Case No: LE22C50035
Neutral Citation Number: [2024] EWFC 47 (B)

IN THE FAMILY COURT AT LEICESTER

Leicester County Court and Family Court
90 Wellington Street
Leicester
LE1 6HG

BEFORE:

HER HONOUR JUDGE NASSERA PATEL

BETWEEN:

Re R (A Parent with disabilities) 2024

LEICESTERSHIRE COUNTY COUNCIL **APPLICANT**

- and -

R **(1) RESPONDENT**
(2) RESPONDENT

-and-

A (Child)

CHILD (VIA THE GUARDIAN)

Legal Representation
Mrs Jane Bacon (Counsel) on behalf of the Applicant Local Authority
Miss Lawren Dobson (Counsel) on behalf of the First Respondent
Mrs Paula Thomas (Counsel) on behalf of the Second Respondent

Other Parties Present and their status
Miss Vasanti Motivaras (Children's Guardian)
Mr Psuick (Intermediary)

Judgment

Judgment date: 26 January 2024
Transcribed from 15:00:43 until 15:02:06
from 15:02:36 until 16:41:54

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Her Honour Judge Patel:

Summary

1. I make it clear from the outset that I recognise how much the mother loves her daughter, A, and I accept that she has done everything she can within the context of her difficulties and limitations to demonstrate that she should be able to care for her. Sadly, the overwhelming and unanimous professional evidence persuades me that even with 32 hours of support through Adult Social Care, additional support through Children's Social Care and psychological support through therapy, (none of which is actually in place) that the combination of the mother's long term chronic ill health, compounded by her neurodiverse cognitive profile and unresolved trauma means that she is unable to provide the level of care that A now requires on a full time or even on a shared care basis. Much of this is not the mother's fault but is reflective as to the realities of her functioning and the level of her own needs. I accept that she has done her very best, but having regards to A's welfare and her needs being paramount, I am going to make a final Care Order for A to stay in foster care with FC.

The Parties

2. I am concerned with the welfare of A , born on 11 January 2018, who is now just six years old and is placed in foster care under an interim Care Order with FC, who was helping the mother care for her in 2020. A is represented through her children's Guardian, Miss Motivaras, who instructs counsel, Mrs Thomas. Her mother shall be referred to as R, who was born on 22 August 1980 and is now 43 years of age. She is represented by counsel, Miss Dobson, and has been supported by an intermediary, Mr Psuick.

3. A's biological father is F, confirmed through DNA testing. F does not share parental responsibility for A. A is the only child of these parents, whose relationship was short lived. F is aware of the proceedings and has been updated by the social worker.

4. He has not played any part in A's life and when proceedings were initiated, he indicated that he did not seek to be assessed to care for A or engage in these court hearings. His preferred option was that A was placed in the care of her mother and if this was not possible, for her to remain in the care of FC, with whom he accepted A has an established relationship. A's current social worker is Alana Clarke, but previously it was Jessica Noakes and then Georgia Burton. The Local Authority is represented by counsel, Mrs Bacon.

Applications before the Court

5. Leicestershire County Council made an application for a Care Order to include an interim Care Order on 4 March 2022. An interim Care Order was made on 23 March 2022, which remains in force. A is and has been in the primary care of FC, who is

approved as her long-term foster carer. FC does not seek a Special Guardianship Order at this juncture and prefers for the Local Authority to be responsible for the ongoing contact arrangements between A and her mother and I will return to that point below.

6. The proceedings have far exceeded the 26 week statutory timetable. It was anticipated, given the unusual characteristics of this case, that there may be some delay and had the court timetable for directed statements and assessments been adhered to, it is fair to say that it should not have taken this long. The case has now been in play for 98 weeks. This level of delay can only be prejudicial to the welfare of A and I have been very keen, in this hearing, to keep matters on track, while allowing for the mother's difficulties and reasonable adjustments, the need to take regular breaks and including letting her leave early before the end of a court day, with the intermediary, providing her with a simplified summary of her counsel's cross-examination of the social worker.

7. A further complicating feature in the delay has been that an application was made by the Local Authority in May 2023 for a section 34(4) order for permission to refuse contact between A and R. This followed an allegation by A to her teacher, which she repeated to her foster carer and social worker that her mother had, inappropriately, touched her below area when applying cream. An order was made by me on 6 June 2023 and an urgent order was made against the police for them to file a statement in relation to the mother's bail conditions.

8. The police have now completed their investigations and on 27 December 2023, notified R that they are not taking any further action and the bail conditions have been lifted. Not having had contact with her mother therefore for seven months, A resumed video contact on 5 January 2024 and on 12 January 2024 had an introductory direct contact, which went very well. Albeit there was some hesitancy by A that her mother should not take her to the toilet, and she did not want cuddles. A also spends weekly family time with her maternal grandfather, MGF and his partner. This happens unsupervised on Sundays, which the mother does not agree with, and it is fair to say her relationship with her father remains strained.

<u>The Parties Positions</u>

9. As I say, the Local Authority seeks a Care Order. The care plan is for A to remain in the care of FC in long term foster care. The Local Authority supports ongoing direct contact between A and her mother, to be supervised at a minimum level of once per month, but also to include fortnightly contact through video and then letters and cards in between and for A to reciprocate, if she wishes. Contact arrangements will be kept under review under the Looked After Children process and by Di Yates, who is the Independent reviewing Officer.

10. The Local Authority asserts that it is committed to funding play therapy for A, as recommended by Dr Martinez and signposting the therapy that the mother needs if she wishes to engage. Further, offering some level of mediation between the mother and FC, given that their relationship is fractious and supporting, at some point, the systemic therapy sessions to improve A's relationship with her mother. The Guardian supports the Local Authority's plans and had considered whether a Special Guardianship Order should be made to FC , but does not consider this to be appropriate at this time.

11. The mother does not accept the threshold is met and seeks, in the first instance, the return of A to her full-time care. She seeks to set out alternative arrangements, or she sought to, in her most recent statement dated 11 January 2024, which sets out the secondary position of shared care. In essence, the mother's position has always been that she has been asking for the correct support from before A's birth and that the discrepancies between Children's Social Care and Adult Social Care have meant that the services that have been provided have not always been what she needed to ensure that she was able to meet A's needs. She accepts the need for support but is critical of what has been offered. She does not really think that the Local Authority should have issued these proceedings.

Background

12. A has been the subject of a child protection plan on two occasions prior to these proceedings. She was subject to pre proceedings for three months with, the Local Authority says, minimal progress. There has been a concerning social care history for A, who has had Children's Social Care involvement from prior to her birth. There was a brief period between September and December 2018 where there was no involvement, but then concerns were raised by the health visitor, as A was said not to be meeting her developmental milestones in her mother's care.

13. The concerns about A being at risk of significant harm from neglect continued in 2018 into 2019 and this was due to allegedly R s difficulty in engaging effectively with the support offered to enable her to provide good enough parenting to A, arising from her own limitations. R suffers with Myalgic Encephatis (ME) and later that has been diagnosed as chronic fatigue syndrome, which affects her day-to-day functioning and was, as I say, originally diagnosed as ME. This is a long-term fluctuating neurological illness.

14. She also has a history of anxiety and depression, low mood and mild cognitive impairment. She has a diagnosis of fibromyalgia, EDS, endometriosis, Irritable Bowel Syndrome and dyslexia. She also has symptoms of Attention Deficit Hyperactivtiy Disorder (ADHD), which Joan Crawford confirmed and has been investigated for postural orthostatic tachycardia syndrome, known as POTS. Dr Martinez assessed that she shows traits of Autistic Spectrum Disorder (ASD) which, to be fair, R readily accepts and that this is highly likely and makes sense. What she does not accept is that this means that there is an unreasonable level of rigidity on her part, and she does not accept that this means she has a lack of insight into A's emotional needs.

15. Mother has a wheelchair, which she uses around the house, and she tries to limit the amount she moves to conserve energy. She has a mobility scooter on which she leaves the home. Currently, the only support she really receives is through PA direct payments from Adult Social Care to her longstanding friend, F, who goes in several hours per week, but this could be flexible enough to be up to 11 hours per week. The assessments have highlighted that R is only able to concentrate for short periods of time and regular breaks have been given during assessments and during this hearing. She is able to communicate in a clear and articulate manner.

16. It is important to acknowledge early on that her needs are longstanding and will not simply disappear with time or resolve. She will need physical and emotional support throughout the rest of her life and, sadly, it is likely that some of her conditions may deteriorate over time. These concerns about her ability to meet A's needs heightened during the Covid 2019 pandemic, following the closure of childcare provisions, which left A in the sole care of her mother. At the start of the pandemic, when all childcare provisions ceased, the Local Authority supported Mother to arrange for A to receive wrap around care for most of the day, enabling her to preserve her energy to care for A during unsupported times.

17. FC began working with the family at the beginning of April 2020 and was employed to work five hours per day, every day, funded by the Local Authority's Children's Team. This was an exceptional amount of funding in this kind of unprecedented situation. R also received support from a care agency in the morning, arranged by Adult Social Care. She thinks, at that time, she was having about 27 hours from Adult Social Care, alongside the 25 hours that Children's Care were providing. I have to say I remain unclear about whether she is right about this.

18. Adult Social Care has shared multiple care and support assessments within the bundle that they have undertaken of the mother with involvement since 2016. I note from these documents the assertions that there have been difficulties that R experiences with Adult Social Care and that they suggest that R has not been able to prioritise R's needs above her own difficult relationships with professionals. This is an issue that I have had to make a finding about, and I will return to this below.

19. The Local Authority consider that the involvement of FC was a significant protective factor, because she was able to work flexible hours. Her overtime increased the amount of time she cared for A and when proceedings began, she was providing care for A six nights per week with the mother's agreement. However, the Local Authority suggests that the demands placed upon FC by R caused the breakdown in their relationship, which threatened to affect the stability of A's placement. The Local Authority was of the view that if A was in the full-time care of R, at that time when support was not in place or had broken down, that A would be left at significant risk of neglect as her basic needs were unlikely to be met by her mother.

20. There was a period of pre proceedings to try and formalise arrangements and try and reach an agreement on section 20. That was done to prevent a breakdown in the support being offered. The pre proceedings process is described as being frustrated and the Local Authority was unable to formalise the arrangements sufficiently. FC, in the meantime, was subject to an initial viability assessment, which was positive and that progressed to a full connected carers assessment and, as I say, she is now a long term approved foster carer.

21. Family time between A and her mother continued by agreement. This took place on a Tuesday between 1pm and 5pm and each Friday after nursery, about 5.30pm until Saturday 9am. That was kept under review. R did not always take up the two hours offered on a Tuesday. A appeared to enjoy the family time with her mother, although there was some suggestion of reluctance about overnight stays, apparently to her granddad and to FC.

22. Within the pre proceedings an attempt was made to secure a psychological assessment of R and to assess her cognitive functioning. This, of course, was necessary to ensure

that professionals were working appropriately with R, given her ME/CFS diagnosis, and to establish if there were any barriers or reasons as to why she might have difficulty working with professionals. This was really the focus, rather than any suspicion, that she has any intellectual deficits. The Local Authority was only able to secure an assessment from the Yorkshire Fatigue Clinic which, in fact, was somewhat helpful.

Alternative Carers

23. Neither parent proposes any alternative carers to be assessed for A. F's sister is very unwell. His mother is aged 70 and so neither are realistic long-term options. The options before me therefore are these: a) return A to her mother's full-time care, with a package of support,- b) leave A under a Care Order with FC and supervised contact with her mother, with frequencies and durations to be reviewed,- c) consider some kind of shared care arrangement, although this is not supported by any professional, the Local Authority or FC and to be fair has legal ramifications for the Local Authority holding a Care Order, given that placement with parent regulations is highly unlikely to be approved.

Threshold Criteria

24. Numerous attempts were made throughout the proceedings to agree a threshold document without success. At the failed Final Hearing in August 2023, at which the mother sacked her counsel and solicitors, it became clear that, in fact, R does not accept that threshold is crossed. She does not accept that the Local Authority should have legitimately issued the proceedings. The relevant document is dated 3 August 2023 and sets out the reasons why the Local Authority intervened in the lives of A and Mother to protect her.

25. That includes the findings sought that R's diagnoses are long term and that they significantly limit her ability to complete care tasks for A. That she needs significant support to meet her own physical and emotional needs and that in the absence of such support, she cannot meet her own and A's needs. That the assessments have identified that the support acceptable to R has not been identified or is not available. Consequently, the inconsistent provision of support has led to a lack of continuity in A's care and the mother, which places A at risk of significant harm.

26. Turning back to the section 34(4) application, A's allegation formed part of a live police investigation that lasted many months. Bail conditions were in place for no contact for seven months. A section 34(4) Order is actually no longer necessary and will be discharged today and the Local Authority has clarified that no findings are being sought in respect of these allegations.

27. I make it clear therefore having considered the findings sought, that there are no risks therefore from the mother towards A in respect of sexual abuse, as no findings in respect of this are made. However, when considering A's welfare, I cannot ignore something that A has consistently said and how the re-establishment of her relationship with her mother is impacted by the findings of Dr Martinez. Something which I have considered in detail below.

28. Just to summarise the progress of the proceedings in short, at the first hearing in March 2022, the Local Authority sought its interim Care Order, and it argues that that was

so it could better manage the care of A in the interim and prevent the placement with FC from breaking down. The application was supported by the children's Guardian and not opposed by the mother, on the basis of taking a neutral position and it being a holding position.

29. At the hearing on 16 June 2022, the hearing was attended by Adult Social Care. Children's Services and Adult Social Care have continued to liaise with one another to identify the best way to assess and support the family. This, of course, has challenges and nobody has suggested that the type of package that R requires is one that is easy to put together. The issue has not been whether that support is available, I make it clear.

30. The Court made a number of directions for the various assessments that Adult Social Care or, as I will now say, ASC have undertaken. At the hearing on 3 August 2022, Sarah Seekins was confirmed as the independent social worker to undertake the mother's parenting assessment and the case was timetabled through to IRH. R had commented at a LAC review that she did not understand why there were care proceedings and that the Local Authority was simply delaying matters.

31. At the time and, in fact, Mrs Bacon tells me from the March, enquiries had been made about Dr Martinez, whether she could have and was able to assess the mother to look at the issue of ADHD and anything else. She was asked whether that could be looked at but also in particular, to do a full psychological assessment of the mother and then to look at A's needs. What Dr Martinez had confirmed was that an ADHD assessment should be undertaken, but that she does not carry out those assessments herself but could otherwise undertake a psychological assessment of the mother with reference to an ADHD assessment once it had been completed.

32. At the next hearing on 3 October 2022, the mother had filed an application to change the expert and the application questioned the expertise of Dr Martinez, suggesting that she does not have sufficient expertise in the mother's known ME/CFS diagnosis, and that Dr Crawford was therefore proposed in the alternative, who could also undertake an assessment of the mother for ADHD. It was suggested that that assessment could be undertaken within eight weeks. I have to say I am, with the benefit of hindsight, able to see that Dr Crawford's assessment was always going to be somewhat limited in Dr Crawford's inability to assess A and her needs, which are fundamental to the question of whether the mother, with all her difficulties and even with the right package of support, can meet A's needs.

33. On 8 October, there was an indication from the court that the application could be considered on the papers and the Local Authority reluctantly agreed to a change in the expert. The assessment took longer than was envisaged and by November, the Local Authority had reconsidered its position and sought to identify alternative experts who could report in a more time effective way. Vanessa Garfoot was put forward. However, due to a delay in the matter coming back to court, the date for her report to be filed was lost.

34. The Court was concerned at the next hearing that the mother had not attended, in any event, planned appointments with Dr Martinez and that in her controlling the progress of the case, that was not in the best interests of A. However, ultimately the court went on to approve the instruction of Dr Crawford on the basis that it was highly unlikely that the mother would engage otherwise. The case was then

timetabled to an Issue Resolution Hearing (IRH) in March 2023 and again, with the benefit of hindsight, I can say that it was entirely regrettable that there was not, in effect, a short bespoke assessment on the ADHD and then for the instruction of Dr Martinez to simply proceed.

35. I have no doubt that the District Judge dealing with the matter expected Joan Crawford to be able to thoroughly and comprehensively assist the Local Authority in understanding how to work with R. A point which the Local Authority says, disappointingly, that Dr Crawford failed to address and which in fact, having considered all of the evidence, I am inclined to agree. The light that Dr Martinez assessment has shown on the neurodiverse functioning of this mother and of A's needs, in the context of her lived experiences, is immeasurable and I have said loud and clear that it is a shame that the court did not have this assessment earlier.

36. The listed IRH proceeded as a further Case Management Hearing. There was then a late application for an intermediary and in March 2023, the matter was then referred to me, as the Designated Family Judge (DFJ), and having discussed this matter with Lieven J, (in effect there were parallels being drawn between this case and the case of *Re H (Parents With Learning Difficulties: Risk of Harm)* [2023] EWCA Civ 59, which is a decision that the Court of Appeal had, through Baker J, issued in close proximity) - there was a concern that this case was so complex that it may have to be heard by a proper High Court Judge. Having liaised with Lieven J it was agreed that I would hear the matter and having considered that the matter was a year into proceedings, that there needed to be robust judicial case management and in particular judicial continuity.

37. I made clear, when I listed the matter for a Final Hearing in August 2023, that if the police investigation had not concluded, that issue being outstanding was not necessarily going to be a reason for the Final Hearing to be adjourned. At that hearing in August, in the mother's position statement, she did not, in fact, oppose a Care Order being made. Following attempts to narrow the threshold, Mother's legal team, both solicitor and counsel, were forced to withdraw from the case. I have to say, I considered my options, and I was not prepared to proceed with the mother as a litigant in person, as her intermediary and then advocate informed me that she had become highly distressed and would not be able to represent herself.

38. In the interests of justice, I granted an adjournment, but made it clear that by adjourning the matter in August 2023 may involve the Local Authority reconsidering its findings that it was pursuing under threshold, potentially reconsider the position regarding A's allegations of sexual abuse and may result in a further application for assessment that now, in effect, fills the gap of Dr Crawford's assessment in respect of A's needs. This was specifically because of A's expressed wishes and feelings about staying with FC.

39. There was a Case Management Hearing in September 2023. The mother had by then secured new legal representation and the Local Authority did pursue its application, supported by the Children's Guardian, for a psychological assessment to be undertaken by Dr Martinez. Mother did not oppose this and so, as I have already referred to, the matter proceeded, and an assessment was completed. On 20 December 2023, the court approved a decision that it was not necessary or proportionate for Dr Joan Crawford to attend to give evidence or to be cross-

examined, on the understanding that the Local Authority does not accept the conclusions in her report.

The Law

40. I must first consider whether the threshold for making any orders is set out at section 31(2) of the Children Act is crossed. If a local authority establishes that threshold is crossed, then the court goes on to consider what orders should be made, having regard to the circumstances of the case and in particular reference to the factors as set out in section 1(3) of the Children Act. In respect of threshold matters, I have been reminded of *Re A (A Child)* [2015] EWFC 11 and the need to link the facts relied upon to demonstrate that harm has flowed or is likely to flow from those facts.

41. In reaching my decision, A's welfare has been my paramount consideration, and her welfare has been at the forefront of my mind throughout this hearing. There is a need to ensure that there is a proportionate response to the harm identified and I must be satisfied that there is no practical way of the Local Authority providing the requisite assistance and support, and in particular that is as set out in *Re B (A Child)* [2013] UK SC 33. I have had to grapple with all the realistic completing options and give them proper focused attention and in accordance with the *Re B-S (Children)* [2013] EWCA Civ 1146 analysis, take account of the advantages and disadvantages of each option.

42. I accept, as Miss Dobson has submitted, that the best person to bring up a child is their natural parent, provided that the child's emotional and physical health are not in danger. I recognise also that there are very diverse standards of parenting. Children will inevitably have very different experiences of parenting and very unequal consequences flowing from it. Some children will experience disadvantage and harm, whilst others flourish in atmospheres of loving security and emotional stability. The State does not take away the children of all the people who abuse alcohol or drugs or who suffer from a physical or mental ill health.

43. The court's assessment of the parents' ability to discharge their responsibilities towards the child must take into account the practical assistance and support which the Local Authority, Adult Social Care or others can offer. The court should not make any orders unless it is satisfied that it is both necessary and proportionate for such orders to be made to secure the child's welfare. I have had close regard to the Article 6 and the Article 8 rights of R and of A. I have reminded myself that where there is a tension between the Article 8 rights of a parent on one hand and of the child on the other, that the rights of the child will always prevail.

44. I have considered the good practice guidance on working with parents with learning disabilities, originally published in 2007 by the Department of Health and the Department of Education and Schools [sic] and most recently updated in the July 2021 document, Working Together with Parents Network.

45. More importantly, I have also considered the recent case of *Re H (Parents with Learning Difficulties: Risk of Harm)* [2023] EWCA Civ 59. This case concerned an appeal against a Care and Placement Order made with respect to a child, referred to as H, who was 22 months old. H's parents both suffered with cognitive difficulties, as did H's older siblings. In Baker LJ's judgment, the Appellant's submissions were cogent and persuasive, and the appeal was allowed.

46. Importantly, he noted that at section 1(3)(e) of the Children Act and 1(4)(e) of the Adoption and Children Act that that requires the court to take into account:

> "Any harm which . . . [the child] . . . is at risk of suffering."

Not is possibly at risk of suffering. Therefore, any considered harm had to be established on the basis of proven fact, not a mere possibility. The unproven sexual behaviour and abuse between the older siblings, which the judge in the lower court concluded H was at risk of suffering, was very heavily relied on when reaching his decision and was therefore an error. It is not permissible for a judge to rely on parents' concessions of such a possibility of harm and the admission would never obviate the need for a proven factual basis to establish future risk of harm, particularly noting in that case the parents disability.

47. There is a parallel here in that A has made allegations of sexual abuse, but I have already made it clear that this has played no part in my thinking. Continuing, Baker LJ asserted, that is unacceptable for a local authority to press for a plan in that case of adoption, simply because it is unwilling or unable to support the child living at home. Baker LJ agreed with counsel for the Appellants that the judge in the lower court had failed to subject the evidence to a degree of vigorous scrutiny required in these circumstances. For example, Baker LJ noted that the lower court judge had recognised:

> ". . . that the local authority would have to maintain an (undefined) 'high level of support and intervention in the family for many years to come' without . . . taking into account . . . the provision of support [that] is a recognised requirement for the parents with learning . . . [disabilities under the Care Act]."

48. Taking together all the instances where Baker LJ felt the lower court judge had failed to scrutinise the evidence sufficiently, the conclusion reached was that the appeal should be allowed. What this authority does highlight is the need for the court to have carefully scrutinised the Local Authority's assessments, the plans and any packages of support on the ground based on the analysis of risk. It highlights that one of the domains in the Care Act is inability to carry out any caring responsibilities that the adult has for a child. Local Authority Adult services organisations cannot simply say here that Children's Services do that, because the statutory functions are wholly different and owed to different people. A disabled Adult with responsibility for children is entitled to have a 'needs led' package of care which can be turned into a budget.

49. Meeting needs is key here and the budget is not simply for what is wanted, so it is no good if a couple or single parent's difficulties are just money for childcare – if what is really going on is that their standard of living, which may be on their means, is just subsidized by way of that payment. The package of care needs to be related to assisting the person to care for a child and not just to pay for childcare. Both parents owe parental responsibilities and so any non-disabled parent can rightly be expected to care, unless there is good reason to the contrary.

50. In this case, of course, R was known to the Adult Social Care Team before A was born, as her diagnoses were made before she became pregnant. What Baker LJ points out

in the case of *Re H (Parents with Learning Difficulties: Risk of Harm)* [2023] EWCA Civ 59 is that further:

> "Children's social [care] services duties under s17 of the Children Act can extend to providing parents with services for the child or services to the parent, and one need not be a child at risk [or even] . . . be a child in need; but the overlap between the two functions cries out for a protocol, for joint working, not a turf war between the two. Cases like this will perhaps"

He said:

> "drive Directors to high levels of wisdom and co-operation so . . . there does not have to be further litigation to determine the proper approach."

51. I will address the level of joint and collaborative working between ASC and the Children's Social Care Team for A and the mother, below in my analysis.

Summary of the oral and written evidence and assessment of the witnesses

52. I have heard oral evidence from the first social worker, Jessica Noakes. The more recently allocated social worker, Alana Clarke, Claire McWilliams, Head of Strategy within ASC, Sarah Seekins, ISW, Dr Martinez, R (the mother) and the children's Guardian. I have considered the bundle. I also, very late in the day, during the mother's evidence, allowed a 45-page transcript of a conversation between the Murray Care Team and ASC Team and mother, with references to highlighted sections. I do not intend to address every point in contention and my reference to the evidence is to address those points that are relevant to my overall determination regarding threshold and A's welfare needs.

53. On day 1 of this hearing, R agreed that whilst she does not agree with the Local Authority's social work team, the evidence of Georgia Burton, the second social worker, was not necessary. Jessica Noakes' evidence focused on the pre proceedings period and when the Local Authority issued, and evidence about how they had gone about seeking section 20 from the mother. It is clear from her evidence that before issuing these proceedings, the Local Authority had done a significant amount of work to try and avoid A and her mother being separated. It was clear to me, having heard Miss Noakes, that many hours of time were spent talking to the mother, liaising with Adult Social Care, and looking at practical ways in which R could achieve the full requirements for her support needs and then ways in which Children's Services could plug the gaps.

54. It was, as Miss Noakes said, the refusal to accept services that were available and the accruing concerns about the impact on A's development and risk of neglect that ultimately led to the Local Authority issuing, alongside the concerns about stability of placement for A. Miss Noakes, in my view, was a fair and balanced professional. I accept Miss Noakes' analysis in the lead up to the proceedings being issued, which was this:

> **"Part of the criticism of the mother has been that whilst she is frustrated with carers and personal assistants, she isn't able to recognise that support that she has is essential to [A]'s welfare and**

safety. She regularly and often dismisses carers and agencies without thinking of the effect that that has on [A] and [A]'s care, like dismissing a care assistant. Telling her to leave and calling her a 'two faced bitch.'"

Claire McWilliams

55. Claire McWilliams is the Strategic Manager for Hinckley Adult Social Care and has 20 years' experience of working with disabled parents. She has previously worked with the mother in 2017 and she had been in touch with ASC from 2016 about what they could offer to support her. Miss McWilliams has filed six statements. In her opinion, R meets the criteria for provision of formal support under the Care Act provisions of 2014 and this generates an assessment for a personal budget. This can be utilised either as a direct payment, through council managed services, domiciliary services or a combination of both.

56. Direct payments allow greater flexibility of choice and control, and although R's assessments indicate that she does have some difficulties making decisions regarding needs for her care, she has always had capacity. She has therefore always elected to have a personal budget to employ her own personal assistants through domiciliary care agencies or privately or through APA support care agency. However, they have workers who are only registered to provide care for adults over the age of 18 and cannot be employed to provide care to a child. This is the same for the other agencies like Ican and Aspirations. At one point, it is clear that ASC contacted over 11 different types of agencies to identify a package of support that could be provided through a combination of personal assistants (Pas) and then gaps plugged by Children's Social Care.

57. There is also a long history noted of ASC offering ways in which R can be supported. Only for her to dispute what was needed or provided and then fall out with workers that attended the home. I appreciate that R disputes this but this is what ASC records indicate. In her statement, Miss McWilliams, considered the recommendations of Dr Joan Crawford, the mother's preferred expert, and accepted that a consistent team of carers supporting the mother would be of great benefit to her ability to care for A. The issue was getting those individuals employed, in place and then to remain in place. ASC assisted the mother in drafting an advert, contacted, as I said, over 11 domiciliary service agencies and PA agencies. The team approached live in carer agencies that might be able to live in to support Mother and A and that would have to be jointly funded between ASC and Children's Social Care.

58. In April 2022, a referral was made for the mother to have a powered wheelchair. It has to be noted that despite such referral being made since 2017 by an occupational therapist, the mother's GP surgery declined to sign for a wheelchair referral form because they did not deem it suitable for Mother's mobility needs. I further note that in June 2022, OP Care approved a powered wheelchair for Mother, with a six to eight week wait on delivery. The delay was in agreeing the funding, which under the Disabilities Grant Scheme had to be approved for a ramp to be fitted in the mother's home, which was a three month to twelve month wait. This is an example of even when the package of support is available on the ground, it can take time to be put into place and I accept that those are not reasons that are R's fault.

59. The ASC Team went on to identify an agency called Murray Care ran by Susan Murray, who expressed the view that they could support this mother with her parenting role and provide a team of dedicated staff of three to support consistency and familiarity. What the ASC needed in the summer of 2022 was the mother's consent to them carrying out an assessment through Murray Care of her needs, having considered the parenting assessment. Unfortunately, the advert in April 2022 did not yield the recruitment of a suitable PA.

60. By August 2022, the Murray Care Team had met with R and was willing to provide 32 hours of support under the Care Act provisions which could work alongside any PA. After the meeting, R wanted more time to discuss with her advocate whether she would accept them as a care provider.

61. On 20 August 2022, G, a PA, was found and put in play for 16 hours per week and she, in fact, had agreed to provide 30 hours per week. The issue was when G was ill or there was no to cover for her, who would take over, because a second PA had not been identified. By December 2022, so less than four months later, G was then suspended by R for:

> **"Gross misconduct due to unsatisfactory performance resulting in neglect of employer and recurrent lateness leading to neglect."**

This meant that G had to keep being paid until she was formally dismissed, or she resigned.

62. Murray Care ended their involvement on 30 October 2023, and Miss McWilliams said that mother has refused any further referral for a domiciliary agency to ensure her social care needs are met. Therefore, she says, that she is currently receiving support from her friend, F, of up to ten hours per week and it is only, I have to say when Claire McWilliams gave oral evidence, that the following factors became clear;

a) that ASC had to step in to terminate G's contract, because otherwise this would have had serious financial ramifications for public money, and this was an exceptional act.

b) it remains unclear whether R had had the right employers insurance to cover any legal claim made by G against her as her employer;

c) that Murray Care had left their offer of services open from between August 2022 to October 2023, so nearly 14 months before actually pulling away;

d) that Murray Care was considered to be the closest package of support that would have replicated what Dr Crawford had had in mind, but on the ground, Miss McWilliams thought that the mother's PA package never really got off the ground for more than 16 hours per week that G was delivering.

63. In her evidence she said that R rigidly wants to stick to using a PA system but that ASC remained of the view that this process has not yielded the full level of support that R needs to meet her own care needs. Even 32 hours of a combination of PA's being in place, which she says has never been achieved for any reasonable period of time in the last four years, is not likely to be sustainable. That these PA's are still not willing

to step in to provide direct care to A, so that is where social care would have to step in.

64. Having considered R's proposals in her statement, Miss McWilliams said that all of those hours could be put into play, but a need that exceeded, for example, 32 hours of care per week would usually result in an assessment that concluded that a move to residential support or supported accommodation would be required and that is something that R is not going to agree. Her view remained that what R was suggesting was not going to be sustainable and in any event, even if the support existed, which she agreed ultimately the support package does exist, there is a lack of evidence to demonstrate that this would be workable given the history.

65. I have to say I found Miss McWilliams to be a balanced, considered, and fair witness. This is despite the mother's assertions that ASC and Children's Services have been engaged in years of an **"arse covering exercise"** with her and have deliberately followed a narrative of inaccurate recording of what assistance they have offered to her.

Alana Clarke

66. The most recently appointed social worker is responsible for the final *Re B-S (Children)* [2013] EWCA Civ 1146 analysis and she concludes that, unfortunately, throughout the duration of these care proceedings, Mother has not had the consistent and the assessed required level of support in place. She agrees with Miss McWilliams that this means it is not possible to reflect on how a consistent care package would impact on her parenting capacity and most importantly energy levels to meet the needs of A and offer a consistently good level of care.

67. In her oral evidence she stood by her view that R's proposals to care for A were not workable or in A's best interests. She very helpfully drew together the conclusions of Dr Martinez for me and gave her opinion on why contact for A needs to remain supervised. She explained that in her view, A's needs require more than good enough parenting. They require attuned parenting, because A now has a complex profile where she has an insecure attachment to her mother and a secure attachment to FC. The fact that she needs 36 hours of therapy is really high and tells us that it is really important that therapy is prioritised for A and that her reintroduction to the time she spends with her mother is increased on a gradual basis.

68. She was very fair, in my view, in respect of her descriptions of the contact that A had with her mother on 12 January 2024. She went out of her way to prepare A, because A said she did not want her mum to take her to the toilet and she did not want cuddles. However, the contact was positive, because R was able to respect A's boundaries and A was then able to sit on her mother's lap, but she also felt safe enough to tell her mother, no, when she asked for a kiss. This, said Miss Clarke, is the kind of progress the professionals will need to see as contact moves forward and will be subject to the mother also accessing therapeutic support for herself.

69. I was very impressed by Miss Clarke. She was balanced and kind in her evidence. She has been able to—empathise with this mother. She has fully digested the psychological findings and recommendations for R and for A and her evidence, in my view, was wholly directed to achieving what is in the best interests of A.

Dr Crawford

70. Turning to the expert assessments, of course, I have considered the report of Dr Crawford. One aspect of her report was the ADHD assessment to which I have referred but in my view the report was limited overall because it did not assist the Local Authority in understanding how to work with R and lacked the necessary full psychological exploration as to the mother's likely parenting on A in consequences of her lived experiences or the potential for neglect, if the appropriate package could not sustainably remain in place.

71. That report was dated 26 January 2023 and repeated the detail of the earlier cognitive assessment of the mother, which advised that Mother's health and general functioning is poor. That these she says have been markedly impacted on by the lack of provision of practical, instrumental and Social Care support to parent her daughter and that such support has not been adequately defined nor resourced. She says this:

> **"In large part due to [R]'s difficult relationships growing up, along with multiple social traumas within and outside of her family environment, [R] developed social anxiety disorder from a young age. Her self-esteem was also significantly reduced, which is common in such situations, along with trying to cope with undiagnosed dyslexia and ADHD during her schooling and further education. Combined, these made coping well with and understanding social situations incredibly difficult for [R]. She experienced significant physical and psychological bullying at school causing additional distress.**
>
> **Further significant multiple traumas from her teenage years onwards have resulted in her developing post-traumatic stress disorder, which she has received minimal therapeutic support for to date. These difficulties have been compounded by undiagnosed ADHD, along with the development of multiple debilitating medical conditions, including ME and CFS."**

72. It is Dr Crawford's view that the support available did not meet the needs of R or her daughter. Notably, somewhat the mother's case does not align with Dr Crawford's recommendations, which proposes a small team of professionals working around the mother, because she continues to prefer the use of a personal assistant and does not really want different agency workers going into her home. A point made by the mother, which I can understand, because of a desire to maintain some level of privacy.

Sarah Seekins

73. The independent social work parenting assessment of R dated 4 March 2023 by Sarah Seekins was carried out, knowing full well that Miss Seekins has the added expertise of having a longstanding experience of working with parents with learning difficulties and cognitive limitations. She has also undertaken an updating assessment and her report for that is dated 6 December 2023. She engaged in a joint meeting with Joan Crawford in April 2023. In her report, she sets out her view that there has been significant intervention, meetings and resources in place which have

not been accessed fully by R, meaning that these interventions have not been successful.

74. Further she adds at section F of the bundle, details of the meetings and family plans that have been undertaken in the past. Her view was that there has been a significant amount of input to try and ensure that family members and Social Care, both children and adults, have been supporting the family. However, it would appear she opines that this is not always acted on and that R's needs are too great to be managed within these support networks. She opines that it is evident that the support has been requested and there has been support given.

75. However, the support is not always well received and that R, at times, has disagreed with however the intervention has been put in place and the quality of the intervention. Sarah Seekins' view about the report of Dr Crawford says this:

> **"That the report was insightful as to the extent of [R]'s difficulties and the cognitive impact with her conditions and her ability to care for her daughter. However, the interventions that have been suggested have been over the last five years tried and sadly failed. [R] will state that she has accepted support, or it's not been offered. However, the reality is that the support has been offered, but [R] has not been able to consistently engage with this, therefore meaning that it has ended and it's not been replaced. This in itself is causing a safety issue as the intervention is not consistent and [R] at times is left with little support for herself, let alone the support she requires for her daughter.**
>
> **It's very important"**

said Miss Seekins:

> **"to understand that this is not a case whereby [A] has moved to the care of the Local Authority with no consideration as to the alternatives, but more so that those alternatives have not been implemented on a consistent basis, leading to the need to have further more extreme intervention with [A] living away from the home. "The reasons that Mother isn't able to consistently engage"**

said Miss Seekins:

> **"is because she finds it very difficult to accept support and disagrees with the quality of support and there are disappointments as to her expectations."**

Sarah Seekins felt that Dr Crawford's assessment was:

> **"Adult led rather than to consider what's best for [A]."**

76. Sarah Seekins expressed that R has the ability to be able to understand parenting tasks for her daughter, but this can be inconsistent. She does not dispute that she requires support to be able to care for A and to ensure that all her needs are met and whilst she has the knowledge and skills to be able to provide such care, should she be in a position to do so, sadly her limitations mean that A will require someone available to

substitute the care that her mother cannot provide. Mother is aware of A's needs and how these can be met but cannot always consistently put that into play.

77. In her oral evidence, Sarah Seekins said that she:

> **"Was quite clear that whilst [R] can be part of [A]'s life and that they do have a meaningful time together, the extent of her health issues means that there are some real limitations as to what she can do and there is a worry about inconsistent and multiple carers for [A] and there has been a significant emphasis as to what support can be put in for [R] and what can be achieved for her, rather than how to meet [A]'s needs and less emphasis as to what the child requires. The consistency of care for [A] is really important"**

said Sarah Seekins:

> **"because she needs a routine in place and she needs to know that when her mother is involved in her life, that it's consistent. The same time every week and the same place every week, for example."**

Miss Seekins said that:

> **"Mother's health needs are not consistent and some days she feels better than others. Some days she might be able to manage more. So in another way the arrangements need to be flexible to meet that need, but a combination of personal assistants is not going to give [A] the consistency that she is now used to having."**

78. When asked whether it was unreasonable for the mother to refuse the Murray Care package, she replied:

> "Yes."

and said that she:

> "could see that there is a pattern of behaviour here where services have been provided and it's caused inconsistent care for A because R hasn't been able to accept the quality or the standard as she has wanted. In the absence of a live in support, the only option is professional services and fundamentally"

said Sarah Seekins:

> "[R] finds it very hard to have all of these professionals come into the home, which brings into question how meaningful the supports really are.

79. In response to whether the Mother understands A's emotional needs, she gave an example about breastfeeding, saying that:

> "At the end it was about [R] and it was not about [A]. She was hiding and it was becoming distressing, and it was quite rigid thinking. That R didn't understand [A]'s loyalties or that [A] felt she wasn't able to say no to her

> mum, despite the fact that she was explicitly telling others that she didn't want to do it anymore."

Sarah Seekins said:

> "Miss Seekins wasn't able to see the difference between a nurturing act and one that was becoming an abusive act ."

80. She emphasised that the most important thing in this case is A and ensuring that she has everything she needs, both practically and emotionally. A needs to be at the forefront of the plans and whilst consideration needs to be given to what R can and cannot provide, ultimately any intervention and any care and any way of working needs to be in the interests of A and meeting her needs. Miss Seekins therefore recommended that A's needs would be best met with, in her updating assessment, a potential shared care arrangement with the support of a Care Order. She was certainly unable to recommend that A was cared for by her mother on a full-time basis.

81. Interestingly, it struck me, fairly early on, that Miss Seekins and Dr Crawford were therefore not in agreement as to whether the mother can even provide A with what she needs, even if there is an appropriate package of support in place. Miss Seekins goes on to identify that:

> "[R] remains focused on the failure of services to accommodate for her and her parenting role with a limited awareness of [A]'s lived experiences and the impact of her own limitations on [A]'s own development and on [A]'s ability to develop a safe attachment."

Sarah Seekins provided, as I said, the addendum report and the timing of that was after receiving Dr Martinez's report. Despite that, as I said, she could not recommend that A be placed in R's full time care. What she did provide was a cautionary note in respect of the reinstatement of contact and to be fair that was at a time when bail conditions were still in play.

82. I have to say, I was struck in her oral evidence when she said that she:

> "Did not think anything would be quite good enough for [R] because"

she said:

> "she [R] finds it extremely frustrating to have people going into her home and that actually a live-in nanny is pretty much the job that [FC] had been doing, because she was there all the time, and that relationship still broke down fairly quickly. [R] finds it very difficult to maintain relationships if she thinks something that a carer has done is not right or isn't to the right standard."

Miss Seekins said:

> "Therefore, it's that rigidity there which doesn't allow her to see the situation from A's perspective. It's a limitation. What was acknowledged

is that this is very sad, because ultimately [R] does desperately love [A] and wants to care for her.

I have to say, I did overall find Miss Seekins to be both a reliable and considered professional with having provided the Court with a rather full, robust, and thorough assessment.

83. What I struggled with somewhat was her evidence, when asked, about the contact arrangements and the prospects of a shared care arrangement. When she was asked those questions by Miss Dobson, Sarah Seekins said that:

> "There was no reason or changes to justify [A] spending less than weekend contact with her mother as it was back in March 2023 under a somewhat shared care arrangement."

84. She seemed to me, at this point, to have forgotten in her answer the significance of Dr Martinez's recommendations and findings and that [A] has made significant allegations about her mother which she has not retracted. She has repeated and that she still now is cautious about seeing her mum like she did before. The wholesale relationship breakdown between Mother and FC and A's needs for therapy. To be fair, Miss Seekins did go on to clarify, after further questioning, that it was important for contact to be increased at a pace that meets A's needs and that the contact needs to be safe for her with her mother and that she was not necessarily, when she had given her answers, suggesting that that could happen with immediate effect.

Dr Martinez

85. The more recent psychological assessment of R and A is set out in the comprehensive report undertaken by Dr Martinez, who is a consultant clinical psychologist. The report is dated 14 November 2023. In terms of R , she states that:

> **"Her psychological presentation is complex because of a conjunction of psychological issues affecting her functioning."**

She opines that:

> **"[R] 's difficulties need to be understood in the context of a myriad of developmental, interpersonal and health symptomatology, including her mental health and psychical health. There are deficits in concentration, attention and word finding which have a basis in her health issues, attention and concentration deficits associated to the chronic tiredness and mental fatigue.**

86. I am conscious, at this point, I have been going for an hour, but I am grateful that R does appear to still be with us. Dr Martinez found that:

> **"[R] presents with neuro atypical traits which are common with adults with autistic spectrum disorder. Her difficulties are best understood from a neuro atypical perspective that underpins other aspects of her psychological presentation. In addition, she exhibits symptoms of post-traumatic stress disorder"**

(which is what Dr Crawford found),

> **"and unresolved childhood trauma, as a consequence of exposure to abuse in adulthood and trauma in her developing years in the context of her relationships with her main care givers. Whilst she is caring and keen to empathise with others, her rigid black and white thinking style and deficits in her psychological mindness have restricted the negotiation of social relationships.**
>
> **In the context of requiring significant support for her and for her daughter to meet her parental need, her rigidity of thinking and the problems understanding how others and relationships with them have affected her capacity to bridge the gaps and access the support needed, have posed a significant challenge for her and are likely to have had a circular impact on her health, both physical and mental. She finds herself in a paradoxical situation where she needs to negotiate complex interactions to be able to access and engage with several agencies, but then lacks this efficient flexibility to adopt to others around her, including services."**

87. Dr Martinez goes on and says this:

> **"That the combination of both her neuro atypical traits, including socio communication deficit, her black and white thinking, symptoms of ADHD and her controlling attachment strategy can be perceived by others as a sense of entitlement and actively dismissing the views and needs of others."**

Dr Martinez says this though:

> **"I have formed the clinical view that this is not the case. Instead, it is my psychological formulation that [R] has attempted to do her best in the context of limited social communication, interpersonal and emotional abilities, because the combination of her complex health needs, her neuro atypical traits, her deficits and psychological mindness. Her unresolved development trauma and her mental health difficulties, including symptoms of post-traumatic stress.**
>
> **In terms of therapeutic support, she would benefit from engaging in cognitive intervention, such as cognitive behavioural therapy for personality traits or cognitive analytical therapy to explore her understanding of dynamics and patterns in relationships, as well as to integrate her past traumas. The intervention could also support her in reducing the symptoms of Post Traumatic Stress Disorder (PTSD) and symptoms of anxiety and low mood, as well as exploring and addressing her childhood experiences of trauma. However"**

said Dr Martinez:

> **"the intervention will have a limited impact on enhancing her ability to develop the flexibility of thinking required in order to adapt in a timely way to understand the queues and developmental needs of her**

daughter, because of her own physical limitations and the developmental nature of her neuro atypical traits."

In Dr Martinez's professional view:

"Whilst she loves her daughter, she lacks the ability to adapt flexibly to all [A]'s needs. She can provide discrete episodes of care but adapting to the changing needs of [A], in a flexible way, is what is required to meet the child's needs for continuity and safe attachment base."

88. Dr Martinez thought that for R:

"This is going to be difficult, because [R]'s own limitations are likely to stand in the way of meeting all of [A]'s needs, including the provision of a consistent attuned base as a main carer. "

She said:

"[R]**may be amenable to therapeutic work to improve the likelihood of having some role in [A]'s care, though not as a main provider and in terms of timescales for any work, that's likely going to be required for at least six months or longer."**

Dr Martinez's view was that:

"[R] is not in a position to provide for [A]'s overall needs whilst undertaking therapy and the aim of the intervention, as I said in a nut shell, would be to improve her ability to mentalise for her child and others, as well as to develop reciprocal relationships with others in the role of supporting her, to be able to co-operate for her own care and to improve her relationship with [A]."

89. Dr Martinez said that her view was that:

"Even if there was success in some areas and that she is amenable to change, that the developmental aspects of her difficulties are unlikely to change sufficiently, as I said, to cope with [A]'s ever changing needs. [A] is assessed as being intellectually able, although some aspects of her development are delayed. This points to environmental factors being potentially contributory to [A] not having achieved her potential levels."

Dr Martinez opined that:

"[A]'s relationship with her mother appears to be a source of confusion and some distress. [A] has affection for her mother but does not perceive [R] as a consistent source of care provision, or as a safe base. She presents with an insecure attachment strategy in the context of this relationship. The priority for A is to continue to be provided"

said Dr Martinez:

> **"with a care giving relationship where she can build on a sense of stability and a safe attachment with her main carer and that she will benefit from therapy to build her sense of confidence and explore past experiences. Therapy should also focus on improving [A]'s safety in relationships and her ability to assert and understand herself."**

The Local Authority, as I've already recorded, is committed to and has already identified the therapist for A.

90. Dr Martinez offered further advice about potential systemic therapy for Mother and Daughter, provided there are no issues of risk for A. In respect of contact, Dr Martinez opined that:

> **"Given that there has been a seven-month gap of [A] spending time with her mother, that this would need to be carefully considered as to how contact is reinstated and what work would both be needed for [A] and [R] around this."**

In her oral evidence she stood very firmly by all of her findings and recommendations and gave some very compelling but kind evidence.

91. She highlighted that it is Mother's psychological issues that prevent her from accepting help. That she struggles to engage in reciprocal relationships and how to work around those is difficult. Yet flexibility is crucial for a person with a series of chronic illnesses, because the support needs to be negotiated with flexibility but because of her ASD traits, she struggles to adjust to the support she needs for her own care and then to try and meet [A]'s needs on top of that is difficult. Dr Martinez said very clearly:

> "I don't think this is unwillingness, it is that she is unable. She can present as unwilling, but her rigidity is how she processes information and how she is self-referential but that this is not a choice. This is how she is."

92. As I said, in respect of contact, in her oral evidence, she was very clear that whilst R can play discrete care roles in A's life, like a play session that meets A's needs, where A is not worried and feels safe, then there can be exploration to gradually increase that, but overnight contact and unsupervised contact will depend on what progress is made. If A is enjoying a healthy relationship, then that can progress but it is not something that can be dictated at this time. It is really also down to whether R is able to develop further and understand and read A's cues better allowing the contact to increase.

93. I made it clear to all of the parties, as I said, that it is a real shame that Dr Martinez's instruction did not continue from the outset. I found her to be a highly impressive expert in her field. Her conclusions are compelling and justified and the conclusions of her assessment actually portray R in a much more positive light than what went before. It became clear that many of the difficulties that R faces are not her fault. She is not deliberately difficult. She is not unwilling. What she has is limitations that are

beyond her control, that do not allow her to act in a way that allows her to prioritise A's needs above her own.

R's evidence

94. I heard R give evidence in a way which I felt was entirely designed to allow her to give her best evidence and that is credit to Miss Dobson. It is also credit to Mrs Bacon and Mrs Thomas, because they agreed not to cross-examine R and the advocates agreed a list of issues that Miss Dobson would ask the mother in examination in chief.

95. R reiterated the contents of her last two statements and set out her primary position to care for A with the support that she thinks would work and then a secondary position, which is to share care with FC, also with support.

96. Some of her evidence showed a level of realism that without a clear plan of package of support she would struggle to meet her own needs and A's needs. However, most of her evidence concentrated on the same narrative that she told Sarah Seekins and Dr Martinez. She does largely blame Social Care, (whether it is adult or children's), for not providing her with adequate support to care for herself and A. She appeared to have a very different recount of the reasons why the relationship with FC deteriorated, even blaming the social worker at the time for being divisive and deliberately pitting her and FC against each other.

97. Her firm view is that FC was raising concerns on her behalf to try and get her help and that has been misinterpreted as saying that she was not meeting A's needs or that she was putting A at risk. I can well see why that all R sees in the bundle is a log of evidence that portrays her in a bad light and makes out that she is difficult deliberately and that she worries about being seen as someone who has no integrity. She also has a very different perception as to how she handled the breastfeeding with A whilst she was rising five saying that:

> "[A] wanted it and that she wanted it so badly at times she was pulling at her boobs, even in public."

98. My overall impression of R is that she tries hard every day of her life to battle and manage her diagnoses, which is compounded by her complex cognitive functioning and unresolved trauma and that practically she is very realistic in that she knows that she cannot care for A on her own and that does need a great deal of support. What I found she lacks in insight is an understanding of A's emotional needs and that her rigid thinking about the way in which she wants care being provided is simply not consistent with what, in reality, is on offer on the ground. That it is very difficult for professionals to offer long term support because of her high standards and expectations.

99. All of this really leaves her, regularly for long periods, with a serious lack of the level of care and support that she requires, and she is assessed as requiring and this makes very sad reading about her having to make sacrifices every single day. She cannot just get up and have a cup of tea when she likes. Sometimes she has to go a week without having support to shower and she has to skip access to hot meals.

100. I have to say, having heard her evidence and all of the other evidence and stepping back, I am afraid I am unable to find R to be a reliable historian because, as Dr

Martinez and Sarah Seekins said, she struggles to see situations from the perceptions of others. She really only sees things from her own perspective, which includes also how she sees her father, who she describes as a narcissist. She was unable to see that his relationship with A might be very different to the relationship he had with her and I could not quite square the inconsistency of when it suited her, MGF was used to provide care to A one day a fortnight in 2021.

101. Overall, I found R to be somewhat unrealistic. She struggled to recognise the impact of some of her own decision making and that sadly overall most of that actually is not her fault. It is simply how she functions. Her intentions, I accept, have always been good. They are to try and provide A with the best care she can and to try and accept as much support as possible to enable that to happen.

The Children's Guardian

102. Miss Motivaras has filed two reports in June 2023 and January 2024. She is very clear in her view that A's greatest need is for consistency and stability. Mother's needs are complex and for her to full time care of A, that requires a level of support that in her view cannot be sustained. This continues to be due to a combination of employees leaving, R's inability, due to her difficulties, to liaise with professionals in a timely manner to progress matters related to her package of care, or the lack of employment of PA's or availability of them.

103. Given the current circumstances, the availability of such a package may not be realistic or sustainable in a way that will meet A's needs for stability. She therefore supports a Care Order for A to remain with FC. Miss Motivaras has even considered a Special Guardianship Order being made but given the difficulties in the relationship between the adults, this is not considered to be appropriate at this time. In her oral evidence, she stood by the contents of her reports. Her evidence is compelling, not least because she has been the consistent professional as the Guardian for A throughout these proceedings and she has closely and actively followed the direction of this case.

104. She was asked about whether this mother should have had a specialist parenting assessment once the ASD traits had been identified. The Guardian said that she is very familiar with how Sarah Seekins works, and she did make reasonable adjustments for R. Whilst it was not labelled as a specialist or parent assessment, the Guardian has no doubt that Sarah Seekins did assess R in a way that took account of her needs and what was known at the time of the assessment and, of course, that Sarah Seekins did an update, having had regard to Dr Martinez's report. Having been asked that question, it did not change her recommendations.

105. The Guardian was very clear about the advantages and disadvantages of long-term foster care and that:

> "[FC] absolutely has the skills to minimise the emotional stigma of becoming a looked after child because she is an incredibly child focused carer and committed to [A] in the long term. [A] is described as thriving in [FC]'s care and she will ensure that [A] will receive the support she needs, including the support for her to be reintroduced to her mother. One of the reasons the Local Authority issued"

said Miss Motivaras

> "was because of the instability on [A] of being between her mother and [FC] and the message this sent to [A], being one of confusion."

On the issue of contact, having heard Dr Martinez, she was satisfied as to the Local Authority's road map for the progression and review of contact and that that, in A's interests, will be a minimum of monthly supervised contact with video contact in between and indirect letters.

106. A trajectory plan, she accepts, cannot be put together now because of A's needs for therapy. She was also confident that Di Yates, the IRO, has agreed that for A she will keep this case and will ensure that there will be a 'proper' review as to how direct video and indirect cards and letters for contact will progress. I have to say again, Miss Motivaras' evidence was impressive. It was kind and albeit it caused significant distress to the mother to hear what she had to say, I have no reason to depart from her considered opinions.

Threshold Findings

107. On the totality of the evidence and on the balance of probabilities and in the face of unanimous professional evidence, I have to say I am satisfied, on the balance of probabilities, that the threshold criteria is crossed. It is clear to me that A, at the time the Local Authority issued, was likely to suffer significant harm in the form of physical and emotional harm through unintentional neglect attributable to the likely care given to her by R, which she would have provided her because of the following findings.

108. It is clear that R does suffer from various health issues, including her diagnoses and that those diagnoses are long term, fluctuating, neurological illnesses which impact on her ability to carry out day to day tasks. Her ability to maintain the home and complete the tasks needed for A is significantly limited. It cannot be described as anything else. I understand that R objects to the word 'significant'. She says it is just limited but the reality is four years' worth of intervention has not evidenced that it is simply limited, and I cannot see how a level of support at 32 hours per week, plus more hours offered by Children's Social Care, can be described as anything other than significant.

109. R also requires significant assistance to meet her own physical needs in accordance with what I have just said and the needs of the child on a consistent basis. In the absence of sufficient assistance for herself and A, R cannot consistently meet A's physical and emotional needs. Even now, 98 weeks into proceedings, this level of support has not been able to be in play on a consistent basis. The assessments have all identified and agree that the support R requires is available, but it is support that is not acceptable to R and what support she does want, has simply not been able to be put in place. It has either not been identified or not available in accordance with what the mother wants.

110. I have also found that numerous professionals have provided support to Mother and A, including personal assistants, agency workers, FC and family. That the inconsistent provision, over a number of years, has led to a lack of continuity in A's care and her care giver, which is the reason that that places A at risk of significant

harm. F was or ought to have been aware of A's difficulties and what she was experienced, and he did not intervene to protect her from experiencing those risks in her mother's care. The court had already found that proven at the hearing in August 2023.

111. I have therefore found that threshold is crossed. The Local Authority did issue legitimately, and I accept that Sarah Seekins' evidence that much was done by this Local Authority in the many, many months leading to issue, in effect from 2020, to try and do everything it can to avoid A being separated from her mother. Having made those findings, the gateway for the making of a public law is therefore opened and I make it clear that it is the risk of emotional and physical harm, with consequential neglect, that comes from unintentional neglect, that is the basis of future likely risk of harm. Nobody is suggesting that R would deliberately harm A.

Welfare findings analysis and discussion

Wishes and feelings of A and her needs

112. A is now six years of age. She has been in the part time care of FC at her mother's home since April 2020 when she became her babysitter, and then there was a full time period in August 2020, for several weeks, when they were isolating with Covid, and effectively pretty much full time in between contact at Mother's home since December 2021. A's wishes and feelings to Dr Martinez are that she wants to live with her mother and FC, but equally she is confused by her relationship with her mother, citing that sometimes her mother does things that she does not like or does things that are unexpected. A needs consistent nurturing and adequate care and is going to need play therapy, which the Local Authority has agreed will be for 36 sessions over 36 weeks with a therapist that has already been identified.

113. The overwhelming evidence from the Local Authority, the Guardian, Dr Martinez, and Sarah Seekins is that A needs to continue to be with a carer where she can build on a sense of stability and develop further her safe attachment with her primary carer. She has complex profile now because of the two different attachments that she has. Insecure with her mother and secure with FC and I find, as Miss Clarke and Dr Martinez agreed, that she is a child that needs more than average or good enough parenting. It needs to be highly attuned and consistent, which R was able to recognise that FC is able to give, despite her reservations about A being a looked after child.

Harm

114. I have already found that threshold is crossed which, as I said, is ultimately based on a finding of being at risk of likely unintentional neglect. I also find, on the balance of probabilities, that at times it was emotional harmful for R to insist on breastfeeding A at nearly age five, when she had consistently stated to others that she does not want to be breastfed. This was bordering on becoming an abusive act that was meeting R's needs and not A's. I find this based on the evidence of Sarah Seekins, who acknowledged that A may still have been asking her mother for boob, but in the context of telling everyone else that she did not want to do this anymore and hiding, the mother should have reasonably taken on board that advice and stopped.

115. I am not quite sure what advice R wanted from the Local Authority about how to reduce down and stop, given that she says it was always child led, but this is something, I am afraid, I have not found evidence to support. I find that on the mother's own evidence, this became more about meeting her own emotional needs and she probably would have carried on beyond five, if the Local Authority had not intervened.

Parenting Capacity

116. Being placed in Mother's care full time or being there as part of a shared care has a number of positives and advantages which I find, on the balance of probabilities, as follows:

a) A's mum loves her immensely and wants her to have the best childhood that she can give her.

b) A's mum has battled complex needs for many years and has a natural understanding about how to identify those needs and seek support for them. If A develops some sort of special need, it is likely that the mother will be able to see this.

c) A's mum is willing to accept that she needs a lot of support to help her care for A and a lot of support to help her meet her own needs.

d) she wants to undertake therapy and she wants A to be offered therapy, something which, I accept, she was asking from early on, because she knew that bringing up A, with all her difficulties, was not going to be easy. She also is willing to do anything in terms of the systemic therapy and for them to undertake that to improve their relationship together.

e) A's mum is making some progress and in contact recently, very much respected A's boundaries and made contact a really fun and positive experience for A.

117. However, being placed in R's full time care or being there as a part of a shared care has a number of disadvantages for A which I find, on the balance of probabilities, as follows:

a) it continues to be R's decision to meet her assessed care needs by being able to choose her carers herself via PA and direct payments as evidenced by Miss McWilliams. Unfortunately, this approach has had limited success for several reasons including the shortages of PA's the quality of PA's and the relationship between PA's and R. This is despite the fact that, in my judgment, ASC has taken a person-centred approach with R and has tried extensively to promote her preferred method of support which has been increasingly difficult for ASC to meet her outcomes using PA's.

118. I make this finding based on the fact that where there is a disagreement between Dr Crawford and Sarah Seekins on whether there are Local Authority failings here, I prefer the evidence of Sarah Seekins, that of Dr Martinez and of Claire McWilliams. I also find that in any event, Dr Crawford's assessment, which is entirely beneficial for the mother, was indeed purely an adult led assessment, and that she sadly did not have the skill set to a) either help the Local Authority as to how it should work with R, but also b) make an assessment of how such a package of support would meet A's needs and ensure her safety. In my judgment, this assessment was always going to have its limitations and cannot be relied on by the Court to the extent that the mother would wish for me to do so.

b)Further, even if a package of support from ASC which would meet Mother's needs and help her to care for A was available, the last two years have shown that the support for Mother has never got up to the 32 hours per week that she needs. It has never really, on the evidence I have seen, been more than 16 hours in reality, which has meant that ASC has not been able to assess if she needs more.

c)without being critical of R, I agree and accept Miss McWilliams' ability to evaluate the effectiveness of any support delivery has been further hampered, due to R needing to focus on these court proceedings and conserve her energy for matters relating to A that has led to her contact and communication with Adult Social Care being sporadic. What this means that if something else is going on in her life, this mother finds it very difficult to even consistently liaise with those services that are there to help her, and the evidence base for that is also in R's answers in saying that she has never actually formally made any complaints to Adult Social Care.

d) furthermore, I find that even when Adult Social Care have made multiple enquiries and efforts to source an agency that would fall in line with Joan Crawford's recommendations of a small team of support workers around the mother, which could have been provided by Murray Care who continued to remain open to negotiation about offering further services to cover up to the full 32 hours between August 2022 and October 2023, so for 14 months, that R would simply not agree to such a service being implemented to that high extent, despite the fact that it was not on offer~~ed~~. In effect, she refused the package, not because she was being difficult, because in fact on the ground, I find, that she struggles with the idea of having two, three or more people in her home.

e) this means that she has taken decisions which have meant prioritising her needs above A's, not because she wants to cause neglect to A, but because she has struggled to accept what was on offer because it is not in line with what she wants.

f) I have no confidence that even with a bespoke package of support in place that got up to 32 hours per week with school, after school clubs and extra support from Social Care that such support would be sustainable and remain in place on a consistent basis, because this is a mother who has not been able to demonstrate a consistent ability to engage and liaise with professionals over the last five years.

g) I am of the view, and I find that in any package of support identified by the mother, due to her limited emotional insight into A's needs, she is simply not able to see that A's needs get lost in all of that, leaving her exposed to unintentional neglect.

h) with all her limitations and with her own evidence about how tired she gets, her inability to stay focused for any lengthy period of time beyond half an hour to an hour causes me to struggle to see how any level of support, even if it could be practically offered, could involve the mother adequately and safely meeting A's needs.

i) it is highly unlikely that this mother, even with a bespoke package of support, is going to be able to adapt in the way that is necessary to meet and prioritise A's ever changing developmental and emotional needs.

j) right now, A needs more than good enough care, which is highly unlikely to be achieved and will not be at a level of consistency that she has become accustomed to. I also find that, unfortunately, there is an element of erroneous thinking on the part of the mother, who appears to assume that looking after A now, as an older more independent child, is going to be easier than it was when she was a baby and a toddler.

The likely effect of change of circumstances

119. A has been cared for by FC full time and has consistently lived with her now for over two years. She is her primary attachment figure, and she is thriving in her care. A has been able to trust FC and share her lived experiences with her, albeit I accept in respect of the allegation of sexual abuse I am not making any findings about that. The fact that A openly repeats this information and talks about her mother doing 'bad things' is equally something that just simply cannot be ignored. Reducing the time that A spends with FC, as her primary secure attachment figure, is likely, in my judgment, to have a negative impact on A, unless the time is used for safe contact with the mother and A is given permission to feel that it is OK that she is living with FC. That has not happened yet.

120. There is also a risk that A's torn loyalties to her carer and her mother cause her to experience self-doubt and instability when her desperate and primary need now is for stability and security of placement. R does not consider that a shared care arrangement would cause A any harm. She thinks that this could be put into play, if she is given the right support from ASC and Children's Social Care.

121. However, this ignores the seven-month separation that A's had to experience from her mother. It ignores A's need for therapeutic intervention to consolidate her lived experiences and enhance her self-esteem. It ignores that there is a fractious relationship between FC and the mother, where the mother still asserts that FC has negatively influenced what A has purported to allege. Equally, the impact of not being returned to live with her mother on her is something that will have, I find, a limited emotional impact on her, because she has become accustomed to living with FC and with her life including school, being based around the stability of that placement.

122. I do accept, under this heading, that there is a stigma and emotional risk that is carried from A being a looked after child for the rest of her minority. Equally, however, the disadvantages to being a looked after child can somewhat be ameliorated by FC being delegated day to day decisions for A. A drop down to the requirement of statutory visits and, in this case, for A to be given her mother's permission that living with FC is something that she is able to come to accept.

123. I accept from Mrs Bacon that all of the disadvantages of being a looked after child in terms of frequent changes of social worker are somewhat going to probably remain in place. Certainly, for a child like A, if in fact there is, in due course, any identified special need for her, and given that Mother's belief is that her father is autistic, having an annual medical is likely to be in her welfare interests. Furthermore, in due course, if relations between the mother and FC improve, it may be that a Special Guardianship Order is something that can be considered in the future which will, of course, then ameliorate the risks that carry from being a looked after child.

Range of Orders

124. I have found that threshold is crossed and therefore I can make a Care Order. If I do not, I could consider a section 8 Order and look to making a shared care arrangement or even a Child Arrangements Order to FC. If I make a Care Order, then the prospect of a shared care arrangement is difficult legally, because the Local Authority's care plan is one of placement in foster care with an approved long-term carer. The Local Authority is highly unlikely, as I have said, to agree placement with parent regulations, given the Local Authority's ongoing concerns as to the risks to A of emotional harm and unintentional neglect, if she were to spend unsupervised and overnight time with her mother.

My Decision

125. I have looked at the evidence in the round and I have looked at it completely. When looking at whether A should live permanently away from her mother, I have considered all the realistic options, balancing one against the other, including a shared care arrangement in the alternative. I have not taken a linear approach to these options and at all times A's welfare has been at the forefront of my mind, especially when applying the welfare checklist and considering A's needs now and in the foreseeable medium to long term future.

126. I have considered the family's Article 6 and 8's rights. This hearing has allowed for participation directions to be followed to assist R to engage even though, at every hearing, I have invited her to come to court. She has refused the invitation to attend in person and instead she has joined online, and I have not detected any disadvantages to her engaging in these proceedings in that way. She has been supported by an intermediary. She has either had a solicitor or a pupil from Miss Dobson's chambers present and regular breaks have been taken and Miss Dobson has been diligent in seeking R's instructions on a regular basis.

127. At 98 weeks, I wholly reject R's assertion that in effect these proceedings have been unfair to her and therefore unfair to A. I reject her assertion that her dyslexia has not been properly taken into account and therefore she has not had the right support throughout this time to argue her case. I note that her previous solicitors are a very able firm, who frequently represent parents with learning difficulties. There have been numerous attempts to get her an advocate. Sometimes that has been successful and there has been one for a period, but that has not been able to be consistently achieved and the offer of support from ASC, even for this hearing in the form of a care worker to be present every day, was refused by R, because she did not consider this to be the right support.

128. Having heard all of the evidence and having listened very carefully to R, I conclude that R does not really understand the reason for these proceedings. She has never really accepted the need for them at all and holds on firmly to the belief that A being removed from her care is as a result of a series of failings on the part of Adult and Children's Social Care. I do not expect R to understand these proceedings. I do not expect her to agree with my decision, but I have not found, on the evidence before me, that there are a series of failings on behalf of the Local Authority. Sarah Seekins, Dr Martinez, Miss Clarke and the Guardian are all of the view that both ASC and Children's Care went above and beyond in the lead up to these proceedings to try and avoid A being separated from her mum.

129. I further reject any assertion that the mother has not had a fair hearing due to the lack of a specialist parenting assessment. There was no Part 25 application following the report of Dr Martinez and, in any event, I am satisfied that Sarah Seekins has the qualification as a long standing ISW, who is PAMS trained and who has additional qualifications in psychology. As a social worker she is highly experienced in working with parents with cognitive challenges and that her assessment, as I have found, was fair and robust.

130. I have concluded, sadly, for the mother that A requires consistent and adequate care that meets her overall needs on a daily basis and that is above good enough care. I have found that this cannot be completed with A living in the home with her mother, even with a package of support of intervention and support services. This is mainly because M does not have the capacity to consistently offer the care that A requires, on a long-term basis, that would hold a necessary and required bespoke package of services in place.

131. The care that Mother provides would need to be substituted with someone else providing care in order to ensure that A's needs are met. However, this is a mother who has not been able to demonstrate an ability to work consistently with professionals. She is, I have found, rigid in her thinking about how to meet her own needs and she is not able to demonstrate the insight or understanding of how to prioritise her daughter's needs.

132. A would be at risk of significant emotional and physical harm through neglect, which I have found to be unintentional, and her emotional needs would be lost, in any event, in the adult led way that the mother insists or requires her care package to be delivered. I would have no confidence that even a high level of bespoke services would achieve the level of care that A now requires, because of her mother's complex cognitive profile and A's insecure attachment to her. I have no confidence that R would be able to keep a high level of bespoke package of care going, because she becomes frustrated when her own expectations are not met and that would leave A being exposed to her mother sacking or suspending a PA service that would not easily or readily, speedily be replaceable as has been evidenced in the last five years.

133. The reality is, is that A needs consistency of care and even Mother's own needs are not consistently met because of her complex health needs, and so even with a more older independent child like A, any supports are unlikely to bridge that gap. Nor do I have any evidence to suggest that this could be achieved in A's timescales, bearing in mind I have already found that 98 weeks has prejudiced her welfare. This is a rather sad conclusion to reach because I have no doubt that R has a lot to give to A and I would hope that in time she could access the therapy recommended which would, at least, help her to understand and improve her ability to maintain relationships and relate with a deeper insight into A's long term emotional needs.

134. For all of the reasons that Dr Martinez set out and whilst A is gradually being reintroduced to her mother and beginning to receive the benefit of therapeutic input, it is clear to me that the Local Authority's plans for monthly direct supervised contact are reasonable and in A's best interests. Because whilst she wants to see and be with her mother, she is still openly sharing what she believes her lived experiences have been. It is important that she feels empowered to have her voice

heard and her emotional wellbeing is not compromised by progressing contact at a pace that goes too fast, which could have a retrograde effect.

135. It is both necessary and proportionate therefore that a Care Order is made and A remains with FC, who has become her primary attachment and that this Local Authority shares parental responsibility. The placement needs to be supported and cannot be undermined by favouring Mother's contact needs over A's. Nothing less therefore than a Care Order will do. Nor would a shared care arrangement be appropriate, because any falling out between FC and the mother would have to be decided by the Local Authority to reduce exposing A to potential conflict.

136. Equally, the Local Authority is not going to agree placement with parent regulations in the context of the overwhelming unanimous professional evidence about what A now needs to keep her thriving and developing in a safe way. I know that R will be disappointed with my decision and probably does not agree, but I want to reassure her that it is to her credit that, even not having seen her mum for seven months, has not reduced the love and affection that A has for her mum. This is a testament to the reciprocal love and care that she gave her in her formative years, which Dr Martinez said, and I have no doubt about, was the best care that she was able to offer.

137. I thank all of the advocates for the diligent and sensitive way in which they have prepared this case, especially Miss Dobson, who has worked extremely hard to fearlessly put her client's case and has said everything that she could on behalf of R .

138. That is my judgment.
