



Neutral Citation Number: [2025] EWFC 146 (B)

Case Number: RG24C50148

IN THE FAMILY COURT AT SLOUGH

The Law Courts  
Windsor Road  
Slough  
SL1 2HE

Date: 29 May 2025

Before

HIS HONOUR JUDGE RICHARD CASE

Re C (Risk of Sexual Harm)

Between

SLOUGH CHILDREN FIRST

and

MOTHER (1)  
FATHER (2)  
C (THE CHILD) (3)

Applicant

Respondents

Representation

For the Applicant:

Bibi Badejo, counsel instructed by the Applicant Local Authority

For the Respondents:

Janet Mitchell, counsel instructed by the First Respondent Mother

Paul Murray, counsel instructed by the Second Respondent Father

Alice Darian, counsel instructed by the Third Respondent child by the Child's Guardian, Nandi Sutherland

Hearing dates: 16, 19-22 and 27-29 May 2025

This judgment was delivered in private. The judge has given permission 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 children and members of their family must be strictly preserved. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court.

## APPROVED JUDGMENT

This judgment was handed down at a hearing listed at 3pm on 29 May 2025.

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## Summary

### 1. I have made the following findings:

1) On 24 December 2021, the court made a series of findings including that Father sexually assaulted A on multiple occasions since A was about 9 years old when she was alone in the family home and/ or when Mother was present. Mother's failure to respond to A's calls for help, regardless of the state of her knowledge as to what was going on, are in themselves sufficient to justify a finding of failure to meet A's emotional needs and failure to protect.

2) The court found C was likely to suffer significant harm as a result of Father's sexual abuse towards his older sister.

3) Father and Mother accept that the court made findings against them as in 1, but they deny the truth of the court's findings.

4) Father and Mother accept Father was convicted of a serious sexual assault of a 19-year-old woman in 2013 but dispute the conviction. Father received a 2-year custodial sentence on 6 June 2014, for a sexual assault against a 19-year-old female. Father was placed on the Sex Offending Register for 10 years.

Mother does not accept and cannot identify that Father presents a potential risk of sexual harm.

5) Father has shown no accountability or remorse for his actions.

6) Mother believes that sexual abuse would never be caused to C by Father despite knowledge of Father's conviction and the findings made against him.

7) Mother failed to discuss and fully engage in sexual abuse work which includes considering how she would identify or keep C safe from the risk of sexual harm from Father, extended family or the community.

8) Mother believes that sexual abuse would never be caused to C by Father despite knowledge of Father's conviction and the findings made against him.

9) Mother struggled to answer whether she would believe C if he expressed concern of inappropriate touch or sexual abuse, stating, 'It will never happen, and I will always be with him'.

10) Father told a social worker it can be a child's fault if they are sexually abused.

11) In October 2023 the Father was present in the Mother's home and on numerous occasions between 29 May 2024 and 5 January 2025 the Father visited the Mother's home. The parents have lied when they have denied this.

2. Having made these findings I considered welfare:

3. The Mother has been assessed as having an extremely low IQ. Her cognitive impairments significantly affect her ability to understand and respond to risks, particularly those involving sexual harm. The Father expressed to professionals that children can be at fault for sexual abuse and continues to deny the accuracy of findings/conviction. His views are deeply concerning and indicative of a lack of understanding of appropriate boundaries and safeguarding.

4. Despite written agreements prohibiting unsupervised contact, the Father was found to have visited the family home on multiple occasions between May 2024 and January 2025. The parents lied about these visits.

5. C is of early primary school age and has significant speech and language delays. He is undergoing assessment for autism. His ability to express concerns or seek help is limited, increasing his vulnerability.

6. The Mother's inability to engage in sexual abuse awareness work, her denial of the Father's risk, and her reliance on family members, who also deny the Father's risk, render her unable to protect C. The Father's continued denial and inappropriate views further compound the risk.

7. Social workers and the Guardian concluded that C is at risk of emotional, sexual, and developmental harm if he remains in the care of his Mother.

8. There is no work that can reduce the risks sufficiently. There will be harm to C in removal from the Mother but that harm is less than the risk of harm in the Mother's care. The court makes a final Care Order and approves the care plan for removal.

## Parties

9. I will refer to Mother and Father in this way or as M and F. I mean no disrespect to them, it is for the purposes of anonymisation.

10. I will refer to the child I am concerned with as the Child or C (male, early primary age) and his older siblings as A (female, older teenager) and B (male, older teenager). Again I mean no disrespect.

## Background

### Chronology

11. The following is taken from the Local Authority case summary which I do not understand to be in issue and which I have anonymised:

4.1 C and his two siblings, A and B, were the subject of care proceedings commencing on 23 March 2021 [RG21C00415]. Proceedings were issued further to allegations made by A that the father had sexually abused her since she was approximately 9 years old.

4.2 A fact-finding hearing took place and a number of findings were made against the parents [J51-70], including that the father had sexually assaulted A on multiple occasions, and the mother failed to respond to A's calls for help. The Court found neglect of A's emotional needs and a failure to protect.

4.3 The father was convicted in 2013 for sexual assault against a 19-year-old female, which occurred during his work as a taxi driver. The father received a 24-month custodial sentence and was placed on the sex offending register until 2024. The court also found that the father did not accept responsibility for this conviction.

4.4 At the conclusion of the proceedings on 26 October 2022, Final Care Orders were made in respect of A and B with a care plan for them to remain in foster care. A detailed pathway to reassessment plan was filed as part of the local authority's final evidence with the aim of ensuring the safety of C and his siblings, and to allow for further assessment of the mother to consider the rehabilitation of B to her care [J289-306].

4.5 A 12-month Supervision Order was also made in respect of C.

4.6 After the conclusion of previous proceedings, the local authority remained involved with the family. Donna Price, ISW, was commissioned to undertake a bespoke piece of work with the

mother which included tailored sexual harm work to address the concerns raised within the fact-finding judgment and the assessments undertaken of her within the proceedings [F1-18]. Ms Price details that the mother was either not able or willing to participate effectively with the adapted programme of work offered.

4.7 In October 2023, B's foster carer advised the local authority that B stated he had visited his parents at the family home with C, which would have been in direct breach of the written agreement in place preventing the father from having any unsupervised contact with the children. The parents denied the allegation, and B later stated he had seen his mother on a few occasions but not his father. Considering this, the local authority sought for the parents to sign an updated contract of expectations on 12.12.23; however, the parents initially refused. Due to the escalating concerns, the matter progressed to an ICPC on 18 January 2024.

12. By way of a little more detail I copy below part of my judgment from the final hearing in the last proceedings:

[J81-82]

35. Threshold has been met in accordance with HHJ Marshall's judgment dated 15 December 2021:

[B161]

98. Finally I turn to consider the specific findings sought and remind myself of the need to ensure that the facts found justify the threshold findings.

99. I have no difficulty in finding that the LA has proved that A was suffering significant harm at the relevant date. There is no evidence that B or C were suffering such harm, but I am satisfied that the LA has established that they were likely to as a result of F's inappropriate actions towards A.

100. Allegations 1 – 4 I find made out on the basis of my findings. The allegations based on M's knowledge of F's inappropriate sexual behaviour are not made out, however I do find that her failure to respond to A's calls for help, regardless of the state of her knowledge as to what was going on, are in themselves sufficient to justify a finding of neglect of A's emotional needs and failure to protect.

36. The reference to allegations 1-4 being a reference to the final threshold:

[A81-82]

1. F has caused actual and/or likely sexual and/or emotional harm to children. For example (but not limited to):

a. F sexually assaulted A, a child, on multiple occasions since she was about 9 years old when she was alone in the family home and/or when B was present, including (but not limited to) –

i. inappropriately touching her on her chest and/or her breasts (under and over her clothing) I132, I88; and/or

ii. inappropriately squeezing her breasts over her clothing I89; and/or

iii. inappropriately touching her on her genital area I132, I88; and/or

iv. inappropriately kissed her on the mouth I88; and/or

v. digital penetration of her vagina I89; and/or

vi. using inappropriately sexualised language to her I89; and/or

vii. inappropriately feeling her vagina and/or genital area to see if she was wearing sanitary pads I89

b. Such behaviour by F was sexually and/or emotionally inappropriate.

c. Such sexually and/or emotionally inappropriate behaviour by F caused actual significant physical, sexual and/or emotional harm and/or was likely to cause such harm and distress to A.

d. Such sexually and/or emotionally inappropriate behaviour by F towards A in the family home and/or in the presence of B was likely to cause significant emotional harm to B.

e. Such sexually and/or emotionally inappropriate behaviour by F towards A in the family home was likely to cause significant emotional harm to C.

2. Despite his conviction for serious sexual assault on a 19 year old woman in 2013, for which he received a custodial sentence of 24 months and his name being placed on the Sex Offenders Register until 2024, F does not accept responsibility for his criminal behaviour I16, C54

3. M knew of and was aware of the fact and circumstances of F's criminal conviction F5, F31/F33



4. M knew and was aware of the fact that F does not accept responsibility for his criminal conviction F33, C13, E34, E44

13. I also set out below my short analysis of the agreed care plan in respect of C in the previous proceedings:

[J92]

82. I am satisfied it is necessary and proportionate to make a Supervision Order for 12 months, it will allow time for the Mother to engage in the Pathway to Re-Assessment, her compliance with a working agreement can be assessed and her development of capacity reviewed, if necessary an application can be made to extend the duration of the order.

83. I have considered if I should make no order but reject this option on the basis that there are evidenced weaknesses in Mother's care of C both in terms of the risk of emotional harm given her views of Father's culpability but also her ability to provide adequate stimulation and recognise his needs. I mean no criticism of the Mother as I suspect those shortcomings arise from her cognitive difficulties but they still need addressing.

84. In terms of duration any shorter period would provide inadequate protection given the work proposed in the Pathway to Re-Assessment and the need for a further assessment of the Mother at around 6 months.

14. What follows is from the case summary and is of assistance in setting out the background but is not agreed in full and forms part of the allegations I am asked to determine:

4.8 The local authority initiated the pre-proceedings process on 7 March 2024. During the course of previous proceedings, the mother had a number of cognitive assessments and had the benefit of an advocate. As a result the local authority sought an updated assessment of her during the pre-proceedings. Farah Fairweather, Occupational Psychologist, assessed the mother and provided her report on 28 March 2024 [AA27-43]. It was assessed that the mother's IQ was within the 'Extremely Low range' and ranked on the 0.5th percentile. The mother's FSIQ of 61 meets the threshold for having a global impairment of intellectual functioning.

4.9 As a result of the mother's cognition, the local authority instructed lay advocate Pauline Foy to support her with meetings, and an ISW was instructed to undertake a Parent Assess-framed parenting assessment.

4.10 Prior to the completion of the parenting assessment a risk assessment was undertaken of the father as he sought an increase to his contact [AA44-59]. The risk assessment highlights the father's continued denial in relation to his conviction and the findings made against him. The father is also recorded to have shared concerning perspectives of child sexual abuse, whereby he believes it can be a child's fault if they are sexually abused. The outcome of the assessment was that an increase in contact may have a negative effect on C causing him emotional harm and therefore the father's contact with him has remained at once per fortnight supervised by the local authority.

4.11 Blossom Francis, ISW, undertook the mother's parenting assessment [AA87-AA117]. Ms Francis highlighted the mother's complete denial of the father's conviction and the allegations made by their daughter against him and her refusal to explore these further or engage in an intervention to support her learning something which has been the concern of the local authority since the previous proceedings. Ms Francis assessed that the mother is able to meet C's needs to a satisfactory standard with support from her family members, however, there are concerns as to her ability to anticipate and respond to C's evolving needs in the future and to safeguard him from potential risks. Ms Francis recommended that the local authority formulate a long-term plan for C's safety and care.

4.12 The local authority tried to provide support and teaching to the mother in order to improve her knowledge and understanding of sexual harm however the mother's complete denial of the father's conviction and findings, alongside her failure to fully engage with any work provided has meant that the situation has not changed since final orders were made in 2022.

4.13 Alongside this, there are concerns that the mother's cognitive ability will limit her ability to meet C's evolving needs as he grows older. The local authority submit that C is at risk of long-term neglect, emotional and sexual harm whilst in the care of his mother. As a result the LA issued a Section 31 application on 6 September 2024 and initially sought an Interim Care Order with a care plan of foster care for C [B1-8].

7.1 The court heard and granted the local authority's application for permission to instruct Evidence Matters to undertake a forensic phone analysis of the parents' mobile phones ("relevant phones") on 28 March 2025. At the hearing, the parents each agreed to provide their mobile phones to the allocated social worker on 2 April 2025.

7.2 The following was recited on CMO of 28 March 2025 [B160]:

1. The mother and the father agree to give their mobile phones to the allocated social worker on 2 April 2025 for analysis (SIM cards not required). The SIM card must remain in the phone until handover to the social worker, who will ensure that the process advised by Evidence Matters to remove the SIM is followed.
2. The local authority is seeking funding to provide the parents with replacement phones until their own phones can be returned to them. The local authority will seek return of the phones from Evidence Matters as soon as possible after the download.

7.3 The social worker initially arranged to collect the parents' phones on 2 April 2025. The social worker subsequently agreed to collect the phones on 3 April as the replacement phones ordered by the LA were not available until this date. Neither had their relevant phone: the father claimed his phone was stolen from his car on 30 March 2025 and the mother stated that she was given a new phone for Eid (29-30 March 2025) and had therefore removed her sim card, placing the same in a new phone. A police report in respect of the father's alleged stolen phone is at [H64-65].

7.4 Evidence Matters received the new telephones of both the mother and the father and warned that following an initial review, the handset may have been factory reset so a forensic examination may give us the date it was wiped.

15. I believe this is an error. Only the Mother's old phone was sent to Evidence Matters.

7.5 The LA also sought an amendment to the forensic analysis to include analysis of the parent's network call data records and colocation report to determine whether father has been to the family home. This was granted on 11 April 2025. The court made disclosure orders against Three and O2 in order to disclose the parents telephone records which would then be sent to evidence matters to conclude their report. The order to O2 was later amended under the slip rule to EE as the recipient of the disclosure order.

### Current living arrangement

16. C is currently living with M but subject to an Interim Supervision Order.

### Parental responsibility

17. F has parental responsibility.

## Positions

### Local Authority

18. The Local Authority seek a Care Order with a care plan of long term foster care with fortnightly contact with parents and siblings with a step down for the Mother from 3 times per week. In the course of the hearing a transition plan was produced and I set this out in more detail below.

19. The Local Authority agree to review the Father's contact arrangements in respect of community contact.

### Mother

20. The Mother opposes the care plan and seeks for C to remain in her care. She would agree a further Supervision Order. She would agree to the Local Authority's continued monitoring.

### Father

21. The Father supports the Mother's position but goes further to say that he would agree to a Care Order at home with the Mother. In relation to contact the Father supports the Guardian's recommendation of the exploration of supervised community contact for him. The Father invites the Local Authority to consider exploration of what parenting support might be put in place for the Father.

### Children's Guardian

22. The Guardian supports the making of a Care Order; she initially wished to reserve her position in relation to placement save that if the court were to make a finding of breach of the written agreement she would recommend foster care. Having heard the oral evidence she revised her position to one of supporting the care plan.

23. The Guardian agreed the transition plan in the event of me sanctioning removal save she recommended C was not present when the Mother packed up his things for a move to foster care.

24. The Guardian has remained neutral on the findings of fact the Local Authority invite me to make.

## Evidence Summary

25. Throughout the hearing Mother was assisted by an intermediary and Father by an interpreter. Ground rules were in place for Mother.

26. I heard oral evidence from:

- a) Reanna Burns, social worker, co-author of Father's risk assessment;
- b) Blossom Francis, independent social worker, author of the parenting assessment of Mother;
- c) Maria Riaz, social worker, co-author of Father's risk assessment and C's former social worker;
- d) Anakolo Otshudi, C's current social worker;
- e) Maternal uncle;
- f) Maternal aunt;
- g) Mother;
- h) Father; and
- i) Nandi Sutherland, the Guardian.

27. I have considered the full bundle but in particular the documents identified in the agreed reading list in the Local Authority case summary.

## Law

28. I remind myself that the burden of proving the need for a public law order rests with the Local Authority on the balance of probabilities.

## Threshold

29. I must consider if the Local Authority has proved that the threshold test set out in section 31(2) Children Act 1989 is met. It provides:

- (2) A court may only make a care order or supervision order if it is satisfied –
  - (a) that the child concerned is suffering, or is likely to suffer, significant harm; and
  - (b) that the harm, or likelihood of harm, is attributable to –
    - (i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or
    - (ii) the child's being beyond parental control.

30. I remind myself that the relevant date for the purposes of making the assessment is the date on which the Local Authority initiated the procedure (*Re M (Care Order: Threshold Conditions)* [1994] 2 FLR 577) but subsequent events and behaviour are capable of providing relevant evidence about the position before the relevant date (*Re L (Care: Threshold Criteria)* [2007] 1 FLR 2050).

31. I also consider Hedley J in the same case at para 49

“...society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent. It follows too that children will inevitably have both very different experiences of parenting and very unequal consequences flowing from it. It means that some children will experience disadvantage and harm, while others flourish in atmospheres of loving security and emotional stability. These are the consequences of our fallible humanity and it is not the provenance of the state to spare children all the consequences of defective parenting. In any event, it simply could not be done.”

### Fact Finding

32. I remind myself of the fact-finding self-directions that I must give myself adapted from the helpful summary of Munby P in *Re X (Children) (No 3)* [2015] EWHC 3651:

20. ...The principles are conveniently set out in the judgment of Baker J in *Re L and M (Children)* [2013] EWHC 1569 (Fam), to which I was taken. So far as material for present purposes what Baker J said (and I respectfully agree) was this:

“First, the burden of proof lies at all times with the local authority.

Secondly, the standard of proof is the balance of probabilities.

Third, findings of fact in these cases must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation ...

Fourthly, when considering cases of suspected child abuse the court must take into account all the evidence and furthermore consider each piece of evidence in the context of all the other evidence. The court invariably surveys a wide canvas. A judge in these difficult cases must have regard to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward by the local authority has been made out to the appropriate standard of proof.

...

Seventh, the evidence of the parents and any other carers is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability.

Eighth, it is common for witnesses in these cases to tell lies in the course of the investigation and the hearing. The court must be careful to bear in mind that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear and distress, and the fact that a witness has lied about some matters does not mean that he or she

has lied about everything (see *R v Lucas* [1981] QB 720 ).” [I address this further below]

33. Munby P continued:

21. To this admirable summary I add three further points.

22. First, that the legal concept of proof on a balance of probabilities “must be applied with common sense”, as Lord Brandon of Oakbrook said in *The Popi M, Rhesa Shipping Co SA v Edmunds*, *Rhesa Shipping Co SA v Fenton Insurance Co Ltd* [1985] 1 WLR 948, 956.

23. Secondly, that the court can have regard to the inherent probabilities: see Lady Hale in *In re B (Children) (Care Proceedings: Standard of Proof) (CAFCASS intervening)* [2008] UKHL 35, [2009] 1 AC 11, para 31. But this does *not* affect the legal standard of proof, as Lord Hoffmann emphasised in the same case (para 15):

“There is only one rule of law, namely that the occurrence of the fact in issue must be proved to have been more probable than not. Common sense, not law, requires that in deciding this question, regard should be had, to whatever extent appropriate, to inherent probabilities. If a child alleges sexual abuse by a parent, it is common sense to start with the assumption that most parents do not abuse their children. But this assumption may be swiftly dispelled by other compelling evidence of the relationship between parent and child or parent and other children. It would be absurd to suggest that the tribunal must in all cases assume that serious conduct is unlikely to have occurred. In many cases, the other evidence will show that it was all too likely.”

24. Thirdly, that the fact, if fact it be, that the respondent ... fails to prove on a balance of probabilities an affirmative case that she has chosen to set up by way of defence, does *not* of itself establish the local authority’s case. As His Honour Judge Clifford Bellamy recently said in *Re FM (A Child: fractures: bone density)* [2015] EWFC B26, para 122, and I respectfully agree:

“It is the local authority that seeks a finding that FM’s injuries are non-accidental. It is for the local authority to prove its case. It is not for the mother to disprove it. In particular it is not for the mother to disprove it by proving how the injuries were in fact sustained. Neither is it for the court to determine how the injuries were sustained. The court’s task is to determine whether the local authority has proved its case on the balance of probability. Where, as here, there is a degree of medical uncertainty and credible evidence of a possible alternative explanation to that contended for by the local authority, the question for the court is not ‘has that possible

alternative explanation been proved’ but rather it should ask itself, ‘in the light of that possible alternative explanation can the court be satisfied that the local authority has proved its case on the simple balance of probability’.”

34. In his President’s Memorandum on Witness Statements dated 10 November 2021 McFarlane P said:

14. Parties should understand that the court’s approach to witness evidence based on human memory will be in accordance with CPR PD 57AC, Appendix para 1.3.

This states that human memory:

- a. is not a simple mental record of a witnessed event that is fixed at the time of the experience and fades over time, but
- b. is a fluid and malleable state of perception concerning an individual’s past experiences, and therefore
- c. is vulnerable to being altered by a range of influences, such that the individual may or may not be conscious of the alteration.

35. I also direct myself to the judgment of Peter Jackson J (as he was) in *Lancashire County Council v The Children* [2014] EWHC 3 (Fam):

9. To these matters I would only add that in cases where repeated accounts are given of events surrounding injury and death the court must think carefully about the significance or otherwise of any reported discrepancies. They may arise for a number of reasons. One possibility is of course that they are lies designed to hide culpability. Another is that they are lies told for other reasons. Further possibilities include faulty recollection or confusion at times of stress or when the importance of accuracy is not fully appreciated, or there may be inaccuracy or mistake in the record keeping or recollection of the person hearing and relaying the account. The possible effects of delay and questioning upon memory should also be considered, as should the effect on one person of hearing accounts given by others. As memory fades, a desire to iron out wrinkles may not be unnatural – a process which might inelegantly be described as “story creep” – may occur without any inference of bad faith.

36. That should be borne in mind when considering perceived differences between accounts over time and generally when considering a witness’ recall.



37. As regards demeanour I have regard to Peter Jackson LJ in *B-M (Children: Findings of Fact)* [2021] EWCA Civ 1371:

25. No judge would consider it proper to reach a conclusion about a witness's credibility based solely on the way that he or she gives evidence, at least in any normal circumstances. The ordinary process of reasoning will draw the judge to consider a number of other matters, such as the consistency of the account with known facts, with previous accounts given by the witness, with other evidence, and with the overall probabilities. However, in a case where the facts are not likely to be primarily found in contemporaneous documents the assessment of credibility can quite properly include the impression made upon the court by the witness, with due allowance being made for the pressures that may arise from the process of giving evidence. Indeed in family cases, where the question is not only 'what happened in the past?' but also 'what may happen in the future?', a witness's demeanour may offer important information to the court about what sort of a person the witness truly is, and consequently whether an account of past events or future intentions is likely to be reliable.

26. I therefore respectfully agree with what Macur LJ said in *Re M (Children)* at [12], with emphasis on the word 'solely':

"It is obviously a counsel of perfection but seems to me advisable that any judge appraising witnesses in the emotionally charged atmosphere of a contested family dispute should warn themselves to guard against an assessment solely by virtue of their behaviour in the witness box and to expressly indicate that they have done so."

...

28...There will be cases where the manner in which evidence is given about such personal matters will properly assume prominence. As Munby LJ said in *Re A (A Child) (No. 2)* [2011] EWCA Civ. 12 said at [104] in a passage described by the Judge as of considerable assistance in the present case:

"Any judge who has had to conduct a fact-finding hearing such as this is likely to have had experience of a witness - as here a woman deposing to serious domestic violence and grave sexual abuse - whose evidence, although shot through with unreliability as to details, with gross exaggeration and even with lies, is nonetheless compelling and convincing as to the central core... Yet through all the lies, as experience teaches, one may nonetheless be left with a powerful conviction that on the essentials the witness is telling the truth, perhaps because of the way in which she gives her evidence, perhaps because of a number of small points which, although trivial in themselves, nonetheless suddenly illuminate the underlying realities."

29. Still further, demeanour is likely to be of real importance when the court is assessing the recorded interviews or live evidence of children. Here, it is not only entitled but expected to consider the child's demeanour as part of the process of assessing credibility, and the accumulated experience of listening to children's accounts sensitises the decision-maker to the many indicators of sound and unsound allegations.

### Hearsay evidence

38. Hearsay evidence is admissible pursuant to the Children (Admissibility of Hearsay Evidence) Order 1993 but I must assess the weight to be attached to it.

39. In *Re W (Minors) (Wardship: Evidence)* [1990] 1 FLR 203 Neill LJ at 227 said:

Hearsay evidence is admissible as a matter of law, but...this evidence and use to which it is put has to be handled with the greatest care and in such a way that, unless the interest of the child make it necessary, the rules of natural justice and the rights of the parents are fully and properly observed.

40. Butler-Sloss LJ (as she was) said this at 214:

In considering the extent to which, if at all, a judge would rely on the statements of a child made to others, the age of the child, the context in which the statement was made, the surrounding circumstances, previous behaviour of the child, opportunities for the child to have knowledge from other sources, any knowledge, as in this case, of a child's predisposition to tell untruths or to fantasise, are among the relevant considerations.

41. And at 218:

The reliability of the person relating what the child said is of vital importance.

42. The provisions of section 4 of the Civil Evidence Act 1995 apply:

4 Considerations relevant to weighing of hearsay evidence.

(1) In estimating the weight (if any) to be given to hearsay evidence in civil proceedings the court shall have regard to any circumstances from which any inference can reasonably be drawn as to the reliability or otherwise of the evidence.

(2) Regard may be had, in particular, to the following—

- (a) whether it would have been reasonable and practicable for the party by whom the evidence was adduced to have produced the maker of the original statement as a witness;
- (b) whether the original statement was made contemporaneously with the occurrence or existence of the matters stated;
- (c) whether the evidence involves multiple hearsay;
- (d) whether any person involved had any motive to conceal or misrepresent matters;
- (e) whether the original statement was an edited account, or was made in collaboration with another or for a particular purpose;
- (f) whether the circumstances in which the evidence is adduced as hearsay are such as to suggest an attempt to prevent proper evaluation of its weight.

## Lying

43. I remind myself of the *Lucas* direction from *R v Lucas* [1981] QB 720, elaborated on by Macur LJ in *Re A* [2021] EWCA Civ 451:

54. That a witness's dishonesty may be irrelevant in determining an issue of fact is commonly acknowledged in judgments...in formulaic terms:

“that people lie for all sorts of reasons, including shame, humiliation, misplaced loyalty, panic, fear, distress, confusion and emotional pressure and the fact that somebody lies about one thing does not mean it actually did or did not happen and/or that they have lied about everything”.

But this formulation leaves open the question: how and when is a witness's lack of credibility to be factored into the equation of determining an issue of fact? In my view, the answer is provided by the terms of the entire 'Lucas' direction as given, when necessary, in criminal trials.

55. Chapter 16-3, paragraphs 1 and 2 of the December 2020 Crown Court Compendium, provides a useful legal summary:

“1. A defendant's lie, whether made before the trial or in the course of evidence or both, may be probative of guilt. A lie is only capable of supporting other evidence against D if the jury are sure that:

- (1) it is shown, by other evidence in the case, to be a deliberate untruth; i.e. it did not arise from confusion or mistake;
- (2) it relates to a significant issue;
- (3) it was not told for a reason advanced by or on behalf of D, or for some other reason arising from the evidence, which does not point to D's guilt.

2. The direction should be tailored to the circumstances of the case, but the jury must be directed that only if they are sure that these criteria are satisfied can D's lie be used as some support for the prosecution case, but that the lie itself cannot prove guilt. ..."

44. What I have said above in relation to memory applies to a consideration of whether a person is, in fact, lying; that is to say, whether they are dishonestly not telling the truth.

45. I also remind myself of the comment of Munby P in *Re A (Application for Care and Placement Order: Local Authority Failings)* [2015] EWFC 11:

12. Lies, however deplorable, are significant only to the extent that they affect the welfare of the child, and in particular to the extent that they undermine systems of protection designed to keep the child safe."

### Welfare

46. So far as the law on welfare issues is concerned my paramount concern is the child's welfare. In assessing whether to make an order I must take account of the matters set out in section 1(3) Children Act 1989 (welfare checklist). I must then have regard to the realistic options put forward taking a holistic and balanced as opposed to linear approach to them consistent with the guidance given in *Re B-S (Children)* [2013] EWCA Civ 1146.

47. In reaching a final decision I must start from the position that the least interventionist alternative is to be preferred applying section 1(5) of the Children Act; I must not make an order unless I consider that doing so would be better for the child than making no order.

48. I remind myself I must also have regard to Article 6 and 8 ECHR rights. Pursuant to *Re B (Care: Interference with Family Life)* [2003] 2 FLR 813 I must not make a public law order unless I am satisfied it is both necessary and proportionate and no other less radical form of order would achieve the need to promote the welfare of the child.

49. If I make a Care Order I must consider the permanence provisions of the care plan pursuant to section 31(3A) Children Act 1989 and the contact provisions pursuant to section 34(11) Children Act 1989.

### Risk of Harm

50. When assessing risk of harm I must ask (by reference to the summary in *Re T (Children: Risk Assessment)* [2025] EWCA Civ 93 at paragraph 33):

- (1) What type of harm has arisen and might arise?
- (2) How likely is it to arise?
- (3) What would be the consequences for the child if it did?
- (4) To what extent might the risks be reduced or managed?
- (5) What other welfare considerations have to be taken into account?
- (6) In consequence, which of the realistic plans best promotes the child's welfare?
- (7) If the preferred plan involves interference with the Article 8 rights of the child or of others, is that necessary and proportionate?

## Admissions

### 1: Sexual abuse of A

The Local Authority alleges that:

**On 24 December 2021, the court made a series of findings including that Father sexually assaulted A on multiple occasions since A was about 9 years old when she was alone in the family home and/ or when Mother was present. Mother's failure to respond to A's calls for help, regardless of the state of her knowledge as to what was going on, are in themselves sufficient to justify a finding of failure to meet A's emotional needs and failure to protect.**

51. This was a finding made by HHJ Katharine Marshall on 17 January 2022 in RG21C00415. It is accepted by both parents.

### 3: Denial of accuracy of finding 1

52. The Local Authority alleges that:

**Father and Mother accept that the court made findings against them, but they deny the truth of the court's findings.**

53. The parents agree.

### 4: Sexual abuse of 19 year old woman

54. The Local Authority alleges:

**Father and Mother accept Father was convicted of a serious sexual assault of a 19-year-old woman in 2013 but dispute the conviction. Father received a 2-year custodial sentence on 6 June 2014, for a sexual assault against a 19-year-old female. Father was placed on the Sex Offending Register for 10 years.**

55. The parents agree.

6: M does not accept F is a potential risk of sexual harm

56. The Local Authority alleges:

**Mother does not accept and cannot identify that Father presents a potential risk of sexual harm.**

57. Mother agrees.

8: M believes sexual abuse of C by F would never happen

58. The Local Authority alleges:

M believes that sexual abuse would never happen despite knowledge of F's conviction and the findings made against him.

59. Mother agrees with the caveat sexual abuse would never be caused to C by Father. Accordingly I find:

**Mother believes that sexual abuse would never be caused to C by Father despite knowledge of Father's conviction and the findings made against him.**

## Findings

### Credibility

60. General observations of demeanour should never form the sole basis of any finding of fact but they are part of the broad canvas of assessment of credibility and they feed into the assessment of the allegations.

### Mother

61. During the cross-examination of Ms Burns she was taken to the notes of the Family Group Conference on 14 June 2024 in which the Maternal Aunt and Uncle were recorded as saying the Father was "from their perspective...out of the picture" [AA69] and "they want to continue to ensure there is no contact or interaction between [the Mother and Father] outside of meetings" [AA70]. She agreed the family were giving the impression that the Mother and Father were not in contact. She confirmed that is different from the Mother's evidence now that she was in daily contact with the Father (see her witness statements at [C177/4] and [C114/10]).

62. When the Maternal Uncle gave evidence I asked him what he meant by the Father being out of the picture and he said he meant “to all of us” i.e. including the Mother and that he was talking about all communication including talking over the phone. He said the Mother did not tell him she was speaking to the Father every couple of days by phone, or that they were talking at all on the phone (other than the agreed weekly video contact between the Father and C which the Mother supervises).

63. When Ms Otshudi gave evidence she said she had spoken to the Mother about the cell site analysis (on which see allegation 11 below) and in particular asked her about the colocation data (i.e. Mother and Father’s handset at the same location) at a hospital on 9 December 2024. As it transpired it is accepted both Mother and Father were there, the Father visiting the Mother who was in hospital with back pain. However, Ms Otshudi’s evidence was that she asked the Mother 3 times if the Father had visited her in hospital and she denied it; the Mother then said they were allowed to meet, the social worker agreed and then the Mother accepted the Father had visited her and said she had misunderstood the question.

64. When the Mother gave evidence she said the question was asked once, she told Ms Otshudi she did not understand it (“I told her I couldn’t understand the question” and “I couldn’t hear her properly”) and when asked the second time agreed they had been together. The Mother agreed she had told the social worker they were able to meet.

65. It is really very difficult to see how the social worker could have got it so wrong in her recollection, a meeting that happened just 4 days before she gave evidence and of course parts of it are agreed by the Mother, including her raising the issue of permission to meet. Further, the Mother has not previously admitted to meeting the Father at the hospital. In fact in her statement dated 19 February 2025 she asserted she had only seen him “at meetings (video) with professionals and at the contact centre. I have not seen him anywhere else” [C177/3]. That is now demonstrably untrue. Even allowing for the Mother’s learning disability it is difficult to accept she misunderstood the social worker’s questions on 16 May 2025 about the meeting at hospital and for reasons I consider below in relation to the Mother’s capacity, I found her a poor historian. I find on the balance of probabilities it was an attempt to mislead.

66. Further, the Mother’s evidence in relation to the replacement of her phone in April 2025 goes to her credibility and I have considered this in more detail in relation to allegation 11 below.

#### Father

67. When the Father gave evidence he was taken to Ms Burns’ risk assessment and to a comment he made that “he feels he has good relationship with M’s family who treat him like part of the family”

[C192/17]. That did not coincide with the Maternal Aunt and Uncle's evidence and he was asked whether he accepted telling Ms Burns this. He avoided answering the question, initially saying "from my side I still respect them all", then "I can't think about that...it's not been like it used to be" then "I can't think about that" before, eventually agreeing with me he could not remember.

68. He was then asked about how that comment fits with his evidence that he does not now speak to the maternal family often (oral evidence given earlier in the day) and what it was that made him feel like he was being treated like part of the family in the circumstances. Again, he appeared reluctant to answer saying "before you know it was every part of happiness and sorrows" before I intervened and asked him what made him feel like he had a good relationship when he spoke with Ms Burns last year and he seemed to question what was meant by good relationship. They were of course reported to be his words. I gained the distinct impression he did not want to answer the question because he had no good answer.

69. He was also evasive when answering questions in relation to allegation 10 and 11 (in particular in relation to the delay in signing the written agreement and colocation data) and I will cover that in more detail below.

70. I found the Father's evidence in relation to payment for his living arrangement also lacked credibility. On 28 March 2025 I directed the Father to "file and serve redacted copies of his bank statements by 4pm 11 April 2025 to evidence payments and withdrawals to pay his landlord, from the date on which the father's sex offending registration concluded to date" [B159/2]. The purpose was to bottom out whether he was living elsewhere. He was represented at that hearing. The Father has only disclosed bank statements from May 2023 to August 2024. These evidence bank transfers of £700 per month. When asked why they stopped he said his landlords suddenly demanded cash. There were no cash withdrawals as he took the cash from the takings of his takeaway business. He told me he had told counsel at the hearing on 28 March that he would not be able to evidence "withdrawals to pay his landlord" for that reason yet the order was agreed as above. If he had told counsel of the difficulty it is likely it would have been raised. He said, despite it being less convenient for him, he did not ask the landlords why they wanted that change. I asked him three times why he did not ask and he finally answered saying "no reason for it". Again, I find his responses sought to evade answering.

## [2: C likely to suffer significant harm as a result of finding 1](#)

71. The Local Authority alleges:

The court found C was likely to suffer significant harm as a result of F's sexual abuse towards his older sister.



72. Although the parents deny this allegation it is a matter of record. HHJ Marshall said:

[J70]

99. I have no difficulty in finding that the LA has proved that A was suffering significant harm at the relevant date. There is no evidence that B or C were suffering such harm, but I am satisfied that the LA has established that they were likely to as a result of F's inappropriate actions towards A.

73. There was no appeal. I make the finding alleged:

**The court found C was likely to suffer significant harm as a result of Father's sexual abuse towards his older sister.**

#### 5: F has shown no accountability or remorse

74. The Local Authority alleges:

F has shown no accountability or remorse for his actions.

75. The allegation, although not entirely clearly drafted, is in respect of his conviction or HHJ Marshall's findings or both.

76. This is denied by F. I assume it is denied on the basis he does not accept the findings made against him in the last set of proceedings but absent a successful appeal or re-hearing (which has not been sought) the findings stand. In the Risk Assessment the following recording is made:

[AA56-57]

F denies committing any sexual offences and believes the Local Authority's involvement with his family is inhumane. F's lack of insight into his behaviour for which he has been convicted and had findings for is troubling. Not being able to take any accountability or show any remorse is very concerning, as it suggests he is unable to think about the impact of his victims, have empathy for others and ultimately cannot establish between appropriate and inappropriate behaviour.

77. It is hard to see, in the absence of an acceptance of the truth of the conviction or findings of HHJ Marshall, that F can show accountability or remorse. In the circumstances I find the allegation proved as alleged:

**Father has shown no accountability or remorse for his actions.**

7: M has failed to engage in work to keep C safe

78. The Local Authority alleges:

M failed to discuss and fully engage in sexual abuse work which includes considering how she would identify or keep C safe from the risk of sexual harm from F, extended family or the community.

79. This is denied by M.

80. Ms Francis made the following comments in the parenting assessment:

[AA91/6]

However, there are significant concerns too especially M's complete denial of F's conviction and allegations made by A, M's refusal to explore these further or engage in an intervention to support her learning...

[AA92/7]

While I believe that M has the capacity to participate in an intervention designed to support her learning, there is denial and lack of motivation to do so...

[AA97/31]

M was able to differentiate between scenarios presented to her about what could be appropriate touch and what could be considered inappropriate touch or sexual abuse when these were about some fictional children and families. However, she shut down as soon as there was any discussion about how she would identify or keep C safe in future from any possible risk of sexual harm. She immediately reverted to her narrative that her husband would not do anything like that. M was not open to discussing any risk of sexual abuse for C whether from F or anyone in the extended family or community. She asked me to move onto another topic or [said] that no one in the family would do anything to C.

[AA99/38]

I tried to approach the aspect of sexual abuse at various points in the assessment with the use of case scenarios, pictures, etc. However, M shut down each time asking me to talk about something else or reverted to her narrative.

[AA99/40]

I was both amazed and alarmed by the frequency with which M repeated her narrative, even without prompting, from the very first session. Even when we shifted to completely different topics, M would revert to reiterating her position. Other professionals have also noted similar observations. It appeared as though she has conditioned her mind through constant repetition of her narrative, leaving little room to explore other scenarios or possibilities.

81. Ms Riaz reported:

[C7]

Ms Price detailed that M was either not able or willing to participate effectively with the adapted programme of work offered. It was anticipated that there would be 12 sessions of direct work with M, however only 4 sessions took place.

82. In her oral evidence she agreed that objectively the Mother needed the assistance of a lay advocate but she had refused such assistance initially.

83. On this evidence I make the following finding on the balance of probabilities:

**Mother failed to discuss and fully engage in sexual abuse work which includes considering how she would identify or keep C safe from the risk of sexual harm from Father, extended family or the community.**

9: M struggled to answer if she would believe an allegation by C

84. The Local Authority alleges:

M struggled to answer whether she would believe C if he expressed concern of inappropriate touch or sexual abuse, stating, 'It will never happen, and I will always be with him'.

85. This is denied by Mother. In her oral evidence she said she did not remember it.

86. Ms Francis recorded:

[AA108]

M struggled to answer the question about whether she would believe C if he was expressing his feelings now or in future especially if it was about any concern of inappropriate touch or sexual abuse. She was unable to move on from 'it will never happen and I will always be with him'.

87. Through no fault of her own the Mother is a poor historian, she has a poor recollection (see below when I consider her capacity). I prefer the evidence of Ms Francis who prepared a written report more contemporaneously with the meeting. She quotes directly what the Mother is reported to have said rather than paraphrasing it. She was not challenged on the accuracy of her reporting.

88. Accordingly I find the allegation proved:

**Mother struggled to answer whether she would believe C if he expressed concern of inappropriate touch or sexual abuse, stating, 'It will never happen, and I will always be with him'.**

10: F believes a child can be at fault for sexual abuse and rape cannot occur in marriage

89. The Local Authority alleges:

During his risk assessment, F stated that:

- a) it can be a child's fault if they are sexually abused and
- b) Rape cannot occur within marriage.

90. This is denied by F.

91. The following is recorded in the risk assessment:

[AA54]

He also believes that only a married male and female can have sex and when asked if a husband should seek consent from his wife, F said "no they are married". He clarified, things are different in his culture, compared to mine (White British).

During the sexual abuse session conducted on 10.05.2024, I asked F whether he thought it could ever be a child's fault if they are sexually abused. F was very clear in his view that it can be a child's fault that they are sexually abused. When challenged, F said he respects my viewpoint that it is never a child's fault, and he said it is more often the adult's fault, however he does not

agree with me, because children can also be at fault. He explained, children today are heavily influenced by the internet and social media, and therefore they know what they can do with their bodies.

92. I note that the allegation “Rape cannot occur within marriage” is not really what the Father was reported to have said. When Ms Burns gave oral evidence she confirmed her question was along the lines of, “whether it was important to seek consent in marriage”.

93. I note that save for his bare denial in answer to the allegations the Father did not directly challenge this part of the account of the meeting on 10 May 2024. It is not referred to at all in any of his witness statements. The substance of his case only became apparent in cross examination of Ms Burns; when I asked what his case was I was told that it was “That his response was misinterpreted”.

94. In relation to the first part of the allegation it was put to Ms Burns that, “What he was talking about was children of any age accessing the internet and accessing inappropriate things on the internet”. Ms Burns disagreed that is what Father meant although her note does at least to some degree reference children’s use of the internet.

95. In the Father’s witness statement he complained he had been misinterpreted (in a general sense) [C185/13]. When cross-examined on the point on behalf of the Local Authority there was the following exchange:

JQ You say it can sometimes be a child’s fault if sexually abused. Is that your view
A I said children can make mistake
JQ Is that your view, sometimes it can be a child’s fault if they are sexually abused
A Since I found out that under, children under age of 16 I would say they can’t be at fault, I have been given this information by [Ms Burns]
JQ Is it your view that sometimes a child can be at fault if they are sexually abused
A If it’s adult sexually abusing?
JQ Yes
A From the knowledge I have now I can say they can not be
Q Did you tell Ms Burns they could be at fault
A Yes I did say the child could be a mistake
JQ I said at fault not mistake
A No, child cannot be at fault but there can be a mistake
JQ By whom
A By child

96. I find it rather difficult to understand what it is exactly that the Father was saying. He did appear to accept he told Ms Burns that which Ms Burns reported but now has a different understanding, namely that a child cannot be at fault but that seemed to also have the gloss that the child can “be a mistake”, perhaps “make a mistake”.

97. On that evidence I find the Father did tell Ms Burns it can be a child’s fault if they are sexually abused but he now understands that is not the case if they are under 16 but they can in some way be responsible if they make a “mistake”. Whatever way that is dressed up it seems he does not accept there can never be fault on the child.

98. In light of the evidence above the Local Authority did not pursue a finding the Father said rape cannot occur in marriage.

99. Accordingly I find:

**Father told a social worker it can be a child’s fault if they are sexually abused.**

#### [11: F attended family home after findings made against him](#)

100. The Local Authority alleges:

Between the conclusion of the previous proceedings on 26 October 2022 and February 2025, and on more than two occasions, F attended the family home and M permitted unauthorised and unsupervised contact between C and his father in breach of written agreements. For instance in or before October 2023, when B visited the parents and C at the family home.

101. This is denied by Mother and Father.

102. For the Mother’s part she denies the Father has lived with her since the previous proceedings [C114/5] but they are still married [C177/5] and communicate regularly by phone “every couple of days” [C114/10].

103. The Father has disclosed a “Room Rental Agreement” indicating a licence for accommodation other than with the Mother. It is dated 26 May 2023 [F39-40].

104. A working agreement was entered between the parents and Local Authority around 25 October 2022 although in the bundle it is not signed. It provided:

[J71-2]

1. M must make sure that there is no face to face or virtual contact (eg FaceTime/Zoom/MS Team) between C and F except for each Sunday between 10am and 11am. M must supervise that contact. The social worker may request to observe that contact as part of their work under the Supervision Plan.
2. M must not allow F to see or speak to C outside of the contact centre and unless that is agreed by Social Care/C's social worker.
3. M must immediately tell Social Care (by using the contact details below) if F has asked her to allow unsupervised contact with C
4. M must tell F to leave immediately if he comes to the home address, school or a family members home if C is present. If F refuses to leave, M must tell Social Care on the contact details below.
- ...
6. M must not permit F to enter the home at all.
- ...
- 11.. F must not attend the family home when C is there or any of the children's school address when A, B and/or C are there.
12. F's contact is to only take place in the contact centre unless the venue is changed by agreement with Social Care.

105. For clarity the first paragraph related to virtual contact only; the Mother was to supervise this for 1 hour per week.

106. I will consider a number of aspects of the allegation separately below and in broadly chronological order.

*October 2023: B's report*

107. B made an allegation set out in a case note of a telephone call with his foster carer on 27 October 2023:

[F20]

[ ] shared the following:

- I found out from B that he has been lying about seeing cousins, instead he went to see his birth parents on 8th October around 12:00 or 13:00 and came back to placement around 5/6 pm and 15th October 2023, he left placement around 12:00 and came back around 18:30.
- On 8th October, he came back looking lost and was not giving eye contact to his carers. shared that she thought something was not right with B.

-Carer called [] as B told foster carer that he was with him. However, [] said he has not seen B in a while.

...

-Carer shared that she gave him money (£15) on 8th October and additional money (£6); B shared with carer that he has given the money to mum.

-B has been travelling to Slough to visit birth family by Train using Oyster card.

-B is seeing his parents at mums house in [], dad is also present and C.

108.The foster care log for 27 October 2023 recorded:

[F25-6]

B disclosed that he had been visiting his mothers home the days he had been out with []. He said his cousin would come to get him and they would go on the train. I asked what they would do. He said his Mum, Dad and C would be home together. He said they eat together. He was stuttering a lot while speaking.

B reported that he had been giving the cash to his mother.

109.And for 1 November 2023:

B has started to open up a bit more about what happened at home. He said that he would spend time with his Mum, Dad and C. His cousin would help him travel back and fourth [sic].

He looked really guilty and upset, he has apologised for lying many times.

110.So on two occasions B has said the Father was present; the Guardian also invited me to accept that B's report has added credibility by reference to his presentation being recorded as "really guilty and upset". I acknowledge the force of that submission.

111.It was only when the social worker visited, again on 1 November 2023 that it is recorded:

[F22]

B expressed that when he visited his mum's home in Slough, he only met with "Mum, C and stated that "my dad was not there".

112.What is interesting about the retraction is that it was made to the social worker not the foster carer to whom he repeated the allegation on the day of the retraction to the social worker. Further, it



relates to the Father not being there only; B continued to assert he had been to the Mother's home. Yet when the Mother gave evidence she said "B did not come to the house, he's lying".

113. I have to remind myself this is an allegation made by a child and reported as hearsay but it is an allegation made on more than one occasion and, in respect of the visit to the home, to two different people. In all three cases it was contemporaneously recorded. There is no obvious reason for B to have been lying; the allegation was contrary to his interests, he was doing wrong as he should not have been having contact with Mother unsupervised. There is every reason for the Mother to lie and even when B retracted part of the allegation the Mother still asserted he was lying.

114. On balance I find B's initial allegation was true in that around October 2023 B did visit the Mother's home and C and the Father were both present.

*October 2023 to January 2024: Delay in signing the written agreement*

115. A new working agreement was entered between the parents and local authority dated 18 January 2024 which confirmed:

[G1-2]

1. M must make sure that there is no face to face or virtual contact (eg FaceTime/Zoom/MS Team) between C and F except for each Sunday between 4pm to 5pm. M must supervise that contact. The social worker may request to observe that contact.

2. M must not allow F to see or speak to C outside of the contact centre and unless that is agreed by Social Care/C's social worker.

3. M must immediately tell Social Care (by using the contact details below) if F has asked her to allow unsupervised contact with C

4. M must tell F to leave immediately if he comes to the home address, school or a family members home if C is present. If F refuses to leave, M must tell Social Care on the contact details below.

...

6. M must not permit F to enter the home at all.

...

12. F must not attend the family home when C is there or any of the children's school address when A, B and/or C are there.

13. F's contact is to only take place in the contact centre unless the venue is changed by agreement with Social Care.

116. Ms Riaz gave evidence of the parents' initial refusal to sign the second agreement; on the part of the Mother "she said she wasn't going to sign anything and was going to talk to the Father and the family" and she did not recall the Father giving a reason. When the Mother gave evidence she gave no adequate explanation for the three month delay saying only that she wanted to "go through it properly" with her family.

117. The Father's evidence on this issue lacked credibility. His premise for not signing was that he was in dispute with the social worker. She said, he asserted, that a number of contact events were cancelled including special family celebrations (birthday parties and Eid) and he said "I said I was not going to sign the agreement because I thought then the manager would find out I'd not signed maybe they'd call me and discuss" and his main aim was to speak with the social work manager about the cancelled contacts. He agreed the refusal to sign led to his contact with B and C being cancelled which in his statement he described as "absolutely heartbreaking" yet in the same paragraph makes no reference to the reason now advanced [C187/26]. When he was challenged on that he was evasive ("I raised complaint to other social workers", "where [did I fail to say why I did not sign]", "I'm not sure about this"). He accepted he did not make a formal complaint, he admitted "I did nothing" even though he had access to the internet and could have attended the Local Authority office to complain. There are so many avenues he could have pursued (with the Children's Trust, with the Local Authority, with his councillor, with his MP) and so many routes (by email, by letter, via his solicitor who he said he had spoken to about it). His failure to do so completely undermines his explanation for not signing the agreement.

118. I am left with the distinct impression the reluctance to sign was because there were in fact meetings with C or there was a strong desire for there to be and/or for the Father to return home.

*February 2024 or 2025: Father parking car at family home*

119. When the Maternal Uncle initially gave oral evidence he indicated he had seen the Father when he came to collect his car from his home. It transpired, on the Maternal Uncle's evidence, the Father had parked the car at the Mother's home in around February 2025 before the Father travelled to Pakistan, he told Maternal Uncle he had posted the keys through her letterbox and the Maternal Uncle went to move it from there to his home. The Maternal Uncle said he did not know why the Father had done that, he asked "and apparently there were some parking issues where F was staying".

120. A note of a Review Child Protection Conference (RCPC) meeting on 18 March 2024 (not in the core bundle) recorded:

M had said F was in Pakistan at the time and her brother had taken his car and parked it outside her house while he was away. M was argumentative when asked various questions. F shared that he parked his car[] there as where he lives, it is not safe for him to park.

121.It is not clear if the Maternal Uncle was in fact referring to this incident (i.e. in 2024 rather than February 2025), it would certainly be consistent with the involvement of a social worker although the details in the RCPC do not match: the note records Mother saying Maternal Uncle had moved the car to her house not from her house and would not be consistent with the Father posting his keys through the Mother's letter box as the Maternal Uncle said.

122.The day after he gave evidence I was told the Maternal Uncle wished to change his evidence and he had sent an email to this effect to the Mother's solicitor. I refused a request to rely upon the email directing that if the Mother sought to rely on a different account from that given under oath she should obtain a witness statement signed with a statement of truth and then make an application to rely upon it. I subsequently granted that application. In that statement the Maternal Uncle said in fact the Father had parked his car at the Maternal Uncle's home and the Maternal Uncle moved it to the Mother's address "due to limited parking space on my road" and that this was in 2024 not 2025.

123.When he was recalled to be cross-examined on the new statement he said he did not in fact ask the Father why he did not simply leave his car at his home. There were the following differences between his two accounts:

- a) The incident was in February 2025 or in 2024;
- b) The car was parked at Mother's and moved to Maternal Uncle's or the car was parked at the Maternal Uncle's and moved to the Mother's and then back;
- c) The keys were posted through the Mother's letterbox or the keys were posted through the Maternal Uncle's; and
- d) The Maternal Uncle asked the Father about parking or he did not.

124.The Maternal Uncle's explanation was that "It was an honest mistake made under pressure, following a long and tiring day" and in oral evidence he said he was tired having been intermittently fasting.

125.A further concern about the evidence was that (as above) the notes of the Family Group Conference on 14 June 2024 recorded the Maternal Uncle saying the Father was "from their perspective...out of the picture" [AA69] and he and the Maternal Aunt "stated that they do not have

contact with F currently". When he initially gave oral evidence he confirmed by "out of the picture" he meant "to all of us". Yet on this new evidence just 3-4 months previously the Maternal Uncle had contact with the Father relating to the car.

126.The Mother's evidence on this point was very confused. Her counsel asked her whether the Father's car was at her house and she flatly denied it had been. When asked about it in cross-examination by the Local Authority there was the following exchange:

Q Yesterday Maternal Uncle told the judge that F had parked his car in the parking bay before he went to Pakistan, is that true

A No

Q Has he ever

A He hasn't parked his car in the parking bay since separating; no-one else has

127.Having been taken to the RCPC note above the evidence continued:

Q Now I've read that to you does it help you remember a time when F's car was parked outside your house in the parking bay

A When he goes to Pakistan he parks at my brother's and dropped keys and no space there so Maternal Uncle brought to me

Social worker saw it, I called my brother and he drove it back

JQ A moment ago you said no-one else had parked it there

A I couldn't understand the question

My brother brought the car there

128.She therefore gave four different accounts. The first account (in the RCPC note) matches the last given in oral evidence but by reason of the different intervening accounts I find her recollection is so poor I can simply place no weight on it on this point.

129.The Father's evidence was clearer but also troubling. His account coincided with the Maternal Uncle's revised account, namely that he parked his car outside Maternal Uncle's home. He initially said he did not think his car "would be safe" where he lived whilst away in Pakistan in February 2024. Later, when asked he said he lived in a cul-de-sac with no shops, a residential road, and although there was a driveway he shared it with his landlord. The Father said he had no direct communication with the Maternal Uncle since 2022 at the latest yet in February 2024, the day before he was due to travel to Pakistan he phoned to ask if he might park outside Maternal Uncle's home and he said there was

no issue. I find the whole scenario somewhat unlikely given the lack of other contact and the availability of parking near the Father's house.

130. I find it very hard to place weight on any of the Maternal Uncle's, Mother's or Father's evidence on this point. It is internally inconsistent or incredible and as between them there have been significant differences.

131. There is some merit in the Father's submission, through counsel, that it would seem strange for the Father to park outside the Mother's home when there was a high level of scrutiny on the family and on balance I consider the initial report at the RCPC is most likely accurate being the closest in time, namely that the car was parked outside the Mother's home by the Maternal Uncle not the Father. However, the evidence in relation to this point has a bearing on the Maternal Uncle's ability to act protectively on which see below.

*January 2024 to October 2024: Delay in answering door*

132. Ms Burns' evidence was that from January 2024 to October 2024 (the start of proceedings) she was part of a team visiting the home, mainly after school in the afternoon up until about 18.30. She had not noted any potential breach of the agreement.

133. When Ms Riaz gave evidence she said:

Q During the period you were visiting you didn't see anything that would suggest Father was living in the home

A That is correct

JQ Was there anything to suggest he was visiting

A Occasions when Mother took too long to answer the door and came down being flustered but no evidence of Father being in the home, I recall on one occasion I needed to look into the back garden, she had taken way too long to answer and she was flustered and I asked to see all rooms and back garden but I couldn't see anything

134. In re-examination she said that this happened on 5-6 occasions and the delay in answering was between 5 and 15 minutes during which time she would stand outside, knock, attempt to phone and text the Mother and would get no answer. If there was no answer after 15 minutes she would leave; on one occasion the Mother answered the door after 15 minutes. The explanations given were that she was sleeping or upstairs but the visits were during the day when the Mother, with a young child in the house, would have been expected to be out of bed.

135.The Mother refuted Ms Riaz's evidence. She said variously that Ms Riaz had not rung the doorbell which would have sounded a notification on her phone which she kept with her wherever she went. She denied Ms Riaz was ever kept waiting for 5 minutes or more, denied Ms Riaz attempted to call or send a text message.

136.I simply do not accept the Mother's account. It would mean a finding that Ms Riaz lied to me, she could not have been mistaken in her evidence. Much more likely is that the Mother is either not telling the truth or has forgotten.

*30 January 2025: C's report*

137.The second substantive allegation arises from a meeting on 30 January 2025. A section 47 report dated 18 February 2025 recorded:

[F29]

At a child protection home appointment on 30 January 2025, C was asked to draw a picture of his family. He drew his mum, himself and his dad. When asked who lives in his house he shared that his mum, dad, himself and his picacho (toy) lives in his house. C spends time with his father and older siblings on a bi-weekly basis in a supervised contact centre. It is unclear whether C is indicating that there have been further breaches of the working together agreement.

138.The case note was produced during the hearing, it was in the bundle of checklist documents at [A105] and was made available to me. It records that on 30 January 2025:

In the living room, I asked C to draw a picture of his family. He drew his mum first, himself and then his dad. I asked who lives in his house he shared that his mum, dad, me and picacho (toy) lives in his house. I asked the question again and you repeated the same thing. I asked where does your dad sleep and you said Dad sleep in the house, Dad sleep everywhere...Your mum came in saying that you enjoy the time you spend with your dad and I said that C also enjoys spending time with his brother and sister but did not include his brother and sister in his drawing and he did not say that he lives with his brother and sister.

139.When Ms Otshudi gave oral evidence she drew my attention to the difference between this information and that given by C on 3 October 2024 which is reported in her statement:

[C158]

At a child protection home appointment on 03 October 2024, I the drew a house with windows and a front door and C said "house". I asked whether he lives in a house and he nodded. I asked

who he lives in his house and C said "mum and C". I then asked who visits him and mummy in his house and C shared that "[friends/cousin] and my toys" visits his home.

140.The point being made was that an inconsistent answer was given on 30 January 2025 indicating the position may have changed rather than C simply being confused.

141.The Mother's explanation for C referring to the Father living at home (noting it is not for her to prove, the burden is on the Local Authority) is that she takes lots of photos on her phone, goes through them with C and the Father is in some of the photos and C "knows his dad in the photos" [C179/22].

142.I remind myself that the evidence relied upon is that of a young child, just of school age. Ms Otshudi's evidence was that the report of the school in the section 47 enquiry at [F30] that "he has very limited speech and language, so we are unable to fully ascertain his views, he has only recently started forming short minimum word sentences" was consistent with her observations. An alternative explanation for the different answers given on 3 October 2024 and 30 January 2025 might be C's unreliability as an historian. Accordingly really very little weight (but not no weight) can be attached to this hearsay evidence.

*6 February 2025: Two adult toothbrushes*

143.The section 47 enquiry report continued:

[F33]

Discussion with M on CP Visit 6/02/2025

I shared that i was worried that C said that his father lives with him. M said "he's a little kid, my husband does not live here, he's a little kid, its only me and him".

...

I looked around the home and there was no one at the home other than C and M. There were two adult toothbrushes in the bathroom beside the living room. M said that the second toothbrush was C's, I asked why C would have an adult toothbrush, then M said that she had ordered a child's toothbrush and she was going to throw away the second adult toothbrush which she then removed from the bathroom.

144.When Ms Otshudi gave oral evidence it was put to her on behalf of the Mother that "she'd ordered it [C's toothbrush] on Amazon and it was too big" and when I asked counsel what her case was given that is not what the Mother says in her witness statement it was put as "She'd ordered a child's toothbrush and it was a large child's toothbrush and it was too big and she'd ordered another one".

145.Firstly, this is not what Mother says in her witness statement (my emphasis):

[C180/24]

There was an adult toothbrush for C as he needed a new toothbrush. I ordered him a new child's toothbrush. At home, I already had a packet of toothbrushes. I gave him one from the packet until his child toothbrush came through. His child toothbrush came on 7 February 2025.

146.Secondly, this was not the Mother's oral evidence which was that she had bought the second toothbrush in Sainsbury's. It is also curious that the Mother bought it if it was the wrong the size rather than simply buying the right size.

147.Thirdly, Ms Otshudi was adamant what she saw was not a child's toothbrush in large size but two adult toothbrushes, she said "they were the same size but different colours".

148.Whichever of the three explanations the Mother relies on does rather beg the question why not wait to replace C's toothbrush until the new child sized toothbrush arrived.

149.Whilst it would have been more incriminating if three toothbrushes were found Ms Otshudi's evidence was generally reliable and credible, she has no motivation to lie. By contrast the Mother's on this key point is quite unsatisfactory.

### *3 April 2025: Unavailability of mobile phone*

150.There has been an examination of the parents' phones. The Local Authority invite me to draw an adverse inference from the unavailability of the Father's original phone for examination.

151.The following is taken from the Local Authority case summary and helpfully sets out the background and summarises the evidence:

7.1 The court heard and granted the local authority's application for permission to instruct Evidence Matters to undertake a forensic phone analysis of the parents' mobile phones ("relevant phones") on 28 March 2025. At the hearing, the parents each agreed to provide their mobile phones to the allocated social worker on 2 April 2025.

7.2 The following was recited on CMO of 28 March 2025 [B160]:

1. The mother and the father agree to give their mobile phones to the allocated social worker on 2 April 2025 for analysis (SIM cards not required). The SIM card must remain in the phone until handover to the social worker, who will ensure that the process advised by Evidence Matters to remove the SIM is followed.



2. The local authority is seeking funding to provide the parents with replacement phones until their own phones can be returned to them. The local authority will seek return of the phones from Evidence Matters as soon as possible after the download.

7.3 The social worker initially arranged to collect the parents' phones on 2 April 2025. The social worker subsequently agreed to collect the phones on 3 April as the replacement phones ordered by the LA were not available until this date. Neither had their relevant phone: the father claimed his phone was stolen from his car on 30 March 2025 and the mother stated that she was given a new phone for Eid (29-30 March 2025) and had therefore removed her sim card, placing the same in a new phone. A police report in respect of the father's alleged stolen phone is at [H64-65].

152. The following comes from a case note of 3 April 2025 (my emphasis):

[F37]

Meeting with F:

...

I asked F whether he could show me that his apps were open and he showed that his facebook and whatsapp was open. I asked how long he had his mobile phone for and he explained that he has had his phone since Sunday 30th March 2025. He explained that he went out for a meal and his phone was on charge in his car. He mistakenly left the car window open and the phone was stolen. He filed a police report with Thames Valley Police...

...

Home visit to C:

...

Your mummy shared that she was well. I asked your mummy if i could check that her phone apps were open and she explained that for Eid your uncle [ ] brought her a mobile phone and that she has taken out her sim card from her old phone and placed this into her new phone.

I asked why she changed phones when she knew that i would be providing her with a replacement phone and your mummy said that " i need my phone, my son goes to school, if there is an emergency, i need my phone on me".

153. The Mother's explanation for changing phone in April 2025 was (my emphasis):

[C210-211]

I have never done factory resetting on my phone. I don't even know how to do that. I did a smart switch on 01/04/2025 to copy data from my Samsung Galaxy S22 Plus phone to the Samsung Galaxy S24 Ultra phone which I'm using temporarily. This was to give me access to important apps/data such as my contacts, banking, emails etc.

I am using a phone given to me by my brother, []. This is a Samsung Galaxy S24 Ultra. The smart switching transfers a copy of what was on my phone to the new phone. It does not delete anything it only transfers a copy.

5. I was waiting to hear from the social worker about them giving me another phone as was discussed at court. Ana did not tell me until Wednesday after the hearing that she could get me another phone. By that time, my brother had already given me another phone to use.

154.The Mother's explanation differs slightly from the Maternal Uncle who said "On the day of Eid I gave M a Samsung S24 Ultra to use temporarily while her Samsung S22 Plus was expected to be taken for forensic checks" [C201-C202]. The Mother's evidence tends to suggest a gift, the Maternal Uncle's a loan although I note it depends on the interpretation of "given". However, the evidence needs to be seen in the context of the surrounding circumstances. There was this exchange in cross-examination of Ms Otshudi on behalf of the Mother:

Q There was discussion at court before the phone was handed over about her brother providing her with an alternative phone and she had had a discussion with you about that and indicated to you she'd give you her phone and he would give her one for Eid, that's what was discussed at court

A Absolutely not as I wouldn't have endeavoured to seek funding for another phone if M had said that

155.Not only did Ms Otshudi flatly deny the assertion she gave evidence to support that (she would not have sought funding for a replacement) and it is entirely inconsistent with the recitals to the order of 28 March 2025 agreed by counsel for the Mother:

[B160]

3. The local authority is seeking funding to provide the parents with replacement phones until their own phones can be returned to them. The local authority will seek return of the phones from Evidence Matters as soon as possible after the download.

156.If the Mother had said her brother would supply a replacement when at court that would not have been the likely agreed recital.

157. I find the Mother's explanation lacks credibility but in light of the fact her old phone could still be forensically examined and messages were available from the Mother's phone [E42-E43] the Local Authority did not in the end invite me to draw adverse inferences from its replacement but it goes to her credibility generally.

158. The Father said his phone was stolen on 30 March 2025 when he left it in his car with the windows open whilst he went to buy pizza [C204-205]. Leaving it in the car is somewhat inconsistent with his evidence (given when asked about making deliveries from his own takeaway business) that he always had it with him. Further, there are two inconsistencies between the Father's account of this to me and that given to police. To me he said that he left the phone in the car for 15 minutes before going back and discovering it was stolen. In his statement he said he was prompted to return to his car whilst waiting for the pizza to be made by seeing someone else on their phone [C208/2]. He told me the car was not parked directly outside but in the car park outside the parade of shops. To the police he is reported to have said the car was in fact directly outside and that he did not discover the phone was missing "until an hour later" [H65]. Although English is not his first language the police recorded not just it was an hour later but that "the victim has not noticed this straight away". Whilst I can see how the officer taking the report may not have got the "directly outside" correct it is more of a stretch to think the time away from the phone was taken incorrectly given there were two consistent elements to this in the police report.

159. Accordingly, I consider that on balance I am entitled to draw adverse inferences from the unavailability of the Father's phone. I consider the device was not in fact stolen and he has not told the truth about this. I consider it was an attempt to conceal evidence. The fact that, with one exception, nothing incriminating was found in messages between the parents is irrelevant. I find that the Father thought something incriminating might be found so has fabricated the evidence he has now given.

160. The one piece of incriminating evidence that was found on the Mother's phone was of a message from the Father saying "I come 23.00" on 27 December 2023. The Father could simply give no explanation for this and on balance I consider, as suggested to him, it was him telling the Mother he was coming to her home at 23.00. I note that he is unlikely to have been meeting the Mother elsewhere given C would have likely been in bed. It is possible that a relative was looking after him but that was not the Father's answer.

#### *Cell site data*

161. There are 2 aspects to the data analysis. First is colocation data on which Evidence Matters reports:

[E70]

10.11. Based on instances of mast activations, within 500m and within five (5) minutes for voice calls, text messages and data sessions, I have identified just twelve (12) instances of potential colocation on two (2) separate dates; one of which is the [] Hospital mast on 9th December 2024.

162.I would add to this summary that the 12 identified colocation instances were at 2 locations, neither of them at the Mother's home and the Local Authority accept the one in Slough is consistent with both parents attending a core group meeting and the other, at a hospital, coincides with the Father visiting the Mother when she was at hospital with back symptoms. Neither colocation events are therefore significant to this allegation (although are to credibility as noted above).

163.The second aspect relates to the location of the Father's phone but in the absence of a colocation match (i.e. no evidence the Mother's phone was connected to the same cell site within the parameters of the search). The relevant Evidence Matters evidence is (with my emphasis):

[E59]

9.4. The red arrows are a pictorial indication of the direction of cell service for those cells likely to provide a service at or around [M's address] and are not an accurate measurement of the extent of the service. It should be remembered that the phones could be at [M's address] whilst connected to these cells, but they could also be at any other location served by the cells, either together or separately. This is not evidence that one or both phones are at [M's address].

9.5. MAP 2 shows all the masts connected to by the phone for [M's phone] between 09:29 on 23rd April 2024 and 12:24 on 5th March 2025.

9.6. MAP 3 shows the same call data records as a 'heat map' with the most used mast shown in red. This shows that the most used mast for [M's phone] is (4G) [location identifier A given].

9.7. MAP 4 shows all the masts connected to by the phone for [F's phone] between 17:24 on 12th May 2024 to 23:42 on 6th March 2025.

9.8. MAP 5 shows the same call data records as a 'heat map' with the most used mast shown in red. This shows that the most used mast for [F's phone] is OPPOSITE [address given]. This mast is south of the M4 and would not provide a service at or close to [M's address].

9.9. I identified two hundred and eighty eight (288) billing events where [F's phone] is using either the (4G) [location identifier A given] and [location identifier B given] or the [location identifier C given] masts which could provide a service at or to the mother's address in [M's address]. I produce a schedule of these as exhibit SV/25149/02.

9.10. This is not evidence that the [F's phone] is at the mother's address and the phone could be in any other location served by the masts, however it does not preclude the possibility that it is.

164. One point raised on behalf of both parents is the absence of colocation data on a cell site accessible from the Mother's address. There are a number of possible explanations for this. First the parameters of the search may not have captured it. Evidence Matters record:

[E71]

10.15. It is equally possible that there are other times when the two phones could be together but simply aren't being used within the five (5) minute window used for the colocation query.

165. So the phones may not have generated a billing event within 5 minutes of each other.

166. Secondly, if the parents were in fact together the Mother would not have had a need to contact the Father so her phone may not have been used.

167. Thirdly, if either or both the handsets were connected to a local wi-fi signal they may have used that in preference to a cell site. This may have been for both data and wi-fi calling. I am entitled to take judicial notice of the fact there would be such a preference in order to conserve pre-paid or contracted inclusive data or minutes/texts on a calling plan.

168. Fourthly, the phones may have been turned off.

169. This location analysis has very important limitations:

- a) The Father's device having gone into range and generated a billing event may have then gone out and back in to range of the cell sites rather than staying in there continuously although a more granular analysis (see below) can rule out those occasions; and

- b) There is no evidence of the coverage of the relevant cell sites so no very good analysis can be made of whether the Father had reason to be within range other than visiting the Mother's home.

170. That said, from the schedule, there are:

- a) 116 days within the period 16 May 2024 to 23 February 2025 when the Father's phone was in range;
- b) Some of the durations are quite lengthy some in excess of 10 hours;
- c) Many are at weekends; and
- d) There is some evidence of being in range soon after a social work visit.

171. I will consider (a), (b) and (c) in more detail below. In respect of (d), when Ms Otshudi was giving evidence she said the 116 days coincide with 1-2 days after social work visits or at weekends and social work visits are "rarely twice in a week" and were not generally at weekends. Ms Burns produced a schedule of social work visits. She also identified, accurately, that the majority of the first billing events on a day when they occur were in the evening (she said "more than 100" of the 116), the implication again being at a time when social work visits were unlikely.

172. In closing I asked counsel for the Local Authority to identify specific instances relied upon where it was said there was a suspicion of a visit to the Mother's home soon after a social work visit, i.e. at a time when another visit was unlikely. She identified 7 instances which I set out below. The dates and times of social work visits was not disputed. The connection to the cell site is evidenced from the Evidence Matters report:

Date	Social work visit time	F's phone first connected to cell site	Page reference
16/7/24	17.00	21.41	[E81]
25/7/24	17.15	19.54	[E81]
30/7/24	Not known	20.32	[E81]
23/9/24	17.30	18.49	[E82]
3/10/24	15.45	18.15	[E83]
31/10/24	14.30	20.11	[E83]
2/1/25	15.15	19.15	[E85]

173. More compelling evidence is available in relation to (a), (b) and (c) above but first it is important to review the innocent reasons there might be for the Father's phone to connect to a cell site which serves the Mother's home.

174. When Ms Otshudi was giving evidence she was asked about the possibility of the Father visiting family members in the area and she said the Maternal Grandparents are in [town given], the Maternal Uncle near [same town] and whilst the Maternal Aunt is near the Mother she "can't see any reason for the Father to be visiting her" and that was consistent with the Maternal Aunt's later evidence (she said since 2022 "I haven't seen him apart from meetings at the council"). Ms Otshudi was not aware of the Father having any relatives in the UK save in [city given] and [town given], i.e. not in the vicinity of the Mother.

175. The Father's evidence on the point was superficially compelling. He runs a takeaway business and although it is some way from the Mother's home the business makes deliveries to her local area and he carries out some of the deliveries. However, when that is analysed it begins to look a much less plausible explanation:

- a) Despite being the owner of the business he asserted he would do deliveries;
- b) Yet he had two delivery drivers between them covering the delivery hours of the business from 5pm to 3am on Sunday to Thursday and 5pm to 4am on Friday and Saturday;
- c) The business also offers delivery via Uber Eats, Just Eat and Deliveroo and they have their own delivery drivers;
- d) Despite covering a wide geographic area there seem to be a large number of billing events in proximity to the Mother's home; and
- e) He generally slept in on Sunday mornings as a rest day.

176. More compelling still is the length and times of some of the connections to the cell sites serving the Mother's address. I have identified the following in particular, there may well be others but it is not proportionate to go further than this:

Date	Connection start	Connection end	Page reference	Comment
29/5/24	09.21	21.21	[E80]	A significant proportion of this 12 hour single data billing event is within non-delivery hours for the takeaway
16/6/24	11.59	14.55	[E80]	The entirety of this single data billing event is within non-delivery hours for the takeaway

29/6/24	13.55	23.21	[E80]	3 hours of this 9 hour single data billing event is within non-delivery hours for the takeaway
28/7/24	09.01	20.59	[E81]	A significant proportion of this 11 hour single data billing event is within non-delivery hours for the takeaway
2/9/24	05.01	09.57	[E82]	The entirety of this almost 5 hour single data billing event is within non-delivery hours for the takeaway
16/9/24	18.01	20.53	[E82]	Although this single data billing event is within delivery hours it is almost 3 hours which is not consistent with making even multi-drop deliveries
15/10/24	23.38	11.35 (following day)	[E83]	A significant proportion of this almost 12 hour single data billing event is within non-delivery hours for the takeaway
22/12/24	06.39	18.37	[E84]	A significant proportion of this almost 12 hour single data billing event is within non-delivery hours for the takeaway
25/12/24	02.43	04.48	[E85]	Some of this 2 hour single data billing event is within non-delivery hours for the takeaway

177. The Father was specifically asked about 2 September 2024, a 12 hour billing event, as an example and asked why he might have been in the vicinity of a cell site from which a connection can be made from the Mother's home and said "I don't have anything come to me right now". Similarly he was taken to Sunday 22 December 2024, an almost 12 hour billing event and a period mostly outside delivery times and on his day off. Again the Father could give no explanation.

178. Evidence Matters have also produced an analysis of call log data which is described in this way:

[E58]

8.2. I produce as exhibit SV/25149/01 a schedule of the communication between [M's phone] and [F's phone], [numbers given]. The colour of the 'event type' indicates which party call data records the event is within.

179. The exhibit records that:

- a) On 29 May 2024 at 10.28 the Mother called the Father whilst her phone was connected to one of the cell sites serving her home [E90];



- b) On 16 June 2024 at 14.22 the Mother called the Father whilst her phone was connected to one of the cell sites serving her home [E92];
- c) On 29 June 2024 at 14.01, 14.16, 14.58 and 17.05 the Mother called the Father whilst her phone was connected to one of the cell sites serving her home [E93];
- d) On 28 July 2024 at 16.20 and 20.46 the Mother called the Father whilst her phone was connected to one of the cell sites serving her home [E95]; and
- e) On 2 September 2024 at 09.29 (twice) the Mother called the Father whilst her phone was connected to one of the cell sites serving her home [E99].

180. In other words on 5 of the 9 instances of the Father's handset being connected to a cell site providing a service to the Mother's home the Mother's handset also connected to a cell site providing a service to her home. This does beg the question why these were not flagged up as colocation events by Evidence Matters but that may be because the handsets were connected to different masts or perhaps the search parameters were limited to within 5 minutes of the first connection (noting that the Father's data connections in the above 9 instances were in excess of an hour) so may not have met the search query.

181. What I draw from this is that there is evidence of multiple occasions when the Father's handset was connected to a mast serving the Mother's home without any real explanation offered for the Father being in that vicinity.

#### *Analysis*

182. As counsel for Mother and Father reminded me there have been no sightings of the Father at the Mother's home since the initiation of the last proceedings in 2021, despite a plethora of announced and unannounced visits.

183. However, I bear in mind the following matters:

- a) As I found above, in October 2023 B accurately reported the Father was present in the Mother's home when B visited her;
- b) On 27 December 2023 the Father sent a message to the Mother saying "I come 23.00" which I found was him telling her he was going to visit her home at that time;
- c) The parents delayed signing the renewed written agreement between October 2023 and January 2024 without good explanation;
- d) At various times between January 2024 and October 2024 the Mother delayed answering the door to social work visits;
- e) C reported the Father living in the home on 30 January 2025;

- f) The Mother has failed to give a credible explanation for the presence of two adult toothbrushes in the home on 6 February 2025;
- g) The Father fabricated the explanation for the loss of his phone in April 2025; and
- h) The Mother attempted to mislead the social worker about whether she met the Father at hospital on 9 December 2024.

184. When I add that evidence to the evidence from the cell site analysis I am drawn to these conclusions on the balance of probabilities:

**In October 2023 the Father was present in the Mother's home and on numerous occasions between 29 May 2024 and 5 January 2025 the Father visited the Mother's home. The parents have lied when they have denied this.**

## Threshold

185. I am satisfied these findings meet the threshold in section 31(2). There is a risk of significant harm to C arising from the Father coming in to unsupervised contact with C in circumstances where the Father has sexually abused his sibling and neither the Mother nor Father accept the findings and the Mother has not engaged in sexual abuse work to keep C safe.

## Welfare checklist

186. I now turn now to the considerations under section 1(3) Children Act 1989.

### Physical, emotional, educational needs and age, sex and background

187. Ms Riaz records C to be energetic and playful but struggles to communicate verbally, in fact "he is able to say a few words but cannot string sentences together" such that "it is difficult to understand C's experiences and ascertain his views, wishes and feelings" [C9]. A referral for autism has been made, there has not been recent improvement in speech and language [C10].

188. The update from Ms Otshudi is that:

[C155]

C has made limited improvement since he has been at [] Primary despite the marked improvement in his school attendance. Staff are not seeing any improvement in C's speech, language and communication. He still does not talk and is only able to use singular words to communicate at some points. He cannot read and the writing that is in his homework book has been copied, he is able to copy words but does not really comprehend what it means.

189. There is no outcome from the autism assessment referral as yet.

#### Wishes and feelings

190. Noting the speech and language delay recorded above Ms Riaz recorded C “seems to enjoy living at home with his mother” [C9] and to an extent C has been able to communicate that he is happy at home with his mother and happy at school [C17] and Ms Riaz concluded it would be reasonable to assume he would wish to remain in M’s care [C18].

#### Capability of parents: Father

191. I consider the Father’s position first because it feeds into the assessment of the Mother. The Father has not been residing in the family home since March 2021 and the previous proceedings which ended in 2022. He does not seek to care for C but supports the Mother doing so.

192. Much of what is already said above is relevant (allegations 3, 4, 5, 10 and 11) and I will not repeat it. I have also taken account of the following evidence:

193. From the psychological report of Dr Holloway in the previous proceedings:

[J502/6.1.9]

There is no evidence that F poses a sexual risk to male children. Therefore, in terms of sexual risk, I am reasonably certain that F would continue to pose a sexual risk to A but does not appear to pose a sexual risk to B or C.

194. However:

[J502/6.1.11]

F’s denial of committing sexual violence also has emotionally harmful implications for B and when older, also for C. Both B and C will be exposed to the account adopted by F, that he did not sexually assault A (and was innocent of the conviction of sexual assault for which he was found guilty). This stance will emotionally harm the children as they will be asked to believe that A has made false allegations against their father.

[J503/6.1.11]

It is also reasonable to consider that a parent who has sexually abused their child will have a number of psychological factors that could potentially present emotional and sexual risks to children in his care, even if these are not immediately evident.

195. From the risk assessment of Ms Burns:

[AA49]

SCF receive contact reports from the contact centre after each supervised session. It is positively noted that F is consistently attending and on time for sessions, and he engages with C and B in a warm, affectionate manner. It is important to note that play with C during contact is child-led as F's attempts at engaging C in activities is often sporadic and inconsistent. Furthermore, F is reported not to make much of an effort to correct C's behaviour when he is swearing or misbehaving.

...

F has also been observed by professionals supervising contact to have inappropriate conversations with his older son B, telling him to ask his social worker to speak to his grandparents in [], asking him to ask his sister A to come to contact.

[AA55]

I also asked F if he could think about potential emotional harm that C might have experienced because of the conflict and split within the family – with his older siblings going into foster care and no longer living in the home, along with his father no longer living at home. F said C is “happy” and “fine” at home and has “not been harmed”. I attempted to prompt F to mentalise the children's experiences, but F was very dismissive again and said it is “not relevant”.

[AA56]

Whilst C's behaviour is often observed to be slightly aggressive, it is a concern that unsupervised contact with his father may increase the prevalence of these behaviours, due to F's consistent unresponsiveness, as highlighted in contact reports. There is a worry that without professionals to step in to correct behaviour, C's aggressive behaviour would continue and potentially increase. I am also concerned that F would have inappropriate conversations with C also, as he grows older given the fact he has attempted this on multiple occasions with his son B, despite repeated reminders from staff around appropriate conversations to have with his children. Similarly to his brother B, C could be subject to emotional harm, with F placing pressure on him or trying to probe or coach him.

[AA57]

It is concerning that F seems to downplay the seriousness of the crime for which he has been sentenced and does not view himself as an offender. It is also concerning that F believes his crime and the aftermath of which is 'over' from June 2024.

...

Whilst sexual harm work has been undertaken with F, any work is likely to be ineffective whilst he remains in denial...

[AA58]

Whilst it is noted that the allegations of sexual abuse have come from females only, and there has been no evidence of sexual harm towards B or C, it is my view that F would be an unsafe adult to be unsupervised around C because of his extremely troublesome ideas about child sexual abuse and rape.

[AA59]

I am concerned that increased contact may have a negative effect on C, causing him emotional harm, especially as he grows older and begins to understand more of what has happened. The denials, lack of mentalisation and insight into the impact of child sexual abuse, as well as the victim-blaming attitudes could be detrimental to C's emotional wellbeing and safety, as F is unable to identify risk and therefore safeguard appropriately.

196.Ms Otshudi observed that the sexual abuse of A was in the presence of B "with no regard to whether he woke up [] which indicates a lack of sexual boundaries and potential grooming behaviours" and "it remains a significant concern that he has accessed no treatment and has maintained a position of minimisation and denial which is a breeding ground for further offending behaviour." [C160].

#### Capability of parents: Mother

197.Much of what is already said above is relevant (allegations 3, 4, 6, 7, 8, 9 and 11) and I will not repeat it. I have also taken account of the following evidence but what is said below has to be seen against the background of an extremely low level of intellectual functioning and an assessment of moderate learning disabilities [AA29]. This is through no fault of the Mother.

198.Positives from the parenting assessment of Ms Francis were:

[AA91/5]

There are certain positive aspects in M's current parenting such as providing a clean-living environment, a healthy diet, good enough basic routine, good school attendance, ability to seek medical advice, positive support from family members and positive, warm interactions between C and M.

[AA91/7]

M is currently able to meet C's needs to a satisfactory standard with support from her family members. However, I have concerns about her ability to anticipate and respond to C's evolving needs in the future and to safeguard him from potential risks.

[AA95/25]

I have noted positive interactions between M and C.

199. When Ms Burns gave evidence she confirmed the Mother was enthusiastic about C attending afterschool clubs but when asked if she had an understanding of why that is necessary she said she was not sure.

200. Negatives were:

[AA93/15]

Unfortunately, M remains steadfast in her views in relation to the risk of sexual harm posed by F from what she had shared with Mr Ahmed (PAMS assessor) and Ms Donna Price (ISW). Mr Ahmed completed his assessment in May 2022 and Ms Price completed her safety planning with M in February 2023. M used same words and expressions that she had used with these experts whenever I approached the subject of sexual harm.

[AA94/16]

M does not accept any of the findings made against her husband. She has verbalised this repeatedly during this assessment that she knows her husband and he would not do anything like that.

[AA94/20]

M may be unable to acknowledge or consider the possibility of F being a sex offender due to the potential repercussions on the family dynamics within the extended family.

[AA96/30]

M was unable to consider any possible scenarios of harm or likelihood of harm in future. For example, M verbalised that she holds C's hand and supervises him in the community now but she was unable to understand or explore the possibility of how she will keep him safe when he

is a teenager and he may not want to hold hands when in the community. M kept reverting to the sentence that she knows how to keep C safe. This in my view is a combination of her learning needs (difficulties with non-verbal reasoning and problem solving skills) as well as her determination to show professionals that she does not need any support.

[AA97/33]

I have observed that M struggles to stimulate two-way interaction with C during a game.

[AA98/36]

The most significant support and learning M requires is understanding sexual abuse, its impact upon a child and how to keep children safe from risk of sexual abuse. However, Ms Price was unable to complete this work and engage M fully with this work. Considering M has not made any progress in acknowledging any of the allegations made by A, I do not see any benefit in providing further support in this direction unless there is genuine commitment from M.

[AA101/51]

There is a factor that I believe impacts her ability to engage with professionals meaningfully. M has significant trust issues with professionals particularly with social workers. This in my view creates a barrier to positive working relationship and engagement. M perceives that professionals are against her or there to criticise her parenting causing her to present as 'on edge' or guarded which hinders open and meaningful communication.

[AA113]

M said that the only help she needs is around admin tasks such as reading letters or filling forms that her sister helps her with. However, I have observed that M called her sister a couple of times during my sessions to clarify some question that I was asking or that she misinterpreted what I was asking her.

201. Neutral, but relevant to consider, are:

[AA100/44]

It was apparent that M relied heavily upon her family members especially her sister and brother. She called her sister during some of my sessions to repeat the questions that I was asking. She even said a couple of times when discussing local authority concerns that she wanted her

brother or sister to answer these questions. M's brother and father support her with appointments as she does not drive. F pays for all the bills and manages finances.

[AA100/45]

M is dependent on F and maintains regular contact with him, particularly concerning financial matters.

[AA112]

It is evident that M has always needed support from her parents and siblings due to her learning needs and they continue to offer her support. She struggled to talk about how she will adapt to meeting C's changing needs in future and that she will ask her family.

M is capable of managing her own and C's day-to-day basic care needs, including cooking, cleaning, school run and shopping. However, she seems emotionally and financially dependent on her husband.

[AA114]

M appears capable of performing basic household chores independently. However, she requires assistance from her family in areas such as managing money, filling out forms, traveling, and communicating with professionals.

202. When Ms Francis gave oral evidence she agreed she "detected there was something of the importance of a cultural influence at work" when the Mother supported the Father, her husband. In relation to sexual abuse awareness work she said "that work was already attempted and the Mother hadn't engaged and the information didn't indicate she was at a stage to be ready for work around sexual awareness." Ms Riaz's evidence echoed that, she said the initial tailored work with Mother came to an end and it was felt there was a lack of engagement and that she had worked with Mother "for nearly three years".

203. The Guardian cross-examined her on whether there was anything by way of family support, Local Authority intervention or outsourced support that could be put in place to enable C to remain in the Mother's care under a Care Order. Her evidence was that "a net of support may work" but there are vulnerabilities in the Mother's support network (minimising and lacking insight into sexual abuse) and it is relevant that the Mother has refused to engage in intervention. I asked if, but for the concerns about insight into risk of sexual harm, C could stay with the Mother in her opinion and she said, "No,



she has picked up on some of the learning so has capacity but ultimately the capacity to protect and safeguard, not just from sexual abuse, we were trying to talk about risks to C from social media and Mother wasn't able to envisage some of those risks or how she would keep C safe."

204. I was concerned about whether there was support that could be put in place to mitigate risk of emotional harm arising from a narrative about the Father contrary to the findings/conviction and Ms Francis said there was some capacity to agree a narrative to be shared with C but she did not think the Mother had the capacity to sustain that, essentially the ability to remember what had to be said as the agreed narrative and ultimately she said, "I don't think she would talk about it or approach that subject with C" and "if it's a narrative that's not right [ie contrary to the findings/conviction] and C is getting mixed messages it would definitely be emotionally harmful".

205. Ms Riaz summarised the Local Authority concerns in this way:

[C11]

C is likely to suffer significant harm under the care of M which includes neglectful parenting, emotional harm and sexual harm due to the risks posed by F.

206. In relation to neglect, her direct observations are that C is under-stimulated in Mother's care, he seems to always be watching a Minecraft YouTube video on arrival with all toys tidied away but then wants to play with professionals when they arrive [C10-11]. That echoes what Ms Francis recorded, that "M struggled to talk about any special activities or fun things she does with C that are their favourite activities or that C is fond of" [AA108]. She recorded Mother being heavily reliant on family "asking for their advice and guidance about most things" and they support her with shopping and travel [C11]. She considered that the Mother was "unwilling to engage and accept that C may have additional needs" including autism; she did not fully co-operate with an autism assessment referral and considers that C will "get better" [C12][C27]. Ms Riaz acknowledged Mother has improved C's school attendance [C16] but says that required persistent prompting and it "took a number of months of professionals having to convince M" for her to engage with signing C up to after school clubs and regularly sign his reading record [C27].

207. In relation to emotional harm she said Mother had been unable to describe emotional needs of a child [C12] and:

[C13]

Professionals have attempted to explore non-verbal communication with M in conversations, but she has not been able to understand, and has repeatedly reverted to her view that he will

talk to her and she knows her son. It is my view that M would continue to struggle to understand her son and respond in an appropriate way, which will harm him emotionally.

208. In relation to risk of sexual harm Ms Riaz considers the Mother remains of the view A was influenced by online contacts to fabricate the allegations against Father and denies the truth of them. There is a risk the Mother will not be able to keep C safe online when notwithstanding the view of A the Mother “consistently puts on Minecraft YouTube videos for C without knowing what the vloggers are talking about or what they are saying” [C25]. Further, given the view taken about the accuracy of the findings/conviction of the Father her opinion is if social care involvement ended the Mother would allow the Father back into the home putting C at risk of harm. As the Guardian says, “M has reported that if C ever did make any reports to her of sexual abuse she would ‘believe him’, despite her position that this would never happen. M has not been able to explain why she would believe C unconditionally when she has so consistently rejected A’s account, despite the Court’s findings” [E20/22]. As to the future she said:

[E20/23]

Many attempts have been made by various experienced professionals over a considerable period to explore these issues, all without any success. It must be accepted at this stage that there is very little prognosis for M to develop insight in this regard. This means that I do not consider she would be able to protect C of her own volition, and at best, this would need to be led and managed by the Local Authority on a long-term basis, with M complying because she effectively knows she needs to, to avoid C’s removal.

[E21/24]

I do consider that she would be more able to accept any allegations made by C if they did not conflict with her own beliefs; i.e. she would respond more appropriately if C told her he had suffered abuse within school or from a stranger, than if he made an allegation related to family. However, this does inevitably leave a deficit in C’s safeguarding within his family and friends’ network.

209. The Mother said:

[C178/13]

I have help from my family when I need it. My sister, [] and brother [] help and support me generally and in meetings with professionals. They are good at explaining things to me.

Sometimes, I find them better to understand than professionals and even the Lay Advocate. My sister and brother are used to how I speak and can understand me more than professionals. They help me with filling out forms if I do not understand them. I speak to them every day.

210. When the Mother gave evidence she indicated she remembered signing the January 2024 agreement but was initially unable to remember what was in the agreement. She was asked about the risk of sexual harm, asked why the Father is unable to live at home she said "Because A made allegation against F, I know that never happened". She was asked about the work she had undertaken on risk of sexual harm with Donna Price and all she could remember was Ms Price introducing herself. She could not remember if Ms Price spoke about the allegations. She was asked by the Guardian's counsel why the Father's contact with C was supervised, the question had to be put in three different ways before the Mother said that the "social worker told them to supervise" and when asked why said "I can't remember".

211. In terms of general parenting ability the Guardian thought two scenarios were possible, either C will have special needs that necessitate a carer who can advocate for him for services or he will "outstrip her in terms of capacity" and she was concerned about both. I asked her what it is that had changed her recommendation now compared to in the last set of proceedings where the same was true. She said the Mother has attempted the work, the specialist sexual harm risk work and general parenting work, but there had been a lack of progress; there was not an awareness of deficits and there was a resistance to intervention. She thought that was brought into sharper focus (my interpretation of her evidence) by C's emerging special needs. She also said:

At the end of previous proceedings there were uncertainties about M's capacity to develop insight and more widely about her capacity to meet C's developing needs however I was mindful of the fact C had been in her care and there was a clear plan of work developed by the Local Authority and my position was there should be a robust assessment after that work, it felt appropriate for C to be given the opportunity to grow up in the care of M if she was able to engage in that work to protect him. We're some time on from that and no progress has been made in that area and I don't think there's a prospect of further progress and remain concerned about M's capacity to adapt her parenting as C's needs change.

#### Capability of others: Maternal Aunt and Uncle

212. In her report of 27 February 2023 Donna Price, who was providing family safety work to the Mother at the time, reported:

[F17]

The strength of [the wider family's] assertions that F is innocent and poses no level of risk would need to shift exponentially before the support beyond that they already practically provide could encompass an understanding of what is required within the context of protecting these children [i.e. B and C] from sexual harm, or likelihood of the same.

213. Ms Francis commented that Mother's siblings and parents have always supported her and understand her learning needs [AA116] and Ms Riaz said that they have engaged well, participating in family network meetings and supporting the Mother and C on a daily basis [C28]. Ms Burns agreed they have "been willing to support with lots of things, transport, going through questions the Mother has, installing a Ring doorbell, protective measures".

214. However, findings were made against the Maternal Aunt by HHJ Marshall who concluded she had discussed her evidence with the wider family who agreed between them to support the parents against A's allegations against the Father, "there was a clear determination from these witnesses to provide the court with a united and predetermined response to the questions asked" [J67]. It is against this background that their commitment to supporting the Mother in keeping C safe should be seen and they "do not fully accept F's conviction and that he poses a risk to C" [AA101].

215. Further, in cross-examination Ms Burns pointed to the minutes of a Family Network Review meeting on 9 August 2024 which recorded that subsequent to the Family Group Conference on 14 June 2024 (or shortly thereafter) Maternal Aunt and Uncle had still "not gone through this work" with the Mother, this being a reference to the information sheets provided to the Mother as part of sexual harm sessions which required regular review by the Mother to aid her understanding. She said she had made the importance of this clear to them. When the Maternal Aunt gave evidence she accepted she had not gone through the information sheets before 9 August 2024 and the Maternal Uncle agreed it as a possibility he had not done so. In her oral evidence the Guardian expressed particular concern about this saying "I was concerned by the extent to which the family members lack insight into the risk, did not appear to have prioritised the pieces of work...not a real motivation within the family". She considered this was likely related to their own assessment of limited risk.

216. The viability assessment records a number of positives for the Maternal Aunt and Uncle: they engaged well in the assessment, showed willingness to work with the Local Authority, they have a well established positive relationship with C [C105] but most importantly they did not believe C was unsafe in Mother's care, they could not identify "what harm C needs to be protected from, besides day-to-day risks", they did not appear to acknowledge C's speech and language delay and did not believe

Father posed a risk to C, A's allegations against him being false [C105]. Ms Otshudi considered "there is a contradiction between [maternal aunt and uncle's] supposed understanding that C needs to be cared for outside of his home and needs to be safeguarded from harm, yet they cannot identify any risks posed to him" [C106].

217. In oral evidence the Maternal Uncle said he did not accept the findings made against the Father in respect of sexual abuse of A "as true" and whilst he acknowledged the conviction for sexual assault of a young female adult was different "based on the character of the Father I believe it isn't true".

218. The Maternal Aunt struggled to answer the same questions. She kept saying she did not know. She did not know whether to believe A or the Father despite the findings (and despite saying she accepted the findings); she said she did not know if the Father was guilty despite the conviction. Ultimately though she said "I don't think he poses a sexual risk to young women and girls".

219. The ability of the Maternal Aunt and Uncle to provide protection is also called into question by the Mother's failure to have informed the Maternal Uncle that she was speaking with the Father every other day on the phone (see above where I consider the Mother's credibility).

220. Further, as noted above in relation to allegation 11 I found the Maternal Uncle's evidence in relation to the parking of Father's car lacked credibility and demonstrated a degree of continued engagement with the Father, contrary to the report in June 2024. As counsel for the Guardian put it in closing "there seems to be a desire to present the Father as not part of the family but that's not followed on the ground". That of course undermines his ability to act protectively or to be a reliable partner with professionals in such protection.

#### [Any harm suffered or at risk of suffering](#)

221. What is set out above feeds into the risk of harm and it is neatly summarised by the Guardian in her final analysis:

[E17]

6. There has been no meaningful shift since the initial analysis was written, and indeed, since the fact finding hearing in the initial proceedings in 2021, in any of the involved adults' positions in respect of risk. F entirely refutes his conviction and the findings made against him. M maintains that her husband has not ever sexually abused anyone and poses no risk, and her family indicate that they do not believe F poses a risk of sexual harm, but that they are willing to abide by the Court's expectations and any safety plans.

7. Within this context, it remains impossible to properly explore the concerns with M, and scrutinise any of her assertions about being able to protect C. It is somewhat unclear to what extent these conversations are hindered by M's cognitive difficulties, and to what extent there is an emotional/psychological obstacle for her in engaging in these discussions.

8. Given this, and M's apparent lack of willingness or motivation to explore these issues, there remains significant concerns about how she could effectively safeguard C; primarily from the risk posed by his father but also in a wider context.

222.As the Guardian identifies any breach of the written agreement "would pose an even more significant risk to C" [E17].

223.In her oral evidence she said she was "extremely concerned about the risk posed by F and what that means for C in terms of exposure to sexually abusive behaviour". That was a reference to the fact that B was present in the room when the Father sexually abused A. She was also concerned about "M's capacity and the wider family to protect him", about "M's ability to protect him from risk of sexual harm due to a lack of understanding and insight" in particular because although the Mother says she would believe C if he made an allegation "the evidence shows that both A and B have been disbelieved or accused of lying" that is to say A in respect of the findings of sexual abuse made and B in respect of his report of visiting M's home. She expressed further concern about neglect by reason of the Mother's lack of general parenting capacity as explored above.

#### [Likely effect of change in circumstances](#)

224.There will be a risk of harm in being separated from his Mother, an arrangement that C has known all his life. This is recognised by Ms Otshudi in her written evidence [C159] and in oral evidence she agreed a change of placement and school "would be monumental". Her evidence was of a potential placement which would enable C to remain in his current school at least in the short term which might minimise some of the effect. The Guardian's opinion was that the "emotional impact of a move to foster care is likely to be very significant" [E24/39].

225.Ms Francis considered how that might be mitigated in her oral evidence and she said "transition is always a very difficult aspect" but professionals can support C in terms of pictures and stories but it needed to be a group effort. When Ms Riaz was asked about it she agreed separation would inevitably have a significant emotional impact but that could be mitigated by a gradual transition, seeing the Mother on certain days whilst building attachment to a new home and carers. She developed that in answer to questions from the Guardian saying that initially C could go to new carers at various times

of the day/routine for C to get used to the setting and new carers and that could include them taking and collecting from school and then moving to overnight stays in the second week, increasing in the third week but that would depend on how the Mother responded, if she was to become extremely emotional that may have a bearing on the move but she could be assisted by visual aids in that time period.

226. Interestingly Ms Riaz said that Mother's emotional attunement was lacking such that in the longer term she did not consider separation from the Mother would have a detrimental effect on C's emotional welfare. When the Guardian gave evidence I asked her about that view and she said:

The relationship between C and M is close, but there is not the level of deep emotional engagement or connectiveness that you might see because I'm not sure C and certainly M have the capacity for those more complex and deeper rooted connections; I'm not sure the extent to which he tells her of his worries. That is a function of C's special needs and M's learning disability.

227. She was aligning herself with the social worker's assessment.

228. In the course of the hearing and at my request the Local Authority prepared a transition plan in the event I made a Care Order and approved the care plan of separation. It set out immediate removal because of a flight risk with 3 hours contact on day 1 post-removal, 1.5 hours on day 2, two 90 minute contacts the following week in addition to family time, two the next week without family time, one the following week in addition to family time then 1 and then family time as currently for Father and siblings.

229. The rationale for immediate removal was that there is an evidenced inability on the part of the Mother to engage in partnership working. Ms Otshudi appears to rely upon allegation 11 and the Mother's lack of acceptance of risk of sexual harm and engagement in mitigation of that. She said she was concerned there was a flight risk and if I were to make a Care Order and approve the care plan the following day would be Friday of half term followed by the weekend so there would be three days when C was not in school so this potentially protective factor would be missing.

230. The Guardian was asked about whether possible autistic spectrum condition would result in a change being more difficult but quite rightly the Guardian focused not on the diagnosis that might be given but the practical effect of any neurodivergence. She said C is not a child she has seen struggle with managing change.

### Range of powers

231. Ms Francis was asked to consider the harm of C being removed from Mother's care and agreed her professional view was that was outweighed by the harm of remaining in Mother's care.

232. I found the Guardian's observations set out below of significant assistance when weighing up the options:

[E23/37]

Realistically, whether C remains in M's care or is moved into foster care, he will inevitably experience continued social care involvement long-term, if not for the remainder of his minority. This is a considerable intrusion into his life.

[E24/38]

There is also the risk of a further set of proceedings should concerns increase as he grows, and the more nuanced, complex aspects of parenting overtake the 'basic care' elements which M is more familiar with.

[E26/49]

I am clear that there could not be any assurance of long-term adherence to safety plans without the ongoing intervention of the Local Authority in the most significant way. A Supervision Order would be wholly insufficient; I cannot envisage a time when the Local Authority would feel confident in stepping away and allowing the risk to be managed within the family.

233. In cross-examination it was put to Ms Otshudi that there was a risk of sexual harm at the conclusion of the last proceedings but the care plan was not for removal, why is it now? Ms Otshudi's evidence was:

I think the fact that M's insight has not shifted is a significant block and it was anticipated that for example M increasing insight would enable B to return back home which was the plan at the time so the fact that there's been no progress is very significant because it highlights the same risks then are present today. It also underscores M prioritising relationship with F.

234. I should add that the purpose of the last final order (a 12 month Supervision Order) was for the work to be done. There would not be the same purpose this time. The work has been attempted and not succeeded. B has not moved back home and, on the Local Authority's case, C remains at the same risk of harm. Ms Otshudi went on to say all that could be put in place under a Care Order at home



would be that which has been tried already, she said, “Nothing we haven’t tried already, welfare visits, Family Support Worker, education, I don’t think there’s anything else.”

235.I found the Guardian’s oral evidence on this point particularly helpful. She said:

...I’m worried about the level of professional scrutiny that has been required and what that means for the rest of C’s minority. Long term foster care would look very different with 6 or 12 weekly social work visits, it’s much more light touch than announced and unannounced visits.

## Holistic balancing exercise

236.I now come to consider the balancing exercise that is required by *B-S*.

### Realistic Option 1: No order or Supervision Order

Factors in favour	Factors against
Remain with M	Risk of neglect
Probably consistent with wishes	Risk of emotional harm
	Risk of sexual harm
	Likely some ongoing Local Authority involvement to ensure compliance with written agreement
	Limited or no engagement with work envisaged under the previous Supervision Order

### Realistic Option 2: Care order at home

Factors in favour	Factors against
Remain with M	Risk of neglect
Probably consistent with wishes	Risk of emotional harm
	Risk of sexual harm
	Becoming a looked after child for his minority
	Ongoing intrusive level of social work involvement to ensure compliance with written agreement
	Risk of further proceedings should the written agreement not be adhered to or the deficits in Mother’s parenting become more marked as C matures

### Realistic Option 3: Care Order with long term foster care

Factors in favour	Factors against
Safe from harm	Separation from M

Needs met	Probably inconsistent with wishes
Less intrusive level of social work involvement than under a Care Order at home	Becoming a looked after child for his minority

### Comparison of Options

237.I do not consider it would be in C's welfare interest to make no order or a Supervision Order. The matters required to be addressed at the conclusion of the last set of proceedings have not been advanced. It is difficult to see what difference there would be now.

238.As between the two different options under a Care Order in light of my findings that the parents have breached the working agreement even with a high level of Local Authority involvement there is a very significant risk of harm if C remains at home. Even if that were not the case the absence of the family as an effective protective factor, the possibility of future proceedings and the likely higher level of intrusive Local Authority involvement in the case of a Care Order at home I would in any event have concluded that removal was, on balance, in the welfare interest of C.

239.I have carefully considered the harm that separation will cause C. It can be mitigated to some degree, the long term effect may not be as great as it could have been but it will be significant. However, when I balance that against the risks to C of remaining in the Mother's care as set out above I conclude the balance falls on the side of removal.

### Contact

240.There was very little evidence on contact arrangements but the Guardian did recommend exploration of supervised community contact between C and the Father. The Local Authority have agreed to consider this.

241.In relation to the Mother's proposed contact (every two weeks) the Guardian thought this was right when balancing the need for time with the Mother and the need to develop relationships in the foster placement. She commented that what is recommended is "fairly unusually high". There was no challenge to this.

### Conclusion

242.In light of the above analysis I make a final Care Order pursuant to section 31 Children Act 1989 and approve the care plan.

243.I wish to conclude by expressing my thanks to the social workers I heard from, both in terms of their preparation and the manner in which they gave evidence which was clear, focused and

thoughtful. I am also very grateful to the Guardian for her continued involvement in C's case notwithstanding her departure from Cafcass. I have found it of very significant benefit to have that continuity and I found her evidence exceptionally helpful in addressing the nuances of this case.

244. Lastly, should C come to read this judgment in due course I would want him to be aware that his Mother loves him very much and has fought for him to remain in her care but sadly her limitations, largely not of her own making, mean remaining in her care is just not possible for welfare reasons.