This judgment was delivered in private. The Judge has given leave for this judgment to be published. The anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of Court.

IN THE FAMILY COURT

Neutral citation: [2024] EWFC 40 (B)
Case Number: 1683809129919326

26 February 2024

Before His Honour Judge Middleton-Roy

Between:

The Local Authority	Applicant
- and -	
The Mother	1st Respondent
The Children **'A, B, C, D, E, F and G'** **Through their Children's Guardian**	2nd to 8th Respondents
'FT' **The Father of 'C, D, E and F'**	9th Respondent
'FF' **The Father of 'G'**	10th Respondent

Miss Burgess, Counsel for the Applicant
Miss Major, Counsel for the First Respondent
Miss Williams, Solicitor for the 2nd to 8th Respondents
Miss Allwood, Counsel for the 9th Respondent
Mr Fry, Counsel for the 10th Respondent

Hearing dates: 21 and 23 February 2024

APPROVED JUDGMENT

His Honour Judge Middleton-Roy:

1. There can be no more powerful or moving description of the lived experiences of the children who are the subject of this application, than that articulated by the eldest child, 'A' in a handwritten letter of 28 April 2023:

"Most of what I am about to say started from an early age. But my awareness of how things were not right began when I was about 8.

I remember when ['FT', the father of the middle four children] was living with us. Mum allowed him to grow weed in the garden. I was kicked out of my room as this was being used to dry the weed strung across my ceiling and rows of weed were left to dry. I slept with ['B', the second oldest child] during this time… when I returned to my bedroom…the smell lingered until we moved out...

Once… I heard arguing from downstairs and went down. I remember Mum and ['FT'] drinking. I know drugs were being used but I was so young I didn't recognise anything. I saw ['FT'] smash a glass into his own head /cheek and there was a lot of blood. Mum was panicking and ['FT'] was shouting at Mum saying 'you made me do this'. ['FT'] left and when he returned 1-2 days later his face was bandaged. Mum told me not to tell anyone about this and was not concerned about the fact that I had seen it.

…Once when my Mum was drunk [the second youngest child, 'F'] fell down the stairs and cut his head badly. He still has the scars on his forehead. Mum and her Nan argued a lot about this and they had a physical fight. My Mum pushed Nan and I was present. When Nan fell into me my arm was burnt by a cigarette she was holding….

When…I was in Year 6, I remember Mum being drunk most of the time…we were left alone. Most of the time I stayed behind to look after the others. I remember Mum taking bottles of wine and vodka next to [the child 'F'] in his buggy under the blanket…Mum went missing one night. She told me that we misbehaved and she couldn't deal with us anymore…she left us and slept in an alley.

...I have done all the washing, ironing and cooking. I think for as long as I can remember Mum has never cleaned any room. I clean her bedroom and see bottles of alcohol, white powder on flat surfaces such as [on the] iPad, picture frames, lots of 'baggies' and once I tidied up and found a pot of pee under [the father of the youngest child, 'FF's] side of the bed. I clear up vomit, they trash it, they stay in there sometimes for two days. It stinks so bad. When they leave the room, I clean it again and the cycle starts…there is often limited food in the house but I cook from scratch with whatever is in. Many times there has been not a lot of food so I have not eaten. I made sure all the children ate before me. Mum insisted that I make her and ['FF'] food, although they rarely eat with is and they leave it until they are not drunk/high.

It is very easy for me to see when Mum and ['FF'] are high/drunk. Mum's…pupils are so wide and she is agitated, biting nails, extreme arm movements and she gambles. This is when she's high on cocaine. Alcohol has a similar effect on her. ['FF'] when high, his eyes pop out – his eyes are dilated and he gets extremely sweaty. I have to get him a towel.

I remember ['FF'] and Mum having an argument. Mum called me down and told me ['FF'] had bit her. She showed me a mark on her back and it did look like a bite mark…Mum and [FF] argued so often. ['FF'] left. ['FF'] returned. This carried on for years. It hurts that Mum and ['FF'] never try to hide anything like this from any of the children. I try my best to keep the younger children away and I try to protect them. But ['C' and 'D'] sleep downstairs so they see and hear it all. ['C'] protects ['D'], and me and ['B'] protect the others.

For at least 7 years Mum has got high the night before our birthdays. It was my job to get the presents, wrap the presents, do the birthday cake/decorations…last year, I forgot ['D's] birthday. Mum told me I was a bad sister and took away my TV and my phone. I was so exhausted, the previous night was it was my Yr10 mocks. She punished me for this for a long time and I never got my phone back. I had a [phone] and she threw it against the wall. None of us ever asked for anything good for our birthdays as we knew she spent all the money on drugs/drink…last year for my birthday she gave me £50. I went to Asda on my own, bought a couple of books and some noodles and spent the day alone in my house. There were no celebrations, no cake, no friends…[Mum] had been in bed all day…it was a miserable day.

Recently I heard mum and ['FF'] arguing. I heard Mum saying 'put the hammer down'. I went into their room and Mum told me to go away…an hour or so later Mum was pushing ['FF'] down the stairs, kicking him out., She was screaming. She told me she was going to call the police to report that ['FF'] had raped her…I am confused sometimes as when Mum is with ['FF'] arguing she tells us awful things, they split up, they get back together and then I'm told to be polite and respectful to him. It's tough…when I get home nobody is there. When I don't have a phone, I have no idea where both ['FF'] and Mum are. As soon as they return…they tend to rush upstairs to their room and I see nothing of them both for a day. If Mum wants something she either bangs on the floor or, if I have a phone, she texts me. The messages are so garbled as she is high. ['FF'] and Mum ask for drink or food or a container for vomit. When they 'come down' I am like a runner, I am constantly getting them food, water, towels, plus looking after all the children. I have not been to school much lately as when they sleep for hours/days, nobody but me looks after ['G'].

Once ['B'] came home before me and had to climb through the window as Mum was so fast asleep she didn't answer. ['G'] was crying. Eventually when Mum woke up, she asked me if ['G'] had eaten because she had slept all day and hadn't fed her.

*This year…I have gone for 2-3 days without eating. I always tried to make sure my younger siblings ate…during lockdown I remember not wanting to be alone with my Mum. She was very vocal saying I was a c*nt and fat. She told me my hair was awful and was ugly…Mum uses the word c*nt a lot. She calls all of us this. If I get the wrong food for dinner, I'm a c*nt. If the room is a mess, I'm a c*nt. I worry because both of them use words such as c*nt or pr*ck and even calling me the 'N' word. Mum says she can call me that as she's my mum. ['FF'] is racist and calls me that just to provoke me. It upsets me as my youngers now think that this is OK. Once ['FF'] mentioned that my friend is a 'P' word. I will never invite my friends over.*

Mum often threatens us with ['FF'] as he hits us. ['FF'] has beaten all of us apart from me and ['B']. It's my Mum that beat me and ['B']…I can remember her really hurting my hand so much so that I couldn't write the next day at school. It upsets me because a) you can't treat people like that and b) its normally over nothing, perhaps an untidy room or the wrong food. Since Social Services got involved both Mum and ['FF'] asked me ['B'] and ['C'] to hit the younger 3. I refused…if ['B'] didn't hit hard enough, she was told to do it again. ['B'] and ['C'] did as they were told, I think out of fear of the consequences.

I realise that my Mum hasn't protected me. I am made to feel guilty about asking Mum to look after the children so I can revise. I have been out with my school friends perhaps 3-4 times in 5 years. I would never invite anyone home.

In March 2023, Mum and ['FF'] had an episode that lasted 3 days. At one point in the evening I heard Mum saying that someone was at the window. She came into my room, turned on the light and told me that someone was messing with the wifi. She was acting paranoid. She kept saying to me, 'how could you do this'…she was so frantic and at one point was holding ['G'] so I grabbed the baby from her. She was very loud…I was up all night, 4 maybe 5 hours, and when Mum had fallen asleep, ['FF'] left and I carried on looking after the

children. Mum asked me a few days later why I was frightened and I explained that I wasn't frightened, I was trying to calm her down. Since that episode, for some reason Mum moved… to hating on ['B']."

2. It is against that background, articulated so vividly by the eldest child, that the Local Authority began these Court proceedings with concerns that the children have each suffered significant harm in the form of physical harm, emotional harm and neglect, through exposure to domestic abuse and parental violence, parental drug misuse, the impact of parental mental health, risks from parental criminal activity and poor home conditions.

3. The case concerns seven children. The children are all parties to these proceedings through their Children's Guardian. Three children are of secondary school age and three are of primary school age. To avoid the identification of the children, I will not refer to them by their names. Further, I will avoid using any personal or geographical indicators in this judgment. Consistent with the Practice Guidance of the President of the Family Division issued in December 2018, I will refer to the children in this large sibling group using simple fictitious initials, 'A, B, C, D, E, F and G', with 'A' being the oldest child, descending in birth order to 'G' as the youngest child. No disrespect is intended to the children or their parents by referring to the children using initials. The Court has firmly in mind that behind those initials are individual children with their unique personalities and characteristics.

4. The First Respondent is the mother of the children.

5. The paternity of the oldest child is not clear.

6. The father of the second oldest child holds Parental Responsibility for her by virtue of being named on her birth certificate. He is not legally represented and has not engaged with or participated in the proceedings at any stage.

7. I will refer to the father of the middle four children, 'C, D, E and F', as 'FT'. He is the Ninth Respondent. He is legally represented. He holds Parental Responsibility for those four children by virtue of being named on their birth certificates.

8. I will refer to the father of the youngest child as 'FF'. He is the Tenth Respondent. He holds Parental Responsibility for 'G' by virtue of being named on her birth certificate. He too is legally represented. At the time of this Final Hearing, he was incarcerated, awaiting trial charged with an offence under the Domestic Abuse Act 2021 in September 2023 of non-fatal strangulation in respect of the mother.

9. The Local authority is not identified by name. The Local Authority is a public body with a statutory responsibility for the welfare and protection of children and support of families. Where that work has resulted in Court proceedings, the Local Authority is held accountable for its actions with families by the Court. The need for a public body to be identified when acting in respect of citizens is important. Naming the Local Authority in a public document in this case, however, may set clear geographical boundaries to the location of the children, all of whom remain vulnerable. Naming this Local Authority may serve to undermine the redaction of other parts of the judgment. In this case, having balanced the risks between transparency of justice on behalf of the State where life changing decisions are made for the children and ensuring their privacy, welfare and safeguarding needs are taken seriously and protected, the Court concludes that the public interest in identifying the applicant Local Authority is outweighed by the risks of identification of the children in this large sibling group.

10. The relevant application before the Court is an application made by the Local Authority issued on 15 May 2023 seeking a Care Order for each child. Each child is currently the subject of an Interim Care Order. Presently, 'A' and 'B' are placed together in interim foster care. 'C, D, E and F' are placed together in an interim foster care placement as a sibling group of four. 'G' is living in a separate placement.

11. At Final Hearing, the Local Authority pursues applications for Care Orders, with the plan that 'A' remains in foster care before moving to supported accommodation. The Local Authority plan is for 'B, C, and E' to be placed in long term foster care together as a sibling group of three. The Local Authority's care plan for 'D and F' is for them to be placed in long term foster care together as a sibling group of two. The plan for 'G' is to move to the care of her Paternal Grandparents, who have been approved as foster carers by the Local Authority fostering panel.

12. The mother does not oppose the Local Authority's applications for a Care Order for each child. She opposes the Local Authority's care plan so far as it relates to contact. The mother's decision not to oppose the Local Authority's plans in respect of placement of the children is child-focussed. In making that decision, the mother has demonstrated insight and recognition that she caused significant harm to the children. Further, she recognises that she has much work do complete before she could be able to care for any of the children safely, particularly in respect of working towards drug rehabilitation. She tells the Court that she remains committed to making progress for the benefit of the children. Further, she tells the Court that she wants to be the best parent for the children, even if they are not in her care.

13. The mother was represented at Final Hearing by experienced, specialist Counsel. The mother was also assisted throughout the Final Hearing by an accredited intermediary, a highly trained communication specialist who sat next to the mother throughout the hearing and provided continued explanation and communication support. The mother is a person with marked communication difficulties, characterised by limitations in maintaining attention, processing long sentences containing more than four key words. Understanding low frequency vocabulary, understanding complex grammar, understanding non-literal language and understanding and retaining information. Difficulties with literacy, expression and time concepts were identified during assessment. At the outset of the Final Hearing by way of ground rules, the Court endorsed and adopted targeted, specific communication recommendations identified helpfully in the intermediary's written assessment.

14. The Local Authority application in respect of 'G' is not opposed by 'FF', who fully supports his parents in caring for the child. He too has taken a child-focussed decision to support the Local Authority's application for a Care Order for 'G', demonstrating insight into 'G's needs and acknowledging that his own situation prevents him from caring for 'G'.

15. The Local Authority applications in respect of 'C, D, E and F' are opposed by their father, 'FT'. He seeks either placement of 'C, D, E and F' in his care or alternatively, an adjournment of the proceedings. He tells the Court that he does not seek immediate placement of the children with him, as he understands that restoring their relationship with him will take time, as will building up contact. He suggests that he will live separately from his current partner and their child, in close proximity to them, to enable him and the children to build up their own relationship, for them to feel secure and stable, with an eventual move for all of them to live together. He considers that this can be done under Supervision Order of six to twelve months.

16. The Children's Guardian supports the Local Authority's application and care plans for each child.

17. At Final Hearing, the Court heard evidence from the Allocated Social Worker and from the Children's Guardian. No party sought the mother or 'FF' to give evidence. 'FT' was permitted to attend the hearing remotely by video. He lives a considerable distance away from this Court in another part of the country. The Court was informed on the first day of the Final Hearing that 'FT' could only make himself available to attend for 1 ½ hours, as he had work commitments. He was able to hear some of the evidence of the Social Worker before he absented himself. He was due to give evidence on the second day of the Final Hearing, remotely by video. He did not attend. The Court was informed initially that he could not

access the video link. When he was afforded the opportunity to give evidence by telephone in the alternative, using a freephone number, the Court was informed that 'FT' declined. An oral application was then made to adjourn the Final Hearing so that he could give evidence on another day. The Court was then informed that 'FT' would not make himself available to give evidence at any point in the month of February, due to his work priorities, expressing "extreme frustration" and then being unavailable when further attempts were made by Counsel to receive his instructions by telephone. The adjournment application was not supported by any of the parties. The Court dismissed 'FT's application to adjourn for reasons given in an extempore oral judgment. In short, 'FT' had been aware of the Final Hearing dates for some time and had adequate time to make alternative arrangements with regard to his self-employment. There was no solid reason to conclude that 'FT' would make himself available to give evidence on another day, if the proceedings were adjourned. Moreover, the children all required decisions to be made in respect of their futures without further delay, to provide them with certainty and stability, in proceedings which had already exceeded the statutory 26-week timetable. The adjournment application having been dismissed, the Court proceeded to determine the case in 'FT's absence. 'FT' remained fully represented throughout by Counsel, who proceeded to undertake full and proper cross-examination of the Children's Guardian and make full and detailed written submissions at the conclusion of the Final Hearing, properly advancing 'FT's case.

18. Mid-way through hearing the evidence of the Guardian on the second day of the Final Hearing, 'FT's solicitors filed with the Court a written application to adjourn the proceedings so far as they relate to the children 'C, D, E and F', "to enable time for the Local Authority to complete relevant life story work with the children with a view to additional contact taking place, leading to the reunification and placement of the children with their father." That application falls to be considered as part of the Court's welfare analysis.

19. In reaching its decision, the Court has considered an electronic bundle of documents comprising over 2,130 pages, equivalent to eight level arch files, in addition to documents filed during the Final Hearing, including updated care plans for each child. The Court extends its grateful thanks to the advocates for their preparation and presentation of the case. It is not possible nor necessary to address every piece of evidence nor every submission made on behalf of each party. Nevertheless, the Court has given all the evidence careful consideration and anxious scrutiny.

The Relevant Law

20. Local Authorities owe a duty in law to safeguard and promote the welfare of all children within their area who are in need. In carrying out that duty in law, the Local Authority must promote the upbringing of children by their families and must provide services appropriate to the needs of children who are children in need.

21. The purpose of the Family Court in proceedings of this nature is not to establish guilt or innocence or to punish or criticise parents but to establish the facts as far as they are relevant to inform welfare decisions about the child.

22. In any application for a Care Order or Supervision Order the Court must apply section 31 of the Children Act 1989 to each relevant child. A Court may only make either a Care Order or a Supervision Order if the 'threshold criteria' in s.31(2) Children Act 1989 are satisfied, namely, that the child concerned is suffering, or is likely to suffer, significant harm and that the harm, or likelihood of harm, is attributable to the care given to the child, or likely to be given to them if the order were not made, not being what it would be reasonable to expect a parent to give to them or the child being beyond parental control.

23. If the threshold criteria are met, the choice of whether to make any Order, and if so which, in care proceedings is to be determined by the Court affording paramount consideration to the child's welfare under s.1 Children Act 1989. The Court must have regard to the matters set out in the welfare checklist in s.1(3) Children Act 1989 and the non-intervention principle in

s.1(5), namely that the Court in considering whether or not to make one or more Orders under this Act with respect to a child, shall not make the Order or any of the Orders unless it considers that doing so would be better for the child than making no Order at all.

24. By s.31(1)(a) Children Act 1989, a Care Order places a child with respect to whom the Order is made in the care of a designated Local Authority. The Local Authority shares Parental Responsibility for the child but has the power to determine how any other holders of Parental Responsibility may exercise their Parental Responsibility. Where a Care Order is made with respect to a child it shall be the duty of the Local Authority designated by the Order to receive the child into their care and to keep the child in their care while the Order remains in force. A child who is placed in the care of a designated Local Authority under Children Act 1989, s.31(1) is a child who is being 'looked after' by the Authority for the duration of the Care Order.

25. Sections 31(9) and 105 of the Children Act 1989 define "*harm*" as meaning ill-treatment or the impairment of health and development including, for example, impairment suffered from seeing or hearing the ill-treatment of another. "*Development"* is defined as meaning physical, intellectual, emotional, social or behavioural development. "*Health"* is defined as meaning physical or mental health.

26. The Domestic Abuse Act 2021 defines behaviour as being "abusive" if it consists of a single incident or a course of conduct that includes physical or sexual abuse, violent or threatening behaviour, controlling or coercive behaviour, economic abuse, psychological, emotional or other abuse. A victim of domestic abuse as defined under the 2021 Act includes a child who sees or hears, or experiences the effects of, the abuse.

27. The Family Procedure Rules 2010, Practice Direction 12J at paragraph 3, defines domestic abuse as, "*any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 years or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, psychological, physical, sexual, financial or emotional abuse*."

28. In *JH v MH (*Rev 2) [2020] EWHC 86 Russell J set out guidance on the Court's approach to addressing domestic abuse by reference to PD12J: *"Domestic abuse can inflict lasting trauma on victims and their extended families, especially children and young people who either witness the abuse or are aware of it having occurred. Domestic abuse is rarely a one-off incident and it is the cumulative and interlinked physical, psychological, sexual, emotional or financial abuse that has a particularly damaging effect on the victims and those around them."* This Court is fully cognisant of the relevant guidance and this Court explicitly bears that guidance in mind.

29. The Court must always bear in mind that, in general, any delay in coming to the decision is likely to prejudice the child's welfare.

30. In *Re F (A Child: Placement Order: Proportionality) [2018] EWCA Civ 2761* the Court of Appeal set out the questions that the Court should ask itself when assessing risk of future harm and setting it in context. That approach has equal utility to an application for a Care Order where no Placement Order is also sought: What is the type of harm that might arise? What is the likelihood of it arising? What consequences would there be for the child if it arose? What steps could be taken to reduce the likelihood of harm arising or to mitigate the effects on the child if it did? The answers are then placed alongside other factors in the welfare equation so that the Court can ask itself, how do the overall welfare advantages and disadvantages of the realistic options compare, one with another? Ultimately, is the welfare option necessary and proportionate – are the risks bad enough to justify the remedy?

31. The Human Rights Act 1998 applies to these proceedings. Under Article 8, everyone has the right to respect for private and family life, home and correspondence. There shall be no

interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society. Each individual family member in this case has that right, including the children, their mother and the fathers. These rights must be balanced. Any interference with the right to private and family life must be a necessary interference and must be proportionate, having regard to the risks. The children, the mother and the fathers are each afforded that protection.

Threshold

32. The relevant date for determining threshold is 30 March 2023 when the children were removed from the family home by the police exercising emergency protection powers. The parties agree that on the relevant date, the children were suffering significant harm in the form of physical harm, emotional harm and neglect and were at risk of suffering significant harm in the form of physical harm, emotional harm, and neglect, the harm or likelihood of harm being attributable to the care given or likely to be given by the parents, not what is reasonably expected a parent to give a child.

33. The following pleaded threshold facts, with the exception of paragraph 7(i), are not disputed between the parties and the Court makes findings of fact accordingly. The Court adopts the paragraph numbering set out by the Local Authority:

"2. *The children's basic care needs were not met when they were in the care of their mother and 'FF'. Specifically:*

- *i. poor home conditions were observed;*
- *ii. the six older children all have poor oral/dental health including cavities;*
- *iii. on 28 August 2021 'G' was taken to hospital after ingesting an unknown white powder;*
- *iv. the children have been left supervised by 'A' for periods of time both at home and in the park;*
- *v. 'A' and 'B' have been expected to care for the younger children.*

3. The children have been exposed to domestic abuse and parental violence. This puts the children at risk of emotional harm and at risk of physical harm if the abuse escalates and the children were to be caught in the crossfire. Specifically:

- *i. the children haven unable to sleep at night due to loud arguments between the mother and 'FF';*
- *ii. 'FF' bit the mother on 24 July 2021;*
- *iii. The children were exposed to arguments and physical altercations between the mother and 'FT'. This includes an incident were 'A' saw 'FT' smash a glass against his face.*

4. The mother and 'FF' have inflicted physical harm on the children. Specifically:

- *i. the mother slapped 'B' on the face;*
- *ii. the mother smacked 'C' on the hand and on the thigh;*
- *iii. the mother shouts at all the children;*
- *iv. the five older children witnessed arguments and physical altercations between the mother and 'FT';*
- *v. 'A' witnessed an incident where 'FT' smashed a glass into his face;*
- *vi. 'FF' 'clips' the children's heads as a punishment and he has slapped 'D'.*

5. The mother and 'FF' abused drugs and alcohol when the children were in their care. The mother also had gambling difficulties. This impacted on their ability to care for the children, placing them at risk of neglect and physical harm due to not being physically or emotionally available to parent, and due to the impact on finances for the family. Specifically:

i. *the mother has tested positive for high levels of cocaine (including potentially crack-cocaine) use and chronic excessive alcohol use in the approximate time period from the end of November 2022 to the end of May 2023;*
ii. *'FF' has tested positive for high levels of cocaine use and chronic excessive alcohol use in the approximate time period from middle of March 2023 to the end of May 2023;*
iii. *there is no evidence that either the mother or Mr 'FF' were accessing substance misuse services at the relevant date.*

6. *Both the mother and 'FF' had mental health difficulties, for which they were not receiving treatment, whilst the children were in their care. This placed the children at risk of suffering emotional harm as the parent's poor health will impact on their ability to safely care for the children.*

7. *The mother, 'FT' and 'FF' engage in criminal activity which put the children at risk of emotional harm if they witness the criminal activity, and the risk of neglect as the criminal activity can impact on the parents' ability to provide basic care. Specifically:*
   i. *'FT' grew drugs in the family home when he was living with the mother and the six oldest children;*
   ii. *'FF' has been arrested for possession with intent to supply, two offenses of possession of an offensive weapon and drug driving with no insurance;*
   iii. *the children are aware of 'FF's criminal activity."*

34. In respect of paragraph 7(i), 'FT' accepts the Local Authority's assertion that he grew drugs in the family home when he was living with the mother and the six older children. The mother told the Court that she cannot accept the allegation, as she cannot remember. She told the Court that it was her recollection that 'FT' was growing drugs in his own property at a time when she was living with the children separately from 'FT'. She tells the Court that she "does not recollect" drugs being grown in the family home. She accepts, however, that her recollection "may not be as good as it could be".

35. 'FT's admission is sufficient to find the threshold allegation proved. There is also powerful evidence by way of the accounts of the children, specifically the handwritten letter from 'A', dated 28 April 2023, set out at paragraph 1 of this Order, which records that her mother allowed 'FT' to grow cannabis in the garden. 'A' was then "kicked out" of her bedroom which was being used to dry the drugs.

36. On all the evidence, the Court finds allegation 7(i) to be proved. There are three elements to threshold. The harm must be actual or likely, it must be significant and it must be due to parenting that is not reasonable. The totality of the evidence in the case leads the Court to the firm conclusion that all three of these elements are satisfied. On all the evidence before the Court, the facts undoubtedly disclose actual significant harm and a real risk of significant harm that cannot sensibly be ignored. Asking the question, whether the threshold was satisfied at the relevant date, there can only be one answer. In this case the threshold under section 31(2) of the Children Act 1989 is plainly met.

37. Having made those findings and applying the threshold test to them, the Court proceeds to consider welfare and proportionality evaluations as a separate exercise.

<u>Welfare</u>

38. This Local Authority has been involved with the family since 2017. Prior to that, the family was the subject of involvement from two other neighbouring Local Authorities. There concerns have remained consistent, regarding domestic abuse, drug and alcohol misuse, poor management of parental mental health and extremely poor living conditions. The older children have had to take on caring responsibilities for their younger siblings. There have been

multiple police call-outs due to domestic abuse within the mother and 'FF's relationship. The children have been exposed to their mother's and 'FF's drug and alcohol use. In August 2022 there was an incident where 'G' ingested white power from a cup. There were concerns that it could be cocaine as both her parents had been using the drug and her mother appeared agitated and had clumps of white powder up her nose. In November 2022 'FF' was arrested and charged with two counts of possession with intent to supply class A drugs, possession of an offensive weapon, drug driving and driving without insurance. The children have reported physical chastisement from the mother and 'FF' who have also encouraged the older children to hit their younger siblings as a form of discipline. The home conditions have been observed to be extremely poor when unannounced visits have taken place. In August 2022, the police attended the family home following an allegation that the mother had been raped by 'FF'. The police report notes, *"mother was reviewed, and the police deemed she may be on drugs at the time. Police described the house as an absolute mess, cigarette butts were all over the floor, the house really smells, there is little food but there is some in the freezer. Only tinned tomatoes in the cupboard. There was a child sleeping on the floor in the dining room. Poor mattress and filthy beddings, awful conditions overall".*

39. The children have presented as dirty and unkempt. Some of them also have severe dental problems which will require extensive remedial work. When they entered foster care, 'D' 'C' and 'G' had head lice which they explained had been the case for many months. 'D' had a red scalp from scratching, which has delayed her being able to be treated. Both 'F' and 'G' have missed immunisations.

40. In September 2022 a referral was received from British Transport Police who advised that 'FF' had been found on a train covered in blood having self-harmed following a domestic dispute with the mother.

41. In November 2022 an Initial Child Protection Conference was held and the children were placed on Child Protection Plans under the category of neglect. A risk assessment was undertaken of 'FF' on 15 February 2023. He was assessed then as showing evidence of change as there had been no known incidences of domestic abuse or drug use. He was showing some understanding of the concerns and the impact on the children. It was recommended that he undertake work with a drug support service and domestic abuse officers. He did not engage with the drug support service and he was then discharged from that service due to missed appointments and non-engagement. The mother refused to engage with drug support services and did not agree to a referral being made. 'FF' refused to agree to a referral to the mental health team. A referral to the mental health team was made for the mother who was assigned a worker. However, the mother did not engage with that service.

42. In March 2023, the mother and 'FF' initially refused social work professionals' access to the family home during an unannounced visit. When the Social Worker returned twenty minutes later as requested, 'FF' had fresh self-harm marks over his body and was described as being more jittery than usual. He asked the social workers to return ten minutes later. When they did so the mother was seen to be pale, shaking and avoiding eye contact. She said she had sickness and diarrhoea. There was not much food in the home to make a meal and the home conditions were described as bordering on not being good enough.

43. In March 2023, 'E' and 'D' told professionals they did not get much sleep the night before due to their mother and 'FF' arguing all night. 'A' was also reported to be crying. Both children put 'FF's name on the 'Do Not Like' area of worksheets completed during direct work. They said he taps them on the back of their heads and 'E' explained this reminds him of a time 'FT' hit him causing him to almost have a seizure.

44. 'C' and 'B' were spoken to in March 2023 at school. 'C' said when she wakes up her mum is still in bed and that when she returns home from school 'G' is sitting on the stairs unsupervised as her mother is asleep. She also said that when her mother drinks, she stops

caring and so they don't tidy for a few days, but when she sobers up, she shouts at them for not doing the housework. 'C' said her mother drinks rum and vodka.

45. The mother and 'FF' denied that their drug use or mental health difficulties negatively impacted on the care they provide the children. They denied any form of physical chastisement. Despite intensive support being provided to the family the concerns did not abate and no improvement in the day-to-day lives of the children was evidenced.

46. 'B' has said that her mother uses cocaine once a week and drinks rum and coke resulting in her staying up for about three days. Her mother then crashes and does not leave her room for days. 'B' also said that her mother and 'FF' use cocaine together and that the mother sleeps while 'FF' is at work.

47. In March 2023, 'B' told the social worker her mother had slapped her the day before leaving a mark. She also said that approximately a month earlier she threatened to tell children's services about what had been going on in the home and because of this the mother and 'FF' had removed drugs from the house. She said that the mother tells her siblings what to say to the social workers to make them go away. 'B' has described an incident when the mother allowed her to see 'FT' stab himself and smash a plate in his face. She recalled spending her birthday sitting on a blanket on top of broken glass as someone has thrown a brick through their window. She has also said that 'FF' regularly smacks the children.

48. 'B' has said she taught herself to read, that she didn't need a mum or dad and that she had raised herself and her siblings. 'B' reports that her oldest sister 'A' does all the cooking with the mother only helping sometime. The money the children are given to buy food is often not enough and the children are forced to steal to survive. The mother has sold the children's items when she needs money. 'C' has described how when their mother and 'FF' were arguing, 'A' and 'B' would protect their younger siblings by putting them in a room together and 'C' would then turn on the TV to distract them.

49. In March 2023, 'B' told a staff member at school that her mother had pushed her against the fridge when she would not let 'C' borrow her school skirt. She also overheard her mother tell 'A' that she really hates her at that moment.

50. On 30 March 2023 the children were placed in police protection following an anonymous video being sent to the housing department which showed the mother verbally abusing and hitting a child.

51. Since being placed into foster care 'A' said she does not want to return home and that she now feels free. 'B' has also made it clear that she does not want to return home. In April 2023, 'C', 'D', 'E' and 'F' each said that whilst they miss home, they want to remain in foster care.

52. At a review conference held on 27 April 2023 the mother stated that the children are manipulating her and blames the current situation is all 'B's fault.

53. A Child Protection Medical report dated 23 March 2023 evidenced signs of neglect in respect of 'D', 'F' and 'G'. The report indicated that the children had poor dental hygiene and that their clothing was dirty.

54. Expert evidence was obtained in the form of drug testing of the mother in June 2023. The mother tested positive at high levels for cocaine, three cocaine metabolites, benzoylecgonine, norcocaine and cocaethylene, and the 'crack' cocaine marker anhydroecgonine methyl ester (AEME) in all six hair sections analysed, which cover the period approximately from the end of November 2022 to the end of May 2023, together with the consumption of alcohol at chronic excessive levels over the same period. Updated testing covering the period from June to August 2023 evidenced continued results for cocaine and the three metabolites at a consistently high level and continued chronic excessive alcohol use.

55. Expert evidence in the form of a cognitive assessment of the mother was obtained from Dr 'T' in June 2023. The report identified that the mother performs in the low average range of ability.

56. A full psychological assessment of the mother, 'FF' and the six oldest children was directed and was prepared by Dr 'T' in October 2023. FF did not engage with the assessment.

57. The mother described a troubled childhood. When she was 8 years old, her own mother was imprisoned for nine years. She described her father as 'not a nice man'. Dr 'T' recorded that the mother considered that the only reason the children had been removed from her care was due their bedrooms "being messy", stating, "I didn't want to clean it as when I do it, they just mess it up again." The mother told Dr 'T', "the children have made lies", blaming 'A' in particular, stating, "I have disowned her." She accepted using drugs but denied doing so in the presence of the children. She denied neglect of the children. She accepted that she had hit the children, because, "they are kicking the crap out of each other." She told Dr 'T' that the children, "are being poisoned by professionals." Dr 'T' concluded that the mother was experiencing a generalised anxiety disorder along with likely dependency on alcohol and cocaine. Further, Dr 'T' concluded that the mother would not likely be able to protect the children from harm if they were placed in her care. She would need to undertake substantial intervention to address her needs before the children could be placed in her care. Dr 'T' recommended offering the mother ongoing support from a drug and alcohol service together with a care coordinator as part of her assessment and treatment, noting that the mother, "appears not to be fully open about her drug and alcohol use and the impact of such dependency…but with minimal motivation to address her drug use, the likelihood of success is low". Dr 'T' recommended a psychological intervention such as Cognitive Behavioural Therapy over twelve weeks and support from a domestic abuse worker, after the completion of the recommended substance misuse intervention.

58. In respect of the children, Dr 'T' observed that none of the six children assessed, with the exception of the child 'F', wish to return to their mother's care. Dr 'T' identified that all the children have likely experienced trauma in their upbringing in the care of their mother.

59. 'A' told Dr 'T' in respect of her childhood, "I can't really remember a good time." She stated that her mother, "dumps all of her past problems on to me." She felt that her mother did not take much interest in her and this, "has been really tough in childhood. No positive memories." She reported, "every time I came out of class, I was targeted by bullies," and felt "overwhelmed managing this and the challenges in the family home", being "battled on both sides." 'A' told Dr 'T', in respect of the mother's drug use, "You could tell that the drugs were changing her as a person," noting that the mother became more violent towards her and her siblings, and "her judgement was getting more clouded and becoming more spiteful in how she would deal with us." She described at times being taken by 'FF' to collect and sell drugs, stating, "I knew if I got caught, I wouldn't have to go back home." She described 'FF' backing her siblings into a corner and repeatedly hitting them. She described how 'FF' did this to 'E' "so bad, he was screaming and nothing was coming out." She described how 'D' was mistreated "more than any of us" and was largely used as a 'scapegoat' by the mother and FF, "if she did the tiniest think wrong, he would hit her and blame her for things and if they couldn't get drugs, they would blame her for everything." 'A' was clear in expressing her wish that she did not want to return to her mother or 'FF' and she would not want any of her siblings to return to their mother's care. Further, she expressed clearly that she does not want any further contact with her mother. Dr 'T' concluded that 'A' is struggling with aspects of her daily functioning and relationships. 'A' experiences levels of anxiety in public, largely due to previous experiences of critical judgements in the family home, leading her to fear the same judgement from others. She has had her emotional needs neglected. The mother putting her drug use and FF before 'A' has impacted on her sense of self-worth and self-esteem. Further, 'A's ongoing wellbeing is impacted by the mother's position towards her, accusing her of having told lies. 'A' has experienced being a carer to her mother and siblings and now feels

rejected by her mother through the denial of her experiences. She is not able to recall positive memories from her childhood and "her account is suggestive," Dr 'T' concludes, "of considerable abuse and neglect…Her current presentation is suggestive of a young person who has been through such ongoing trauma in their life."

60. The child 'B' informed Dr 'T' that she enjoys being in foster care as, "everything is better." She described not feeling safe at home. She described, "a lot of negative male influence" at home and her mother's "bad pick of boyfriends." She described being asked to go with 'FF' to get drugs. 'B' was noted to remain very guarded about her experiences, stating that she would, "prefer not to say anything" and that she can shut emotions off: "system shut down." She expressed being keen to remain in foster care and to have contact with her siblings. She expressed not wanting to have any contact with her mother as, "she wasn't there for me…I was blamed for everything. I took the blame mainly for things." She told Dr 'T', "the closer you are to people, the harder it is to open up…I have made people cry by telling them only part of the story." Dr 'T' concluded that 'B's, "positive upturn in mood is attributed to her leaving the family home and being in the current foster care placement." 'B', "has reported much traumatic experiences in her childhood that are highly concerning. This includes physical chastisement, neglect, lack of supervision, exploitation around being taken by an adult to procure drugs, exposure to adult conversations and information inappropriate for a child of her age, parental conflict, parental substance misuse and parental mental health difficulties. The impact of this has been significant…in that she herself identified as not feeling safe whilst in the care of her mother and ['FF']…I was of the view that ['B'] also likely experienced developmental trauma…which includes difficulties in her level of attachment to adult caregivers, emotional distress…and relationship difficulties that impact on [her] being able to trust others and utilise support made available to her." Dr 'T' concluded that 'B', "reported no positive connection and/or attachment to her mother, highlighting a lack of trust that she appears to have generalised to all others. This impacts upon her ability to be open with those around her, regarding her own emotional needs…[she] has developed a coping strategy which consists of supressing her own emotions."

61. 'C' described her foster care placement as, "amazing" and she enjoys being there. She described home life as, "difficult" and she, "did not want to talk about it." She explained that she was aware of her mother's drug use and that the mother and 'FF' would be, "under the influence" at home. She reported that 'FF' would often take her out with hi in the evenings to get drugs. She described 'FF' as 'mean' and that he, "would smack us". She described him as being, "racist at times" to 'A' and "rude" to 'B'. In respect of home life, 'C' told Dr 'T', "I was never really happy there." Dr 'T' noted that 'C' expressed difficulties with her emotional wellbeing after having contact with the wider paternal family. Overall, she, "was not presenting with any ongoing distress that impacts on her day-to-day functioning. However, it is apparent that ['C'] has had both difficult traumatic experiences that she has self-reported and from her siblings also and that she has presented with strong emotions. This includes a conflict regarding her feelings towards her previous experiences and her relationship and feelings towards her mother…['C'] expressed frustration and anger towards her mother and ['FF'] but this appears combined with feelings that her mother is rejecting her...there are concerns that she is holding onto much stronger emotions and previous experiences that may still affect her."

62. 'D' told Dr 'T' that she would only go home, "if Mum changes". She chooses to attend contact sessions with her mother. The foster carer described 'D' as, "the only one who wanted to go home…she was keen for everyone to go home to be a family again…if Mum changed and wrote a letter." The foster carer observed that, "none of the children have had a birthday party before." 'D' is reported to have told the foster carer that she, "knew everything that was going on at home" regarding the drug use by the mother and 'FF', she was aware that her mother was using cocaine and she was aware why 'C' would go out with 'FF'. The foster carer noted that the other children and 'D' reported that 'D was the, "punch bag" at home whilst in the care of the mother. Dr 'T' concluded that significant concerns were highlighted around 'D's current wellbeing, noting that 'D', "has been disclosing similar experiences in the

family home when in the care of her mother and ['FF']. The sibling group has been noted as reporting that both ['D'] and ['E'] were subject to singling out, including regarding physical chastisement. It was identified that ['D'] has demonstrated much distress when she is feeling overwhelmed emotionally and this appears to be attachment related...[she] can become highly dysregulated, struggling to communicate her feelings in meaningful and safe way. Instead, her behaviour can become highly challenging, dysregulated and include behaviours that could cause herself harm…[she] presents has having difficulties in her attachment that are likely related to multiple traumatic experiences in her development," with experiences that are, "significantly harmful."

63. 'E' was reported to be refusing to see his mother at contact sessions. He expressed the wish to remain in his foster care placement throughout his childhood. He was noted to become emotionally dysregulated at times. He was noted to get on least well with his other siblings and can physically fight with them and shout at them. He is reported to have no friends at school and is, "a flight risk" at school. He was noted to present with traits of social communication difficulties. He was noted to be, "challenging" and that his difficulties were "complex." In respect of his father, 'FT', 'E reported that he did not want to see him. He told Dr 'T' that his father, "held a knife" to him and, "tried to kidnap" 'C' and 'D'. He told Dr 'T' that he was, "glad" to come into foster care and that he was, "not happy" at home. He stated that both his mother and 'FF' were, "not nice" to him and he would, "get slapped." He expressed a clear view, "I don't want to see them." Dr 'T' concluded that 'E' presents as having significant difficulties around his wellbeing and development, disclosing, "concerning experiences whilst in the care of his mother and ['FF']. It appears that ['E'] has become more vocal about his experiences since leaving the family home and was reported as showing little emotional distress at being placed in care…[he] presents has having significant difficulties in managing peer interactions and this includes amongst his siblings…['E'] and the rest of the sibling group report significant disclosures around neglect and worrying parenting and supervision, suggestive of trauma and instability in the family home…[his] presentation was similarly reflective of attachment difficulties, he struggles to manage and regulate his own emotions and does not utilise adults around him to address this…[he] appears to get his needs met through carrying out challenging behaviours that reflect his internal distress…he likely has some difficulties around his own sense of identity, feeling safe and understanding earlier experiences in the care of his mother."

64. 'F' was reported, "not to share much information" of his own volition regarding home life but will, "join in" when his siblings are talking and, "will state directly what his experiences have been." He was observed to be quiet and, "does not seem as affected by the conflict between his siblings." Dr 'T' concluded that 'F', "has been subject to much instability and has likely witnessed much of the difficulties in the family home but due to his age he may be less aware and therefore less impacted."

65. Dr 'T' concluded that the children have experienced significant difficulties in their relationship with the mother and 'FF', evidenced by the children's own expressions of frustration, anger and distress around their earlier experiences: "all the children, with exception of ['F'] expressed that they did not wish to return to the care of [the mother]. This is reflective of a fracture and breakdown in the parent/child relationship. Additionally, the children in my meetings with them expressed significant concerns around their previous experiences, which include exposure to parental substance misuse, parental mental health, parental conflict and subject to a lack of supervision, neglect and physical chastisement and verbal abuse…in my professional opinion, the children present has having experienced trauma in their upbringing. They present with difficulties around managing their emotions, attachment related difficulties in trusting and being care for by a care giver, attention seeking behaviour to get their needs met, which can be extreme, including self-harming behaviour. They are additionally repeating and expressing multiple disclosures around their experiences in the care o [the mother and 'FF'] and this includes awareness of adult information…the children present as having damaged sibling relationships with identity and self-esteem difficulties, anxiety, intermittent low mood, with some of the children…having reported

experiencing exploitation from ['FF' and the mother]...the impact appears to be that the children have experienced developmental trauma which has impacted on the sibling relations. This appears to be characterised by limited empathy and difficulties around their interactions."

66. Further, Dr 'T' concluded that 'B, C, D, E and F', "will require caregivers who can provide sensitive parenting that is also therapeutic. This involves being able to provide a high level of structure and boundaries in a calm and self-regulated manner to the children. This will be especially pertinent for ['D' and 'E'] who have struggled with their behaviour and managing and regulating their emotions and this will need support from the caregiver to address…this will require a high level of attention…difficulties in sibling conflict and challenging behaviours that may harm themselves will need to be managed. A nurturing and sensitive approach along with a high level of support and attention will be essential to support the children with their developmental sense of identity. ['A's] needs are equally served by such an ongoing caregiving environment…where she can develop without responsibility for her siblings…additionally I recommend that ['A'] access therapeutic support…this should include Cognitive Behavioural Therapy that is trauma informed to address her feelings of low mood and anxiety." Cognitive Behavioural Therapy was similarly recommended for 'B', 'C', 'D' and 'E'. Dr 'T' considered that 'D' and 'E's difficulties are, "presenting as urgent" given that 'D' and 'E' both communicate their distress, "with risky behaviour that can be harmful."

67. Dr 'T's comprehensive, independent expert report was not the subject of challenge by any party and I find no reason to depart from the conclusions reached.

68. Expert evidence in the form of drug and alcohol testing of 'FF' concluded that he tested positive for cocaine and two cocaine metabolites, norcocaine and cocaethylene in the hair sections analysed, which cover the period approximately from the end of March 2023 to the end of May 2023 at high levels. In addition, a further cocaine metabolite, benzoylecgonine, has been detected in the most recent hair section analysed. The detection of either benzoylecgonine or norcocaine with cocaine indicated the use of cocaine, whilst the detection of cocaethylene with cocaine indicates the use of cocaine with alcohol. EtG results suggest chronic excessive alcohol consumption over the same period.

69. Local Authority parenting assessments of the mother and 'FF' concluded negatively in that neither parent was assessed as being able to care for any of the children safely.

70. A Local Authority parenting assessment of 'FT' and his partner 'P' also concluded negatively, in that it did not recommend that 'FT's children 'C, D, E or F' are placed in his care. The assessment concluded, "Overall this assessment is seen to be negative for the…siblings due to there being too many highlighted risks and grey areas surrounding the care of the children and although ['FT'] may have made some good progress, there is still a long way to go due to the continued concern for domestic abuse traits within his current relationship and the children's views surrounding their trauma of their previous lived experiences of [FT]."

71. In her oral evidence, the Social Worker told the Court, "Since I met the children, they have been very clear about their experiences and fears of ['FT']. I have had countless conversations with them about what they have experienced and why they do not even wish to go to contact with him…they children view their father very negatively. There have never been positive conversations individually or together about him. They talk about different incidents of abuse sustained in his care, including the older children who are not his children. They all say they don't like him. They are quite clear in their responses to him."

72. The Social Worker recognised that the children 'C, D, E and F' had not seen their father for a period of four years before contact was reintroduced. The Court was told that the children were 'curious' about what he looked like and who he was. The Social Worker described the first two introductory contacts as being, "difficult" for the children, as, "they did not feel a bond or connection. Once the children met him, they reverted to not wanting to go to contact anymore…during contact ['FT'] played with them. They found they were being treated

roughly. Instantly they said they found him too rough." The Social Worker told the Court of many people to support the children with multiple efforts to engage them in further contact with their father, including therapeutic support with professionals specialising in trauma informed therapy. Further virtual contact was set up and 'FT' was encouraged to write letters to the children: "I advised him multiple times to write letters. He has not written any."

73. The Social Worker told the Court in her oral evidence that there remain significant concerns about 'FT's lack of accountability both during and after the assessment, around the effect of his behaviour in the family home, stating, "there is a level of dishonesty from him around incidents reported to the police. I believe he lacks insight into the effect of his behaviour on the children. He has not attended the parenting course recommended in August 2023. He has not attended any domestic abuse course. He has not taken accountability for his behaviours in recent reports of domestic abuse with his current partner nor historically...[his current partner] called the police and there is a reference to strangulation. He did not tell us about the police call outs. I tried to speak to him about this. There was a regular pattern of avoiding the conversation and dishonesty…The goal is always to have children with their biological parents…stability was highlighted as concern...I gather the children's wishes and feelings regularly. The children are not interested in seeing him. I do not think it is in the best interests of any of the children to be in his care at this point. It may take years. The impact of delay would be really significant to the emotional wellbeing of the children."

74. In her final evidence, the Social Worker observed that FT, "although being able to jointly provide a caregiving role to his daughter [with 'P']…there is still concern surrounding domestic abuse allegations within his relationship with ['P'], who has now reported to children's services to have broken up with ['FT'], despite ['FT'] denying this. The main concern is around ['FT's] history and the traumatic impact this has had on the children within their earlier years. The true extent of his relationship with [the mother] and criminal activity is not completely known and we are not entirely sure how much of the opinions the children have are based on stories they have been told and what they have experienced and what would happen if ['P'] and ['FT'] are to have broken up and the contingency plan surrounding this. There have been three reports of alleged concerns of behaviour that highlights concerns for domestic abuse in his current relationship including non-fatal strangulation, throwing items whilst ['FT's] child was in the property and a verbal argument which led to calling the police, which highlights that ['FT'] would not be recommended to be in a position to raise all four of his children alone without the children being at risk of further harm. The true extent of the trauma ['FT'] inflicted on the children's earlier years cannot be minimised and needs to be considered, including the children's current views and feeling surrounding ['FT']. [He] states he has now turned his life around and the evidence supports this to an extent but there are still concerns for current domestic abuse. The children would require a lot of connection work to build this relationship, contact and trust. Therefore, he has also not been recommended to take on the sole caring responsibility of his children."

75. The Social Worker told the Court in her oral evidence, "I have massive concerns about his insight into the children's needs. There is so much work needs to be done around this. In the parenting assessment and in my conversations with him, the massive themes are a lack of insight, honesty, deflection and accountability. There is a massive barrier in him understanding what he did to the children."

76. In this Court's judgment, the evidence of the Social Worker was balanced and fair.

77. The Children's Guardian told the Court in respect of 'FT', "I have reviewed [the parenting assessment] which highlights the changes that ['FT'] has made in his life. Currently [he] lives with his partner and daughter…During the assessment [he] admits he dealt drugs when he was in a relationship with [the mother]. In the assessment [he] appears to recognise that the children experienced poor parenting at times when he lived with them. When I spoke with [him] we spoke about the arguments and violence between himself and [the mother]. He told me that the children were not affected by their arguments because they were not present in the

room. [He] did not accept that even if they were not in the room time [the children] would have been frightened by their arguments. ['A'] has spoken about [him] smashing a plate in his face as the most frightening time of her life. Given ['C, D, E and F'] have already lived with their mother and ['FT'] when drugs, domestic abuse and poor parental mental health affected the care they were given, it is very important that there is no risk of this happening again… There must also be an understanding that the children are likely to have memories of the time their father lived with them…We also know from the chronology and police information that the children witnessed violence and drug use, both of which are likely to have been frightening for them. As a result, it is unsurprising that ['C, D, E and F'] appear to have mixed feelings about spending time with their father which does need to be guided by the children's needs and views about seeing him."

78. The Guardian stated in her oral evidence, "The time he has set aside from work is not enough for the Court to be able to hear what he has got to say. The reality is that the demand on his time, in terms of parenting his children, is going to be vast. That would need to be his priority. There is no evidence he is in a position to offer children the time and the parenting they need." Further, the Children's Guardian told the Court, "I spoke to [FT] in January 2024. He felt that the parenting assessment had not highlighted the strengths he offered to the children. There was information in that assessment that raised concerns as well as strengths. The concern about his current relationship with his partner…further, the contact he could have with children going forward was based on a need for him to have a real understanding of the children's needs. In the conversations I had with him I don't think at this stage he has that level of insight in the children's needs. The children have said at various points they don't want to see their father. I appreciate that must be upsetting for him. He has tried to progress that through emails from his legal team but from the conversation I had, he seems to think that the children should feel ready to have contact. He is not really reflecting on the fact that they've not seen him regularly for quite some time and that they are very likely to need a greater period of time to want to see him. His desire to see the children is at the fore of his thinking rather than what is the right timing and preparation needed for the children. That's a further example of him being led by what he wants, rather than what is in best interests of the children."

79. There is consensus amongst the professionals that if 'C, D, E and F' were placed with their father under a Supervision Order or any form of Order, there would be a real likelihood of the children being at risk of further significant emotional harm of the type they experienced previously, with concerns of recent domestic abuse in his current relationship of a type similar to the children's reported lived experiences. Further, 'FT' had no contact with his children for four years. He does not have a current relationship with or familiarity with his children and their specific needs. None of the professionals considers that any form of support nor any form of Court Order could protect the children form further harm sufficiently in his care or reduce the risks to an acceptable level. Whilst the Local Authority's parenting assessment of 'FT' did identify strengths, and whilst placement of the children with him would have the benefit of them being raised in a family placement with their natural father and the opportunity to potentially have a relationship with their half-sibling, such that their identity needs could be promoted and nurtured within the birth family, the professionals identify considerable weaknesses with such placement. The children have only just started the process of establishing a relationship with their father during supervised contact. To date, the professional consensus is that the children have not responded well to contact with him. They currently do not wish to see him. There is unanimity of professional opinion that placement of the children, 'C, D, E and F' with their father, contrary to their expressed wishes and feelings and having regard to the real risk of further significant emotional harm, outweighs any benefit to the children. The professionals agree that the risks to the children are too high and could not be ameliorated or reduced sufficiently by any support services put in place under any form of Court Order.

80. The wishes and feelings of each of the children, 'C, D, E and F', do not carry any presumption of precedence over any of the other factors in the welfare checklist. The preference of each

child is only one factor in the case and the Court is not bound to follow it. The weight to be attached to the child's wishes and feelings will depend on the particular circumstances of each case. In particular, having regard to the words of s 1(3)(a), it is important in every case that the question of the weight to be given to the child's wishes and feelings is evaluated by reference to the child's age and understanding. Within this context, and on the face of it, the older the child the more influential will be their views in the decision-making process. However, ultimately, the decision is that of the Court and not of the child. Once again, it is important to recall in this context that children's best interests are the Court's paramount consideration. On the facts of this case, proceeding with a move to their father's care contrary to their wishes would cause the children further emotional harm, for the reasons articulated by the Social Worker and the Children's Guardian and for the reasons set out in this judgment.

81. Long-term foster care for the children, 'B, C, D and E', would, the professionals agree, provide the children with safety and stability in an environment where their physical and emotional needs can be met. The Local Authority plan will enable the children to continue their important sibling relationships, with the children being grouped as siblings in two different placements that best meets their individual needs, each sibling group having regular contact with the other. The children will have the potential to benefit from consistency in their education. They will have access to therapeutic support. The strengths of long term foster care include providing these children with an environment that will afford them a level of stability where their needs would be met consistently. Long-term fostering will give the children the opportunity to maintain a connection with their birth family and promote contact with important family members in a safe and supervised way, so as to maintain their identity individually. The Local Authority would also share Parental Responsibility for the children, which would help ensure their safety and wellbeing. A weakness of long term foster care for these children is the counter side of the Local Authority sharing Parental Responsibility, namely that the children will have a corporate parent for the duration of their minority with frequent reviews and intervention from Children's Services, including Child Looked After Reviews every six months until the children achieve the age of majority, with the potential for feelings of stigmatisation, which in turn might affect their self-esteem and social interactions. This may particularly impact the younger children who would potentially have longer involvement with the Local Authority.

82. It is regrettable that 'FT' did not give evidence and offer himself for cross-examination. His inability to prioritise this case and attend the Final Hearing, even with the flexibility of remote attendance, was consistent with his failure to engage in a parenting course, when offered and domestic abuse work, when offered. It is also consistent with his unwillingness to engage in indirect contact with his children by writing letters, to assist in the reintroduction of contact with the support offered by the Local Authority. The Court makes clear that it has considered 'FT's written evidence, notwithstanding the fact that he did not make himself available for cross-examination for his evidence to be tested. This Court accepts the professional consensus that 'FT's lack of insight into the needs of the children, at a time when each of his children has expressed a clear wish not to see him, is evidenced further by his suggestion that he would take six weeks off work to help the children settle into his care. That proposal fails to have any regard to the unchallenged expert evidence from Dr 'T' that the children will require caregivers who can provide sensitive parenting that is also therapeutic, being able to provide a high level of structure and boundaries, in a calm manner to the children. This is especially so for 'D' and 'E', who have struggled with their behaviour and managing and regulating their emotions and this will need support from the caregiver to address. The Court finds no reason to depart from the consensus of professional opinion that the high level of attention needed for the children to address the difficulties in sibling conflict and challenging behaviours, the nurturing and sensitive approach and the high level of attention essential to support the children with their developmental sense of identity, could not be achieved by 'FT'.

83. Balancing the short, medium and long term harm that may be caused to the children 'C, D, E and F' by remaining in foster care against the inevitable further significant emotional harm that would be caused to the children if placed in the care of their father against their clear and

expressly stated wishes and feelings, this Court shares the unanimous professional conclusion that the balance falls firmly in favour of long term foster care, for all the reasons articulated by the Local Authority and by the Children's Guardian.

84. In this Court's judgement, there is no solid evidence-based reason to conclude that 'FT' is committed to making the necessary changes. Further, there is no solid, evidence-based, reason to believe that 'FT' would be able to maintain such commitment. Moreover, there is no solid, evidence-based, reason to believe that 'FT' would be able to make the necessary changes within the timescales of the children. The Court must conclude that adjournment of the Final Hearing in the mere hope that 'FT' may engage meaningfully and in the hope that life story work with the children will improve the prospects of contact taking place with 'FT', "leading to the reunification and placement of the children with their father," as proposed by 'FT', is not necessary nor in the best interests of the children and would ultimately be futile. The 26-week time limit in the proceedings is a mandatory limit which must be complied with, subject to the statutory exception set out in s.32(5) Children Act 1989. A further extension to that time limit in these proceedings is not necessary. Further delay would be contrary to the best interest of the children who require stability, permanence and urgent therapeutic input. For those reasons, 'FT's application to adjourn the final welfare outcomes for the children must be dismissed.

85. Family and friends were assessed as potential alternative carers for the children. Assessment of the maternal aunt concluded negatively. Her application to challenge that assessment was dismissed by the Court at the Issues Resolution Hearing. 'FT's parents were assessed positively as potential viable carers for the six oldest children. However, they withdrew from the full assessment process.

86. A viability Assessment of 'G's Paternal Grandparents concluded positively in August 2023, albeit with some reservations. A recommendation was made for 'G's Paternal Grandparents to build upon their relationship with 'G' through the further full assessment process. The Paternal Grandparents took the decision to proceed with a Friends and Family Fostering assessment rather than a Special Guardianship assessment. The full assessment concluded positively, recommending that 'G's Paternal Grandparents care for her as family and friends foster carers under a Care Order.

87. In reaching their unanimous professional conclusion that the children should each be the subject of a Care Order and placed in different sibling groups in long term foster care, the Local Authority and Children's Guardian took into consideration a sibling assessment completed by the Social Worker, identifying the dynamics in the siblings' relationships with each other, in the context of their individual experiences. The Local Authority commends the mother for making the difficult decision not to oppose Care Orders for each child. The Local Authority tells the Court further that it commends the mother for acknowledging her mistakes, for acknowledging that she is not able to care safely for the children at present and for acknowledging she has work to do. The Local Authority further commends the mother for having started the process of engaging with drug and alcohol support services. The Local Authority tells the Court that it sees a positive change in her presentation and engagement. The Local Authority commends the mother further for having met with 'A' and for apologising to her for the harm caused, albeit that meeting was a difficult one that did not end as well as might have been hoped for. The Local Authority considers this to be a starting point. Further, the mother has written a letter to 'B' apologising for the harm she caused 'B', extending a hope that contact will resume at 'B's pace, without pressuring her. The Local Authority tells the Court, this, "speaks volumes as to the progress the mother has made."

88. The Children's Guardian too acknowledges the progress the mother has made. The Children's Guardian told the Court, "From time when I first spoke with mother some months ago, quite a lot has changed in terms of her tone of voice, being able to be more reflective and take on board what is being said to her. She is less defensive. Her physical appearance has improved. In the early stages of working with the mother, she blamed the children, particularly the older

children, suggesting they tell lies. That has changed in the letters mother wrote to ['B']. There appears to be a shift. In the context of the length of time the mother has had struggled, what we see now is early stages but it's a good start. I encourage and support her progress whist the children are in care. The decision not to challenge the care plan shows a level of insight."

89. The Social Worker's final evidence sets out a comprehensive and impressive analysis of the needs of each child by reference to each of the factors under s1(3) Children Act 1989. Further the Social Worker completed a thorough analysis of the strengths and weaknesses of each different welfare option for each child. In this Court's judgement, the social work in this difficult, complex and challenging case has been of a high standard. The assessment and conclusions reached by the Social Worker in her final evidence, are faultless.

90. The Children's Guardian similarly completed a detailed child impact analysis focussing on the individual needs of each child. That analysis further gave detailed consideration to the various realistic placement options for each child. Inevitably, having regard to the large sibling group of seven children and the multiplicity of potential placements of some or all of the children with some or any of their parents and wider family members, a lengthy comprehensive analysis was called for. This experienced Children's Guardian undertook that task faultlessly. Her conclusions are unimpeachable. Her oral evidence was given with the same care, in a measured, thoughtful and balanced manner. Respectfully, taking an independent objective view of the welfare of each child, I can do little better than endorse the analyses of both the Social Worker and the Guardian.

91. It is a long-established principle in public law proceedings that the best person to bring up a child is the child's natural parent, provided the child is not in danger. The Court's task is not to improve on nature or even to secure that every child has a happy and fulfilled life. The Court is reminded of the well-rehearsed observations of Hedley J at paragraph 50 in *Re L (Care: Threshold Criteria) [2006] EWCC 2 (Fam)*: *"Society must be willing to tolerate very diverse standards of parenting, including… the barely adequate and the inconsistent. It follows too that children will inevitably have both very different experiences of parenting and very unequal consequences flowing from it. It means that some children will experience disadvantage and harm, whilst others flourish in atmospheres of loving security and emotional stability. These are the consequences of our fallible humanity and it is not the provenance of the State to spare children all the consequences of defective parenting. In any event it could simply not be done."*

92. Further, the Court is reminded of the observations of Baroness Hale of Richmond JSC in *Re B (A Child) (Care Proceedings: Threshold Criteria) [2013] UKSC 33*, (para 143): *"We are all frail human beings, with our fair share of unattractive character traits, which sometimes manifest themselves in bad behaviour which may be copied by our children. But the State does not and cannot take away the children of all the people who commit crimes, who abuse alcohol or drugs, [or] who suffer from physical or mental illnesses or disabilities…"*

93. The Court is required to make the least interventionist Order when protecting the welfare of the children. The making of a Care Order is a step that must not be sanctioned by the Court unless satisfied that it is both necessary and proportionate and that no other less radical form of Order would achieve the essential end of promoting the welfare of the child. Removal of children from their families is taken extremely seriously. It is not enough that the social workers think that a child might be better off living with another family. That is not permitted in a democratic society. It is not enough to show that a child could be placed in a more beneficial environment for their upbringing. Intervention by the State in the family may be appropriate but the aim always should be to reunite the family when the circumstances enable that and the effort should be devoted towards that end. In exercising the jurisdiction to control or to ignore the parental right, the Court must act cautiously and must act in opposition to the parent only when judicially satisfied that the welfare of the child requires that the parental right should be suspended or superseded. The Court's assessment of the parents' ability to

discharge their responsibilities towards the child must also consider the practical assistance and support which the authorities or others would offer.

94. In this Court's judgement, the Local Authority has adequately considered practical assistance and support that could be provided to 'FT', indeed to each parent, in the context of the extant risks. Local Authorities need to enable children to live with their parents, if this is consistent with the child's welfare, by providing the support the children and their families require. This accords with the general duty of Local Authorities under section 17(1) of the Children Act 1989 to provide a range and level of services to safeguard and promote the welfare of children in need and their upbringing by their families, insofar as it is consistent with their welfare. A need for long-term support does not mean that parents cannot look after their children. The essential question is whether the parenting is good enough, if the right support is provided. Multi-agency working is critical if parents are to be supported effectively and the Court has a duty to make sure that has been done effectively.

95. On the specific facts of this case, having independently scrutinised all the evidence, the Court finds no reason to reach a different conclusion to that of each of the professionals. In this Court's judgement, the single conclusion reached by the Social Worker and the Children's Guardian is clear and convincing. Maintaining focus on the welfare of each child as the Court's paramount consideration, in the judgement of this Court, the individual welfare needs of each child demands the remedy of a Care Order. In respect of the oldest six children, the Local Authority's care plan of long term foster care, with the siblings being grouped as identified, is the option that best meets their individual needs. In the case of the youngest child, the Local Authority's care plan of placement with her Paternal Grandparents as family and friends foster carers under a Care Order is the plan that best meets her needs. On the specific facts of this case, there is no other suitable course available which is in the best interests of any of the children, motivated by the overriding requirements pertaining to their welfare. Furthermore, the high degree of justification necessary under Article 8 is established. That interference is necessary and is a proportionate response, having regard to the risks and having regard to the welfare evaluation.

96. Taking into consideration the multiple risks and the complex individual needs of each child, having regard to the type of harm that might arise, the likelihood of it arising, the consequences (that is, what would be the likely severity of the harm to the children if it did come to pass), whether there can be adequate risk reduction or mitigation (that is, would the chances of harm happening be reduced or mitigated by the support services that are or could be made available) and the comparative evaluation (that is, in light of all of that, how the welfare advantages and disadvantages of the children growing up with their mother or father compare with those of foster care), in this Court's judgement, for the reasons also given by the Local Authority and the Children's Guardian, a Care Order is necessary for each child, is in their best interests individually and the Orders are proportionate to the risks.

97. The Court endorses the Local Authority's care plans for each child in respect of their proposed placements.

98. Turning to consider the issue of contact. 'A' and 'B' have refused to see their mother since the first contact session when 'A' referred to her mother as "fake" and stated that her mother had whispered in her ear blaming 'B' for the children being removed. 'A' has not seen her mother for one year. In advancing the care plans for each child in respect of contact, the Social Worker told the Court in her oral evidence that the Local Authority acknowledges that each of the children has different needs. The Social Worker told the Court, "I don't want to prevent ['A'] feeling the option is not there to see her mother just because of her age. ['A'] changed her mind after many months of no contact with her mother, she then decided she wanted contact. The same applied for ['B'] after many months of no contact, contact started by letters."

99. ‘C’ and ‘D’ have attended the majority of contact sessions, however, sometimes they have decided they do not wish to attend. ‘E’ has not attended the majority of contact sessions offered. ‘F’ has attended all contact sessions with his mother since April 2023. The Local Authority’s plan to reduce contact for ‘C, D, E and F’ with their mother envisages contact once each week for two weeks, moving to one contact each month in April and May 2024 before moving to contact six times each year from the school summer holidays.

100. ‘FT’ has had contact with ‘C, D, E and F’ once by video and twice in person at a supervised contact centre. The children described the sessions as uncomfortable and found him to be rough when play fighting with them. They have asked since not to have contact with him. Contact had been arranged monthly, however, the children have refused to attend. The Local Authority care plan envisages contact between the children as a sibling group and their father three times each year. The Social Worker told the Court in her oral evidence that the plan balances the current wish of each child not to have any contact with their father, whilst having a structure in place to develop their relationship with their father, regularly reviewing their wishes and feelings. The Social Worker informed the Court of the ongoing work with the children around contact, including support from a therapist, once they have settled into their new regime, post-Care Order, together with ongoing support from the Allocated Social Worker in the Looked After Child team and support from the CAMHS worker at school to reflect on their trauma. It was noted by the Social Worker that since ‘C, D, E and F’s Paternal Grandfather withdrew from full assessment, he has not sought to contact the Local Authority to facilitate time with the children. The Local Authority is alive to keeping the situation under review, once the Paternal Grandfather has ‘time to process’. This Court finds no reason to depart from the professional consensus that the plan for contact for the benefit of ‘C, D, E and F’ with their father three times each year properly balances the need for the children to develop, and thereafter maintain, a safe relationship with their father, balancing their current clearly expressed wishes, whist also supporting the development of that relationship, with necessary therapeutic input, once the children have settled into their new regimes. The Court rejects ‘FT’s submission that the Local Authority’s plan “pays lip service” to the role ‘FT’ has in the children’s lives. On the contrary, the Local Authority plan is, in this Court’s judgement, sensitive to the individual needs of the children, is child-focussed and appropriately aims to build upon what is presently a difficult relationship between the children and their father. In this Court’s judgement, the Local Authority plan is entirely consistent with the Local Authority’s obligations under Article 8 and by reference to the legal authorities, to take measures to facilitate contact with a non-resident parent by way of appropriate and necessary preparatory therapeutic work, consistent with the best interests of each relevant child individually. The Local Authority continues to have a positive legal duty to review contact as part of its ongoing Looked After Child reviews. This Court is confident, on the evidence in this case, that the Local Authority will comply with its legal duty to do so.

101. The mother and ‘FF’ missed multiple contact sessions with ‘G’. The mother has more regularly attended the contact centre to see ‘G’ since ‘FF’ was remanded in custody in September 2023. Currently, contact is scheduled to take place twice each week. The Local Authority plans to reduce the current level of contact for ‘G’ and her mother following the making of a final Care Order, to six times each year, as a starting point. The Local Authority advances a contact reduction plan for ‘G’ for two sessions of weekly contact, moving to fortnightly contact for two sessions and then two monthly sessions ending in June 2024, before implementing six contact sessions each year. The Social Worker told the Court in her oral evidence that ‘G’ will be supported with the transition from the current high level of contact to six times each year. The contact plan was justified by the Social Worker on welfare grounds, to allow ‘G’ to settle into her new placement with her Paternal Grandparents as her primary carers. ‘G’ was noted be unsettled on occasions following contact with her mother. More frequent contact, the Local Authority concluded, would cause ‘G’ to be unsettled and reduce the prospects of her successfully developing new routines with her Paternal Grandparents. The Local Authority considered that contact of six times each year as a starting point would maintain the important relationship ‘G’ has with her mother, balancing her needs

to form new routines and bonds with her new primary carers, having specific regard to her age and welfare needs.

102. The Local Authority plans for contact between 'G' and her father to be the subject of risk assessment on his release from prison. Subject to a positive risk assessment, the plan is for contact to take place six times each year.

103. In addition to parental contact, the Local Authority plan envisages regular inter-sibling contact each month between the oldest six children in their respective sibling groups and with 'G' six times each year.

104. The Guardian wholly endorses the Local Authority's care plan in respect of contact. The Guardian told the Court, "I'd expect contact to be reviewed as part of the Looked After Child reviews, as a mechanism for formal review post-final Orders. This is the starting point. The primary focus for the children needs to be for them to settle in their new placements and for them to show in their behaviour and emotional wellbeing that they are as settled as can be and feel secure. For 'G' she has different relationships with her siblings. 'G' will need to develop secure relationships with her Paternal Grandparents and look to them for all her needs to be met emotionally and physically as well as having a meaningful relationship with her mother. Increasing time with her mother too soon may make that more difficult. I would not want to set a timescale around that. Monthly contact between 'G' and her mother, which is what mother seeks, is likely to be quite a lot for 'G' when she needs to shift her attachment bonds." The Guardian considered the mother's proposal that, until 'FF' is released from prison, the time 'G' would have spent with her father is offered to the mother. The Children's Guardian told the Court, "It is not as straight forward as swapping father's contact with mother. The primary focus for 'G' is being able to develop a trusting secure bond with her Paternal Grandparents. I sympathise with the mother. I understand why she wants more contact but right now, in my opinion, contact time needs to be reduced, to start to transfer those attachment bonds. That takes time. For 'G', that's necessary."

105. In this Court's judgement, taking an independent view, the Local Authority's care plans in respect of contact are well conceived and have the individual child's best interests as their primary objective. The Court finds no reason to depart from the unanimity of professional opinion. For the reasons given the Local Authority and the Guardian, the Court endorses the Local Authority care plan for each child.

106. The Local Authority agreed during the Social Worker's oral evidence to make amendments to its care plans, which record presently that the mother opposes those care plans and shows a lack of insight. Given the mother's position at Final Hearing that she does not oppose the care plans and that the Social Worker's acceptance that the mother has shown insight, it is right for the care plans to be amended. Further, the Local Authority agreed to consider a further amendment to its care plans in respect of the assertion that the mother is reliant on substances, the Social Worker agreeing to such amendment, once updated information has been obtained from drug support services.

Conclusion

107. In summary, the Court:
    (a) Dismisses 'FT's application to adjourn the Final Hearing;
    (b) Makes a Care Order for each child;
    (c) Endorses the Local Authority care plan for 'A' to move to a new separate foster care placement;
    (d) Endorses the Local Authority care plan for the children 'B, C and E' to be placed together as a sibling group of three;
    (e) Endorses the Local Authority care plan for 'D and F' to be placed together as a sibling group of two;
    (f) Endorses the Local Authority care plan for 'G' to move to her Paternal Grandparents' care as friends and family foster carers;

(g) Endorses the Local Authority's care plan in respect of contact for each child;
(h) Directs the Local Authority to file updated care plans.

HHJ Middleton-Roy
26 February 2024