



Neutral Citation Number: [2023] EWHC 3102 (Fam)

Case No: COP 141115536 and FD23P00026

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION
AND IN THE COURT OF PROTECTION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 6 December 2023

Before:

MR DAVID LOCK KC
SITTING AS A DEPUTY HIGH COURT JUDGE

Between:

A LOCAL AUTHORITY

Applicant

- and -

KP (Acting by the Official Solicitor as her Litigation Friend)
J (2)

Respondents

Mr John McKendrick KC (instructed by **Q**) for the **Applicant**
Mr Malcolm Chisholm (instructed by the **Richard Charlton Solicitors**) for the **Respondent**
The Second Respondent in person

Hearing dates: 22 and 23 November 2023

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

This judgment was delivered following a hearing that was held in public but where injunctions are in existence to prevent anyone naming certain persons who are concerned with this case. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the Respondents and the other persons who are anonymised in the judgment must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

David Lock KC:

1. This case concerns KP¹ who is now aged 18. As Mr John McKendrick KC, explained during the course of his submissions, both the Local Authority, who is the Applicant, and the Official Solicitor, who has been appointed to act as KP's Litigation Friend, consider that this is a far from straightforward case on the law and on the facts. There is conflicting evidence on just about every issue and, whilst KP's vulnerabilities are clear and obvious, multiple professionals have struggled to reach conclusions as to whether KP has capacity to make her own decisions in critical areas and, perhaps even more significantly, trying to work out what decisions should be made for her in her best interests in any areas where she does not have capacity. It was perhaps therefore inevitable that the approaches taken by both the Local Authority have changed during the course of the history of trying to support KP and even during this hearing, and the Official Solicitor has adapted her position during the hearing. I make no criticism of either the Local Authority or the Official Solicitor in that respect.
2. I am grateful for the assistance I have received from both Mr McKendrick KC and Mr Chisholm, counsel instructed by the Official Solicitor, and their respective legal teams. This case has not been conducted in a spirit of conflict but, instead, it seems to me that everyone has been doing their very best to balance the conflicting aims of trying to promote KP's autonomy and keep her safe. Both the Local Authority and the Official Solicitor are also aware that any interventions made relating to KP had the potential to have serious implications for the rights of others, including KP's mother, J, who is the Second Respondent to these proceedings, and her long standing partner, D, who is not presently a Respondent to these proceedings.

The present situation.

¹ For the avoidance of doubt, none of the initials used in this judgment have any relationship with the names of the individuals involved.

3. KP was born in 2005 and became an adult when she reached her 18th birthday in early 2023. She lived with J until about July 2017, when she was removed from J's care under an Interim Care Order as described below. She has substantially lived in accommodation provided by the Local Authority until she returned to live with her mother in about September 2023. J rents her house from the local district council where she is the sole tenant of the property, but she has shared the house with D for a number of years.
4. KP is presently working as a housekeeper at a hotel which is local to where she lives, where she works alongside her mother. At present she is stable and professes herself to be happy. She is keen to work with animals in the longer term and recognises that she will need to get some further education before she is able to do so. She is not in education at the moment but is keen to explore her options going forward. The last 3 months have been the first period of stability for KP for several years. During this time her mental health appears to have been stable, she has not self-harmed or made any suicide attempts. She is developing as a young woman and is thriving.
5. It follows that, at least on the surface, everything appears to be going well for KP. She is hoping to attend college in the future and is developing into a young woman with a range of locally based friends. However, below the surface, the Local Authority have substantial concerns that KP is at serious risk of exploitation as a result of living in the same house as D. The Local Authority do not consider that J's presence in the house will protect her and social workers are concerned that she is hugely vulnerable. As a result, the Local Authority bring these proceedings before the Court of Protection and in the Inherent Jurisdiction of the High Court. The Local Authority seek a Declaration that KP does not have capacity to make her own decisions about residence and contact and a Declaration that it is not in KP's best interests to live in the same house as D. The Local Authority seek orders which, in effect, will either require KP to move from her mother's home to supported accommodation to be provided by the Local Authority or seek orders that D should be prohibited from living in the same house as KP. If such orders are made, D will have to leave J's house and will lose his home and may lose his partner. The Official Solicitor broadly shares the Local Authority's views on KP's lack of capacity and the risks to her from D, but is more cautious about whether it is in KP's best interests to break up the existing family unit.

The factual background.

6. The background to this matter is that J has given birth to about 7 children. The Father of the first 5 of her children is R who has taken no part in these proceedings. KP is the youngest of J's children with R. J states that she formed a relationship with R when J was aged about 14 and R was considerably older. She says that she was groomed by R and then she moved to live with him. Following that move, J and R developed their family. There is reference in the papers to J having an IQ of about 70 which, whilst it does not suggest a formal diagnosis of learning difficulties, is usually consistent with moderately impaired intellectual function.
7. KP has an elder sister, Y, who is 2 years older than KP. Y became pregnant when she was 14, whilst living in J's house. Y must now be aged about 20 and lives elsewhere, but I have no further information about her circumstances. KP also has an elder brother who is reported to have been found having sexual intercourse in public. I do not know any of the details of that incident.
8. KP has made various disclosures concerning traumatic events in her childhood and in particular has said that she was subjected to a serious sexual assault by a cousin when she was aged 11. The cousin was said to have been aged 36 at the time and KP's father is said to have been involved in that incident in that he was present and he did not stop the assault. The details relating to this assault are unclear, but I note that D is not alleged to have been the perpetrator. Neither J nor R supported KP in making a report to the police or social services about the sexual assault. This incident appears to have had a long lasting, adverse effect on KP although it is not clear if she has ever been formally diagnosed with PTSD. KP has also said that she was shown images of child abuse on a phone and there is reference to messages from D to his father when KP was 13 which suggested that D may have been informed that an unidentified older man had a sexual attraction to KP, and neither D nor his father appear to have been concerned about this.
9. There was also evidence of texts of a sexual nature about KP and her older sister Y which appear to have passed between R's father and a third person, and were passed on to D. D did not respond to the texts and J just dismissed them as "banter". I accept that neither response was consistent with recognising the risks that children face from sexual exploitation. All this suggests that, at least, J did not recognise the need to put in place sexual boundaries for her children.
10. This evidence suggests that J may not have been a protective factor for her children and that J may not have understood the need to respect sexual boundaries in a home where children were growing up.

11. The relationship between J and R appears to have ended some years ago but R remains living in the local area and KP has considerable contact with him. She reports that he suffers from dementia but there is no formal diagnosis in the papers. At some point, J commenced a relationship with a younger man, D. R is D's uncle. Thus, KP and D are cousins. D moved into J's house some years ago and has, in effect, been acting as her step-father as well as her cousin. D is a man of at least average intelligence and, as the evidence shows below, has a dominating personality.
12. J and D have had two children of their own, K aged 6 and W aged 4.

D's offending.

13. The family appear to have first come to the attention of the Local Authority when D was convicted in the summer of 2016 of possession of indecent images of children. He viewed those images on a computer which is reported to have been in the living room at J's house, and thus in the area of the house used by the children. D received an immediate custodial sentence of 11 months in prison and was the subject of a Sexual Harm Prevention Order ("**SHPO**"). When he was released, he informed the probation authorities that he was living at an address which was some distance from J's property but, in breach of the SHPO, he appears to have spent considerable periods of time living at J's house, and to have been in regular contact with the children. In the summer of 2019, D was convicted of various breaches of the SHPO including spending time at J's house and failing to provide the police with details of the passwords for at least one computer that he had in his possession. D was released from that period of imprisonment in the summer of 2020, but he was then returned to prison later that year for breaches of his licence conditions. He was released again in the summer of 2021.
14. In 2020, J had agreed with the Local Authority that she would ensure that the children, who included KP, had no contact with D. The period of that agreement ended in April 2021 by which time D was back in prison. J was clearly told by the Local Authority that they were concerned about the risks to the children of them having contact with D and would institute public law children proceedings if J brought the children into contact with D. Despite knowing this, J took K, W and KP to see D the day after D's release from prison. As a result, the Local Authority issued public law children proceedings in relation to all 3 children. KP was 16 when those proceedings were issued in July 2017.

The public law children proceedings.

15. The Local Authority applied for and obtained an interim care order to take all 3 children into foster care in order to keep them away from D. District Judge Batey gave a careful written judgment in the ICO proceedings. There is a paragraph in that judgment which is particularly prescient to the present proceedings. The Judge said:

“[J] has been steadfast in her refusal to accept that [D] is a risk to the children. I understand he is appealing the convictions, although they are now quite old, 2016, but the mother is clear that she remains in a relationship with [D] and in a pre-proceedings psychological assessment of her, the psychologist expressed the opinion that [J] would prioritise her relationship with [D] over the needs of the children”

16. It may also be relevant that the Judge noted as follows with regard to KP:

“She presented as being somewhat confused in the Guardian’s interview with her. She did not seem to understand why [D] was considered to be any sort of risk, and, indeed, did not even seem to know where he had been for most of the last two years, but, as I say, her overriding wish is to remain with her younger siblings”

17. Given those facts and that family dynamic, it is understandable that the Judge made Interim Care Orders in respect of all 3 children, and all 3 went into foster care together. The public law children proceedings were beset with delays which appeared to have been substantially caused by the approach taken by J and D. During those proceedings, social workers talked to the children about their upbringing and it is recorded that KP told social workers about the sexual assault on her by her cousin when she was 11 years of age and about being shown child abuse images.

18. As a result of the delays, the public law children proceedings were not finalised prior to KP’s 17th birthday. As a result of KP turning 17, the ICO in relation to her expired on her 17th birthday: see section 31(3) of the Children Act 1989. The public law children proceedings therefore continued only in relation to K and W. I will explain below what happened to KP after she reached her 17th birthday.

19. On 30 January 2023, the Designated Family Judge for the relevant area (“the **DFJ**”), gave a final written judgment which concluded that care orders should be made in relation to both K and W and that they should be adopted. The DFJ’s judgment is, of course, not strictly binding on me in these proceedings but it is a careful and considered judgment and it explains a considerable amount of assessment of the family dynamic operating in this household. I accept Mr McKendrick’s submission that I should take it into account in seeking to understand the present family situation and the risk presented to KP by D. The DFJ said:

“[The judge’s] sentencing remarks record that [D] had told Probation that the images were not downloaded by him and then he subsequently did accept it and had pleaded guilty. He was described as displaying very little insight because he initially denied the offence and so therefore could not be recommended for any treatment programme. The images were accessed for over a year and contained 91 images of category A, the most serious type which means they contained penetrative sexual activity or sexual activity with an animal or sadism, half of those were moving images or films, 57 Category B movies which showed non penetrative sexual activity with a child, and 39 live pictures, 53 live movies showing other indecent images of children and 3652 live pictures. During the time that these searches and downloads of indecent images were occurring a person was logging into a Facebook account in the name of [D]. The computer was in [D’s] dining room”

20. The judgment explains what happened after D’s conviction as follows:

“[D] failed to answer bail and was in and out of prison between 2016- 2021 due to his conviction, then failure to comply with notification requirements and breaches of his SHPO and licence conditions. ... He was assessed as posing a high risk due to him not engaging in any work around his offence and his continued denial of responsibility for his crimes. He denies that he is guilty of the offences and asserts that in any event he does not pose a risk to his children. He has told me on multiple occasions that he is appealing his original conviction although he pleaded guilty and is many years out of time. All previous appeals have been dismissed”

21. I should record that D did appeal the sentence he received in July 2019 to the Court of Appeal. His appeal against sentence was dismissed and D remained subject to the terms of the original SHPO, which expires in August 2026. The precise terms of the SHPO are not before this court

because D is not a party to the proceedings, but all parties in this case have proceeded on the basis that its terms do not have any impact on D continuing to live in the same house as KP because she is now an adult.

22. Returning to the judgment, the DFJ said as follows:

“It is apparent that [the judge] in that case found [D] to be calculating and manipulative, to have shown no remorse, and to have deliberately tried to conceal his breaches from the police and social services, and to have lied to the police and the jury. He said that [D] had made countless groundless complaints against the officers charged with his supervision and his breaches were deliberate and calculating. He also had numerous other devices which he had sought to conceal from the Police including one further smart phone and laptop. [D] had accepted in giving evidence that he had done everything he could to frustrate his supervision. [The judge] considered the breaches to be serious, determined and persistent. He said that [D] was manipulative and obsessive. He found the motive for concealing the devices from examination was because he had something to hide from police. He amended the SHPO to prohibit him residing at any address where children under 16 are resident without first notifying the police”

23. The DFJ also had a report from an expert, Dr Parsons, concerning the risk presented to children by D. The Judge said at paragraph 69:

“69. He [Dr Parsons] said that the risk of contact offending is extremely low, simply based upon general recidivism of internet only offenders. Nevertheless, it cannot be ruled out entirely, but cannot be quantified any further. Therefore, [D] does pose a very low, but it must be stated, present risk of direct contact offending against a child in his care.

70. Dr Parsons said that [D’s] denial and minimisation do not actually increase risk; however, what it does do is make a full risk assessment impossible and, based upon the fact of his conviction, it is not possible to have an understanding of his offence cycle. It therefore follows that any therapeutic intervention would also be impossible, and, in his view, it is very unlikely that [D] would be accepted on to any sex offender treatment programme due to his current high level of denial and minimisation. He said that he would recommend that [D] at no time has unsupervised contact with any child, nor should he be

left alone with a child. Based upon [D's] current presentation, I cannot envisage a time when this would change"

24. The evidence suggests that D has continued to deny that he has ever committed any criminal offences and to assert that he is a victim of police corruption. At one stage during this trial D appears to have attempted to use J to put a large amount of material before me which was said to be indicative of police corruption in order to show that the cases against him were fabricated. I was not prepared to admit that material at this stage although, if D becomes a party to these proceedings at a later stage, I make it clear that I have made no final decisions about the admissibility of any such material.
25. Although D pleaded guilty to the original image offences, J has maintained her position throughout that D was not guilty of these offences and that D has never presented any risk to any of her children.
26. There is very considerable material concerning D in the multiple documents I have before me. The evidence shows that D is an intelligent man who has chosen to live with a woman who has a much lower level of intelligence. I accept the findings of the DFJ that he is someone who can be serious, determined, persistent, manipulative and obsessive. He was described by the DFJ as a bully who tried to intimidate Dr Parsons. D gave evidence at that hearing and claimed that he was separating from J, but this turned out not to be true. Whatever the position may have been in January 2023, J and D continue to live together at J's house. The Guardian gave the following evidence in relation to KP who, at that stage, had been living apart from D and J for about 18 months:

".. she had seen KP who was a ward of court and she was surprised by the change in her as she had matured, and she did not support her mother resuming care of her two half-siblings and she felt she had been neglected by her mother not attending meetings to get her back to school. Also, she felt she had cared for the two younger children whilst her mother was on the phone to D. Previously she had thought that her brothers and sister were being horrible when they had raised concerns about D, but she now realized they were trying to keep her safe"

27. It seems to me that it is likely that this was a true reflection as to how KP felt at the time when she was living away from her mother and D. However, once she came back to live with her

mother and D, it appears clear that she came back to being influenced by D. KP's expressed belief prior to these proceedings, as she has explained to Dr Kliman when interviewed for these proceedings, was that D does not present any risk to her.

28. The family court judgment also records that, on 13 January 2023, there was a Police raid at 6am on D and J's home, and that D was arrested for possession of further indecent images of children. D was bailed in respect of these suspected offences whilst the Police conducted a forensic examination of his devices. At the date of these proceedings, it appears that these devices have still not been examined and accordingly it is unclear whether D will be charged with further child abuse image offences.
29. Ultimately the DFJ made care orders in respect of K and W because she judged the children would not be safe in J's care due to the risk to them of contact with D. The nub of her judgment is at paragraph 185 where she said:

"In assessing all the realistic options sadly I have come to the view that the children would be at significant risk of harm due to the issues over sexual risks from their father and his family and the wider family and friends if I were to return them to their mother. I am driven to this view by the father's risks not being capable of being determined and effectively monitored. I accept Dr Parsons' view that the father is a risk to children and all his contact should be supervised, I make it plain that whilst the father being arrested for alleged further offences of possessing indecent images of children three days before this case started has not clouded my judgment since I have not determined this issue and the Police tell me they are forensically examining all his devices and cannot comment further. I note the father denies this categorically"

30. It seems to me that this conclusion is completely justified on the material before the Judge. Permission to appeal this decision was refused by the Court of Appeal. K and W have been placed for adoption and, at present, the only people living in J house are D and KP.

What happened to KP after the ICO was made.

31. KP was placed into foster care in July 2021 but continued to have contact with her mother. On 24 January 2022, KP absconded from her foster placement and returned to live at her mother's home. On 27 January 2022, HHJ Scarratt made an order authorising the police to remove KP from J's house but, before the order could be executed, on 31 January 2022, KP took an overdose

of paracetamol and was admitted by ambulance to hospital. On 2 February 2022 she self-harmed once again and on 4 February 2022 she threatened to jump out of a window at a foster placement. That was one day after she had been assessed by a psychologist, Dr Alison Conning. KP was then transferred to a psychiatric hospital where she was detained for assessment under section 2 of the Mental Health Act 1983. KP had her 17th birthday in hospital. Accordingly, from that point, unless KP voluntarily stayed in foster care or the Local Authority made an application to the Court of Protection or applied under the inherent jurisdiction of the High Court, KP would have been free to return to live with her mother and D.

32. KP went missing from her placement in early 2023, shortly after her birthday and returned to her mother's house. She only appears to have been at her mother's house for a single night but confirmed to staff at the placement that D was there. She returned to the placement on the next day and said she was "not herself". The following day she was reported to be unwell and was taken to hospital. At first she refused a blood test but later admitted that she had taken 16 paracetamol tablets. By this point she was very distressed, confused and was screaming that D had raped her. She appeared to be very concerned about D finding her and was admitted to the trauma unit. However, KP is now adamant that D did not rape or assault her. She cannot really explain why she made these disclosures but now says that her allegations against D were unfounded. I am not in a position to make any factual findings about whether KP was or was not subjected to a sexual assault by D, but given the overall history of this matter I consider that there is a real possibility that the report that KP originally made had some element of truth about it.
33. On 1 March 2022, whilst KP was still detained in hospital, the Local Authority made an application to the High Court under the inherent jurisdiction in relation to KP. At that stage no application was made to the Court of Protection. Whilst I appreciate the complexities of the law in this area, it seems to me that this was probably the wrong way to proceed. The Mental Capacity Act 2005 ("**MCA**") sets out a clear framework which enables decisions to be made for anyone over the age of 16 who lacks capacity. Although KP was still a child at this point, she was over the age of 16 and thus, if the Local Authority wished to take decisions for her on the basis that she lacked capacity (as opposed to exercising any rights the Local Authority may have had as corporate parents) that application should have been made to the Court of Protection under the MCA. The High Court has an inherent jurisdiction to act to protect those who have capacity and are vulnerable but who have had their decision making unlawfully interfered with by others: see for example *DL v A Local Authority & Ors* [2012] EWCA Civ 253 [2012] 3 WLR 1439. In that

case the powers of the High Court were rightly described as being “*a jurisdictional hinterland exists outside its borders to deal with cases of 'vulnerable adults' who fall outside that Act and which are determined under the inherent jurisdiction*”. However, the principles set out in *Attorney General v de Keyser's Royal Hotel Ltd* [1920] AC 508 should be respected, as the Supreme Court explained in *Re T (A Child)* [2021] UKSC 35, to effect that if parliament has legislated to create a statutory framework to govern an area of decision making, that framework should be used as opposed to relying on common law powers, the royal prerogative or the inherent jurisdiction of the High Court. I have before me both proceedings under the MCA in the Court of Protection and under the inherent jurisdiction of the High Court. It seems to me that, applying these principles, I should consider the matter through the prism of the MCA and only revert to considering matters under the inherent jurisdiction of the High Court if the MCA is unable to provide a proper framework to resolve the issues before the court. For the reasons set out below, the MCA provides an entirely appropriate framework to consider these matters and so at this stage I will not need to grapple with the extent to which, if at all, it would have been appropriate to make orders under the inherent jurisdiction.

34. On 1 March 2022, HHJ Scarratt, sitting as a Deputy High Court Judge, made an order that KP should become a ward of court and that she lacked capacity to make her own decisions about residence and contact. The Judge made an order that KP should not return to live with her mother after she was discharged from hospital but, instead, should be accommodated by the Local Authority at a placement. At that stage, an order was made that the matter should remain in the High Court as opposed to being transferred to the Court of Protection. The Local Authority was authorised by that order to place restrictions on KP's movement but it is unclear if the issue was considered as to whether those restrictions amounted to a deprivation of KP's liberty.
35. A further out of hours order was made by Mr Justice MacDonald on 11 March 2022. That order specifically noted that KP had been accommodated at a Travelodge, and all parties accepted that this was unsuitable for KP. The Local Authority were authorised to move KP to an unregistered placement (“**Placement X**”). The case came back before Mr Justice Francis on 15 March 2015 and the Judge made an order entitling the Local Authority to accommodate KP at Placement X and to deprive KP of her liberty on the grounds that she had a history of absconding and self-harming. KP was required to have 2:1 supervision by carers at all times and for all contact with J to be supervised. That DOLs order lasted until 31 May 2022.

36. Inherent jurisdiction proceedings were then commenced by way of a claim form issued on 21 March 2023 which was supported by a Statement of Facts and Grounds (“SFG”). The essential case made in the SFG was that KP was a vulnerable adult and that the court should exercise its powers under the inherent jurisdiction to protect KP, following cases such as *Mazhar v Birmingham Community Healthcare Foundation Trust* [2020] EWCA Civ 1377. The case was made that KP was vulnerable because of her age, her low IQ, her autism and her chaotic and recent circumstances, and that there was a serious risk to her in returning to live with her mother due to the presence of D in the family home.
37. The order of 15 March 2022 anticipated that a further hearing would be held in April 2022, but no such hearing appears to have been scheduled. KP continued to live mainly at a care house (“**Care House A**”) throughout the period June 2022 to March 2023. Staff at Care House A have provided a detailed chronology showing KP regularly self-harming, repeatedly absconding, having suicidal ideations. Staff intervened during an attempt KP made to hang herself in June 2022 when she was frustrated that she was not allowed to go out of the home by care staff. She was remanded in a mental hospital in November 2022 but she absconded. She was then admitted to hospital in January 2023 because of staff concerns and took an overdose in February 2023 and as admitted to hospital. At this point KP was plainly in a very bad place. Whilst there were huge risks to her from living with J and D, it was also clear that she resented being forced to live away from her family and that she was a very troubled young woman, her mental health was very poor, she was self-harming and at a risk of committing suicide. It was however unclear how much of her difficulties arose from having too much contact with J, who was thought to be urging KP to come home, and how much arose from her not having enough contact with her mother.
38. On 22 March 2023 the Local Authority obtained an injunction from Mr Justice Arbuthnot to restrain D from having any contact with KP. KP was discharged from hospital on 27 March 2023, and was transferred from Care House A to another placement (“**Care House B**”). On 29 March 2023 Mrs Justice Russell authorised KP being further deprived of her liberty.
39. KP was admitted to hospital again on 7 April 2023 having taken an overdose of paracetamol tablets. The DOLS order was renewed on 2 May 2023 and KP was ordered not to visit J’s house. KP took a further overdose on 24 May 2023 and was briefly sectioned under the Mental Health Act 1983. She was discharged after 48 hours and then took another overdose on 31 May 2023.

She was back in hospital from then until being discharged on 15 June 2023, and returned to her accommodation at Placement X.

40. KP's case came back to the High Court on 28 June 2023, at which point KP confirmed that she was prepared to remain voluntarily at the Placement X. Contact was authorised between KP and J provided it was supervised on a "light touch" basis. At a hearing on 15 June, KP was authorised to be taken to a new placement operated by a different provider.
41. On 11 September 2023 KP's social worker, G, provided a witness statement which explained the sequence of events following KP going to the new placement. In summary, KP repeatedly absconded from that placement and made it clear to the support workers that she would not voluntarily stay at the placement. On 14 July Mr Justice Peel made an order authorising KP to be removed from J's house because she had absconded from the placement and had gone to live at J's house. However, having been returned to the placement, she promptly absconded again. That witness statement discussed multiple options for trying to manage KP in the future and recognised that this was a very difficult case for the Local Authority to try to manage.
42. Court of Protection proceedings were commenced on 21 July 2023. J filed a witness statement in those proceedings on 18 August 2023 which asked for all of the injunctions to be discharged. It said:

"KP has left her placement many times since the injunction order being granted (sometimes returning before even the police) and has spent most of that duration at home with me and her cousin, [D]. She spends all her time with D, he takes care of KP when I am at work. She looks to D for protection against social workers and the police but he is limited and seeks instead only to reassure her.

KP has been returned to placement countless times, resulting in her being arrested for threats to kill placement staff, common assault and criminal damage. She has been cautioned on one occasion and failed to appear at [court] on another"

43. I have little doubt that this witness statement was compiled by D rather than J. However, it is probably accurate in suggesting that, at this point, KP was spending a large amount of time in J's house, and it is also indicative of the extent to which, when she is living in J's house, D is a hugely influential figure in her life. It follows that this evidence is probably both largely accurate and hugely worrying.

44. Substantive directions were made by Ms Justice Russell on 21 August which led to this hearing and a transparency order was made. On 17 November 2023, G provided a third witness statement which updated the Court on KP's position in the lead up to the hearing. Unfortunately, G has not seen KP in person in the last 2 months and so all her evidence was somewhat second hand. She started by complaining that KP had not been honest with the Local Authority about the extent to which KP was staying at J's house and was working with J. Whilst I understand G's frustrations at dealing with a headstrong 18 year old who has learning difficulties, by this point there was a complete impasse between KP and the social workers who were attempting to support her. Given the long history of KP's resistance to being subject to coercive orders, it would have been better if G had acknowledged that KP would inevitably display a lack of transparency on her part.
45. By about August 2023 KP had "voted with her feet" by leaving the placement and resumed living with her mother. Social workers from the Local Authority had made repeated court applications and had involved the police in returning KP to multiple placements but she always ended up returning to her mother's house. At this point, it seems to me that a pragmatic decision was taken by the social workers that, short of effectively imprisoning KP, there was nothing that they could do to prevent her absconding and returning to live with her mother. I do not criticise the efforts of the social workers to protect KP by keeping her away from the family home but equally I can understand why, after KP had repeatedly returned to her mother's house, the decision was taken that continuing the endless cycle of obtaining court orders, KP absconding and then involving the police to return her to the placement was not doing KP any good.

The evidence of KP's state of mind since August 2023.

46. Whilst it is early days, KP has been doing well since August 2023. She is working as a housekeeper at a local hotel alongside her mother and, prior to this trial, she made no disclosures of any abuse perpetrated on her by D. It is clear that her job is important to her, gives her a sense of pride and gives her an element of financial independence.
47. Nonetheless, there is evidence that D is exerting himself to be a key influence in KP's life. On 29 September 2023 KP was due to meet with G's team manager, H. KP was due to turn up with J, but instead she attended with D and insisted that he remain in the meeting. Given the background to this case it seems to me that the only explanation for this is that D attended this

meeting as he wanted to continue to exert a measure of control over KP. G states at paragraph 7:

“I have since received emails from D stating that he was listening into the conversation on 4th September 2023 that was had with KP at her placement. D being involved with KP’s meetings either by covertly listening or attending is making it difficult for professionals to have a clear and independent understanding of what KP would choose for herself. Going forward no further meetings will take place with KP if D is present in person or on the phone”

48. I am mindful that all members of the family must have been aware that the issue as to whether KP would be allowed to remain living at her mother’s home was coming up at this hearing and thus the proximity of the hearing may have had an influence on behaviours in the last few months. Thus, whilst the present state of affairs is encouraging, it is not necessarily appropriate to assume that things will continue as they now are.
49. G explains that the Local Authority’s preferred outcome would be for KP to cease to have contact with D and to move to supported accommodation in the local area so she can continue to work at the hotel and can continue to see J. There are, however, two problems with that plan. First, G has not yet been able to locate any suitable accommodation in the local area and hence this option is presently only a theoretical possibility. Secondly, this arrangement will not provide any real protection for KP unless D is prevented from having any contact with her. That is not practically possible for as long as KP remains living with J unless I was prepared to make an order which effectively evicted D from J’s house. D is not a party to these proceedings at present and it would not be appropriate to make such an order unless and until he was made a party.

The expert evidence.

50. KP was seen and assessed by Dr Alison Conning, a consultant clinical psychologist, who produced a report dated 30 January 2023. Dr Conning noted that KP had been diagnosed with Autistic Spectrum Disorder (“**ASD**”) and dyslexia. She carried out an assessment of KP using the Wechsler Adult Intelligence Scale. This tests a range of cognitive functions including verbal comprehension, perceptual reasoning, working memory and processing speed. A report explains that the verbal comprehension index tests reasoning, comprehension and conceptualisation. The results of the test were that KP’s score of 66 means that she lies in the

“Extremely Low” range, with a score which would mean that 99% of the population would score the same or better. Dr Conning concluded that KP’s perceptual reasoning index scored 60, namely in the 0.4% centile, meaning that 99.6% of the population would obtain a score the same or better than this. KP did slightly better in the working memory index, scoring 71 which puts her at the 3rd percentile, meaning 97% of the population would score the same or better. Mini had a processing speed score of 79 which put up on the 8th percentile. Taking these schools together the full IQ score for KP was assessed by Dr Conning to be 63, which put KP in the “Extremely Low” range in the first percentile, meaning that 99% of the population would have an IQ which is equal or higher than KP.

51. I accept this evidence and further accept that KP’s overall cognitive functioning is sufficiently low that it amounts to an impairment of the mind or brain for the purposes of section 2 MCA.
52. KP was also assessed by Dr Elizabeth Kliman, a consultant psychologist, who produced 2 reports dated 1 August 2023 and 20 November 2023. These are long and detailed reports which set out Dr Kliman’s conclusion on how KP’s cognitive functioning affects her decision-making abilities. Dr Kliman emphasised that KP’s ability to take decisions was not only affected by her low intelligence but also by her ASD. She explained that the effect of ASD on someone like KP was profound. Young people generally can struggle with assessing risks but this is particularly acute for young people with learning difficulties and autism because they find it difficult to imagine how things might be for them in situations which are different to the reality at the moment. They find it hard to understand that situations other than the facts at the moment might arise or how they would be in danger if those facts were to arise.
53. Young people with learning difficulties and/or autism also find it hard to understand that people who appear friendly may be manipulating them. This is an aspect of their impaired social imagination. In KP’s case, Dr Kliman explained that KP would struggle to understand if someone was seeking to manipulate or exploit her, or that someone might be telling her something that was not true. All that makes someone who has the combination of low intelligence and ASD hugely vulnerable to manipulation.
54. Dr Kliman noted that KP’s mother, J, was a huge influence on her life and that this had both positive and concerning aspects. In summary, Dr Kilman suggested that KP had a desire to please J and to earn her mother’s approval to such an extent that she was highly likely to be influenced by any view expressed by her mother. Thus, if J says to KP that D has been wrongly convicted

of paedophilia offences, was wrongly sent prison and would eventually be exonerated, that is likely to lead KP to believe that all of this is true. Further, even if KP was to accept that D had been properly convicted of paedophilia offences, she may never accept that D is a potential danger to her because she has adopted her mother's firm and often expressed belief that D is not a danger to anyone, including to KP.

55. The primary risk that the Local Authority social workers are concerned about is the risk to KP from the presence of D in her life. There seem to be a number of aspects of this risk all of which arise because of KP's vulnerabilities due to her limited cognitive functioning, her limited ability to read and understand what motivates other people and D's dominant role within the household. First, there is the risk that D will coerce KP into having an exploitative sexual relationship with him. I do not have any direct evidence as to whether KP has capacity to make her own decisions about sex but, although KP is now an adult, any sexual relationship she had with D is highly unlikely to be the expression of her capacitous decision making.
56. Secondly, there is a risk of harm to KP if she is drawn into his online offending by being shown images of child abuse and persuaded that this is acceptable sexual activity. Third, there is the risk that D, as a person who does not appear to respect normal sexual boundaries, will exert his influence to persuade KP to have a sexual relationship with someone else of D's choosing. Finally, even if none of these risks materialise, social workers have a wider concern that living within D's ambit will result in KP living her life in accordance with rules set for her by D and that will not be in her best interests.
57. Whilst J has an assessed IQ of 79, D is described as an intelligent man. The Designated Family Judge assessed the evidence before her concerning the risk posed by D as follows:

"68. Dr Parsons undertook a risk assessment of the father. He said that [D] poses a medium risk of engaging in further sexual offending behaviour, that is, of downloading/possessing images for his own sexual gratification. He said he could not rule out the possibility of [D] using a child in his care to make an image which poses risk of both sexual harm and emotional harm to any child in [D's] care.

69. He said that the risk of contact offending is extremely low, simply based upon general recidivism of internet only offenders. Nevertheless, it cannot be ruled out entirely, but

cannot be quantified any further. Therefore, [D] does pose a very low, but it must be stated, present risk of direct contact offending against a child in his care”

58. Dr Kliman reported that about 2% of online sexual offenders are thought to go on to commit contact offences. Hence, I accept that the risk that, based on those statistics alone, that D will directly abuse KP is relatively small but, if it were to happen, the effect on KP would be substantial. I am unable to make any clear findings as to what happened, if anything, between KP and D that led KP to claim that D raped her. I am not prepared to discount the possibility that D sexually assaulted KP to some extent, and the possibility that D has sexually assaulted her in the past or has attempted to do so must add to the risks to KP of living in the same house as D. There is also, as I explained above, a risk that D will use his influence to persuade KP into some form of sexual activity with a third party chosen by D.
59. Dr Parsons also described D as “bullying” and explained how he tried to intimidate Dr Parsons by sending him a formal letter before action to Dr Parsons’ home address. That behaviour has echoes in the complaints made about D by social workers. He appears to have a very strong desire to control KP and to ensure that she remains within his influence.
60. Accordingly, whilst there is no reliable evidence that D has ever sexually assaulted KP, it seems clear that he is an intelligent man who has a sexual interest in children, and that he has downloaded images of child sex abuse. The recent judgment in the child care proceedings shows how difficult it is for professionals to form any view as to whether D presents any risk to children because he largely denies the offences. He is clearly manipulative and far more intelligent than J and KP, and appears to have a measure of control in the house.
61. In those circumstances I accept the submissions made by both the Local Authority and the Official Solicitor that D presents a significant risk to KP and, if there were to be a better option, that it is not in her best interests for her to remain in a circumstances where he is part of her life.

The law.

62. KP is over the age of 16 and accordingly her capacity must be assessed by reference to the terms of the Mental Capacity Act 2005 (“MCA”). Section 1 MCA provides:

“(1) The following principles apply for the purposes of this Act.

(2) A person must be assumed to have capacity unless it is established that he lacks capacity.

(3) A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.

(4) A person is not to be treated as unable to make a decision merely because he makes an unwise decision.

(5) An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.

(6) Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action"

63. Capacity is a decision specific test. Accordingly, I must start with the presumption that KP has capacity to make all of her own decisions and should only reach a view that she lacks capacity for a specific decision or set of decisions if, having considered the relevant evidence, I am satisfied that the tests under the MCA are met. If she has capacity, she is entitled to make the unwise decision to continue to have D as part of her life.
64. I also have to be careful to ensure that I do not treat KP as being unable to make a specific decision unless I am satisfied that all practicable steps to help her to do so have been taken in relation to that proposed decision without success. "Success" in this context must mean that KP would be assisted so that she was able to gain capacity in respect of the proposed decisions and thus was able to take her own decisions.
65. Section 2(1) provides that a person lacks capacity in relation to a matter if at the material time he or she is unable to make a decision for himself or herself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain. I have already indicated that I accept that KP's learning disability and her ASD are both conditions which satisfy that test, and that in assessing KP's capacity, I have to look at the matter holistically, carefully

looking at the evidence as to how these two conditions interact with each other so as to affect her cognitive functioning.

66. Section 3(1) MCA provides:

“For the purposes of section 2, a person is unable to make a decision for himself if he is unable—

(a) to understand the information relevant to the decision,

(b) to retain that information,

*(c) to use or weigh that information as part of the process of making the decision,
or*

(d) to communicate his decision (whether by talking, using sign language or any other means)”

67. Accordingly, in order to decide whether a person has capacity to make a specific decision it is first necessary to identify the *“information relevant to the decision”*. There can be considerable difficulty in identifying what is and is not included as a piece of relevant information for a particular decision. Paragraph 4.16 of the MCA Code of Practice provides the following guidance:

“It is important not to assess someone’s understanding before they have been given relevant information about a decision. Every effort must be made to provide information in a way that is most appropriate to help the person to understand. Quick or inadequate explanations are not acceptable unless the situation is urgent (see chapter 3 for some practical steps). Relevant information includes:

- the nature of the decision*
- the reason why the decision is needed, and*
- the likely effects of deciding one way or another, or making no decision at all”*

68. In this case there are two key areas of decision making where the Local Authority submits that KP lacks capacity, namely the ability to make decisions about whether to live in a property with D and the ability to make the decision whether to have contact with D. In her latest report Dr Kliman concluded:

“KP is able to make decisions around some of her care and support needs- specifically around education and employment. It seemed from her report that she is able to weigh up decisions around relationships and keeping safe in relationships and friendships, however I am aware that she has had risky interactions with people in the past although seemingly been able to understand the risks when asked. It is possible that she may not process information about risk when interacting with someone until later or may do so impulsively and think about the consequences only later, however it is equally possible that she has now developed the capacity to identify and assess risk, although it is unclear where she would have developed this. It would be helpful to try this out with video examples to see whether she is able to identify cues which indicate potential risk. It seems that at present, when emotionally well-regulated that she is able to weigh up the risks of unsafe relationships with others and to make capacitous decisions about these. She may lose this capacity when emotionally dysregulated, perhaps though making impulsive decisions”

69. This evidence, which I accept, tells me two things. First, the precise extent to which KP has a lack of capacity remains unclear and that further tests need to be undertaken to test the extent to which KP has capacity to understand how others are functioning and thus make her own decisions. Secondly, that KP may well have fluctuating capacity depending on the extent of her dysregulation. On a good day she may well be able to understand enough to make decisions for herself but may not be able to do so when her mind is dysregulated. However, Dr Kliman does not suggest that KP ever has capacity in respect of making decisions about contact with D because her mindset is so affected by his influence and by her mother’s staunch refusal to accept that D presents any risk to KP at all.

70. In *PC & Anor v City of York Council* [2013] EWCA Civ 478 the Court of Appeal were faced with a dilemma which has some similarities to the present case, albeit there are also some key differences. The key facts of that case were summarised by the trial Judge as follows:

“It is important to set out a number of matters which are either common ground or are undisputed. First, the offences of which NC was convicted involved serious sexual offences in which both NC and his father were found to have been complicit. Secondly, NC has always denied his guilt of those offences and so has never been in receipt of therapy or of any treatment in relation to sex offences. Thirdly, PC has always maintained, both that NC was innocent of all these matters, and that he was convicted because he had been framed by his previous wives, who were indeed the complainants in those offences. Fourthly, it is accepted on all sides that NC must be taken to pose a serious risk to PC in her capacity as a cohabiting wife. Fifthly, it is important to stress that there is no evidence that PC has in fact ever suffered serious harm from NC, nor is there any evidence to suggest that there has been other than substantial compliance with the protective regime that has been in place, both in terms of NC's licence and orders of the Court of Protection. Moreover, there is no evidence that to date there has been contact between NC and his father, though the question as to the future is unknown. Next, it is common ground that NC and PC have a unified wish to resume married life together”

71. In that case the Court of Appeal decided that the test of capacity needed to be directed as to whether PC had capacity to decide to share accommodation with NC and/or to have contact with him. McFarlane LJ (as he then was) said at paragraph 39:

“the ability to 'understand the information relevant to the decision' in this particular case must include reference to information specifically relevant to NC in the light of his conviction and its potential impact on the decision before the court”

72. That case was different because it was decided that PC had capacity to marry NC and thus the court somewhat reluctantly accepted that she must have capacity to live with him, despite the clear dangers to her from doing so. That feature is not part of this case.
73. The *City of York* case confirms that, in order for KP to have capacity to decide whether she should share accommodation with D or have any contact with him, she needs to have some degree of understanding that D's previous convictions and his character presents some risk to her and, she must, to some extent understand that spending time with him gives rise to such a risk. If she is able to understand that information, she next needs to be able to use and weigh that

information about risk in making the decision whether she should share accommodation with D or have any contact with him.

74. In my judgment, the evidence is clear that KP has no real degree of understanding that D's previous convictions and his character presents any degree of risk to her. She, like her mother, refuses to accept that D presents any risk to her. She not only refuses to accept that D presents a risk but, in my judgment, she is unable to do so because she does not have the ability to engage with the idea that D and her mother may not be right about this issue. I accept the evidence from Dr Kliman that KP has relied on and accepted the assurances given by her mother over and above any concerns raised by her social workers or support workers and so refuses to accept that D presents any risk whatsoever. In my judgment, the evidence shows that D is by far the dominant figure in this household and, due to the poor cognitive functioning of both KP and J, D has a considerable ability to mould and shape how both KP and her mother see the world. They are clearly acting under his influence and it is an influence that he is keen to maintain, as the social workers saw in September 2023 when he rather than J accompanied KP to a meeting with the social workers.
75. I consider that there is a real possibility that D is seeking to exert influence over KP because he wishes to keep her living with him and J for his own purposes. At this stage, it is not clear what those purposes are but there is a relatively high risk that whatever he has in mind for KP, that will not be objectively judged to be in her best interests.
76. KP will only lack capacity to make her own decisions about sharing accommodation with D and having contact with him if she is unable to understand the risks to her from doing so because of her impairment of the mind or brain. I am satisfied, based on the evidence of Dr Kliman, that her inability to understand the risks that D presents are substantially caused by her inability to envisage circumstances being different to how she sees them at the moment. That inability to see and assess the risks of a counterfactual situation appears to me to arise directly from a combination of her autism and her learning difficulties.
77. During her evidence Dr Kliman was asked whether it would be possible to undertake some work with KP to seek to help her to understand the risks that D might present. She agreed that it was possible that, with some targeted and focused psychological support over a period of weeks or even months, KP might gain an understanding about D's risks and thus may reach the position

where she was able to understand the risks that D presented. She also wished to undertake the further tests set out above.

78. It seems to me that this is precisely the type of situation envisaged by section 1(3) MCA. I thus do not consider that I can make a final decision that KP lacks capacity to make her own decisions whether to share accommodation with D or to have contact with him until that work has been undertaken. I am not inclined to accept the evidence of G that it would not be possible to carry out that type of work whilst KP was living with J and D. The fact that KP is sharing a house with J and D may well make that type of work more challenging, but I did not get the impression from Dr Kliman that it would not be possible to attempt the type of education that Dr Kliman had in mind. A more pertinent risk is that identified by Dr Kliman, namely that KP's past history of sexual abuse may make this work difficult and, depending on how she reacts, it may not be possible to carry it out at all.
79. It is also possible that, due to J's influence, any amount of work to assist KP will not result in her gaining any real understanding that D presents dangers to her. However, it seems to me that I should not make any final declaration of lack of capacity until all reasonable attempts have been made to undertake this work with her and thus allow her to gain capacity for herself.
80. Having said that, there are two further points. First, I accept that at present, pursuant to section 48 MCA, there is reason to believe KP lacks capacity and that accordingly it would be appropriate to make interim Declarations that KP lacks capacity to make her own decisions about sharing accommodation with D and having contact with D. Secondly, even if a stage were to be reached where KP had regained capacity, there would be serious issues to examine as to whether she was nonetheless sufficiently vulnerable so that the inherent jurisdiction of the High Court could be invoked to create a protective framework to avoid her coming under the undue influence of either J or D or a combination of them.

Best interests decision making.

81. I thus find that there is reason to believe that KP lacks capacity to make her own decision to live with D or have any contact with him. I also have grave concerns that D is a danger to KP for the reasons I have explained above.
82. On the other hand, there is no evidence that KP has self-harmed since she returned to live with J in September and there is also no evidence that, in that period, D has yet done anything or

said anything which is adverse to KP's best interests. KP is technically an adult because she has reached the age of 18 and Dr Kliman explained in evidence that the recent interview with KP suggests she is on a "*maturing trajectory*". Nonetheless, she continues to have huge vulnerabilities and, in my judgment, she has a very long way to go before she could be said to have capacity to make all of her own accommodation and contact decisions, especially those involved living in the same house as D.

83. KP's job is important to her and the regular contact that it gives her with her mother is clearly beneficial for her. Part of that may, of course, be because it is contact with her mother away from D's direct influence. As she is thriving in her job, in my judgment any accommodation option that resulted in KP not being able to continue to undertake this job would be highly unlikely to be in her best interests.
84. At this point the Local Authority have not identified any other accommodation for KP, and in particular have not identified any accommodation which is sufficiently close to the hotel that it will enable her to continue to work with her mother. In making best interest decisions I have to choose between the "available options" and, as at the date of this hearing, there are no other identified options: see *N v A CCG and others* [2017] UKSC 22. I am thus unable to make any decisions for KP to live anywhere other than at J's house because, at this point, there are no other available options.
85. The Local Authority have accepted that, whatever they may have attempted in the past to protect KP, arranging an accommodation and support package which keeps KP away from J's house without her consent is not a long-term viable solution. KP is an 18-year-old young woman who is working and all attempts to keep her away from her mother's house in the past have not created a sustainable environment for her. The Local Authority have concluded, rightly in my view, that any arrangement which deprives KP of her liberty would involve placing unjustifiable restraints on her freedom of movement. Past attempts to deprive her of her liberty have been associated with repeated self-harming and suicide attempts. KP seems to have come to resent the Local Authority's inability to allow her to make her own decisions to live with her mother and D, and a combination of KP's anger at the Local Authority and J's anger at the social workers has largely destroyed any attempts by the Local Authority social workers to be seen in a positive light by KP. I accept that J, and no doubt D in the background, have not assisted the way that KP sees things but the result is that the Local Authority have now recognised that they have to work with KP to agree the way forward rather than seeking to use coercive powers to impose

arrangements on her to keep her safe. The history of this case shows that, however well intentioned those attempts may have been, the arrangements did not keep KP safe as they were associated with her self-harming and making suicide attempts.

86. The Local Authority have therefore now accepted that, unless they can persuade KP to make her own decision to move to a supported placement, she will always gravitate back to J's house. In my judgment that assessment is right at present and, unless and until KP decides for herself that she wants to move away from J's house, the real question is what arrangements can be put in place to enable KP to be managed as safely as possible in J's house.
87. Whilst the Court of Protection primarily has powers to make decisions on behalf of P, it is now clearly established that the Court of Protection has the power to grant injunctive relief in support of and to ensure compliance with its best interests decisions and its orders: see *re SF (Injunctive Relief)* [2020] EWCOP 19 and *Re G (Court of Protection: Injunction)* [2022] EWCA Civ 1312. The High Court has general powers to grant injunctions when it is just and convenient to do so. In the present context, it seems to me that I should consider whether it is appropriate to grant injunctions to keep KP as safe as is reasonably possible, bearing in mind the risks to which she is exposed living in a household with a sex offender who has the personal characteristics D has, as described above.
88. Mr McKendrick's ultimate position on behalf of the Local Authority is that the Local Authority cannot be confident that KP will be safe if D remains living in the same house as KP, and if she remains living in J's house, the Local Authority will have to make an application on notice to D for an order that D must live elsewhere. I was not invited to grant an injunction to exclude D from the house at this hearing, but, if KP continues to live in her mother's house, I do not rule out that this will be only arrangement which is likely to keep KP safe going forward. It does not appear to me to be appropriate to exclude D from the house at this stage for the following reasons:
 - a. First, D is not a party to these proceedings. Although an injunction has previously been granted against him in these proceedings to prevent him having contact with KP, I consider that an injunction to exclude him from his home – effectively evicting him – should not be made against him unless he has been made a party to the proceedings and has a fair opportunity to understand the case that is made against him and to respond to that case;

- b. Secondly, such an injunction would have a major effect on J because D and J have been partners for a number of years and any order excluding D from J's house would have serious consequences for their relationship. I would need to understand how J proposes to respond to an injunction to require D to leave the property before it would be right to make such an injunction; and
 - c. Thirdly, KP is an adult and J no longer has any parental responsibilities towards KP. KP lives in J's house as a licensee of J. In my judgment, it would not be in KP's best interests for J to revoke that licence at this time because no other suitable placement has been identified for KP. Whilst I accept that D presents risks to KP and that J probably cannot be relied on to protect KP from those risks because she is as much under D's influence as KP appears to be, the overall position is that living with J since September 2023 has proved to have benefit for KP. Thus, forcing J to make a choice between KP and D may well not be in KP's best interests.
89. There are, at present, no "good options" here. Allowing KP to continue to live with a registered sex offender cannot be considered to be a good option, particularly where he may have assaulted her in the past (although that is unclear) and is on bail under suspicion of having committed further offences. Nonetheless, at this stage, it is the only option available to me. I therefore invite the Local Authority to prepare a plan setting out how they propose to support KP and keep KP as safe as is reasonably practicable (and allowing her to keep her job) on the assumption she continues to live at J's house. That plan should set out any injunctive relief that the Local Authority invites the court to provide in order to ensure that KP remains safe.
90. In the meantime, in order to protect KP whilst that plan is being prepared, I am prepared to make the following orders in order to protect KP:
- a. A representative of the Local Authority, who has fully read into the file and understands the issues, shall meet KP on her own at a pre-agreed time which does not conflict with her work duties once per week for a discussion to check how KP is feeling and to check that KP is safe. Notes shall be prepared of that meeting and shall be filed at court before the next hearing;

- b. These weekly meetings should alternate between meeting at a location nominated by the representative of the Local Authority away from J's home with the following meeting taking place at J's home;
 - c. The representative of the Local Authority shall inform KP, J and D in advance of the dates and times of the meetings;
 - d. KP shall be required to use her best endeavours to attend all such meetings;
 - e. J and D are required to use their best endeavours to ensure that KP attends all such meetings;
 - f. J and D shall not be entitled to be present at any such meeting and shall not take any steps to dissuade KP from discussing any matter at any such meeting and shall not interfere with any such meeting;
 - g. The representative of the Local Authority shall be entitled to enter J's home for the purpose of the said meetings and, in the event that the Local Authority consider that inquiries need to be made concerning KP's safety or her welfare, representatives of the Local Authority shall be entitled to enter J's home at any other time and no person whether by themselves or by instructing or encouraging any other person shall obstruct any representatives, employees or agents of the Local Authority from entering J's home for the purposes of safeguarding the first respondent's welfare; and
 - h. In the event that any issues arises which causes the Local Authority any concern about KP's safety or welfare, the Local Authority shall be entitled to require J or D to meet with them to discuss the issue and notes shall be taken of any such meeting.
91. The Local Authority can, of course, make an emergency application at any stage if they become seriously concerned about KP's welfare. However, in the period whilst the Local Authority are monitoring the situation, preparing their long term plan and meeting with KP, the above arrangements appear to me to be the most that can be put in place to protect KP.
92. I make D a party to these proceedings so that he has the right to apply to discharge or vary any of the obligations on him.

93. If the Local Authority's plan involves asking the court to make an order excluding D from J's house or making any other long term coercive orders against D or J, that application will have to come before me (or another Judge) on notice to D. I also invite the Local Authority to make urgent arrangements for the further work to be undertaken with KP as set out by Dr Kliman so that final decisions can be made concerning KP's capacity.

Postscript.

94. This hearing took place on 22 and 23 November 2023 and KP was present at the hearing with her solicitor throughout the hearing. Since circulating this judgment in draft, I have been told that, on 25 November following the hearing, KP made her own decision to leave J's house and temporarily moved in with her boyfriend at his parent's house. She said she has blocked D and says is not going to talk to him again. She has also made a series of disclosures which suggest that D may be grooming her towards a sexual relationship with him or someone else.
95. The Local Authority have seen KP on multiple occasions since the hearing and KP has been shown supported accommodation in another area which she likes. The Local Authority are also making efforts to seek to get her employment transferred to a hotel which is local to her new place of residence. Her email to the social worker said *"I'm going to start getting my life together and thank you G for opening my eyes wish I could hug you"*. Whilst I am conscious that KP's learning difficulties and ASD mean that her views could change again, I welcome this development. The overall evidence the careful and sensitive way in which this case was conducted in front of KP has played a significant part in her change of mind. I wish her well for the future.