

TRANSCRIPT OF PROCEEDINGS

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IN THE EAST LONDON FAMILY COURT

6th and 7th Floor
11 Westferry Circus
London

Before **HER HONOUR JUDGE REARDON**

IN THE MATTER OF

LONDON BOROUGH OF TOWER HAMLETS (Applicant)

-v-

- (1) A mother (First Respondent)**
- (2) A father (Second Respondent)**
- (3) W and X (Children by their Children's Guardian)**

MS J MITCHELL appeared on behalf of the Applicant
MR M MACDONALD appeared on behalf of the First Respondent
MS B ROBERTS appeared on behalf of the Second Respondent
MS K SANGHA appeared on behalf of the third and fourth respondent children

JUDGMENT
19th MARCH 2021

WARNING: 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 children and members of their 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.

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JUDGE REARDON:

1. This is my judgment following a final hearing in an application made by the London Borough of Tower Hamlets for care and placement orders in respect of two children, “W”, a boy born in 2019 and aged 20 months, and “X”, a girl born in 2020 and aged eight months.
2. The respondents are the children’s parents (“the mother” and “the father”), and the children themselves who are represented in these proceedings by their Children’s Guardian, Alison Austin. The mother has been found to lack capacity to conduct this litigation and so the Official Solicitor has been appointed as her litigation friend.
3. The hearing took place over 13 days. It was originally listed with a 10-day time estimate. The extension was required due to time lost through technical difficulties. This was a hybrid hearing: the mother, her counsel and intermediary attended at court, as did the father, his interpreter and a representative from his solicitors. The other participants attended remotely. This judgment is being delivered orally at the conclusion of the hearing.

Background

4. The mother is aged 25. She is of Bangladeshi heritage and was born in Bangladesh, but came to the United Kingdom as a young child. The mother has an identified learning disability, although I do not have a formal assessment of her cognitive functioning. She attended mainstream school with an Education, Health and Care Plan (EHCP) and one-to-one support. She has historically been supported by Tower Hamlets Community Learning Disability Service. She has worked. She has trained as a barista and worked in a coffee shop prior to her pregnancy with W. She currently works as a cleaner in a hospital. The mother is the second of six children. She has an older sister and four younger brothers, two sets of twins. All four of her brothers have had some involvement with the criminal justice system.
5. In the summer of 2018, the mother and other family members travelled to Bangladesh. While they were there, the mother was married to a Mr J. The mother has said that that relationship was violent. She returned to the UK in September 2018 and Mr J remained in Bangladesh. They remain married.
6. The father is aged 55. He also is a Bangladeshi national. He has lived in the UK since 1999, although it appears that his immigration status is still not settled. He has a wife in Bangladesh and two daughters there, who are now in their early 20s.
7. After his move to the UK, the father married Ms K. She lives in Hackney with their daughter, aged 14. The status of their relationship is an issue within these proceedings to which I will return later in this judgment.
8. The parents have known each other for some time as the father was a friend of the mother’s late father. The relationship commenced in 2018. It is not disputed that the parents kept their relationship secret from the mother’s family, who would not have approved as the mother was already married. When the mother became pregnant, it seems that it was initially assumed that her husband was the baby’s father. Throughout the pregnancy the mother remained living at home with her mother and brothers, her father having died the previous year.
9. During the pregnancy, the mother had an allocated social worker from the Adult Social Care Team, Ms L. Just before W’s birth, on 5 August 2019, there was a change of social worker and the mother’s case was reallocated to Ms M. She was supported during the pregnancy by a specialist midwife team. The evidence is that throughout

the pregnancy the mother was struggling to meet her own medical needs and those of the unborn baby. She was diagnosed with gestational diabetes but had difficulty managing her glucose levels.

10. Despite the mother's obvious need for support, and at least some uncertainty as to how she would manage to care for the baby once born, a referral to Children's Social Care was not made until mid-June 2019, relatively late in the pregnancy. A social worker, Ms N, was allocated from the local authority's pre-birth team. She made attempts to speak to the mother by telephone but these were unsuccessful. She therefore arranged, through the maternal grandmother who, at the time, was the mother's registered carer, to visit the family home, and did so on 17 July 2019, accompanied by the allocated social worker for two of the mother's brothers. That visit was terminated, due, on the local authority's case, to high levels of anger and aggression in the home, particularly from the mother's younger brother. On leaving the home, Ms N called the police due to her concerns for the safety of the mother and the maternal grandmother.
11. The following week, another of the mother's younger brothers sustained serious injuries in a stabbing incident.
12. Following the referral to Children's Services, the mother disengaged from midwifery services and failed to attend any further midwife appointments until 2 August, when it was determined that she needed to be induced. It appears that the mother had become very anxious about the involvement of Children's Services. There is a dispute about whether more could and should have been done to help her to engage with the support that was offered to her.
13. W was born in hospital on 6 August 2019. On W's birth, it appeared that both the mother and the baby had an infection, although it is not clear what it was as the mother refused testing. She did accept antibiotic treatment and the infection resolved.
14. In the following days there were a number of discussions between the mother, the mother's new social worker Ms M, and Ms N. It has not been easy for me to disentangle the local authority's thought processes in terms of their plans for the baby around the time of the birth. It seems from what is recorded of the discussions that the local authority's initial plan was that the mother and baby should be placed together in a mother and baby residential assessment unit, although it is not clear whether one was ever identified. It is clear that the mother, at least initially, was very anxious about this proposal and wanted to return to her family home, which the local authority did not consider, particularly in the light of the mother's brother's very recent stabbing, to be a safe environment for the baby.
15. The local authority issued proceedings on 13 August 2019. On the same day, as is now accepted, the mother said that she would agree to a residential assessment.
16. On 14 August, a contested hearing took place before District Judge Cooper. The district judge made an interim care order and approved the separation of the mother and baby and a placement for W in local authority foster care. The order records that the local authority had made attempts to secure a mother and baby residential placement but that there were none available to take the mother, given her high level of needs. At the hearing before me there was a lack of clarity as to what attempts the local authority had made, and what enquiries had been made of potential residential units.
17. The identity of W's father was not known to the local authority until he attended hospital on 12 August and met Ms N. Steps were then taken to arrange for DNA testing, but in the meantime the mother's family registered W with the mother's husband named on his birth certificate. On 23 September 2019 DNA testing

confirmed the father's paternity of W. I understand that the birth certificate has subsequently been amended.

18. At a case management hearing on 4 September 2019, the court made a determination on the basis of a capacity assessment prepared by a psychiatrist, Dr George, that the mother lacked capacity to conduct this litigation, and the Official Solicitor was appointed as her litigation friend.
19. On 10 October 2019, a further case management hearing took place, at which both parents were represented. Her Honour Judge Atkinson made case management directions including a direction, by consent, for an expert assessment by the London Infant and Family Team, or LIFT, part of the NSPCC.
20. At that hearing it was not clear whether the parents wished to be assessed together or separately. The mother became very distressed during the hearing. She has subsequently said that the father was making fun of her learning disability while they were at court. She told the court she did not want to be assessed together with him. The order records that the parents needed to be clear about the status of their relationship.
21. The LIFT assessment took place over 12 weeks from November 2019 until January 2020. During that assessment, the parents presented as a couple and indicated that they wished to be assessed together. Towards the end of the assessment period, the mother became pregnant with X. The pregnancy was known to the assessment team prior to the completion of their report. The report concluded that neither parent would be able to care for W. The assessors also indicated that they did not consider that a further assessment after the new baby was born would be necessary or appropriate.
22. In April 2020, the mother secured her own property in Newham and the parents moved there together. The tenancy is in the mother's sole name. On the move to Newham, the mother's case was closed to Adult Social Care in Tower Hamlets. Her social worker tried to speak to the appropriate team in Newham but their response was delayed because this coincided with the start of the COVID pandemic. When Ms M eventually managed to make contact, she was told that the mother did not meet Newham's eligibility criteria for support.
23. In May 2020, prior to the birth of the new baby, the father indicated that he would be prepared to become the main carer for both children, rather than acting as a support to the mother. LIFT were asked to undertake an updating assessment. They carried out a further interview with the father and prepared an addendum report. The conclusion was that the findings from the additional assessment did not change the original recommendation.
24. X was born on 14 August 2020 and the local authority issued proceedings shortly afterwards. An interim care order was made on 17 August, and X was placed in a foster placement together with her brother W. The application was consolidated with the proceedings for W.
25. On 25 September 2020, the father issued an application for a joint residential assessment of both parents together with X, with W to join the placement later subject to a successful mid-way assessment. That application was refused by Her Honour Judge Atkinson at a hearing on 21 October 2020.
26. On a number of occasions during the course of the parents' relationship, the mother has made allegations against the father of sexual abuse and exploitative behaviour. The truth or otherwise of those allegations is one of the issues on which I will need to make findings later in this judgment.
27. On 8 October 2020, the mother made an allegation that the father had raped her. The father was arrested and for a period of about four weeks he was subject to bail conditions which required him to live separately from the mother. The mother

subsequently withdrew her complaint, and on 6 November 2020 the police took the decision to take no further action.

28. The proceedings first came before me at a pre-trial review on 8 February 2021. At that hearing I gave permission for a Special Guardianship assessment of the children's paternal aunt, Ms O. A positive viability assessment had been carried out earlier in the proceedings but there were then difficulties, because of the COVID pandemic, in finding an independent social worker who was able to carry out a full Special Guardianship assessment.
29. Shortly before the pre-trial review, an independent social worker was identified who was able to report by the end of April. I gave permission at that stage for an assessment to be carried out but did not vacate the listed final hearing which was due to commence on 1 March. In making that decision, I took into account the delay that the proceedings had already incurred and the substantial further delay that would be caused by vacating the final hearing. I took the view that where the local authority's care plan was for adoption, it was in the children's interests for all possible carers within the family to be explored, but that the hearing should be used at least to determine the threshold criteria and potentially also to decide whether or not the parents could offer care to the children.

The Positions of the Parties

30. The positions of the parties at this hearing take into account the fact that there is an outstanding assessment still awaited. The local authority asks me to conclude that the children's needs cannot be met in the parents' care and that, subject to a positive assessment of Ms O, adoption is the only viable outcome. In the light of the outstanding assessment of Ms O, the local authority does not ask me to make final orders at this hearing but to continue the interim care orders.
31. The primary position of the father, and of the Official Solicitor on behalf of the mother, is that the threshold criteria are not met and the children should return immediately to their parents' care. If I find that the threshold criteria are met, the parents seek a further joint assessment. Their case is that neither parent has had a fair assessment of their parenting capacity and that the LIFT assessment is deficient.
32. The Official Solicitor has issued a part 25 application which I am asked to deal with as part of my overall consideration of the options before the court. She seeks permission to instruct an identified independent social worker, Nadira Huda, to carry out a PAMS assessment of the parents' ability to care for both children and the support they would need in order to do so.
33. The Official Solicitor's position is in line with the mother's own wishes and feelings.
34. The Guardian supports the local authority's application. She does not see any purpose in further assessment of the parents and considers that there is no prospect of them successfully caring for the children. As far as Ms O is concerned, the Guardian agrees that the court should not make final care and placement orders where there is still one family member who might be able to care for the children.

The Law

The threshold criteria

35. The court may only make a care order if it is satisfied that the threshold criteria in CA 1989, s31(2) are met. That is that s31(2) reads as follows:

(2) A court may only make a care order or supervision order if it is satisfied—

(a) that the child concerned is suffering, or is likely to suffer, significant harm; and

(b) that the harm, or likelihood of harm, is attributable to—

(i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or

(ii) the child's being beyond parental control.

36. In *Re J (A Child)* [2015] EWCA Civ 222 Aikens LJ said as follows:

'It is for the local authority to prove that there is the necessary link between the facts upon which it relies and its case on Threshold. The local authority must demonstrate why certain facts, if proved, "justify the conclusion that the child has suffered or is at the risk of suffering significant harm" of the type asserted by the local authority. "The local authority's evidence and submissions must set out the arguments and explain explicitly why it is said that, in the particular case, the conclusion [that the child has suffered or is at the risk of suffering significant harm] indeed follows from the facts [proved]".'

37. In considering the significance of the harm that is alleged the court must be careful not to set the bar too low. The threshold for state intervention will not be met in every case where a child is suffering harm. The formulation of Hedley J in *Re L (Care: Threshold Criteria)* [2007] 1 FLR 1050 has been endorsed by courts at all levels including the Supreme Court. At paragraph 50 of his judgment Hedley J said:

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

"The best person to bring up a child is the natural parent. It matters not whether the parent is wise or foolish, rich or poor, educated or illiterate, provided the child's moral and physical health are not in danger. Public authorities cannot improve on nature." There are those who may regard that last sentence as controversial but undoubtedly it represents the present state of the law in determining the starting point. It follows inexorably from that, that society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent. It follows too that children will inevitably have both very different experiences of parenting and very unequal consequences flowing from it. It means that some children will experience disadvantage and harm, whilst others flourish in atmospheres of loving security and emotional stability. These are the consequences of our fallible humanity and it is not the provenance of the State to spare children all the consequences of defective parenting. In any event, it simply could not be done.

38. In determining the facts which the local authority seeks to establish in support of its case that the threshold criteria are met, I adopt the following approach, in line with the authorities:

- a. The burden of proof is on the party which makes the allegation. The standard of proof is the balance of probabilities.

- b. The court may find only that something happened or that it did not happen. The law operates a binary system and there is no room for a finding that something ‘might have’ happened: *Re B* [2008] UKHL 35.
- c. Where the harm identified is likely future harm, the court need not be satisfied that this harm is more likely than not to occur; the word ‘likely’ in s31(2) means likely “in the sense of a real possibility, a possibility that cannot sensibly be ignored having regard to the nature and gravity of the feared harm in the particular case”: *Re H* [1996] AC 563.
- d. The court must not reverse the burden of proof. If a respondent fails to prove an affirmative case they have set up by way of a defence, that does not of itself establish the applicant’s case. In such circumstances the question for the court is not ‘has the alternative explanation been proved?’, but ‘in the light of the possible alternative explanation, can the court be satisfied that the applicant has proved its case on the balance of probabilities?’: *Re X (Children) (no 3)* [2015] EWHC 3651.
- e. A finding that a particular event did not happen is not the same as a finding that the allegation was false (in the sense that the person making it knew it to be untrue): *Re M* [2013] EWCA Civ 388.
- f. Findings must be based on evidence, including inferences that can properly be drawn from the evidence, and not on suspicion or speculation. The court may take into account the inherent probabilities of an allegation.
- g. The court surveys a wide canvas. It must take into account all of the evidence, and consider each piece of evidence in the context of all the other evidence.
- h. Expert evidence must be considered in the context of all the evidence. Experts must confine their evidence to their own discipline. The role of the court is different from that of the expert. It is the judge and not the expert who makes the final decision.
- i. It is essential that the court forms a clear assessment of the credibility and reliability of the lay witnesses. Their evidence is extremely significant and the court is likely to place considerable weight on their evidence and the impression it forms of them.
- j. It is common for lay witnesses to tell lies during the course of the investigation and hearing. A witness may lie for many reasons, such as shame, misplaced loyalty, fear and distress. The fact that a witness has lied about some matters does not mean that he or she has lied about everything: *R v Lucas* [1981] QB 720.

Welfare

39. I am not yet asked by the local authority to make placement orders in this case, but I am asked, subject to the outstanding assessment of Ms O, to approve a plan for adoption. That means that the children’s welfare throughout their lives is my paramount consideration, and is to be evaluated by reference to all relevant factors including those in the welfare checklists in CA 1989, s1(3) and ACA 2002, s1(4).
40. I have regard to the guidance of the higher courts in *Re B (A Child)(Care Proceedings: Threshold Criteria)* [2013] UKSC 33 and *Re B-S (Children)(Adoption Order: Leave to Oppose)* [2013] EWCA 1146, [2014] 1 FLR 1035. I am aware that an order which has the effect of severing ties between a child and his or her parent may only be made:

“if justified by an overriding requirement pertaining to the child’s best interests’. In order words, the test is one of necessity. Nothing else will do’. [Re B, per Baroness Hale]

41. In *Re B-S* the Court of Appeal re-affirmed what had been said earlier by McFarlane LJ in *Re G* [2013] EWCA Civ 965:

"In most child care cases a choice will fall to be made between two or more options. The judicial exercise should not be a linear process whereby each option, other than the most draconian, is looked at in isolation and then rejected because of internal deficits that may be identified, with the result that, at the end of the line, the only option left standing is the most draconian and that is therefore chosen without any particular consideration of whether there are internal deficits within that option. The linear approach ... is not apt where the judicial task is to undertake a global, holistic evaluation of each of the options available for the child's future upbringing before deciding which of those options best meets the duty to afford paramount consideration to the child's welfare."

42. The children have rights under ECHR, Article 8 to respect for their family life. To the extent that the orders I am asked to make interfere with these rights, I must satisfy myself that the interference is both necessary and a proportionate means of addressing the identified harm.

43. In *North Yorkshire County Council v B* [2008] 1 FLR 1645 Black J (as she then was) held that provided that the relevant evidence is available, the court may make a determination prior to the conclusion of the proceedings that a parent will not be in a position to care for the child. In *Re R* [2014] EWCA Civ 1625 the Court of Appeal confirmed that the *North Yorkshire* approach remains available in the appropriate case, notwithstanding the subsequent decision in *Re B-S*. Sir James Munby P said:

“ Re B-S requires focus on the realistic options and if, on the evidence, the parent(s) are not a realistic option, then the court can at an early hearing, if appropriate having heard oral evidence, come to that conclusion and rule them out. North Yorkshire County Council v B is still good law. So the possibility exists, though judges should be appropriately cautious, especially if invited to rule out both parents before the final hearing or, what amounts to the same thing, ruling out before the final hearing the only parent who is putting themselves forward as a carer.’

Parents with a learning disability

44. I have taken into account the President’s Guidance: Family Proceedings of the approach to parents with a learning disability, 10 April 2018. The Guidance highlights two authorities in particular: *Re D (Adoption) (No 3)* [2016] EWFC 1 and *A Local Authority v G* [2017] EWFC B94. It draws attention also to the Good Practice Guidance on Working with Parents with a Learning Disability, updated in 2016. I have also been referred to the Good Practice Guidance for Clinical Psychologists when Assessing Parents with Learning Disabilities. The relevant passages from the Guidance are set out later in this judgment.

45. In *Re D* Sir James Munby P endorsed the observations of Gillen J, as he then was, in *Re G and A (Care Order: Freeing Order: Parents with a Learning Disability)* [2006] NI Fam 8, summarised as follows in the headnote:

a. People with a learning disability are individuals first and foremost and each has a right to be treated as an equal citizen...courts must take all steps possible to ensure that people

with a learning disability are able to actively participate in decisions affecting their lives. [164.2]

b. Parents with learning difficulties can often be "good enough" parents when provided with the ongoing...support they need. The concept of "parenting with support" must underpin the way in which the courts and professionals approach wherever possible parents with learning difficulties. [164.4]

c. Judges must make absolutely certain that parents with learning difficulties are not at risk of having their parental responsibilities terminated on the basis of evidence that would not hold up against normal parents. Their competences must not be judged against stricter criteria or harsher standards than other parents. [164.4]

d. Too narrow a focus must not be placed exclusively on the child's welfare with an accompanying failure to address parents' needs arising from their disability which might impact adversely on their parenting capacity. [164.5]

e. The court must also take steps to ensure there are no barriers to justice within the process itself. Judges and magistrates must recognise that parents with learning disabilities need extra time with solicitors so that everything can be carefully explained to them...The process necessarily has to be slowed down to give such parents a better chance to understand and participate. This approach should be echoed throughout the whole system including LAC reviews [164.6]

f. All parts of the Family Justice System should take care as to the language and vocabulary that is utilised. [164.6]

g. The courts must be careful to ensure that the supposed inability of parents to change might itself be an artefact of professionals' ineffectiveness in engaging with the parents in appropriate terms. [164.6]

h. A shift must be made from the old assumption that adults with learning difficulties could not parent to a process of questioning why appropriate levels of support are not provided to them so that they can parent successfully...The concept of "parenting with support" must move from the margins to the mainstream in court determinations. [164.7]

The Evidence

46. I have read all of the evidence in the bundle. The documentary evidence includes the statements of the parents and the Official Solicitor on behalf of the mother, the witness statements of the local authority social workers, expert evidence on the mother's capacity to conduct litigation and on the parents' parenting capacity, records provided by Adult Social Care of their interactions with the mother, and notes of the parents' contact with the children.

47. I heard oral evidence from the following witnesses:

- a. Ms M, the mother's own social worker from August 2019 until April 2020;
- b. Ms N, the local authority's pre-birth social worker from June to August 2019;
- c. Ms P, the allocated social worker from August 2019 to date;

- d. Dr Nicola Cosgrave, the consultant clinical psychologist who headed the team at LIFT;
 - e. the mother;
 - f. the father;
 - g. the Guardian.
48. I will deal with the evidence by category.

The social work evidence

49. I heard oral evidence from the three social workers who have had different roles over the course of these proceedings. There is substantial criticism made in this case by the father and the Official Solicitor of the local authority's actions. In particular, it is said that throughout the proceedings the local authority has failed to follow the Good Practice Guidance on Working with Parents with a Learning Disability. Different criticisms are made of Ms M and Ms N who worked with the mother around the time of W's birth and his removal into foster care, and of Ms P, who has been the allocated social worker throughout the proceedings.
50. In summary, the parents say that the local authority failed to work effectively with the mother during her pregnancy with W, and as a result the relationship between the mother and the services supporting her broke down. It is implicit in the case put by both parents that if the relationship had been managed more effectively by the professionals it might not have resulted in the interim separation of W from his mother.
51. As far as the subsequent management of the case is concerned, the parents say that the local authority effectively delegated decision-making to LIFT and, once a negative assessment was received, wrote off the parents and made no further efforts to support them to improve their parenting capacity.
52. A key feature of the relevant guidance, repeated throughout it, is the need for integrated planning between the different services engaged with persons with a learning disability. In my view, the evidence of Ms M and Ms N indicated that in this case there was a lack of integrated planning during the mother's first pregnancy with W, between the Adult Social Care Department supporting the mother as an adult with a learning disability, the health care services offering ante-natal care and support, and Children's Services.
53. The mother discovered that she was pregnant in February 2019, during a visit to the GP, when she was, it transpired, about 12 weeks' pregnant. Health care services and Adult Social Care were aware of the pregnancy from this point. Despite this, there was no referral to Children's Services until mid-June, less than two months before W's birth, which, as Ms N said, left little time to build a relationship with the mother and to engage her in planning for the birth.
54. I have not heard from all of those who were involved at the time, and this judgment is not the appropriate vehicle for a detailed examination of why the planning did not happen in this case. I accept that both Ms M and Ms N were conscientious social workers, doing the best they could within their own particular spheres. In Ms M's case, she was only allocated as the mother's social worker just before W's birth, so there was no opportunity for her to liaise with Children's Services during the pregnancy. Over the period of her involvement from August 2019 until April 2020, Ms M said, and the records support this, that she was frequently in touch with the mother in the context of support with the mother's own needs. She had a good understanding of the mother's disability and of her need for professional support.

55. As for Ms N, once she was made aware of the mother's pregnancy, she made considerable efforts to contact and engage with the mother with a view to carrying out a pre-birth assessment. The problem in my view was that she was operating largely independently, without the close liaison with Adult Social Care that the guidance requires.
56. One of the key principles of the Good Practice Guidance which I have referred to above is the need for clear and coordinated referral and assessment procedures and processes, eligibility criteria and care pathways. Paragraph 1.2.1 of the guidance recommends that "*adult and children's Services, and health and social care, should jointly agree local protocols for referrals, assessments and care pathways in order to respond appropriately and promptly to the needs of both parents and children.*" Paragraph 123 reads:

"Identification of needs should start when a pregnancy is confirmed. Procedures, criteria and pathways therefore need to be agreed between maternity services and children's and adult social care. Such agreements could relate to parents with learning disabilities in particular or to all groups of parents and their children who may be identified as vulnerable. An important starting point will be to recognise:

- Pregnant women with learning disabilities are entitled to universal services*
- Universal services are required under the Equality Act 2010 to make "reasonable adjustments" to make their services accessible and suitable for people with learning disabilities*
- Early assessments of support needed to look after a new baby will help to prevent avoidable difficulties arising."*

57. In my view, had the appropriate liaison and planning taken place in February 2019 when the mother's pregnancy was first known about, Children's Services would, in my judgment, have had a much better chance of engaging the mother in the pre-birth planning process. Therefore, there was a failure to comply with the guidance which had consequences for the future progress of the case. I recognise that neither Ms M nor Ms N were involved with the mother at that stage.
58. In my judgment, the events of the week after W's birth, when these proceedings were issued, provide further examples of failures in the liaison between services. I will deal with that period in more detail when I come to consider the threshold criteria.
59. Despite my criticisms of the lack of planning and liaison between the different social care departments, there was no serious suggestion at this hearing that either Ms M or Ms N was anything other than a truthful witness, and I accept their evidence as to the events of this period. In particular, I accept the accuracy of Miss M's reports of the mother's allegations of sexual abuse by the father, which were made in the period following W's birth. That account is consistent with the account that the mother gave to Dr George at around the same time, which is unchallenged. I will return to the truth or otherwise of those allegations later in the judgment.
60. I turn to the evidence of Ms P, the allocated social worker for both children since August 2019. The main criticism of her approach is that she is said to have relied too heavily on the conclusions of the LIFT report. Ms P accepted that she relied on that assessment, and I consider that she was entitled to do so. The evidence gathered by LIFT was consistent, as she explained, with her own observations. To the extent that there is criticism made of the LIFT assessment itself, I will deal with that separately. Again, there was no suggestion that Ms P was other than a truthful witness.

The Expert Evidence

61. A capacity assessment of the mother was carried out by Dr George, an adult psychiatrist, in August 2019. She concluded that the mother did not have the capacity to conduct proceedings, because she was unable to weigh up the necessary information in order to make a decision. Dr George considered, however, that the mother was able to understand the information relevant to the proceedings, and in particular that the issues concerned her son's future care. She said that the mother could follow verbal discussions of this issue, but could not think strategically in terms of using that information to make a decision.
62. Dr George noted that she did not have access to any formal assessment of the mother's level of learning disability. The information provided in the social work statement was that her learning disability was "moderate to severe". Although she was not, of course, carrying out a full cognitive assessment, Dr George herself expressed the view, based on her assessment of the mother's presentation, that the mother's learning disability was likely to be in the "mild to moderate" range.
63. As to the capacity of the parents to care for the children, the primary expert evidence before the court comes in the form of a multi-disciplinary assessment carried out by the London Infant and Family Team, or LIFT. The LIFT team carries out global parent and child assessments using a method called the New Orleans Assessment at Intervention Model. The assessment is intended as a global review of the child's needs and the parents' ability to meet those needs.
64. The LIFT approach is described in the report as follows:

"The approach uses different methods to learn as much as possible about the child and their relationships with the important people in their life. The team work holistically to gather information about the child's development and observe the child within their important relationships.

Evidence suggests that infants do better in sensitive and attuned relationships where they learn to communicate their needs and trust that those needs will be met. Infants who do not receive this care very often develop difficulties which can affect them throughout their life. Research shows that intervention works best if provided as early as possible."

65. Depending on the outcome of the assessment, LIFT may offer one or more of a varied range of interventions. It is explicit within the model, as set out above, that parent/child attunement and the capacity of a parent to provide attuned care to the child is a key part of the assessment process.
66. The report in these proceedings was prepared by a team led by a consultant clinical psychologist, Dr Cosgrave, with two clinical psychologists and a social worker. It was Dr Cosgrave who gave oral evidence.
67. The assessment takes place over a period of 12 weeks. During that time, members of the team meet with the child and the foster carer and observe contact with the parents. They may also carry out a structured observation of the parent/child interactions. They did so in this case with the father, but not with the mother. Finally, the team carries out a number of interviews with the parents, both together and separately.
68. At the conclusion of the assessment, the LIFT team prepared a report and recommendations. The conclusion was that neither parent would be able to care for W, together or separately, and the LIFT team did not recommend further assessment following the birth of the new baby. Their conclusions are under challenge.

69. The Official Solicitor and the father make substantial criticism of the LIFT methodology and of the report. The main points of criticism are as follows:
- a. it was not thorough and comprehensive;
 - b. the approach was flawed in that it did not pay sufficient attention to the guidance, in particular the LIFT team did not use recognised assessment tools, for example the PAMS tool for assessment of a parent with a learning disability;
 - c. it was a knowledge-based approach which largely consisted of question and answer interviews with the mother, rather than the performance-based teaching and learning approach which is recommended by the guidance;
 - d. there is insufficient observation of either parent with W, particularly in the mother's case;
 - e. the assessment was based on an insecure factual foundation where too much of the local authority's written case was taken on trust; and
 - f. the assessment is not up to date because there was no re-assessment after X's birth.
70. The local authority accepts that the LIFT method does not use the Parent Assessment Manual or "PAMS" tools which are frequently seen in assessments of parents with a cognitive deficit. It is a different assessment model which focuses on the ability of parents to meet the identified needs of the individual child and to provide attuned and responsive care. The local authority says that that approach is focused on the best interests of the child and is equally valid. It is far broader than the narrow PAMS approach, which is essentially an assessment of basic care skills and no more. The local authority points out also that both the father and the Official Solicitor consented to the LIFT assessment and must be assumed to have considered its methodology, or at least to have had the opportunity to do so.
71. In my judgment, some of the criticisms made by the parents of the LIFT report are made out, albeit to a much more limited extent. Having heard Dr Cosgrave's evidence, I do consider that LIFT relied too heavily on the early contact reports which suggested that the mother was struggling with aspects of W's basic care when other later reports suggest that she does have the ability to respond to and act on advice and to learn new skills.
72. I note also that LIFT accepted as fact some of the aspects of the background, as reported in the documentation provided to them, even where the source of those reports was unclear and there was reason to believe they might not be correct. For example, LIFT seem to have accepted as accurate a hearsay report of the maternal grandmother informing the social worker that the mother was unable to tell if water was hot or cold, even though there were formal assessments of the mother's care needs which indicated that she had a much higher level of ability to care for herself than that report would suggest.
73. It was not ideal that the LIFT assessment had to use different interpreters for the mother, and that interpretation sometimes took place over the telephone. However, the mother did not require an interpreter during this hearing, including when she gave evidence, and so while changes of an interpreter may have been unsettling, I do not think this is likely to have impacted significantly on the assessment process.
74. As to the more fundamental criticisms made by the parents, my views are as follows.
75. I cannot accept that the LIFT assessment is not thorough. The multi-disciplinary approach meant that the parents' capacity was considered from a much broader perspective than would have been the case if this had been a simple parenting assessment carried out by a social worker. The report is lengthy, and is accompanied

by detailed appendices setting out the work done with W, his foster carer and each of his parents. Dr Cosgrave explained that the interviews with the parents usually take place on four or five occasions with each parent and would last for about two hours on each occasion, although for the mother more time was allowed so that it could be broken up into shorter sessions, and time for filing the report was extended accordingly.

76. As far as the father is concerned, in my judgment he had every possible opportunity to engage fully with the assessment process, and the issues relevant to his parenting capacity were raised with him and discussed in detail over the course of the assessment. The suggestion that the interpreter might have misinterpreted some of his answers, which was raised by the father when the addendum was carried out, was not seriously pursued at this hearing.
77. As far as the mother is concerned, I consider first the argument that the LIFT assessment as a whole was unfair to her because the assessors did not take into account her learning disability when formulating their communications with her. I reject that argument. It was initially put on behalf of the Official Solicitor that the assessors had not used the mother's communication passport, but it became clear during the evidence that this was not correct. It was also put that LIFT did not carry out a cognitive assessment of the mother. Dr Cosgrave explained that they would have done so if they thought it was required, but they considered they had sufficient understanding of the mother's functioning from the information provided and from their own interactions with her. They worked on the basis that they knew she had a learning disability and tailored their communications with her accordingly. The whole team is trained to work with parents with a learning disability and have significant previous experience of such work.
78. I turn to the main criticism of the LIFT report, which, from the Official Solicitor's perspective, is in the approach taken, in that it was not one of performance-based learning and therefore did not give the mother the opportunity to show what she could do if provided with support and training over a period of time. The allegation is that the assessment took a snapshot of her as she was without exploring her ability to acquire and develop new skills. I have thought carefully about this criticism, which goes to the heart of the Official Solicitor's case that a further assessment of the mother is required.
79. It is correct, as the Official Solicitor says, that the Good Practice Guidance for Clinical Psychologists when Assessing Parents with a Learning Disability specifically recommends the use of an appropriate assessment tool in such cases. The guidance mentions the PAMS method as one such tool. At page 24 of the guidance, F301 in the bundle, the following is set out under the heading, 'Assessment Tools':

"There are a number of resources that have been specifically designed to help in the assessment of parenting skills. Some, but not all, of these have been designed for use with people with learning disabilities. The tools for assessments listed in Table 3 [this table includes the PAMS method] are not exhaustive, but cover a range of different areas, some of which may be useful, depending on the individual being assessed and the remit of the assessment. The following is a summary of some popular parenting assessment tools."

80. In the subsequent passage the PAMS method is described as *"focusing on assessing parents' knowledge (ability to acquire and maintain knowledge), skills (ability to transfer knowledge to skills) and practice (ability to maintain and generalise skills)."*
81. I accept as a matter of fact that LIFT did not take a performance-based or experiential approach to the assessment of the mother's skills, both in terms of her

own self-care and in terms of her capacity to care for a baby. Dr Cosgrave herself accepted that. She explained that LIFT typically did not carry out PAMS-type assessments of the parents' basic skills; where that was an issue, they would expect that to have been carried out separately by Children's Social Care. Dr Cosgrave said:

“What we assess is attachment for traumatised infants and for relationship with parent and child. It is a much more complex assessment than the PAMS assessment. We are not looking to see if a parent can do the day-to-day care, it's can they manage the relationship, adapt to the child's needs and attune to them? Sometimes, parents are very good at the day-to-day skills but not emotional regulation and responsiveness. That is why we look to that, not the basic skills”.

82. It was put to Dr Cosgrave, and undoubtedly it is correct, that the tone and approach of the LIFT assessment model, which focuses on attunement and emotional responsiveness, is completely different to the PAMS-type model proposed in the guidance which focuses on practical skills. Asked how helpful it is to someone with a learning disability for an assessment of this nature to be conducted, Dr Cosgrave's answer was that although the concepts are complicated, the process of attunement is a fundamental part of the parent/child relationship and one which is essential to a child's development.
83. Having considered the Official Solicitor's challenge to the LIFT assessment, I make the following observations.
84. The assessment carried out by LIFT did not follow the Good Practice Guidance (either the social work version or that aimed at clinical psychologists) in that its primary focus was not on the mother's ability to acquire new skills which might enable her to meet the children's basic care needs. There has been no other assessment of the mother's abilities in that respect. There is therefore, in that sense, a gap in the evidence. The court does not know to what extent the mother might be able to develop her ability to be able to care for the children on a day-to-day basis and to keep them physically safe.
85. I remind myself that the guidance in question is not mandatory, it is a guide to good practice, and as the guidance itself acknowledges, it may be departed from in the individual case if there is good reason to do so. I remind myself also that the primary issue before me, of course, is not whether LIFT followed guidance or not, it is whether the evidence before the court is sufficient, and sufficiently reliable, for the court to make the decision on the applications before it.
86. In this case, there is, in my judgement, substantial evidence within the LIFT assessment which goes to the much broader issue of the ability of both parents to meet the children's global, physical, educational and emotional needs. That evidence relates to both parents' ability to provide the children with stimulation and emotionally attuned care, the nature and stability of the parents' relationship, the father's understanding of the mother's learning disability, and his ability and willingness to support her in caring for the children.
87. I need to consider that evidence together with all the other evidence I have read and heard over the course of this hearing, including, importantly, the evidence of the parents themselves. Having done so, later in the judgment, I will return to the question of whether there truly is a gap in the evidence and whether it is necessary, in order to decide the case justly, for the court to have further information about the mother's ability to improve her basic parenting skills.
88. Finally within the expert evidence, I have an unchallenged advice from an immigration solicitor qualified in Bangladesh in relation to the legal routes by which

the children might enter and reside in Bangladesh if the court's ultimate decision is that they should be placed with a family member there. For present purposes, it is sufficient to say that it appears likely, in principle and subject to the outcome of the assessment, that such a placement could be achieved within a reasonable timeframe and under an appropriate legal framework.

The Evidence of the Mother

89. At the outset of the hearing, I determined an issue as to whether the mother was competent to give evidence, and concluded that she was, for the reasons I gave at that stage. I also decided that it was appropriate to require her to give evidence with participation directions in place, including the support of her intermediary to assist her in understanding questions and in formulating a response. A short and supplemental ground rules hearing took place shortly before the mother gave evidence, and the questions were put to the mother by one counsel and pre-approved by the intermediary.
90. The mother took the questions very seriously and gave answers to the best of her ability. She was clearly making a huge effort to understand the questions and to give her best possible answer. I have no doubt indeed that the mother was strongly motivated to engage with the court process and to tell me the truth as she saw it. Her evidence was very valuable to me in helping me understand both the mother's own wishes and feelings and also the dynamics of the parental relationship. I must, of course, assess the mother's evidence, and particularly her credibility, in the light of what I know about her learning disability and her cognitive functioning.
91. It is undeniable that the mother has said different things at different times. There are inconsistencies in what she has said. I consider that those are largely explained by her cognitive limitations. The records produced by Adult Social Care indicate that when the mother feels strongly about something, she can become hyperbolic and exaggerate with a view to getting across what it is that she wants people to understand. There was some sense of that in her oral evidence to me.
92. The mother's evidence about her relationship with the father was the one area where I did not consider that she was always telling me the truth. The mother's evidence on this issue was complicated, in my judgment, by her strong desire to care for the children together with the father, and her own recognition that she would not be able to care for them alone. She was therefore highly anxious to present a positive picture of the relationship and wary of the questions which sought to explore the tensions between the parents.
93. The mother's love for her children was obvious. She has worked extraordinarily hard during the proceedings, and throughout this hearing, to demonstrate her commitment to them. At times, that process has clearly been exhausting for her. She faces significant challenges and, for her, communication with others, particularly in the difficult context of legal proceedings, requires significant effort. I got a sense, during her evidence, of how hard she has to work to understand and to be understood. I am satisfied that she is a devoted mother who would do anything within her power to care for her children.

The Evidence of the Father

94. The father gave evidence through an interpreter. He was in the unfamiliar environment of a courtroom and his counsel was not present as she was attending remotely. This was a hybrid hearing, so, for the most part, those asking the father questions were appearing on a screen and speaking a language which the father did not understand. The hearing must have been a stressful and confusing experience for him, and I was anxious, when hearing his evidence, to make every allowance for the nerves, stress and anxiety that he was undoubtedly experiencing. I also recognise that the father has shown commitment to the children through attending contacts and meetings throughout the LIFT assessment. I do not doubt his love for the children, which is demonstrated in the contact notes and which has been acknowledged by LIFT.
95. Despite this, I found the father's evidence, as a whole, both evasive and unconvincing. At times, he put forward explanations that were not only incredible, but that he must have known were incredible. It seemed, at times, that he was saying the first thing that came into his head, without much concern about whether the court would be likely to believe him. I will deal later in this judgment with the father's repeated suggestion that all professionals to whom the mother has made allegations of abuse were lying. The father persisted with this suggestion even after the mother herself had confirmed that she had made the allegations.
96. There were a number of questions that the father did not answer at all. For example, when he was asked about the stability of the parents' relationship and how he would deal with any future allegations made against him by the mother, he simply ignored the question and spoke about something else.
97. The father's evidence was internally inconsistent, even during the course of his own oral evidence. On the important issue of the mother's learning disability and the impact that has on her ability to manage the children, the father said both that the parents would not need any help caring for the children because the mother is capable of doing everything, and that he would not leave the children by themselves with the mother, even if he had to go out for just five minutes. I was left puzzled as to what the father really thinks about the extent of the mother's difficulties.
98. The father's evidence was also vague in terms of his own personal circumstances. His written evidence differed from his oral evidence in respect of his immigration status, and, in particular, when and on what basis he has made applications to secure his status in the UK. Similarly, he has given different accounts at different times about the status of his marriages both in Bangladesh and in the UK. The issue of the father's ongoing relationship with Ms K, and in particular what steps either has taken to obtain a divorce, is significant because it goes to the stability of the parental relationship.
99. I gained almost no sense, during the father's evidence, of the nature of his relationship with the mother. I recognise, of course, that it is perfectly possible for a meaningful and supportive relationship to exist between someone who has a learning disability and someone who does not. However, just as the mother was wary of speaking about their relationship, the father also was very vague, and apparently unable to identify or to speak with any real conviction about either the positive aspects or the strains which the relationship has experienced. On this issue, the father's evidence has been inconsistent and lacks credibility.
100. In the end, I found it almost impossible to evaluate the father's evidence, and the conclusion I reached was that he was deeply reluctant, for what reason I do not know, to engage with the issues before the court and to give a coherent answer to questions put to him. In that respect, my impression of the father very much accords with that of LIFT and of the other professionals who have interacted with him over the course of these proceedings.

The Evidence of the Guardian

101. Ms Austin was the second Guardian appointed in these proceedings and was appointed towards the end of the LIFT assessment. She met both parents in person shortly after the LIFT assessment report, and virtually, more recently. She has observed contact. Her evidence was that she considered the LIFT assessment to be thorough and reliable and that it accorded with her own observations. She was clear that she would have said if she considered further assessment to be necessary, and that she did not.
102. The Guardian expressed concerns about the parental relationship. She was careful to acknowledge that there was a real lack of clarity in the evidence as to the father's behaviour towards the mother. She said she had spoken to him about the allegations of abuse, and he had denied them. She said she was concerned because of the age gap, because of the mother's learning disability and her manner, which can be quite childlike, and, of course, by the allegations made. Her view was that whether or not the allegations are true, they raise serious concerns about the stability of the parental relationship.
103. The Guardian also pointed out the challenges that caring for two young children very close in age would pose to the parents. When the LIFT assessment was carried out, only W had been born. She thought that placing two young children in the care of these parents would be highly risky. She did not think that either parent would deliberately cause harm to the children, but considered that there would be a high risk of neglect and that both children would be likely to suffer emotional and physical harm as a result. She thought the parents would be unable to manage and that the family dynamics would become overwhelming for everyone. To the extent that the Guardian's conclusions relied on the outcome of the LIFT assessment, I will evaluate that evidence later in my judgment.

The Contact Notes

104. The contact notes assume particular importance in these proceedings, due to the absence otherwise of any direct assessment of the hands-on parenting abilities of the mother in particular. I have been asked by the parents to read the notes in full, and have done so. My observations are as follows.
105. First, the notes demonstrate the parents' love for their children and their ability to provide emotional warmth and, from time to time, stimulation.
106. There are many notes of contact sessions which are unremarkable. The parents are seen kissing and speaking to the children and playing with them in an age-appropriate manner. There are also many occasions when the parents bring clothes and other gifts to contact for the children. That demonstrates their love for the children and the extent to which the children are thought about and cared for by the parents, even when they are not with them.
107. The notes also demonstrate, in my judgment, a generally upward trajectory, in the mother's case, in terms of her ability to manage the children's basic care needs and to carry out tasks such as bottle preparation, changing and feeding, although even in the more recent contact notes there are indications that the mother still, at times, needs support and help with this.

108. However, overall, the contact notes, in my judgment, also show the limits to both parents' ability to engage the children, and particularly in the mother's case, to manage the care of both children at the same time. I agree with Ms P's view that, overall, the contacts have a repetitive quality in that they usually follow the same pattern. In the more recent contacts, it has become increasingly apparent that W is becoming restless and wanting to explore his environment, but there is little indication that the parents are responding to this and able to adapt their interactions with him.
109. I give some weight to my overall impressions from the contact notes, but in doing so I take into account the limitations of contact, both in terms of the time available for the parents to engage with and interact with the children and also, for much of the period when contact was taking place, the COVID-related restrictions which have made it necessary for the parents to wear PPE throughout many of the sessions.

The Section 31 Threshold Criteria

110. The local authority's schedule of threshold findings incorporates 67 separate allegations. The composite schedule produced by the local authority runs to 31 pages. It is the fourth version of a threshold document produced in these proceedings. Some of the allegations are dense, in that they bring together, sometimes in a single sentence, a number of different issues which bear no obvious relationship to each other. In other instances, the opposite fault is apparent, in that many allegations simply repeat each other, sometimes on more than one occasion. It is also true that no real distinction is drawn between the s31 "relevant date" for W, which is 14 August 2019, and the relevant date for X, which is 17 August 2020. All allegations are pleaded in respect of both children, even though the parents' situation, certainly in respect of living arrangements, was significantly different by the time that X was born.
111. There is also no distinction drawn in the threshold document between issues of parenting capacity that relate directly to the situation at the relevant date for either child, and the issues that relate to the parents' ability to care for the children in the longer term. As the advocates for the parents have pointed out, the threshold document does not comply with the requirements set out by the then President, Sir James Munby, in *Re A* [2015] EWFC 11.
112. As for the parents' responses, in many responses they were similarly unhelpful. The father's responses, for the most part, do not address the allegations pleaded. For example, in response to the allegation that he has said to the mother that their relationship would last only for the duration of the care proceedings, the father's response is "The father is fully committed to the relationship".
113. The Official Solicitor puts the local authority to proof on a number of allegations, but does not say what her position would be in the event that findings are made, or in respect of the threshold criteria on those allegations which are not challenged.
114. I am afraid that I found it impossible to deal with the schedule in the way that it is currently drafted. As this version was not prepared until after the pre-trial review, and the parents have responded to it, the court has not had any opportunity to revise the schedule at the case management stage. Therefore, I have done the best I can to identify the key allegations on which the local authority is seeking findings and to deal with them in an appropriate manner.
115. In order to achieve some clarity as to the threshold criteria, I have separated the allegations into four categories. These are (1) the mother's learning disability and its impact on her ability to care for the children, (2) the parents' engagement with professionals in the period leading up to W's birth, (3) the mother's home environment at the time of W's birth and (4) the parental relationship. I emphasize

that I have not included any new allegations other than those sought by the local authority. I have simply tried to bring some order to the allegations to cut out repetition, and at times to rephrase them so that they are comprehensible. I deal with them broadly in chronological order.

(1) The mother's learning disability and its impact on her ability to care for the children

116. The fact that the mother has a learning disability which impacts on her abilities in a number of areas is not in dispute. The local authority alleges that at the time when W was born the mother did not have the capacity to meet his physical and emotional needs to an adequate standard, and as a result he was likely to suffer significant harm. That is disputed by the Official Solicitor on the basis that in her evidence the mother does not accept all of the primary facts alleged by the local authority in respect of her parenting ability at the relevant time. However, there is substantial evidence in support of the local authority's case.
117. The local authority relies on the evidence from Adult Social Care as to the mother's limitations in terms of meeting her own needs; the observations of the mother in hospital, which indicate that she struggled to interact with W and required frequent prompting; and the early contact records which indicate that she was not able to hold him safely and needed support with this, including support from a dedicated family support worker who was put in to assist the mother throughout the contact periods. I do not give weight to the reports by the maternal grandmother of the mother's abilities as they are not consistent with assessments carried out by Adult Social Care.
118. In my judgment, the local authority's case as to the impact of the mother's learning disability in the context of the threshold criteria for W cannot realistically be challenged and should not have been. The Official Solicitor's case, as I understand it, is not that the mother has always been capable of caring safely for a baby, but that she has not had the opportunity to develop skills that would allow her to do so. That is a separate point and it is not relevant to my consideration of the threshold criteria.
119. Taking into account all the evidence I have considered at this hearing, I find that at the time when W was born, the mother did not have the ability to provide safe physical or emotional care for a baby, and in the absence of protective measures taken by the local authority he was likely to suffer significant physical and emotional harm as a result. The parents were not, at that time, presenting as a couple who intended to care for their child together, and for reasons I will come on to explain, there was limited support available in the maternal grandmother's home. Therefore, the care likely to be provided to W was care by his mother.
120. I consider the same allegation at the relevant date for X. By then, the picture was different and the parents were living together, although the father was still working at that time, so it was not likely at that point that he would be able to take on the primary care role.
121. The evidence indicates that during contact with W the mother had been able to learn at least some basic skills required to care for a baby, and her handling of him in contact had improved. It is the case, however, that even by the time of X's birth, the risks associated with the mother's learning disability remained present. Her learning disability is, of course, a static factor and even the Official Solicitor does not suggest, as I understand it, that she would be able to care for either or both children at present, without being given an opportunity to develop new skills. I appreciate that the Official Solicitor's case is that she should have been given that opportunity before now, but that does not alter the fact that in August 2020, as was the case in August 2019 and remains the case now, the mother's learning disability presented a

formidable obstacle to her caring for either child. At the point when X was born, of course, the challenges she faced were magnified as she would then have had to care for two very young children together rather than just one. I conclude that the threshold criteria were met on this basis also at the relevant date in X's proceedings.

(2) The parents' engagement with professionals in the period leading up to W's birth

122. The local authority alleges that the mother failed to engage with the local authority social worker who was attempting to support her during the latter part of her pregnancy. The local authority alleges, also, that in the last part of the mother's pregnancy, after the referral to social services on 19 June, the mother ceased attending midwife appointments until 2 August when it was found that she needed to be induced.
123. The mother does not dispute that following Ms N's allocation in mid-June she refused to allow Ms N to visit her home and refused to attend an office visit when one was offered. She also accepts that she told Ms N that she did not want a social worker for her baby. She points out that her engagement with Adult Social Care over the majority of her pregnancy was good.
124. The Official Solicitor puts the local authority to proof on these allegations. I find that the mother did stop attending ante-natal appointments after 19 June. That is the evidence from the specialist midwifery service. There is substantial evidence from Ms M, and in the local authority records, that the mother was distressed at the referral to Children's Services and that her relationship with the midwives was affected as a result. The mother had been diagnosed with gestational diabetes and it was important for her own health and W's that she should be regularly monitored, particularly towards the end of the pregnancy when the risks were highest.
125. As for the mother's engagement with social care, as I understand it the Official Solicitor's case is not that the local authority's evidence about the mother's lack of engagement is inaccurate, but that the mother is not to blame for her failure to engage because the local authority failed to work with her appropriately and in accordance with guidance.
126. There is, in my judgment, force in the points made by the Official Solicitor. I accept that the situation might possibly have been different if the local authority had managed to engage the mother more effectively, and particularly if the referral to Children's Services had been made sufficiently early in the pregnancy to give Ms N more time to establish a relationship with her. However, that does not alter the fact that the mother failed to engage and, regardless of whether or not she is to be blamed for that, her lack of engagement during the pregnancy put her unborn baby at risk. Given the mother's learning disability, there was a clear and obvious need for professional support from both Health Services and Social Care in managing the pregnancy and making plans for the birth, and in the absence of that support, W was likely to suffer significant harm.
127. The position of the father during the pregnancy is a little more complicated. The parents accept they did not tell the maternal family of their relationship, or that he was the biological father. The local authority seek a finding that the parents failed to inform Children's Services of the father's paternity, and that both failed to engage openly and honestly with ante-natal professionals or social workers about the father's existence.
128. The evidence on this issue is quite limited. The father says that he was available and would have engaged if contacted by a social worker. During the mother's pregnancy, the relationship between the mother and the social worker never got to the stage where Ms N was able to have a full discussion with the mother about paternity;

the only occasion when she was able to speak to her about this was on 17 July and the mother said she did not want to talk about it in front of her family.

129. It is correct that in the very early stages of the pregnancy, the mother appears to have informed ante-natal services that the father of her child was her husband in Bangladesh. I have not been able to find any further record of attempts to discuss the baby's paternity after February 2019. After W's birth, the mother did tell Ms N, in the hospital, who the baby's father was.
130. Ms N met the father on 12 August when he visited the hospital. He gave her his name and date of birth. The social worker says he had to be asked a number of times, but in my view the father's language difficulties may provide an explanation for that.
131. I conclude that there is insufficient evidence for me to find that the father failed to engage with the social worker during the pregnancy. The opportunities for him to do so were, in my judgment, very limited.

(3) The mother's home environment at the time of W's birth

132. The local authority says that the home where the mother was living, and where she intended to live with W following his birth, was an unsafe and volatile environment. The local authority seek the following findings:
- (a) that all four of the mother's brothers were involved with gang culture,
 - (b) that two of the mother's brothers, the older twins, were in prison at the time of W's birth, for attempted murder and were due for release in August 2019,
 - (c) two of the mother's brothers, the younger twins, were known to the local authority and subject to child protection plans until March 2019, thereafter child in need plans,
 - (d) that one of the younger twins sustained a skull fracture and stab wounds in a gang related incident on 25 July 2019,
 - (e) that the incident when the social worker visited on 17 July 2019 demonstrated a high level of aggression and volatility in the home environment,
 - (f) that the maternal grandmother was not capable of providing support to the mother in caring for W,
 - (g) that the mother failed to listen to or act on advice from the social worker about the risks to W.
133. The Official Solicitor puts the local authority to proof in respect of some of these facts. Facts (a) to (d) which concern the criminal involvement of the mother's brothers are set out in the first social work statement, albeit that this is hearsay evidence, and have also been accepted by the mother herself in the written evidence she has filed. In those circumstances, it is unnecessary and disproportionate in my view for the local authority to be required to produce primary evidence from the police, and I find these facts proved.
134. Fact (e) concerns Ms N's visit to the family home on 17 July. Ms N set out in her witness statement what happened on that date and her oral evidence was consistent with this account. She says that one of the mother's brothers was very aggressive and told the social workers to "get the fuck out". The mother was highly distressed and shouting. The maternal grandmother appeared frightened and unable to manage the conflict. Ms N was so concerned about the wellbeing of those in the home that after she left she dialled 999.
135. The mother accepts that there was shouting in the home on that date but explains that that was because she had no warning of the visit and because the social worker was rude. She says that questions were asked about W's biological father and this upset her mother and her brother.

136. I recognise that the events on this date are a snapshot only, and also that the unannounced visit, although well-intended, caused the mother to become very distressed and the temperature in the home to rise. However, the social worker's description of the incident - which is not really disputed and which I accept - is one of a scene where the emotions of family members got out of control very quickly and escalated to a point where an experienced social worker felt she had to leave the home and seek police assistance. I find that on this occasion the situation in the home was volatile, that the mother's brother was aggressive towards the social worker and that the maternal grandmother was unable to control the environment. That finding also suggests, at the very least, that the maternal grandmother would struggle to provide effective support to the mother in caring for W in the home.
137. Overall, the Official Solicitor says that the local authority has not proved the necessary causal link between any facts I might find proved under this heading, and a likelihood of harm to W. The mother herself has accepted in her evidence that the home was not safe for W as her brothers were in and out of prison. The Official Solicitor, however, points to the fact that the mother's nephew, her sister's son, was regularly spending time at the home without any apparent concern being raised on the part of the local authority, and says that the local authority have failed to identify the clear harm that W was likely to suffer if living in the home.
138. I find that the nature of the criminal activities in which the mother's brothers were involved demonstrate a propensity on their part towards physical aggression and violence. The incident on 17 July shows that such behaviour was not limited to activities outside of the home, and also that the maternal grandmother was unable to control it. I note also that the mother told the LIFT assessors that in the past her two youngest brothers had attacked her mother. The fact that another child in the family sometimes visits the home can carry little weight in those circumstances and does not prove, of course, that there is no risk even to that child.
139. The risk to W, a very small baby who cannot move out of the way, of being caught up in incidents of physical aggression is obvious. There is also a likelihood of significant emotional harm due to exposure to aggression and volatility in the home. I take into account also that the mother herself, who has direct experience of living in the home, believes that it was unsafe.
140. I turn to the findings sought in respect of the mother's actions around the time of W's birth and her expressed wish to return to an environment she knew to be unsafe. The local authority's evidence about the events in the week after W's birth presents a confused picture and it has not been possible, even at this hearing, to establish clearly the local authority's decision-making process over this crucial period.
141. Ms N visited the mother on 12 August while she was still in hospital with W. It appears that the local authority had taken the decision to issue proceedings by that time, because Miss N had a letter of intent with her, which she gave to the mother. The mother became very upset. She accepts that she threatened to kill herself if she could not return home with W. In this context, I note Ms M's evidence to the effect that when the mother does not want something, she will use hyperbolic language to make sure her position is understood.
142. The following day, Ms N prepared a statement for the initial hearing and included an account of her visit the previous day with the mother. She set out the options the local authority was considering for W's interim care. The possibility of a residential placement is identified as one of the options. The first factor against that option is recorded as being "the mother is not currently in agreement with the proposal".
143. On the same day, 13 August, Ms M visited the mother together with a speech and language therapist from the Community Learning Disability Service. On that occasion

the mother's presentation was much calmer, no doubt because she understood Ms M's role as her adult social worker to be a supportive one and she did not see her as a threat. There was some further discussion about a mother and baby unit and it appears that this was presented as an option to the mother which she was free to decide to choose. On this occasion, the mother said she would be prepared to go to the mother and baby unit.

144. The first hearing in the care proceedings took place on 14 August. I have already recorded that the court was informed on that occasion that there was no mother and baby unit available which could meet the mother's needs. Ms N was unable to tell me what enquiries had been made of potential residential assessment units or why it was said at court that none were available to meet the needs of this mother when the local authority had been discussing that option with her the previous day.
145. I find that in the late stages of her pregnancy, and for the first week after W's birth, the mother became fixed on the idea of returning to her mother's home even though she knew it was unsafe, because the option of a residential assessment unit was not presented to her clearly and in a way that she could understand. Therefore, she became very fearful of that option and mistrustful of the social worker who was presenting it. I do not find that the mother failed to listen to or act on the social work advice. In my view, the lack of coherent planning and liaison between Adult and Children's Services created a confusing situation for the mother around the time of W's birth. The mother did not clearly understand what was required of her or what the local authority was proposing. She did not have access to advice in a format that was accessible to her.
146. I am satisfied that all these findings, taken together, are sufficient to give rise to a likelihood of significant harm to W if he had returned to live at the maternal grandmother's home, and that the mother's determination to achieve this in the latter stages of her pregnancy and for a period after W's birth, although entirely understandable in the context of her learning disability and the local authority's failures to engage her in the planning process, meant that the care being provided to W was not that which it would be reasonable to expect a parent to give, and therefore that the threshold criteria are met on this basis.
147. As far as X is concerned, my findings about the home environment have no direct relevance to the threshold criteria for her, because by the time of her birth the mother was no longer living in her own mother's home and there was no suggestion that she was likely to return there.

(4) The parents' relationship

148. The local authority's case is that at the relevant date in the case of each child both children were likely to suffer significant emotional harm and neglect as a result of being exposed to the parents' relationship difficulties, the instability of their relationship and the domestic disputes, allegations of sexual abuse and exploitation made against the father by the mother, separations and reconciliations and the father's ongoing relationship with his wife.
149. Although it is not specifically pleaded in the threshold document, in its closing submissions the local authority sought a finding that the mother's allegations of abuse against the father are true and that the father has sexually abused and exploited the mother. The local authority seeks a finding also that the father has continued a sexual relationship with his ex-wife until at least the autumn of 2020, and that this further undermines the stability of the parental relationship.

150. It is not in dispute by the mother that she has said, on a number of occasions and to different people, that the father has behaved in an abusive manner towards her, and that this and other things she has said throw doubt on the stability of their relationship. I intend to set out what the mother has said, in summary form. The local authority seeks a finding, broadly speaking, that the mother's allegations represent an accurate picture of the parents' relationship. It is therefore abusive and there is a clear risk of significant harm to the children.
151. Shortly after W's birth, on 6 and again on 8 August 2019, the mother told Ms N she wanted nothing to do with her baby's father and she never wanted to see him again.
152. On two occasions, in August and October 2019, the mother told Ms M that the father had had sex with her without her consent.
153. During the capacity assessment on 25 August 2019, the mother told Dr George that her baby's father had been blackmailing her, he had taken photographs of her and said that he would distribute them to other people if she did not meet up with him. She said "I have done something wrong". She said she wanted to go to a mother and baby unit with the father of her baby but that she did not want him to touch her.
154. At court, on 10 October 2019, the mother became extremely distressed and told the court she no longer wanted to be assessed together with the father. She subsequently explained this was because he had been mocking her learning disability while they were at court.
155. On 3 September 2020, a few weeks after X's birth, the mother asked the social worker to tell the father to leave the home and to give her his key. The following day, the mother told a midwife that the father had sexually assaulted her shortly after the birth.
156. On 8 October 2020, the mother sent an email to her solicitor, the social worker and others. It reads as follows:

"I want to tell you that [the father] in the night time on Wednesday night and this morning when I was sleeping. I felt he was doing it, doing sex with me. This was unprotected. I have taken the morning after pill and reported this to the police (...) I have asked him to leave the house two times, yesterday night and today, and he has left. He has taken some of his clothes. He still has his keys".

157. It appears that the mother made a similar allegation verbally to her Pause worker on the same day. The Pause worker reported this to the police and on 9 October 2020 the father was arrested.
158. In her witness statement on 26 October 2020, the mother said that her proposal for the children's care was that her husband in Bangladesh could come to the UK and to care for the children together with her. The local authority's case is that this is a further example of real problems in the mother's relationship with the father. When the statement was prepared, the mother was represented by a solicitor who, of course, was well aware of her disability and would have taken particular care to ensure the statement was in accordance with her instructions. The local authority says that the mother would not have made that suggestion if she saw any future in her relationship with the father.
159. The mother accepts as a matter of fact that she said all of these things. One exception is the email on 8 October 2020, in respect of which the mother said that the Pause worker had sent this from her email account. That is so implausible that I reject it without requiring evidence from the Pause worker, and in any event the mother accepts that she herself made the allegations which are set out in the email. In my view, the mother's denial that she had sent the email was driven by fear and confusion,

and I bear in mind that the email was produced during the proceedings and the mother had limited time to respond.

160. Although she admits making the allegations, the mother now denies that the father has ever behaved abusively towards her. She has given two explanations for why the allegations were made. First, she says on most, if not all of the occasions, she was influenced by friends to say what she did. She says that her friends told her that if she made allegations against the father, this would have the effect of ending social services involvement in her life. As for the allegations in autumn of 2020, she says that she was also upset with the father around that time because she had recently found out that he was still seeing his ex-wife.
161. The Official Solicitor's case is that what the mother has said must be seen in the context of her learning disability and its impact on her functioning. The mother and the father are presenting as a couple and the mother has been clear that she wishes to remain in a relationship with him. I cannot make a finding, the Official Solicitor says, that the relationship is abusive.
162. The father denies any abuse of the mother. His case is that it is not the mother herself who has made the allegations against him, he says that these have been fabricated by the professionals including Ms M, Dr George, the midwife and the Pause worker. He has not explained why any of those people would have a motive for fabricating the allegations.
163. In cross-examination on behalf of the mother, the father was asked whether he had understood the local authority's questions probing his case on this issue. He confirmed that he was not only saying that the allegations were untrue, but that he did not accept that the mother had even made them. The question asked by counsel for the mother was as follows: "If [the mother] told Ms M or the midwife or the Pause worker that you had had sex without consent and then the professionals just reported that, do you understand that it is not the professional accusing you, it is just them recording what [the mother] said?" The father's response was, "Yes, I understand that but [the mother] did not say these things".
164. I unhesitatingly reject the father's suggestion that any professional has fabricated any of these allegations. None of them have been required to give oral evidence and this allegation has not been put. It is highly unlikely that any of them would act in this way and it is vanishingly unlikely that several professionals, some of whom have no connection with each other, would fabricate allegations of sexual abuse and rape against this father who is completely unknown to them.
165. On behalf of the father, Ms Roberts wisely did not seek to pursue the suggestion that any professional had fabricated evidence and suggested instead that the mother had been influenced by friends or family members.
166. As regards the incident at court on 10 October 2019, I find that the father did mock the mother's learning disability and that this caused her distress. The distress was observed by those present at court and by the judge, who expressed concern for the mother. The mother has consistently given the same reason for her distress on that occasion, although she has said that the parents have since resolved the issue. The father does not accept that he mocked the mother's learning disability but has been unable to give any other explanation for her distress.
167. As regards the allegations of sexual abuse and exploitation, it is not possible, in my view, to make the finding the local authority seeks, that the mother's allegations against the father are true.
168. The mother's evidence that it is her friends who have influenced her to make these allegations does not, in my judgment, explain why similar allegations of sexual abuse have been made so consistently and to different professionals over such a lengthy

period of time. The evidence that the mother has been influenced by her family, who do not approve of her relationship with the father, is very limited and this suggestion is largely speculative. I note also that the explanation that the mother was influenced by friends was made fairly late in these proceedings and that the mother has previously said to professionals, not that the allegations were untrue or that she was influenced to make them, but that things have improved since they were made. However, the fact that the mother is now denying that any of the abuse took place and that, aside from the mother's contemporaneous reports, there is no corroborative evidence that it did, means that I am unable to make a finding on the balance of probabilities.

169. Nevertheless, the fact that these allegations have been made on many different occasions raises very serious concerns about the stability of the parental relationship, and the extent to which the mother feels safe and supported in that relationship.

170. Similarly, the father's denial that the mother ever made the allegations, despite the mother's acceptance that she did, and his insistence that professionals have fabricated them, suggests that the existence of these allegations is a matter that the parents have not discussed or addressed at all.

171. I make no finding as to the father's ongoing sexual relationship with his wife, Ms K. The finding sought is based on hearsay evidence. While I do not doubt the account of Ms P, who says that Ms K told her in autumn 2020 that the relationship was continuing, I know insufficient about Ms K to be able to assess her own motivations or her credibility.

172. However, I do find that in the autumn of 2020 the mother became significantly jealous of Ms K, and that the evidence of the father about this relationship, and in particular whether he intended to divorce, is vague and unclear. That means that this remains a significant unresolved issue for the parents, and one that is likely to cause further distress and upset in the future.

173. I find therefore that there are significant unresolved stressors in the parental relationship which have led to serious disruption, including the father's arrest on a charge of rape. Those issues remain unresolved between the parents and their relationship is not stable. There is a risk of further similar disruption in future. I find that at the relevant date in each child's proceedings the children were likely to suffer significant emotional harm due to the instability of their parents' relationship. That risk, in my judgment, remains.

174. Before turning to my welfare analysis, I set out, for completeness, the allegations in the local authority's threshold document on which I have not made a specific finding, and the reasons for that.

(a) The maternal grandmother's attitude to and interactions with the local authority during the mother's pregnancy. I have limited information about this and it adds nothing to the threshold criteria.

(b) The mother's engagement with ante-natal care during her pregnancy with X. There is some evidence that the mother failed to seek help when she suffered some bleeding at a late stage in the pregnancy. Overall, however, she engaged well with ante-natal care during her second pregnancy and it is unnecessary and disproportionate in my view to make a finding on that limited issue.

(c) I do not find that the mother failed to attend an initial child protection conference on 2 August 2019. The mother says she was attending another meeting with the local authority on that date and the evidence is insufficiently clear that the mother was aware of the initial child protection conference as a separate meeting.

(d) I do not make any finding about the infection with which the mother and W were suffering at the time of his birth. The local authority makes a suggestion that this could have been chlamydia, which of course is a sexually transmitted infection, but there is little

evidence in support of that. While the mother refused testing, she did accept treatment and so I do not find that her actions caused W to suffer significant harm or put him at risk.

(e) I do not find that the mother's volatile emotional state around the time of W's birth is a relevant matter for the purposes of the threshold criteria. I accept that the mother was very distressed and agitated in the hospital, to the extent that she threatened to kill herself. That needs to be seen in the context of the mother's learning disability which leads her at times to express herself in an exaggerated and unguarded way, and in particular I bear in mind the circumstances at that time, when the mother had recently given birth and was highly fearful that her child would be removed, and was not being provided with clear information by the local authority. That evidence, in my view, is balanced by the contact records which, on the whole, even in the early stages, show the mother has an ability to contain her emotions at least during short periods of contact. The issue of the mother's emotional volatility generally is better dealt with, in my view, as part of the welfare analysis.

(f) I do not make any finding that the mother has failed to engage with Adult Social Care, as opposed to Children's Services. It is true that the mother, on occasion, has declined services, including art therapy in 2019. However, the records produced by Adult Social Care show on the whole a good level of engagement by the mother, at least with the services available in Tower Hamlets. As far as her recent engagement in Newham is concerned, there is a lack of clarity in the evidence as to whether the fact that the mother is not registered with services there is due to her declining services or that local authority applying a different eligibility threshold, and I do not consider I am able to make a finding.

(g) I have not made any findings in respect of the father's ability to work honestly and openly with professionals. That issue, in my view, is better dealt with as part of my consideration of the father's parenting capacity under the heading of the welfare checklist.

(h) I make no finding on the local authority's allegation that there has been financial abuse in the parents' relationship; the evidence is insufficient for me to do so.

175. I therefore find the threshold criteria met, albeit on a narrower basis than pleaded by the local authority. My threshold findings in summary are as follows:

(1) At the time of the births of both children, the mother was unable to meet their basic physical and emotional needs, as a result of her learning disability.

(2) The mother failed to engage with Health and Social Care Services during her pregnancy with W, which meant he was likely to suffer significant harm.

(3) The home environment where the mother intended to live with W following his birth was volatile and unsafe, and if W had gone there to live he would have been likely to suffer physical and emotional harm.

(4) The parents' relationship is unstable and the mother does not feel safe in that relationship. The father has mocked the mother's learning disability. It is not possible to make findings as to sexual exploitation, but I find that the relationship as a whole is not a source of support for either parent and that there is a risk of further disruption in that relationship.

The CA 1989 and ACA 2002 welfare checklist factors

176. I will set out my observations on the relevant welfare checklist factors before turning to the balancing of the different options before the court.

177. The children's ascertainable wishes and feelings. These are very young children who are too young for their wishes and feelings to be ascertained.

178. Their physical, emotional and educational needs. W and X have the needs of all children their age to live and be brought up in a safe and stable home environment and to form secure attachment relationships with a primary caregiver. They are siblings who have always lived together and they also need to maintain and develop their relationships with each other. Neither child as yet has any identified additional needs, although there may be an increased likelihood of cognitive impairment due to the mother's learning disability. The developmental assessment carried out by LIFT for W indicated that he was meeting age-related expectations in most areas of development, although his cognitive abilities were a relative weakness. The assessors considered there was a need for any carer to remain vigilant in respect of both children for the next few years at least, and to pay particular attention to their developmental progress.
179. The effect of change. W and X have lived all of their lives so far together and with the same foster carer. Whatever the outcome of these proceedings, their placement will change. W, in particular, has an existing relationship with his parents and he appears particularly to recognise his father and to enjoy spending time with him. That may mean that a transition to the parents' care would be less traumatic than a transition to the care of strangers, whether that be the paternal aunt or adopters, but the evidence suggests that the primary attachment relationship of both children is with their foster carer rather than with their parents, and so the existing familiarity they have with their parents is only a limited protective factor in respect of change.
180. The children's age, sex, background and other relevant characteristics. I have already referred to the genetic factors which are of some potential relevance to the children's welfare. The other significant feature of their background is their nationality and cultural identity. These are children of Bangladeshi heritage who have been placed with a Bangladeshi foster carer and brought up within that culture. It is important, therefore, that there is continuity and that they are brought up within the same cultural environment if at all possible.
181. Any harm that the children have suffered or are at risk of suffering. Thus far, the children have not suffered harm. I have found that at the relevant date for both children they were likely to suffer significant harm. That likelihood is inextricably linked to the parents' ability to provide them with a safe and stable home environment and so the question of future harm, in my judgment, is best analysed under the heading of the parents' capacity to meet their needs.
182. Parenting capacity. The primary source of evidence before the court is the assessment carried out by LIFT. I have made some preliminary observations in respect of the scope of that assessment and in particular the absence from the assessment of a detailed consideration of the mother's ability to improve her basic parenting skills. I turn now to the balance of the assessment and its conclusions in respect of both parents' overall parenting capacity.
183. In the mother's case, the assessors said this:

"The findings from the assessment indicate that [the mother] does not have the capability to care for a child and therefore cannot sufficiently support a child's development nor adequately safeguard a child. [The mother] cannot independently provide the stimulation required to support a child's cognitive development or support a child's emotional needs. Caring for a child requires continually adapting skills and responding to the child's changing and variable needs, which [the mother] would struggle to do. Over time, this could amount to neglect leading to impairment in development. It is not thought that [the mother] will be able to make lasting and adaptive changes within W's timescales, nor is it

likely that [the mother] could ever safely parent a child without continuous directive support and guidance.”

184. In the father’s case, the assessment reads as follows:

“[The father] has been very compliant with the LIFT assessment and clearly loves W very much. However, [the father] has not been fully engaged with the LIFT assessment, demonstrated by his lack of honesty. We acknowledge this may have been influenced by anxiety regarding his immigration status. Unfortunately, this has meant we have been unable to fully explore some of the risks he might pose. Furthermore, [the father] has not demonstrated sufficient evidence that he could practically care for W as a sole carer, and of particular concern is his minimisation of [the mother’s] disability.”

185. Those are summaries of the conclusions reached by the LIFT assessors in respect of each parent. Those conclusions are supported by the social worker and by the Guardian. I bear in mind that the Guardian’s direct work with the parents has been limited as she relied, appropriately in my view, on the social work and expert assessments. Her role, as she explained to me, has been to monitor the evidence and to consider at each stage whether there are deficiencies or a gap in the evidence that requires to be filled.

186. In the mother’s case, the LIFT conclusions are based primarily not on her ability or otherwise to provide basic care but to attune to and to meet the children’s changing emotional needs as they grow older. In evaluating these conclusions, I have considered both the detail of the LIFT assessment and the other evidence, including the contact notes. I have taken into account the fact that it is possible there might be some scope for the mother to improve her basic parenting capacity.

187. The conclusions of the LIFT assessments in respect of the important issues of the parental relationship and the father’s ability to provide support to the mother in parenting, are, in my judgement, borne out by the other evidence before me at this hearing. I place particular weight on my assessment of the father’s evidence which was consistent with the LIFT conclusions.

188. In respect of the parents’ capacity to care for the children, I draw the following conclusions from the evidence.

189. The mother continues to face significant difficulties as a potential primary carer for the two children. She herself has required support throughout most of her life as a result of her learning disability. Her own understanding of her abilities fluctuates. For a period in early 2020 the mother was adamant that she no longer had a learning disability and it seems this may have contributed to the current position where she is receiving no support at all from Adult Social Care in Newham.

190. I was not convinced from the mother’s oral evidence that she understands the degree of support she needs, particularly if she were to care for the children. The mother’s ability to provide basic care has not been fully assessed but the evidence is that she would currently struggle to meet the needs of the children, particularly together. The mother herself was clear that she could not manage the needs of both children together even for a short time. The contact notes bear that out.

191. The LIFT assessment acknowledges that there may be scope for the mother’s basic care of the children to develop to some extent. It says,

“with repeated guidance and hands on support [the mother] has learned basic childcare tasks such as how to hold W safely, change his nappy and feed him using a bottle, although she continues to require support with these skills. [The mother] has the

potential, over time, to continue to develop daily living skills and emotional regulation skills now that she is living in a calmer, safer environment where she is being supported to develop more independent living skills which are important self-care and self-management skills. This skill set is separate and different to caring for a vulnerable infant whose needs evolve and may not always be obvious. [The mother] shows limited potential to develop the requisite parenting skills in line with W's timeframe."

192. The main concern expressed by the LIFT assessors is the mother's ability to provide a stable emotional environment for the children. This is limited, through no fault of her own but because her cognitive abilities prevent her from recognising and responding to their needs. The LIFT assessment records as follows:

"[The mother] demonstrated little to no awareness of W's emotional need for safety and for an adult to support and respond to his emotions and to be held in mind in this way. At times, it felt like [the mother] conflated her own and W's emotions"

193. The mother struggled during the assessment to mentalise, that is to understand W as an individual separate to herself. The assessors gave an example of asking the mother what she does when W becomes upset. Her response was "I get upset, mostly weekends. I get mostly bored. I want my son to be in my care, then I can play with him". The assessors observed that she partly wanted W to be with her to provide company and suggested that this was a clear example of wanting the child to meet her needs.

194. The criticism of the LIFT assessment is that it is unfair to expect this mother to understand and discuss sophisticated and abstract concepts such as parent/child attunement. Many parents would struggle to do so. I entirely accept that as a proposition, but the criticism, in my view, is misplaced. LIFT did not expect the mother to discuss concepts such as attunement in the abstract. It is clear from the content of the report, particularly the appendices, that discussions were pitched at an appropriate level for the mother, that she was given an opportunity to talk about W and her feelings about him and that the mother was fully able to engage in these discussions.

195. The LIFT observation of the mother's contact with W is also under challenge. The conclusion drawn by the assessors following their observation of a contact session was that they should not proceed to undertake a structured observation of the mother with W, that is, a planned session where the parent is asked to interact in a particular way with the child so that the child's response and the parent/child relationship can be assessed. The Official Solicitor asks how, when some of the contact notes present a very positive picture of contact, LIFT could draw such a significant conclusion from a single session. Again, I consider that criticism to be misplaced. It is necessary to bear in mind that the LIFT observation of contact was an information gathering process of an entirely different order to the general observation of contact sessions which was carried out by the contact supervisors.

196. The assessors acknowledged that during the session they observed, the mother was able to demonstrate emotional warmth and affection to W. Their concern was in the mother's lack of ability to manage when W became distressed, the lack of verbal and other stimulation provided to him and her difficulty in identifying his needs. The conclusions they drew from the observation are supported by other aspects of the evidence, including the information gathered during the wider assessment, and I consider them to be valid. Overall, I accept the conclusions of the LIFT report as to the mother's ability to provide care to both children in the short, medium and long term.

197. As for the father, the LIFT conclusions, both in the original report and following the addendum assessment in July, is that while he does not have the same cognitive deficits as the mother, he faces different challenges in terms of his ability to care for the children. During the first assessment, LIFT considered that the father had very definitive roles for males and females with regards to caring for a child. It was apparent from his answers that he placed more emphasis on loving the child as opposed to explicitly stating what the physical and emotional needs of the child are.
198. Despite a lengthy exploration of W's needs with the father over the course of the assessment, he continued to show what the assessors described as a vagueness and a paucity of responses. It was clear that he saw the mother as taking on the role of providing primary care for W. Asked how he would manage if she were unable to do so, he responded "She is perfectly all right of taking care of the child, bath, shower, feeding and all things. She takes care of him quite well. She is understanding of his needs. Everything apart from that, whatever I can help as a dad, I do that as well and I'm there to help as well so I don't see there is any problem".
199. The father's responses to questions designed to explore his understanding of W as an individual and his needs were vague and lacked depth. The assessors comment that this was striking, even taking into account the impact of cultural differences and working with an interpreter. They went on: "[The father] struggled to take W's perspective and understand what his needs are, tending to attribute emotional capacity to him beyond W's years.
200. "[The father] was asked on several occasions what a typical day would be like if W were returned to his care, or to provide a clear breakdown, hour by hour, as to how he would practically manage the two competing needs of caring for a baby and supporting the family financially by working full-time. It was clear that [the father] was trying his best to answer the question but he was unable to demonstrate his problem-solving abilities by explicitly naming his knowledge of W's needs, how he would reconcile these needs alongside working full-time or what a typical day would look like at home."
201. That assessment of the father chimed with my own assessment of him in evidence. I acknowledge that the father's case now is that he would not be working and would be prepared to look after the children full-time at home. However, despite that, I had little sense that he saw himself as playing a significant role in caring for the children and he would be highly likely, in my view, to leave the primary care role to the mother.
202. Finally, the evidence overwhelmingly demonstrates, in my view, that the parents' relationship is not a source of support for the mother in terms of her ability to parent the children. On the contrary, it is an undermining and destabilising factor. During the LIFT assessment, the mother was unable to appreciate why professionals might have concerns about the relationship and became irritated when the topic was raised. She acknowledged that she had made allegations against the father, but could not see why this would lead professionals to be worried about her own safety and wellbeing. The issue was explored with both parents on a number of occasions during the assessment, but without resolution. The father's answers to questions about the relationship were vague. He was unable to explain how the second pregnancy had come about and who had taken responsibility for the decision whether or not to use contraception. The parents' accounts of the relationship; how it had begun and how it had developed, differed in some significant respects.
203. The assessors conclude:
"Subsequently there are still areas in [the father's] life that remain unknown and therefore it has not been possible to estimate the risk he may pose. This particularly

relates to concerns that he was involved in grooming and possible sexual exploitation of [the mother]. It is important to note that LIFT are not saying that [the father] sexually exploited [the mother], but there are a number of single reports from [the mother] that when considered together suggest a picture of exploitation.”

204. The observations of professionals have been that the couple appear as separate and that there is little evidence of emotional warmth between them. I need to exercise caution in evaluating these observations, given the mother’s learning disability, the stresses of being observed and the cultural and language barriers. However, even taking into account all of these factors, my own assessment of the parental relationship is that it offers little in the way of emotional support or stability to either parent. There is, in my judgment, a very high likelihood that the relationship will suffer further instability in the form of serious allegations being made by the mother against the father.
205. I turn to the factors specific to the Adoption and Children Act welfare checklist.
206. First, the likely effect on the children throughout their lives of having ceased to be a member of the original family and become an adopted person. If placement orders are ultimately made, the children will lose their legal and psychological ties with their parents and all other members of their birth family. The evidence is that adopted children often struggle to come to terms with the fact of their adoption, particularly as they enter adolescence.
207. The knowledge of the child’s life story, and in some cases ongoing direct or indirect contact, can be a protective factor for adopted children. I bear in mind that in this case it may be difficult for both children to come to terms with their life story. It would have to be explained to them that they had two parents who loved them very much but were unable, in the mother’s case certainly for reasons well beyond her control, to provide them with a permanent home. The decision in those circumstances that they should be adopted may well seem unfair to them and they may struggle to come to terms with it. Adoption in circumstances such as those pertaining in this case has the potential to cause the children real and lifelong psychological pain and distress.
208. Secondly, the relationship that the child has with relatives and any other person in relation to whom the court considers the relationship to be relevant. The children have existing relationships with their parents. The evidence is that those relationships are still quite limited in that neither child sees either parent as a significant attachment figure. They are, however, existing and meaningful relationships and there is a value to the children in those relationships continuing.
209. The children have potential relationships with other members of their birth family, on the mother’s side in particular. However, so far, those relationships have not developed. The mother currently is not on speaking terms with any member of her family and those relationships are very strained. There have been shifts in the relationships over time and there was a period in late 2020 when they seemed to improve. However, it is very uncertain whether, if the children were to live with their parents, they would be able to develop consistent relationships with their wider family going forwards.
210. Finally, I take into account the fact that, in general, any delay in coming to a decision is likely to prejudice the children’s welfare. That is particularly so for W, in whose case the proceedings have now lasted for coming up for two years.

Analysis of the realistic options for W and X

211. There is a compelling argument in this case that these children should be brought up together. They are young siblings, very close in age. No party suggests that they should be separated.
212. It is not clear whether the father's case is that the children should return immediately to the parents' care; that is not his formal position, although there was certainly a sense in his evidence that he saw nothing to prevent this. I understand, of course, that that would be the first preference of both parents.
213. The position of the Official Solicitor is that if the threshold criteria are met, she would accept that further assessment is required before the children could live at home. The Official Solicitor's case is that there is a possibility that, with further work and support, the parents might be able to offer a permanent home to the children.
214. The local authority's case, supported by the Guardian, is that no further assessment is required and that the parents can and should be ruled out as carers for the children on the basis that after the balancing exercise is carried out, and subject to a positive assessment of Ms O, the only viable option is adoption.
215. In my judgment, the children's immediate return to their parents is not a realistic or viable option, given the findings I have made as to the threshold criteria and my assessment of the evidence regarding the parents' parenting capacity. The balance, therefore, is between an adjournment for further assessment that might conclude that the parents are able to care for the children, and a decision that they should be ruled out as carers now.
216. The outcome of the assessment of Ms O in Bangladesh is not yet known. In order to consider the position of the parents at this stage, I must work on the basis that the outcome of that assessment may be negative and that the only other option available to the court may be placement orders leading to the children's adoption. I must therefore balance the proposal put forward by the parents against that draconian and irrevocable alternative.
217. I consider the advantages and disadvantages of both options. In my judgment, the primary benefit of a further assessment of the parents in the circumstances of this case is that it will put to rest for the parents the question of whether or not the mother might be able, at a time and through a process of supported learning, to acquire sufficient skills to manage the children's basic physical care needs.
218. The disadvantage is that this option would involve further delay in circumstances where, in my view, it is very unlikely that the conclusions of that assessment would impact significantly on the balancing exercise. That is for two main reasons.
219. First, I have real doubts as to whether the conclusions of a PAMS (or equivalent learning-based) assessment would be positive. I bear in mind that the mother currently, as she recognises herself, is unable to manage the competing needs of these two very young children at the same time for the duration of a contact session. Even an intensive process of performance-based learning would be unlikely, in my judgment, to develop her skills to the point where she would be able to care for them independently for more than a very short period of time.
220. Secondly, I have found that the broad conclusions of the LIFT assessment as to the parenting capacity of both parents are sound and borne out by the evidence. In particular, I have found that neither parent has the capacity, for different reasons, to meet the children's emotional needs in the short or longer term. I have also found that the parental relationship is a significant destabilising factor and that this itself would put the children at risk of significant harm.
221. I put into the balance the positive and negative features of adoption in this case. The advantage of adoption is that it can offer the children a secure and stable home together where there is a very high likelihood that their physical, emotional and

educational needs will be met. They would have a family to whom they can belong and where they can develop to the best of their ability. They would have parents who are able to recognise and respond to their emotional needs and to adapt to those needs as the children grow and develop.

222. The disadvantage of an adoption is the disconnection of these two young Bangladeshi children from their family of origin and potentially, dependent on the background of the prospective adopters, from their culture and heritage. A further disadvantage is the sense of loss and anger they may well feel in later years when they discover that they have parents who love them very much and committed to them throughout lengthy proceedings and fought very hard to resume their care.
223. Balancing those different factors, I come to the clear conclusion that even on the assumption that the assessment of Ms O is negative and adoption is the only alternative, the advantages of that option and the risks of a placement with the parents overwhelmingly outweigh the very limited benefits of a further assessment. The application for a part 25 assessment is therefore refused.
224. In reaching this conclusion, I have taken into account the length of time that these proceedings have been underway, particularly in W's case, and the risks of further delay impacting on the children's prospects of making a successful transition to alternative carers. Despite those factors, had there been a realistic prospect of the outcome of a PAMS assessment affecting the ultimate decision I might well have been persuaded to allow that assessment. There is not, in my judgment, any such realistic prospect in this case.
225. I conclude therefore that this is a case where, subject to the position of the paternal aunt, there is no other option available for these children, other than adoption. I make a determination, in line with *North Yorkshire County Council v B*, that neither parent is or is likely to be able to provide a permanent home to the children.
226. I am not asked to make final orders at this stage, simply because of the outstanding assessment of Ms O in Bangladesh. I therefore continue the interim care orders on the basis that the only outstanding decision for the court is whether a placement with Ms O would be in the children's best interests or whether final care and placement orders should be made. I will consider that decision at the appropriate time, taking into account all relevant welfare factors at that stage.

We hereby certify that the above is an accurate and complete record of the proceedings or part thereof.