



Neutral Citation Number: [2025] EWFC 57 (B)

Case Number: RG24C50071

IN THE FAMILY COURT AT SLOUGH

The Law Courts
Windsor Road
Slough
SL1 2HE

Date: 19 March 2025

Before

HIS HONOUR JUDGE RICHARD CASE

Re CB and CC

Between

READING BOROUGH COUNCIL

and

MOTHER (1)

FB (2)

FD (3)

CB, CC (THE CHILDREN) (4-5)

Applicant

Respondents

Representation

For the Applicant:

Susan Quinn, counsel instructed by the Applicant Council

For the Respondents:

Alex Forbes, counsel instructed by the First Respondent Mother

Emma Southern, counsel instructed by the Second Respondent Father FB

Frances Harris, counsel instructed by the Third Respondent Father FD

Douglas Darlow, solicitor instructed by the Fourth to Fifth Respondent children by their
Children's Guardian, Guy Brazil

Hearing dates: 28 February, 3-6 March and 10 March 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 remotely at 9am on 19 March 2025 by circulation to the parties or their representatives by email.

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Summary

1. I have made the following findings in addition to the admitted threshold:

On 10 August 2024 there was an altercation between M and FD and M threatened to stab FD whilst holding a knife. The Children were present in the home.

When M signed her statement at [C239] with a statement of truth she knew that the assertion in paragraph 9 that she had been “open[] and honest with the Local Authority and wanted them to know what had happened”, was false.

M has not been working openly and honestly with the local authority. M and FD have not been open and honest about the level of communication they have had with each other following the police incident on 10 August 2024.

When M signed her statement at [C239] with a statement of truth she knew that the assertion in paragraph 5 that “the only communication we have is messages in respect of CD and me asking him [FD] if he was attending contact” was false.

There was animosity between M and FD at CD’s pre-adoption medical.

M and FB have both allowed contact that was not professionally supervised to take place between CC, CB and FB despite professionally supervised contact being set up.

At least one of the meetings between FB and CB and CC was arranged between M and FB and not by chance.

M was dishonest in her witness statement at [C242/14-16] in asserting that there were no arranged meetings between FB and CB/CC.

M and FB have communicated through CA.

When M signed her statement at [C239] with a statement of truth she knew that the assertion in paragraph 12 that she was not aware of messages between CA and FB she was dishonest.

2. I have concluded:

On multiple occasions M allowed FD to stay overnight when the Children were present, this was in direct contradiction of an agreement reached in court and M has been dishonest about it. It has involved the Children who have seen FD present in the home and there was a plan to tell the social worker the Children were mistaken should they have been asked about it. I also find that M has not been honest in her working with professionals.

M has the capacity to meet the Children's needs to a good enough standard but M is not always able to put that capacity into practical effect, particularly when her focus is on a relationship.

That failure exposes the Children to a risk of emotional harm (through M's mental health, denying or undermining the Children's reports), physical harm (incident on 10 August 2024) and neglect (reduction in financial resources available to family and health and educational needs not being met).

M's dishonesty has diminished professionals' ability to monitor compliance and the Children's welfare during proceedings.

3. In relation to risk of harm I have concluded:

Harm in the form of neglect has arisen historically and during proceedings concerns have arisen in the form of M's mental health but particularly her focus on FD's needs taking her focus away from the Children, this is coupled with FD's apparent attitude to CB and CC. This presents a risk of emotional harm. There is an additional risk of physical harm arising from the incident on 10 August 2024 and a risk of emotional harm from M dishonestly contradicting accurate reports from the Children.

The risk of future harm is significant.

The consequence for the Children would be emotional and physical harm.

It would be very difficult to mitigate the risk either reducing the chance of it arising or managing it if it did. The professional evidence in relation to the former is of limited impact if M was not open and honest and whilst neglect has not been a feature in proceedings the Children have been exposed to other harm notwithstanding social work involvement and agreements at court.

Injunctive orders against FD would rely upon M reporting a breach and would be effective only against FD not a future partner.

At its most basic level what this case comes down to is the balance between trauma of separation and risk of harm if the Children remain in M's care. The risk of harm of remaining in M's care may not come to pass but I assess the risk as substantial and I agree with the professionals' assessments that the risk is hard to mitigate. The welfare advantages of removal outweigh the disadvantages of removal and the advantages of remaining in M's care. Removal, whilst initially likely to be traumatic, is proportionate to the risk of harm of remaining in M's care.

I agree the care plan in relation to Care Orders and contact arrangements.

Parties

4. These proceedings concern four children who I will refer to as CA, CB, CC and CD for reasons of anonymity. The Mother (M) is mother to all four. FA is father to CA, FB is father to CB and CC and FD is father to CD. Again, I use this notation to preserve anonymity and mean no disrespect to the parties concerned.

5. CA is a young (male) teenager, CB (female) and CC (male) are at primary school and CD (female) is an infant. Since this hearing is primarily about CB and CC I shall refer to them as the Children.

Background

Chronology

6. The application in relation to CA was concluded on 13 December 2024 with a final Child Arrangements Order for him to live with FA, his wife and the Paternal Grandmother.

7. The application in respect of CD was not ready to proceed and has been listed for IRH/EFH on 14 April 2025.

8. This hearing relates to final placement for CB and CC.

9. The Local Authority have summarised the background in this way:

4. The family first became known to Children's Services in 2011 due to concerns of domestic abuse between M and FA [C21].

5. From 2016, there were repeated concerns and continued Children's Social Care involvement with the family [C21-C26]. In 2019, the PLO process was initiated due to concerns about lack of supervision, poor home conditions, domestic abuse, failure to prioritise the children's needs and the risk of sexual harm posed to the children by FB who was a registered sex offender [1.8, C4]. Proceedings were not issued at that stage M made changes [1.8, C4] The PLO was concluded on 12 February 2020 [C26].

6. Children's Services were then repeatedly involved with the family from 2019 onwards. Support was offered to M, but she failed to sustain changes [1.9, 1.10, 1.11, 1.12, 1.13 C4-C5, C26-C35].

7. On 18 March 2020 following a Review Child Protection Conference a decision was made for CA/CB/CC to remain subject to Child Protection Plans due to the parents' poor engagement [C26]; this was stepped down to a Child in Need plan on 3 September 2020 [C26].

8. On 5 April 2023, CA/CB/CC were once again made subject to a Child in Need Plan [C28] and on 18 December 2023, the children (including unborn CD) were made subject to Child Protection Plans [C31].

9. These care proceedings were issued following CD's birth [B1-9].

10. Following her birth concerns were raised at the hospital that CD's care needs were being neglected [1.2, 1.4, 1.5 and 1.6, C3]. Concerns were also raised that it appeared that CD was suffering from breathing difficulties and that M appeared to be "disinterested" [1.3, C3]. On 12 April 2024, the Safeguarding Midwife at the hospital advised the Local Authority that whilst CD and M were fit for discharge, they had serious concerns that CD's parents would not be able to meet CD's needs and there was an increased risk of Sudden Death Syndrome in light of those concerns and the use of cannabis, FD having attended the hospital smelling of cannabis [1.7, C3-C4].

11. The concerns raised by the hospital in conjunction with the ongoing concerns in relation to other children precipitated the Local Authority's application on 16 April 2024 [B1-B1-B9 and C2-C9].

Current living arrangement

10. CB/CC remain in the care of M.

11. CD is in foster care.

Parental responsibility

12. FA and M have parental responsibility for CA.

13. FB and M have parental responsibility for CB and CC.

14. M has parental responsibility for CD, shared with the Local Authority under an Interim Care Order. The Local Authority case summary suggests FD also shares parental responsibility but I am not certain that is the case.

Positions

Local Authority

15. The Local Authority seeks Care Orders for CB and CC with a care plan of long term foster care together. In relation to contact they now propose (following amendments during the hearing) contact with M every month supervised for 3 hours with a plan for immediate removal and a stepped decrease in contact to weekly for 4 weeks, fortnightly for 4 weeks and then monthly.

16. In respect of sibling contact they propose monthly with CA at the same time as with M (there is an error in the addendum care plan that suggests this is bi-monthly) and with CD a continuation of the current weekly contact until final order in CD's proceedings.

17. In respect of contact with FB the revised plan is a reduction from weekly to fortnightly for 4 weeks then once in the following month and then four times per year supervised for 3 hours.

M

18. M opposes the care plan and seeks CB/CC remaining in her care and is neutral on whether that is under no order or a Supervision Order.

FB

19. FB supports CB/CC remaining in M's care, is neutral on whether that should be underpinned by a public law order.

20. FB opposes the plans for the frequency of his contact and says it should continue monthly in the event of a Care Order being made and weekly in the event of the Children remaining in M's care.

Children's Guardian

21. The Guardian supports the care plan but recommended that the contact with M and CB and CC was monthly (rather than every two months) and to be kept under review and in relation to FB the recommendation was for contact to be supervised four times a year (rather than the original three) and to be kept under review.

22. The Guardian confirmed his agreement to the revised plans for contact in the addendum final care plans.

Evidence Summary

23. I have particularly considered the following documents from the agreed reading list:

Initial SW statement	15.04.24	C1-36
1 st statement of M	09.05.24	C79-82
1 st statement of FB	15.05.24	C83-90
1 st statement of FD	31.05.24	C132-135
SW statement	29.08.24	C183-194
2 nd statement of M	19.09.24	C239-243
2 nd statement of FB	24.09.24	C244-257
Final SW statement	26.11.24	C351-400
3 rd statement of M	02.12.24	C401-404
3 rd statement of FB	10.12.24	C405-412
Updating SW statement	23.01.25	C457-461
Updating SW statement	10.02.25	C466-470

4 th statement of FB	11.02.25	C471-474
4 th statement of M	13.02.25	C475-501
Care plan - CB	8.11.25	D21-26
Care plan- CC	8.11.25	D33-39
CG initial analysis	17.05.24	E34-48
ISW assessment of FB	15.08.24	E119-137
ISW of M and FD	22.08.24	E156-202
M and FD (summaries)	22.09.24	E203-213
Addendum parenting report M and FD	18.10.24	E245-256
Addendum parenting report FB	21.10.24	E257-263
CG Final Analysis	21.02.25	E296-309

24. I also considered the addendum final care plans.

25. I heard oral evidence from:

- a) Sarah Gaze, social worker;
- b) Su Fullam, Independent Social Worker, parenting assessor;
- c) Mother; and
- d) Guardian.

Law

26. 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

27. 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.

28. 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).

29. 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

30. 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.

31. 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’.”

32. 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.

33. 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.

34. In relation to electronic messages I remind myself of the observations in *Stocker v Stocker* [2019] UKSC 17 in which Lord Kerr cautioned against “elaborate analysis of a tweet; it is likewise unwise to parse a Facebook posting for its theoretically or logically deducible meaning. The imperative is to ascertain how a typical (i.e. an ordinary reasonable) reader would interpret the message. That search should reflect the circumstance that this is a casual medium; it is in the nature of conversation rather than carefully chosen expression; and that it is pre-eminently one in which the reader reads and passes on”.

Lying

35. 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. ...”

36. 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.

37. Counsel for M referred me to the comment of Munby P in *Re A (Application for Care and Placement Order: Local Authority Failings)* [2015] EWFC 11 which is particularly apposite in this case:

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.”

Domestic Abuse

38. In *Re H-N and Others (Children)(Domestic Abuse: find of fact hearings)* [2021] EWCA Civ 448 the Court Appeal gave the following guidance in relation to allegations of domestic abuse:

4. Where past domestic abuse is found to have taken place, the court must consider the impact that abuse has had on both the child and parent and thereafter determine what orders are to be made for the future protection and welfare of parent and child in the light of those findings. Depending upon the circumstances, such orders may substantially restrict, or even close down, the continuing relationship between the abusive parent and their child.

39. Section 1 of the Domestic Abuse Act 2021 defines domestic abuse in the following way:

(2) Behaviour of a person (“A”) towards another person (“B”) is “domestic abuse” if—

(a) they are, or have been, personally connected to each other;

(b) The behaviour is abusive.

(3) Behaviour is “abusive” if it consists of any of the following—

(a) physical or sexual abuse;

(b) violent or threatening behaviour;

(c) controlling or coercive behaviour;

(d) economic abuse (see subsection (4));

(e) psychological, emotional or other abuse;

and it does not matter whether the behaviour consists of a single incident or a course of conduct.

(4) “Economic abuse” means any behaviour that has a substantial adverse effect on B’s ability to—

(a) acquire, use or maintain money or other property, or

(b) obtain goods or services.

(5) For the purposes of this Act A’s behaviour may be behaviour “towards” B despite the fact that it consists of conduct directed at another person (for example, B’s child)

40. Practice Direction 12J adds the following at paragraph 3:

‘coercive behaviour’ means an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim;

‘controlling behaviour’ means an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour;

41. The Court of Appeal in *Re H-N* noted the ways in which a child may be harmed by domestic abuse at paragraph 31:

i) Is directed against, or witnessed by, the child;

ii) Causes the victim of the abuse to be so frightened of provoking an outburst or reaction from the perpetrator that she/he is unable to give priority to the needs of her/his child;

iii) Creates an atmosphere of fear and anxiety in the home which is inimical to the welfare of the child;

iv) Risks inculcating, particularly in boys, a set of values which involve treating women as being inferior to men.

42. The Court of Appeal emphasised that criminal law principles or concepts are not relevant to the fact finding.

43. The Court of Appeal in *Re H-N* however noted that:

32. It is equally important to be clear that not all directive, assertive, stubborn or selfish behaviour, will be 'abuse' in the context of proceedings concerning the welfare of a child; much will turn on the intention of the perpetrator of the alleged abuse and on the harmful impact of the behaviour. We would endorse the approach taken by Peter Jackson LJ in *Re L (Relocation: Second Appeal)* [2017] EWCA Civ 2121 (paragraph 61):

"Few relationships lack instances of bad behaviour on the part of one or both parties at some time and it is a rare family case that does not contain complaints by one party against the other, and often complaints are made by both. Yet not all such behaviour will amount to 'domestic abuse', where 'coercive behaviour' is defined as behaviour that is 'used to harm, punish, or frighten the victim...' and 'controlling behaviour' as behaviour 'designed to make a person subordinate...' In cases where the alleged behaviour does not have this character it is likely to be unnecessary and disproportionate for detailed findings of fact to be made about the complaints; indeed, in such cases it will not be in the interests of the child or of justice for the court to allow itself to become another battleground for adult conflict."

Welfare

44. So far as the law on welfare issues is concerned my paramount concern is the children'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.

45. 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.

46. 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.

47. 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

48. 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?

Findings/Threshold

49. Threshold is agreed (or deemed to be in the case of FD) but I am invited to make further specific findings relevant to the welfare decision.

50. The agreed threshold document is at [A116] and broadly relates to:

- a) Neglect of CD by M and FD;
- b) Poor home conditions in 2019 and January to March 2024;
- c) FB being on the sex offenders register;
- d) CB's presentation at school;
- e) CA's low school attendance;
- f) CA's confusion about whether he was living with M or Paternal Grandparents (FA's parents);
- g) FA's alcohol misuse;
- h) FA's threats of physical violence to CA; and
- i) CB saying M was sharing inappropriate information about the pre-proceedings with CB and CC.

Credibility

51. 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

52. In closing M made the following submission in writing:

20. It is accepted that Mother was not a convincing witness. But in analysing her oral evidence the court is respectfully invited to consider:

a. The limitations in her cognitive functioning.

b. The fact that she was being asked about matters that took place some 7 months ago with no proper notice as to what she was going to be asked about.

c. It was clear that there were times when she did not understand what was being asked, but did not say so at the time. The distinction between “chance / arranged” meetings is a clear example of this.

53. I will of course have to bear that in mind in considering her credibility where there is a dispute of fact.

4: 11 August 2024 incident, M and FD dishonest about it

54. Although the incident is pleaded as having occurred on 11 August 2024 the police evidence suggests it was 10 August 2024 (see below).

55. M denied the allegation but in closing accepted “an incident has taken place”.

56. FD has been deemed to accept the allegation by reason of his failure to respond.

57. The Police occurrence report for 10 August 2024 recorded “Domestic in progress. “My girlfriend is beating me up”” [I195]. There was no reported reference to a knife.

58. It appears that when the police attended they were diverted to investigate cannabis growing at another flat [I196] but the call was followed up in the early hours of 11 August 2024. The note records:

officers were met by the occupier who is named [M]. M was aware that some sort of domestic incident was reported to police earlier as officers buzzed her flat to gain access to the building

earlier and told her brief circumstances. She was aware that a male from [] was arrested. M denies

anything occurring inside her flat and said she hadn't heard any shouting during the day from other flats.

...

Officers have spoken to one of her children upstairs who said that people have been in the flat during the day, but she hasn't seen her mum's boyfriend who is believed to be FD. During police attendance, M has received a phone call from her boyfriend FD. Officers have then spoken to FD on the phone away from M in which he stated he hasn't been to the flat since July and hasn't made any reports to police despite the number matching. Officers have tried to get his location, but he was vague stating he was in a field as he is NFA. Officers said to him that a call was made from his phone, but he denied any involvement in this and said his phone has been off throughout the day.

59. Ms Gaze's written evidence was:

[C185]

1.6 On the morning of 12th August 2024, M called me to notify that the police had been out to the flat due to reports of a domestic incident, M denied there being any incident in her flat and feels that the wrong address was given, and they were called out to another flat in the block. On 15th August I spoke with FD about the police report, where he again denied all knowledge of any call to the police, reporting that there are no issues within his relationship with M, other than arguments over 'petty things like me being out with my mates'.

60. But she continued:

[C186]

1.6...On 21 August 2024 FD called me in a heightened state...FD reported that M tried to stab him when he went to the flat to collect some belongings, this was the same day that the call to the police was made, 10th August 2024. FD confirmed this was a genuine call to the police, and that he had initially denied all knowledge of it when debriefed by police as he did not want it to impact on CD's care planning.

...

1.8 On 28th August 2024, CD had a Pre-Adoption Medical Appointment, M and FD both attended this appointment, they attended late. FD did not greet CD, he pushed his chair away

from M, he had his hood up throughout the appointment appearing disinterested. M was attentive to CD, she held her before shortly passing CD to FD, CD was upset and looked for her Foster Carer. There was a tense exchange between parents in the waiting room saying goodbye to CD where FD again made comments about M attempting to stab him.

61. It is not entirely clear when but the social worker's later statement at [C383/5.8] said FD "has since retracted his statement stating that it was untrue".

62. On 16 August 2024 there were the following messages between M and FD:

16.08.24	M783	<p>FD to M <i>You tried to stab me</i> <i>You put a knife up to me</i></p> <p>M to FD <i>There's no fucking way on this earth I would've fucking stabbed you</i> <i>Yeah and you hurt my throat by gripping me up</i></p> <p>FD to M <i>I got the knife out of you hand</i></p> <p>M to FD <i>I have a Mac on my neck because of you</i></p>
	M784	<p><i>No I've calmed down. Sorry that I grabbed a knife, and you thought I was gonna stab you. I wouldn't have fucking stabbed you anyway. Im not that fucking stupid</i></p>

63. When M gave oral evidence she denied an incident occurred on 10 August and asserted that there was an incident on 16 August where she had been expecting to "talk things through" with FD but he only attended the home to get his charger, she had a blunt knife by her leg and FD grabbed her arm and pushed it up. She threw him out and later accepted she had gone after him, after 5 minutes, but not with the knife.

64. There were earlier messages in the early hours of 11 August where M is expressing she was "really, really sorry" and "begging you" to FD [M107-M108]. Her oral evidence was she was sorry for accusing FD of having an intimate relationship with another woman but when I asked why the messages suddenly started at around 01.30 in the morning she could not explain. The report to the police appears to have been around 21.03 on 10 August 2024 [I194].

65. There is reference to a story being changed at [M106] at 01.31 on 11 August 2024 although M said it was FD changing his story about the relationship with another woman.

66. At [M117] on 11 August 2024 at 02.05 FD said “you tell the police I ain’t been there”; it is not clear why he would say that unless first he had been in the home and second there was something to cover up. That could either have been an incident leading FD to call the police or merely the fact of his presence when the Children were there contrary to the previous agreement at court.

67. M was inconsistent in her evidence about the Children being present. At [M114] at 01.57 on 11 August 2024 she was offering to meet FD at a park. It was put to her that would have meant leaving the Children alone and she said they were not there (which is inconsistent with the police record of CB and CC being present in the home and asleep) and then she said the park was only next to the house. The Local Authority also say there is a motivation for M now to be asserting an incident with a knife occurred on 16 August rather than 10 August because on 16 August the Children were not present.

68. Counsel for M observed, correctly, that none of the messages make reference to a knife until 16 August 2024 and none are inconsistent with what M now says that there was disagreement about her having accused FD of seeing another woman.

69. That said, M has not given any explanation for why she denied any incident occurred on 11 August 2024 (as pleaded) when in fact she now accepts there had been an incident. In her statement at [C239] she expressly referred to “the incident on the 10th August 2023 [sic] and the report by the police” and made no reference to some other incident having occurred relating to FD’s infidelity. Despite the fact that this statement was filed in response to Ms Gaze’s statement which referred to FD’s allegation M had “tried to stab him” M made no reference to an incident on 16 August when she accepts she was holding a knife. I found M’s failure to mention an incident on 16 August until giving oral evidence to be indicative of a lack of honesty when it formed a central plank of the Local Authority’s case [A149] and she had a specific opportunity to respond in her witness statement [C239].

70. Whilst I acknowledge there has been no opportunity to cross-examine FD and test his evidence and that he initially denied a call to the police (to the police), then accepted it (to the social worker) and then retracted his story, it is corroborated by the fact of a call to the police from his number and the 16 August messages which reference a knife.

71. On the balance of probabilities I find:

On 10 August 2024 there was an altercation between M and FD and M threatened to stab FD whilst holding a knife. The Children were present in the home.

72. On any view M's admission in closing that there was in fact an incident between FD and M on 11 (sic) August directly contradicts the evidence in her statement at [C240/9] that she had been "opened and honest with the Local Authority and wanted them to know what had happened" (sic). This was a reference to the social worker having reported "On the morning of 12th August 2024, M called me to notify that the police had been out to the flat due to reports of a domestic incident, M denied there being any incident in her flat..." [C185/1.6]. Clearly that was not open and honest. I therefore make the further finding:

When M signed her statement at [C239] with a statement of truth she knew that the assertion in paragraph 9 that she had been "open[] and honest with the Local Authority and wanted them to know what had happened", was false.

[1: Relationship between M and FD continuing, M and FD not honest about it after 11 August 2024](#)

73. The Local Authority say that FD confirmed the relationship was over to the social worker on 21 August 2024 and M confirmed it on 28 August 2024 [C186].

74. M denied the allegation but in closing submissions made these concessions:

- a. M has not been working openly and honestly with the local authority.
- b. M and FD have not been open and honest about the level of communication they have had with each other following the police incident on 11th August.

75. FD has been deemed to accept the allegation by reason of his failure to respond.

76. Ms Fullam reported M having told her on 16 September 2024 that "she and FD had separated around 11 August 2024" and "had not had any contact since around 13 August 2024 other than in regard to his contact with CD" although she also said the relationship could resume in the future as there is "love there" [E248].

77. In her 19 September 2024 statement in response to the allegations M said (sic):

[C240]

5. I confirm that since we separated, the only communication we have is messages in respect of CD and me asking him if he was attending contact. We have separated. FD started to seeing someone else. I wish to make it very clear that we are not resuming a relationship.

78. In her statement of 2 December 2024 she said:

[C402/7]

FD and I are no longer in a relationship together and have not been since the beginning of August 2024, which will be over four months but the time of the next court hearing.

79. Ms Fullam has helpfully summarised the contact evidenced by forensic analysis of M's phone in this way:

[E250]

6.3 The analysis of M's phone evidenced that there was a significant amount of communication between FD and M. During the period of 1st July 2024 to 30th September 2024, between them there have been:

- 91 telephone calls
- 546 text messages
- 1700 Whatsapp messages
- 7369 Facebook Messenger messages
- 28 Tiktok messages

6.4 The content of the messages is alarming. They evidence that neither FD nor M have been open and honest with professionals. FD has been staying in the family home regularly since 14th July 2024, despite it being agreed in court that he would not. It is noted that on 30th July that CC saw FD when he had gone downstairs for something.

80. Further:

[E252]

6.10 On 1st September 2024, CC is noted to have told the social worker that FD was upstairs. Whilst he was not found when she went to look for him, this alludes to the children having an awareness that he had been in the home and had to hide at times. It is unclear whether he

would spend time with the children or remain in the bedroom, however this is a significant concern.

81. The following evidence is available from the phone records:

11.08.24	M693	FD to M <i>Well imma have to stay because I have no where to stay for tonight</i>
		M to FD <i>Yeah that's fine xxxx</i>
		FD to M <i>Imma sleep on the sofa</i>
	M694	... M to FD <i>What bout the kids in the morning</i> M to FD <i>Then I'll have to come up in the morning that's it</i>

82. On these messages I find on balance FD stayed on 11 August and the Children were present.

13.08.24	M712	M to FD <i>Are you coming back tonight</i>
		FD to M <i>Some point</i>

83. When the additional messages at [M714] were put to M she accepted that FD did stay the night on 13 August having initially said he did not. I find the Children were present.

14.08.24	M731	M to FD <i>I don't get why you lock the door when I'm in here when kids not going to come in</i>
		FD to M <i>Coz they will</i>

84. M accepted FD stayed and I find the Children were present on the night of 14 August.

29.08.24	C365	FD to M (8.55am) <i>You not coming back into bed xxxx</i>
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85. M accepted FD might have stayed the night of 28 August and on balance I find he did and the Children were present.

86. By way of further update, in a statement dated 10 February 2025 the social worker recorded having seen FD using an electric scooter. She had seen an electric scooter at M's home on 30 January 2025. After conducting a visit to CB and CC she made an unannounced visit to M's home and said (my emphasis):

[C469]

I informed M that I had seen FD on my way to [] Primary School, M shared her surprise at this. I further mentioned that I had seen him on a electric scooter and shared my observation with M that I could not see hers in the living room. M confirmed that it was her electric scooter stating that she bumped into FD yesterday on 02nd February 2025 at Morrisons [], M said CB and CC [were] with her and this was not a planned meeting. M said that she last spoke with FD on 27th December 2024 when he attended the LA's contact centre to see CD. M said FD enquired about her electric scooter; I challenged M on how FD would know this given that they had not been in contact. M suggested that perhaps her brother had told him as she believes they are still in contact. M said FD was with a younger male and said he had to 'do some bits' and asked to borrow her scooter to which she obliged and informed he picked it up from her flat on that evening whilst the children were in bed asleep.

87. That does not sound a particularly convincing explanation for permitting FD to use a scooter which M had previously told the social worker had been recently purchased [C468/1.2].

88. When M gave oral evidence she said she had seen FD near where she lived and "he made me feel bad to lend him the scooter to go to contact to see CD". That, of course, is not consistent with the report to the social worker that FD needed it to "do some bits". When she was later challenged about this she said she had "assumed he'd use it to go to contact". I asked her which of the three versions given was correct (to the social worker M said FD told her he wanted to do some bits, earlier in her oral evidence she said he had made her feel bad as he could not get to contact and later that she had assumed he would use the scooter for attending contact). She said the middle version. I find her evidence unconvincing on the point. I was left with the distinct impression she was covering up for something she knew she should not have done because it demonstrated she was still in contact with FD. She had earlier said there was no communication, except as exhibited in messages attached to her witness statement, that there was no contact between November and the scooter incident although even then she went on to say in fact there had been, she "tried calling him" and "tried texting him but he never responded".

89. In his statement of 11 February FB said:

[C472]

3. During a contact session that I had with CB and CC before Christmas, I was stood with CB in the Morrison's café. The contact supervisor was stood directly behind us, with CC. I whispered to CB asking her if 'the man' is still in the house. CB whispered back, 'I am not allowed to say it but yes'. I am not sure if CB knew I was talking about FD. I do not believe the contact supervisor heard this conversation. I have not questioned or spoken to CB and CC about FD being in the home since.

90. FB was not cross-examined on this evidence although I note it is the hearsay evidence of what a child said and FB is clear he did not know if CB was talking about FD.

91. In summary, when cross-examined by the Local Authority there was this exchange with M:

Q You've lied to the social worker and not stuck to your agreement made in court, is that fair

A I haven't been entirely honest to a degree but I have been open and honest to them as much as I can

92. The evidence in relation to the scooter demonstrates a level of continued engagement between M and FD which was discovered by chance.

93. Ultimately M admitted the allegation as set out above but formally I record I am satisfied that:

M has not been working openly and honestly with the local authority. M and FD have not been open and honest about the level of communication they have had with each other following the police incident on 10 August.

94. I make the further finding, a corollary of the admission, that:

When M signed her statement at [C239] with a statement of truth she knew that the assertion in paragraph 5 that "the only communication we have is messages in respect of CD and me asking him [FD] if he was attending contact" was false.

5: CD pre-adoption medical CD was exposed to animosity between M and FD

95. M accepts the atmosphere was "difficult" in the Scott Schedule although in her witness statement of 19 September 2024 she agreed "there was a hostile atmosphere"

96. FD has been deemed to accept the allegation by reason of his failure to respond.

97. The evidence of Ms Gaze was:

[C186]

1.8 On 28th August 2024, CD had a Pre-Adoption Medical Appointment, M and FD both attended this appointment, they attended late. FD did not greet CD, he pushed his chair away from M, he had his hood up throughout the appointment appearing disinterested. M was attentive to CD, she held her before shortly passing CD to FD, CD was upset and looked for her Foster Carer. There was a tense exchange between parents in the waiting room saying goodbye to CD where FD again made comments about M attempting to stab him.

98. M now admits and I find:

There was animosity between M and FD at CD's pre-adoption medical.

99. I do not consider anything actually turns on this finding.

2: Unsupervised contact between FB and CB/CC by M and FB

100. The Local Authority allege M and FB allowed contact to take place unsupervised between FB and CB/CC despite the Local Authority having arranged supervised contact only.

101. M denied the allegation save for accepting that there was one occasion where FB was met when they got off a bus and two occasions in McDonalds when FB "turned up". However, in the course of oral evidence and after some lengthy explanations of the meaning of "coincidence" M conceded one meeting, a fourth meeting, was one that had been arranged; it had been arranged via CA and she could not explain why that had never previously been mentioned. In closing submissions she made this admission:

M and FB have both allowed contact that was not professionally supervised to take place between CC, CB and FB despite professionally supervised contact being set up.

102. FB accepts meeting M who had CB/CC with her on two occasions without professional supervision, the meetings were in public.

103. The fact of at least one meeting having been arranged, not by chance, is consistent with the WhatsApp messages on CA's phone for 3 July 2024:

[C189]

CA: Mum said are you able to help her with some money to put food in the house for the kids

FB: We talk when u coming here

CA Okay

104. On 10 July there was a message from CA:

[C190]

CA: FB mum said can u give her money for food for the kids and she will bring the kids to see u when we are on the bus going to CD

[C191]

FB: Ask her if she wants to come on town

...

FB: Text her and say to her if she's want to come on town with kids please

...

[C192]

CA: Mum said that she going in town at 5:00 and she said can I give her some money
[voice note not transcribed]

CA: Okay I will tell her

FB: I will let her know when I finish the appointment

CA: Okay

FB: Ask her if she comes to restaurant with me and kids?

...

105. M is reported to have told Ms Fullam on 16 September 2024 that she and the children had been in McDonald's when FB happened to walk in and she could not leave as they were eating and FB kissed and cuddled them. I note she is not reported to have told her what she then said in her witness statement of 19 September 2024 (with the additions underlined):

[C242]

15. I confirm that there was one occasion when we went into town and saw FB as we got off the bus. I can only assume that I had told CA that I was going into town and he told FB. He was literally in front of us when we got off the bus.

16.I believe that there are two other occasions when I have gone to McDonalds with the children and FB has turned up. Unfortunately the children were already eating and it would not have been fair to ask them to leave.

106.FB's version to Ms Fullam on 2 October 2024 was:

[E249]

He stated that they have met on two occasions with the children when M has asked for money in exchange for her allowing him to see CB and CC. He added that when asked to meet in McDonalds he had initially stated that he could not make it and that M had stated, through CA, that the children really wanted to see him.

107.That is consistent with his witness statement of 24 September 2024 [C245] in which he also accepts he was dishonest to the social worker initially [C246/13].

108.In light of M and FB's admissions I make the following finding:

M and FB have both allowed contact that was not professionally supervised to take place between CC, CB and FB despite professionally supervised contact being set up.

109.I make the further finding, on M's oral evidence, that:

At least one of the meetings between FB and CB and CC was arranged between M and FB and not by chance.

110.In light of the fact M's evidence in her witness statement was to the effect that there had been no arranged meetings between FB and the Children I make the further finding that:

M was dishonest in her witness statement at [C242/14-16] in asserting that there were no arranged meetings between FB and CB/CC.

3: Communication via CA by M and FB causing CA emotional distress

111.The Local Authority allege that M and FB have communicated through CA which will have caused CA emotional distress.

112.M denied the allegation but in the course of cross-examination accepted "on some occasions" she asked CA to ask FB for money, she could not give an explanation of why she had not said that in

response to the schedule of allegations or in her witness statements. As noted above she also admitted to arranging at least one meeting between FB and CB/CC using CA as the conduit for communication.

113.FB accepts the allegation of communication via CA but denies it would have been emotionally harmful to CA.

114.The Local Authority rely on an undertaking given by FB on 23 May 2024 in these terms:

[B81]

5. Not to communicate with M whether by speaking, sending a letter, telephone, text message or any other form of communication, including via another person...

115.Ms Gaze's evidence was:

[C187]

On 28th August 2024, a visit was completed to CA at home with his paternal grandparents and father, FA. FA shared Whatsapp message communication between FB and CA, whereby CA appears to be requesting money from FB, on behalf of his mother []. There are also messages exchanged on 10th July 2024, whereby it appears plans are being made for M and the children to meet FB after a sibling contact. I spoke with CA about this during the visit, whereby he confirmed on this day after contact he travelled into Reading town centre with M, CB and CC, where they met up with FB and went to McDonalds together. CA reported that on some occasions after contact, M gets off the bus outside FB's workplace with CB and CC, to meet FB to ask for money.

116.The messages are at [C189-C194] and are consistent with Ms Gaze's summary above.

117.Although FB now admits the allegation (in part at least) he did not initially do so to Ms Gaze (see her statement at [C187/1.13]).

118.M told Ms Fullam on 16 September 2024 that CA had been messaging FB asking for money and he "pretended that she has asked him to contact FB on her behalf as he feels that FB would be more likely to give him money if he felt that she had asked for it" [E248]. In her 19 September 2024 statement she said "These messages had nothing to do with me and I can only assume, unfortunately, that CA has not been honest to obtain money from him" [C242/12].

119.FB's version to Ms Fullam on 2 October 2024 was rather different:

[E249]

He stated that they have met on two occasions with the children when M has asked for money in exchange for her allowing him to see CB and CC. He added that when asked to meet in McDonalds he had initially stated that he could not make it and that M had stated, through CA, that the children really wanted to see him.

[E259]

He stated that he has met M on two occasions with the children and these have been arranged by M via her son, CA's, mobile phone. CA is reported to send messages on behalf of his mother.

120. In light of the parties' up to date positions I make this finding:

M and FB have communicated through CA.

121. I make the further finding that follows from the admission that:

When M signed her statement at [C239] with a statement of truth she knew that the assertion in paragraph 12 that she was not aware of messages between CA and FB she was dishonest.

122. I note that I cannot, on this evidence, make a finding of emotional distress having been caused to CA, there is no evidence of the same.

Welfare checklist

123. Having made those specific findings I now turn now to the considerations under section 1(3) Children Act 1989.

Wishes and feelings

124. The Guardian reports CB to be worried about the thought of being removed from M's care and was clear that she wanted to live with M near her school [E304]. I was referred to a letter CB wrote to FB indicating her enjoyment of spending time with FB. The Guardian agreed CC's expressed wishes were to remain with M.

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

125. The Children have always lived with M.

126. The social worker recorded that CB could at times be excitable and at times withdrawn [C376/4.9]. CC is described as quite playful and independent but has more recently seemed withdrawn [C378].

127.The Guardian reports CB to be “friendly, sensitive and thoughtful” [E303] with a clearly expressed attachment to CC; she can be preoccupied and withdrawn at times and is “behind in reading” [E304].

128.In respect of CC he said that he was “happy and playful”, his attendance and presentation at school had improved but he was still “behind in some areas” [E304].

Likely effect of change of circumstances

129.The social worker described a close sibling bond between CB and CC [C377/4.12] and this has fed into the care plan of a joint placement.

130.The care plan also provides that the Children’s cultural identity (with FB being a non UK European national) would be promoted through placement with a culturally appropriate match and through contact with birth family with FB’s provision of traditional dishes on occasions during contact.

131.The Guardian said:

[E305]

33. CB and CC have close bonds with M and have never been apart from her for any length of time during their lives and so separation from her is likely to be traumatic and unsettling for them, at least in the initial stages.

132.When he gave oral evidence he said the relationship with M was close and tactile and agreed that the continuation of that would “all other things being equal be an almost immeasurable benefit”. However, removal from M’s care would not necessarily have a lasting negative impact if they were able to settle well in foster care and able to maintain a relationship with M. Separation, he agreed, would be “traumatic” although it would not necessarily be an “enduring trauma”. He agreed that loss of the weekly contact with FB would be “significant”.

133.He acknowledged foster care did not have the stability of adoption or a secure family placement, it can be unstable and insecure although for CB and CC the prospects were probably better than the average statistics. He acknowledged the type of care would be different, care by someone with whom the Children had no prior emotional, psychological or familial connection. He acknowledged it was contrary to the expressed wishes of both Children, they would not be able to maintain the same school, the same friendships or see Maternal Grandmother in the same way.

Capability of parents: M

134. In the agreed threshold it is accepted that the Local Authority was previously involved in the family in 2019 by reason of concerns about home conditions [A117/(v)] and that they had deteriorated again in early 2024 [A118/(vi)].

135. On the face of the order of 9 April 2024 it was recorded:

[B29]

3. The mother and FD agree that FD shall not attend or reside at the family home.

136. On the face of the order of 23 May 2024 it was recorded:

[B72]

7. The mother and FD continue to agree that FD shall not attend or reside at the family home. For the avoidance of doubt FD is permitted to spend time in the family home with the mother when CB and CC are not present.

137. Ms Gaze's evidence was that on 1 August 2024 CC told her that "FD is upstairs" [C185], although he was not it might tend to CC was aware he had recently been.

138. Direct evidence of FD spending time in the home when the Children were present and contrary to the May 2024 agreement is as follows:

11.07.24	M412	FD to M <i>So what im staying at yours tomorrow night till Sunday ?...</i> M to FD <i>Yeah</i>
13.07.24	M422	M to FD <i>need to go careful today as welfare and if they see you on balcony xxx</i>

139. M's oral evidence was that although FD said he was going to stay he did not in fact stay. I do not find he stayed when the Children were there.

14.07.24	M423	M to FD <i>Fuck it just stay here for bit till later (10.51)</i> FD to M <i>Your have the kids</i> M to FD <i>Nothing can be done about it as you got nowhere to go xxx</i>
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140.M's evidence was that when she collected the Children FD left the home. I do not find he stayed when the Children were there.

22.07.24	C382 M506	FD to M <i>Am I staying at yours still den babe xxxxx</i> ... M to FD <i>I already said you was coming back when kids was asleep</i>
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141.M's evidence was that FD most likely stayed the night of 22 July 2024. I find he did and the Children were present.

23.07.24	M519	FD to M <i>Just keep on with him if not just have to stay tonight that be it</i> M to FD <i>That be it just tonight babe Yh</i>
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142.M's evidence was FD was trying to stay at a friend's house and she was saying if he could not he could stay at Maternal Grandmother's "just tonight". In light of my findings of dishonesty on the part of M in relation to other nights (i.e. acting contrary to the agreement recorded at court and concealing it from the Local Authority). I do not accept this evidence and find on balance FD did stay the night of 23 July 2024 and the Children were present.

24.07.24	M527	FD to M <i>I got no where to go now so xxxx</i> <i>I'm on streets tonight xxxx</i> M to FD <i>Your have to stay here like what you been doing till Thursday when go to council xxxx</i>
	M536	FD to M <i>You wanna sit downstairs and watch tv while I eat and smoke babe then we go up to bed xxxxx</i>

143.M's evidence was that FD "might have been that night".

25.07.24	M545	FD stayed the night FD to M <i>So I'm staying at yours again tonight Yh babe xxxxx</i> M to FD [heart emoji]
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144.M's evidence was initially "the kids weren't there, my mum had them from 24-25 July" then she said on 25-26 July and then 24-26 July. When it was put to her that was not consistent with a message at [M535] which suggests the Children were in fact there on 24 July she said they "might not have" been with Maternal Grandmother. The messages at [M535] indicate FD asking if CB was in bed and M saying she was at around 20.40. Accordingly I find FD stayed overnight and the Children were there on the night of 24 July.

145.In relation to 25 July there is a message suggesting FD was in the house on the morning of 26 July at [M551] and M said "the children were at home and FD might have been staying over". On balance I find he stayed overnight on 25 July 2024 and the Children were there.

27.07.24	M554	M to FD <i>be careful with welfare</i>
28.07.24	M570	M stated that CC was screaming as he needed a 'poo' and there was no toilet paper
	M572	M to FD <i>I'm just going to put CC to bed xxx</i>
		FD to M <i>Okay I'll come back when they asleep babe xxxxx</i>
	M573	FD to M <i>Imma be on way back now anyways babe xxxx</i>
	M575	FD to M <i>Right well I'm outside Xxxx</i>
	M575	M to FD <i>If you want but be quiet xxxx</i> ... M to FD <i>Come in I said</i>

146.M accepted FD might have stayed the night on 28 July and I find on balance he did and the Children were present.

29.07.24	M589	M to FD <i>Just stay tonight as I'm dropping kids tomorrow</i>
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147.M accepted that FD had stayed the night and I find the Children were present.

30.07.24	M594	M to FD <i>You could've asked me I would've fucking put outside the door, but no you have no consideration for anybody but yourself, I can lose my fucking kids for you being here</i>
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	M594	M to FD <i>So you know that, but you still let them see you</i>
	M595	FD to M <i>Right you can turn around and say that I came to get my shit to go to my dads and they saw me out the window On the balcony coz I'm allowed in the block not the house</i>
		M to FD <i>Right</i>
	M599	FD to M <i>Oh okay what time can I come back then xxx</i> ...
	M600	<i>When can I come back babe xxxxx</i>
	M601	M to FD <i>Come back when ever I'm just taking kids up to bed anyway xxxxx</i>

148.M accepted CB and CC may have seen FD on the morning of 30 July. I find that they did on this evidence and FD stayed overnight on 29 July 2024 with the Children present.

149.It was put to M that she was going to tell the social worker, if the Children said they had seen FD in the home, that the Children were wrong and only saw FD outside the house. She did not agree but on the messages above I find that is exactly what she had agreed.

150.She said FD might have stayed the night of 30 July 2024. I find he did stay on 30 July and the Children were present.

31.07.24	M 610	M to FD <i>Okay I take them up now and you come and sit downstairs</i>
	M 609	FD to M <i>What time Sarah [social worker Sarah Gaze?] coming tmorrow babe</i>
		M to FD <i>10.30</i>
		FD to M <i>Ok I'll be out before then anyways babe</i>

151.M agreed FD stayed the night of 31 July. I find the Children were present.

152.M accepted that FD had been in the home on the morning of 1 August and CC was not lying in telling the social worker that FD had been upstairs albeit he was not actually in the home when she visited.

153. She said "he might of" stayed the night of 1 August. I find he did based on the messages at [M612-M613] and I find the Children were present.

02.08.24	M619	FD to M <i>Can't smoke if kids are in front room xxxx</i>
		M to FD <i>Ok give me a min and I leave</i>
	M620	M to FD <i>Kids need to go toilet xxxx</i>
		FD to M <i>Ffs [for fuck's sake] xxx</i> <i>Hurry up I'll shut the bedroom door again quick xxxxx</i>
	M624	FD to M <i>Is she asleep yet? Xxx</i>
	M625	M to FD <i>In bed</i>
		F to MD <i>Imma smoke a zoot and I'll be up okay babe xxxx</i>

154. M accepted FD stayed the night of 2 August and I find the Children were present.

04.08.24	M631	M to FD <i>what you want for dinner I cook it later for you</i>
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155. M said she could not remember but most likely FD stayed the night of 4 August. I find he did and the Children were present.

05.08.24	M638	FD to M <i>You want me to come upstairs xxxxx</i>
		M to FD <i>Well kids will be up soon xx</i>
		FD to M <i>Right so do you want me come get into bed then xxxx</i>
		M to FD <i>Well yea xxx</i>
	M645	FD to M <i>Am I coming back tonight or not xx</i>
		...
	M646	<i>Am I coming back tonight? X</i>
		...
		M to FD <i>Spouse so x</i>

	M649	M to FD <i>I don't mind you staying here least you have a place to sleep</i>
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156.M accepted FD stayed the night. I find the Children were present on 5 August.

06.08.24	M672	M to FD <i>But it's okay I give you space just lock the door as I'm on floor in kids bedroom</i>
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157.M accepted FD stayed the night. I find the Children were present on 6 August.

07.08.24	M679	
08.08.24	M684	FD to M <i>I'm smoking a zoot then I'm back</i>
09.08.24	M686	FD to M <i>Yh but I don't want to make noise that what I mean and wake people up</i> xxx M to FD <i>Kids door is shut xx</i>

158.M accepted that “most likely” FD stayed the night of 7, 8 and 9 August. I find the Children were also present.

159.I have already recorded later breaches of the agreement in relation to allegation 1 above.

160.Counsel for M sought to persuade me that making findings on this evidence would amount to a serious procedural irregularity and a breach of M's article 6 right to a fair trial, the Local Authority never having alleged in a schedule of allegations that there were such breaches. He referred me to *Re G and B (Fact-Finding Hearing)* [2009] EWCA Civ 10.

161.The hearing I have conducted is a rolled up fact finding hearing and final hearing. Part of the welfare analysis involves consideration of how capable M is of meeting the Children's needs (section 1(3)(f) Children Act 1989). Consideration of her honesty in working with professionals is directly relevant to that issue. The mobile phone evidence has been available since 9 October 2024. I acknowledge it is lengthy but there have been almost 5 months to consider it. In her witness statement dated 2 December 2024 M addressed the contact between her and FD ([C402/6] “In respect of the messages about meeting up with FD I confirm that some were about him going to my mum's...It was also my understanding that I could see him as long as I did not allow him to come into contact with the children, therefore there were occasions”). In her witness statement dated 13 February 2025 M addressed the contact between her and FD ([C475/3] “I did have previous communication with FD but

this was when the children were not with me. It was my understanding I was able to meet up with FD as long as the children were not in my care”; [C476/8] “As I have previously stated I was told that I could see FD as long as he did not come into contact with the children”). I do not accept any procedural irregularity or breach of article 6. This was plainly a live issue and one that M sought to address in advance of the hearing; it is also notable that these are M’s messages so not entirely unfamiliar to her.

162. My conclusion is that on multiple occasions M allowed FD to stay overnight when the Children were present, this was in direct contradiction of an agreement reached in court and M has been dishonest about it. It has involved the Children who have seen FD present in the home and there was a plan to tell the social worker the Children were mistaken should they have been asked about it. I also find that M has not been honest in her working with professionals. That finding parallels my finding in relation to allegation 1, that the relationship continued beyond August 2024 and M has not been honest about that and allegation 2, that M was not honest about arranging to meet up with FB and allow him contact with the Children which was not professionally supervised.

163. Ms Fullam’s initial assessment was as follows:

[E160]

12. From the chronology provided by the Local Authority, there appears to be a pattern whereby concerns arise when M is in a relationship. It appears that such concerns do not arise when M is single. She has recently made positive changes and although she is not currently single, FD is not permitted to be in the home when the children are present and therefore M is more able to focus on their needs.

13. The relationship between FD and M is a cause for concern. Whilst there is no reported domestic abuse in their relationship, professionals are concerned that FD may be controlling of M...M is highly anxious that FD will leave her. She wants this relationship to progress and would like to marry FD. FD shares that he trusts no one, including M, and presents as being in ‘fight or flight’ mode as a form of self-protection. This in turn compounds M’s fear that he will leave her and, in my professional opinion, takes her focus. When M and FD are together with the children it is more likely that their needs will not be prioritised.

164. This professional evidence echoes the agreed threshold finding that hospital staff noted CD’s basic care needs were being neglected and she was often left unattended [A117/(1)].

[E161]

15. In the main, M has a good understanding of her children's needs and has been able to demonstrate that she can meet them.

[E162]

FD uses cannabis and it is notable that his cannabis use is reported to have doubled since CD was removed. FD became emotional when asked whether he would cease use. He has stated that he will not cease his use and appeared afraid of what this would do to his mental health. Until FD is in a place where he is accepting of help, it is unlikely that he will address his mental health, or his substance misuse.

...

19. In conclusion, if they were to remain as a couple seeking to parent the children, I would have significant concerns that the positive changes observed could be sustained. Nor do I consider that FD could meet CD's needs, as a single carer. If M were to continue to parent the children as she is at present, without FD residing in the home, I would be cautiously confident that she could meet the needs of CB, CC and CD, with ongoing professional support.

[E165]

... the children would currently be most vulnerable at the point that M enters into a new relationship. It is likely that M would need ongoing professional support in the long term.

[E169]

26. A psychological assessment was completed of M by Dr Furlong on 25th September 2019. This concludes 'Based on the information gathered during this assessment, it is suggested that M's level of Global Intellectual Functioning is within the "Below-Average" range, with an estimated Full Scale IQ score of 83 at the 13th percentile'.

[E174]

Whilst there have been significant concerns about the children's basic needs being neglected, there has been a significant improvement in this more recently. FD has not been present in the home, as per the court's direction and therefore, this is an area that M has worked hard in.

[E176]

49. That said, neither M nor FD is able to identify any risks in FD's use of cannabis and they lacked an understanding of the risks of drug misuse in general. M has been in two previous

relationships where she has been the victim of domestic abuse. In both of these relationships M minimised the domestic abuse that was perpetrated and that the children were exposed to until the relationships were over. As such, there remains a concern that M may not be able to identify the warning signs of domestic abuse and act upon these appropriately or be open and honest with professionals about any abuse.

[E177]

52. CA, CB, CC and CD have reportedly had their needs neglected for the last 8 years. These improve during intervention with the Local Authority however deteriorate in the long term and it is evident that M has struggled with maintaining the positive changes that she has made. This assessment has evidenced that M has the knowledge, in the main, to understand what she needs to do and the skills to put this knowledge into action. The concern is that, at times, M does not prioritise the children's needs.

[E192]

105. When FD's emotions become dysregulated, M seeks to soothe him. She is struggling as FD is not currently living with her due to the court's direction and she feels somewhat responsible for him being homeless as a result. In my professional opinion M feels responsible for ensuring that FD's needs are met and it is likely that she has, at times, placed FD's needs before those of her children.

[E193]

FD has been, more recently, arrested for harassment of his ex-partner, which he denies. Details of this are above in point 76. On reading this Police report, what is also alleged is that the female's mother alleged that FD had been abusive to her younger children. She reported that he had threatened to put a 7-year-old child through a brick wall, slap a 5-year old's bottom 'red raw' and threatened to punch a 16-year-old in the face. This raises significant concerns in light of CC previously sharing that FD had hit him, which was subsequently withdrawn and minimised and M sharing that the children do not fight when FD is present. FD's relationship with CB and CC has not been able to be observed during this assessment as he is not permitted to have contact with them. In my professional opinion caution needs to be had if and when FD resumes contact with CB and CC, particularly given the pattern of M minimising abuse in her previous relationships.

[E198]

120. FD states that he will not cease his cannabis use and given that the risk of his daughter being permanently removed from his care has not affected change then, in my professional opinion, FD is unlikely to cease use in the near future. I remain concerned about the allegations of domestic abuse towards his ex-girlfriend and her younger siblings. Those allegations, in addition to M's vulnerability to domestic abuse, increases the risk that the children could be exposed to domestic abuse in this relationship.

165. Following forensic examination of M's phone Ms Fullam prepared an addendum assessment:

[E250-E251]

6.5 M is observed to have been feeding FD and providing him with money when he has requested it, often for him to buy cannabis. When she has stated that she could not give him any money he has directed [her] to ask others to borrow money. This has resulted in the children's needs being unmet. On 22nd July 2024, M stated that there was no food for the children to have breakfast the next day however both parents were noted to have had a takeaway that night and on 28th July 2024, M stated that CC was screaming as he needed a 'poo' and there was no toilet paper.

6.6 There is a pattern within the messages of FD making M feel guilty, often for questioning his behaviours and once she begins trying to apologise is when he asks her for money. He also messages her repeatedly asking what she is doing and when she does not reply promptly his messages become more demanding, for example he will send these messages seconds apart;

- What you doing
- Babe
- Hello
- Oi
- Hello
- XXXX

6.7 There are a number of messages from FD when he evidences his lack of empathy or understanding of the needs of CA, CB and CC. M only challenges this on one occasion and FD did not respond to this. FD expresses his anger at M giving CC her phone as this results in him being unable to contact her. For example, on 1st July 2024, he stated 'No wonder why I can't ever talk to you when I need to. Coz your fucking kids hang up 24/7' [this is at [M291]]. He also

refers to the children as 'cunts' for coming into her room, telling M to take everything off of her phone (that they like playing/looking at), put a lock on her bedroom door to keep them out and he refers to the bike that he has promised CC, suggesting that he is not going to get it for him [at [M343]]. Further to this on 7th July 2024, M informed FD that CA had turned up at her home, stating that his paternal grandfather had threatened him. FD responded 'Right tell him to fuck of back to wherever coz its Sunday your putting the kids to bed.....'. He later stated 'He's starting to take the piss now with all this bullshit'. It is observed that FD adds 5 or 6 kisses at the end of these messages, thus suggesting that he is making these statements with love [at [M367]].

[E252]

6.9 The quantity and frequency of the messages [between M and FD], together with the intensity of them lead one to question how available M was to the children, during these periods. M is likely to have been distressed at times and the children would also have been exposed to this.

166. Her resulting assessment was:

[E253-E254]

7.2 It is evident that FD does not prioritise the children's needs over his own. His references to CB, CC and CA evidence that he is likely to be emotionally and potentially physically abusive to them. It is evident that he also seeks to challenge M's relationship with them, which she has, in the main, allowed him to do. FD has encouraged M to be more punitive on the children and does not respect the relationship that she has with her children.

7.3 That said, M is noted to have used derogatory and degrading language towards her mother and sister and this is in contrast to how she speaks about them to professionals. These individuals are her support network and the children have regular contact with them. It is unclear if the children have been exposed to this language towards those people whom they consider themselves to be close to.

7.4 The abuse between FD and M is significant. There has been physical, emotional, financial and sexual abuse evidenced within the phone records. Whilst we could consider that FD is the perpetrator of this abuse, it is also noted that M has also been physically and emotionally abusive. She has threatened suicide, used the children as a pawn and has threatened FD with a knife [see my finding on allegation 4]. Their relationship is toxic and it is unclear what the status

of their relationship is at present, given the level of deceit from both parents. It is clear that M would like to resume the relationship and messages between the two were exchanged on the day that M gave her phone up, which she deleted. FD has not engaged with this assessment to provide his views.

7.5 It is, with regret, that the information shared since the assessment dated 15th August 2024, evidences that neither FD nor M is able to meet the children's ongoing needs. This is despite M being able to evidence that she has the skills and the knowledge to do so, however she continues to make choices which prioritise her own needs over her children's...

7.7 The ability of FD and M to portray to professionals that they were working with them in an honest and open way is alarming and in my professional opinion constitutes disguised compliance...This results in the children remaining at risk of significant harm and professionals being unable to safeguard them appropriately.

[E255]

There is evidence to suggest that even if M did not resume her relationship with FD, she would likely prioritise her own needs for male attention over those of her children's.

M has shared that all three of her significant relationships have been abusive. The information shared through the analysis of her phone indicates that M did not choose to end her relationship with FD and she has continued not to be able to acknowledge the risks posed to her children from him. Therefore, whilst M may appear to meaningfully comply with a plan of interventions directed by the court, there is significant concern that she would be unable to sustain this in the long term and would likely revert to neglecting the children's needs, which has been a long term issue.

167. When Ms Fullam gave oral evidence she was cross-examined on her change of recommendation. She agreed that at the time of her first assessment there was historic evidence of a pattern of neglect resolving with Local Authority intervention only to recur, she agreed notwithstanding that concern she had made a recommendation for the Children to remain in M's care although she was "cautious"; she agreed in answer to questions on behalf of M that M was meeting the Children's needs in every domain.

168. She was asked about the proportionality of her recommendation and said she considered her recommendation for removal was proportionate having regard to the phone records which demonstrate the manner in which FD “undermined M’s parenting” which was “more of a risk than had been understood previously” and M “not being open and honest made it very difficult, nobody would know what the lived experience was”. Whilst she agreed the evidence might indicate an upwards trajectory in terms of concerns about neglect, “M and FD have not been open and honest so it would be challenging for any professional to support M or the Children” and later said that her concern was “because of deceit professionals could not put in place support, nobody would know until something happened”. I would observe that would most likely become more of a risk after proceedings end and the level of jeopardy (i.e. the risk of the Children being removed) for M in not continuing the improvement would decrease.

169. She was asked if M was aware of her concerns about FD at the time of the initial assessment and said that she had talked about the possibility of a recommendation that M could not care for them if she continued in a relationship with FD and M “reported she would do whatever it took to keep her children”. It is plain from the findings I have made above in relation to allegation 1 she did not do so and Ms Fullam’s oral evidence was that M was never able to identify that FD was a risk to the Children.

170. Her evidence was encapsulated in this answer:

Q May require a higher degree of monitoring but what court has to decide is whether removing CB and CC from M’s care is the proportionate response to the residual risk you identify

A I would be concerned for the Children’s welfare

Initially neglect was the concern we were assessing but it’s M’s ability to hide what is happening to the children that means the risk to them would be very difficult to manage

For example M said FD would not be in the home and the evidence suggests he was in the home, concern is regardless of what support offered and visits to the home...this information was hidden and if that’s the case how could professionals keep the Children safe from significant harm

171. The social worker summarised the position in her statement in this way:

[C376/4.11]

The initial social work statement evidences the significant harm CB has experienced whereby she has smelt of urine, suffered with headlice, and been afforded inadequate care from M. The

concern of the Local Authority is that M is unable to sustain changes for the children, and her deception during proceedings in terms of allowing FD into the home and facilitating unsupervised contact with FB evidencing that such changes will not be sustained...”

[C379/4.19]

This cycle of neglect cannot continue for any of the children. It is the Local Authority’s position that M has had extensive support over many years to make and sustain changes to ensure her children are no longer exposed to the adverse effects of neglect, however, M is unable to sustain changes for the benefit of her children. There is a recurring cycle of M prioritising her own needs and relationships above the children’s welfare, safety and well-being...

172. When she gave oral evidence the social worker agreed that care during proceedings had been “good enough” and that has to be weighed in the balance but said “I feel we don’t entirely know what goes on in the home and what FD’s role is” and M’s progress is “overshadowed by M’s disguised compliance”. She was challenged that if she was right about the concern related to FD and M’s disguised compliance it had not actually led to the Children being neglected within proceedings, she agreed but said “we don’t truly know what is going on for the children and pair that with the children being guarded it is hard to understand their lived experiences”. Specifically she identified the Mother’s mental health; within the phone records the following is recorded:

10.08.24	M689-M691	<p>M to FD</p> <p>..... <i>I literally don't want to live anymore</i></p> <p>.....<i>My heart is shattered</i></p> <p>...</p> <p><i>Bye make sure CD and kids are ok</i></p> <p>...</p> <p><i>Your be better off without me</i></p> <p>...</p> <p><i>I just can't no more with you not caring and you not in my life no point me being alive</i></p> <p>...</p> <p><i>See you on the other side</i></p> <p><i>You was the best thing that happened to me I'd never forget you</i></p>
16.08.24	M786	<p>M to FD</p> <p><i>It doesn't matter. I'm killing myself now so goodbye you're better off without me.</i></p>

173. She said that the phone analysis also showed lack of prioritising the Children’s needs and instead prioritising FD’s cannabis use (see for example references at [M454] (FD reference to weed), [M455] (sending money to FD), [M668-M669] (reference to M sending £20 to FD for “weed”)

174. There is also some evidence of a lack of food at home. In particular there is reference to that and a lack of money on 17 July 2024 at [M455] (M says more money going out than she is using), [M513] (on 22 July 2024 at 21.29 no breakfast for the Children in the morning), [M570] (28 July 2024 no toilet roll or tissues). More generally she said of the messages “The focus is on him [FD] and his needs, the shift is on those messages as opposed to the children”.

175. The messages (aside from evidencing lack of honesty about FD staying overnight) demonstrate attempts to mislead the social worker (if the Children said FD had been in the home) or conceal matters from the social worker. The message at [M544] (“be careful with welfare”) was put to M and I asked her whether she was concerned to hide something from the social worker. She agreed.

176. As I noted above in relation to M’s changing evidence about the scooter so too I noted a change of evidence about the events of 16 August 2024. At [M793] M messaged FD saying “I’m truly sorry I’m sat in the middle of the road crying because of how fucked I’ve just got”. She was asked if she was in the middle of the road at 22.17 when the message was sent and initially said she had sent the message to provoke a reaction from FD and was in fact at home in bed but a few moments later said she was walking home. She had previously told me about an incident on 16 August 2024 when she had a knife in her hand, saying:

...because I’d planned to go out, he said we’d talk things through and all he did was come back to get his charger, I asked for my keys back, he wouldn’t get out, I had a blunt knife to the side of my leg, he grabbed my arm and pushed it up, I threw him out.

177. But when later being asked about the message at [M793] said she had in fact followed FD which she had not suggested in any way when answering the earlier question.

178. In relation to FD’s abusive messages about CA and CC and despite M saying she had challenged FD about the messages about CC over Facetime “all night long” she agreed she had begged FD to come back. She could not explain to me why that was.

179. She was asked about giving FD money for drugs. She said she was “lending him money for” weed. Although she asserted that it was “not really” affecting the Children as they still had food, clothes and warmth it is apparent from other evidence (above) that at times they did not in fact have food and of course it would have diminished the resources available to meet their needs whether they had food or not. It demonstrates a further prioritisation of FD over the Children.

180.It was put to her that this all evidences that “when you are in a relationship with someone your care of the Children slips”. She accepted this “to a degree”. When I asked her how it slipped she said:

Probably me become lazy, if I was in a relationship I would be a bit lazy, I expect whoever I’m in a relationship with to do the housework and feed the kids.

181.She agreed she was slow to come to the view that FA, FB and in turn FD posed a risk and agreed the difficulty with that was that she had “been in a relationship for a while when the risks were present and she had not noticed”.

182.The Guardian said:

[E302]

20. In my interview with M, we discussed the phone device evidence, a police referral and her recent contact with FD on 3rd February which presented an extremely concerning picture of her continued abusive relationship with him.

21. I found that M could not explain why this level [of] communication had continued after the clearly abusive and coercive nature of these interactions with her. She was able to reflect that there was abusive behaviour from FD and says now that she has no feelings for him and she said this relationship is now definitely over.

22. M described the recent meeting with FD as a chance meeting but admitted that if I was to believe this was true, it was extremely foolish to agree to help him with the loan of an electric scooter which meant he came to the home, given what was at stake and the concerns that have been raised about this relationship already....

23...Sadly, despite M’s clear love for her children and their close attachment she does not have the capacity to change and provide safety and stability for the children within their timescales.

183.What is evident from this evidence is that the phone records are crucial in gaining a better insight into the Children’s lived experience that direct observation did not reveal.

184.The findings in relation to allegation 3 (communicating with FB via CA) evidence M being willing to blame or undermine accounts given by the Children. This was also evident on 30 July 2024 with M agreeing to say CB/CC saw FD out of the window (see the message at [M595]) if they reported seeing

him in the home and denying CC was correct in saying FD was upstairs on 1 August 2024 (see above and M's oral evidence).

185. On this evidence on the balance of probabilities I conclude:

M has the capacity to meet the Children's needs to a good enough standard.

M is not always able to put that capacity into practical effect particularly when her focus is on a relationship.

That failure exposes the Children to a risk of emotional harm (M's mental health, denying or undermining the Children's reports), physical harm (incident on 10 August 2024 and a further incident on 16 August 2024) and neglect (reduction in financial resources available to the family and health and educational needs not being met).

M's dishonesty has diminished professionals' ability to monitor compliance and the Children's welfare during proceedings.

Capability of parents: FB

186. FB does not put himself forward to care for CB/CC. For completeness the Local Authority case summary says:

28. A Parenting assessment of FB [E119-E137] was undertaken and was negative for him to care for his children. An addendum assessment was directed and has been filed and served [E257 – E263]. This is also negative...Neither appears to have any respect for professionals nor any insight into the impact of their own behaviours on the children in their care. As such, I question whether any meaningful work can be undertaken with the parents in order to mitigate the risks identified.

187. I also note his rape conviction in another European country in March 2013 with a sentence of 3 years imprisonment suspended on appeal (November 2013) [I16]. He also has 4 convictions for breaches of a non-molestation order 24 November 2023, 11 January 2024 (two) and 12 January 2024 [I16]

188. The conclusion of Ms Fullam was in the following terms:

[E120]

it is my professional opinion that FB is unable to provide CB/CC with fulltime care. FB is currently homeless, living in a car, and he has no legal status to be in the UK. There are concerns about his dysfunctional relationships with women, with evidence that he has displayed behaviours which amount to stalking and harassment and 10 years ago, FB admitted to a rape charge, although he denies this was the case but states that this was due to corruption in the legal system in [the other European country].

[E121]

FB does not have the knowledge or the skills to provide confidence that this would be the case if they were placed in his care. FB shares that he has no concerns about M's care of the children however, records indicate that there were significant concerns regarding neglect of the children when he resided in the home with them.

...

CB/CC were seen to enjoy their contact with FB and, whilst I do not consider that he is able to meet their needs as a sole carer, the relationship between them should be prioritised through regular contact. At present, I would not recommend that this is unsupervised due to FB's lack of knowledge, experience and ability to prioritise the children's needs. Whilst I do not consider him to pose a direct risk to CB/CC, in relation to his being a registered sex offender, there is a risk that he will expose them to his behaviours of harassment and stalking of women if they were in his care unsupervised, which would also result in FB not prioritising CB/CC needs.

[E123]

It would be my recommendation that FB be able to have supervised contact every week for a maximum of 2 hours, with this being reviewed after 3 months to establish whether this contact continues to require supervision.

[E128]

4.4 FB was asked to describe himself as a parent and he stated 'they love me, CB loves me, they melt my heart, CB just wants to be with me'. FB is able to identify that his relationship with CB is more established with CB [than] with CC as he was still very young when he was extradited back to [the other European country]. As a result, FB was able to describe CB as smart and kind but could not think of anything to describe CC.

4.5 When discussing his breach of the non-molestation order that M had obtained, FB shared that he did not know that he was not allowed to contact the family and he did not read the order that was given to him.

5 FB shared that he understands why he is not permitted to see CB and CC unsupervised however does not consider that this is required as he believes that he poses no risk to his children. When asked if he has any concerns about CB and CC being in M's care he responded that he did not as she is a good mother adding that he thinks it must be because of 'the guy she is with now'. FB was unable to reflect that many of the concerns that professionals are worried about now, they were also worried about when he was residing in the family home.

189. Ms Fullam reports a psychological assessment from November 2019 which recorded FB had a number of impulsive sensation-seeking personality traits and "such personality profiles may demonstrate difficulties placing other's needs, including those of children, before their own and have a reduced ability to experience empathy for others in part due to an over inflated sense of self-worth... They may seek to manipulate others to achieve their own wishes by engaging in behaviours that are generally considered to be socially unacceptable" [E129-E130]. Ms Fullam concurred given concerns about FB's stalking and harassing behaviour towards females. She referenced having contacted FB's Management of Sexual or Violent Offenders officer who reported "that there is an ongoing concern that FB forms relationships with vulnerable women and then exhibits behaviours that constitute harassment and stalking" which in turn referenced an impending prosecution for harassment and stalking on 17 March 2024 [I15].

Capability of others

190. No-one else has been positively assessed to care for CB/CC.

Any harm suffered or at risk of suffering

191. When Ms Fullam gave oral evidence she was asked to identify the risks posed by FD and said:

Q What do you see is the risk posed by FD

A I believe he is very young, never had a child before and he could learn but the issues were that in his mannerisms he doesn't trust anyone, said didn't trust M, his responses at times were somewhat aggressive, not overtly aggressive but something in the way he spoke about CB and CC and after sight of the messages and communications I understood what that meant, that was he would treat them differently from CD...

Q In what way treat them differently
A Referred to them as cunts, taking things away from them, lock them out of the bedroom, that's not the relationship with CD, he was awkward with a tiny baby but you could see the bond, but for CB and CC he was vocalising quite aggressive terminology about them and CC spoke about being hit by FD in the past and that would be a concern of mine
Q Concern about risk of physical harm
A Yes, and emotional harm In the messages there was one time she challenged him but when I spoke with her she presented him as a good stepfather to the Children and I'm concerned M didn't identify the risk that FD posed to the Children herself
Q What would the impact be to the Children
A Significant emotional harm

192.The Guardian said:

[E305]

32. I continue to maintain my views from my initial analysis that the children continue to be at risk of cumulative harm due to the long history of social work involvement, the impact of neglect on their mental health and development with the pattern and history of M not being able to sustain improvements she has made following social work intervention.

...

It is deeply concerning that CB and CC have become increasingly withdrawn and wary of speaking to professionals meaning that it is difficult to foresee any workable structure that can keep them safe.

193.Reminding myself of the test I must apply I consider the following matters:

(1) What type of harm has arisen and might arise?

194.The main concern at the outset of proceedings was neglect, evidenced by low school attendance, poor home conditions and CB reporting always feeling hungry.

195.Through these proceedings those concerns have ameliorated but additional concerns have arisen in the form of M's mental health and focus on FD's needs taking her focus away from the Children, this is coupled with FD's apparent attitude to CB and CC. This presents a risk of emotional harm. There is an additional risk of physical harm arising from the incident on 10 August 2024 and a risk of emotional harm from M dishonestly contradicting accurate reports from the Children.

196.The Guardian’s evidence in chief was that the risks were domestic violence, the relationship with FD and disturbing levels of emotional abuse and the fight involving a knife.

(2) How likely is it to arise?

197.There is no direct evidence of neglectful care during these proceedings (over the past 11 months) but there is a pattern of improvements with Local Authority involvement historically before regression. The likelihood of it arising in the future has to be seen in that context with each point pulling in the opposite direction.

198.The Guardian said that “given the Children being in proceedings and on Child Protection Plans and this [ie the evidence from the messages] has happened behind the back of professionals there is not much evidence to say this won’t continue [in M’s relationship with FD] and future relationships”. When cross-examined he said:

Q I accept there are two parts, specific risks with FD will depend on the nature of any ongoing relationship and risk of M entering into future relationships, that is difficult to quantify

A Not sure about that, there’s been a pattern of being involved in abusive relationships and this quite concerning relationship happened in court proceedings when there is a lot of scrutiny, focus and a lot at stake so I’d say it would make the risk quite high in the future

It would be a high likelihood of those relationships happening again

199.In closing submissions counsel for M accepted there was “a degree of risk that M will enter into a dysfunctional relationship with the consequence that the level of care provided to her children may diminish”. Counsel also made reference to the absence of evidence of actual harm during proceedings being of assistance in assessing future risk.

200.Given the pattern of neglect and improvement, three domestically abusive relationships and the evidence of dishonesty within proceedings I consider the likelihood is significant, I am not required to put a percentage on it but find it is greater than 50%.

(3) What would be the consequences for the child if it did arise?

201.The Independent Social Worker has identified both emotional and physical harm for the Children should the risk eventuate. This would likely be in the form that led to these proceedings, thus low school attendance and poor home conditions but also risks arising from exposure to domestic abuse.

(4) To what extent might the risks be reduced or managed?

202.The evidence of the three professionals (Social Worker, ISW and Guardian) is that there is very little that can be done to reduce the likelihood of harm in circumstances where M has not been honest in proceedings (as considered in detail above). I found Ms Fullam’s evidence that “nobody would know until something happened” really encapsulated the problem.

203.The Guardian was asked to think about the recommendations that the ISW made in her original report at [E163]:

- M to continue to engage with Talking Therapies and any other recommendations that they deem appropriate following their current course of counselling.
- M to be supported with Housing by the Local Authority in the locality where her mother and sister reside.
- M to continue to engage with the Family support worker to address the gaps in her parenting capacity and understanding of coercive control in relationships.

204.The social worker had said that a family support worker had been provided previously to M and she understood M had continued with Talking Therapies but had not been supported with housing. The ISW was asked if a family support worker working on domestic abuse “is all about reducing risk”, she agreed but said if M was not open to change, which is possible if she was in a relationship, then having a professional working on domestic abuse with her and M not able to identify that relationship as problematic “would be likely to be ineffective and risky”.

205.In relation to Talking Therapies the Guardian agreed that might build up M’s resilience and better housing should have an impact on mental and emotional health.

206.The Guardian’s evidence was that whilst he would have been better informed if the recommended work had been undertaken he was not sure how much better informed in circumstances where the effectiveness of the mitigations can to some extent be predicted “because of the lack of openness and high levels of disguised compliance” which made him “more pessimistic” in his prognosis. Whilst he agreed that regular social work visits under a Care Order at home, a Supervision Order or a Child Protection Plan should reduce risk, these Children have been on a Child Protection Plan with high levels of monitoring and it has not reduced the risk and whilst he acknowledged “some steps to work with professionals” ([E301/15]) there has been “disguised compliance in relation to FD” and “because of that level of disguised compliance even the ISW’s recommendation of a family support worker is hard to see as being effective unless it was a meaningful experience about what happened” and it “would depend on how meaningfully M engages with it and

how open she can be of sharing her experiences”. He said he was “not convinced if it had happened at the time [of the ISW’s first report] it would have effected a stop in her relationship with FD”.

207.Counsel for M also suggested that risks could be further mitigated by way of injunctive orders against FD.

208.My conclusion is it would be very difficult to mitigate the risk either reducing the chance of it arising or managing it if it did. The Professional evidence in relation to the former is of limited impact if M was not open and honest and whilst neglect has not been a feature in proceedings the Children have been exposed to other harm notwithstanding social work involvement and agreements at court. Injunctive orders against FD would rely upon M reporting breach and would be effective only against FD not a future partner.

Range of powers

209.The three realistic outcomes in this case are no order, a Supervision Order or a Care Order. I consider each below.

Holistic balancing exercise

210.In relation to the balancing exercise that is required by *B-S*.

Realistic Option 1: No order

Factors in favour	Factors against
Consistent with CB and CC wishes	Risk of neglect
Maintenance of status quo of care and schooling	Risk of physical harm
Loving relationship with M continues	Risk of emotional harm
Contact with maternal family continues	Difficulties mitigating risk of harm
	Difficulties managing contact with FB

Realistic Option 1: Supervision order

Factors in favour	Factors against
Consistent with CB and CC wishes	Risk of neglect
Maintenance of status quo of care and schooling	Risk of physical harm
Loving relationship with M continues	Risk of emotional harm
Contact with maternal family continues	Difficulties mitigating risk of harm
Oversight of contact with FB	

Realistic Option 3: Care Order with a care plan of long term foster care

Factors in favour	Factors against
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Safe from risk of harm	Contrary to CB and CC wishes
Oversight of contact with FB	Emotional harm in separation, particularly in light of the close bond between M and CB/CC
	Separation from immediate family
	Significantly reduced opportunity for contact with M
	Change of schools likely
	Looked after children for minority
	Risk of placement breakdown including risk of sibling separation as between CB and CC
	Risk of separation when CB reaches 18 some three years before CC
	Reduced sibling contact with CA and potentially CD

Comparison of Options

211. Not all of the factors in favour or against have equal weight. In particular there was extensive cross-examination of the Guardian in relation to the stability of foster care and in closing M reminded me such placements can be terminated by foster carers or the Local Authority and that instability will endure for over 10 years for CC.

212. As counsel for M identified in cross-examination of the Guardian, separation from M would be traumatic for the Children, at least initially, under the third option but under the first and second options the risk of future harm may not materialise. As he put it, “on one care plan there’s a risk of trauma and on the other a certainty”. I accept that but just as the factors for and against each option do not carry equal weight so too harm and risk of harm do not carry equal weight. The Guardian accepted separation would be traumatic for the Children but did not accept enduring trauma would necessarily follow.

213. The Guardian agreed in cross-examination removal would not be proportionate to the pattern of neglect, social work involvement and improvement on its own, in line with the ISW’s initial assessment. It is the risk of other harm that has come to light in proceedings that may be said to tip the balance. At its most basic level what this case comes down to is the balance between trauma of separation and risk of harm if the Children remain in M’s care. The risk of harm of remaining in M’s care may not come to pass but I assess the risk as substantial and I agree with the professionals’ assessments that the risk is hard to mitigate. The welfare advantages of removal outweigh the disadvantages and the advantages of remaining in M’s care. Removal, whilst initially likely to be traumatic is proportionate to the risk of harm of remaining in M’s care.

Contact with M

214. In relation to M the ISW recommended monthly contact and said that initially contact needed to be fluid to allow the Children to settle but the long term plan should be monthly for up to 3 hours and ideally in the community.

215. In terms of reduction she said that it should drop to weekly for 3 weeks, then fortnightly and then monthly for M. Her oral evidence was M's contact should be supervised because "she has spoken about the proceedings [to the Children]".

216. The Guardian said:

[E308]

36... with consideration of the close relationships between CC, CB, M and their brother CA I would urge the local authority to consider amending their plans to set out a reduction of contact to monthly and then for this to be reviewed before any further reduction is considered. I agree with Ms Bamford [Child Protection Plan chair] that if the court makes [final care orders] their stability in their permanent placement must be a priority whilst maintaining these relationships. I also acknowledge that the frequency of contact that will best meet the needs of the children is not an exact science and will require ongoing monitoring and review. It may well be that contact with M and CA would be best if it were to take place [in] the school holidays if more frequent contact negatively affected CB and CC's placement and schooling.

217. When he gave oral evidence he agreed the revised contact plan in the addendum final care plans. He was challenged about the recommendation for a reduction in contact to monthly before a review and it was suggested the review should be before moving from fortnightly to monthly contact for M. He said that would make it difficult for the Children to settle and monthly would be the right point at which to review contact.

218. I accept the professional evidence. There is a balance to be drawn in assessing the Children's welfare needs between adapting to the change of placement and ensuring good ongoing contact with M to preserve that relationship and assist the Children in settling.

Contact with FB

219. In the ISW's first assessment she said that "It is positive that [FB] is now having weekly contact with his children and this should continue" [E261]. When the social worker gave oral evidence she said that weekly contact would be too great for the Children if Care Orders were made, FB has recently

come back into their lives and she said there was a need to balance that relationship with the disruption to the Children settling into their placement.

220. When the ISW gave oral evidence she said that it was difficult to think about the reduction in contact without practical information about where a final placement would be but did agree that monthly contact for FB would allow for settling in placement, a continuing relationship with FB and support for their non-English heritage and that it would not be in the Children's welfare interest ("it would be wrong") for contact to be substantially lowered with the plan for a review upwards at a later date.

221. As above the Guardian agreed the addendum final care plans. In oral evidence he acknowledged CB was upset when FB was unable to attend contact but did not agree it would be impossible to maintain the relationship with contact at 4 times per annum. He agreed if it was monthly then, subject to the location of the placement it could take place on the same weekend as contact with M or perhaps afterschool but fundamentally said "in my analysis of contact generally I see the significant relationship is with siblings and M". In closing submissions counsel challenged this on the basis that FB had only missed 3 sessions of contact and the Guardian's evidence FB was not as significant a figure to the Children appeared to derive from them not mentioning him rather than the Guardian expressly asking them.

222. The Guardian was challenged about how the Children's cultural needs could be met without greater contact with FB but countered that there would be an expectation on the placement to promote cultural identity but did agree that one of the benefits of a higher level of contact with FB would be a promotion of the Children's heritage.

223. I find it difficult to equate FB's contact with that of M (i.e. both having monthly) in circumstances where FB has been absent from their lives and is now having weekly supervised contact as opposed to the Children living with M. There is not the same welfare need in terms of frequency. At least for now I consider four times per annum meets the need including the need to maintain the Children's cultural identity. That is not to say it should not increase in time, perhaps if M's contact also increases. I do not understand there is any dispute the contact should continue to be supervised.

Conclusion

224. In light of the above analysis I make final Care Orders pursuant to section 31 Children Act 1989 and approve the care plans.

