Neutral Citation Number: [2023] EWFC 29

Case No: SA21C50004

IN THE FAMILY COURT AT SWANSEA

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 17th March 2023

Before:

MS JUSTICE RUSSELL DBE

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Between:

Swansea CC	**Applicant**
- and -	
MX	**1st Respondent**
and	
FZ	**2nd Respondent**
and	
F	**3rd Respondent**
(A child by her guardian)	

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Lucy Leader (Counsel) (instructed by Lucy Moore of the City & County of Swansea) **for the Applicant Local Authority**
Rhys Jones (Counsel) (instructed by Vici Clarke of CJHH Solicitors) **for the 1st Respondent MX**
Matthew Rees (Counsel) (Instructed by Caroline Davies of T Llewelyn Jones Solicitors) **for the 2nd Respondent FZ** (father of F)
Cennydd Richards (Counsel) (Instructed by Josie Rogers of GEP Legal Solicitors) **for the 3rd Respondent F** (by her Guardian)

Hearing dates: 17th, 18th &19th January 2023
A further hearing took place on 6th February 3023

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Approved Judgment

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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.

The Honourable Ms Justice Russell DBE:

Introduction & previous findings

1. These have been complex public law proceedings of which this is the final judgment in respect of the welfare of the youngest of the subject children, F, who is now three and a half years old. The proceedings started as private law proceedings involving six children of varying ages of 3 inter-connected families. The Court handed down a fact-finding judgment in March 2022; multiple findings were made in respect of all the children and the s31 threshold of the Children Act (CA) 1989 crossed. Those findings included findings made against the parents (MX and FZ) of F, the subject child of this judgment. Final orders were made in respect of E (who is not related to MX, FZ or F) on 5th July 2022 and care orders in respect of her four older siblings on 9th September 2022. All those orders were made by consent.

2. These public law proceedings were issued by the Local Authority as it was already involved in the private law cases; the situation for the children had deteriorated to the extent that the four older siblings of F had to be accommodated by social services. E remained with her mother, as did F because she was still an infant. MX had been living with FZ, who moved out to ensure that F was able to remain with her mother. To protect the children the identities of the children and their families have been remain anonymised.

3. As I have said above, this judgment concerns only F, a little girl of now three and a half whose mother is MX and father FZ. It is essential that the judgment is considered in the context of the facts already found but I shall not rehearse all of my previous decisions here; in brief the background is that MX had previously lived with her husband FX and their four children. F was born following MX's relationship with FZ which began shortly after FX had left the family home and moved in with the mother of E. The four children of MX and FX remained living with their mother but visited their father and would stay with him at the home of E and her mother. It was when they were there in July 2020 that the four children (F's older half-siblings) complained of domestic abuse at their mother's home perpetrated by FZ. They complained that FZ had also abused them.

4. This judgment, then, is to be read in conjunction with the fact-finding judgment of the Court [*Neutral Citation Number*: [2022] EWFC 12], to which I shall return but, in brief, the relationship MX and FZ was found to be one by blighted by domestic abuse. Although there was physical abuse, it was not only that but also the coercive and controlling behaviour of FZ that extended to the children which crossed the s31CA 1989 threshold. MX was herself found to be the victim of domestic abuse perpetrated by FZ and she was found to have failed to protect the children from the behaviour and abuse of FZ and to have neglected and abused them herself. MX made limited concessions at the end of the fact-finding hearing, but she has since effectively retracted some if not most of those concessions and in any case MX has consistently demonstrated little if any insight into the harmful effects of their upbringing on her older four children who are all the subjects of care orders. MX has always vociferously denied that FZ has been violent and she continues to deny the extent of his abuse both to herself and to her children.

5. When FZ moved out of what had been the home of MX and her five children in February 2021 it was only F, then an infant, who remained in her mother's care; her older siblings were accommodated by the Local Authority. It was considered that it was in the best interests of the four older children (A, B, C & D) to be placed outside the family; all five children, including F, were made the subjects of interim care orders. F remains subject to such an order with the Local Authority sharing parental responsibility. After the fact-finding judgement was handed down, both MX and FZ refused to accept the findings made and this remains their position in February 2023. At the time of the final hearing in January 2023, FZ was refusing to take up his contact with F, and had not done so since before Christmas in December 2022; he said that he found it too distressing. The Local Authority's care plan is supported by F's guardian: it is that F should be placed within her father's family with her paternal uncle and his partner in the West of England. There has been a thorough and positive assessment of this kinship placement. Thus I do not have to consider F being placed permanently outside her family (see under **Law** below).

6. I must now make reference to matters that arose on 2nd February 2023, after the final welfare hearing in January 2023 and on the day the parties' counsel were to submit their final submissions. On 2nd February it was brought to the attention of the social work team manager (MW) that an Assessor Practitioner from Local Primary Mental Health Support Services (CJ) had just spoken to FZ who was described as being in an emotional state; he had made threats against social workers, FX (MX's ex-husband) and his partner. MW made a statement dated 3rd February 2023 which has been provided to the Court and to the parties in which it was reported that he had told CJ "*I am living here, but I shouldn't be. I am not meant to, because I am classed as a danger to children. I do have supervised contact with [F]"*. CJ asked FZ to confirm this address that he said he was living at and he had given MX's address. FZ confirmed this as F's address and said *"I shouldn't be here, they wouldn't re-house me during Covid, I had nowhere to go"*. CJ explained that she has a duty of care to report this to safeguarding to which FZ responded *"I am not living there now, can you just forget I said that"*. CJ reiterated that she had a duty of care to report it, to which he said *"I understand. My life has gone now honestly, they will take [F] from us straight away, there is no point now. I don't see the point now in carrying on with this"*. CJ has since made a statement herself to this effect, it is dated the 7th February 2023 and has been filed and served.

7. On Friday 3rd February, the matter went before the Designated Family Judge at the local Family Court. He approved the Local Authority's interim care plan and F was removed from MX's care and placed with her paternal aunt and uncle where she currently remains pending the final decision of the Court. The case came before me on Monday 6th February 2023; I too approved the interim plan and F was left in the placement with her paternal aunt and uncle where, I was told, she had begun to settle. I considered it was not in her best interests to be subject to two precipitate moves in such quick succession and a possible third move when judgment is given. I have made it clear that the Court's final decision will be decided on the evidence I heard in January 2023 and the previous fact-finding decisions of the Court as a whole and not on events which took place at the beginning of February. The decision in respect of F's welfare and future placement cannot be decided on evidence which has not been challenged in court and in any case the events of 2nd February 2023 would not even if

proved constitute of themselves sufficient reason for the ultimate decision this Court must make.

8. At the hearing in January 2023, which had been adjourned part-heard from September 2022 to allow for further assessment of MX (having heard from the expert witness Dr White in September 2022: see below), I heard from MX and FZ; on behalf of the Local Authority I heard from the social worker and I heard from F's guardian. I shall return to their evidence below.

9. As I have said, this is the final welfare hearing in this case. Of the six subject children final orders have been made in respect of all five older children; a final supervision order was made in respect of E who had always lived with and remains with her mother first, followed by final care orders made in respect of A, B, C and D in September 2022. These care orders were not opposed by FX and MX agreed that her older four children would remain in Local Authority care. The care orders were made on 9th September 2022.

10. At the time of the September 2022 hearing MX and FZ were still in a relationship but assured me that they had not lived together in the former family home since FZ moved out in February 2022, which he had done to ensure F could remain with her mother. It is not in dispute that when FZ moved out it was not because he and MX felt there were any real reasons for him to do so but because they felt they were given no choice and that if FZ remained in the home F would inevitably be removed. In other words, it has been clear that for the past two years their motivation for living separately has had nothing to do with what they themselves wanted or understood to be necessary; quite the reverse. From what the Court is able to make out as it is not clear from his evidence, it is FZ's case has been living on and off with a sister of MX and her husband AS. AS featured in the fact-finding judgment when it was found he had been overinvolved in the case and in the hostilities between the family of MX's and FX.

Adjournment of the Welfare hearing for further assessment of MX

11. At the hearing in September 2022, the Court heard expert evidence from a consultant clinical psychologist, Dr Alison White, who had prepared a clinical assessment of MX and FZ after the fact-finding judgment was handed down. Dr White recommended that the "Resolutions" approach (where parents or caregivers do not accept the court's findings but the subject children remain at home with professional intervention and support) could be considered for MX but not for FZ as he had not reach a stage where, in her opinion, any therapeutic intervention could be effective. In her view, FZ was not even at a point where he was *"pre-contemplative",* to use the psychological term employed by Dr White, and she considered that findings in respect of FZ's controlling and coercive behaviour did not indicate that he was a suitable subject for intervention. Dr White told me that in order to determine whether such intervention would be appropriate in this case at all there should be an assessment of MX carried out by someone experienced in and working with the "Resolutions" model.

12. In her evidence, Dr White had made it quite plain that her recommendation for further assessment was in respect of MX only as she considered that, while not pre-contemplative as such, MX was able to consider the effects of her behaviour and may be susceptible to Resolution-type intervention. Dr White suggested that an assessment

of MX's suitability for such intervention be carried out by Tracey Carboni. Unfortunately, as neither the Local Authority nor Dr White had approached Ms Carboni, there had been no initial consideration/assessment of MX's suitability as a possible subject for a 'Resolutions' intervention. There were misgivings on the part of the Local Authority, and it must be said the Court, that this kind of intervention would be either appropriate or suitable given that this was case where there were findings of domestic abuse between the parents and there were also other issues over and above that of domestic abuse as the harm suffered by the children extended beyond physical harm (typically the Resolutions approach is used when there are findings of inflicted injury which are not accepted by the parents or carers) to include significant emotional, educational and developmental harm; in short, in my fact-finding judgment I had identified a multiplicity of risk factors of likely significant harm to any child in the care of MX and FZ, which would, of course, include F.

13. As those representing the child rightly describe it, the parents' decision to separate entirely and break off their relationship at the hearing in September 2022 was one that occurred at the 11th hour, nonetheless when counsel for MX and FZ told me that they had decided to terminate their relationship and had done so with a view to the assessment being carried out for MX to care for F on her own, it presented an opportunity for MX to be assessed for further intervention which might allow F to remain living with her mother as a sole parent. It was neither practicable nor possible for such an assessment to be carried out during the week of the hearing of the case so in fairness to F, who may be able to remain with her mother if the assessment was positive, the case was adjourned part-heard to allow Ms Carboni to assess MX as a suitable candidate for intervention and support based on Resolutions model.

Facts found in respect of significant harm caused MX and FZ

14. The fact-finding judgment and the subsequent assessments of MX and FZ had identified the risk or likelihood of harm as follows; this is a precis only and it is not exhaustive, reference should be made to the previous judgment and the assessments (the assessment of Dr White is dealt with below) for full details.

    i) FZ was physically and emotionally abusive towards A, B, C and D.

    ii) FZ was physically and emotionally abusive towards MX in front of the all the children including F.

    iii) MX failed (was unwilling or unable or both) to protect the children or herself from that harm.

    iv) MX put her own need to maintain her relationship with FZ before the needs of her own children, including the infant F.

    v) MX put defending and protecting FZ before the needs of her own children, including the infant F.

    vi) MX's prioritised her relationship with FZ to the extent that she allowed him to move in and to become involved in the children's lives within weeks of ending of her relationship with their father FX.

vii) MX and FZ have consistently and repeatedly denied all the complaints by the children, have openly disbelieved them, effectively call the children liars and did not listen to what the children said.

viii) MX and FZ have continued to say that the children are lying.

ix) MX and FZ have failed to accept any except the most limited responsibility for the significant harm caused to the X children and F throughout the proceedings and have continued to do so after judgment was given.

x) MX and FZ sought to blame the children, including singling out a child from another family, for the proceedings and the involvement of the social services in their lives and continue to do so.

xi) MX's failure to protect the children extended and extends to the maternal family (specifically but not only Mr AS and Mrs S (MX's sister) with whom FZ has lived from time to time since 2021. The maternal family unconditionally support MX's narrative of events and exacerbated the significant emotional harm suffered by the children.

xii) Self-evidently the risk of future harm is not ameliorated by the almost total refusal to accept the findings of the Court (Cf the reports of Dr White and Ms Carboni referred to in this judgment). In essence MX has only made one limited admission that the children were likely to have been scared on occasion by shouting in the household.

15. It is the guardian's view and one with which the Court agrees that if F were to live with her mother, as MX does not accept the findings about FZ, her extended family or herself, she cannot be relied upon to provide F with a coherent or accurate narrative as she grows up nor will she assist F understanding the reasons her siblings do not live with her nor provide accurate reasons for why FZ's involvement in her life is to be limited. It is highly likely that the maternal family will continue to collude with MX's false narrative as they did throughout these proceedings. This is bound to have long-term emotionally harmful effects for F, who will not only grow up believing that her siblings are liars who have lied about her mother and her father, but will also be taught to approach all those in authority with hostility and suspicion, affecting her ability to engage positively with wider society as she grows up. F is likely to suffer significant emotional harm, affecting her ability to make and maintain successful relationships both in her private and public life.

Law in respect of the Welfare Decisions

16. It falls to the Court to consider what is in the best interests and welfare of F; my decision is governed by CA 1989 and my paramount consideration is the welfare of the child. This is well established law and is not in issue. To consider what is actually in F's welfare I must, as a matter of law, apply the welfare "checklist" in s1 of the Act. Domestic abuse is now as matter of law[1] accepted as having an impact on children whether or not they are subjected to abuse directly. Moreover, the findings of domestic abuse in the instant case fall within the statutory definition.[2] In this case F's

[1] Domestic Abuse Act 2021 s3
[2] DAA 2021 s1

older siblings had all suffered significant harm while in the care of MX both when their mother lived with their father FX and later when she lived with FZ.

17. I must and I do bear in mind the rights of MX, FZ and F under Article 8 of ECHR to respect for family and private life; their rights under Art 6 to a fair trial.[3]

18. Under s1(1) CA 1989 as set out above F's welfare is the Court's paramount consideration in the care proceedings; in addition, s1(2) provides any delay in making decisions concerning her future is likely to prejudice her welfare; and s1(3) provides the checklist of factors to be considered when determining where her welfare lies, and what order should be made. The final welfare decision in respect of F had already been subject to delay (the last time being to allow for an assessment of her mother) and it is imperative that she is not subjected to more. Consideration of this check list is obligatory (Cf *Re DAM (Children: Care Proceedings)* [2018] 2FLR 676, CA) and while s31 which governs the making of care orders is concerned principally with harm I remind myself the welfare check list has a wider range of factors.

19. As to welfare and proportionality the phrase *"nothing else will do"* taken from the Supreme Court's decision in *Re B (Care Proceedings: Appeal)* [2013] 1075, SC is in respect of adoption or placement order decisions and is not a concept to be applied in this case (Cf *Re DAM* above).[4] Nonetheless I am mindful of the Court of Appeal decision in *Re L (a child) (special guardianship order: reasons)* [2020]EWCA 20, Civ.

20. It is submitted by her representatives on F's behalf that the particularly important issues in respect of F's welfare at her age are her need for safety, security and permanence. The Court must consider the capacity and/or ability of MX and FZ to meet those needs now and in the future. Given the findings of the Court the capacity or ability of MX and FZ to change within F's timescales in order to be able to meet F's needs is a pertinent issue. Thus I must consider any harm which F is at risk of suffering as well as which placement is better able to meet all of her needs. Against that I have to balance the potential harm and the prospective impact upon her of her being permanently removed from MX's day to day care.

21. It is axiomatic that wherever possible, as long as it is consistent with her welfare needs, a child should be brought up within her natural family (Cf. *Re KD* [1988] AC 806; *Re W* [1993] 2FLR 625; et al). This is a fundamental principle of Family Law which case law emphasises and re-emphasises (Cf. *Re B-S (Children) (Adoption: Application of the Threshold Criteria)* [2013] EWCA Civ 1146 [44]. The court adopted the approach set out by McFarlane LJ (as he then was) in *Re G (A Child) (Care Proceedings): Welfare Evaluation [2013]* EWCA Civ 965; *"The judicial task is to evaluate all the options, undertaking a global, holistic and … multifaceted evaluation of the child's welfare which takes into account all the negatives and the positives, all the pros and cons, of each option …What is required is a balancing exercise in which each option is evaluated to the degree of detail necessary to analyse and weigh its own internal positives and negatives and each option is then compared, side by side, against the competing option or options.'*

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[3] See § 7 above

[4] See also the commentary at **2.282[20]** *The Family Court Practice 2022*

22. In *Re J (Children)* [2019] EWCA Civ 2300 the Court of Appeal emphasised that the discipline of identifying and articulating the realistic options and the advantages and disadvantages of each before making a final order should be followed. [5]I keep in mind that the welfare analysis is not an evaluation of proportionality which requires a comparison of the welfare analysis of each placement; a comparison of the benefits and detriments of each option.

23. I have been repeatedly referred to the Supreme Court decision in the case of *Re H-W (Children)* [2022] UKSC 17 which confirms that the above approach is rightly accepted as the standard for the manner in which a contemplated child protection order must be tested against the requirement that it is necessary and proportionate.

24. Once the s31 criteria are met it is for the Court to decide if it is satisfied that a care order (in this case that is the Local Authority's plan) is in the child's best interests. Counsel for FZ and MX urge the Court to consider that the imposition of a protective order in the form of an injunction prohibiting FZ from attending at the home of MX and F would provide sufficient mitigation to render the making of a public law protective order unnecessary. For reasons I shall expand on I consider that this in itself proffers a disproportionate response to the risks that have been found in this case; these risks go far beyond that of FZ simply returning to the home of F and her mother. Counsel have also failed to address the issue of enforcement for there is no evidence to support any contention that MX would report FZ if he did so. The history is of damaging, harmful parenting by MX and serious and pernicious abuse by FZ. There has been significant psychological and developmental damage to MX's other older children and evidence of it beginning with F already being told inaccurately about past events and being set up for a conflicted upbringing dominated by her mother and father's hostility to those with whom they disagree.

Further Assessment of MX and FZ post fact-finding

25. After the adjourned hearing in September 2022, following Dr White's recommendation and at the Court's direction, Ms Tracey Carboni, a qualified Social Worker (of Praxis Child Safeguarding Consultancy which uses the Resolutions model of intervention) considered the case papers and prepared a report. Ms Carboni concluded that the case was not suitable for the Resolutions model of safeguarding intervention. Her reasons are set out in full in her report[6] the salient passages of which I repeat here, but I consider that it is not surprising, given the previous findings made by this Court, that Ms Carboni concluded that *"this case is not appropriate for a Resolutions Risk Assessment. It is unlikely, in my view, that a full risk assessment would conclude that it is viable to deliver a full programme of work to the family at this time."* And that there is a *"constellation of risks within this family which the parents need to address."*

26. Ms Carboni specifically referred to the findings of domestic abuse and said, "*Thus I am also worried about the Court's findings of coercive control. Again without work or a credible separation, a Resolutions programme would potentially be rendered simply 'containing' the risk with no clear ending/exit plan. There is then a clear risk*

[5] See also *Re L (a child) (special guardianship order: reasons)* Ibid.

[6] Dated 30th September 2022 at E1255 et seq of the bundle.

of the parents reunifying further down the road in my view, and this could be months or even years ahead given the fact that they have not undertaken any work to date. I agree therefore that their motivation is primarily externally located and the risk still unchanged. Furthermore coercive control does not simply 'walk away,' and the function of denial in coercive control and most (not all) forms of domestic violence is linked to ongoing risk. This is due to distorted thinking, impulsiveness, lack of empathy etc and this risk requires specific work."

27. In addition, Ms Carboni referred to the findings of significant harm suffered by F's older siblings; *"Moreover whilst the parents love [F] there is evidence with the older children of a clear lack of empathy in the parenting styles (such as consistent attunement). It seems as though as the children in the family develop mother (and father) may be unable to mentalise the children's needs especially when their own personality traits are amplified due to social stressors. My view is that without the right work, this pattern is likely to repeat itself and that both parents' respective positions of denial may be part of a broader pattern, although some of their denial is likely to be shame based and this can reduce motivation to change. The latter is familiar territory in Resolutions – it is the broader pattern that worries me."* I can find no fault with Ms Carboni's analysis.

28. In her assessment Ms Carboni referred to the external motivation of MX and FZ in respect of their expression of willingness to break off their relationship and/or undertake therapeutic work and went on to say, *"Linked to this … the parents are currently externally motivated and work would need to be undertaken with them to help them move towards contemplating change, and this is likely to take several months with no guarantee of the work being successful and would need ongoing risk assessment."* In plain terms, even if there had been a willingness on the part of Praxis to undertake work with MX, there would have to be preparatory work done with MX and FZ which would take months and would require continuous risk assessment and the likelihood of successfully progressing to the parenting intervention work itself was considered to be low. Ms Carboni again made specific reference to domestic abuse (something that MX still denies taking place) and although she questioned whether the work that had taken place was suitable or effective; she said, *"I wondered why IFST work had not been implemented in this case previously rather than Signs of Safety given that they draw on different theories in part and given that IFST now works with domestic violence and motivation…";* she did not recommend further work take place.

29. In using the words *"externally motivated"*[7] Ms Carboni was explaining that in her opinion if MX had in fact separated from FZ she had done so not because she understood it to be necessary (internal motivation) but because she knew that professionals considered it necessary if F were to remain with her; MX herself continued to consider that FZ did not pose any risk or that there was any real or actual need for them to separate. This means that not only was it an act of expediency (rather than one based on insight) but also that the likelihood of the separation being maintained was compromised from its outset. This view that the parents' separation was externally motivated is one shared by the guardian and the Local Authority.

[7] See§10 above.

30. It was Ms Carboni's view that she could not be confident that MX and FZ had separated and, as she said, she referred to both parents (as a couple) throughout *"because I believe that it is still important to consider the risk systemically until there has been a credible effort from mother to separate. If she were to seriously separate from father she would likely need a safety plan around her and support. However in order for this to take place it is important to remember that mother is also a victim as well as a risky parent in this case and her motivation is unlikely to change until this duality is recognised.* ***If*** [my emphasis] *the parents are separated, this is too soon for me to have confidence that the separation will be enduring."*

31. It is a fact that MX does not recognise or accept either that she is a risky parent or a victim of domestic abuse and she has never sought any protective orders. In taking that stance there can be no charge of hypocrisy on her part, but that fact wholly undermines the submissions made on her behalf that the court should put protective orders in place and that if it were to those orders could be considered effective. Similarly, when FZ's counsel pursues the imposition of protective orders or injunctions preventing his client from attending MX's home to be imposed it is not based on concessions made by FZ, still less that he has gained insight into the risk he poses. Given that both MX and FZ continue to deny domestic abuse (and in FZ's case all the harm he caused to the older children), it is difficult to see on what evidential basis they submit that orders could or should be made, let alone enforced. At no point has such a suggestion been made by Dr White, Ms Carboni or any other professional that the substantial deficiencies in parenting which led to the older children suffering significant harm and the concomitant likelihood of real harm to F could or should be resolved simply by the imposition of injunctions and protective orders. If the solution were that simple, they would certainly have suggested it.

32. Such as "solution" is of itself disproportionate, I use the term in its literal sense and not as a legal term, as not only would it be unlikely to mitigate the actual harm caused and likely to be caused but for breaches to the order even to become known would require MX to report them and on past evidence she would not do so. This can be safely inferred from her denial of past violence and abuse, and from her continuing defence of FZ and his conduct and from the fact that the limited concessions she had made in the past are now repudiated. Furthermore, there has already been one occasion that is known about in June 2022 when FZ was found at night by police in the vicinity of MX's home after there had been a dispute between MX and one of her neighbours. MX did not inform the Local Authority about this at the time; it only emerged months later through police disclosure. Although both deny that he came to the house or that MX or F saw him it is inconceivable that she did not know about it and she certainly did not report it afterwards. Nor did FZ.

Likelihood of future significant harm

33. In my previous judgment I found that the significant harm suffered by the children was compounded by the conflict between the families of MX and FX; the hostility between members of the extended families particularly emanated from the family of MX and included the maternal grandparents, the children's maternal aunts and uncles (especially AS) which in turn incrementally increased the level of distress caused to the children. There is no evidence to indicate that that conflict between MX's family and FZ and their hostility to social services and professionals or anyone who is not seen as being on their side has dissipated. As FZ continues to live with MX's sister

and her husband AS (who was found to over-involve himself with the proceedings to the detriment of the children) it is plain that AS must support FZ's version of events or FZ would not have remained a constant visitor.

34. Further, as was abundantly clear from the recent oral evidence of MX, she remains embroiled in the inter-familial hostility and her antipathy towards FX has not diminished, as she complained repeatedly about what she perceived to be partial treatment by the Local Authority in respect of his involvement in B recently absconding from foster care. Such was the level of her antipathy that MX considered it to be a legitimate excuse for failing to take F to nursery the following day. MX demonstrated little or no insight into the fact that she had chosen to put her hostility to FX before the needs of the child who had remained in her care and that her decision was detrimental to Fs welfare.

35. The Court has found that MX is, to use Ms Carboni's term, a risky parent. The extent of the emotional damage caused to F's older siblings by inadequate parenting on the part of MX included the undoubted harm caused to A's and B's education as both A and B missed schooling. In B's case, the fact that she missed the entire first year of secondary school year was found to be largely attributable to MX who had accepted she had the day to day care of B; yet in her oral evidence in January 2023 she again revisited all the arguments she had used in 2021 which were dismissed in my previous judgment and, for example, again tried to blame Covid-19 rather than accepting that she had failed to enrol B in a secondary school in September 2019. All the children suffered emotional harm while in the care of MX and their father (FX) and further emotional abuse and physical harm and the risk of physical harm when in the care of MX and FZ.

36. To consider F's welfare now and in the longer term it is necessary to remind myself of all the emotional and psychological harm which was suffered by the X children; they continue to suffer its consequences and A and B will undoubtedly carry those consequences into adulthood, in addition to which the harm to their education means each has been denied the opportunity of reaching their full potential. A as the oldest has had the most manifestly damaging childhood because it was already evident at the fact-finding hearing that he had not only missed out on schooling, he had also suffered abusive treatment from a very young age because of what his parents had decided was his difficult behaviour. Not only did FX single him out at home, he also had little or no support at home from MX either with his schooling or the other developmental difficulties as a result of which A developed a language impairment. Dr P, the clinical and forensic psychologist who assessed him, highlighted A's missed schooling and reported that his specific language impairment seems to have resolved but that A had a residual stammer. A remains a very vulnerable and damaged young person.

37. B was described by Dr D, the clinical psychologist who assessed her, as presenting with significant psychological difficulties, including depression, anxiety and the symptoms of trauma. According to Dr D, B exhibited an ambivalent attachment style when she feels overwhelmed and her behaviour serves to communicate her distress (referred to more colloquially as acting out). B has a borderline learning disability which has not been assisted by missing the entirety of her first year at secondary school. Although this was accepted by MX during the fact-finding as I referred to above, in January 2023 MX once more made excuses and tried to blame others and

Covid for this missed first year of secondary school. In my previous judgment I found that it was likely that MX found it useful to have B available to assist with child care.

38. Both A and B were placed by the adults and their extended family at the centre of the inter-familial conflict. FX's longstanding antipathetic parenting of A (which had been tolerated, if not condoned, by MX) undoubtedly led to his taking B's 'side' and led to the irreparable breakdown in the relationships between A and his father and within the sibling group. MX was ambivalent at best in her parenting of A and B at a crucial point in their development as adolescents, during which she also repeatedly failed to protect both from the aggressive and abusive behaviour of FZ after he moved in, and allowed him to assume a premature paternal role which was antipathetic to their needs and demonstrated beyond question her determination to put her relationship with FZ before the needs of her children. Further, there is evidence from the Local Authority that A has recently been told by about issues which have arisen in F's case either by his mother or members of the maternal family. Not only is this inappropriate and unfair to A, it is indicative of MX's continued need to recruit others to her cause regardless of whether or not it is appropriate or, in A's case, in her already damaged son's best interests. It is further evidence that MX continues to put her own needs and concerns before those of her children.

39. Although C was only 9 at the time the incidents leading to the proceedings occurred, Dr D assessed C as being likely to have experienced parenting from his parents (MX and FX) and carers (FZ) that did not consistently meet his needs, resulting in "*quite avoidant and independent attachment style*". Poignantly C had tried hard to look after his younger brother D. D was just over 6 years old when the proceedings started and Dr D reported that D spoke about being afraid of FZ which was consistent with his previously reported complaints to others, and said that D repeatedly recalled events which had been traumatic for him. D was traumatised by the behaviour of FZ, behaviour which MX did nothing to stop.

40. F was only a baby of 12 months at the start of the proceedings; then as now F is vulnerable by reason of her youth and her dependency on the adults around her to keep her safe and secure. It is a matter of fact and common sense that F would have little memory of living with her older siblings or with FZ now as they had all left by February 2021 when she was only eighteen months old. It is unsurprising that reports from F's nursery school that she has said FZ is sleeping in her home have alarmed her teachers and her social worker. I repeat now the finding that as an infant F would have been affected by the milieu in which she was being raised in the midst of FZ's abusive and aggressive behaviour and her mother's unwillingness or inability to protect her from it. It is now a matter of statutory law (Cf. s3 Domestic Abuse Act 2021) that domestic abuse is harmful (has an impact on) a child of any age who sees, hears or experiences the effect of the abuse regardless of whether or not it is directed at the child herself.

41. It was largely as a result of four older children's complaints to others about the abusive behaviour of FZ towards them and their mother that public law proceedings were commenced. The children said FZ was physically abusive to MX and to A in particular. As they had made clear in their complaints about FZ shouting at them, being verbally abusive and physically abusive both to them and their mother the two youngest boys were scared of FZ. Even so once again it was A was picked out for abuse and his complaints about FZ emerged not long after FZ had moved in during

the summer of 2019; when back at school that September, A complained that FZ rammed his head into a wall. A had provided a written statement, said that FZ had gripped his arm in a separate incident and told the school that FZ drank alcohol every day.

42. This abuse and the other abuse found by the Court is still denied by FZ and by MX, but the Court had found to the requisite standard of proof that (amongst other incidents) FZ threw a shoe rack at A when MX was in the way causing a cut to her finger; that FZ had physically assaulted A by shoving his head into wall; on another occasion FZ had grabbed A by the shoulders and pushed him through a door; and that the other children had seen FZ's ill-treatment of A. The children had heard FZ shouting at MX and heard her screaming and they had seen him try to strangle her. They witnessed FZ smashing household items, including a plate which broke by baby F's cot.

43. In addition to the physical violence, FZ was verbally abusive to the children and when he shouted at them he used threatening and derogatory language, swore at them and called them by abusive names and terms. All the children, including F who was present in the home, experienced FZ's anger, his aggression and his emotionally unpredictable and volatile behaviour including threats to leave and to kill himself by jumping off a bridge. This threat was part of the coercive behaviour he used to control MX and her children. That threat has significance now because in January 2023 FZ told the court about an occasion in or around December 2022 when he had jumped off a bridge onto the verge of the M4 motorway, sustaining minor injuries for which he had sought no medical attention.

44. The significant harm suffered by her children attributable to MX is set out and particularised in my previous judgment and includes findings of her repeated failure or inability to protect the children from FX and later FZ. In my judgment I considered and determined that the complaints of domestic violence and abusive behaviour in the MX/FZ household and the acts of domestic abuse against MX as perpetrated by FZ were witnessed by the children. This included F. During the fact-finding MX implicitly and explicitly accused her own children of lying and the fact is that she continues to do so, as does FZ. From her oral evidence in January, I have to conclude that MX displays a chronic lack of insight into the undoubted effects of her disbelief on her children. There is now evidence that MX has begun to take the same stance with F.

Evidence of MX and FZ

45. In January 2023 I found that once again both MX and FZ were at times belligerent when giving evidence, just as they had been in the previous hearing. Although some hostility is understandable it is of concern that they have moved on so little since the Court handed down the fact-finding judgment. MX contradicted herself both in her oral evidence and in respect of the written evidence filed on her behalf; this too is congruent with her oral evidence at previous hearings. As in the fact-finding hearings FZ again disassembled, was aggressive and repeatedly tried to prove points which he considered provided *"proof"* that others were in the wrong or lying but refused to see, or could not see, that his points did not withstand scrutiny. In her evidence MX did, at times, try to distance herself from FZ but the fact remains that in all the essential matters MX continued to repeatedly and continually take FZ's part.

46. Based on her own evidence during the fact finding hearing it was found that MX had implicitly and explicitly approved of FZ's "parenting" of the four older children, describing FZ as *"strict"* but imposing *"routines"* within the household although there was no evidence of anything amounting to routines and still less any evidence of how they might have benefited the children. MX demonstrated her inability to parent empathetically by her failure to consider the impact of her decisions or actions from the children's standpoint, particularly in respect of her relationship with FZ. MX did not see, or deliberately chose to overlook, the fact that to the children FZ was not their parent or step-parent but a stranger who she had allowed to move in within weeks of their own father leaving home; and that this stranger was allowed by their mother to shout at them, threaten and abuse them. To the children, their mother had permitted a stranger to take over in their home and to control everyone by imposing his rules.

47. MX failed, even in the most basic way, to prepare her children for someone moving in. She had also allowed him to upset the household and take control by using abusive, harsh and intimidating behaviour. Even at the most basic level, FZ betrayed his lack of tolerance and ability to care for children. As A described to the police in an interview in August 2020, FZ did not like it when the children made a noise and would get angry; it should be obvious to anyone that four children of varying ages living together will naturally make a noise. From the outset of their relationship and since, MX has demonstrably put her need to maintain a liaison with FZ above and before the needs of her children.

48. In her written evidence, MX claimed to accept parts of the judgment but as submitted on behalf of the Local Authority, the reality of her position was summarised by Dr White *"[MX's] acceptance and acknowledgement of the Findings [sic] is limited. She demonstrated a superficial level of insight into the concerns of the Court, and put forward a view that she could only base her thinking on what she had lived experience of"*[8]. I find that in her oral evidence MX maintained this stance by refusing to accept anything else that others say or have experienced unless she can say that she has immediate experience of the matter herself; thus MX chooses not only to avoid accepting facts she finds unpalatable but also to accuse her children of lying. In this way and by emotional manipulation in attributing abusive behaviour to FX and not FZ, she has not and does not listen to her children, denying them any parental empathy or emotional support for the physical, emotional and psychological harm they have suffered. MX compounds this harm by refusing to take any real responsibility, even in part, for the fact that the children have been separated not only from her but from each other and placed in foster care as a direct consequence of her parenting.

49. From their evidence and even in their presentation at court MX and FZ appear to be a couple, and in their separation it is clear that MX and FZ were and are motivated by the external factor described in this judgement. When they say that they have separated physically and emotionally it is because they know that they had to say that in order for F to stay with MX. That external motivation was the sole reason that FZ moved out of MX's home in the first place; certainly MX saw no reason for him do so associated either with the Local Authority's concerns at the time or that facts as found by this Court subsequently. During her oral evidence MX confirmed that she had said

[8] Para 1.5 of the report

to Dr White[9] that FZ was and is an amazing father. In all her evidence to me MX has struggled to say anything negative about FZ and it is clear that she continues to support him emotionally and financially (see below). I find that MX and FZ remain emotionally dependent on each other, and it is a fact that they continue to be financially interdependent.

50. In fact and in reality this is a couple who have never wanted to separate nor understood any real need to do so. They pursued a case for the joint care of F until they had no choice but to give that position up after the evidence of Dr White and the Court's observations on that evidence. Both MX and FZ deny that the motivation for separation was external and claim it was because it was in F's best interests but both were quite unable to give examples or any explanation of what those best interests may be. They are unable to demonstrate any understanding of why it is necessary and in the interest of their child's welfare to separate. Indeed when taken as a whole the actuality of their evidence is that FZ poses no risk and that there is no risk or likelihood of harm to F in the short, medium or long-term. It was, as was submitted by the Local Authority, telling that neither MX and FZ were unable to describe to the Court the content of their discussions in September 2022 leading up when their counsel told me that they had separated. If they really had ended their relationship, I find it impossible to accept that they would not have been able to describe at least some of their conversations leading up to their separation, particularly how they had articulated the need to terminate their relationship in the context of what was best for F.

51. It is the evidence from the social worker that the day after the decision to separate, MX told her and F's guardian that the couple intended to remain friends and that they may go to the bingo together in the future. At the time MX appeared to suggest that the decision may have been FZ's which gave rise to concern about his need to control. In September 2022, I had made it clear to both MX and FZ that the Court would need clear evidence of separation if F were to remain with her mother in the long term.

52. I have already referred to the opinion evidence set out in Tracy Carboni's report above and specifically her view that without work or a credible separation, a 'Resolutions' programme would simply be *"containing"* the risk with no clear ending and that *"is then a clear risk of the parents reunifying further down the road in my view, and this could be months or even years ahead given the fact that they have not undertaken any work to date. I agree therefore that their motivation is primarily externally located and the risk still unchanged…*" and later she said *"If the parents are separated, this is too soon for me to have confidence that the separation will be enduring…"*. As it is the evidence of both MX and FZ that they deny both that the abuse found took place and that there is any risk of further abuse, Ms Carboni cautioned that *"the function of denial in coercive control and most forms of domestic violence is linked to ongoing risk. This is due to distorted thinking, impulsiveness, lack of empathy etc and this risk requires specific work*". This cautionary view is one that cannot be overlooked as there is ample evidence of distorted thinking and a lack of empathy in this case on the part of both MX and FZ.

53. The Local Authority and F's representatives submit that there is no objective and/or independent evidence of separation and point to the fact that MX is in regular contact

[9] Para 10.11.17 at E952

with FZ. It appears that they are in contact most days, and although MX denied it was every day, it was the social worker's evidence that in October 2022 (when F had been unwell) MX had said she contacted FZ every day. At the time F was kept off nursery school but the school was not informed by MX about the reason for her absence. Nor did MX tell the social worker although F was at home under an interim care order meaning MX shared parental responsibility with the Local Authority. MX has had the benefit of experienced family public law lawyers throughout; it is inconceivable that MX did not know this and was unaware, as she claimed in evidence, that she had to keep the social worker informed about what was happening to F. MX said that she only told FZ as the social worker would fail to do so; this is clear evidence of her antipathy towards the Local Authority and of her inability to work with or engage with social services. Her own evidence about the reason she told FZ was simultaneously negated by the fact that the social worker could not fail to share information with FZ if she had not been given it in the first place. This is but one example of when MX, in her determination to put the Local Authority in the wrong, undermines her own evidence and so puts her credibility in question. The same can be said of the evidence of FZ.

54. The fact that MX and FZ have never separated financially, they continue to make a joint claim for universal credit, supports a finding that they remain in a relationship. I reject their evidence that all the staff they spoke to who worked in the Department of Work and Pensions (DWP), Citizens Advice Bureau (CAB) or the Mental Health Team advised them as service users to continue a joint claim for benefits from the same address (a requirement for a joint claim) in the knowledge of a permanent separation. The DWP have confirmed, in writing, that the department was not informed of any separation in respect of their benefit claim in a written response to the order of the Court. Even if it were likely that one of the officials that they spoke to in the CAB or in Mental Health services suggested that they continue making a false claim (as on their evidence they are not living together) I do not accept that every official they spoke to advised them to pursue a fraudulent claim.

55. In any case both MX and FZ were well aware, as I had told them so in September 2022, that they would be required to demonstrate to the Court that they had, in fact, separated. To continue to make a joint claim for benefit is factual evidence of the contrary. MX gave detailed evidence that the authorities and officials had been told and knew about her separation from FZ and I reject her evidence. I have been reminded and remind myself that people lie for a myriad[10] of reasons and that both MX and FZ may be lying because they have committed an offence; while that is something I keep in mind, in the context of this case in the Family Court I find that it is more likely than not that they have both lied about their joint claim because they do remain in a relationship and that it is evidence that they are more likely than not to

[10] 1. *R v Lucas* [1981] QB 720. The legal principle it sets out is as relevant here as in any criminal case. The principle is that if, after a witness has given evidence, the court concludes that witness has lied it does not follow that they have lied about everything in their evidence nor can the lies, of themselves, provide proof of the facts alleged. A witness may lie for many reasons, out of shame, humiliation, misplaced loyalty, panic, fear, distress, confusion and emotional pressure. The Lucas direction has been adopted by the family courts for many years and was considered in the Court of Appeal by McFarlane LJ (as he then was) in *H-C (Children)* [2016] EWCA Civ 136. The judgment emphasised the need for any judge hearing a family case not to take a lie as direct proof of guilt, and I have in mind his words in [100] *"In my view there should be no distinction between the approach taken by the criminal court on the issue of lies to that adopted in the family court. Judges should therefore take care to ensure that they do not rely upon a conclusion that an individual has lied on a material issue as direct proof of guilt"*.

return to living together as soon as they consider it to be safe to do so once proceedings are over, if they have not already done so.

56. In respect of the relationship between MX and FZ there is very little evidence that they have in fact emotionally separated and the objective evidence is that they remain partners; that they are a couple. While I accept that it is likely FZ has not lived with MX full time since he moved out in February 2021 (when F was about eighteen months old), I do not accept that he has never visited or stayed overnight. When questioned about their separation MX intimated that as they had not lived together since then their relationship was effectively coming to an end by September 2022. There was absolutely no evidence of that at the September hearing. Indeed at that stage it was her case that they wished to care for F together; this is another contradiction in her evidence which undermines her credibility. While MX denied the possibility of them living together again, FZ was noticeably evasive about it and became agitated, refusing to answer questions put to him about moving back in with MX in the event that F is placed elsewhere.

57. It is FZ's case that he has mostly lived or stayed overnight at the address of AS and has done so between February 2021 and up to a few weeks prior to the final hearing in January 2021. FZ was very vague about where and with whom he had been living at other times; at times argumentative, FZ avoided or refused to answer questions about this and I found his evidence wholly unconvincing. He must know where and with whom he has stayed and slept even if he cannot remember the precise dates and time. From the information he has actually given the Court it is evident that FZ's closest links in the area are with the maternal family, and with AS and MX's sister in particular; he clearly remains caught up in their narrative of events and they in his.

58. There is other objective evidence that MX and FZ still consider themselves to be a couple and in a relationship, certainly on the part of FZ. From his GP records it emerged that FZ has very recently (and certainly since September 2022) told his GP that he remains in a relationship with MX referring to *"my partner"*. His explanation that this was West Country slang and referring to his "*live in partner [AS]*" is frankly ludicrous; the GP notes seen by the Court were, both in context and detail, clear to any reader. Specific reference is made to FZ living with his partner's sister and brother-in-law (AS and his wife), a further reference is to FZ living with his partner's sister; and the notes say that social services have taken four children away from him and his partner. It was recorded that he said he had shown his partner his injuries after he jumped off a bridge on the M4; and that a decision is to be made if his daughter stays with him or not; the note does not read if F stays with MX alone but specifies it is with FZ.

59. There is also evidence from police records is that FZ has been found in the road in which MX lives and was still abusing alcohol in the summer of 2022. FZ involved himself in an incident concerning MX and her neighbour. At the time even the neighbour knew that FZ was not supposed to be at the address because of child protection concerns. FZ is adamant that he did not go to or enter MX's home. MX says it was late in the evening and F would have been in bed and anyway she did not see FZ. While it is true to say that FZ was not prohibited from using the road as a thoroughfare he had no legitimate business there. If, as he claims, he had moved out and did not live with MX then whatever had happened between her and the neighbour was not his business. Even if he chauvinistically thought that it was, there cannot be

even the slightest suggestion that his going there would have assisted MX or F; indeed being found there would have put F's placement with MX in jeopardy which undoubtedly contributed to the fact that neither of them told social services about the incident, effectively lying by omission. Either he went there that evening to involve himself in a dispute concerning MX to control the situation or he was already there when the dispute arose.

60. In her evidence MX remained sympathetic to FZ's view that lies have been told about him, that he has been picked on and made out to be a bad person and a monster. Despite her protestations during her oral evidence that FZ's actions and his evidence and views have nothing to do with her, the fact is that there is little if anything to distinguish the case put by MX to that of FZ. It is noteworthy that it was counsel for FZ that most pressed assiduously for an injunction by way of mitigation of risk as this was despite FZ's own evidence that he did not pose a risk and had no intention of returning to MX's home. It was, if not disingenuous, misleading to urge on the Court injunctive relief as mitigation which would be capable of effectively removing the risks of harm already identified and the likelihood of harm to F in the future emanating from FZ. Injunctions do not provide protection *per se*; to have forced the person to be protected would actively assist the authorities in enforcement by reporting any breach or attempted breach. I find that there is little or no evidence to support MX's assertion that she would do so and that, taken as a whole, the evidence is that it is more likely than not that she would not. There was a total absence of any evidence that FZ would self-report; FZ did not give any evidence to that effect nor did he say in his evidence that he would consider a court order to be a deterrent.

61. In respect of other aspects of his evidence, FZ has consistently denied causing harm or being the perpetrator of any abuse; instead, he attempts to portray himself as a victim of falsehoods and even a conspiracy on the part of the authorities to label him unfairly as a violent pariah. Although at the end of the fact finding hearing FZ had accepted that the harm suffered by F and the likelihood of harm suffered related to emotional harm and the impairment of her social, emotional and psychological development, he did not and does not accept that the definition of harm in relation to F should include physical harm. In his most recent evidence there was, if anything, a reversal of what he had accepted previously; nothing he said demonstrated any insight into the risk of harm that he might pose in respect of his daughter.

62. FZ has repeatedly and consistently failed to be open and honest with the Court or the Local Authority. It was only *after* the receipt of positive drug tests that he accepted that he used amphetamine fairly regularly, but only during the 95 days (prior to 29th January 2021) covered by the chemical analysis, and that his substance abuse was likely to have impaired his ability to meet the emotional, psychological and physical needs of any child in his day to day care. Prior to being tested he had denied using drugs at all; after the test results and in his oral evidence, FZ sought to minimise and dismiss the results. His limited acceptance that he was only abusing drugs during the time for which the Court had test results was contrary to the evidence of members of his own family who described FZ's amphetamine abuse as going back many years. Thus taken as a whole the evidence before this Court is that he is unlikely to come clean over any breach of a protective order so reducing any possible mitigation to the risk he poses that such an order might have provided.

63. In my previous judgment I found that in his oral evidence FZ was avoidant, dissembled and was at times aggressive and now find that the manner in which FZ gave evidence in January 2023 was strikingly similar as was his tendency to self-pity and attempts to manipulate and elicit sympathy for his situation, and I find that this was calculated to deflect attention from the safeguarding issues which arose from his conduct and behaviour towards others.

64. While FZ no longer puts himself forward as a joint carer for F, he wants weekly contact if she lives with her mother and he said he accepts that contact would have to be supervised by someone other than MX. Be that as it may, FZ has refused to take up any contact with F at the contact centre since December 2022. Once again it was because of his own needs rather than F's as he said that it was because he found it too distressing for himself and because he did not trust the contact centre workers not to share information he considered to be adverse to his interests. His decision is at once based on self-pity and a complete lack of consideration for F and what is in her best interests. It also undermines any assertion on his part that he would be willing to co-operate with that or any other contact centre or be any more accepting of supervised contact in the future. His self-centred and self-pitying approach to contact right at the time when a final decision is about to be made in respect of his daughter is redolent of his stark need to manipulate and his histrionic approach is evidence of his inability to empathise with his daughter and to put his own needs first as well as his predisposition to blame others, particularly those in authority, for his behaviour and the situation in which he finds himself.

Recent evidence concerning FZ

65. There are reports from F's nursery school which the Court cannot dismiss or ignore as they are pertinent to her welfare. It has been brought to the attention of the Local Authority by F's nursery school that F told her school teacher that FZ (Daddy) sleeps in the same bed as her mammy and is there at night. The first occasion was on 18th November 2022, when F had been playing with furniture on a doll's house she mentioned a few times *"Mammy and Daddy's bed"*. When she was asked who slept in the bed, F replied *"Mammy and Daddy."* When asked where she slept, she pointed to another bed; she was asked where does Mammy sleep and F pointed to the double bed. When F was asked who slept in the bed with Mammy, F replied *"Daddy."* F was then asked when she woke up in the night who gives you a cuddle, F replied *"Daddy"* and had then said and *"Mammy"*

66. The second occasion took place on 13th December 2022, when she had been drawing a picture of Mammy and Daddy she was asked where Daddy lived, F replied in "*my house*". She was asked where Daddy slept, F replied in "*Mammy's bed*."

67. The Court was told on 6th February 2023 that F has subsequently said similar things about her father being in the house on two further occasions. Once to her social worker (CE) on 27th January 2023 when F said her father lived in her home, and the second time to the social worker (RM) on 6th February 2023 on a visit to her uncle and aunt's home where F is living at present. RM did some 'Words and Pictures' with F designed to help F understand where she is and that she would still spend time with her parents. In RM's statement dated 8th February 2023 (which has been filed and served) it is reported that during the words and pictures work F was asked *"who lives in [F's] house…"*. F replied *"Mammy and Daddy"*. F was asked *"does Daddy have a*

different house too?" to which she replied "no". As the respondent parents have not had the opportunity of responding to or challenging the reports about 27th January and 6th February 2023 (they occurred after the welfare hearing), I do not rely on them in reaching my decisions below.

68. When she gave evidence, MX was asked about the earlier two instances in November and December 2022 when it is reported F had said FZ slept at her home. MX insisted that F was confusing the past with the present and it was only her memory of FZ being there before he had moved out two years previously. The Local Authority make the point in their final submissions that it is difficult to understand how F has any real memory of FZ in the household as she was just 18 months old when he left. I agree and I find it highly unlikely that she was confused or that it was an old memory. If FZ had left F's home as he claims when she was still an infant and never returned, it would mean that she has spent the last two years without him being there, meaning that she had spent more of her life without his being there at all and there is little or no reason for any confusion. Secondly, her memories of seeing her father and being with him from those past two years would have been of spending time with him at a contact centre. Thirdly, it is most unlikely that a child would remember her parents sharing a bed at a time she was still only a baby. Finally, the questions that F was asked were open questions about what was happening now and in the present tense and F responded equally openly.

69. Characteristically FZ's response to this evidence was so say that it was all lies. He said that the school was colluding with the social worker who had told the school to report it. It remains unclear if he was saying that F had not said anything or that she had but was put up to it by her teacher at the behest of the social worker; in other words, he claimed F had been coached and was lying or that F was just lying or that it was only the social workers and the school that were lying. Whatever his case, it is evidence that he is predisposed to dismiss what his daughter is reported as saying and/or once again to accuse other people of lying when he does not like what F is reported to have said about him.

70. The report from the school had emerged at a statutory LAC review on 22nd November 2022 at which both parents were present. Unfortunately, although circulated, the minutes of the meeting were not agreed but fortunately the guardian, who was present, had kept her own notes which were then put into evidence. There was some dispute about what was said and decided at the review, in particular MX said that it was she who had been tasked with undertaking some 'words and pictures' life story work with F. The social worker and the guardian both gave evidence to the contrary; their evidence was corroborated by the contemporaneous note made by the guardian. Those notes confirmed FZ's aggressive and agitated response to what F was reported to have said, his denial of what has been said by F and his accusations of some kind of collusion between the school and social services. FZ has never proffered any salient reason for childcare professionals and teachers to collude and invent evidence other than in general and histrionic terms; that the authorities conspire against him and that they are all are determined vilify him and to pick on him.

71. It is the Local Authority's case that MX refused to have the words and pictures life story work carried out by the social worker and that MX had not been asked to conduct any such work herself. I find it is simply not credible that any Local Authority would task a parent with such work especially after that parent had

previously been found by a court to have little or no ability to deliver a child-centred and impartial narrative to her children in the past; it would be a negligent act for the Local Authority to have done so. Secondly, I prefer the evidence of the social worker and guardian in respect of what was said at the meeting; the guardian took a note at the time and gave oral evidence which was wholly consistent with that note. The guardian's evidence was measured and child-centred; neither she nor the social worker had or have anything to gain by telling me what they said had happened. Thirdly, despite MX having accepted that she is not qualified or trained carry out this kind of work, she set about doing so and she failed to consult or inform the social worker of her intention to do so. On the balance of probabilities, I find this could only be because she wanted to control the narrative and what F was saying at school. It is most unlikely that F could have volunteered the information about where her father slept out of a confused memory more than two years' old when she is only 3 ½.

72. Although unlike FZ MX did not seek to deny that F has said what she had been reported as saying or suggest that there was some sort of conspiracy, I find her explanation that F was confused unconvincing. Furthermore, there is evidence that MX had deliberately set out to confuse the child herself so that she could influence any future disclosure by F or explain it away. I have seen the book setting out some two or three pages of 'work' that MX did with F. It provides evidence of MX's determination to control F's perception of home and misrepresents the history of what happened in F's home and to her family.

73. MX had depicted for and with F a 'dream house' in which all her immediate family including her siblings, F and FZ live. The term 'dream house' will have an obvious meaning to anyone including to a 3½ year old child. If this child has lived exclusively with her mother for the past two years it is deliberately misleading; if it was anyone's 'dream house' it is MX's. It is not F's reality and betrays MX's desire to influence and determine that what F says about home is what MX wants her to say. It is anything but child-centred and is, I find, detrimental to F's welfare as it is a no more nor less than her mother's attempt to control the narrative of F's life. Furthermore, this unilateral decision by MX to undertake 'work' which cannot be said to be in F's best interests has provided further evidence of MX's unwillingness and inability to work collaboratively with the social services; even at a time an interim care order is in place and leading up to a final welfare hearing.

74. When all the above evidence is taken as a whole, I do not accept that MX and FZ have separated emotionally or physically and find that it is more likely than not that FZ has stayed overnight at MX's address when F has been there and visited frequently. Moreover, regardless of the number of occasions FZ has stayed it is abundantly clear that in reality MX and FZ still present as a couple and that they remain emotionally and financially interdependent; I further find that their relationship will have been evident to F and that she sees *"Mammy and Daddy"* as being together.

75. Even if the separation had been established as genuine it does not reduce the risk and likelihood of MX forming another inappropriate and harmful relationship; Dr White's evidence was that in her view MX would struggle to be positively discriminating in choosing a partner because of her avoidant personality and that she is likely to accept any likely partner and take what he tells her at face value, rather than *"digging*

beneath the surface and appraising her situation more rationally based on all of the evidence at her disposal".

76. Taking all the evidence into account and on the balance of probabilities, I consider that it is more likely than not that MX and FZ have not separated in any real or permanent sense of the word. They were a couple in September 2022, have always remained a couple, and have always been emotionally and financially interdependent. MX and FZ have lied to the Local Authority and to the Court. 'Separated' is a word that can have different meanings but to make it as clear as possible I find that MX and FZ may have stayed in separate addresses from time to time and that it is likely that FZ did sleep and/or stay including overnight with AS and his wife MS occasionally but that was more than likely to have been precautionary, to avoid being found at MX's address, and not because they had "separated" as a couple. On the balance of probabilities, I find that it is more likely than not that for the most part FZ has slept with MX in her bedroom and has been living with MX and F at MX's address.

Conclusion

77. As I have set out above from her own evidence and in the view of the consultant psychologist who assessed her, MX, despite her apparent acceptance in her written evidence of parts of the judgement, has in reality demonstrated a very limited acceptance and acknowledgement of findings. MX has only a superficial level of insight and is determined to hang on to her version of events as is evinced by her expressed view that she could only base her thinking on what she had directly experienced herself. MX has consistently maintained this position in her oral evidence and is unwilling or unable to accept anything different to her own 'truth'. The position she has chosen is one which means she effectively accuses her own children of being liars; she does not or cannot listen to them, and is unwilling or unable to show any empathy with them as children who have been physically, emotionally and psychologically harmed, and have been separated from their family and siblings.

78. In plain terms and so that there can be no doubt that this Court has considered the benefits and disadvantages and weighed them in the balance and in addition to the welfare analysis and discussion above I will set them out here in brief. Should F be returned to live with MX she would benefit from being raised by her biological mother and primary carer; but the evidence is she would not be living with MX alone for long, if at all. Having already been moved, if F were to be returned to her mother's care, she would avoid the longer-term distress of having to permanently settle in her new placement and be brought up away from her parents.

79. As it is likely that returning to MX would mean returning to living with FX it greatly increases the likelihood of F suffering the same significant harm as her siblings, particularly in respect of domestic abuse. While living with MX, and in all likelihood FZ, may allow F to more readily maintain her relationship with her extended maternal family there are attendant risks with such contact and the move to her paternal uncle and aunt will allow greater contact with her extended paternal family.

80. In reality I am not considering a return to MX's care but the care of MX and FZ who have been found to have caused significant harm to four children already. It also wholly negates any possible mitigation in the form of protective orders. Living with MX and FZ undoubtedly means that F would be at even greater risk of suffering the

significant harm identified above. MX's inability to accept the findings and risks posed by FZ is an established fact, while it is a fact that FZ poses a real risk to any child in his care. As it is more likely than not MX and FZ will remain in a relationship and continue to live together in future the Court cannot approve any placement with them given the risks they pose together. In addition, F will be brought up in a household where what the Local Authority correctly describes as the *"false narrative"* of MX and FZ is instilled in her about her siblings, these proceedings and the Local Authority, giving her a false and a skewed view of her own history and early life. Based on all the available evidence outlined above and set out in the fact-finding judgment, there is no reasonable hope, expectation or likelihood that F would fare any better than her older siblings in the long term care of MX and FZ.

81. Should the Local Authority's care plan be implemented F will remain in the care of her paternal uncle and aunt living with them and their children who are F's cousins. They have been positively assessed and are panel approved as carers for F. F's uncle and aunt have a positive background of caring for their own children; this placement will give F the opportunity to remain within her extended birth family in an environment where she will not be exposed to the risk of significant harm associated with her parents' abusive behaviour and repeated poor decision making in terms of child-care and their own relationships, both familial and in the wider social context. Of the two placements and on the evidence, this Court can more reasonably anticipate that F's welfare needs would be consistently met and prioritised should she remain with her uncle and aunt and their children. This placement is more likely to provide F with the best chance of developing into a well-adjusted young person who is able and has been enabled to reach her full potential.

82. In addition, remaining with her uncle and aunt is more likely to enable F to develop her own positive and meaningful relationship with her older siblings without the emotional manipulation and misleading narrative espoused by MX, the maternal family and FZ. Sibling relationships are the closest and longest lasting of any family relationship in a person's life and it is in the best interests of F that she can develop those relationships freely and without encumbrance.

83. There will be a geographical disadvantage as F will be further away from her siblings and that too will have an impact on her contact with MX and FZ as well as other members of the extended maternal family. There will be regular contact as set out in the care plan. The Local Authority will retain parental responsibility under a care order and include in their care plan arrangements for F's contact with her parents and siblings. The Care Plan provides additional support and security for F in her placement as the Local Authority retain a greater obligation to ensure that contact takes place and that her carers are fully supported. The principle disadvantage to F is that she will not be brought up by her mother and will see less of her father but the risks and disadvantages of that placement are, I find, outweighed by F being brought up within her birth family in a much safer environment and the separation from her parents will be ameliorated by contact.

84. I have considered the positives and negatives in respect of F's welfare of both placements and consider that it is clearly necessary, in best interests of F and more likely to meet all her welfare needs that she is permanently placed with her uncle and aunt who are to be provided with support by way supervision and assistance for

contact to take place regularly and safely under the auspices of the care order. This placement is proportionate and necessary to the needs of F.

85. Contact. In respect of contact MX and FZ seek contact once a month. If they are separated, and I consider that to be unlikely, or present as separated, that would be 24 contact sessions every year which is too frequent to be consistent with F's need to settle and be secure.

86. As a matter of record since 6th February 2023 the Court has been provided with further information which, if accurate, would suggest that MX and FZ have resumed living together; it is set out in the statement of a Homelessness Care Worker (DC) dated 7th February 2023. The Court is informed that bed and breakfast accommodation was arranged for FZ who did not take it up. In her statement DC has said that FZ told her that he is now living back at MX's address, they are back together for now and wish to continue with their relationship but that they have been unable to do so whilst there has been an *"ongoing Social Services and Court case"*. I am also told that FZ has said to RM (Team Leader in social services; her statement is referred to above) that he is staying with AS and his wife. MX and FZ have not had the opportunity to respond to this information and I do not rely on it.

87. If there was to be separate contact for FZ and MX, that would be 34 sessions each year and F attending a contact session more than once each week. If MX and FZ are living together again and had contact with F together once a month that would also be too frequent particularly when considered alongside the proposed contact for F's siblings which is due to take place 8 times each year; a total of 20 contact sessions annually it would mean that F had contact sessions to attend nearly every fortnight. Contact session once a month by parents who are likely to be hostile to the placement and will require supervision is not in the interests of F's welfare; that is to say it is not congruent with her need to see her parents while ensuring her placement is not undermined.

88. I have been told that FZ has already indicated he wants to make a complaint about contact; but this has not been confirmed. The frequency of contact is something that directly affects a child's ability to settle and feel secure and unless a placement in unequivocally and positively supported by those having contact it is likely to be problematic and the Local Authority have to guard against the placement coming under too much strain or be overloaded with contact commitments.

89. This is not to diminish the importance of such contact for F but the Local Authority's care plan already sets out a schedule for F to have over 16 visits a year with her siblings and family. Four with A, four with her other three siblings and four each with MX and FZ. That is more than once per month and is already more than most placements could easily sustain. If MX and FZ are to take up contact together that would reduce contact to once each month (12 times each year in total). That level of contact is a message to F which will 'tell' her much more clearly where her permanent home is and is likely to be more consistent with her welfare needs, it will be less disruptive to her and will reduce any likely strain on her placement.

90. This is my judgement.