

Neutral citation number: [2023] EWCOP 74 (T2)

Case no. 13786307

IN THE COURT OF PROTECTION
IN THE MATTER OF s16 OF THE MENTAL CAPACITY ACT 2005
AND IN THE MATTER OF KA

Stoke-on-Trent Combined court Centre,
Bethesda Street,
Stoke-on-Trent ST1 3BP
24 April 2023

Before:
HER HONOUR JUDGE DAVIES

Between:
STOKE-ON-TRENT CITY COUNCIL

Applicant

-and-

KA [1]
(by her litigation friend, the Official Solicitor)
MR A [2]
MRS A [3]
NHS STAFFORDSHIRE AND STOKE-ON-TRENT INTEGRATED CARE BOARD
[4]
NORTH STAFFORDSHIRE COMBINED HEALTHCARE TRUST [5]

Respondents

Miss Olivia Kirkbride (instructed by the Local Authority legal department) for the Applicant
Mr Benjamin Harrison (instructed by Moore & Tibbits Solicitors) for the First Respondent
Mr Jake Rylatt (instructed by Irwin Mitchell LLP) for the Second and Third Respondents
The Fourth and Fifth Respondents were not in attendance and were not represented

JUDGMENT

IMPORTANT NOTICE

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the protected person and members of the protected person's family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

HER HONOUR JUDGE DAVIES:

1. This judgment comes to be handed down in the context of an application within the Court of Protection in respect of K, who is a young adult born on 1st January 1999. K has a complex diagnosis of severe learning disability and autism. She has been assessed to lack capacity to make decisions regarding her care and support. K lives with her parents, Mr and Mrs A and currently accesses a day centre, namely X Placement. At the present time, staff at X Placement use a wheelchair during elements of her time there. There is disagreement between the parties as to the extent to which her wheelchair should be used and the reasons why it is used. There is also disagreement between the parties as to whether X Placement as a facility meets K's needs. The local authority seeks orders pursuant to section 16 of the Mental Capacity Act 2005 that it is in K's best interests that firstly she does attend X Placement, and secondly that it is in her best interests at this stage to use her wheelchair at certain times. Further, it is the local authority's position that the nature of K's care arrangements are such that urgent consideration needs to be given to her being introduced to a respite service in the event that Mr and Mrs A find themselves unable to care for her at home. I am asked to determine that it is in K's best interests to be introduced to Z Placement, being a local facility close to K's home. The local authority in this hearing have been represented by Miss Kirkbride, of Counsel.
2. Mr and Mrs A oppose the local authority's application, seeking an alternative provision to be sought for K. They specifically oppose the use of the wheelchair for K, arguing that this was not necessary in her previous educational setting at H School. It is their belief that this is used to control K, and that staff at X Placement are unable to manage her. At the time the final hearing began, Mr and Mrs A had not attended Z Placement but had reservations in respect of its location in Stoke-on-Trent, near what they understand to be a busy road. Following their visit, they now oppose this respite provision for K. Mr and Mrs A have been represented by Mr Rylatt, of Counsel.

3. The local authority's application is supported by the Official Solicitor on behalf of K. K's interests have been represented by Mr Harrison, of Counsel.
4. The Fourth Respondent to the proceedings is the NHS Staffordshire and Stoke-on-Trent ICB. The Fifth Respondent is the North Staffordshire Combined Healthcare Trust. Their attendance at the final hearing was excused by HHJ Harris on 10th June 2022.
5. During the course of proceedings, the local authority also applied for an injunction with respect to Mr A in the light of allegations around his approach to staff at X Placement and indications that he would not respond appropriately to any decision with respect to K's care that he did not agree with. This application was not proceeded with as a result of Mr A offering undertakings with respect to his conduct instead. This is a position that the local authority indicated would be reviewed following judgment being handed down in this case.
6. It was necessary to extend the listing of the final hearing in order to accommodate the caring responsibilities of Mr and Mrs A. Whilst the time estimate of two days, from 6th to 7th September 2022, was not inappropriate, Mr and Mrs A were committed to providing care for K during the court day and therefore the matter proceeded by agreement with the court hearing further evidence on 9th September 2022 and 4th November 2022, with written submissions following. Following receipt of written submissions, and ultimately against guidance from the court, Mrs A on behalf of both parents sent emails directly for my attention addressing matters that they felt had not been fully outlined. It was therefore necessary for further written submissions. Ultimately, Mr and Mrs A applied for a further hearing to adduce oral evidence in order to address particular issues arising from the responses later received. This was opposed by the local authority and the Official Solicitor on behalf of K. I was invited to determine this application on the basis of written submissions.

The Application for Further Oral Evidence

7. Mr and Mrs A had made representations to the court following the completion of oral evidence and submissions. This necessitated the other parties being given an opportunity to respond. As a consequence of the response received by the local authority, Mr and Mrs A sought for there to be a further hearing and an opportunity to further cross examine K's social worker (Mr Kelly) and K's epilepsy nurse. This arose from Mr and Mrs A asserting that K was showing further unsettled behaviour at X Placement and the local authority offering the potential explanation that K had changed her medication and health issues could precipitate such behaviour. Within their application, Mr and Mrs A suggest that K had not seen the epilepsy nurse referred to by the local authority and wished to assert that the local authority and X Placement were not involving them in discussions with medical professionals. They further disputed that the change in medication would make K more unsettled and instead asserted that the only reason she shows such behaviour was because she was unhappy at X Placement, and her self-injurious behaviour was escalating. They have attached a letter from K's doctor with respect to some of this.
8. The local authority disputed the need for additional oral evidence on the basis that it was disproportionate, would cause further delay and was not in accordance with the overriding objective. It was effectively submitted that these issues were already in line with matters that had been explored substantively within the proceedings.
9. On behalf of K, the Official Solicitor noted that, again, further oral evidence was not consistent with the overriding objective and it was not necessary to factually explore these specific assertions. I was directed to relevant case law with respect to fact finding within the Court of Protection, which I have kept in mind. It was the position of the Official Solicitor that the local authority and X Placement engaging with K's doctors was not of relevance to the issues of substance within the case. With respect

to the cause of K's self-injurious behaviour, it was noted that the local authority did not seek a specific finding that K's medication was the definitive cause of her unsettled behaviour. The issues had not changed from those originally litigated and any new areas of factual dispute did not have a bearing on the ultimate welfare decision for K.

10. I have considered carefully the additional information supplied by Mr and Mrs A and their position on the local authority's response. I keep in mind that these issues arose at a very late stage, unprompted and after the parties had submitted their final submissions. I have reflected on the factual issues that the further proposed oral evidence would go to and I have had to consider this against the matters already heard. In the light of the issues and the submissions provided, I am not satisfied that further oral evidence is necessary. I accept the submission that the new issues are of a similar character to the matters already explored. Further oral evidence would result in further delay and I do not find that it is proportionate. I am satisfied that I can fairly proceed instead on the basis that all parties have expressed in submissions their respective positions on K's recent self-injurious behaviour and weigh that alongside the oral evidence already heard.

11. Accordingly, I dismiss the application for further oral evidence. I do however keep in mind the position of Mr and Mrs A with respect to those matters raised by the local authority.

The Relevant Law

12. The applicable law in this case is well-settled. I am asked to order that it is in K's best interests to continue to attend X Placement in accordance with the care plans filed by the local authority, to use her wheelchair within X Placement and to be introduced to attending respite at Z Placement. I am also invited to authorise the deprivation of liberty of K within her home and X Placement in line with the current arrangements for her care.

13. I am reminded that the power to make decisions for an individual who lacks capacity derives from section 16(2) of the Mental Capacity Act 2005. Before making such a decision I must have regard to section 1(5) and (6) of the same Act which requires me to only make such a decision in K's best interests, and I must keep in mind the purpose for which the decision is sought, and whether it can be achieved in such a way that is less restrictive of K's rights and freedom of action.

14. In considering K's best interests, I must apply the factors outlined within section 4 of the 2005 Act. This includes, so far as is reasonably ascertainable, K's wishes and feelings, beliefs and values and any other factors that would impact on her decision. I must also consult, if it is practicable and appropriate, the views of identified individuals, including anyone engaged in caring for K or interested in her welfare. This obviously includes in this case Mr and Mrs A. In terms of deprivation of liberty, I am directed to section 4A (3) and (4) of the same Act which provides that K's liberty may be deprived if to do so it is giving effect to a relevant decision of the court.

15. The local authority relies upon N v ACCG and others [2017] UKSC 22 to support the proposition that the local authority can only be directed to provide such accommodation and services that are available, would meet K's needs and the local authority agrees to fund. In balancing the views of K's family, particularly Mr and Mrs A, I am directed to Re SD [2021] EWCOP 14 per Mr Justice Hayden as authority for the proposition that I am to promote K's autonomy and evaluate her best interests and this should not be confused or conflated with the views of others, however well motivated, clear and well intentioned those views. This summary of the law is accepted on behalf of Mr and Mrs A, save that it is submitted that Re SD is of little relevance in this case as Mr and Mrs A assert that they are acting purely in K's best interests.

16. On behalf of K, I was referred to four further authorities. The first, Aintree University Hospitals NHS foundation trust v James and others [2013] UKSC 67, identifies that each case is different, and I must look at an individual's welfare in the widest sense. ITW v Z, M and Various Charities [2009] EWHC 2525 (Fam) provides further guidance in respect of best interests, confirming firstly that there is no hierarchy between the factors to be considered when assessing best interests, and that the weight for each factor will inevitably differ depending on the circumstances of each individual case. It is also the case that there may be one or more features or factors that is of magnetic importance in determining the outcome. In assessing wishes and feelings, I am to regard K's wishes and feelings as a significant factor but the weight to be attached to an individual's wishes and feelings will be case and fact specific and will depend on the context.

17. I am also reminded of A&B (Court of Protection: Delay and Costs) [2014] EWCOP 48 which requires effectively a pragmatic approach to decision-making and a recognition that perfection may not be achievable. Finally, I am directed to A local authority v MM and KM [2007] EWHC 2003 (Fam) which says that in assessing risk, I must keep in mind that the emphasis must be on sensible risk appraisal, not striving to avoid all risk, whatever the price. Instead, I must seek a proper balance and be willing to tolerate manageable or acceptable risk as the price appropriately to be paid in order to achieve some of the good – in particular to achieve the vital good of the elderly or vulnerable person's happiness.

18. I accept the matters contained within the party's written submissions as an appropriate summary of the applicable law.

The Evidence in the Case

19. The bundle in this case is substantial, amounting to in excess of a thousand pages. I have read and considered each of the documents therein and reflected on the contents

of those documents alongside the oral evidence in the case. I do not propose to set out the totality of the written material here, however it is right that I do set out the essence of the material that has informed my decision-making.

20. It is not contested by any party that K lacks capacity to conduct these proceedings and to make decisions in respect of her residence, and her care and support. She has a diagnosis of severe learning disability and autism. K has a further diagnosis of epilepsy and dysphasia. It is known that she will engage in self-harming behaviour. It is reflected in the documents that K has been prone to rush at people, grab, push, pull and otherwise physically handle them. K struggles to tolerate high levels of sensory input and finds noise particularly difficult. She is doubly incontinent. She also requires a soft diet and monitoring of her fluid intake.

21. K previously attended a specialist educational provision, which concluded in July 2018. Her last educational provision was at H School. K was then provided with a day placement at D School in Cheshire. This placement ended in November 2018, and it is asserted on behalf of the local authority that this was as a consequence of a disagreement between D School and Mr A around K's use of a wheelchair within the setting. It was reported that Mr A had shown confrontational behaviour with the school. Following a First-tier tribunal (Health, Education and Social Care Chamber) decision in respect of an appeal concerning K's EHC Plan, a caseworker was instructed to identify an alternative placement for K. As a consequence, K began attending X Placement (a day centre) from May 2019.

22. The evidence of the local authority records that Mr A was clear that K should not use a wheelchair within the building. It is noted in the local authority evidence that, initially, staff caring for K were subjected to a number of injuries. It is the local authority's position that this reduced when the use of a wheelchair was introduced in August 2019. It is reported that Mr A continued to resist the use of the wheelchair for K. There was a tribunal decision in October 2020 which concluded that K should continue to attend and receive her educational provision at X Placement. Mr A had

sought alternative provision for K. It was the tribunal's decision that K should not transition to another provision based on the difficulty K has in transitioning to new environments. R College was commissioned to undertake work with K around her communication. The local authority has responsibility for commissioning K's package of care. In considering the outcome of the tribunal, I remind myself that I am not bound by those recommendations in considering K's best interests. They are two different processes.

23. The authority relies on an incident in which Mr A is said to have entered X Placement and unclipped K's wheelchair harness. It is alleged that she became distressed as a consequence and scratched and injured her mother.
24. There has been no suggestion within these proceedings that K's welfare needs extend to consideration of a residential placement. However, the need for a residential respite placement has been explored in the light of the impact on K should family care no longer be available to her.
25. In addition to the written material, I have been provided with videos and images in relation to K which I have also considered. These videos and photos reflect K showing distress and the consequences of her self-harming behaviour.

The Written Evidence of Mr Kelly

26. Mr Kelly's first statement appears at C1 of the bundle and is dated 9 July 2021. Within that statement, he sets out the background to K's attendance at X Placement, her diagnosis and a summary of her observed behaviours. Within that summary, Mr Kelly makes a number of observations in respect of Mr and Mrs A with respect to their conflict with professionals. I have read and considered the same, but I also keep in mind that this matter was not listed for a fact finding hearing with respect to those

particular allegations and the local authority during the course of the final hearing did not initially seek to pursue an injunction against Mr A.

27. In his initial statement, Mr Kelly expresses the view that the parents had an unrealistic expectation of the facility at X Placement, in particular expecting X Placement to immediately address K's needs as they had been at H School, without a wheelchair. It was Mr Kelly's assessment that K's needs were such that she had always struggled with transitions and the absence of such support at X Placement meant that her initial attendance was traumatic. It was Mr Kelly's analysis that when the use of the wheelchair was reintroduced for K in August 2019, it had an immediate and noticeable improvement for her and the challenging behaviour towards staff. However, it has also been his experience that this has led to Mr A becoming more confrontational towards X Placement in the light of his view that it was not offering the same care as H School.
28. I kept in mind the summary of the involvement of professionals within K's life as outlined in Mr Kelly's statement. I note that the use of the wheelchair was recommended by K's occupational therapist to transition between settings within the day centre.
29. Mr Kelly sets out his belief that Mr A was unable to accept that X Placement could not immediately offer the same care to K as she received at H School, or that this will take time to develop. It was his view that Mr A felt he was justified in his confrontational approach because he was advocating for K, and that Mr A had gone beyond simply objecting to the wheelchair, but was now holding the view that X Placement is simply not suitable leading to him undermining the placement whenever he had the opportunity.
30. Mr Kelly also notes in his statement that following an incident in June 2020 which the police had to attend, Mr A had ultimately been made the subject of an antisocial

behaviour injunction preventing him from entering X Placement or using degrading, threatening, abusive or offensive language towards local authority employees, contractors, or agents.

31. It was also noted in Mr Kelly's initial statement that COVID-19 did have an impact on K's attendance at X Placement. Her day provision had reduced to two hours per day but had now increased to five hours. He records in his statement written in July 2021 that the parents were not using their full entitlement, with K being dropped off at around 10:30 AM and collected at around 2 PM. Mr Kelly acknowledges within his statement that COVID-19 had an impact on settling K and progressing the care plan to reduce the use of her wheelchair in the communal areas at X Placement. It remained his conclusion however that she had settled at the centre, which was reflected in the reduction in incidents of self-harm or injurious behaviour towards staff.

32. Mr Kelly also summarised the outcome of the tribunal process within his statement. I do remind myself that this took place within a different jurisdiction and whilst it is informative, it is not binding on this court. He records within his statement the views of the parents, essentially that they wish to care for K at home with them for as long as they are able, but that X Placement is not meeting K's needs. Mr Kelly reports that Mr A's view is that staff at X Placement are scared of K and this leads to the use of restrictions including the wheelchair. He felt that, in terms of Mrs A, she did not share the same strength of view around K's day provision but she felt that the constant conflict was having an impact on her relationship with Mr A. It is not reported that Mrs A shows the same challenging behaviour as Mr A in dealing with professionals. Both Mr and Mrs A have reported that K is far less willing to be out of her wheelchair in their care than before its use at X Placement. In his conclusion, Mr Kelly acknowledges differences between X Placement and K's previous educational provision and invites the court to endorse the current arrangements for K.

33. Mr Kelly's second statement is dated 14th October 2021. This statement addresses the contingency planning for K in the event she cannot remain at home. It is alleged by

Mr Kelly that a previous respite provision broke down after the parents withdrew their cooperation with the service following a referral made by CAMHS to the local authority around Mr A's alleged behaviour towards her. It was noted that K does not sleep in a bed, and only sleeps with the presence of a parent nearby. It was identified that Z Placement would be an appropriate respite setting for her, and she could be supported in her transition there by staff at X Placement. It was felt within the report that Mr and Mrs A agreed that Z Placement was an appropriate contingency plan. Mr and Mrs A had maintained their position that they cared for K together and each would struggle on their own.

34. In his third statement, Mr Kelly noted that Mr and Mrs A were not in support of Z Placement. It did not represent the long-term day and residential service that they had envisaged for K. Mr A in particular was negative in respect of the location. Mr A had sought a day service to be identified outside of Stoke-on-Trent. Mr Kelly did not believe that Mrs A shared the view of Mr A that K did not yet require a bed-based provision. It is in this third statement that Mr Kelly outlines a number of day services that he approached to offer care for K but none had been identified as suitable. He did note that a day service had been identified by Mr A in Telford. He also listed the centres identified as part of the tribunal process for K and gives reasons why they were ruled out. He reiterated that the option of K attending D School had broken down due to Mr A's behaviour.

35. Mr Kelly felt that a residential placement could be identified but again it was not felt that K would adapt to this. The only independent day service identified at that stage was U Placement, which was out of area. Later in that third statement, Mr Kelly sets out a balance sheet of options. There were a number of positives to her existing day placement, including that K would not then face the disruption of settling in a further provision. Vulnerabilities included Mr A's approach to professionals. With respect to an alternative day setting, whilst there were identified benefits, there were risks around placement breakdown and distress to K in terms of the transition. This statement also dealt with safeguarding referrals and the use of the Motability car by Mr and Mrs A. It is noted that Mr A has been barred from the Motability scheme after

a confrontation. The statement also made allegations of undermining behaviour by Mr A. Mr Kelly expresses concern that K is not being encouraged at home towards independence and a lack of engagement with professionals by her parents was contributing to the concern. Mr Kelly at that stage could not advocate for a change in placement particularly as, at that time, it would have had an impact on her educational support through R College. Mr Kelly attaches details of a referral made in respect K which I have read and considered, along with details of the support needs of Mr and Mrs A. Within this documentation, it is recorded that the opportunity for K to experience accessing the community was explored but declined by Mr and Mrs A on the basis that K was likely to feel, if she was leaving X Placement, that she would be going home and this would be confusing for her.

36. In terms of the safeguarding referral referenced within the statement, it was suggested by Mr A that there was a significant mark on K's forehead as a result of her self-harming behaviour. This was said by Mr A to have ended his trust with X Placement and was evidence that the staff were not able to manage her. It was alleged in the safeguarding enquiry that K had been left alone in the room and had injured herself during that time. This safeguarding enquiry was closed. I have read the different accounts and allegations around that safeguarding enquiry.

37. Mr Kelly's fourth statement sets out the local authority's response to the independent social work assessment of Mr McKinstrie. That statement is broadly supportive of those recommendations. It identifies Mr and Mrs A's reluctance to engage as being a barrier to forming an agreed plan for K's long-term future. Mr Kelly questions whether the rural placement supported by Mr and Mrs A existed for adults with K's needs. He identified a conflict between the local authority and the independent occupational therapist instructed in these proceedings (Ms Dodwell), clarifying that the local authority's position was not that K *must* remain in the wheelchair, but that it is necessary *for now* to meet her needs. Mr Kelly underscores the need to make only incremental changes to K's care, supported by a multidisciplinary team. The occupational therapist recommended that K accesses the community in a wheelchair but does not identify that the use of the wheelchair for K at X Placement is a means of

restraint. Mr Kelly exhibits to his statement an updated EHC Plan for K. This document draws upon a number of sources to recognise the strengths and vulnerabilities for K at X Placement, and makes a number of recommendations around her care that are broadly consistent with what she is said by the local authority to be receiving.

38. Mr Kelly's fifth witness statement provided updated care plans following an incident on 3rd March 2022 and addresses some issues with the independent occupational therapist's recommendations. The referral for occupational therapy at the time of that statement was closed due to a lack of engagement. Mr Kelly also provided an update in respect of alternative placements and again it was noted that no additional provisions had been identified. Mr Kelly reiterated his understanding that the independent social worker was supportive of the care that K had received at X Placement despite her poor attendance record. Again, the role of Mr and Mrs A in engaging with professionals to promote K's development was underscored. In the exhibits to that statement, Ms S (the manager at X Placement) has provided an update in which she recorded that K was presenting positively. I have also read the accounts of K's attendance attached to Mr Kelly's statement. I have read the exhibits and logs attached to that statement from Mr Kelly. This has included allegations about Mr A's behaviour towards staff which has not been the subject of findings during the course of this final hearing. These notes relate also to an incident on 3 March where it is said that Mr A unbuckled K's harness from the wheelchair and K ran to the car and injured her mother. It was said that Mr A had entered the main building to do so, against the wishes of the manager of X Placement.

39. The statement also exhibits further details around planning for K's care and routine and the boundaries that X Placement sought to put in place around Mr A's attendance. At C464 is the incident report from 3rd March. This records that Mr A chose to undo K's harness and that K scratched her mother's face during that incident.

40. Mr Kelly provided a further update in his sixth statement of the searches undertaken for additional or alternative placements for K. He confirmed that there were no placements that immediately presented themselves. Whilst there was potentially space at a centre locally, there was insufficient staffing for that to be an option for K at that time. Mr Kelly also confirmed that Z Placement was the only realistic respite provision for K. Whilst there was a setting out of area for respite, staffing issues again meant that K would not at this stage be accepted. Mr Kelly goes on to note that K is not using all of her allocated hours and it was felt that this was a barrier to K settling further at X Placement. It was set out that K had suffered a period of ill health which had not assisted her. Mr Kelly explained the changing landscape of care for young adults, which had moved from day centres which individuals could attend, to individuals purchasing their own support. This had limited the availability of placements open to K and Mr Kelly aligned himself with the recommendation of Mr McKinstrie (the independent social worker instructed in these proceedings) that X Placement was broadly meeting her needs. Mr Kelly attaches to his statement the speech and language therapy referral which notes her need for soft food and records that staff at X Placement were seen to offer her drinks.
41. Included within the attachments to Mr Kelly's statement is a report of a bite mark to K's hand on 5th May 2022. This related to K self-harming at X Placement. K had become agitated while staff attended for her personal care. The report at C557 indicated that she had become vocal while being transported for personal care and bit her hand after she was unclipped from her chair and was standing at the bed. She had also banged her head on the changing bed. From the statements that followed, there appeared to be a breach of K's care plan in that she had been taken for her personal care at a time she was distressed. K had also accessed the garden, which was not a usual activity for her. K had self-regulated after this incident. It was noted that K is not tolerant of touch and this had an impact on the level of intervention staff had felt able to provide. At C570, the investigation into the incident had identified that K had been due to menstruate, that her continence aid had been very wet, she had presented as agitated on arrival, and there had been a change in her afternoon routine. The Section 42 investigation produced recommendations that K's daytime plan should not be deviated from without discussions with senior staff. There had been work with the

wider team around K's needs. There were a number of different contributing factors identified in relation to this incident. There was some concern that taking K outside had triggered her anxiety, but this was not confirmed. There was to be further work around K's communication with support from R College. The safeguarding inquiry was ultimately closed. At C595, the local authority records that K has frequent incidents of low-level self-injurious behaviour when she becomes anxious, but it was rare for K to experience a serious episode at X Placement and this was attributed to K being supported by staff who know her well, and K being familiar with her team and her environment and routine. It was the local authority's analysis that an underlying physical health issue can be a contributing factor to any significant incident. This document also records that K had later developed a chest infection although it was not clear whether this illness was a factor in her significant incident. I have also read the behaviour support plan prepared for K exhibited to this statement and noted what is described as positive and anxious behaviour from K. This makes it clear that, if K has shown signs of anxiety for more than 30 minutes, then a member of staff is to contact Mr A.

42. Notes of Mr and Mrs A's interaction with professionals were exhibited to his statement and I have read the accounts of those, both positive and challenging. It is a feature of the logs that Mr A, in particular, has regularly criticised the use of the wheelchair at X Placement. It was also recorded that the response of staff was that they do wish to work towards not using the wheelchair but that matters had to be taken gradually. Finally, there were attached to his statement a number of K's daytime attendance logs. Again, I have noted the positives from those logs, the time that K has spent out of her wheelchair and the notes of any self-injurious behaviour.

The Oral Evidence of Mr Kelly

43. Mr Kelly confirmed in oral evidence the truth of his witness statements contained throughout the bundle. In his evidence-in-chief, he was clear in his experience, K had struggled with the transition from one service to another and it had taken a long time for her to settle in each placement. He identified that it had taken up to 12 months for

K to settle most recently and he expressed the concern that, if K were to require respite, then that would similarly need to be built up over a length of time to avoid her being traumatised by the transition. In exploring the prospect of a second day provision for K, Mr Kelly was not able to be definitive, but he felt R College would be unlikely to work with her in another setting. He was able to confirm that R College were willing to continue to work with K in her current provision.

44. In terms of how settled or otherwise he felt K was at X Placement, he felt that overall, she was extremely settled but there were periods where she could be unsettled. Those periods were not as intense as before. He also felt this had to be looked at in the context of COVID-19 and the gaps in her attendance caused by the pandemic. He felt that the lockdowns had been difficult for K and it had perhaps taken her longer to settle than it would have done if the pandemic had not occurred.
45. It was Mr Kelly's clear evidence that if K were to stop attending a day centre, then it would have a negative effect on her. Specifically, he felt that she may become more intolerant of others, and it would have an impact also on the resilience of her family. He recalled that there had been a period from late 2018 until May 2019 where K was without services and at the start of attending a day centre in the May, K had found it extremely difficult to settle. Mr Kelly was concerned about the risk of her placement at home breaking down due to the demands on Mr and Mrs A in meeting her complex needs. He felt it was necessary to promote her attendance at a day centre as a means of supporting her placement at home.
46. He felt that there had been extensive searches already for an alternative day provision that would meet K's needs. He did reflect that it was perhaps not an easy time in the immediate aftermath of the pandemic to be looking at services but he also felt that there had been a shift from people with complex needs attending a day centre to the provision of services in another form. He felt that centres such as X Placement supported people with the most complex needs, but there had been a shift in the

provision of services for people with less complex needs than K which would ultimately reduce the number of places available.

47. Mr Kelly also felt that there were diminishing options for respite for K largely due to funding cuts, but he emphasised the importance of this as a provision for K in supporting her placement at home. He felt it would take K a long time to adjust to respite. She would need a slow and steady introduction and he had identified Z Placement as a potential respite setting. This was a place that could offer a staffing ratio of 3 to 1 and had an advantage in that the staff of X Placement would be able to assist K's transition.

48. He noted that K did not share her environment with others at this time. In terms of the use of her wheelchair, it was his evidence-in-chief that he had not seen K distressed when using it. Whilst there had been an intention for K to access the outside space, this had been slowed in part due to the heat wave. He also felt K was not used to going out in the garden from her experiences at home. He was not aware of K choosing to access the garden when the door was open, and she had the opportunity to do so. It was clear from Mr Kelly's evidence that the prospect of supporting K to access X Placement on foot would require at least, in the interim, a number of changes and the continued use of the wheelchair so as not to overload her. Even the transition to using a back door that K could ultimately walk through to access X Placement would require the use of the wheelchair in the short term. In terms of K accessing aspects of the centre using the wheelchair, his evidence was that K did require the wheelchair in order to make the transition manageable. In principle, he was not opposed to K accessing areas of the centre without the wheelchair, but it was managing K safely in the public areas of X Placement that was a particularly important factor.

49. Mr Kelly's understanding of K's time at H School was that she would start the day in the wheelchair. He obviously wanted K to start her day at X Placement in a positive manner and at this time, the wheelchair assisted her to do that. In terms of the

difference between X Placement and H School, it was his evidence that K had a separate entrance at her previous provision and this meant the wheelchair was not needed as there were no communal areas that she would be required to navigate.

50. In terms of K's fluid intake whilst at X Placement, his position was that he was aware K was offered fluids and he had identified that she may be resistant to increased fluids as part of her diagnosis. His evidence was that K had been offered appropriate fluids and this had been observed not only by local authority professionals but also Mr McKinstrie (the independent social worker). He'd understood Mr and Mrs A to be resistant to working with the speech and language team to improve her swallow.

51. In terms of the working relationship between Mr and Mrs A and X Placement, the local authority were content with the current arrangements of Mrs A being the point of contact. This was on the basis that Mr A struggled to regulate his emotions and they wished to ensure that staff were able to continue to work with K. Whilst there was a willingness to work towards engaging further with Mr A, it was felt to be too early to commit to this. Mr Kelly was clear that a protocol had been put in place if K was unsettled. His experience was that she is normally able to self-regulate within 30 minutes but if she does not, then her family would be contacted. The opportunity for K to engage with others socially was explored, however the current layout of the centre meant that these opportunities were limited. In terms of K accessing the wheelchair, at this stage this was in order to enter the centre, to use the sensory room, and to access personal care.

52. On behalf of Mr and Mrs A, Mr Kelly was taken to photographs that had indicated that K had harmed herself. Mr Kelly was not concerned as to how this was dealt with. Whilst it was put to Mr Kelly that there had also been a road traffic accident in the vicinity of Z Placement and Mr and Mrs A were concerned about K's safety in attending that setting, he felt that Z Placement was appropriately secure and not on a main road. When challenged about his account of K's use of the wheelchair to enter X Placement, Mr Kelly maintained that there were differences between the

circumstances at X Placement and what had been necessary at her placement and H School. He remained clear that K had her own entrance to that previous facility, and this had negated the use of the wheelchair when K was old enough to not require one. In terms of K being settled or otherwise at X Placement, Mr Kelly confirmed that in his view K had begun to settle at X Placement and this had led to fewer incidents of self-harm. He felt that K had become more settled since the work with R College in September 2021 and there had been a gradual improvement since that time. He conceded that K was using her wheelchair around 15% of the time.

53. In terms of K using the wheelchair to transition into her room at X Placement, whilst he accepted it was only a short distance, Mr Kelly maintained that it was necessary for the wheelchair to be used as this was a communal area. Mr Kelly was clear that this area could be busy and even if K's arrival time was staggered, it was not possible to predict a time when K would not encounter a single person. The risk was that K would not walk alongside staff, that she would run and become distressed. It would not sufficiently mitigate the risk for K to simply arrive at a less busy time.
54. For Mr Kelly, it remained an option for K to walk to the back entrance to her room and this could take place in a graded way. He could not predict how long it would take to achieve this and he questioned the extent to which Mr and Mrs A would support K's use of the wheelchair in the first stages. He could not predict how long it would take for K to be able to enter the centre without a wheelchair using that entrance.
55. In terms of the second situation in which K would use her wheelchair, which was to move between rooms at X Placement, including for personal care, the risk again arose from K's reaction to seeing others in the centre in the corridors. The risk was that K would become overstimulated and reactive. In terms of K accessing the garden, this had not happened very often due to her more limited attendance at the centre, a recent heatwave and K's own temperament at the time. It was noted by Mr Kelly that K did not access the garden in her own home. In the context of K accessing the garden at X

Placement, Mr Kelly identified that her wheelchair was a place of safety for her and something that she saw in that way.

56. When considering K using the wheelchair to access the sensory room, Mr Kelly believed that K does not see the wheelchair as a bad thing and the risk with removing the wheelchair when K wishes to use it is that she would not access the sensory room. He was clear that K enjoyed her time in the sensory room and this added a great deal to her day. Again, he confirmed that the local authority had not stopped working towards K using the wheelchair but had to be guided by how K was and also had to be mindful that previous assessments suggested that K had benefited from using her wheelchair to transition within X Placement. Mr Kelly rejected any suggestion that the wheelchair was used as a mechanism to manage K by staff who did not really understand her needs. It was simply the position that things needed to be done incrementally for her and progress had been hampered to an extent by the lockdown and K's intermittent attendance. He was clear that the wheelchair was not a form of control but a proportionate way to manage risk. The alternative would be to physically handle K using MAPA techniques but this was disproportionate when the wheelchair was an acceptable option. Whilst steps could be worked towards in terms of reducing K's use of the wheelchair, it would require the support of Mr and Mrs A. He noted that Mrs A had been reluctant to walk with K to the rear entrance of X Placement in case she became distressed and assaulted her.

57. Whilst Mr Kelly could understand the frustration and concern on behalf of Mr and Mrs A around K's care arrangements, it was the way particularly Mr A expresses that frustration that was difficult. He did recognise Mr and Mrs A's view that increased use of K's wheelchair in X Placement meant that she would not access the community with them without it. He did not accept that the small fraction of the time K used her wheelchair at X Placement would have such an impact. He did not consider that the use of the wheelchair negatively affected her behaviour and he felt that K viewed her wheelchair positively. He denied that more progress could have been made in the last three years towards phasing the wheelchair out because it had to be at K's pace. He did recognise that she had made positive progress in settling at X Placement.

58. With respect to K's fluid intake, Mr Kelly did not view her fluid intake across the day to be medically significant, but he did acknowledge that K did not drink a lot in the centre. His position was that this was being explored through speech and language therapy and he was hopeful that expert intervention would assist.
59. Mr Kelly did not accept that the care arrangements at X Placement were contributing to K's distress and episodes of self-injurious behaviour. The local authority accepted the analysis of the independent social worker around K's care plan and Mr Kelly felt it was entirely appropriate to allow staff to withdraw from K when she became stressed in order to assist her in self-regulating. Mr Kelly was clear that there was a robust and safe plan in place when K became overstimulated. Mr Kelly did not take issue with the experience and training of the staff at X Placement and their ability to offer care to K.
60. In terms of the relationship between Mr and Mrs A and X Placement, Mr Kelly felt that putting K through the disruption of a change in placement in order to achieve a fresh start was not in K's best interests. His view was that the parents needed to work in partnership in the interests of K. Whilst he acknowledged that the current arrangements for professionals to liaise predominantly with Mrs A placed her in a more difficult position, this was not the choice of the local authority but rather the reality of Mr A's approach to professionals. He felt that the difficult relationship between the local authority and Mr A could not be allowed to jeopardise K's placement.
61. Mr Kelly maintained his position that there are no other viable options to X Placement for K that the local authority is willing to commission. In terms of the placement identified out of area, this would not be practical firstly because of the more limited time that K could spend there (only an hour or so during the day) but also the very specific support that would have to be bought in for K. The out of area placement is not a day centre in the same meaning as X Placement and could not offer the same

level of service: it is not a five-day-a-week placement. This had to be balanced against all of the advantages of X Placement identified by professionals including the independent social worker. This was not simply a resource issue, it was based upon a global view of K's needs. There were equal difficulties with the second out of area placement, where staff are not presently in place and would also need to be recruited. But it was felt firstly that it would be wrong for K to have to undertake a further transition and that the difficulties experienced with, particularly Mr A, were likely to replicate themselves there. This placement is in a housing estate. Mr Kelly's written evidence is that it has no private garden for K (a section of the garden would need to be enclosed), and is near an even busier road compared to the road near X Placement (and so is not in line with Mr and Mrs A's preference for a more rural placement). Even if there was a placement of equal quality for K, the impact on her of having to make a further change would not be in her best interests.

62. In terms of the recommendation that a respite placement is considered, Mr Kelly felt it was regrettable that Mr and Mrs A had not yet visited Z Placement. He maintained very firmly that a transition to respite was important for K given the likely impact on her if she needed respite on an urgent basis. There needed to be plans made for K to have access to a respite placement and he explained very clearly the reasons why Z Placement was suitable, including its location and the extent of available support. He felt that the X Placement team would be able to support K with that transition and he did not recognise the concerns of Mr and Mrs A around access to the road.

63. When cross-examined on behalf of the Official Solicitor, Mr Kelly recognised that there was a positive relationship between K and staff at the centre. He described eye contact and smiles but also recognised that she had been unsettled at times. He was supportive of measures to assist K to self-regulate when needed and the opportunities that X Placement provided her. He felt further progress was feasible for K and her ability to reduce the use of her wheelchair and to progress in other areas, but this would have to be incremental and in line with her needs. Mr Kelly was taken through the plan to assist K in accessing the community. He felt that this was a robust and appropriate plan. He felt that, with incremental support, K could access the garden

and also the community, but he was clear that he felt the wheelchair would have a role in achieving this.

64. Mr Kelly acknowledged the importance of working with Mr and Mrs A and he also identified benefits to K if some of the techniques used at X Placement in terms of K's communication could be offered to her at home.

65. I found Mr Kelly to be a balanced and careful witness who acknowledged that there should be a commitment for K in developing her experiences and access to the community. At the same time, he maintained his position that this had to be a process guided by K and, despite robust cross-examination, maintained his view that the wheelchair for K had an important role in safely managing K within the communal areas of X Placement and in the community. I found that Mr Kelly was careful to put forward that which he considered genuinely to be in K's best interests. I did not detect any inappropriate criticism of Mr and Mrs A, but it was clear that there is a frustration that the working relationship, particularly with Mr A, had its challenges.

66. In terms of additional material filed on behalf of the local authority, I have seen the cells of the traffic communication system used with K, and the update from R College, together with a report from Ms S dated 1 December 2021 in which she describes K becoming more settled at X Placement. These reports are positive.

67. K's adult social care assessment appears in the bundle from D112. This is dated 9 June 2021. This document sets out K's experience of accessing services, including her education and identifies her needs, setting out the basis upon which the local authority recommends that K should access a day service. This document also identifies K's behaviours, although all managed. This document also details the outcome of the tribunal decision with respect to K's education. K's support plan also appears in section D of the bundle, which sets out her needs at home and also at X Placement.

68. There is a statement from Ms Lamb (occupational therapist) at C495 in the bundle which sets out arrangements for an assessment to be undertaken of K within the home of Mr and Mrs A. This visit was ultimately cancelled by Mr and Mrs A largely as a result of Mr A being excluded from the home during the assessment. K was successfully assessed while at X Placement with the outcome that a speech and language therapy referral was to be made. Ms Lamb was supportive of X Placement's use of the wheelchair and noted that there was a plan for its gradual reduction. Again, Mr A's behaviour was seen as a barrier to working further with the family.

The Written Evidence of Mr and Mrs A

69. In terms of the evidence filed by Mr and Mrs A, there was a period of time in which they were not represented and so some of their evidence has been handwritten or is in their own direct words. The first document in the bundle prepared by them was a letter dated 20th August 2021 in which their objection to the use of the wheelchair is outlined and concerns are raised around K's self-harming behaviour. It is also clear from the letter that they feel K is treated differently to others attending X Placement, and that K's behaviour has deteriorated since attending this provision. Mrs A also feels that it is unhelpful for Mr A to be excluded from discussions with X Placement. In support of that statement, she attached a number of documents including a letter from K's doctor based upon a consultation in which Mr and Mrs A discussed their concerns around K's behaviour.

70. They have also filed a number of logs documenting K's days at X Placement. I have considered each of these including the time it is reported that she was present in her wheelchair, and reports of self-harm.

71. In assessing these, I have noted that on a number of occasions K was reported not to want to come out of her wheelchair. Explanations were provided for the points when

K became unhappy. I do see one recording at C34 where it was recorded that K had been left to self-regulate, which had taken 20 minutes. Those sheets also record time out of K's wheelchair, which I have also noted.

72. Mr and Mrs A provided a response to Mr Kelly's initial statement. This response is dated 1 October 2021. Within the document, Mrs A expresses the view that K had shown challenging behaviour at X Placement only as a consequence of X Placement not acknowledging the complexity of K's needs and therefore initially mixing her with other service users.

73. Mrs A provided a further email dated 26 January 2022 in which she confirmed that she did not agree with the recommendations of Mr McKinstrie as she felt he had been one-sided in respect of the people that he had chosen to speak to as part of the process of forming his recommendations. She also attached photographs of R College and Z Placement to identify the unsuitable location in their view of both centres.

74. Further photographs were provided in an email dated 20th February, together with the allegation that these photographs were deliberately withheld by the local authority because this did not support the local authority's case.

75. Mr and Mrs A prepared a joint statement which is dated 26 August 2022 and begins at C689. In that statement, they reiterate their position that they seek for K to be provided with a separate day service. They want a service that will listen to them as her parents and they are clear that whilst the use of the wheelchair was part of the issue, there were other aspects of K's care that they felt were not in her best interests. Within that statement, they speak highly of H School and the things that they achieved for K, and the way staff had worked with them. They were critical of the placement at D School because of the use of the wheelchair for K, and critical of X Placement for the same. They allege within that statement that K spent all her time in

the wheelchair when she moved to X Placement and describe the use of a wheelchair as a prison for K. They express the belief that the staff were scared of K and did not know how to deal with her behaviour. They described K's use of the wheelchair as having an impact on their ability to take her out in the community. They find the decision to use a wheelchair for K hard to understand and hard to forgive. It is their evidence that whilst X Placement had acted on plans to encourage K out of the wheelchair some of the time, they felt this was not enough and they had lost faith in them. It was stated by both parents in their joint statement that arguments about X Placement were having an impact on their marriage.

76. They raised the concern that K being in a wheelchair will cause the strength in her legs and her ability to walk to diminish over time. They believe that K lashes out more since being placed in a wheelchair and they believe that K is kept away from others within the centre. They advocate for a plan for K to be in the garden not using her wheelchair. They also raised concerns around her fluid intake whilst at X Placement and they felt that X Placement should be encouraging her to drink more. They also allege that staff at X Placement watch K while she self-harms. They express that staff who choose to work with individuals like K would have to accept the risk of being unintentionally injured. Mr and Mrs A also rely on the safeguarding incident on 5th May 2022 as evidence that X Placement cannot meet K's needs. In terms of the relationship between Mr and Mrs A and X Placement, it is clear from this statement that they feel undermined and dismissed and this is again in conflict with how they feel H School worked with them. They agreed that there has been annoyance and anger and that had manifested itself in shouting or comments, but they felt that was as a consequence of feeling ignored or belittled. They did not feel that it was productive to have restricted Mr A's ability to speak to staff at X Placement.

77. In terms of K's engagement at X Placement, they were clear in their statement that she did not always attend due to tiredness which was a consequence of managing her condition, their concern over her fluid intake, and difficulties in K's presentation at times when K is menstruating. Mr and Mrs A wished to move to a different day service but in doing so acknowledged that this would not immediately mean that K

would be out of her wheelchair. Effectively they felt the relationship with X Placement had become so difficult that there was no trust and they felt that K needed a different provision. They relied on the fact that K had not attended X Placement to the full extent of her provision in support of the suggestion that she would not find the transition necessarily challenging.

78. They expressed reservations around attendance at Z Placement due to the busy road. Mr and Mrs A acknowledged that they had originally turned down the offer of assessment through speech and language with respect to K's fluid intake. They confirm that they will now accept a referral. Mr and Mrs A also explained that the reason they did not provide K with her new wheelchair was because they had originally felt that that would be seen as accepting X Placement's management of K (which they did not agree with). For the first time, Mr and Mrs A acknowledged a willingness to try walking K in through the rear entrance to the service. It was clear from their statement, however, that that would only be in circumstances where Mr A is permitted to walk K in.

79. Finally, within their statement, they set out what they would like to see should K remain at X Placement. This included particular opportunities being given for K to walk within the centre, for her fluid intake to increase, for K to access the garden, and for there to be direct involvement of both Mr and Mrs A with the centre. Mr and Mrs A attach a letter from H School confirming K's routine when she attended the provision. This includes that K did not use a wheelchair throughout her school day unless going on a long walk in the grounds of the provision, or out in her locality. Ms A, the author of that letter, notes that she had not supported K for almost 4 years and, at the time of writing that letter, she did not know how K would have developed over that time. It was challenging for her to predict a timescale for K to feel comfortable to get out of her wheelchair and walk in the new setting. Mr and Mrs A also exhibit notes of K's day at X Placement where her fluid intake was particularly low and have highlighted negative aspects of K's experience. Finally, there was a letter from K's

doctor to request that K's intake of fluids be monitored and increased whilst at the day centre.

Mr A's oral evidence

80. Mr A in his oral evidence confirmed the truth of his previous statements. He was very clear, even from the beginning of his evidence, that he was not supportive of K using her wheelchair and he did not recognise this as necessary for her, particularly when set against her experiences in her placement at H School. It was also clear from his oral evidence that he felt K's use of the wheelchair was a significant and prominent part of her day and motivated by staff convenience.

81. Mr A was critical of K's fluid intake whilst at X Placement and identified that this would have implications for her health. He was also critical of times that K had been returned to her home with food still on her face. He was very clear that K had settled very quickly at her previous placement and had received excellent care while she was there. He recalled that, at H School, it was not necessary to use a wheelchair for K to enter the setting. It was his very firm position that staff at X Placement were scared of K and not able to manage her without using the wheelchair. He felt K was being left alone in a wheelchair in a room when unsettled and he considered this to be harmful.

82. He felt that K's use of the wheelchair was having an impact on the time she spent outside of X Placement. It had limited the ability of Mr and Mrs A to take her into the community. He felt that it would be a source of unpleasant discussion if K was seen to be using a wheelchair when she was not in need of one. He felt that there was no motivation within X Placement to encourage K not to use the chair and he did not feel that K's more limited attendance of the day centre had impacted negatively on X Placement's ability to progress K's plans. He did not accept that there was any real commitment to phasing out the wheelchair whatever the care plan for K stated. He did not agree that using MAPA techniques to manage K would be distressing or

necessary. He felt K could be guided around the placement without the need for the chair. He felt that staff at X Placement had been dismissive of his concerns. Even if K was only using her wheelchair 15% of the time, he felt this was still a risk of harm for K. It was evident that Mr A under no circumstances would contemplate the use of the wheelchair for K. Mr A also felt that the staff at X Placement were not committed to reducing K's use of the wheelchair.

83. Mr A denied that there was evidence that K had settled at X Placement. He did not accept that X Placement was the right place for her. Whilst there was evidence that there had been a reduction in K's incidents of self-harm, he still felt that this was not the right setting for her. He was clear that he would contemplate an out of area placement for K. In terms of any reduction in K's self-harm, he felt that she was still having incidents each week. He was clear in his evidence that he felt K was unhappy and he felt that the staff were not being honest about her presentation. He felt that K would cope with the change of routine if she were to go to a more suitable place. He felt that the local authority did not want to pay for the care necessary for K at an alternative centre and did not want to fund her care outside of Stoke-on-Trent. It was his view that the care plan for K had not been followed in terms of endeavouring to limit the use of her wheelchair. Mr A was clear that he felt that K was placed in that chair to make it easier to manage. He did not agree that any change of placement would be unhelpful for K because it was likely to remove the support from R College. Mr A explained that R College were not to be involved in the longer term in any event, and this would be outweighed by K's need for a fresh start.

84. Mr A understood that the local authority would likely seek an injunction if K were prevented from attending X Placement should that be found by the court to be in her best interests. He could see the benefit to K in having an opportunity to socialise and to further her education and he accepted that K enjoyed the use of the sensory room. At the same time, he worried very much about K attending X Placement and he felt there had been very poor communication from them. He did confirm that he would comply with any court order. Mr A did not see any connection between the time it had taken K to settle at X Placement and the more irregular attendance that she had shown

over the last months. He felt it was better to determine for K on a day-to-day basis whether she was able to attend and her lack of fluid intake at X Placement was also a factor. It was also clear from Mr A's evidence that there was a dispute between himself and the day centre around the stabilisers that were to travel with K's wheelchair.

85. Mr A explained that videos had been provided to show how distressed K had been in the car as a consequence of her experience at X Placement. He was taken through the evidence relied upon by the local authority to suggest that there had been a risk of road traffic accidents given K's presentation in the car, but he denied that this had been an issue.

86. Mr A was taken to a recording that K had injured him in the car by hitting him in the face. Mr A clarified that the car had been stationary at the time and it was not that he was hit on purpose. K had struck him because she was heavy-handed and he had not been involved in a road traffic accident caused by K being in the car in the 16 years he had been driving with her. He did not envisage there being a difficulty in transporting K to a placement further away and again said this would bring with it a much better welfare benefit to K because she would no longer be attending X Placement. He did not consider the additional travelling to be a stress factor for K.

87. Mr A was asked about an indication in his statement that if staff worked with K, they would have to anticipate the risk of being unintentionally injured. It was Mr A's position that his son also works with individuals with high care needs, and none of those people had their challenging behaviours managed through the use of a wheelchair. Whilst Mr A could accept that staff working with K should anticipate there being processes in place to protect both K and themselves, Mr A would not accept the use of the wheelchair for K was a proper measure. He felt that this was simply for the convenience of staff and was to K's welfare detriment.

88. In terms of K's lack of fluid intake, Mr A continued to highlight the difference between the fluid intake at home and that at X Placement and he described behaviours by K that he felt showed that she had regressed as a consequence of her time at X Placement. The issues around K's fluid intake, he said, were also exacerbated by the day centre choosing not to engage with him directly. It was evident that this formed another level of the difficulty that Mr A had in working with X Placement as a placement for K.

89. He was very critical of X Placement for, as he felt, excluding him from communication about K. He welcomed consideration being given to K entering the centre without her wheelchair, but he wished for this to be immediate and not gradual.

90. In terms of there being a respite placement for K, Mr A could perhaps come to understand that there was a need to look at K having that opportunity. He felt that brief periods of respite would not be meaningful, and any respite placement would need to accommodate K's habits around sleeping on a sofa and not a bed. Mr A was able to acknowledge some of the features of Z Placement that in principle would be a good fit for K. At the same time, he was deeply anxious about Z Placement being near a main road and he referred to a road traffic accident that he had witnessed in the vicinity of Z Placement. He also was critical of the fact that Z Placement would not accept K without her wheelchair. Whilst Mr A considered that options for alternative day centres should be explored more by the local authority, he did not appear to contest that the local authority had been unable to find other options for respite. Again, Mr A felt that it was a different place to H School which had been quiet and calm, compared to the setting of Z Placement in a busy residential area.

91. Mr A confirmed that he would abide by any court order that determined K ought to attend X Placement, but he also asked that other places be explored. He was open to working with X Placement to allow K to access the garden there, but he wanted to know how long that would take. He would not be willing to wait a long time for this to happen.

92. When cross-examined on behalf of the Official Solicitor, Mr A again expressed his dissatisfaction at the use of the wheelchair and felt that it was something relied upon to make K easier to manage. He was deeply unhappy that X Placement were not engaging with him and he maintained that K would adapt to any new setting. He maintained his view that H School had been able to manage K's care without a wheelchair, and this included giving her access to outside space, and it was a reflection on the ability of staff at X Placement that this had not been achieved for her there. Mr A felt that it was unhelpful to K that he had been excluded from assisting at X Placement. He did not necessarily agree that any changes for K needed to happen gradually and at her pace. His own reflection on K's time at X Placement was that no progress had been made, whereas staff at H School had stopped using the buggy for K within eight months to a year. He felt that the local authority's plan was to control K with the wheelchair for as long as possible. He did not want to be excluded by X Placement. He wanted to walk K in when she arrived and he did not want her using the chair.

93. Mr A did not agree that K had been seen blowing kisses at staff. He did agree that certain stimming behaviours shown by K were positive. When asked about further positives at X Placement for K, Mr A continued to return to the use of the wheelchair and the negative impact on K. It was also evident from Mr A's evidence that he did not feel he had been abusive to staff, but rather he had advocated for K, and the approach of the staff towards her had been wrong. He maintained that other potential centres needed to be explored for K. He did not feel that X Placement had appropriate or safe strategies for K.

94. Mr A expressed strong views with respect to K's care at X Placement when compared to H School. There was little reflection in his evidence on the perspectives of professionals. It was evident that his views were deeply held and there appeared little room for Mr A to consider or accept alternative perspectives. I will address his evidence further later in this judgment.

Oral Evidence of Mrs A

95. Mrs A in her oral evidence confirmed the truth of her written evidence without amendment. In her evidence-in-chief, she showed particular concern over K biting herself and that this had happened when staff had not been in the room. She confirmed her position was the same as Mr A. She was able to agree to an extent that attending a day centre would be positive for K's communication skills and it was positive for K to socialise.
96. When asked about the "traffic light" system that K was encouraged to use at X Placement to communicate, Mrs A was clear that she had not seen K using it and so could not agree that she had made progress with this system. It was not something K used at home, and nor was it something she had been shown. K at home would take people to what she wants, and this was not something she did at X Placement. As with Mr A, Mrs A could identify very little that was positive at X Placement for K. She felt that the centre was not used to people with K's needs. She firmly denied that K blew kisses to staff. This was a movement K frequently made and it did not mean what the staff believed it did. Mrs A was extremely resistant to attending X Placement and being involved in X Placement without Mr A. Whilst she could see a benefit to K if she were to attend and see how she was cared for, Mrs A was adamant that she should not be put in the middle of things, and that the local authority and staff needed to engage with her husband too.
97. She did not agree with the professional view that K's needs were met at X Placement. For Mrs A, if this was the case, then K would not be self-injuring. She takes K to the doctors twice a week as a result of K's health issues at X Placement, and had an appointment that day over her heavy breathing and hair pulling. Mrs A maintained this view, despite it being put that this was not wholly reflected in the professional recordings and nor did she accept incidents had reduced. She was critical that Mr

McKinstrie had only seen K once, whereas she had day to day experience of these issues.

98. Like Mr A, it was very much the view of Mrs A that K was kept in a wheelchair to control her. She did not agree that K took time to settle with people and gave the example of K accepting her brother's girlfriend very quickly. She denied that a change of setting for K now would set her back and require further time to settle. Again, she compared K's presentation and time in her wheelchair at X Placement negatively against the care she felt K received at H School.

99. Mrs A agreed with her husband's evidence that K had been smearing at home, something which she attributed to X Placement. It was her account that the reason K had not been noted to have done this at X Placement was because K had not opened her bowels there. When it was put to Mrs A that K spent 85% of her time not using the wheelchair, it was still the tone of Mrs A's evidence that its use was entirely negative and had an impact on her behaviour at home. Mrs A did not accept the significance of the recording on 3rd March 2022 in terms of K's behaviour when she was not in her chair in a communal space. She felt that K was happy most of the time. If K could not be out of her wheelchair at X Placement then she needed to be in a place where she could be. Again, for Mrs A the wheelchair was used to control K because she moved faster and had different needs to the other service users.

100. Mrs A rejected the suggestion that K enjoyed using the chair. For her, K had no choice. It was not used at home. It had been used only to visit the aquarium. Mrs A did not accept the accounts that K chose to remain in the chair in the sensory room. Her evidence was that her chair was never intended for indoor use. She was not willing to assist K in trying to walk her through the back entrance because K was used to male staff, as she pulls hair. Mrs A denied refusing to assist due to a fear of being assaulted by K. She reiterated that this is not what K was used to and she also refused on the basis that this was an example of her partner being pushed out by X Placement.

She was adamant that X Placement would need to accept Mr A also walking her in. She would however help if this was a decision of the court.

101. For Mrs A, K's use of a wheelchair also marked her out for gossip within the community, describing the location of their home as being a cruel place. Mrs A felt that she and Mr A took K out appropriately with safe use of her chair. Mrs A was resistant to X Placement taking K out to a park, partly as it did involve her being in the community in her wheelchair but also because she felt that K would believe that she was being taken home and this would be distressing for her. Mrs A felt, ultimately, that there was no need for X Placement to take K out on a staged basis as she felt that she and her husband did that for her.
102. As with Mr A, Mrs A was entirely against the use of the wheelchair. When Mrs A was directly questioned as to whether she would prefer the use of the wheelchair over physical restraint of K, again all Mrs A could say was that she did not support the use of the wheelchair. She had seen the use of MAPA techniques for K by her son at home and she felt that there were other ways of managing K's care without confining her to the wheelchair.
103. It was put to Mrs A that there had been comments made by Mr A that they would stop cooperating with X Placement if the court ordered that it is in K's best interests to attend. Again, Mrs A reiterated her position that she did not feel that X Placement was appropriately meeting K's needs and nor did she need to use the wheelchair. She felt that the others attending the centre were not of similar needs to her daughter. As with Mr A, I find there were times in her evidence that she did not directly answer a question, but instead simply reiterated particular points about her view of K's needs. Ultimately, when pressed, Mrs A did accept that if the court decided that K should attend X Placement that she would take that step.

104. In terms of Z Placement for respite, again Mrs A reiterated that she wanted options to be looked at for K. She would not go against the court, but she felt that there had to be somewhere that met K's needs. She felt Z Placement was too close to the road for K and this was an anxiety for her. She had agreed to visit Z Placement but her concerns around the main entrance remained. In terms of whether she felt it was an advantage that staff at X Placement could help settle K at Z Placement, Mrs A felt that that would depend on whether it would take four years for them to do so as she believed it had taken them to get K to this point at X Placement. Again, I find that Mrs A took a number of opportunities during her evidence to make the same points in relation to X Placement and her views.
105. When questioned on behalf of the Official Solicitor, Mrs A was asked to consider what K herself might have wanted in terms of management and whether she would have particularly preferred the use of MAPA techniques. Again, Mrs A appeared unable to focus on this particular question but went on to reiterate the issues that she had around K's wheelchair and again how she felt that it was not necessary. It was very firmly her view that the wheelchair was being used to control K because X Placement staff were unable to manage her behaviour. Mrs A felt that whilst the people working with K might have spent some time with her, she and her husband were the ones that spend time with K every day. The staff did not know deep down what K was really like.
106. When it was again put to Mrs A that K had shown behaviour that could be interpreted as being happy and content at X Placement, Mrs A acknowledged that she may have times when she was happy, but this did not again make it the right place for her. She continued to resist any suggestion that she should enter X Placement without Mr A and observe on the ground how K was being cared for. Mrs A appeared suspicious of any effort to engage firstly with her, with the view that Mr A would possibly then later be involved.

107. Mrs A did not accept that there would be benefit to X Placement taking K into the community by way of preparation for a time when Mr and Mrs A may not be able to do that for her. She maintained that K may believe that she was going home and this would be confusing for her. It was put to Mrs A that K's journey to settling at X Placement had not been assisted by the restrictions in place during COVID-19. Mrs A could not identify that this in any way mitigated the use of the wheelchair for K or explained the pace at which K had become used to the placement.
108. As with Mr A, Mrs A maintained her position with respect to K's attendance at X Placement and the use of her wheelchair. I shall address this evidence further later in this judgment.

Written Expert Evidence

109. The expert evidence within the case appears in section E of the bundle. The first of these documents is a capacity assessment, which confirms the professional view that K has severe learning disabilities alongside autism and does not have capacity to make decisions regarding her care or support.
110. There is an independent occupational therapy report prepared by Rachel Dodwell at E16 of the bundle. Miss Dodwell was not required to give oral evidence. She assessed K at home, at X Placement and whilst travelling to X Placement. In terms of her assessment, she did not observe any difficulties in K being transported to X Placement. It was a recommendation of Ms Dodwell that any changes for K in her support and care should be introduced tentatively and in a graded manner. She recommended that establishing a means of communication with K should continue to be a priority. She was also careful to observe that any progress in K's care would not be at a predictable rate and it would be counter-productive to introduce too many changes at once. In terms of K's use of a wheelchair, Ms Dodwell felt that it should only be for the purpose of managing risk to K, her family, staff, members of the

public, treating professionals, and other service users. Ms Dodwell recommended a regularly reviewed risk assessment with a long-term goal that K does not use the wheelchair within the day centre for accessing what for K were predictable and routine facilities. She did not think it was realistic for K to be accessing the wider community without her wheelchair because of the unpredictability of the public. Miss Dodwell had not seen any evidence that the wheelchair was used as a means of restraint. Her recommendation was for a co-ordinated multidisciplinary approach to facilitate changes for K. A multidisciplinary approach was particularly important to assist K in reducing the use of the wheelchair and she felt it was reasonable for K ultimately to achieve walking to her space in the day centre, accessing her toilet space, and to leave and enter the family car, all on foot. Ms Dodwell was positive about K's previous positive behaviour support plan implemented by H School.

111. Ms Dodwell provided an addendum occupational therapy report, and this was in response to specific questions. She elaborated on her recommendation of 'backwards chaining' in supporting K through any transitions. The essence of this was to set incremental goals to achieve a long-term aim.
112. There is a report of the speech and language therapy assessment undertaken with K dated June 2022. This did not identify particular complexities with K's swallow, and K was felt to be managing well on the food and drink offered at X Placement.
113. The final document in the bundle is a risk assessment prepared by North Staffordshire Combined Healthcare NHS Trust, concerning the community learning disability team when supporting K in her home.

Written Evidence of Mr McKinstrie (ISW)

114. Mr McKinstrie was instructed as the independent social worker in this case. He has provided a number of reports within the proceedings. In his first report, he set out the

background and the methodology for undertaking his assessment. This included interviews with a number of key individuals involved in K's care. At this point, Mr and Mrs A had acknowledged to Mr McKinstrie that K did require a wheelchair in accessing the community for her own safety but were against the use of the wheelchair within X Placement. They were able to speak in detail about K's care needs, and they had felt her presentation had changed since her attendance at X Placement. They reiterated their wish for K to attend a day setting that was attached to a residential unit because this would effectively assist their ability to care for K into the future in the event of an emergency. They did not want that centre to be within a built-up area. They were sceptical of the ability of Z Placement to meet K's needs in respite due to a lack of experience with autism and its location on a busy road.

115. Mr McKinstrie interviewed the manager at X Placement, Ms S. Mr McKinstrie was aware of allegations during that interview of Mr A being aggressive with X Placement staff at the time of the interview. Her recollection was that K had been brought into X Placement using a wheelchair by her parents. She felt that the parents had been negative about X Placement from their first visit. She described K's routine and confirmed at that time that Mr A was not allowed to access the building due to his previous behaviour towards staff. K has a staffing ratio of up to three support staff during personal care and two staff at all other times. At the time of her interview in January 2022 with Mr McKinstrie, Ms S felt the number of incidents of significant distress for K had reduced. She felt that there was a gradual process of settling K and the use of the wheelchair had been part of the process. Ms S did not report to Mr McKinstrie that K had been reluctant to use her wheelchair. She was able to explain that K's wheelchair was not in her room all of the time now and that K had accepted this. Ms S had explained to Mr McKinstrie about the plans to support K in accessing the building on foot to the rear entrance and other areas where she felt that opposition from the parents had prevented progress being made. Ms S was able to speak about the qualifications and experience of staff caring for K. She felt in interview that in the early days of K's attendance, she had had a positive relationship with Mr A. However, this had deteriorated, and she described him as complex and challenging to deal with. It was clear that, in her interview with Mr McKinstrie, Ms S had felt there was at

times conflict between managing Mr A's expectations, and what staff wished to achieve for K.

116. Mr Kelly had also been interviewed by Mr McKinstrie, and his reported views were consistent with his written evidence. Mr Kelly had expressed his view that K's presentation had improved following involvement from R College to assist in her communication. Again, Mr Kelly spoke about his view that the lack of engagement by Mr and Mrs A may ultimately lead them to choose not to bring K to the day centre. This would be difficult because a day setting was central in his view to supporting Mr and Mrs A, and he identified a risk of carer fatigue. Mr McKinstrie also spoke to Ian Mountford (specialist learning disability nurse) who confirmed that there appeared to be a gradual movement away from K's use of the wheelchair during her time at X Placement.
117. Mr McKinstrie notes that Mr and Mrs A have not accepted support within the home, and they have met K's needs in largely the same way as they did when she was much younger. He notes that the traffic light system is used for K while in X Placement but not at home. He concludes that it is in K's best interests for her to be supported in a consistent way in all areas of her life and this would only be achievable if Mr and Mrs A engaged with the support and care K received at X Placement.
118. In terms of K's use of the wheelchair at X Placement, Mr McKinstrie felt that further progress could have been made if Mr and Mrs A had supported the use of the wheelchair as an interim measure. His view was that the arrangements for K at X Placement were appropriate, met her needs and were in her best interests at that time. He felt that the approach of the parents had inhibited the ability of X Placement to explore initiatives for supporting K that would progress her care. Mr McKinstrie supported in the short to medium-term K's care remaining at home whilst also accessing X Placement and also the involvement of R College. He supported K being introduced to Z Placement both as a means of respite but also as a potential future setting should K's parents be unable to care for her. Mr McKinstrie did agree that in

principle identifying a setting with an attached day service would offer positives for K in the longer term. He did not consider however that it would be in K's best interests to move to an alternative day provision unless it was in the context of preparing her for a move towards a change of living in a supported living tenancy or residential placement. Mr McKinstrie recommended that whilst K was being introduced to Z Placement, the local authority needed to plan for the future for K and identify potentially longer-term placements.

119. Mr McKinstrie provided an addendum to his report in late February 2022 in which he observed a day with K at X Placement. His observations included K being regularly offered sips of drink and using the traffic light system to communicate. From his observations, he felt that staff working with K were able to identify and respond to her cues. He witnessed K becoming distressed at one stage and being given time to self-regulate. I found this report to be very detailed. Mr McKinstrie was very positive about the environment and care afforded to K in this particular setting. He felt that the use of the wheelchair was proportionate and in her best interests and, on the day he had attended, K had spent the longest period in her wheelchair whilst in the sensory room. He felt that this had enabled support workers to engage positively with her. On this occasion, K was in the centre for 240 minutes and had spent a little over 25 minutes in her wheelchair.

120. Mr McKinstrie provided a third addendum dated late March 2022. This was in response to very specific questions asked. In responding to those questions, whilst he had commented positively on the preferred option of Mr and Mrs A of a rural setting attached to a residential placement for K, he acknowledged that finding the same may not be possible.

Mr McKinstrie's Oral Evidence

121. In his oral evidence, Mr McKinstrie confirmed the truth of his reports without correction. In his evidence-in-chief, he recognised that the traffic light system that K

had been introduced to was a useful means of communication and he thought that it may have been helpful to have that available for her at home. Whilst K had her own way of communicating with Mr and Mrs A, he identified a benefit for K to have some consistency in her different settings.

122. Mr McKinstrie was asked to give further detail about an occasion when he visited K at X Placement and she had been given space to self-regulate. He gave a detailed account of the behaviour that he had seen K present and the actions of the staff. His observed account was that the staff were efficient in recognising K's triggers and they were in tune with what K was trying to communicate. He did not recall any particular discussion as to what needed to happen, simply that the staff recognised that K needed space and they all withdrew for that to happen. He felt that the staff at X Placement had in place an effective strategy because it allowed K to self-regulate in an environment that was safe. It was his account that K had not been left unobserved. For Mr McKinstrie, the alternative to this technique was for K to be the subject of physical intervention to prevent her self-harm and he felt that this would be detrimental to K. It was more proportionate and in her best interests for there to be, instead, a planned and safe period of time in which K could settle herself. He went on to give examples during his visit of the times that the staff were in tune with what K had wanted and he felt that they read her cues extremely well. He also gave an account of seeing the use of the traffic light communication system during his visit.

123. Mr McKinstrie felt that K did benefit from having a consistent and appropriate means of expressing herself. He felt that there were good facilities at X Placement and the capacity for K to have appropriate stimulation. He spoke very positively about what X Placement could offer K and described it as an exceptional facility. He felt that it was to the credit of X Placement that they offered her appropriate and attuned care. He described K enjoying music to express herself physically and the staff recognising when K had wanted that to stop. He raised no criticism of the staff training for K and he recognised that, if K had to move to a new setting with new staff, this would be unsettling. He felt on the evidence he had read and from his own observations that it could take many months for K to settle in a new setting.

124. Mr McKinstrie was also clear that he had observed K to be offered fluids regularly throughout the day. He described almost ritualistic behaviour from K around taking a drink and this included sequences of taking a sip and not taking a sip from her drink. He acknowledged that this is an area which required further consideration and it was positive that referrals would be made. He also felt it was necessary to consider K's fluid intake across the day in her different settings as a whole.
125. Mr McKinstrie was cross-examined in detail about his view that a wheelchair was an appropriate means of safely managing K in communal spaces. He observed that K was physically strong and capable of moving very quickly and he shared Mr Kelly's view of the risks to her and others if she were overstimulated in a communal area. He acknowledged that H School did not manage K in the same way, but again he recognised that the physical environment in that setting was different and did not require her to pass through any communal spaces on arrival or for personal care. His own observations were that K was entirely happy when in her wheelchair and expressed delight when it was brought into the room for her during his visit. He noted that she had elected to sit in it both to go for personal care but also to move to the sensory room. He did not witness K being coerced to use it.
126. In terms of the role of the wheelchair, Mr McKinstrie did not disagree with the observations that K was out of the wheelchair for 80% of her time. He did see it as a means of control because K was not free to get up. However, it was used as an alternative to K being handled by perhaps two or three people to travel to communal areas. It was a safe and appropriate means of ensuring that K could move around her setting, but he felt that it was not disproportionate. He had been aware that K had been in her chair in a setting within X Placement around other service users. He felt that this had the potential to develop her ability to socialise. He noted that there were limitations to what the staff had been able to achieve due to their anxiety around the reaction of Mr and Mrs A to K being in a communal area in her wheelchair. It was clearly the view of Mr McKinstrie that K should be allowed to develop that skill and socialise further.

127. In terms of the proposal that K should start to enter X Placement through a back entrance, Mr McKinstrie felt that that should be tried. He felt a gradual approach should be the appropriate means of doing that and he acknowledged the resistance of Mr and Mrs A to some of the steps in that process. He did feel that it would be in K's best interests for that incremental approach to be taken. Likewise, in terms of K accessing the garden, this is again something that would be of benefit but needed to take place gradually. Whilst the interior of X Placement was a controlled and safe environment, there were other risks within the garden that needed consideration and an appropriate means of safety for K. It remained Mr McKinstrie's view that the use of the wheelchair was far more in K's best interests compared to physical restraint by two to three people.
128. Mr McKinstrie shared the professional concern that there was currently no respite plan in place for K. He recognised that there would be a major risk to K's well-being if she was required to move at very short notice to a setting that was completely unfamiliar to her with people that she did not know. His concerns were exacerbated by noting within the bundle that there was a period of time when Mr A had been out of the house and Mrs A had needed to manage K on her own and this had had an impact on what Mrs A had been able to do with K. He felt that K's care would be a huge responsibility for a single person, and it was necessary to consider carefully an approach to respite that could be put in place over a period of time. He did recognise the significant benefits that Z Placement presented in terms of its location, proximity to K's home and the ability of staff at X Placement to effectively manage her transition and be present. He felt that this was a huge advantage. He described K as a complex young person who did not fall within particular diagnostic criteria and had to be supported in an individual way. He felt that assumptions should not be made about K and he felt that it took a familiarisation of staff with her needs in order to manage her care as well as possible. It was clear that he felt that this was something K received at X Placement.

129. Mr McKinstrie was concerned about the tension in the relationship between Mr and Mrs A and professionals. He felt that K needed to be kept at the heart of matters and parties need to work together to achieve a clear plan. K needed to be supported by a consistent approach.

130. When cross-examined on behalf of Mr and Mrs A, Mr McKinstrie could not be clear whether it was a particular incident in which K inadvertently injured staff members that led to the use of the wheelchair. He recognised that K had been without consistent services since concluding her placement at H School for a significant period of time and this was unlikely to have assisted her in settling in her placement. He felt that K had settled over time at X Placement as the staff caring for her became more familiar with her particular needs. He recognised the importance of the intervention of R College and other strategies to achieve a position where K had settled and he believed that she had. He did acknowledge that there had been variable reports of K's day-to-day presentation at X Placement, but he felt that overall the picture was one of an improvement.

131. The different scenarios in which a wheelchair was used for K were explored in full with Mr McKinstrie. In terms of the use of the wheelchair upon K's arrival at the centre, Mr McKinstrie continued to support this. His own experience of X Placement was that individuals may access the communal entrance space at any given time and the risks could not be appropriately mitigated for K in any other way. He was not able to identify whether K's improved presentation at X Placement over time was sufficiently robust to suggest that she could cope with an individual entering the space at the same time as her. His view was that the risks of K reacting to that situation as opposed to continuing the use of the wheelchair was such that the wheelchair remained appropriate. He reiterated that K was a complex individual and capable of moving very quickly. He was more supportive of K entering X Placement from a back entrance. He recognised that this requires managing in a particular way with the involvement of Mr and Mrs A and he felt it would be unfortunate for K if they could not engage with those measures.

132. Likewise, when K was moved between different rooms within X Placement, Mr McKinstrie's evidence was that the use of the wheelchair remained proportionate. Whilst desensitising K to others being in a communal space was a way forward he felt that, in terms of K's movements within X Placement, the big issue had been the number of doors. This had been observed to be something that caused K to respond. Again, he felt that the use of the wheelchair in that setting was appropriate and in her best interests. Mr McKinstrie felt that K would benefit from regular reviews of the progress made, including around her hydration. He felt it was important as part of those reviews that the views of all parties were considered. He again spoke positively about K having been able to spend time in a space with another peer during Her Late Majesty Queen Elizabeth II's Platinum Jubilee celebrations.
133. In terms of K accessing the garden, Mr McKinstrie, again, was clear that there were hazards in the garden which meant that the wheelchair was not a disproportionate restriction on her liberty. He felt that the use of the wheelchair in those circumstances was about her accessing the space in a safe way. With respect to K travelling to the sensory room, he believed K wanted to use the chair in those circumstances. He had observed her choosing the chair and being happy for doing so. He did not consider there was any safety in the least restrictive option of K walking into those rooms and he felt the wheelchair was again better for K than the use of MAPA techniques. He did not feel that there had been complacency around the use of the wheelchair in X Placement. Instead, reflecting on the evidence, he felt that there had been progress. He felt that the wheelchair was an appropriate tool for managing K's needs and one that he recognised that the parents themselves still used. He did not share the view of Mr and Mrs A that it was a means of controlling K employed by staff who did not understand her. He did recognise that there were strategies that could limit the use of the wheelchair including reconfiguring X Placement to mean that K had personal care in a space she did not have to pass through a communal space to reach. He was not able to say whether the use of the wheelchair at X Placement had lessened K's wish to be out of the wheelchair at home. He felt that K was a complex character, and this was difficult to judge. He also agreed that simply because K presented as happy in the

wheelchair did not mean that it was in her best interests. However, he considered the evidence did not suggest that she was at risk of deskilling in terms of her mobility. He did not view K as necessarily being dependent upon the wheelchair at X Placement, but simply that it was a tool that she used when she needed it. Mr McKinstrie did not recognise an inappropriate risk to K if she were to have a seizure whilst seated in her chair. He felt the time that she spent in the chair was very limited and it meant that the risk of a seizure at that point was highly unlikely.

134. He repeated his view in respect of K's fluid intake that a holistic view had to be taken between X Placement and home and he recognised that it was appropriate for there to be support around this issue that all parties could invest in.
135. Mr McKinstrie supported the appropriate development of K's experience at X Placement and this included mixing with others but subject to an agreed and managed plan. In terms of the strategy of leaving K to self-regulate if she became dysregulated, he felt that the current procedure of giving her time to do so in her own space was appropriate. He recognised that there was a time limit for this to be safe and he was clear that, on the instances he observed, staff were able to intervene if necessary. He did not feel that an alternative for K would be the immediate application of physical restraint because he felt that that would be distressing and disproportionate. He felt that K benefited from staff that knew her and who had worked with her and understood her cues.
136. Mr McKinstrie was very clear that a fresh start at a new setting was not going to be in K's best interests. It would begin a new process of settling and of carers getting to know K again. Whilst he felt that it would be of benefit for Mr and Mrs A, he could not say that K's interests were the same. He felt that there were areas of disagreement between Mr and Mrs A and the local authority and X Placement that could and should be legitimately discussed, but not in circumstances where staff were abused. He did recognise that there may have been distressing issues including K having food on her face, but he felt that, again, those needed to be handled in a constructive way.

137. In terms of any alternative placement, Mr McKinstrie recognised that there were no other options for K. Each had been ruled out for their own reasons. One of the settings was not a day service in the sense that K needed it to be and would have required the buying in of care. The geographical placement of another setting meant this would not be in her best interests.

138. I found Mr McKinstrie to be a calm and balanced witness who was able to speak in detail about the things that he had observed of K during his visits to X Placement. I do find that, notwithstanding the fact that he did not support the outcome that Mr and Mrs A wished for K, he was able to be respectful of their experiences and care for their daughter.

Evidence on Behalf of K

139. In terms of evidence filed on behalf of K, the first of the attendance notes by the solicitor on behalf of Mr and Mrs A is dated September 2021 and appears at C107 of the bundle. This largely consists of an interview with Mr and Mrs A and I have paid particular attention to the behaviours that they were reporting K was showing at that time. K was asleep at the time of that visit. It was clear from that meeting that the parents' goal was a provision for K which was ideally attached to a place offering respite and residential care with an eye on K's future, and one where she did not use the wheelchair. They were able to explain the high commitment they needed to show to K to make sure her needs were met.

140. A further attendance note on behalf of K was provided following an attendance on 26th April 2022. This appears at C491 of the bundle and includes an interview with Ms S from X Placement which is positive in its tone about K and contains details around

the draft care plan for K to access the garden. Ms S was supportive of K being introduced to X Placement and entering the community. Ms S was reported at that stage to have expressed that K chose at times to sit in her wheelchair. There were issues for X Placement around which wheelchair had been provided for K. Ms S described to the solicitor instructed by the Official Solicitor on behalf of KA that she was open to bring K through the back entrance, but the parents had refused to engage with this. As the parents insisted on K leaving through the front door, the wheelchair remained necessary.

141. A further attendance note in respect of a visit to K by her solicitor is dated 17 June 2022. During this visit, K was observed to be sharing behaviours consistent with being content. She was also observed to self-regulate and the solicitor for the Official Solicitor was able to observe not only the rooms that K was supported in but also the garden. Ms S was also able to explain that K had accessed the wider X Placement community during the Jubilee celebrations. The overall view of Ms S was that K had continued to make positive progress.

Evidence from the Integrated Care Board

142. In terms of the Integrated Care Board, Josie Harrington has provided a statement at C373 in which she addresses whether a multidisciplinary approach can be put in place for K as recommended by the independent occupational therapist (Ms Dodwell). The position at that time was that the ICB was open to this but it would be necessary for Mr and Mrs A to cooperate with the relevant referrals. She provided a second statement within the bundle that noted that, following various referrals which led to assessments of K's environment at X Placement, no further occupational therapy input was required beyond the recommendations made by Clare Lamb (senior occupational therapist, North Staffordshire Combined Healthcare NHS Trust) to encourage independence in K's care plans at X Placement.

Submissions

143. It was agreed that at the conclusion of evidence, the parties would provide written submissions. Supplementary submissions were then required by the parties as a consequence of Mrs A continuing to correspond directly with the court. Unfortunately, Mrs A had continued to send further emails notwithstanding guidance from the court that this should not happen. It is necessary therefore to consider both the closing submissions and the additional submissions raised.
144. The closing submissions of the local authority invited the court to order that it is in K's best interests to implement the specific care plans filed within these proceedings including those supporting K to (i) access X Placement, including access to the garden of X Placement, (ii) ultimately use the rear entrance to access X Placement on foot, (iii) access the community, and (iv) be introduced to Z Placement as a respite placement. I was also invited to authorise the deprivation of K's liberty on the basis that the current arrangements for her care both at home and at X Placement constitute such a deprivation. The local authority reaffirmed its intention to keep under review the application for injunctive relief.
145. In terms of alternative provision to X Placement, the local authority was clear that the first out of area day centre was not suitable in terms of the limited hours offered, and the need to buy in external care. The second out of area placement was also not suitable without significant adjustment for K and neither this placement nor the other alternative had an associated respite centre.
146. It was further the position of the local authority that any change of provision for K would be hugely disruptive and likely lead to distressing behaviour. There was the further risk of placement breakdown. The local authority invited me to find that X Placement and Z Placement are the only available options for her. I was reminded that the professional evidence was unanimous in concluding that X Placement met K's needs, and that she was settled for the majority of the time. In addition, it was noted

that K had benefited from work with R College, which would not be available in another setting. Concerns with respect to fluid intake could be addressed via a referral to a SALT. I was also reminded of the clear evidence of Mr McKinstrie that X Placement was a positive placement for K and he did not support a move to an alternative day provision.

147. Likewise, with respect to the use of K's wheelchair, it was submitted that this was not used excessively and was positively received by K. It was necessary in managing the risk of harm should K become overstimulated and was more proportionate than MAPA techniques. This was again a view supported by Mr McKinstrie. I was reminded that there was a professional consensus again that the plans in place to reduce K's use of the wheelchair were realistic and positive and this was agreed between Mr Kelly, Mr McKinstrie and the occupational therapist.
148. In terms of Z Placement, it was submitted that the need to explore respite was urgent and the location of the placement was not a concern. It had expressly been the position of Mr Kelly and Mr McKinstrie that, instead, the links between X Placement and Z Placement represented a real positive for K.
149. With respect to the evidence of Mr and Mrs A, I was reminded that Mr A had appeared to agree with a plan for K to enter X Placement using the rear entrance, even if he disagreed with how this was to be done. He had also agreed in principle that K did need a day service and he wished for greater engagement with professionals. He had also agreed with the use of a respite setting in principle. Similar observations were made of Mrs A.
150. In terms of K's wishes and feelings, it was noted on behalf of the local authority that K has displayed settled and content behaviour at X Placement, albeit there had been some incidents of self-injurious behaviour. I was therefore invited to approve the care plans for K and her introduction to Z Placement.

151. The local authority filed supplementary submissions following communication from Mr and Mrs A. Within those supplementary submissions, the local authority reiterated its position that it sought the specific best interests orders outlined within its written case. I was directed to the evidence of Mr McKinstrie which is supportive of X Placement as a placement and in particular the proportionate way in which dysregulation by K was managed. It was acknowledged that there had been an increase in the number of reported incidents of K becoming unsettled or distressed. The local authority submitted that it was credible that there may be a link between this and K's physical health, or other events around K's menstrual cycle or a poor night's sleep. The local authority also felt that there was a correlation between low attendance at X Placement and an increase in incidents. The local authority reiterated the view that K's wheelchair was a proportionate and safe means of supporting her. The local authority also referenced behaviour from Mr A in particular in which he was alleged to have suggested that he would not support K to attend X Placement if the court decision was that she should, and referenced allegations that Mr A unclipped K's harness when there were other service users in the area. These submissions were supported by a communications log which I have also read and considered.

152. On behalf of Mr and Mrs A, it was asserted that it was not in K's best interests to continue to attend X Placement. Whilst there were no alternatives at present, I was urged to require further efforts to be made, and further enquiries particularly with respect to the existing alternative sites. This would include providing a formal commissioning decision. I was reminded that Mr and Mrs A were prepared to travel for the right placement.

153. The need to explore further settings was rooted in Mr and Mrs A's position that X Placement is unsuitable. This was evidenced by the use of the wheelchair, the lack of suitably experienced staff and the practice of leaving K to self-regulate. The care given at X Placement was contrasted unfavourably with the care given at H School, which Mr and Mrs A had felt was a successful setting for K. K's lack of integration,

low fluid intake and instances of her routines not being followed were also relied upon.

154. Mr and Mrs A asserted that the strained relationship between the parents and X Placement was also a factor in a further placement now being in K's best interests. This was expanded upon within written submissions and included X Placement not communicating with Mr A and instead placing demands on Mrs A. Their view that K would settle quickly into the right placement was reiterated. I was invited to reflect that there is evidence that X Placement did not wholly meet K's needs there was little in the way of evidence as to her wishes and feelings from which the court can draw support for a wish to remain at X Placement.
155. If K were to remain at X Placement, I was invited to provide an indication of positive changes that could be made.
156. In terms of K's use of a wheelchair, this was strenuously opposed by Mr and Mrs A. Such steps had not been required at H School. I was reminded that the professionals supported a reduction in its use and the submissions on behalf of Mr and Mrs A addressed each part of K's day and the reasons why a wheelchair would not be required. They were also concerned that little progress appeared to have been made since K had started attending. I was invited to find that the wheelchair was used because staff did not have the confidence to deal with K and that some light physical intervention was the more proportionate measure. They disputed that excessive physical control of K would be needed if staff were able to meet her needs. I was also reminded of Mr and Mrs A's evidence that the use of the wheelchair had adversely affected K's behaviour in her home setting.
157. In terms of Z Placement, Mr and Mrs A recognised that respite care would be a positive for K and support their needs. They maintained their concern about the location of Z Placement and sought an opportunity to make further representations

following their visit on 17th November 2022. Finally, my attention was drawn to an issue with respect to stabilisers for K's wheelchair that would be explored following judgment in this case.

158. The supplementary submissions of behalf of Mr and Mrs A emphasised the negative elements of the recordings from X Placement in November 2022 (following the trial). To some extent, those logs reiterated existing concerns, but it was suggested that the more recent logs showed a deterioration in the time that K would spend outside of her wheelchair. They were relied upon by Mr and Mrs A really to underscore their existing concerns. It is conceded that the logs were not exhibited to a further statement but I was asked to consider the contents of those documents, and I note in doing so that there were some sessions where K had declined to get out of her wheelchair and self-injurious behaviour was observed but at the same time, there were also positives within the recordings. Not every log demonstrated a substantial period where K was in her wheelchair. Mrs A also raised some points that had arisen from the evidence that she did not agree with. I was further provided with monitoring forms to indicate that K had bitten her hand on some occasions during the month of November. I will reflect on this within my judgment.

159. On behalf of the Official Solicitor, the following submissions were made in support of K attending X Placement and receiving care and support in accordance with the filed care plans. First, the weight of the professional evidence supported a finding that X Placement was able to meet K's needs. Particular weight was placed on Mr McKinstrie's evidence in this respect. It was further submitted that K enjoyed attending X Placement and this was evident from her observed behaviours. It was noted that Mr and Mrs A had not observed her in this setting. In addition, the plan for staff to withdraw from K when distressed was evidence-led and more proportionate than immediate physical intervention. It was further submitted that the evidence supported a conclusion that this practice was safe for K. K's social isolation and fluid intake were the subject of further plans to move forward and I was invited to look at K's holistic fluid intake across the day. In terms of K's routines, it was submitted that

the professional evidence, and Mr McKinstrie in particular, supported incremental change to those routines in order to achieve change.

160. It was not felt by the Official Solicitor that the strained relationship between Mr and Mrs A and X Placement provided a basis to put K through a distressing change. There was a risk that the same conflict in relationships could be transferred to a different setting and therefore a real risk of placement breakdown. It was also the firm position of the Official Solicitor that there were in any event no other available options. Specific reasons for each considered alternatives were given. It was further submitted that to delay further for more evidence as to the local authority's commissioning decisions was not in the best interests of K, particularly in light of the evidence establishing that X Placement does meet K's needs. It was further submitted that I should not impose changes to K's care plan without first confirming that X Placement would engage with the amendments sought by Mr and Mrs A.

161. In terms of K's wheelchair, the Official Solicitor supported the local authority's submissions that this was the more proportionate means of supporting K to access communal areas. It was submitted that Mr and Mrs A minimised the risks to K of not having such support. Further, the Official Solicitor noted that the care plans in any event sought to achieve that which Mr and Mrs A wanted for K, namely a reduction in its use. However, it was noted that the evidence supported that any such change should be gradual and in line with K's needs and her wishes and feelings.

162. In terms of Z Placement, again the Official Solicitor identifies this as a priority for K and whilst Mr and Mrs A would be able to form their views, this was the only identified placement.

163. I was invited to support a process of review for K that included the views of Mr and Mrs A and to effectively keep proceedings open for a period of three months following judgment to allow matters to settle.

164. It was submitted that the evidence established that X Placement had the necessary expertise and skill to meet K's needs. For the Official Solicitor, this was reflected in the observations of Mr McKinstrie and Mr Kelly and the fact that K had exhibited behaviours to indicate she enjoyed herself there. That Mr and Mrs A had not observed this was because they had not been inside for long enough to see this themselves. The Official Solicitor noted that Mr A was not permitted in X Placement, but Mrs A had actively refused an opportunity to do so. With respect to the practice of staff withdrawing from K to permit her to self-regulate, the Official Solicitor noted that this was consistent with advice from both Mr McKinstrie and Mr Mountford (specialist learning disability nurse) and this was far less distressing for K than initiating physical intervention in the first instance given her needs.
165. In terms of the concern that K is socially isolated at X Placement, it was the position of the Official Solicitor that this needed to be looked at in the context of K's care plans not being progressed as a result of the COVID-19 restrictions and concern around Mr A's response to K mixing with peers. With respect to K's fluid intake, again, the Official Solicitor urged a broad view of her intake throughout the day and in the context of K having very specific routines. There was evidence that K was regularly being offered fluids at X Placement.
166. The supplementary submissions made on behalf of the Official Solicitor invited me to place the evidence of K's self-harm in November 2022 in the context of the broader evidence. This included an acknowledgement that self-injurious behaviour is part of K's presentation and the causes of that self-harm may be very difficult to determine. It was also the view of the Official Solicitor that there was some consistency in the information reported by Mr and Mrs A and X Placement itself around the injuries in November which demonstrated that X Placement were able to monitor and record information relating to K. The additional information regarding K's use of the wheelchair in November did not ultimately change the view expressed on behalf of K.

Analysis and Decision

167. In assessing this case, it has been necessary to set out in detail the evidence and submissions. It is also important that I set out that, whilst Mr and Mrs A do not come to this case as social work professionals, nonetheless they do have an important insight into K's needs and interests having raised their daughter and offered her care throughout her life. That is an important contribution that cannot be underestimated. At the same time, it is also right to keep in mind that, for different reasons, neither Mr nor Mrs A have observed the care given to K at X Placement first hand. Whilst they do have experience of observing K at handover and have drawn conclusions from her behaviour following her time at X Placement, I have to assess their evidence in the context of what they have seen. It is also right to note that, whilst this is a case where there is a significant disagreement between the parties in respect of K's care needs, I find that each party holds the firm belief that each is advocating for K's best interests.

168. I have not been asked to make particular findings in the course of this final hearing around Mr A's behaviour towards staff. I do note however the existence of an interim civil injunction with respect to his attendance at X Placement and Mr A's own acknowledgement that at times he has been very vocal with respect to his views. I acknowledge at the outset that there is very little common ground between Mr and Mrs A and the professionals in this case. I fully accept that Mr and Mrs A have very specific wishes for K's future support and care, and they do not believe that X Placement is the appropriate placement. I must however emphasise that it is essential to K's welfare that any such disagreement is expressed appropriately, and that there is appropriate and constructive reflection when it comes to her care arrangements.

169. It has not been argued before me that K should not be supported through attendance at X Placement. Indeed, I accept the evidence that this is necessary in order to prevent carer fatigue, and also to ensure that K has a wide balance of experience in her life.

170. In reflecting on K's experience of attending X Placement, it is right that I look at that in the context of firstly, K having been without a day provision for a period since ceasing her attendance at H School, secondly K having experienced one provision breaking down after a relatively short period of time, and thirdly her time at X Placement being inconsistent initially due to the impact of the COVID-19 pandemic restrictions. I find these are factors noted by professionals as having had an impact on the length of time it has taken for K to have settled to the extent she has. Whilst there is disagreement as to the reasons, it is the case that K has not been using her full provision of hours at X Placement and again, whilst Mr and Mrs A have asserted that this is not necessary, it is appropriate that—when considering K's presentation at the service—I look not only at the number of months she has been attending, but at the pattern and extent of those attendances.
171. There is no disagreement between the parties as to K's diagnosis and lack of capacity to conduct these proceedings and to make decisions as to her residence, care and support. I find the evidence establishes that K is a young woman with a complex presentation, and I accept the collective view that she has individual needs that require separate and careful consideration.
172. In considering firstly the order sought by the local authority with respect to K attending X Placement, I find that there has been a significant effort within these proceedings to identify alternatives for K. In reflecting on each of those alternatives, I do accept the submissions made by the local authority and on behalf of the Official Solicitor with respect to the viability of those alternatives. It is also significant that it was not a substantial part of Mr and Mrs A's case that those specific identified alternatives represented an appropriate provision for K. I note in particular the evidence of Mr Kelly with respect to the nature of those alternative settings and their inability at this point in time to meet K's needs. Instead, I am urged by Mr and Mrs A to encourage there to be further exploration of provision by the local authority, particularly taking into account the willingness of Mr and Mrs A to travel further for K in pursuit of the right placement.

173. It is further submitted by the local authority, supported by the Official Solicitor, that a change of placement for K, even if an alternative were available, is not in her best interests firstly because she receives good care at X Placement and has settled there, and further that she would struggle significantly with any change. It is particularly the experience of the professionals that K is a young woman who takes time to get used to changes in her environment and the disruption and distress to her would simply not be in her best interests. I am asked to assess X Placement as a provision and consider the quality of the care offered and the extent to which attendance there is in K's best interests. Associated with this is the use of a wheelchair to support K and whether that is also a step that is in K's best interests.
174. In assessing X Placement as a provision for K, I do accept that there is evidence that K has exhibited self-injurious behaviour within the provision. That is recorded within the daily logs that have been relied on by all parties. It is equally the case that there have been safeguarding referrals during K's attendance and in particular an incident in which K harmed herself following her care routines being deviated from. At the same time, I have the observations of professionals and the same monitoring logs that show that K exhibits a significant level of settled behaviour at the centre and shows particular enjoyment around attending the sensory room. I further accept the observations of Mr McKinstrie upon his attendance at X Placement with respect to the care afforded to K during that visit.
175. I have read and considered the care plans filed by the local authority for the support and care of K that includes real potential for her to minimise her use of the wheelchair, access the garden, and integrate further with her peers together with entering the community.
176. I do not find the evidence supports the conclusion of Mr and Mrs A that X Placement is an inappropriate placement with staff who are unable or unwilling to offer appropriate care for K. Whilst I do accept that Mr and Mrs A will have had

experiences where K has shown self-injuring behaviour and has been unsettled at X Placement, I accept the evidence that K is a complex individual and there is not necessarily a clear explanation for that behaviour. I found Mr McKinstrie to be a balanced and fair witness and I am satisfied that he reported the care that he saw being given to K during the course of his visit. I find his evidence is of particular significance being an independent professional instructed to report within these proceedings. I further find that Mr Kelly gave clear and consistent evidence around his own observations of X Placement and the support given to K there. Whilst I do not diminish the experience of Mr and Mrs A, I have already noted that they themselves have no substantial first-hand observation of the care given to K within that setting, despite an invitation being extended to Mrs A to observe the same. Whilst I accept that Mrs A may find herself in a difficult position when asked to deal with X Placement at times in the absence of Mr A, I do find it unfortunate that she did not take the opportunity offered to be able to form a first-hand view of K's care. I find that this may have been a constructive step towards improving the relationship between Mr and Mrs A and professionals.

177. With respect to K's particular wishes and feelings, I am satisfied that all steps have been taken to try to ascertain what they are. What is clear is that, whilst K has shown unsettled behaviour, she has also shown positive behaviour at X Placement, and has engaged in behaviour towards staff that all parties recognise is a sign of contentment. I note that whilst Mr and Mrs A did not accept descriptions of K blowing kisses, they were able to accept that K did bring her hand to her chin in a gesture that for K, in particular, does mean that she is happy.

178. Mr and Mrs A are critical of the practice of K being in her wheelchair and left to self-regulate in circumstances where she becomes dysregulated. I understand their genuine worry that this is an unacceptable risk of harm and doesn't offer immediate physical intervention to prevent K from doing something that would cause the self-injury. Reflecting on the evidence with respect to this practice, it is acknowledged by the professionals within their written evidence that this does appear on the face of it

counterintuitive. At the same time, I find that Mr Kelly, in his written and oral evidence, was able to be very clear as to the basis of the practice, and the benefits as well as the risks to K. I am satisfied on what I have read and heard that it is not the case that K is left unobserved at these times. This has not been a feature of reports from X Placement, and nor was it the spontaneous observed experience of Mr McKinstrie during his visit to K for the purposes of his report. Whilst I accept that Mr and Mrs A may say that Mr McKinstrie did not see a significant part of K's life at X Placement, it was certainly his observation on that day that what took place was an entirely appropriate strategy for dealing with K's behaviour and further intervention from the staff had not been necessary. Accordingly, whilst respecting the concerns of Mr and Mrs A for their daughter, and noting the evidence that I have heard and read with respect to this practice, I find it is firstly evidence-led with respect to K's needs, and secondly a practice that K does respond well to. I do not find that there are incidents of K regularly being left alone without intervention in circumstances where she sustains very significant harm. In terms of what is known and understood about K's particular needs, I accept that she is a young woman who finds touch intrusive and I find there has to be a careful balance between the impact on K of allowing her to become regulated again, and offering physical intervention which may distress her more.

179. Again, I am not satisfied in adopting this approach for K that X Placement has chosen effectively the easy course. I further do not find that this is an example of X Placement not knowing how to manage K's more challenging behaviour. On the contrary, I find that this practice has been developed from knowledge of K's particular needs. Again, based on what is understood about K's response to unwelcome physical contact, I find this practice to be consistent with her wishes and feelings. I further accept the professional analysis that suggests that this is the most proportionate way to manage K's behaviour at X Placement.

180. In assessing the particular criticisms of X Placement made by Mr and Mrs A, whilst it is evident from the daily logs that K does not receive a substantial amount of fluids during the course of her attendance, I find this was something noted by all parties to

be of concern, and I find there is ample evidence to find that K is being offered fluid throughout her day. I also accept that there are now plans for a referral for speech and language therapy that will provide further guidance with this particular issue.

181. Those above findings inform my decision to endorse as being in K's best interests her attendance at X Placement. I find that she has settled at the placement over the period of time that she has been attending there. I accept the evidence that K has shown unsettled behaviour at times at X Placement, but in terms of my analysis as to the causes of this I do not find that this is representative of a level of distress at attending the setting, but rather a feature of K's complex care needs.
182. With respect to K's use of the wheelchair, I note that this is a step supported by each of the professionals in this case as a more proportionate means of managing risk to K in very specific circumstances. I find that the broad evidence of the daily logs supports the use of the wheelchair being in place for K in the key parts of her day addressed in evidence and submissions; namely, entering the centre, moving within the centre for personal care, and moving within the centre to access the sensory room. I find again that the broad evidence shows that this is not a substantial part of K's day at X Placement and I find that the evidence does not establish the use of the wheelchair as a dominant feature of K's support arrangements. I also find no evidence that the use of the wheelchair distresses her.
183. I do acknowledge that Mr and Mrs A have shown a genuine unhappiness at the use of the wheelchair for K and I accept that on the face of it such a step may sit uncomfortably alongside the position that K is in fact an able-bodied young woman. I find that they have expressed a genuine anxiety about its use and have done so with respect to a number of issues, including K's diagnosis of epilepsy. I can easily imagine the anxiety of Mr and Mrs A in believing that a feature of their daughter's life, when supported by carers outside the home, is in their view to be confined to a wheelchair as a means of managing her behaviour.

184. At the same time, I have to reflect on the specific evidence around K's needs, wishes and best interests. I do not find on the evidence that it would be more proportionate for K to be supported in communal areas through the use of physical intervention. I found, when directly questioned about this, that Mr and Mrs A only spoke in terms of K requiring effectively a gentle steer through communal areas. I find that this is not supported by the weight of the professional evidence which I find establishes very clearly that K would require a greater level of intervention than this, and this I find would be distressing for her based upon the evidence that we have of K's particular needs and diagnosis.
185. I further do not share the view of Mr and Mrs A that there is no appetite within the local authority or X Placement to reduce K's use of the wheelchair. I accept firstly that the evidence firmly establishes to the requisite standard that K is only in the wheelchair primarily to transition between public areas of X Placement and to enter the premises. I accept K has also shown a wish to use the wheelchair while in the sensory room. I do acknowledge the point made by Mr and Mrs A that there is a difference between that which K would wish to happen, and that which is in her best interests and I have taken that into account as part of my consideration. I do find that the local authority has produced considered plans around K's care and support that would lead to steps being taken to reduce her use of the wheelchair over time. I accept that these are genuine plans, and whilst Mr and Mrs A have expressed concern as to the extent to which they have been able to be implemented, I find there is no evidence that these plans have been put together in a cynical way without any intention of carrying them into effect. I accept from the evidence that K will require incremental changes, and I further accept the analysis that K attending for more limited periods of time at X Placement has not assisted in the implementation of those plans.
186. I am not satisfied that there is any physical risk to K from the current use of her wheelchair with respect to her ability to remain independently mobile. At the same time, all parties accept that progress should be made to reduce K's reliance on it.

187. Whilst I have not heard directly from staff at X Placement, it is right to observe that the relationship between Mr and Mrs A and the provision is not a positive one, and I find there are particular areas in which the conflict in this relationship has not promoted K's best interests. This has included stalling the implementation of the plan for K to begin to access X Placement using the back entrance. I am concerned that there is a real risk that the relationship between Mr and Mrs A and X Placement, and in particular Mr and Mrs A's ability to acknowledge professional advice that is different from their view, may have a detrimental impact on K's ability to progress. I do balance that with the position that K's attendance at X Placement has been disrupted by a number of factors, including the pandemic. Therefore, whilst Mr and Mrs A were able to describe very quick progress at H School, I do not find that a potentially slower pace of change at X Placement is wholly down to a different approach of staff.

188. It is acknowledged that Mr and Mrs A, if K were to remain in X Placement, would wish to see further progress made with their daughter, including a reduction of the time she spends within her wheelchair. Within closing submissions, a number of proposals are made with respect to that way forward on behalf of Mr and Mrs A and I am invited to effectively endorse the same. In assessing this, I accept the position of the Official Solicitor that the court is limited in prescribing an approach without firstly an understanding of what X Placement would be in a position to facilitate. I do find that, at this stage, the evidence suggests that any changes to K's use of the wheelchair would need to be incremental. I find that this is entirely based upon the evidence and Mr and Mrs A need to have an understanding that this is the case. At the same time, all parties agree that there should be progress, regular reviews and work towards a goal that K spends less time in her wheelchair.

189. In reaching those conclusions, I have also reflected very carefully on the benefits to K of a fresh start. These are particularly bitter proceedings, and there is no real common

ground on key issues between Mr and Mrs A. This is further complicated by disagreements over Mr A's presentation and therefore the extent of involvement he may have directly with staff at the centre. The observations I will make at this time in the best interests of K are firstly that all parties must approach each other with mutual respect. However emotive the issues, it is not fair or constructive for there to be raised voices and heightened feelings. I would expect that Mr and Mrs A would comply with the court's view, as they indicated in their oral evidence that they would. I would also expect that, as time passes, the involvement of Mr A directly in the development of K's care plans will be kept under careful review and for there to be a sharing of information and clear discussion about matters relating to K's welfare.

190. I am not satisfied that a fresh start is in the best interests, however, of K. I find there is evidence that she has made progress at X Placement, albeit the pace of this may have been limited by the circumstances I have already outlined. I accept the evidence that tells me on the balance of probabilities that K would find any change in her current arrangements stressful. This is consistent with all that is known about K's response to changes in her routine. In those circumstances, I do not find that any further disruption to her arrangements would be in her best interests when her needs are being met at X Placement. I find any such fresh start would act more in the interests of Mr and Mrs A rather than K herself. I also identify the risk that any further placement would probably again be disrupted if that setting used techniques to support and care for K with which Mr and Mrs A do not agree.
191. However, reflecting on the submissions received in this case, I am satisfied that this is a case that will benefit from being kept open in the way suggested by the Official Solicitor. This should be for a limited period of time, as recommended by the Official Solicitor, in order to provide further potential oversight and to allow the consequences of this decision settle in. I am acutely aware in particular that this decision is not one that Mr and Mrs A would wish.
192. In terms of K's attendance at Z Placement, I am satisfied on the evidence that there is an urgent need for there to be respite provision for K. It is concerning that at this

stage, should she no longer be able to be cared for at home, K would likely need to transition to a residential setting. This is also something which Mr and Mrs A have firmly in mind. It is unfortunate that Mr and Mrs A have not engaged in visits to Z Placement prior to this hearing. I have acknowledged the concern that they have raised with respect to its location, and their fear for K near a busy road.

193. I am satisfied that the proximity of Z Placement to Mr and Mrs A's home does represent a significant welfare advantage for her. This will permit an easy transition between Mr and Mrs A's care and Z Placement if necessary, and I further find it a significant advantage that staff at X Placement can support those at Z Placement in meeting K's care needs. I find that each of those are substantial welfare benefits for K which are made out on the evidence before me. I am invited by Mr and Mrs A to allow further representations in respect of Z Placement following their visit on 17th November 2022.

194. In terms of that position, this is not supported by the local authority or the Official Solicitor, on the basis that there are currently no alternative provisions identified. In considering this element of proceedings, I find that respite provision for K needs to be considered as a matter of some urgency. I am not satisfied that there should be significant delay in taking steps to address this matter, particularly in the light of the length of these proceedings. At this stage, the court in principle endorses K being supported to attend Z Placement, subject to giving Mr and Mrs A an opportunity to make further limited submissions arising from their visit on 17th November at any hearing listed to consider the consequences of the draft judgment. In inviting such representations, I would however urge Mr and Mrs A to reflect very carefully on the need for an urgent placement for K to begin to be established, and the ways in which any substantive concern for K can be constructively addressed.

195. I do therefore make the welfare orders and provide the necessary authorisations sought by the local authority and supported by the Official Solicitor.

196. In reaching these conclusions, I do accept that these are against the position of Mr and Mrs A and this will be disappointing for them. I acknowledge that they have the strongest desire for their daughter to receive excellent care and for that to be within a rural setting and I acknowledge that Z Placement cannot be said to be precisely that. I am satisfied that there has now been a full and robust process in which all available and viable placements for K have been robustly and carefully considered and I have reached a decision for K in her best interests, but mindful that there are plans for K that can and should properly be progressed over time in order to achieve a reduction in her time in the wheelchair.