against her. At the conclusion of the fact finding there was no foundation for concluding she would not be assessed as able to provide safe and good care for N. As was noted earlier within this judgment she has demonstrated a high level of love and commitment to N. Taking this together one would have real grounds for optimism.
28. Yet at this point in time and despite the significant timeline of the proceedings there has been little progress made. This is despite the applicant making appropriate referrals with respect to domestic violence resources and associated resources which could provide a broad level of support across areas of housing and other important features. By her own admission J failed to engage with this referral in the first instance and it is only quite recently that she has sought to engage. I have to say I struggled with her evidence relating to a specific organisation geared towards providing support for individuals known to derive from her home country. J said she did not engage as they did not have any individuals who spoke her language. It seems to me J was too ready to step away from the broad support that might have otherwise been offered whether or not specifically related to domestic abuse support.
29. With respect to therapeutic assistance the advice of Dr Black was provided in March 2024. It is to her credit that J went on to speak to her GP about this but there appears an absence of chasing any referral and it was ultimately left to the social worker to engage in the chasing which appears to have led to a referral. The expert evidence suggests that this work will be challenging. J has some deep seated difficulties which derive from her own childhood and upbringing. Unpacking this will be emotionally difficult. She remains vulnerable and the sense of the expert evidence is that she needs to have made progress with her domestic abuse work prior to therapy. But even putting this to one side the timeline for therapy appears to be at no less than 1 year of work rather than a matter of weeks.
30. To her credit J expresses a willingness to engage with this process. I do not doubt her sincerity but it seems likely her active engagement is affected by her poor emotional resources and her other commitments. It seems likely any progress in such regard will be slow in the first instance. It is very difficult to make clear predictions at this point in time. One is bound to draw on the many months since the fact finding and the limited progress since that time when there was a real motivation for demonstrating change.
31. In this section I have not reviewed the full weight of evidence. The sections above fairly encapsulate the key issues for determination. I found the professional witnesses to be considered in their approach and fair in their evidence. Each of Dr Black, Ms Clarke and Ms Hassan gave reasoned explanations for their conclusions and justified their reservations. Whilst social workers are often criticised for failing to assist the parents in a case I consider such a criticism cannot be levelled at the social worker in this case.
32. The guardian is a very experienced professional. Her evidence was clear and consistent. She dealt with all points put to her in a direct and clear fashion. Her

conclusions were robust and evidenced.

33. I did not hear from M and so cannot express a view beyond his written evidence. As noted above this was critical of J and left one with a sense of anger at her.
34. J was giving evidence before me for the second time. It is difficult not to feel for the position she finds herself in. She is plainly isolated and recognises the difficult position in which she finds herself. She did her best I find to make her case for N to return to her care. I was left in no doubt as to her overwhelming wish to care for him. I was left in no doubt as to her love for him. She could not have done more to persuade me of the same. But she did struggle at points in her evidence in reconciling her case with the objective evidence before me and I am in little doubt that not all of her evidence was truthful. I am confident she bent the truth at times as she felt she needed to do so to get N back. Ultimately I can understand why this motivation dominated her approach to the evidence.

My welfare analysis

Wishes and feelings

35. Given his age the most I can do is to impute wishes and feelings to N. I am willing to do so with the caveat that a balanced approach must be taken. I assume N would wish to be brought up within his biological family and to retain the cultural and identity links that come with the same. But, I also assume he would wish to live within a stable home in which his care is predictable and reliable and certainly not surrounded by issues of risk, emotional harm and instability.

Needs

36. N's essential need is for safe and predictable care. One can see in the facts of this case the impact on N when this need has not been met. The impact upon him was a serious injury with potentially life long implications. The impact was an emotionally unpredictable home in which his father was abusing alcohol and impulsive behaviour placed him at risk of emotional harm. N's welfare requires a predictably available caregiver. A concern in this case has been the absence of such predictable availability when parental difficulties have diverted attention from N's needs. N requires a placement with a sense of permanency. A placement which is settled and has solid foundations on which he can thrive and develop. A challenge in this case is the ability of either of his parents to provide N with settled and consistent care when confronted by the other challenges they face. In the case of his father the worry is as to how he navigates N's needs whilst being distracted by his relationship demands and personal struggles. In the case of his mother a key issue arises in respect of her ability to prioritise his needs when balanced against her own needs flowing from her own challenging history. A further challenge is her ability to recognise these risks and the absence of real support to help her through difficult periods without which she tends to return to abusive relationships.

Likely effect on N of ceasing to be a member of his original family...

37. There are some obvious likely impacts on N were an adoption order to be made and were N to cease to be a member of his biological family. These significantly include fundamental dislocation from his family to the point where he will have a gap of understanding about his identity and background. As a result he will have a lack of

foundation on which to build a sense of himself. The danger is that this will leave him emotionally fragile and at risk of significant emotional harm as he seeks to understand why it is he finds himself in such a position. A related likely impact is loss of relationship with his biological family. On the facts of this case this is a reference to a relationship with his parents. Realistically there must be a chance of no direct contact post adoption. Whilst there would be a possibility of placement with a family who share the parents' nationality this cannot be guaranteed and so there must be a real risk that N's association with his national identity will also be lost.

N's characteristics...

38. It is important to have regard to N's age. At this age his welfare demands a sense of permanency with a central and settled placement in a family. It would be wholly contrary to his welfare for his placement to be unstable or lacking in permanency. It is important to have regard to his identity and his cultural background. I have made particular reference to this factor above. It is important to have regard to the potential for N to have long lasting consequences of the injury referenced in the fact findings hearing. At this time one can have no certainty but there are real concerns as to a lasting impact of the same. As a result he will need a carer who can advocate for him and navigate the medical system to his best advantage. It will also be important for N to have a child focused understanding of what happened to him to cause this. He will deserve a carer who accepts the reality of his experience to date.

Harm and risk of the same....

39. This factor has been covered within the fact finding hearing. The risks remaining are as to a potential repeat of poor care leading to further injury or as to an environment in which emotional harm is experienced due to the prioritisation of adult needs over those of the child.

Relationships with others...

40. Under this heading I am consider the relationship N has with both his parents. He does not have a wider relationship with family members and there is little evidence to suggest this may change. On the evidence I have there are good grounds for concluding the relationship with J would continue and would be of value to N. To date she has shown commitment to contact and I have no basis for considering this would change. This contact has been positive for N and would continue to be so. The relationship with M is secondary to that with J but does have value for N. I am less clear as to assessing the prospects of this continuing if N is not placed into M's care. It is clear both parents wish to care for N and strongly oppose the plan for adoption. There are reasons for doing so are easy to understand and genuine in nature. A key question at this heart of this judgment relates to the ability of either parent to provide N with a secure environment in which N can develop and have his needs met. As noted above there are real concerns with respect to both parents within the child's timescales.

A holistic overview

41. The Court is obliged to consider the realistic options for N. In this case this amounts to a consideration of four options. These are placement with either parent; long term foster care and placement for adoption.

42. The option of long term foster care has very real challenges. Whilst it brings positives in that it would permit ongoing contact with both parents, an option I am confident the mother in particular would take up, it would come with some profound negative implications. These are well understood and include the stigma of growing up with an institutional parent and in circumstances of regular looked after processes and medicals. Furthermore, even with the most committed foster carers there is a marked distinction as to the level of permanence arising from the same. Such a placement is inherently more precarious given the nature of the relationship between foster carer and the child flows from a contractual relationship between foster carer and applicant. The continuation of such a placement is at the determination of the applicant and there are many factors which can arise which would mean a foster placement could not continue whereas the same issue would not endanger a normal family placement.
43. In the case of placement with M the benefits would be the ongoing relationship with a biological parent and a close association with the cultural and other identity factors referenced above. It is likely such a placement would also enable contact with J and so broadly permit N to enjoy family life. The negatives of this option relate to real uncertainty as to the ability of M to meet N's needs and raise him in a safe and predictable manner. A real question arises with respect to M's ability to focus on N's needs and prioritise them over his own needs.
44. The position with respect to J is plainly stronger than that of M but it raises the same balance of positives and negatives. The positives include an opportunity to be cared for by a parent who holds a deep love for N and wants the best for him. The challenge is as to her ability to make the changes to ensure this placement is stable and will endure and will not suffer a repeat of previous circumstances which left N at risk of harm and factually harmed him. The real risk is that this option comes with a significant potential for breakdown and further instability.
45. The option of placement and adoption has the positives of likely providing an environment which is safe and stable and which avoids the challenges currently faced by the parents. It is likely such a placement would be with carers who come to the placement with open eyes and an understanding of the challenges before them. The very obvious downside of the same is the loss of family life and direct relationship with N's family. Furthermore, N would potentially suffer a loss of cultural and identity features. Finally, and due to the impact of adoption there is the risk of significant emotional baggage and the possibility of ultimate breakdown of placement with severe negative consequences.

Conclusions

46. It is important to pause and reflect on the actual positions before the Court at the end of the hearing. M was asking for an immediate return of N to his care but had chosen to exempt himself from the hearing prior to giving evidence and was some substantial distance from evidencing changes in his lifestyle that would make such a placement safe and secure. He does not accept the findings of the Court and has shown no level of insight in this regard. It is therefore questionable as to whether he has made the changes necessary to avoid a repeat of the same. J was accepting of a need for a care order whilst she made the necessary changes in her life. She argued it was best for N to wait for her to make these changes so that he could return to her care. She expressed commitment to making these changes and appeared to accept this was work that would require a significant period of time before she would be ready for N to

return to her. The applicant and guardian continued to argue for care and placement orders. They argued change was required by both J and M but that there was limited evidential basis for concluding this would be successfully achieved within N's timescales, if at all. Short of such change he required permanency in a stable and safe home in which he was central.

47. I have assessed each of these options with care and brought into my assessment the conclusions set out in detail above.
48. I cannot accept long term foster care as being a viable solution for N. It substantially fails any test of permanence and would leave N in an unacceptable position of limbo. It will be a rare case in which a child of N's age and without sibling connections is left in foster care simply so that he can enjoy contact arrangements with parents who cannot provide him with the care he demands. Whilst I recognise there are benefits to such a placement these are substantially outweighed by the serious negatives and the instability surrounding such an option.
49. The evidence in support of placement with M is poor. The concerns identified within the fact finding have not resolved and remain real and present. M has not materially engaged with support and has shown little reflection on the findings made. He has continued to show concerning behaviour patterns towards J and his recent hair strand test whilst not showing alcohol abuse has replaced this with amphetamine usage. This is not a stable position into which to place N. M has no support network and it is not lost on me that N suffered a serious injury on the last occasion on which he was left in his father's sole care. There are also continuing concerns as to M ability to work openly and transparently with professionals. Added to this he chose to leave the final hearing before giving evidence. At the date of this judgment it is impossible to assess his continuing commitment to the case.
50. The position with respect to J is different to M. I remain of the view she is a victim in the relationship between the parents and I have consistently noted her commitment to her son. Yet she accepts she has changes to make and these will take some time to achieve if they are successfully achieved at all. Within these proceedings she has not made the progress that might have given the Court confidence and she has been less than transparent in her behaviour. Her decision making has been shown to continue to be impacted by her relationship with M.
51. There is no doubt in my mind that placement for adoption will give greater certainty with respects to features relating to risk and permanency. But it will likely have a serious impact on N's ongoing relationship with his parents and his links to his culture and background.
52. Ultimately, the time has now come to make final decisions for N. I simply cannot put off making a decision for a further significant period in circumstances in which I cannot attach to such a delay a sufficiently significant prospect of successful outcome. On the information available it is likely progress will not be made even after a further lengthy delay. At such a point the options for N will have shrunken further. In this case there has been time to evidence change even if this was not fully completed. The Court can act in circumstances in which there is further work to be done where this can be assessed with evidenced confidence. Yet here I have no such basis for confidence. The evidence tells me that refusal of a placement order is likely to leave N in long term foster care, the option I have found to be unacceptable for him.

53. I have reached the conclusion M's case is hopeless on the evidence. It seems to me he has focused on damaging J's case but made no material progress in advancing his own case. I have reached a similar conclusion in respect of J's case. In her case there is far too much reliance being placed on future change that is hoped for but a lack of reflection on what the absence of change to date suggests. I accept her position is well intentioned but it does not provide a foundation for reaching safe and reliable conclusions with respect to N.
54. I have reached the conclusion the only appropriate orders for N are care and placement orders. There is nothing else before me that can securely meet his needs. I appreciate the parents do not agree with this but I dispense with their consent to the same as N's welfare requires such an outcome. I consider this outcome whilst draconian in its implications is proportionate on the facts of the case and is both necessary and reasonable in the light of my conclusions above. It is plainly lawful in character.
55. I approve the care plan placed before the Court with the suggested modification around supporting a meeting between any prospective adopters and the parents (J in particular). I also support and expect any prospective adopters to be given a fair overview of the natures of the parents and the benefits that can flow from an open approach to adoption. I do not seek to bind the placement search by reference to expectations on placement but these benefits should be fully canvassed.
56. At the end of submissions I made a non-molestation order against M and explained my rationale for doing so. I have agreed to consider the continuation of the same at the handing down hearing.
57. This judgment will now be forwarded to counsel and can be shared with their clients and lay individuals. I would ask for: (i) any corrections; (ii) requests for clarification, and; (iii) suggested modifications to preserve anonymity on likely publication to be provided to me by 10am on 4 November 2024. I intend to hand down this judgment at a 30 minute hearing (remote if agreed) on either of 7-8 November 2024. I will sit at 9.30am if this assists the parties. Can I please have confirmation of the preferred date by 10am as above? It would also assist to have a proposed draft final order by 4pm the day before the handing down. I have agreed to release counsel so long as replacement representation is found.

His Honour Judge Willans