

IN THE FAMILY COURT AT MEDWAY

CASE NO: ME23C50011

Neutral Citation Number: [2025] EWFC 155 (B)

IN THE MATTER OF THE CHILDREN ACT 1989

BEFORE:

HHJ CLIVE THOMAS

BETWEEN:

KENT COUNTY COUNCIL

Applicant.

- And -

M

1st Respondent.

- And -

**T, R, G and D (Minors acting by their Children's
Guardian).**

3rd – 6th Respondents

Legal Representation.

Miss Round, (Counsel), on behalf of the Applicant Local Authority
Mr Bennett, (Counsel), on behalf of the First Respondent Mother
Mr Thornton, (Counsel), on behalf of the Third Respondent Children.

Judgement.

Judgment Date: 1st June 2025

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Introduction.

1. The court is concerned with the welfare of four children who I will refer to as T, R, G and D. T (a boy) is aged 11, R, (a boy) is aged 9, G , (a girl) is aged 8 and D, (a girl) is aged 7. The children have been in foster care since January 2023. The mother M is the first respondent. The children's father has played no part in these proceedings. This judgment follows a four-day trial that took place between the 27th and 30th May 2025. The local authority's care plan is for the boys to be transitioned back into the full-time care of M. A process that should be completed by August of this year. During the transition period the boys are to be subject to a s20 agreement and upon complete reunification there is to be a 12-month supervision order. M's case is that all the children, beginning firstly with the boys, should be transitioned into her care over a period of seven weeks. The guardian agrees that the boys should be transitioned into the care of M. The guardian's final recommendation to the court was that the proceedings for the girls should be adjourned for a three-to-four-month period with a view to a return to court to determine if the girls at that stage could be reunified with their mother and siblings. The local authority adopted the guardian's position in the event that the court did not

accept their primary position. The real issue is therefore the future placement of G and D.

Summary of Judgment.

2. All of the children should be returned to the care of their mother over a period of four months with the boys transitioning prior to the girls. During this transition period M has agreed that the children will be accommodated by way of a s20 agreement. I will leave it to the social worker and guardian to determine the detail as to that transition plan. The children will be placed in M's care under a 12 month supervision order. It is essential that the level of support offered to M and this family during this period is in accordance with the recommendation of Miss Holland. The local authority must ensure that the Supervision Support Plan that appears on page 927 is in accordance with Miss Holland's recommendations.

Background facts.

3. In June 2007 M received a reprimand for common assault. In March 2008 M received a warning for common assault. In 2013 M began a relationship with the children's father whom she says was emotionally and physically abusive towards her. The couple separated on the 25th February 2019. In April 2012 M was convicted of battery and received a 22 week custodial sentence. In September 2019 M slapped T leaving marks on his face. In October 2022 there was an anonymous referral about M screaming and shouting at the children. In June 2021 a member of the public reported that M misused drugs and was shouting at the children. In July 2021 M was assaulted in the presence of the children by her then partner. In September 2021 the children were police protected as M was "*screaming at her children*". M was arrested for neglect. In October 2021 the children were made subject to Child Protection Plans under the category of neglect. In December 2021 M threatened to kill a social worker if the children were removed from her care. During a subsequent Review Child Protection Conference M was hostile towards the social workers and other professionals.
4. In January 2022 the police attended the home as M was threatening to kill her neighbours. Concerns were raised about the poor state of the property which was said to have been dirty and cluttered. In March 2022 concerns were raised about the children's poor attendance at school and M's uncooperative behaviour. The children were noted to have unexplained bruises. On the 24th August 2022 M was assaulted by her partner JH.
5. On the 16th September 2022 M sustained injuries from a male AG this was witnessed by the children. M presented as being intoxicated and was aggressive towards the police officers who arrested her. On the 4th October

2022 M was swearing at the social worker in front of the children. On the 19th October 2022 the home was noted to be in a poor condition. On the 25th November 2022 a high risk male JM was seen coming out of the back garden. M denied any knowledge of him. The home was described as being “neglectful and dirty”. On the 16th December 2022 there was a domestic abuse incident between M and her partner where M sustained significant injuries this was witnessed by all four of the children. T and G were hurt whilst trying to defend their mother. On the 6th January 2023 M was arrested for harassing and being verbally aggressive towards her neighbours. M was thought to have been intoxicated.

6. On the 24th January 2023 an ISO was made. M refused to allow social workers to visit and she allowed her children to have contact with JH in breach of a working together agreement. On the 26th January 2023 an ICO was made with the children to be removed from M’s care. M resisted the removal and was hostile and offensive. On the 2nd January 2025 G and D were moved to separate foster placements.

Threshold.

7. Threshold has been agreed. In essence M accepts that she has mental health issues, that she has exposed her children to her domestically abusive relationships, that she has neglected the children’s care, (poor home conditions, poor school attendance, failure to ensure attendance at medical appointments), that she has misused drugs/alcohol and that she has been hostile to professionals, (34).

The evidence.

8. I have considered all of the documents contained within the trial bundle. Subsequent page numbers refer to the pdf document.

M’s alcohol and drug testing results.

9. Between July 2022 and April 2025 M has been extensively tested for cannabis cocaine and alcohol consumption. In essence those results reveal that no cannabis was used between July 2022 and January 2023. Cannabis is then repeatedly being used at a high level up until the middle of March 2023 . From March 2023 to April 2025 the test results show active use of cannabis.
10. Between July 2022 and March 2023 the test results show a medium usage of cocaine. Between March 2023 and October 2024 cocaine was detected but it was not possible to determine if this was due to the active use of cocaine,

passive exposure to cocaine, residual levels from the previous use of cocaine or a combination of all three. Between December 2024 and April 2025 the test results show no active use of cocaine.

11. The testing laboratory DNA legal have provided a letter dated the 27th February 2025 in response to a number of questions seeking clarification. Regrettably this letter fails to provide clarity and instead achieves the exact opposite. The local authority's case on M's use of cocaine is that they accept that they cannot establish on balance of probabilities that M has used cocaine other than between the period July 2022 and March 2023. This chimes with M's evidence that she last used cocaine on the 9th February 2023. The issue for the local authority is the last occasion when M was associating with users of cocaine. In her oral evidence M says that the last occasion was Xmas 2023. The local authority pray in aid this letter in support of their contention that M was associating with users of cocaine during the spring/summer of 2024. In the letter the following is stated: "*for the more recent five cases, the results demonstrate that M has had an association with cocaine, (ie has used and/or been exposed to the drug). The results are suggestive that further use most likely occurred during or shortly beforeapproximately the middle of April 2024 to the middle of July 2024*". I am unable to reconcile this opinion with the HST result for that period in which it is said that the results demonstrate a decrease which could be "*attributed to the cessation of cocaine use...between approximately the middle of April and the middle of July 2024 ...or prior use before approximately the middle of April 2024*".

12. Between July 2022 and January 2023 the test results indicate abstinence/low level alcohol use. Between December 2022 and February 2023 the results reveal a chronic and excessive use of alcohol. From March 2023 to April 2025 the results do not demonstrate any excessive alcohol consumption.

Dr Mayer consultant psychiatrist.

13. Dr Mayer has provided reports and addendum reports dated the 24th April 2023, 8th September 2023, 9th February 2024 and the 17th March 2025.

Dr Mayer's report 24th April 2023.

14. Dr Mayer diagnosed M as suffering from complex PTSD and "*harmful use of cannabis, cocaine and alcohol*", (530) . Dr Mayer opined that the PTSD stemmed from M's childhood where she was physically beaten by her mother and stepfather which was then compounded by the abusive relationship with F.

Dr Mayer considered that M's depression, anxiety and emotional dysregulation were features of her PTSD. Dr Mayer's view was that M was *"sensitive to criticism and quick to take offence. She is unable to de – escalate conflict with a range of people, including neighbours and professionals"*, (531).

15. Dr Mayer considered that M had the ability to address her problems, but she would first have to recognise and accept the concerns that had been raised. Dr Mayer noted how M disputed that she could not meet her children's needs, that they were exposed to incidents of domestic abuse and that the home was in a poor condition. M denied having a problem with her temper and minimised the extent of her substance misuse. M also had a tendency to blame others for her difficulties such as her neighbours or landlord. Dr Mayer also opined that M's prognosis would also be influenced by her ability to work openly and cooperatively with professionals, her acceptance of help, the quality of any future relationship, her ability to distance herself from those who are unhealthy influences and her ability to address her substance misuse. Dr Mayer opined that in *"favourable circumstances, meaningful progress can be made over the next 12 months, but it will be a gradual process"*, (532).
16. On the question of treatment Dr Mayer says that it made sense for M to continue to take citalopram for anxiety and depression and that there was a need for long term specialist psychological treatment such as DBT or mentalisation – based therapy. Dr Mayer said that the latter treatment could be accessed via M's GP and that a typical timescale would be six months possibly longer. Dr Mayer also recommended complete abstinence from alcohol for a minimum period of six months *"and sustain complete abstinence from drugs into the long term"*, (534). Dr Mayer said that M should work with CGL, (re substance misuse) and the Freedom programme, (re domestic abuse awareness) and explore the suitability of her current accommodation whilst at the same time developing a supportive network and use community resources.
17. In his addendum report of September 2023 Dr Mayer having had sight of various documents including some of M's GP notes did not deviate from the opinions that he expressed as set out above. In his report of February 2024 Dr Mayer commented upon the therapy that had been recommended by a psychotherapist Mr Kent.
Dr Mayer's report dated the 17th March 2025.
18. Dr Mayer did not re-examine M for the purposes of this report instead he was asked to comment upon a number of documents including the reports from

the psychotherapist Mr Kent and the drug test results. On page 829 Dr Mayer says this:

"I am asked to consider the prognosis for M's mental health, which must include consideration of the therapy that she has undertaken, as referred to in paragraph 30.3 below. Mr Kent stated that M engaged well, and he believed made good progress during therapy. His final report was positive. This is encouraging, and the work that she has done should reduce the risk of further problems with her mental health subject to those factors considered in paragraph 108.2(d) of my first report, where I stated that the prognosis would be influenced by her willingness to engage meaningfully with the help available for her (which she seems to have done), the quality of any future relationship, her ability to distance herself from those who are unhealthy influences, and whether she can address her substance misuse. Overall, I would say that the prognosis is better than when I saw her, albeit qualified by subsequent substance misuse".

Dr Mayer' oral evidence.

19. Mr Bennett took Dr Mayer to his final report where on page 829 he says this: "

(a) The toxicology results are consistent with continuing use of cannabis, which M declared, and cocaine, which she did not, during the course of 2024. The DNA Legal response to questions raised by the parties could be described as equivocal or noncommittal. There was evident reluctance to state when she last used cocaine, or indeed whether the results could be explained by active use, passive exposure or previous use. Merging these results with the previous ones referred to in my first two reports, I would say that there is no evidence of sustained abstinence from cocaine. The other possibility is that the results are due to passive exposure to the drug, which while less likely would still be of some concern, as it would indicate that M is in an environment where others are using the drug. Given her history of substance misuse, it follows that she would then be vulnerable to doing the same herself. I maintain that she has the ability to address this". In light of the most recent HST which shows no active use of cocaine between December 2024 and April 2025 Mr Bennett asked Dr Mayer if he would like to revisit his view that there is no evidence of sustained abstinence from cocaine. Dr Mayer said that the previous tests were consistent with exposure to cocaine and he could not exclude active use. Dr Mayer said that the most recent test was a step forward but he still had concerns that M had placed herself in an environment where cocaine was being used. Mr Bennett asked Dr Mayer if there was from a psychiatric perspective any reason why M could not care for some or all of the children. Dr Mayer said that his response to that question would have to be qualified by the fact that he had not seen M for two years and his view was based upon his reading of the evidence. Dr Mayer said that *"all the evidence indicates that she has made satisfactory progress re her mental health, there is no evidence of active use of cocaine, she*

has benefitted from therapy and has the ability to provide an adequate standard of care for one or more of the children ...but she continues to use cannabis that does or could impact on her motivation or responsiveness ...there are also lifestyle issues she has been in an environment where cocaine has been used...there are cautious grounds for optimism but I cannot go as far as to say there are still not any concerns". Dr Mayer noting that the local authority had ceased funding the therapy provided by Mr Kent said that his continued input was desirable but not essential. Dr Mayer, Dr Bentley and Miss Holland all gave their evidence remotely and each was present when the other gave their evidence. After hearing from Dr Bentley and Miss Holland Dr Mayer considered that Mr Kent's report suggested that he had completed the work that he needed to undertake with M.

20. In response to questions from Miss Round Dr Mayer said that there was a risk that M may substitute one drug/alcohol for another. Dr Mayer noted that M still used cannabis *"she finds it a relaxant so she is still prone to stress and negative emotions...that suggests continuing fragility and vulnerability to further use of substances"*.

Dr Bentley, Doctor of psychology and chartered counselling psychologist.

21. Dr Bentley has provided reports dated the 2nd December 2023 and the 18th March 2025. In the latter report Dr Bentley sets out her views as to the future care of these children. Whilst I have considered the first report it is the March 2025 report that demands greater attention.
22. Dr Bentley recognised the progress that M had made whilst undergoing the therapy with Mr Kent. M's engagement with Mr Kent was noted as being extremely positive and that she had grown a stronger sense of self and had developed an increased level of resilience. Mr Kent opined that M was not considered to pose a risk to the children, (835). Dr Bentley felt that M had made good progress in terms of her therapy and her substance misuse, (although she continued to use cannabis). Dr Bentley also expressed the view that contact with the children was *"generally positive"* with some examples of good and less good parenting, (835). On page 836 Dr Bentley says this:
"I can see evidence of her developing her parenting skills, whilst noting exceptions to time when she has been more overwhelmed, but that generally her parenting seems to be improvising, and she has worked hard to be more consistently available and responsive to the children's needs. Having gone through the therapy there is now good evidence that she is better able to regulate herself and meet her own needs, which will help her place the needs of the children above her own".
23. Dr Bentley had sight of the sibling assessment of Miss Mazula dated the 22nd January 2025. Dr Bentley did not consider that M yet had the emotional

resilience to manage all four children. Dr Bentley considered that M was in a better place for the boys to be returned to her care *“with an undertaking that she continues to address her cannabis use”*. Dr Bentley recommended a gradual transition into M’s care with the foster placement remaining open. If there were no significant concerns which could not be managed Dr Bentley supported the boys being returned to M’s care.

24. Dr Bentley recommended that the girls should remain in their separate foster placements, and they should undertake therapy to try to understand the root causes of the discord between them and to work on their sibling relationship. A family / child therapist who is skilled in working with childhood attachment would said Dr Bentley be best placed to offer this work, (836). Dr Bentley explained that the work should first be done to ensure that the G and D’s individual needs could be adequately responded to. Dr Bentley said that at this point it was not entirely clear what those individual needs were she was, therefore, unable to say if M would have those skills. Dr Bentley recommended 10 – 12 sessions with a review and at that point *“consideration could be given as to whether the girls are better remaining individually placed or whether there is an option for them to return to the care of the mother”*.

25. Dr Bentley also considered that M *“would benefit from undertaking therapeutic parenting work, so that if the girls are subsequently able to be considered for a return to her care she is better placed to understand and manage their needs. I do think that this could be done with the boys in her care”*. Dr Bentley suggested that M may be able to access a free online course such as “Safe Families” or “Introduction to Therapeutic Parenting” which involved a small fee. Dr Bentley also suggested that the local authority may be able to access therapeutic parenting courses. Dr Bentley recognised that it would be difficult for G and D if the boys were to return to M’s care and they did not, (837).

Dr Bentley’s oral evidence.

26. In response to questions from Mr Bennett Dr Bentley accepted that she had not seen the children or observed contact since circa November 2023 and that her updated report was based on the documents that she had read.

27. Dr Bentley considered that M could care for the boys, (with the caveat that M stops using cannabis), as they will be easier to manage. However, G and D have *“significant problems”* and if all four children were placed with M Dr Bentley opined that this would be setting her up to fail which in turn would impact adversely on all the children as the placement with M could break

down and the children could find themselves returned to foster care. Dr Bentley accepted that there was a risk of harm to the girls if they remained in foster care whilst their brothers were returned to M's care. However, Dr Bentley said that the greater risk of harm flowed from a premature move of all the children to M's care with a subsequent breakdown of that placement and the children having to be returned to foster care.

28. Dr Bentley opined that the level of support that G and D require could not be underestimated Dr Bentley said that there was *"sibling work to be doneplacing all the children with M was premature.....the relationship between G and D has not been addressed as yet"*. Dr Bentley opined that a return home for the girls needed to be a long term plan. Dr Bentley agreed that it was *"sad"* that the therapeutic work for the girls that she had recommended in December 2023 had not started *"it should have been in place by now...their relationship has been a problem for a long time...it is short sighted not to have addressed this"*.

29. Dr Bentley accepted that during contact M overall had coped well with the children but added that this was for a limited period in a controlled setting and was very different from caring for the children 24/7. Mr Bennett put to Dr Bentley that M was only using cannabis in the evenings and was planning to reduce it to achieve abstinence. Dr Bentley said that it was *"encouraging that M was committed to getting that done"*.

30. In response to questions from Miss Round Dr Bentley said that she supported the transition plan for the boys to return to M's care over a 3 month period but it had to be established via testing that M had reduced her cannabis use and was not using alternative substances. Dr Bentley's view was that ongoing support from the local authority was essential.

31. Miss Round took Dr Bentley to the following extract from G's care plan, (which is replicated in D's care plan) on page 363.

"During discussion with the therapist (20/05/2025), she stated "while Dr. Bentley envisioned an initial 10-12 sessions, we anticipate that due to the complex trauma the girls have experienced, they are unlikely to be emotionally ready for this level of intensive work in the immediate future. This conclusion takes into account the significant impact of next week's court case will have and regardless of the outcome (return to mother or remaining in foster care), both girls will require considerable support to adjust. A return home would necessitate navigating changed family dynamics after two years of separation, while remaining in foster care would involve accepting this decision and adapting to their "new" life. We are also aware

that Gracie has been experiencing issues with her peers, which is often the case for children who have experienced similar early life experiences. Regardless of the court's decision, they will also face a change in their school environment, and even if they remain at their current school, they will have the normal transition to a new class and potentially new teachers to build relationships with. Therefore, I suggest that any direct therapeutic work on the sibling relationship breakdown should be deferred until both girls have had a period of adjustment following the court's decision and these other transitions. This work is unlikely to be appropriate before Autumn 2025 at the earliest, by which time their living and school situations may have changed again."

32. Dr Bentley's response was *"we need to listen to the therapist when I said 10 – 12 weeks that is just to get to know them the children have to be ready for this work. we cannot force that on them if the therapist is saying that we should respect that. The girls have a lot of issues"*. Dr Bentley said that we do not know how the girls will respond to the therapy and their current therapist does not even think that they are ready to undertake this work adding *"we have hopes but not guarantees"*. Dr Bentley supported the therapeutic parenting training delivered by the Centre of Excellence in Child Trauma as set out in the care plan, (362).
33. Miss Round took Dr Bentley to her report of the 18th March 2025, (834) where she refers to a contact session that took place on the 9th October 2024 where M told G that she had had *"enough of her....she was a horrible little girl"*. Dr Bentley said that this was not an appropriate parenting response, and it raised concerns about M's ability to cope appropriately with all four children on a consistent basis.
34. In response to questions from Mr Thornton Dr Bentley accepted that she did not know the content of the work that was being undertaken with the girls or if what was being provided was relevant to the work that needed to be undertaken. Dr Bentley said that she would have liked to have seen the work that the therapist had given/envisaged giving but that she was only asked to comment upon the papers provided to her. Dr Bentley agreed with the suggestion made by Mr Thornton that *"we do not know what is going on in these sessions and that assumptions are being made that it is of utility"*. Dr Bentley clarified that the purpose of the 10 – 12 sessions recommended in her December 2023 report was to understand the issues between the girls and then to determine what therapeutic work was needed. Dr Bentley said that the issue was not just that of the sibling's relationship it was also as to whether M could provide attuned care. Dr Bentley said that M needed to

undertake the therapeutic parenting course, and this must go hand in hand with the work with the siblings. Mr Thornton put to Dr Bentley that the local authority had said that the work with M would last six weeks and could commence now to which Dr Bentley replied, *“that would be great”*. Mr Thornton suggested that in her original report Dr Bentley had recommended 10 – 12 sessions that would take the suggested three months by which point the boys would be in M’s care. On that basis would it not said Mr Thornton be the perfect time to assess if the girls could be placed with M. Dr Bentley replied *“the sticking point is that the therapist is saying that the girls are not ready to do this work”*.

Dr Bentley’s email of the 29th May 2025.

35. On the 29th May 2025 the court and the parties received an email from Miss Cassidy, solicitor for the child with an attached email from Dr Bentley . There had not been any application to approach Dr Bentley following her oral evidence nor was there any application to rely on this document. Mr Bennett quite rightly raised with the court his concerns as to the appropriateness of Dr Bentley being asked to venture a view in this format and the child’s solicitor then directly emailing this response to the court absent any application and as far as I am aware absent any discussion with the other parties . However, Mr Bennett, sensibly in my view, conceded that in real terms this email did not provide the court with any additional information save for clarifying the likely timescale by which the girls may undertake/complete any therapy.

36. Having spoken to the play therapist Miss Tozer the email contains the following comments:

8. *“Sara identifies that the sibling work could start in the Autumn / Winter as she considers the girls would be ready by then. She then anticipates sibling work to take up to 12 months, and this is probably a minimum. It is essential work if there is to be a rehabilitation plan to put the girls back together.*
9. *Can the girls be supported during a transition plan on the basis they are returning to the mother’s care? No. This is the simple answer. The risks are too great. The therapeutic work needs to be done first. In addition, this is not the type of work that Sara has ever undertaken before, so she would need a lot of external input and supervision.*
Sara did point out the mother has only wanted herself (Sara) to work with the children in the past. She has the view that it is possible mother might withdraw her consent for the therapy if it wasn’t in line with what she wanted. In my opinion, I consider the mother is likely supportive of the therapy but will not want to wait for the time that is needed to make sure any rehabilitation plan is carried out safely and in such a way as to promote the welfare of all the children, and to make sure as much as possible that the rehabilitation plan does not collapse”.

Miss Mazula, social worker.

37. Miss Mazula is the author of a sibling assessment dated the 22nd January 2024. Miss Mazula made use of the “sibling relationship checklist” as recommended by BAAF. This involves a consideration of a number of factors to assess whether siblings have a positive or negative relationship. Miss Mazula used this tool in “*collaboration with observations of others and knowledge of child development to reach a conclusion*”, (790).
38. Miss Mazula noted that since the end of 2023 to the end of 2024 there had been a “*significant deterioration in the relationship between G and D , with frequent reports of the children struggling to treat each other nicely and having regular contact*” (789). Miss Mazula’s recommendation was that the children should remain separated and if placed together this would be disruptive to their “*own emotional, physical and mental health needs and would compromise the stability of any foster placement*”. Miss Mazula reports that two foster carers had felt unable to appropriately and safely care for the girls because of their conflictual relationship, (800).
39. In her witness statement of the 28th April 2025 Miss Mazula said that the plan for G and D to be reunified will be “*considered in the future if therapy is successfully completed and effective in addressing the attachment difficulties in their relationship*”, (253). Miss Mazula said that the local authority remained worried that M did “*not have a big support network*” save for MR and MD. M informed Miss Mazula that if the children were returned to her care they would “*have to put their relationship on hold*”, (259). Miss Mazula considered that initially M was not open and transparent with the local authority as to the identity of MD.
40. Miss Mazula noted that despite “*long standing support from Early Help, Child in Need Plans, Child Protection Plans and an interim supervision order in July 2021 ...she has been unable to sustain change*”, (257). Miss Mazula says that D and G have spoken about the domestic abuse that they witnessed and that they were worried and scared that their mother may be hurt in the future, (259). Miss Mazula refers to a review meeting that took place on the 3rd December 2024 where M is said to have been swearing and shouting and “*belittling of professionals questioning*”, (275). Miss Mazula questions whether M will be able to work with professionals.
41. In cross Miss Mazula did not accept Mr Bennett’s suggestion that M could care for all four children adding that at contact there had been occasions when others had to step in to assist M and if the children were with M there would be no one to step in.

Miss Holland, ISW.

Report dated 7th April 2025.

42. Miss Holland recommended that all four children should be returned to M's care but that this was *"very finely balanced"*, Miss Holland opined that a 12 month supervision order should be made with twice weekly visits for 4 – 6 weeks to be reduced to weekly, and then dependent on progress to fortnightly and thereafter monthly. Miss Holland says that the transition to M's care should be over a period of at least three months and *"needs to be done gradually and very carefully, ensuring that the children's needs are prioritised"*, (882).
43. Miss Holland considered that direct work needed to be undertaken individually with all of the children to ensure that they understand the purpose of the transition plan and that they were given the opportunity to share their wishes and feelings, (882). Miss Holland's view was that *"M and the children must be supported, and it must not be rushed"*, (883).
44. Miss Holland's opined that if T and R were returned to M and G and D remained in foster care this *"would have a huge negative impact on them"*. Miss Holland said that whilst the girls could understand why they remained in foster care they were likely to be extremely upset, and they were not old enough to understand the reasons for such a decision. Miss Holland said that they *"would simply feel that they are being left out and rejected by their mother"*. Miss Holland says this on page 882: *"I support Dr. Bentley's recommendations in what she has set out in relation to therapy for the girls and also therapeutic parenting programmes for M. The Local Authority must evidence that they are willing to continue to fund this and put this in place in order to support M in caring for her children"*. Miss Holland says that she had informed M that she must achieve abstinence from cannabis.
45. Miss Holland says that although she has improved M's behaviour can escalate and her presentation can still be aggressive. Miss Holland considered that M has a *"feisty character"*, and it was important that she and whoever she is allocated to are able to work effectively together and that *"this is the responsibility of both M but also the social worker who is allocated"*, (884). M informed Miss Holland that she wanted to evidence that she can work with the local authority.
46. Miss Holland concludes her report with this paragraph: *"My recommendation for this family is very finely balanced and it is my view that they must be supported."*

M and her children have faced trauma, and they need intervention from professionals in order to work through that. M has made progress during these proceedings but needs on-going support, advice and guidance and I am hopeful that her and her children are given every opportunity to succeed and are supported by the Local Authority in order to do so".

Miss Holland's oral evidence.

47. In response to questions from Mr Bennett Miss Holland said that M could care for all four children but that there needed to be significant support from the local authority *"they cannot be left on a CIN plan under a Supervision Order"*. Miss Holland said that she did not agree with the local authority care plan that there should be a care order for the girls and their future would be subject to the review process. Miss Holland agreed with Mr Bennett that Miss Holland has broadly managed the some of the difficult incidents that occurred during contact. Miss Holland said that being in a contact room for two years is a *"hard environment"*. Miss Holland said that as the girls would not understand why they were not returning home this would cause them emotional harm. Miss Holland said that if M did not have the support of the local authority a successful rehabilitation of all the children to M *"will not be achieved"*.
48. Miss Round suggested to Miss Holland that if all the children were returned to M's care and the placement breaks down that it would have a negative impact on all four children. Miss Holland's response was *"it's hard to say we don't know how each individual will react"*. Miss Holland said that the local authority plan for a review after therapy did not have an end date. Miss Holland accepted that there was a risk of relapse re substance misuse, that M spending time with individuals who use substances posed a risk, that M had not always been open and honest with professionals and that she was slow in divulging information about MD.
49. In response to questions from Mr Thornton Miss Holland did not disagree that a staged return of the girls with the boys transitioning to M's care had some benefits. Miss Holland said *"I think all four should return home.. that is my evidence"*. Mr Thornton asked Miss Holland why she had described her decision as being *"very finely balanced"*. Miss Holland's reply was *"it's a shared concern about her ability to manage... she should be given the opportunity"*.

The mother.

50. In her witness statement dated the 19th May 2025 M accepts *"that when the children were removed from my care things were not good"*, (309). M sets out in some detail the interventions that she has had to date and the beneficial

impact that they have had upon her. M sets out her concerns that if the boys are returned to her care, but the girls remain in foster care the girls *"would be questioning what they did wrong....it will cause detrimental sibling rivalry and probably mean that there will be additional mental health needs"*, (310). M argues that the children should return to her care over a period of seven weeks.

51. In her oral evidence M said that if the children were returned to her care the boys would share a room, and she would give up her room for the girls to share. M said that the last time that she had actively used cocaine was the 9th February 2023 and that she had not been in the company of anyone who had used that drug since Christmas 2023. M accepted that the transition period should involve the boys returning home followed by the girls.
52. In cross M accepted that there had been in the past issues with her ex partners, the use of drugs/alcohol, and honesty with professionals. M said that she had not entered into a romantic relationship with MD until January of this year.

The Guardian.

53. The guardian Miss Steadman has provided a final analysis dated the 23rd May 2025. Miss Steadman summarised the local authorities concerns as : M's domestically abusive relationships, the children's poor school attendance, M's volatile behaviour when interacting with professionals, poor home conditions and M's drug use.
54. The guardian's view was that M had demonstrated that she is able to collaborate with professionals, but this tended to be on her terms and this *"remains an area of concern moving forward"*, (paragraph 9). The guardian commended M for her work in reducing her substance misuse. The guardian also noted that the home was now clean and tidy and newly decorated.
55. The guardian considered that M had a limited support network. M is in a new relationship with MD who *"appears to be a positive and calming influence in her life"*. The guardian noted that M was reluctant to share information about MD as she feared that she would be judged and this may jeopardise the prospect of the children returning to her care. The guardian felt that this *"raises concerns about M working in an open way with the LA"*. The social worker and the ISW had met MD and their view was that he appeared to be a calming influence on M. Police checks have not been undertaken and MD says that he

has been the victim of controlling behaviour in his previous relationship with the mother of his children. MD is reluctant to share information about his own children as he is seeking contact with them and *“he feels that LA involvement may jeopardise this”*, (19).

56. The guardian did not agree with the local authority’s care plan that T and R should be returned to M’s care over a three month period and G and D would remain in foster care under a care order with consideration for their possible transition to M’s care to be reviewed at the three monthly placement and planning meetings. The guardian shared the view of Miss Holland that this plan was likely to have a *“huge negative impact on them”* and that because of their age they would feel left out and rejected by M. The guardian advocated a four-month transition plan that would include G and D. The guardian seemed to be suggesting that the boys should return home first as she makes this comment: *“It will still be difficult for G and D to accept not returning home with their brothers but this could be mitigated to some degree if they understand that there was a staggered approach to them also returning home”*, (paragraph 24). The guardian raised the prospect that during the transition plan M could agree to a s20 or there could be an ICO.
57. T and R informed the guardian that they wanted to return home and live with their siblings. T also told the guardian that he would be happy to remain at his current foster carers if that was not possible. G informed the guardian that she wanted to live with her M and her siblings. When the guardian asked G if she missed living with her sister she laughed and said that she did not. D expressed that she missed living with her sister and that she wanted to be at home with her mother and siblings.
58. Prior to giving her oral evidence the guardian provided an updated transition plan. In her oral evidence the guardian noted that the prognosis provided by Dr Bentley in her email was more negative as it anticipated that the treatment would take a minimum of a year to complete. In her oral evidence the guardian confirmed that her plan for the boys was that they would be transitioned back to the care of M and that by the 5th August they would be living full time with M. The guardian’s recommendation for the girls was that these proceedings should be adjourned for a three or possibly four-month period during which the girls should remain under an ICO. When the matter returns to court in three/four months’ time the local authority and the guardian would then be able to make final determinations as to whether the girls should be transitioned into the care of M. The guardian accepted my understanding that by that point the local authority, the guardian and the court would have the benefit of updated HST, an understanding as to how M

had coped with the boys, and M would have undergone her therapeutic parenting course. The guardian accepted my understanding of Dr Bentley's evidence that she was not in favour of the girls returning to M's care at this stage as it was essential that their sibling relationship was repaired. The guardian accepted that by the three/four month period that relationship would still remain broken as the therapy would not have even begun. In response to questions from Miss Round the guardian said that her approach *"would provide more evidence on the ground....has M completed the course?.....we would have a little more information"*. The guardian considered that an ICO was necessary to ensure oversight from the court and to preserve the involvement of the guardian.

59. In response to questions from Miss Round the guardian said that as M was due to undertake the therapeutic parenting course on the 11th June her updated knowledge should mitigate any risks from placing the girls together. The guardian accepted that the boys' return home would only require the making of a supervision order. The guardian did not agree that the local authority's primary position of the proceedings ending with a care order for the girls with their reunification with M to be part of the review process was appropriate adding *"its an open ended approach to care planning"*. The guardian agreed that all four children returning to M's care would be too much.
60. The guardian accepted Mr Bennett's suggestion that a plan for the boys to return to M and for the girls status to be determined at a later date posed the same risks to the girls that she had outlined in her final analysis. The guardian accepted that her recommendation came with a degree of uncertainty but considered that *"my plan was more positive because it is not open ended"*.

The Law.

61. The court can only make a care order if the threshold criteria in s 31 (2) of the Children Act 1989, (CA) is crossed and the court is satisfied, after conducting a welfare analysis, that a care order is both necessary and proportionate. As threshold has been agreed I am only required to undertake a welfare analysis as to the three realistic options before the court, a care order, the return of the girls to M under a supervision order or an adjournment with a review in three to four months' time.
62. The burden of proof rests with the local authority and the standard of proof is the balance of probabilities. Findings of fact must be based on evidence, which can include inferences that can properly be drawn from the evidence.

Findings of fact must not be based on suspicion or speculation, (Munby LJ in *Re A (A child) (Fact Finding Hearing: Speculation)* [2011] EWCA Civ 12). The court must consider the entire canvas of the evidence, and each piece of evidence must be considered in the context of the other evidence, (Dame Elizabeth Butler-Sloss in *Re T* [2004] EWCA Civ 558, [2004] 2 FLR 83).

63. Expert evidence must be considered within the context of all of the other evidence, (*A Local Authority v (1) A Mother (2) A Father (3) L & M (Children, by their Children's Guardian)* [2013] EWHC 1569 (Fam). It is the court that is in a position to weigh up the expert evidence against its findings on other evidence, and “it is the judge who makes the final decision”, (*A Local Authority v (1) A Mother (2) A Father (3) L & M (Children, by their Children's Guardian)* [2013] EWHC 1569 (Fam)).
64. An issue has arisen in this case as to whether the local authority can rely upon an apparent inconsistency between M’s assertion in cross that the last time that she associated with individuals who were using cocaine was Xmas 2023 with a report to the ISW that the last association was in the summer of 2024. This extract from the social worker’s evidence was not put to M. It is essential that the court distinguishes between a new allegation which was not put to a party as opposed to a scenario where evidence in support of a pleaded allegation had not been put to that party. In the latter case it is not necessary to put to a witness in cross examination every piece of evidence in support of an allegation , (*Chen v Ng* [2017] UKPC 27). In *Re W (Appeal: Fact Finding)* [2024] EWCA Civ 1590 the first instance judge when determining that a mother had inflicted injury upon her infant took into consideration some grazes revealed in photographs. These grazes were not focused upon by the medico – legal experts , counsel did not cross examine upon them and the parents were not asked about them. On appeal the mother argued that the parties had no forewarning that the judge would take these grazes into consideration when determining if the mother had inflicted injury on the child. Mr Justice Cobb held that the judge was not making a finding that was not sought by the local authority who were seeking a finding that the mother or father had perpetrated the injury. Instead, the judge was making a finding as to the evidence before him to make that finding. Cobb J did not consider that reliance on the grazes undermined the judges’ fundamental finding that the mother had perpetrated the injury. In paragraph 71 he said this: “*The Judge’s reliance on, and interpretation of, the grazes seen on the photograph, on my reading of the judgment, merely served to buttress a number of other significant (indeed more significant) findings which he had made about the incident.*”
65. If the court is considering making a finding that a witness has lied it should give itself a Lucas Direction, (*R v Lucas (R)* [1981] QB 720). The application of that

direction in family proceedings has been set out by the court of appeal in *H – C (Children)*, [2016] EWCA Civ 136 and *Re A, B and C (Children)* [2021] EWCA Civ 451. The following propositions of law can be derived from the above.

- If the court is faced with conflicting evidence between witnesses but the evidence clearly points one way then there will be no need to assess credibility in general, (*Re A, B and C* (paragraph 57)) .
- If the court finds that a witness has lied on a material issue that in itself is not proof of culpability. “Judges should therefore take care to ensure that they do not rely upon a conclusion that an individual has lied on a material issue as direct proof of guilt” (MacFarlane LJ *H – C* paragraph 100).
- The lie can corroborate other evidence that is indicative of culpability if three conditions are met:
 - a. The court must find that the lie was deliberate.
 - b. The lie must relate to a material issue in the case.
 - c. The court must find that the only explanation for the lie is the witnesses guilt and his/her fear of the truth.
 - The court must distinguish between a lie, story creep, mistake, confusion, memory failure or distortion arising from an impairment.
 - The court must remind itself that witnesses may lie for many reasons embarrassment, a sense of shame for having caused an injury accidentally, a desire to hide some other wrong doing or a mistaken belief that lying may improve their position.
- The court must remind itself that just because a person has lied about one issue does not automatically mean that they have lied about everything.

66. Macur LJ in *Re A, B and C* in paragraph 58 said that if the court is considering giving itself a Lucas Direction it should ask counsel to make submissions to “identify: (i) the deliberate lie(s) upon which they seek to rely; (ii) the significant issue to which it/they relate(s), and (iii) on what basis it can be determined that the only explanation for the lie(s) is guilt”

67. I remind myself that inconsistencies in a party’s evidence does not lead inevitably to a finding that the party has lied. Discrepancies in witnesses evidence may arise as a consequence of faulty recollection or confusion during times of stress, (*Lancashire County Council v C and Others (Children; Fact Finding)* [2014] EWFC 3 (Fam)).

68. When considering whether to make a care order the courts paramount consideration shall be the child's welfare, (S1 (1) Children Act). The court should be mindful of the no order principle as set out in s1 (5) that a court should not make an order "*unless it considers that doing so would be better for the child than making no order at all*". The court shall have regard in particular to the s (1) (3) welfare checklist namely:-

- (a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);*
- (b) his physical, emotional and educational needs;*
- (c) the likely effect on him of any change in his circumstances;*
- (d) his age, sex, background and any characteristics of his which the court considers relevant;*
- (e) any harm which he has suffered or is at risk of suffering;*
- (f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;*
- (g) the range of powers available to the court under this Act in the proceedings in question.*

69. In *F (A Child: Placement Order: Proportionality)* [2018] EWCA Civ 2761 (Jackson LJ) the court of appeal held that when assessing the risk of harm that may eventuate in the future the court should ask itself:

- a. What is the type of harm that might arise?
- b. What is the likelihood of that harm arising?
- c. What would the consequences be to the child in terms of severity if the harm eventuated?
- d. How can the risks of harm be reduced/mitigated by support services that are or could be provided?

70. In *L – G (Children: Risk Assessment)* [2025] EWCA Civ 60 Jackson LJ held that the above broad questions needed to be tailored to the facts of the individual case. In paragraph 19 he said this: "*Here, it is indisputable that Mr F is capable of causing serious harm to any child in his care. If he was in a position to live with or spend significant time with O or Y, the likelihood of harm would be high. But further questions also needed to be asked:*

- (1) What are the settings and circumstances in which Mr F would have a realistic opportunity of harming these children?*
- (2) What is the likelihood of those settings and circumstances arising and remaining undetected?*
- (3) If the mother is incapable of being instinctively protective, can the likelihood or consequences of harm be reduced by protective measures such as:*
 - obligations imposed on the mother by the court*
 - the vigilance of O's father*
 - the vigilance of the children's grandfather*

- *the statutory powers of the local authority acting under a supervision order?*

71. In *T (Children: Risk Assessment)* [2025] EWCA Civ 93 Jackson LJ reminded judges that the risk of harm is one of a number of factors in the welfare checklist. ". With reference to his decision in *Re F* Jackson LJ held that the court should ask itself the following:-

- (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?*

72. In *H (Children)* [2014] EWCA Civ 733 Mrs Justice Parker said that '*I have more than once stressed in this case, as in others, that the word used in the Children Act about wishes and feelings is "ascertainable" and not "expressed". "Ascertainable" often means that the Court has to look at actions rather than words.*'

73. A care order represents a significant infringement of the parents and the child's Article 8 rights, (respect for their private and family life). In *Re B (A Child)* [2013] UKSC 33 the Supreme Court held that a care plan for adoption "*was an extreme thing of last resort – when all else fails*", (Lord Neuberger paragraph 104). The Court held that a care plan for adoption must be proportionate and should only be made to protect the interests of the child, by which is meant that "*nothing else will do*", and the overriding welfare of the child requires it (Baroness Hale paragraph 198). In 2013 the court of appeal in a number of decisions considered how the principles in *Re B* should be applied. The most frequently cited are *G (A Child) (Care Proceedings: Welfare Evaluation)* [2013] EWCA Civ 965, and *Re B – S (Children)* [2014] 1 WLR 863.

74. The principles to be applied can be summarised thus:

- a. The local authority must provide a clear analysis of all options open to the court and the advantages and disadvantages to the child of each option.
- b. The local authority must set out what support and service can be made available to meet any identified risks of an alternative care plan to that which the local authority proposes. This allows the court to undertake properly the balance of harm exercise (as part of the welfare evaluation), using the tool of proportionality to evaluate which placement best meets the child's welfare, (*Re W (A Child v Neath Port Talbot County Borough Council)* [2013] EWCA Civ 122).

- c. The court must rigorously analyse, evaluate and compare side by side the advantages and disadvantages of each realistic option having regard to the findings that the court has arrived at.
- d. The linear approach is not acceptable when considering adoption. It must be a global holistic approach.
- e. Having considered the pros and cons of each realistic option the court should conduct a necessity and proportionality cross check by asking itself whether care/placement orders are necessary to secure the child's welfare and are they proportionate to the risk of harm? The court must balance the risk of harm to the child of remaining with its parent against the harm that they may suffer if removed from their parents care. The often-quoted phrase "*nothing else will do*" as set out in *Re B* is not a substitute for the court having to conduct a proper welfare evaluation. The phrase only comes into play when the court is conducting a proportionality checklist, (*Re W (Adoption: Approach to Long Term Welfare)* [2016] Civ 793). The court must apply the above approach when the care plan is one of long-term fostering, (*H – W (Children)* [2022] UKSC 17).

75. Hedley' J's comments in *Re L (Care: Threshold Criteria)* [2007] 1FLR 2050. as set below are often relied upon:

*"What about the Court's approach, in the light of all that, to the issue of **significant harm**? In order to understand this concept and the range of harm that it's intended to encompass, it is right to begin with issues of policy. Basically it is the tradition of the United Kingdom, recognised in law, that children are best brought up within natural families. Lord Templeman, in Re: KD (a minor ward) (termination of access) [1988] 1AC806, at page 812 said this:*

"The best person to bring up a child is the natural parent. It matters not whether the parent is wise or foolish, rich or poor, educated or illiterate, provided the child's moral and physical health are not in danger. Public authorities cannot improve on nature."

There are those who may regard that last sentence as controversial but undoubtedly it represents the present state of the law in determining the starting point. It follows inexorably from that, that 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, whilst others flourish in atmospheres of loving security and emotional stability. These are the consequences of our fallible humanity and it is not the provenance of the State to spare children all the consequences of defective parenting. In any event, it simply could not be done", [Emphasis added].

76. The above comments which provides that the starting point is that children should be brought up by their parents is a presumption that applies at the first stage of the process i.e. at the threshold stage it should not be applied by the court at the welfare stage, (*Re H (A Child) (Appeal)* [2016] 2 FLR 1173, *Re W (Adoption: Approach to long term welfare)*. [2017] 2 FLR, *Re N (A Child) (Care Order: Welfare Evaluation)* [2024] EWCA Civ 938).
77. A Supervision Order does not confer parental responsibility on the local authority. While a Supervision Order is in force it is the duty of the supervising local authority to advise, assist and befriend the supervised child, (Section 35 Children Act). If the local authority is seeking a Supervision Order it must have a clear and detailed Supervision Support Plan setting out the resources and services that underpin each element of the plan. This Supervision Support plan should be reviewed during the life of the Supervision Order, (*JW (Child at Home under a Care Order)* [2023] EWCA Civ 944).
78. Under s 32 CA there is a mandatory requirement for the court to draw up a timetable disposing of the application within 26 weeks. The court has the power under s32 (8) to extend the timetable for a maximum of 8 weeks. Section 32 (7) provides that extensions are not to be granted routinely and are to be seen as requiring specific justification. The court when deciding to grant an extension must have regard to the impact on the child (s32 (4)). The court may extend if “it considers that the extension is necessary to enable the court to resolve the proceedings justly” (s 32(5)) .
79. In *Re B – S* [2013] EWCA Civ 1146. The then President of the Family Division Sir James Munby said that if a court does not have the kind of evidence to properly decide the issues, then an adjournment must be directed even if this takes the case over the 26 weeks.

Submissions.

80. I am grateful to counsel for their helpful submissions. I do not intend to set out those submissions but I will refer to them when relevant in the analysis section of this judgment.

Analysis.

81. There is no dispute that all of the children have suffered harm whilst in the care of their mother. This harm has arisen as a consequence of them witnessing, and in some cases being involved in, their Mother’s domestically

abusive relationship with their father and M's subsequent partners. I accept the evidence of Miss Mazula that G and M have expressed their concerns that M may be a victim of domestic abuse in the future.

82. The children have also suffered harm as a consequence of their mother being intoxicated whilst caring for them, shouting at them, providing them with a neglected home environment, and witnessing M's dysregulated behaviour towards social workers, police officers and neighbours.

83. The task facing the court is to evaluate the future risk of harm to the girls of remaining in foster care vis a vis the future risk of harm of them being rehabilitated back into the care of their mother. I appreciate that this evaluation is more nuanced in this case as the local authority have a stated intention for the girls to be placed with M post care order and the guardian proposes that the ultimate decision is put off for a number of months.

84. The evaluation of risk inevitably encompasses a consideration of the other matters set in the welfare checklist namely the ascertainable wishes and feelings of G and D, the ability of M to meet their needs and the impact of any change of circumstances. To conduct an holistic welfare evaluation requires me to consider the following matters:

- i. The children's ascertainable wishes and feelings.
- ii. Substance misuse.
- iii. M's mental health.
- iv. Domestic abuse.
- v. M's support network.
- vi. M's ability to work with professionals.
- vii. M's capacity to meet all of the children's needs.
- viii. Risk of harm if girls remain in foster care.
- ix. Risk of harm if the girls are returned to M's care.
- x. The local authority's care plan.
- xi. The guardian's recommendations.

The children's ascertainable wishes and feelings.

85. It is of relevance to note that T and R informed the guardian that they wished to return home to live with their mother and their siblings. There is an

absence of any evidence as to how T and R would respond to them being transitioned into the care of their mother with their sisters remaining in foster care. At the very least I can conclude that this plan is not in accordance with the boys' ascertainable wishes and feelings. I accept the evidence of the guardian that G has said that she wishes to live with her mother and her siblings. It is not clear to me if G actively does not wish to live with D. The guardian's evidence is that G laughed when she was asked if she missed D and said that she did not. I cannot from this remark conclude that it is likely that G does not wish to live with D. The guardian did not ask G that direct question. It seems to me safe to conclude that G may not wish to live with her sister. D however informed the guardian that she missed living with her sister and that she wanted to be at home with her mother and siblings.

Substance misuse.

86. I accept M's evidence that she has not used cocaine since the 7th February 2023. This is supported by the hair strand test results which also reveal that M has not abused alcohol since approximately March 2023. I find that M has continued to use cannabis actively since March 2023.
87. The local authority's case on drugs is that despite M in her oral evidence asserting that she has not associated with individuals who have used cocaine since Xmas 2023 she was associating with such individuals in the summer of 2024. The local authority pray in aid of this submission the letter from DNA legal dated the 27th February 2025 and an extract in the ISW report where Miss Holland says that M and Mr D informed her that during the summer of 2024 they *"were spending significant periods of time in Staplehurst with some friends who were using cocaine"*, (863).
88. For the reasons set out above I have not been able to place any reliance on the view expressed by DNA in their February 2025 letter as it appears to contradict the conclusions reached during the relevant HST result. The ISW's report as set out above was not put to M in cross. I appreciate that the local authority's case on cocaine use has evolved in light of the HST evidence and the pleaded allegation does not include an allegation that M has associated with cocaine users. That said drugs per se is a key feature of this case and this is something that M was acutely aware of. I am not satisfied that a specific pleading of association is a new allegation instead it forms part of the local authority's case, accepted by M, that her drug use was a significant factor that has led to these proceedings.

89. I prefer the evidence of the ISW to that of M particularly as she reports that both M and MD reported their association with cocaine users in the summer of 2024. I found Miss Holland to be an impressive witness, and I am satisfied that she would not have been mistaken as to what she recorded. I am not of the view that I need to give myself a Lucas direction. I do not find that M has lied on this issue. My impression of M is that she has worked incredibly hard to address the issues that caused her children to be taken from her care and that she is now desperate to prove that she is now able to care for them. Despite her therapy I find that the conclusion reached by Dr Mayer that M finds it difficult to accept criticism still, to some extent, prevails. This was evidenced in her reluctance to be forthcoming about MD as she considered that his presence in her life may undermine her ability to have her children returned to her care. The inconsistency in her evidence is explicable by her overwhelming desire to see her children in her care, the stress she was under whilst giving her evidence and either faulty recollection or perhaps more likely a further manifestation of her difficulty in accepting a narrative that runs contrary to her own. As it happens, I am not sure that much turns on this inconsistency as in all other respects M does not really seek to challenge any of the local authority's factual allegations.

90. The issue of association feeds into the evidence of Dr Mayer and indeed all of the professionals in this case that this makes M vulnerable to reverting to cocaine use and a risk that she may substitute one substance for another. I accept Dr Mayer's evidence that M is prone to stress and negative emotions which suggests "*continuing fragility and vulnerability to further use of substances*". This evidence does not seem to be contentious. M has been diagnosed as suffering from "*harmful use of cannabis cocaine and alcohol*" inevitably she is at risk of relapsing as far as cocaine and alcohol is concerned and she is of course still misusing cannabis. I accept M's evidence that she is now committed to achieving abstinence as far as cannabis is concerned. I consider that there is low risk that M will revert to using cocaine and alcohol and her efforts to remove herself from using the same leads me to conclude that there are good prospects of her achieving abstinence from cannabis.

M's mental health.

91. I accept Dr Mayer's evidence that M is suffering from complex PTSD and harmful use of cannabis, cocaine and alcohol. I accept the evidence of Dr Mayer in his report where he says that M's prognosis is dependent upon four factors, M's ability to work with professionals, the quality of any future

relationship, her ability to address her substance misuse and her ability to distance herself from those who pose an unhealthy influence. M has shown herself, (to a large extent) able to work with professionals, she has addressed her substance use, (save for cannabis use) , her relationship with MD appears healthy, and she has not associated with those that could lead her astray certainly since the summer of 2024. I accept Dr Mayer's opinion that the prognosis for M's mental health is *"better"* and that there are *"cautious grounds for optimism but I cannot go as far as to say there are still not any concerns"*.

Domestic abuse.

92. As noted above M's relationship with MD appears to be healthy. In my judgment there is a very low risk that in the future the children will be exposed to domestic abuse.

M's support network.

93. M appears to have the support of MR and MD. I cannot assess what role MR will play and I note that the M and MD's intention is that in the early days of any return MD will take something of a back seat. Overall therefore I accept the evidence of Miss Mazula that M does not appear to have *"a big support network"* and the evidence of the guardian who opined that M appeared to have a limited support network.

M's ability to work with professionals.

94. Historically M has shown an inability to work with professionals and on occasions has been hostile to them. I appreciate that this stems from M's belief that social services did not intervene to protect her when as a child she was being physically abused by her mother and stepfather. I accept that M's engagement with professionals has improved. My impression of M is that she wishes to work with professionals and that she now recognises that she requires support to care for her children. However, I also find that her innate distrust of professionals remains. This is demonstrated by her behaviour in December 2024 when she was swearing and shouting at the social workers. I agree with Miss Holland's assessment that M is still capable of being aggressive to professionals. The guardian's evidence chimes with that of Miss Holland, and I accept the guardian's view that M's ability to work with professionals remains and area of concern moving forward and that this *"raises concerns about M working in an open way with the local authority"*.

M's capacity to meet all of the children's needs.

95. I accept the evidence of Dr Bentley that overall M's contact with the children was "*generally positive*" with some examples of good and bad parenting. The incident where M called G a "horrible little girl" is obviously an example of the latter. I accept the evidence of Miss Holland that M's ability to provide good contact within the confines of a contact centre for over two years is a positive.
96. I accept the evidence of Dr Bentley that G and D have "*significant problems*" and that the work that needs to be done with these girls should not be underestimated. I am mindful that two foster carers have felt unable to appropriately and safely care for the girls because of their conflictual relationship.
97. In my judgment there is force in Mr Bennett's submission that Dr Bentley's opinion that the girls should not be returned to M's care at this stage must be seen within the context of her not having seen M or these children since November/December 2023. That is not in any way a criticism of Dr Bentley who was only asked to venture a recent view in light of the evidence that has been generated over the last 18 months or so. Dr Bentley's opinion that M does not have the emotional resilience to manage all four children is thus undermined to some extent by the passage of time that has elapsed since she observed this family.
98. The evidence of Dr Bentley was that there should be at least 10 – 12 preliminary sessions with a therapist to determine the issues between the girls before embarking on the appropriate therapy once those issues had been identified. The evidence of the current therapist is that this work should not commence until the Autumn of 2025 at the earliest. The email from the therapist does not envisage work starting with the girls until the Autumn/Winter of 2025 and as a minimum this will take up to 12 months. On that basis therefore the most optimistic interpretation of this evidence is that the work with G and D will not have been completed until the Autumn/Winter of 2026. There is also a very real risk that this timeframe is unrealistic as the therapist does not appear to have the necessary training to deliver this work and it may be that the initial 10 – 12 sessions must take place prior to the above. This could push the completion of therapy into the early months of 2027. In addition there is no evidence as to whether this treatment will be capable of resolving the issues between G and D.

99. Dr Bentley's opinion that the girls should not be returned to M's care at this stage was based upon two factors the unknown and untreated relationship difficulties between G and D and M's inability to provide attuned care. Dr Bentley in her March 2025 report accepts that since undertaking therapy there was good evidence that M could regulate herself and meet her own needs which would help her place the needs of her children above her own. We now know that M is to undertake the therapeutic parenting recommended by Dr Bentley in June 2025 and that will have been completed by mid August. I accept the evidence of Dr Bentley that having completed this additional parenting intervention M will be *"better placed to understand and manage their needs"*.

Risk of harm to D and G if they remain in foster care.

100. All of the professionals in this case accept that if the girls remain in foster care and the boys are returned home this will cause emotional harm to G and D. I accept Miss Holland's evidence that if they were left in foster care and T and R were returned home the girls would be extremely upset and their age would be such that they would not be able to understand the reasons for this decision. I accept the opinion expressed by the guardian in her final analysis that the local authority's plan is likely to have a *"huge negative impact on"* G and D and that because of their age they would feel left out and rejected by M.

101. I do not accept the evidence of the local authority that the harm caused to these girls by that decision can be ameliorated by a sensitive handling of the situation with an explanation that they too may in time find themselves at home. I agree with Miss Holland that the girls *"would simply feel that they are being left out and rejected by their mother"*. Rehabilitation to M is far from certain for G and D thus any attempt to soften the blow by conveying an intention that they too will be returned home is unlikely to be understood by the girls. In addition this is an intention that comes with caveats that could not be understood by children of this age. Nor would the children be able to appreciate that those caveats render their rehabilitation back into their family to be very far from certain.

Risk of harm if the girls are returned to M's care.

102. In my judgment the local authority's case on the risk to the children posed by a return of all four children to M's care is too simplistic as it fails to identify the precise risks that may eventuate and proceeds on the basis that if

the risks manifest all of the children may find themselves back in foster care. What is required is an identification of the risks of return, the likelihood and consequences that would flow if those risks eventuate, and a consideration of any measures that could be put in place to mitigate those risks.

103. The risks in this case flow from substance misuse, domestic abuse and mental health. M's HST tests and the opinion of Dr Mayer illustrate that the risks that flow from substance misuse have reduced considerably since these proceedings were issued. In my judgment, as noted above, there is a low risk of M returning to cocaine use and/or dependency upon alcohol. All the indicators are positive. There is still a risk that M may not be able to achieve abstinence from cannabis as she has failed to achieve that to date. I have assessed that risk as low as M has shown insight into her substance use and has proven that she can remove herself from some of the substances that were causing her to mismanage the care of her children. I have also assessed the risk from domestic abuse as being very low indeed. M has worked hard on her understanding of domestic abuse and her current relationship appears to not only be free from domestic abuse but is a positive one. The risk that arises from M's mental health I have also assessed as being very low .

104. These risk factors do not of course work in isolation they must be considered together. Overall therefore the risk factors that prevailed in early 2023 have diminished considerably. The local authority's case is that the children should not all be placed in the care of M because G and D's relationship is so conflictual that if they are placed together the placement will break down. I accept that any imminent placement with M will come with a risk that G and D will continue to be in conflict as the cause of this conflict will remain unknown and any treatment to remedy it will not have been implemented. However, this is only one side of the equation articulated by Dr Bentley. Should the conflict between the siblings arise M is now as a consequence of her therapy far better equipped to deal with the consequences. I accept the oral evidence of the guardian that M armed with the skills acquired from attending the therapeutic parenting course would mitigate any risks of placing the girls together.

105. As M has responded so well to therapy to date there is also in my judgment a very good prospect that she will benefit from the therapeutic parenting course that will be completed by August of this year. The issue of the girls relationship thus needs to be placed within the context of low level

risks of domestic abuse, mental health difficulties and substance misuse with a Mother armed with an increased ability to manage any conflict between G and D. In addition M is open to support from the local authority. Whilst there may have to be careful thought to the individual tasked with this role having regard to M's underlying difficulties in working with professionals the low level risk of emotional harm caused to all of these children by all being returned at once can be ameliorated. The local authority's position that a placement of all the children with M risks the placement breaking down for T, R, G and D and them all potentially being returned to foster also fails to consider how each of these individual children would respond to any risks that eventuated. When Miss Round suggested to Miss Holland that if the placement with M breaks down it would have a negative impact on all four children Miss Holland's reply was "*its hard to say we don't know how each individual will react*". I accept this evidence.

The local authority's care plan.

106. The local authority's care plan for the girls is that they should be made subject to a care order and at subsequent reviews consideration will be given as to whether they can be reunified with the rest of their family. In submissions Miss Round stressed that it was the local authority's wish for the girls to be ultimately placed with M. In the care plan for both girls it is averred that the local authority will have to be satisfied of four matters in "*order for reunification to be actively pursued*". Firstly, the 10 – 12 sessions to explore the "*root cause of changes in*" the sibling relationship followed by "*some work on the sibling relationship ...if the therapist deems this will be necessary*". Secondly that M has evidenced that she can consistently meet T and R's needs. Thirdly abstinence re cocaine and alcohol and that M is not "*actively using cannabis*". Finally that M will have completed the therapeutic parenting course and can demonstrate its efficacy during contact time with the children. It is clear from the care plan for these girls that if the above are not satisfied the children may find themselves in "*long term foster care throughout [their] minority*", (360).

107. In light of the evidence as to when therapy will be completed G and D face the prospect of not being reunited with their family until the end of 2026/early 2027. There are also risks that this is an optimistic timeframe. By that stage they will not have been in the care of their mother or lived with their siblings for some four years.

The guardian's recommendations.

108. In many ways the local authority and the guardian are as one as neither advocates an immediate return of all of the children to M's care. Both are suggesting that this decision should be reviewed. The difference between the guardian and the local authority is that the guardian's suggests a review within these proceedings, effectively an adjournment, whereas the local authority's care plan is for the review to take place outside of these proceedings following the making of a care order.
109. The court should only adjourn proceedings if it is satisfied that it does not have all of the evidence to be able to make a welfare decision. I accept that if the matter is adjourned for four months the court will have further evidence as to the efficacy of the therapeutic parenting, further HST results and evidence as to how M has fared caring for T and R. What will not be available is any further evidence as to the therapeutic work required by the girls as at that stage it is unlikely that any such therapy will have commenced. Miss Round suggested that should the court adopt the guardian's recommendation the matter should come back in January 2026 as there is likely to be further information available at that stage. These girls have been in local authority care for over two years. Any further delay in arriving at a welfare decision is likely to be harmful. In addition following any further period of delay the court will not have a key component of the evidence recommended by Dr Bentley.

Re B – S analysis.

110. There is no dispute as to the boys future placement. There are three realistic options for G and D. The local authority seek a care order with a review as to whether the girls can also return home to their mother and brothers. The guardian's recommendation is that these proceedings are adjourned with the girls remaining in care subject to an ICO with the issue of reunification to be determined three or four months hence. M's position is that all the children should be returned to her care beginning with the boys.
111. The advantages of a care order is that it provides a degree of certainty for G and D as these proceedings will cease. G and D will continue to remain apart from each other, and they will be well cared for in their respective foster placements. The girls will be able to undertake the therapy and any decision to reunite them with each other and their mother and siblings will take place when the efficacy of that therapy can be determined. The girls will be free of any risk that may flow from their mother's poor mental health, use of substances and her previous propensity to enter into domestically abusive relationships. The girls will maintain a relationship with each other, their

brothers and their mother. There is a possibility that this plan is in accordance with G's ascertainable wishes and feelings.

112. A care order will represent a significant infringement of M and her children's Article 8 rights. The girls will suffer emotional harm from the knowledge that they will be remaining in foster care whilst their brothers will be going home. A care order will be contrary to D wishes and feelings and will be contrary to G wishes and feelings in the sense that she wishes to live with her mother and her brothers. A care order will also be contrary to the wishes and feelings of T and R. There is no guarantee that at any review the girls will be reunited with their family. They thus face the prospect of being in long term foster care for the duration of their minority, (another 10 years for G and 11 years for D). They thus face the risk of being moved to multiple foster placements and will grow up as children in care with the continued involvement of children services in their lives. The conditions stipulated by the local authority for their to be a move back to their family is dependant in large part on therapy which is unlikely to be completed until the earliest the autumn and winter of 2026. By that stage the girls will have been in care for approaching four years.

113. The guardian's recommendation will provide the professionals involved in this case and the court with further information as to how M has responded to the therapeutic parenting course, her progress towards ceasing the use of cannabis and on the ground evidence as to how M has fared caring for her sons. An ICO will ensure that the court has oversight of any future care plan for the girls and will retain the involvement of the guardian. However, an adjournment will not provide the court with any additional evidence as to why these children's relationship has broken down and the therapy that can be put in place to remedy that. An adjournment will add further delay to a case that has been in proceedings for over 2 ½ years.

114. If the girls are transitioned back into the care of M their Article 8 rights will be preserved, and it will be in accordance with all of their wishes and feelings save possibly for G as far as living with D is concerned. The two elements of risk that feature in this case will not be entirely eliminated. These are firstly the risks that flow from M's lack of capacity to meet the children's needs due to her poor mental health, her use of substances and propensity to enter into domestically abusive relationships. The second element of risk flows from the breakdown in the relationship between G and D the cause and treatment of which may not be revealed/attained until some time in the Autumn/Winter of 2026. In combination these risk factors threaten the stability of any reunification of all the children with M and risk placing the children back into the care system. Reunification of all the children leaves M with limited support from family/friends and creates challenges for the local authority in supporting M as she can be uncooperative with professionals.

Conclusion.

115. I have considered and weighed these matters very carefully. I have assessed the risks stemming from M's mental health, domestic abuse and substance misuse to be very low. Any risk that flows from a lack of knowledge as to why G and D's relationship has faltered and how to repair that relationship has to be put in context of the low level risks identified above. Things are very different from how they were in January 2023. In addition M has made significant progress in acquiring more attuned parenting skills and this is likely to be enhanced by August when she will have completed the therapeutic parenting course.
116. In my judgement all of the children should be returned to the care of their mother over a period of four months with the boys transitioning prior to the girls. During this transition period M has agreed that the children will be accommodated by the local authority by way of a s20 agreement. I will leave it to the social worker and guardian to determine the detail as to that transition plan. The children will be placed in M's care under a 12 month supervision order. It is essential that the level of support offered to M and this family during this period is in accordance with the recommendation of Miss Holland. The local authority must ensure that the Supervision Support Plan that appears on page 927 is in accordance with Miss Holland's recommendations.

HHJ Clive Thomas
1st June 2025.