

**MISS RECORDER HENLEY**

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**Before:**

**MISS RECORDER HENLEY**

**IN THE FAMILY COURT**

**Case No. NE17C00527**

**SITTING AT NEWCASTLE UPON TYNE**

**In the matter of the Children Act 1989**

**Date: 10/08/2018**

**In the matter of**

**A (born [on a date in] 2010)**

**J (born [on a date in] 2010)**

**O (born [on a date in] 2011)**

**H (born [on a date in] 2013)**

**R (born [on a date in] 2015)**

**F (born [on a date in] 2017)**

**BETWEEN:**

**LA**

**Applicant**

**-and-**

**(1) M**

**(2) ME**

**(3) THE CHILDREN**

**(Minors acting through their Children's Guardian, ML)**

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## JUDGMENT

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### Representation

Applicant – Miss Webster (Counsel)

Respondent Mother – Miss Moulder (Counsel)

Respondent Father – Mr Duffy (Counsel)

Respondent Children – Miss Miller (Counsel)

### Introduction

1. This is an application for Care and Placement Orders brought by LA.
2. The Court is concerned with six children:
  - A (born [on a date in] 2010) now aged 8 years old
  - J (born [on a date in] 2010) now aged 7 years old
  - O (born [on a date in] 2011) now aged 6 years old
  - H (born [on a date in] 2013) now aged 5 years old
  - R (born [on a date in] 2015) now aged 3 years old
  - F (born [on a date in] 2017) now aged 11 months old
3. The Mother of all six children is M, (born [on a date in] 1978) aged 40 years old.
4. The Father of all six children is ME (born [on a date in] 1982) aged 36 years old.
5. The children are represented by their Children's Guardian, ML.

6. These proceedings were issued on 26<sup>th</sup> July 2017, the 26 week timetable for this case expired on 24<sup>th</sup> January 2018.
7. All six children are the subjects of Interim Care Orders, which were first granted in respect of the oldest five children on 15<sup>th</sup> August 2017 on the basis that they remain placed at home in the care of the Mother. Originally the Children's Guardian had recommended in her report dated 11<sup>th</sup> August 2017, prepared for the hearing on 15<sup>th</sup> August 2017, that the children be removed from the Mother's care under the auspices of Interim Care Orders. However, at the hearing she agreed to the children remaining in the care of the Mother. F was born during the course of these proceedings and care proceedings issued in respect of him were consolidated with proceedings concerning his older siblings. He too was made the subject of an Interim Care Order on the basis that he remained placed at home with the Mother.
8. On 25<sup>th</sup> January 2018 all six children were removed from the care of the Mother by HHJ Smith and were placed in local authority foster care, in three separate placements; A and J together, O and H together and R and F together. They remain placed in this way to date.
9. This matter first came before me on 27<sup>th</sup> July 2018 for IRH. The Father failed to attend that hearing but was legally represented. I made clear at that hearing that in the event that he failed to attend the final hearing, without a reasonable excuse, then the final hearing would proceed in his absence and that the Court could make findings against him and could proceed to make final orders. I was informed that the Father did not agree to A and J and F and R each respectively going on holiday with their foster carers. I made clear that in the event that the Father failed to attend the final hearing, without a reasonable excuse, that the Court would make determinations about that issue.

10. This Final Hearing took place on 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> August 2018. I give judgment today, 10<sup>th</sup> August 2018.
  
11. The Father failed to attend the first day of the Final Hearing in this matter. He filed final evidence and last gave instructions to his solicitors on Friday 3<sup>rd</sup> August 2018, the last working day before the hearing, indicating that he was not going to attend the final hearing because he did not wish to attend the Court building in which it was listed and because he did not wish to encounter the Mother. The Father's counsel, Mr Duffy requested permission to withdraw from proceedings. I invited him to remain throughout the course of that day on the basis that the Father had told his mother, PGM, that he was going to attend the hearing and had informed the social worker that he would attend, albeit not on every day that the hearing was listed.
  
12. On the second day of the hearing, SF informed Miss Moulder that she had unblocked the Father on Facebook and that he had exchanged messages with her to the effect that he was in hospital and that he wished the Mother well with the hearing. He had not contacted his solicitor to inform her that he was unable to attend the hearing by reason of ill health. He failed to reply to any messages left for him by the social worker or by SF, who sought to ascertain whether he wished to attend Court and which hospital he was in. Efforts to contact every hospital in Tyne and Wear were made by the LA and none of them had the Father down on their patient lists. None of the information received indicated that the Father wished to attend this hearing or sought an adjournment until he was able to attend. On his behalf, Mr Duffy did not resist my suggestion that the hearing proceed until and unless I was satisfied that medical evidence confirmed that the Father was indeed in hospital, the reasons for his admission and that he wished to participate in the hearing but was unable to do so. I indicated that unless I was satisfied that the Father was unable to attend by reason of illness and wished to attend the hearing, I would proceed with it and that I would deal with the matter on the basis of the Father's last known instructions – namely that he was not

putting himself forward to care for any of the children, that he supported the Mother resuming care of them, that he opposed the making of care and placement orders and that he sought more contact than was proposed. I also noted his objection to the children going on holiday with their foster carers, and in accordance with my previous order, indicated that in the absence of medical evidence and confirmation that the Father wished to attend the hearing, I would make a determination in respect of that issue as well. There was no objection to this course. I gave Mr Duffy the opportunity to cross examine the social worker on the basis of his last, and recent, written instructions but he declined to do so. I indicated that if the Father attended the hearing or gave active instructions, I would give him the opportunity to cross-examine the social worker and she could be recalled for that purpose. I proceeded to hear the rest of the social worker's evidence and the Mother's evidence that day.

13. On 8<sup>th</sup> August 2018, the third day of the hearing, the Father failed to attend Court. Miss Moulder informed me that she had been told by SF that he had exchanged messages with her on Facebook to the effect that he was out of hospital, has medical evidence he can provide to the Court and that he would "see her tomorrow" intimating that he would be attending the hearing that day. He also exchanged messages with the social worker to the effect that Wednesday is a day that he usually sees the children and so for that reason he would be "boycotting" the hearing. He had already been informed that contact would not be promoted during the week of the Final Hearing to enable the parents to attend Court. The Father's solicitor provided a detailed chronology of the efforts she made to contact the Father on 7<sup>th</sup> August 2018, which was provided to the Court. I am satisfied that the Father's solicitor made several unsuccessful attempts to contact him and that she informed him by text message and by email that I required medical evidence from him and confirmation that he wished to participate in this hearing and had been unable to, before I would be persuaded to adjourn it to enable him to attend. In the absence of a reasonable excuse for his non-attendance and a lack of any indication that he wished to participate, the hearing

proceeded in his absence on the basis that Mr Duffy continued to represent his interests in these proceedings.

14. On 9<sup>th</sup> August 2018 the Father again failed to attend Court, no evidence was produced to substantiate any claim that he was unable to attend the hearing and he had failed to give any further instructions to his legal representatives. No application to adjourn these proceedings was made on his behalf and Mr Duffy confirmed that the last formal instructions received were that he would not be attending the hearing.
  
15. The Father failed to attend the hearing today for the handing down of this judgment although was made aware of it by his solicitor, who attended to represent his interests. She had managed to make contact with him yesterday and he informed her that he would not be attending this hearing today as he expected to be having contact with the children. He was informed that contact would not be taking place and insisted that he should be able to have it. He failed to respond to questions about where he had been during the course of this week. No applications were accordingly made to delay the finalisation of these proceedings.
  
16. I am satisfied that in the circumstances that it has been appropriate to continue to hear this case in the Father's absence, and that the Father is aware of this hearing and has chosen not to attend. I am satisfied that he is aware that the Court may proceed in his absence and may make findings against him and final orders in respect of the children. I am satisfied that it is in the best interests of the children that this matter proceeded as a final hearing. These children have already encountered far too much delay in these proceedings and I am satisfied that final decisions need to be made about their care and welfare arrangements without any further delay.

#### Background

17. The family has had LA involvement over an extensive period of time, involvement commencing in respect of the Mother's first child, K in 2003. K was permanently removed from the Mother's care, following child protection enquiries in 2006. He was placed on the Child Protection Register by Newcastle City Council in 2006 under the categories of physical and emotional abuse. K went to live with his father, Mr C, under the auspices of a Residence Order. The Mother does not have any contact with K. One of the reasons why K was removed from the care of the Mother was due to her entering into domestically abusive relationships, which posed a risk of physical and emotional harm to him. As a consequence of one such abusive relationship she entered refuge accommodation with K.
18. LA involvement with the subject children dates back to 2008. Issues that gave rise to protective measures being taken in respect of K in 2006 are mirrored during the LA's involvement with these children, namely exposure to domestic abuse, chronic neglect and emotional harm. Following the birth of each child the Mother has been thought to suffer from Post Natal Depression which can impact upon her ability to maintain home conditions to a good enough standard and her ability to be emotionally available for the children.
19. The Father has a history of misusing alcohol. In June 2008 he was convicted of assaulting the Mother by stabbing her in the arm with a knife.
20. In March 2016 the children were made the subjects of Child Protection Plans under the category of Neglect.
21. The parents have a history of separation and reconciliation. Prior to these proceedings being issued, the Mother completed the Freedom Programme on two occasions. Notwithstanding the completion of those courses she continued to reconcile with the Father and F was conceived as a consequence.

22. In March 2017 the Core Group unanimously recommended that these proceedings be issued. This recommendation was repeated in June 2017.
23. In July 2017 an Initial Child Protection Conference in respect of the then unborn F decided that he be made the subject of a Child Protection Plan under the category of Neglect.
24. Care proceedings were issued in respect of the oldest five children on 26<sup>th</sup> July 2017.
25. On 15<sup>th</sup> August 2017 the parents agreed to interim care orders being made in respect of all five children on the basis that they remain in the care of the Mother.
26. On 4<sup>th</sup> September 2017 F was born.
27. On 25<sup>th</sup> October 2017 care proceedings were issued in respect of F, which were consolidated with these proceedings.
28. This matter was originally time tabled through to a short final hearing in February 2018 on the basis that at an IRH in November 2017, all parties agreed that the children should remain placed in the Mother's care. The only issue in dispute was which type of public law order should be made to support the placement with the LA seeking Supervision Orders and the Guardian recommending Care Orders.
29. On 24<sup>th</sup> January 2018 the matter came before the Court on an urgent basis and on the local authority's application to seek the removal of all six children from the Mother's care, which was supported by the Guardian. This followed the discovery that the Mother had entered, maintained and it was alleged had been dishonest about having a relationship with BJ, a man who posed a risk to children. The Court sanctioned the removal of all six children from the Mother's care at that hearing. All six children were placed in local authority foster care in three



different placements. They remain there to date. Following this incident the local authority's final evidence and care plans changed to permanence outside of the birth family, a position that was supported by the Guardian. The matter was time tabled through to an IRH in April 2018 and listed before me for Final Hearing in August 2018.

### Threshold Criteria

30. Both parents accept that the threshold criteria for the making of public law orders pursuant to s.31 Children Act 1989 are crossed by virtue of the following concessions:
- a) The parents' relationship was volatile and featured domestic abuse
  - b) The parents have separated and reconciled on many occasions
  - c) The Father drinks alcohol to excess
  - d) There have been times when home conditions have been poor
  - e) The Mother has shouted at the children when they were not listening to her, and has shouted and sworn at the Father when the children were present. High levels of noise were detected at the home in February 2017
  - f) Due to neglect, A has needed to have 10 teeth removed, and H has had to have five teeth removed
  - g) A has been described by her Educational Psychologist as being "selectively mute".
  - h) A regularly soiled herself between February and March 2017.
  - i) R has presented as being anxious and guarded, not walking and having limited vocabulary
  - j) The children are exhibiting behavioural problems, which the Mother has been unable to manage. H attended Accident and Emergency because he sustained a haematoma on his head after the Mother believed A pushed H against a door. On 22<sup>nd</sup> June 2017, during an unannounced home visit, the social worker noticed

boisterous and aggressive behaviour, particularly directed towards O and noted that the Mother was unable to cope.

31. On the basis of these admissions I am satisfied that the threshold criteria for the making of final public law orders pursuant to s.31 Children Act 1989 is crossed on the basis that the children have suffered significant harm in the form of neglect and significant emotional harm.

#### Welfare Findings Sought

32. The local authority seeks the following welfare findings against the parents which are not accepted:

- (a) Neither parent has been able to demonstrate that they are able to maintain changes to their lifestyle to allow the children to be provided with a good enough standard of care
- (b) The Mother has failed to be honest with the LA in failing to report a new relationship with a partner who was considered a risk to the children
- (c) The Mother has allowed her new partner to stay at the family home overnight and spend time with the children despite on going care proceedings and oversight of the Courts and by virtue of which, the children have been exposed to significant harm
- (d) The Mother again exposed the children to her new partner despite an agreement with Children's Services not to allow any contact and despite her awareness that he may be a significant risk to her children – as such, the Mother has failed to take on board advice from Children's Services

- (e) The Mother failed to have A's health needs (bowel) monitored by her GP when the Mother took the decision to stop A's medication without any medical advice. Since A has been allowed to complete her programme of medication in foster care, her soiling has resolved, she no longer wears pull-ups at night and she is not wetting during the night.
- (f) The Father removed H during a supervised contact session without permission; this resulted in police being called and the Father being arrested for child abduction.

#### The Law in respect of Factual Determinations

33. The law to be applied when considering the issues before the court is well settled. When considering the findings sought by the local authority the court applies the following well established principles:
34. The burden of proving the facts pleaded rests with the local authority.
35. The standard to which the local authority must satisfy the court is the simple balance of probabilities. The inherent probability or improbability of an event remains a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred (*Re B* [2008] UKHL 35 at [15]). Within this context, there is no room for a finding by the court that something *might* have happened. The court may decide that it did or that it did not (*Re B* [2008] UKHL 35 at [2]).
36. Findings of fact must be based on evidence not on speculation. The decision on whether the facts in issue have been proved to the requisite standard must be based on *all* of the available evidence and should have regard to the wide context of social, emotional, ethical and moral factors (*A County Council v A Mother, A Father and X, Y and Z* [2005] EWHC 31 (Fam)).

37. In determining whether the local authority has discharged the burden upon it the court looks at what has been described as ‘the broad canvass’ of the evidence before it. The role of the court is to consider the evidence in its totality and to make findings on the balance of probabilities accordingly. Within this context, the court must consider each piece of evidence in the context of all of the other evidence (*Re T* [2004] 2 FLR 838 at [33]).
38. The evidence of the parents and carers is of utmost importance and it is essential that the court forms a clear assessment of their credibility and reliability. The court is likely to place considerable reliability and weight on the evidence and impression it forms of them.
39. I also however, must bear in mind the observations of Macur LJ in *Re M (Children)* [2013] EWCA Civ 1147 “It is obviously a counsel of perfection but seems to me advisable that any judge appraising witnesses in the emotionally charged atmosphere of a contested family dispute should warn themselves to guard against an assessment solely by virtue of their behaviour in the witness box and to expressly indicate that they have done so”.
40. The court must always bear in mind that a witnesses may tell lies in the course of an investigation and the hearing. The court must be careful to bear in mind that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, 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* [1982] QB 720). I make clear that in reaching my conclusions in these matters, I have given myself this direction in respect of the evidence of the Mother and in respect of SF’s evidence.
41. In the case of *Lancashire County Council v The Children and Others* [2014] EWHC 3 Mr Justice Peter Jackson (as he then was) observed that:
- "Where repeated accounts are given the court must think carefully about the significance or otherwise of any reported discrepancies. They may arise for a number of reasons. One possibility is of course that they are lies designed to hide

culpability. Another is that they are lies told for other reasons. Further possibilities include faulty recollection or confusion at the time of stress or where the importance of accuracy is not fully appreciated, or there may be inaccuracy or mistake in the record-keeping or recollection of the person hearing and relaying the account. The possible effect of delay and repeated questioning upon memory should also be considered, as should the effect of one person on hearing accounts given by another. As memory fades, a desire to iron out wrinkles may not be unnatural; a process that might inelegantly be described as "story-creep" may occur without any necessary inferences of bad faith."

42. I also bear in mind the observations of Mostyn J in *Lancashire County Council v R* [2013] EWHC 364 (Fam):

"The assessment of credibility generally involves wider problems than mere demeanour which is mostly concerned with whether the witness appears to be telling the truth as he now believes it to be. With every day that passes the memory becomes fainter and the imagination more active. The human capacity for honestly believing something which bears no resemblance to what actually happened is unlimited."

43. I stress that I had regard to these points when I considered the evidence of the Mother and of SF, particularly with regards to their accounts relating to the Mother's relationship with BJ.

44. It is also important when considering its decision as to the findings sought that the Court take into account of the presence or absence of any risk factors and any protective factors which are apparent on the evidence. In *Re BR* [2015] EWFC 41 Peter Jackson J (as he then was) sets out a useful summary of those factors drawn from information from the NSPCC, the Common Assessment Framework and the Patient UK Guidance for Health Professionals.

## Evidence

45. During this hearing, I have heard from the legal representatives on behalf of each party. I have read the bundle of documents filed for this hearing. I heard oral evidence over the course of four days from: AB, the children's allocated social worker, the Mother, SF and the Children's Guardian.
46. AB has been the allocated social worker for these children since 28<sup>th</sup> July 2017. She is the author of all of the significant assessments and local authority evidence in this case, including the assessments of the siblings, the parents, screening assessments of prospective alternative carers, the final evidence, the care plans and all of the documentation filed in support of the Placement Order applications, including the Child Permanence Reports. During the course of her oral evidence she made appropriate concessions about the many positives in the Mother's case. She highlighted the considerable progress that the Mother had made during these proceedings. Her evidence was balanced and fair. She clearly knows this case and each of the children very well. The Mother makes no criticism of the social worker. I agree with Miss Moulder that she is clearly a conscientious social worker. Throughout her time as allocated social worker she has established a good working relationship with the Mother. Until the incident in January 2018 she had been recommending that all six children remain in the care of the Mother under final Supervision Orders. I agree with Miss Webster that the social worker came to this matter afresh, was not influenced by the two previous negative assessments conducted of the Mother by social workers with greater experience than her, or the lengthy background of concerns, and that she thoroughly explored all options and all available support on offer to keep this family together. It is regrettable that her written B-S analysis is not more detailed and does not contain all of the positives she was able to acknowledge orally about the Mother's case and all of the negatives that she conceded orally in respect of the placement options recommended by the local authority. I am satisfied however, that she has considered all of these matters in making her recommendations to the Court,

which have not changed during the course of her evidence and that her analysis has factored in what available support could be provided to the Mother by services and others. I am also satisfied that her evidence was truthful and that she has faithfully and accurately recorded within her written evidence conversations that she has had with the Mother, the Father, SF and the children.

47. SF is clearly a loyal and devoted friend and neighbour to the Mother who I am satisfied has provided considerable assistance to the Mother since her pregnancy with F. Her desire to continue to assist the Mother in any way she can was obvious, as was her regard for the children. She has been heavily involved in the care of the children over the course of the last 12 months, taking them out, visiting the home, providing meals for them, providing practical and emotional support to the Mother both before and after the children's removal to foster care. She remains dedicated to assisting the Mother in any way that she can. Her position is a very commendable. The Mother is very fortunate to have such a good friend. SF comes across as a very family orientated person who has six sisters, four children and four grandchildren of her own. She provides child care for one of her grandchildren on each week day for 4 hours at a time and cares for another grandchild three full days a week. It is against this background that she understandably considers that the children should remain placed together and should be returned to the Mother's care with her assistance. She has the support of all of her family and her husband to perform this role. With the agreement of all parties, SF sat in Court with the Mother throughout this hearing, save for during the Mother's oral evidence, to ensure that they gave separate and independent accounts of the events in January 2018 that led to the children's removal.

48. During the first part of SF's evidence, when cross examined about her knowledge of the Mother's relationship with BJ she came across as evasive, often replying that she did not know the answer to questions asked of her. I bear in mind that she told me she has a poor memory and that unlike professional witnesses she has

not kept notes of what has gone on. I do however consider that these were very significant events leading to the children's removal, which she must have discussed with the Mother on numerous occasions. These events occurred in January 2018 but I am satisfied that their significance is likely to have heightened her ability to recall them. I have given myself a R v Lucas direction in respect of her evidence and am satisfied that initially she was not being fully truthful with the Court and was very much minimising and attempting to excuse both her failure to report the relationship to the local authority and the Mother's failure to do so. She did this by, at first stating that she had no knowledge of him being at the house until the Sunday and so could not inform the social worker that day. At Miss Moulder's request I gave her an opportunity to have a short break to gather her thoughts and reflect on this account. It was increasingly clear that as cross examination continued she was becoming flustered, agitated and confused. Following a short break she returned to give evidence and in answer to questions from me was able to give clear, cogent and direct evidence without any of the apparent difficulties that she had experienced earlier. She accepted that she had known about the relationship before the Sunday, and in fact during the course of the week leading up to the weekend – firstly because she saw that the Mother's status had changed on Facebook indicating that they were in a relationship, which she thought had happened on the Wednesday (17<sup>th</sup>) or Thursday (18<sup>th</sup> January 2018) and secondly because the Mother told her on the Thursday (18<sup>th</sup> January 2018) that she had made arrangements to meet BJ that evening and that he would be attending the family home. She said that she told the Mother on the Friday (19<sup>th</sup> January 2018) to inform the social worker, and again on the Sunday 21<sup>st</sup> January 2018). When asked why she had not informed the social worker herself during the week preceding the weekend that he attended the home she could give no explanation for that. I do not accept that she thought that the Mother had done so, if that was the case she would not have told her a second time to inform the social worker on the Sunday. Her admissions in oral evidence also reveal that her written evidence is untruthful – her statement dated 29<sup>th</sup> June 2018 states “I was not aware of M's relationship with BJ until Saturday 20 January.”



49. SF signed a written agreement dated 8<sup>th</sup> September 2017 in which she agreed to visit the Mother and the children every day and in which she agreed to “contact the police and/or local authority if any concerns or situations arise”. During her evidence she agreed that she knew that the local authority should have been informed about BJ, and that anyone that attended the home needed to be checked out beforehand. She went so far as to acknowledge that any new male the Mother may exchange messages with needed to be brought to the attention of the local authority. She confirmed that she had the social worker’s number. What became apparent from her evidence is that she breached this agreement, by failing to inform the local authority of the Mother’s relationship and by failing to visit the Mother and the children every day. She agreed that on Saturdays the children came to her home but denied that she attended the Mother’s home on Saturdays and significantly not on Saturday 20<sup>th</sup> January 2018, saying that the children walked themselves to her property and walked themselves home. When I asked her how the baby managed to do this, she said that he did not attend and that he never came to her home on Saturdays. If this is correct, on at least one day per week SF did not visit the family home as intended and agreed. SF also defended her lack of knowledge that BJ had been staying in the Mother’s home since the Friday by stating that she was out and had her own commitments on that Friday and Saturday. Whilst that is understandable given her devotion to her own family, it highlights the flaws in her ability to effectively monitor what happens in the Mother’s home, as had been intended. BJ’s dog was in the garden all that weekend, the children played outside with BJ and other neighbours reported seeing him with them and yet SF asserts that she was unaware. She is the next door neighbour but one to the Mother. If she is telling the truth about that, it reveals how sadly ineffective she is as a protective factor. She did not dispute that what the social worker recorded in her written evidence was “probably right” in so far as what she had said to the social worker about the Mother and her relationship with BJ, namely that “it was a new relationship, approximately 2 weeks...that [M] had known Brian years ago and had recently bumped into him

and they started talking...that Brian seemed “ok” and that [M] seemed happy, she informed that she felt that [M] was lonely and that [M] feels that things are “meant to be” with Brian.”

### The Mother

50. The Mother clearly found the process of giving evidence difficult, she was understandably nervous and appropriately distressed at times. I have no doubt that she genuinely loves her children, is devoted and committed to them and to attending contact with them. She told me she “lives for contact”. I have no doubt that the Mother has tried her very best to make improvements in her parenting of the children and in so far as home conditions are concerned. She openly acknowledged her past failings and her mental health difficulties, which she has appropriately addressed through the taking of medication. She is a likeable woman and it is not difficult to see why professionals over the years have formed a good impression of her. She is genuinely remorseful about her past mistakes.
51. What was however striking about her evidence was her lack of insight into her decision making in so far as relationships are concerned, her lack of insight into the impact that those choices have upon her children and her failure to truly understand and anticipate the signs of domestic abuse. A number of examples of this emerged from her evidence. Firstly she accepted that when she was in a relationship with the Father the Paternal Grandfather would attend the family home all day whilst the Father was out. She accepted that she had not appreciated that that had been controlling behaviour at the time that it was taking place. Secondly she did not think it was odd, at the time, that BJ had started discussing the prospect of them starting a relationship within a week of them saying hello to each other in the street. Thirdly she allowed BJ to dictate arrangements to her over the course of the weekend that he stayed in her home – it was his decision to stay overnight and throughout the entire weekend and she was not able to ask him to leave despite saying that she had become uncomfortable with his continued

presence in the property on the Saturday and Sunday. Fourthly she allowed BJ to bring his dog with him to her home despite the fact that she “did not like dogs” and without being aware of anything about it. It remained in the garden, but at various times the children were also playing in the garden that weekend. She allowed his wishes not to leave his dog alone to override her feelings about that and any regard for the safety of the children. Fifthly, despite clear advice not to meet up with BJ again until safeguarding checks had been done she agreed to meet him to return his phone charger because he “kept going on and on about it”. Again allowing him to dictate what she did, notwithstanding the serious consequences for her of meeting up with him. Sixthly she blindly accepted his account of why he had no contact with his own children. Seven she appeared unable to appreciate how very strange all of this must have been for her children – BJ was a complete stranger to them and yet he effectively moved into their home for a whole weekend and they were each aware that he was sharing a bed with the Mother. They had never experienced any other male being in their home in this way other than the Father. She had clearly not given their thoughts and feelings about this any consideration prior to allowing BJ to visit and to remain in her home with her children over the course of that weekend.

52. The Mother came across as entirely passive and completely incapable of asserting herself within her relationship with BJ. She just did whatever he wanted without any regard for the impact that that might have upon the children and the implications of it for her. What her behaviour highlights is that she has not been able to take on board anything that she has learned about domestic abuse and that she is quite unable to protect her children from the risks of it. From the very outset of her meeting BJ she allowed him to dictate all of the arrangements, the speed with which the relationship progressed, his attendance at her home, his access to her children. I am satisfied that she behaved recklessly and dishonestly. She knew that she needed to inform the local authority about this relationship and did not do so. I do not accept her excuses that she couldn't because it was a weekend. I have given myself a R v Lucas direction in respect of her evidence. I

prefer the evidence of SF when she ultimately accepted that she had known about the relationship during the week leading up to the weekend that he stayed in the home. The Mother could and should have informed the LA during that week. She had ample opportunities to do so. I am satisfied, and the Mother accepts, that she lied about her whereabouts to the social worker on the phone on Monday 22<sup>nd</sup> January 2018 in that she had said she was in Jarrow rather than admitting that she was at BJ's property. I am satisfied that the Mother would have gone on lying about and concealing this relationship for as long as she could have done and were it not for the reports of the neighbours and the police referral following her being assaulted by PGF on Wednesday 24<sup>th</sup> January 2018 her deceit would have continued. I acknowledge that there is no evidence that she sought to prevent the children from telling professionals about BJ and that it was obvious that the relationship would be discovered at some stage, however these logical points appear to have escaped her at the time.

53. The Children's Guardian confirmed her support for the amended care plans in respect of all of the children. I was troubled by some aspects of her oral evidence and in particular her attempts to distance herself from earlier decisions and recommendations to allow the children to remain in the care of the Mother. Although it is correct that her Initial Analysis Report dated 11<sup>th</sup> August 2017 recommended that the children be removed from the Mother's care, she did not maintain that position and gave instructions to agree that they remain at home under ICOs on the day of the hearing (15.8.17). At no stage between that hearing and the hearing in January 2018 at which the children were removed did she seek to return the matter to Court to argue that the children should be removed from the Mother's care. She indicated at IRH in November 2017 that she supported the children remaining in the Mother's care on a long term basis, albeit under care orders and on that basis, and in light of the positions of the other parties, a very short final hearing was listed in February 2018 for the Court to determine the type of public law orders that should be made to underpin the placement of the children at home with the Mother. It is against that background that I found some

of her evidence surprising with regards to the recommendations that she had previously made to the Court and her earlier position in these proceedings.

54. She told me that notwithstanding her agreement to the children remaining at home, albeit under care orders she did not think that the Mother had made significant improvements. She considered the improvements to be “minor” and “slight”. She told me that professionals in the care team were expressing “huge concerns” in December 2017.

55. I have been given the minutes of the LAC Review that took place on 13<sup>th</sup> December 2017, for all of the children save for F. The meeting was attended by the Guardian. In terms of the views of the care team these are recorded within the minutes for that meeting as follows “ Neither SB, headteacher or JS, health visitor were able to attend the review meeting. The IRO explained that they have always expressed great concern and their view has been that there have been missed opportunities to ensure the safety and well being of the children by not instigating Care Proceedings previously. At the time of F’s very recent CPRC, the view had been that they understood the children would not be removed because the threshold had not been met for this. However, they had expressed that the best order would be a Care Order. School shared concerns about A explaining that she has had pens marks on her legs for two days. She is also smelling everything before she uses them. This is new behaviour. She continues to rely on a little boy Noah, whom she has befriended as a means of communicating with the adults and also of support with her work and of speaking on her behalf. She continues to have toileting problems with soiling and this is becoming more regular. She is becoming upset when she is soiling and is not telling anyone. She has been seen wearing boys’ underwear. She is presenting as being very withdrawn. School continue to have great concern about M’s lack of ability to sustain change. They question whether she can manage 6 children on her own. They continue to have great concern regarding supervision and pointed out the issues with locks on windows only a few months ago and a burn to [A’s] leg some months ago. Both

school and health colleagues expressed their concern about the potential for delay in respect of what the different orders could offer as they feel that the process would have to start over again and there would be further delay to the children with potentially more damage done to them.”

56. The IRO endorsed the care plans in respect of the children remaining placed at home but did not endorse the making of Supervision Orders and instead recommended that Care Orders be granted. This was the position adopted by the Children’s Guardian. In her oral evidence to me she stated that she was recommending that the children remained at home under Care Orders “Because of the slight improvements, tight package of support and because SF was supporting. I was worried that the social worker had come in and I didn’t want this to be a case of fresh eyes syndrome... Given the history the Core Group/ IRO was concerned that she was someone else coming in – that was my concern and that this was a level of intervention that could not be maintained. The children’s needs would have been met at home with a high level of support but I didn’t know if that could be maintained and all of the children’s needs could be met.”

57. She also initially sought to justify her position at the hearing on 15<sup>th</sup> August 2017 in not pressing for the removal of the children at that time by stating that she could not be present at the hearing and was represented by counsel, as though this therefore meant that her instructions had not been followed.

58. I raised my significant concerns about her evidence both by questioning her directly and in the course of my exchanges with Miss Moulder and Miss Miller. Miss Moulder invited me to the view that the Guardian was simply seeking to “row back” from her earlier agreement to these plans. She invited me to reject the Guardian’s evidence and to prefer the evidence of the social worker about the improvements that the Mother had made.

59. I made very clear that had the Guardian had anything like the reservations that she appeared to be expressing, she should not have supported the local authority and should have been robust enough firstly to press for the children's removal at an interim stage and secondly to refuse to agree with the local authority's position that the children could remain safely placed at home in the long term. I also made clear that my impression of her evidence was that she appeared to simply have advanced the views of the IRO and adopted them as her own and that in doing so, she was not fully performing her role as the Children's Guardian.
60. Her repeated assertions in oral evidence that she had been unclear whether the Mother could sustain changes and meet the very high individual needs of the children in the long term was deeply troubling. Care Orders at home are not short term orders and at final hearing the Court is not considering what is good enough "for now". It is the Guardian's role to analyse the long term position and whether the children can be safely and appropriately cared for throughout their minorities. The first consideration is whether the placement is going to be safe and good enough for the children. Is it a runner? If it is fundamentally not safe for the children and not capable of meeting their needs then she should not have been supporting it. Her evidence gave me considerable concern about her understanding of the legal position and that final determinations are based on very different considerations than interim removal of children.
61. Following my views being expressed during the course of submissions, on her behalf, Miss Miller was instructed to concede that she had fully supported the children remaining at home until January 2018 and that she feels that when she gave evidence the additional evidence she had subsequently discovered had affected the way that she gave her evidence. She was reflecting differently on events with the benefit of hindsight.
62. Accordingly I treat her evidence about the improvements that the Mother made prior to December 2017 and her opinion about them with some caution. I prefer

the evidence of the social worker and the concessions that she made. I remain deeply troubled that a Guardian would give evidence in the way that she did, minimising previous positives and trying to distance herself from her earlier position. If she had got her assessment of the risks wrong in November/December 2017 she should have simply said so. If her analysis about the manageability of the risks and sustainability of the placement had been flawed, with the benefit of hindsight, far better to simply admit that.

### Care Plans

63. The original final care plans in respect of all six children prepared for this hearing are dated 13<sup>th</sup> June 2018, they were updated following the social worker's evidence to reflect the contingency plans for the children that she proposed. The final care plans that I am invited to approve are dated 7<sup>th</sup> August 2018.
64. The care plans for A and J provide for them to be placed together in long-term foster care. Their current foster carers have expressed a wish to care for them in the long term and this is being actively pursued by the LA. The proposals for contact are that the Mother's contact will reduce down to take place on a monthly basis, supervised by the local authority and the Father's contact will be promoted on three occasions each year, on a supervised basis. The LA is not proposing that these children have any direct contact with siblings who are successfully placed for adoption due to the risks that would pose in terms of identifying those adoptive placements and potentially disrupting them.
65. The care plans for O and H provide for them to be placed for adoption together, that the search for an adoptive placement takes place on a national basis from the outset and will be limited to six months. Should an adoptive search not prove successful, the contingency plan is one of long term foster care, with a view to the children remaining in their current placement. One of the key considerations within the search for an adoptive placement will be to find adopters who are



wiling to promote direct annual sibling contact with R and F. Should an adoptive placement not be found, direct supervised contact would be promoted to the Mother on a monthly basis, to the Father three times a year and between these children and A and J in each school holiday by their foster carers. For this reason, no goodbye contacts will take place until and unless an adoptive match is found.

66. The care plans for R and F provide for them to be adopted together and that one of the key considerations in finding an adoptive match will be for the prospective adopters to be willing to promote annual direct contact with O and H.

#### Legal Framework in respect of welfare decisions

67. I remind myself that each child's welfare is my paramount consideration. That is section 1(1) of the Children Act 1989. In considering what orders to make I have regard to the Welfare Check List found in section 1(3) of the 1989 Act.
68. In relation to the threshold criteria of section 31(2) Children Act 1989 I have regard to whether I am satisfied that each child has suffered or is at risk of suffering significant harm.
69. When considering which orders if any are in the best interests of each child I start very clearly from the position that, wherever possible, children should be brought up by their natural parents and if not by other members of their family. The state should not interfere in family life so as to separate children from their families unless it has been demonstrated to be both necessary and proportionate and that no other less radical form of order would achieve the essential aim of promoting their welfare. In Re B [\[2013\] UKSC 33](#) the Supreme Court emphasised this, reminding us such orders are "very extreme", and should only be made when "necessary" for the protection of the child's interests, "when nothing else will do". The court "must never lose sight of the fact that (the child's) interests include being brought up by her natural family, ideally her parents, or at least one of

them".

70. I have looked again at the words of the then President in Re B-S (Children) [2013] EWCA Civ 1146 as well as the judgments in Re B (supra) and reminded myself of the importance of addressing my mind to all the realistic options for the children, taking into account the assistance and support which the authorities or others would offer.
71. In considering making a Care Order I have had close regard to the Article 6 ECHR and Article 8 ECHR rights of each parent, adult family member and of each child, but I remind myself that where there is tension between the Article 8 rights of the parent, on the one hand, and of the child, on the other, the rights of the child prevail; *Yousef v The Netherlands* [2003] 1 FLR 210.
72. When considering whether to make a placement order, it is trite law that I must be satisfied that any orders I make are a lawful, necessary, proportionate and a reasonable response to each child's predicament. The granting of a placement order represents the most drastic curtailment of the right of these parents and of the child under Article 8 of the European Convention on Human Rights and Fundamental Freedoms, which can only be justified by pressing concerns for their welfare. However, in construing both the Convention and domestic law, I have the assistance of the decision of the Supreme Court in *Re B (A Child)* [2013] UKSC 33 followed by the decisions of the Court of Appeal in *Re P* [2013] EWCA 963 and *Re G* [2013] EWCA 965. Those cases firmly re emphasise that a placement for adoption is a "very extreme thing" and "a last resort to be approved only when nothing else will do". Both domestic and Convention law do require a high degree of justification before adoption can be endorsed as "necessary", the term in the Convention or "required", the term in the Adoption and Children Act.
73. I must apply the welfare checklist found in section 1(4) of the Adoption and Children Act 2002, and I must be satisfied that the making of a placement order

accords with each child's welfare throughout their life.

74. If I conclude that each child's welfare throughout their life demands that such an order is made then the law requires me to dispense with the consent of the parents to the making of a placement order in circumstances in which they oppose the applications.

75. In Re S-F (A Child) [2017] EWCA Civ 964 the Court of Appeal considered an appeal relating to a refusal by a Judge to make a Placement Order in respect of a four-year-old child the decision being that the child should be placed in long term foster care instead. Lord Justice Ryder gave the leading judgment and the following guidance in respect of good practice when the Court is determining such issues: "The permanence report and the agency decision maker's record of decision contain the required analysis and reasoning which is necessary to support an application for a placement order. They are discloseable documents that should be scrutinised by the children's guardian and are susceptible of cross-examination. It is good practice to file them with the court in support of a placement order application. Given their importance, I would go further and say that it is poor practice not to file them with the court because this is the documentation that records in original form the pros and cons of each of the realistic care options and the social work reasoning behind the local authority's decision to apply for a placement order".

#### Positions of the parties

76. The local authority seeks Care Orders in respect of all six children on the basis that they be placed permanently outside the care of the birth family. The local authority seeks Placement Orders in respect of the youngest four children on the basis that they be placed for adoption. The local authority proposes that the six siblings be divided into three pairs so that the oldest two children are placed in

long term foster care together, the middle two children are adopted together and the youngest two children are adopted together.

77. The Mother seeks the return of all six children to her care and opposes the making of Care Orders and Placement Orders. If the Court is against the return of all of the children, she invites the Court to consider whether any of them could return to her care and understandably cannot choose which of the children should be returned in that scenario. If the children cannot return to her care she opposes any of the children being placed for adoption but agrees that if the children are to be split and cannot remain as a sibling group, that the proposed pairings are the correct ones. She concedes that the contact proposals if the children are to be placed in long term foster care are appropriate.

78. The Father accepts that he is not in a position to care for any of the children but supports them returning to the care of the Mother and opposes the making of Care Orders and Placement Orders in respect of them.

79. The Children's Guardian fully supports the LA's care plans for the children.

#### Welfare analysis

80. The Mother advanced her friend and neighbour SF as a kinship carer for the children. Ms Findlay withdrew as a prospective carer for the children but continues to offer the Mother support, if the children were to be returned to the Mother's care.

81. The Paternal Grandparents, were the subjects of a screening assessment in respect of caring for F only. That assessment is dated 10<sup>th</sup> November 2017. It reaches a negative conclusion. It has not been challenged.

82. A paternal cousin and her partner, were advanced to care for O only. Despite a

- number of concerns being raised about the viability of this placement in the long term, a further assessment of them was undertaken. That assessment is negative and has not been challenged.
83. The Father put forward LC as a prospective kinship carer but she declined to be assessed.
84. Ms C, Maternal Aunt, put herself forward as a potential carer for one or more of the children but withdrew from the assessment process.
85. There are no other realistic placement options within the extended family.
86. There are accordingly three possible placement options for the children: with the Mother, in local authority foster care and in respect of the youngest four children; placements for adoption.

#### The Mother

87. The children's primary carer throughout their lives has been the Mother. She is their natural parent. They had not been separated from her prior to their removal to foster care in January 2018. A placement with her would promote their identities and allow each of them to remain living in the North East of England, attending the same schools and nursery and enjoying the same friendship groups.
88. It is accepted that the children's primary attachments are to the Mother and that they will each suffer a degree of emotional harm, upset and distress if they do not return to her care. The older children have each expressed a wish to return to the Mother's care and when balancing options in this matter, it is appropriate to do so on the basis that ideally each child would wish to live with the Mother.
89. The Mother clearly loves each of her children and they clearly love her. Her

interactions with each of the children are loving and warm and they have strong reciprocal emotional bonds with each other.

90. A placement with the Mother offers the children an opportunity to be placed together as the Mother would ideally wish to care for all of them. This would allow them the opportunity to remain placed as a sibling group, with all the benefits that that can bring not only during their minorities but also throughout their lives. Prior to January 2018 they had always lived together as a sibling group. As a general rule children usually do better when brought up in their natural families, and they have a right to do so.
91. The Mother made early and realistic admissions in this matter in satisfaction of the threshold criteria, which is to her considerable credit. Her admitted failings formed the basis of the support that could be offered to her and allowed meaningful assessments of her to be carried out. She has expressed genuine remorse for her failings and has displayed insight into the impact that those failings have had on the children.
92. The Mother has managed to maintain a separation from the Father since February 2017 to date, despite being pregnant with his child during that time. There is no evidence that they have reconciled and the Mother has acted appropriately in advising professionals of his attempts to contact her following their separation.
93. The Mother refrained from entering into any other relationships between February 2017 and January 2018, although for the first seven months of that period of time she was pregnant with the Father's child. At the time she entered her relationship with BJ, F was just four months' old.
94. The Mother has no familial support and is reliant upon support from her friend and neighbour SF and from any support that agencies and professionals can offer to her. Professionals question how enduring this support could be given SF's own

family commitments and the long-term nature of the support, which may be required.

95. During the course of these proceedings and following the parents' separation, significant improvements were noted in the Mother's care of the children and in their presentation, this led to the LA originally recommending that all six children remain at home under Supervision Orders. Such was the Mother's perceived level of co operation, the LA did not consider it necessary to seek to share Parental Responsibility with the Mother in respect of any of the children. Although other members of the Care Team and most notably the IRO did consider that the children should be placed with the Mother under the auspices of Care Orders, a position advanced by the Children's Guardian as well.
96. The Mother engaged well with professionals during the proceedings; establishing a good relationship with the allocated social worker, the children's school teachers, nursery workers and the Health Visitor. The Mother has always attended school events for the children.
97. The Mother has attended all Court hearings and meetings concerning the children. She has engaged fully in assessments and is committed to caring for all of the children.
98. Since the children's removal to foster care, her commitment to attending contact sessions has been excellent and the quality of her contact is good.
99. Home conditions improved significantly during these proceedings, as did the children's emotional presentation on the whole, although there remained concerns about A.
100. During these proceedings the Mother's mental health was stable and she accessed support from her GP appropriately.

101. The Mother is in rent arrears but has been making regular payments towards those arrears and they have reduced over the course of the proceedings.
102. The Mother managed, with support, to implement appropriate routines and boundaries for the children prior to their removal to foster care.
103. The children could be placed under Care Orders, continuing to be looked after children with the support of the local authority, however that would result in continued professional intervention and intrusion in their lives.
104. The Mother accepts that the children have suffered neglect and significant emotional harm in her care. The Mother has a very long history of failing to provide the children with good enough care, of failing to ensure that home conditions were adequate, of poor mental health and of entering into relationships which feature domestic abuse.
105. During these proceedings, the Mother entered into a relationship with BJ, without informing the local authority. BJ posed a risk of harm to the Mother and the children. The Mother permitted him to stay in the family home, with the children and have unsupervised contact with two of the children without the local authority being aware of this.
106. At times and with appropriate support the Mother has been able to meet the basic needs of the children. The issue however, is her ability to sustain that in the long term.
107. Despite the significant improvements made by the Mother earlier on in proceedings, A's health needs were not consistently met and the children were not fully meeting their potential developmentally and socially. The children have each demonstrated significant improvements since being placed in foster care.



### Long-term foster care

108. If placed in long term foster care, the children would have the opportunity to continue to have direct contact with their birth family and with each other, maintaining their identity and providing them with the opportunity to maintain their relationships with each other for the rest of their lives.
109. The children could remain in living in the North East, which would make the facilitation of contact more straightforward and which would maintain their identities. They would be able to continue attending the same schools, maintaining their friendships.
110. The children's foster carers would be able to ensure that their needs are met to a high standard and that they are kept safe from harm.
111. As looked after children they would continue to have the support of the local authority.
112. A and J's foster carers are committed to caring for them in the long term and will be assessed for that purpose. The local authority anticipates that they will pass such an assessment and be matched to care for those children in the long term. A and J are happy and thriving in their placement. This is a tried and tested placement for them. These carers are committed to these children and if they cannot return to the Mother, staying in this placement would be the children's next choice.
113. O and H's foster carers are committed to caring for them on a long-term basis. It is not anticipated that there would be any reason why they would not be positively assessed and matched to do so. O and H are happy and thriving in their care. This is a tried and tested placement for them. These carers are committed to

these children and the children would wish to stay with them if they cannot return to the Mother.

114. Long-term foster care would mean that the children would be cared for by professional carers, rather than belonging to a family of their own. For young children this can preclude their ability to form secure primary attachments to their main carer, which can have an impact upon their emotional and psychological well being throughout their lives.
115. Long term foster care presents no guarantee that the children would be cared for without other children moving in and out of that placement at short notice, who may well have competing needs.
116. Children in foster care can experience a number of moves of placement, which can be disruptive to them. Foster care is therefore regarded as a less stable option than a placement with a family member or an adoptive placement.
117. Some foster carers go on to claim children through applications for private law orders or through applications for adoption however, that is not currently being considered here. Equally some foster carers decide they can no longer foster children in the long term due to changes in circumstances. At this stage it is speculative to view the children's current placements as anything other than foster care placements, which hopefully can be long term, subject to further assessment. But I do approach this matter on the basis that those assessments are likely to be positive.
118. The two sets of foster carers for the oldest four children have already demonstrated that they are able and willing to make direct arrangements with each other to facilitate sibling contact.
119. Some children grow to resent being looked after children with the

associated stigma that growing up in the care system and continued professional oversight it entails. Being a looked after child can result in greater restrictions being placed around day-to-day life than other children experience. Although it is right to acknowledge that the local authority can deal with this sensitively and can allow foster carers to make a lot of decisions about children this does not remove the on going professional intrusion they experience in their lives.

120. If a child is placed in long term foster care, there is a possibility that they can be reunified with their birth family in the future. Whilst this can be a positive for children, there is also a risk that children seek out illicit contact with their family and can gravitate back to their care in an unplanned way, which can present a risk of harm to the child concerned.

121. The Mother has always been very supportive of and complimentary about each of the children's foster care placements and the care that each child is provided with. She has never sought to denigrate the placements in any way and it is unlikely that she would seek to do so in future. It is also unlikely that she would seek to disrupt their placements.

### Adoption

122. Adoption provides the greatest sense of legal stability and permanence for a child who cannot be placed within the birth family. It is a placement of last resort because it results in the total severance of a child's ties with their family of origin, save for, usually, limited indirect contact via the post box system. The child is given a new family, and as a result there is a loss of previous identity and usually a loss of all direct contact with the birth family, as is proposed here for each of the youngest four children, save for potentially direct sibling contact with another adopted sibling.

123. The local authority proposes that the search for adoptive placements for

each of the children take place on a national basis from the outset, this could make any direct sibling contact more difficult to achieve for practical reasons. For any adopted child, it would lose the opportunity to have direct sibling contact with any sibling who was not also adopted. This would deprive the siblings of the opportunity to maintain their relationship not only during their minority, but potentially for the rest of their lives. This is a significant and enduring loss, which has the potential to cause emotional harm. Even between adopted sibling groups, it is proposed that direct contact would take place on an annual basis, much less than if the children were each placed in long term foster care and obviously far less than if the children were to be returned to the Mother.

124. Any adopted child would suffer a loss of its original identity and sense of family history. The loss of their birth Mother and relationships with siblings, particularly in circumstances in which some of the older siblings, at least A and J and possibly O and H as well, may continue to have contact with the Mother has the potential to result in emotional harm to any adopted child.
125. Adoption offers each of the four youngest children the greatest opportunity of a secure placement not only during their minority but also for the rest of their lives, if the Court concludes that they cannot be safely cared for in their family of origin. Adoption would allow them to live their lives free from the state intervention that long-term foster care would bring for them and would allow them to be permanently and securely claimed by a family.
126. There is a risk that an adoptive placement can break down which can have a devastating impact upon the child concerned. This risk can be ameliorated by careful and informed matching of a child with its prospective adopters. One of the greatest causes of placement breakdown is the adopter not being fully and properly informed of the child's potential emotional and behavioural difficulties and background.

127. There is a heightened risk of adoption breakdown for older children like O and H due to their strong attachments with their birth family, their clear sense of identity both within the family - identifying as the middle two children within a sibship of six, their sense of identity as children from the North East of England and their established friendships at school. They will continue to have enduring memories of their birth family, and their previous lives. Any placement breakdown is likely to have devastating consequences for them.

128. The evidence provided on behalf of the permanence team is that all four of the youngest children are adoptable children.

### Discussion and conclusion

129. In determining the right placement option for each child, I must consider its needs now and in the future.

130. A is an 8-year-old little girl who has experienced significant neglect during her childhood. At the time that these proceedings were issued she was described as “selective mute”. She had one friend at school that she relied upon to speak for her. Her school reported that she would often be tearful in school. She had difficulties with her bowels which were not well managed in the Mother’s care and which required her to wear pull up nappies on a daily basis. Since her admission to foster care this is improved and she has been recently discharged from the bladder and bowel clinic. Since her receipt into foster care, school have described her as having increased confidence, actively engaging in class, having lots of friends and rarely presenting as upset. She is now making steady progress educationally. A has expressed a wish to return to the care of the Mother although she presents as happy in foster care.

131. J is a seven-year-old little boy who has always done well in school. He is described as having increased confidence since being placed in foster care, which

has resulted in him being far more engaged with his peers. J has expressed a wish to return to the Mother's care, although he presents as happy in his foster care placement. J has become particularly upset by the Father's failure to attend contact on a consistent basis.

132. A and J are placed together and have written me a letter during which they describe missing their siblings "a lot". Both confirm that they want to see the Mother more and want to return to her care. J states that he misses the Father and would like to see him once a fortnight. A is unsure what to say about the Father.

133. O is a six-year-old girl who is placed in foster care with her brother H. She continues to work hard in school and is meeting age related expectations educationally. She excels at reading. She is confident to discuss what she has done in placement with teachers and peers and to seek out her teachers should she have any concerns. She presents as a resilient child but can experience nocturnal enuresis and night terrors. She is attending swimming and gymnastics outside of school hours. O misses her mother. She has expressed a wish to live at home with both her parents and yet has refused to attend contact with the Father.

134. H is a five-year-old boy who is placed in foster care with O. He is attending gymnastics and swimming as extra curricular activities, promoted by his foster carers, with a view to improving his muscle tone. He is making steady progress at school and very good progress with phonics and numbers. He has support from a speech and language therapist and his speech is becoming clearer as a consequence. This work is on going. He has increased confidence since being accommodated in foster care and presents as happy in school. H has been referred to a physiotherapist and to occupational therapy as he presents as being somewhat clumsy. He experienced nocturnal enuresis since being placed in foster care. This is thought to be improving. H wants to return to the care of the parents and thinks that the Father should live at home.

135. R is a three-year-old little boy who has been attending nursery on a daily basis since September 2017. He initially presented as reluctant to try new experiences and play outside when he started nursery and took a couple of months to settle in. R is working in the 22-36 month bracket for speech and language, understanding, personal, social and emotional development. He has received additional input in respect of his speech, which remains difficult to understand, but is improving. R is placed with F who he describes as his best friend.
136. F is an eleven-month-old baby who lives in foster care with R. He is behind his peers in terms of his development. He is able to weight bear but remains wobbly on his legs. He has been referred for physiotherapy in respect of his gross motor skills. He eats and sleeps well and does not appear to have any difficulties in respect of his fine motor skills.
137. All six children need settled, nurturing permanent placements that can meet their individual needs to a good enough standard. Such a placement needs to be able to keep each child safe, whilst allowing the child to meet his or her full potential; developmentally, educationally and socially on a long term basis.
138. It is right to acknowledge all of the hard work and positive progress that the Mother made during these lengthy proceedings. It is also right to acknowledge that she dearly loves her children, that they dearly love her and that she has worked very hard to bring about changes, with the assistance and support of professionals, to enable her to meet the children's needs. I do not underestimate how very difficult it must have been for her to effect a separation from the Father and to sustain that separation for a year and a half. The Mother had been with the Father over the course of a ten-year period and they have six children together. Theirs was a domestically abusive relationship. The positive improvements shown by the Mother during these proceedings were all the more impressive given the number of children that she was caring for as a single parent.

139. However, all of those improvements have to be seen in the context of the wider picture in this case. This is a chronic neglect case in which, over the course of a ten-year history of local authority involvement the care that the children were provided with was not good enough. Health needs were neglected, the children's emotional needs were not met, the children were exposed to domestic abuse and volatility, and home conditions were poor. These issues were not constantly prevalent over the course of a decade. Improvements were made during that time, they were however, sadly not sustained. I have no doubt that when the Mother's mental health is stable and when she is not involved in a domestically abusive relationship the care that she is able to provide the children is much improved. I also have no doubt that domestic abuse will have a significant impact upon the Mother's mood and the stability of her mental health. These issues are all causally linked. It is therefore not surprising that after the Father left the home, and once the Mother effected a separation from him, matters improved for her and for the children. Those improvements are very much to her credit.

140. However, the Mother's relationship with the Father is not the only domestically abusive relationship that she has had. Prior to that relationship she had two earlier relationships, which featured domestic abuse and which involved separations and reconciliations. She told me in evidence that her relationship with Mr C was the only one that was not abusive. Prior to these proceedings she completed the Freedom Programme on two occasions. The Mother self referred again to undertake the Freedom Programme in June or July 2018, she was offered four appointments, none of which she attended and therefore she was discharged from the service.

141. It is the opinion of the social worker, with whom she has had a good relationship, that the Mother has the knowledge she needs to understand domestic abuse and its impact upon her and upon the children. Notwithstanding that knowledge and her insight into this issue, she chose to engage in a relationship with BJ in January 2018, a man she knew little about. She had been in a two-



week relationship with him many years before, possibly before K was born. K is now 18 years old. She had had no contact with him since that time until a chance encounter in the street on 11<sup>th</sup> January 2018 when he said “hello” to her. Following that chance encounter he sent her a message on Facebook later that day, they exchanged messages over the course of the week and by 18<sup>th</sup> January 2018, just one week later, he had her telephone number and had attended her home for several hours whilst the children were in bed. The following day, on Friday 19<sup>th</sup> June 2018 he attended her home, with his dog, and stayed overnight with her and all six children. He stayed that night and the following two nights, spending the entire weekend with the whole family and only leaving on the Monday morning. Before leaving, the Mother left him alone and unsupervised with the two youngest children whilst she dropped the oldest four children off at school. The particularly worrying features of this decision making was that she failed to disclose this relationship to the local authority, that she allowed him to stay overnight in her property, that she introduced him to the children, that she allowed him unsupervised contact with two of the children and that all of this was done at lightening speed and without any request that safeguarding checks be made in respect of him first. The Mother took unacceptable risks with the children’s safety, notwithstanding that she was involved in these proceedings, that the children were the subjects of Interim Care Orders and that she was being heavily scrutinised by professionals and the Court. It may be that because a positive parenting assessment had been concluded and final evidence recommended that the children could remain in her care, she considered that she was then able to do as she pleased.

142. Although this incident could be viewed as simply a foolish blip, it again needs to be seen in the context of the very extensive and worrying history to this case and the Mother’s extensive background of being involved in relationships featuring domestic abuse. BJ may not have posed any risk to her or the children but she simply did not know that at the time that she allowed him to stay overnight in her home, allowed him to meet her children and allowed him to be

alone and unsupervised with the two youngest children. Safeguarding checks, had she asked for them, would have revealed that he held risk to children status and that he had a background history of perpetrating domestic abuse. He plainly posed a risk of significant harm not only to her but also to the children.

143. The Mother's behaviour is not a one off. It represents a pattern of poor decision-making as far as relationships are concerned. It also represents a pattern of her taking unacceptable risks with her own safety and with the safety of her children. These decisions were made notwithstanding the very high level of professional support that she had at the time, notwithstanding the education she had received via the Freedom Programme on two occasions and the fact that the Mother was under the close scrutiny of professionals and the Court. They were taken at a time when her mental health was stable and her confidence was said to be high and when she had the support of her close friend and neighbour SF. What this incident highlights is the Mother's lack of ability to sustain change. She may have ended her relationship with the Father but her pattern of entering into abusive relationships is not at an end. Her poor decision making in respect of partners remains ever present.

144. What the Mother's decision making also reveals is that her friend and neighbour SF was unable to provide any support, which prevented her from taking these decisions. SF accepted in her evidence that she was aware of this relationship, via Facebook and via the Mother telling her about it on the Wednesday or Thursday preceding the weekend during which he stayed in the home. Not only did the Mother fail to report the relationship, but so too did SF. I am satisfied that SF cannot be viewed as a protective factor for this reason. SF's lack of knowledge about BJ staying in the family home until the Sunday of that weekend also highlights how ineffective she is as far as providing a protective factor for the children. By that stage he had already stayed there for two nights. I do not criticise her for that, it is a reflection of the speed with which the Mother takes these decisions and moves to advance a relationship. It is also a reflection

of SF's own commitments. She has her own life to lead, her own family commitments and arrangements and she cannot police the Mother's behaviour all day every day. What this episode has highlighted is that her agreement to attending the Mother's home on a daily basis was not enough to ensure that the children were safe. It is unreasonable and impractical to require more support than she was providing.

145. Notwithstanding a neighbour and close friend being on hand and a very high level of professional support and monitoring the Mother was able to meet BJ and advance a relationship with him to the point that they had a romantic relationship. BJ stayed in the family home with all of the children, he slept in the Mother's bed for three consecutive nights in a bedroom that J also slept in, he met all of the children and he was allowed unsupervised access to two of them without the local authority knowing. The local authority only discovered this relationship due to a referral arising from a neighbour's complaint about noise emanating from the Mother's property late at night. Again, this follows a pattern of the Mother not being open and honest in volunteering her relationships before they are discovered. An earlier example of this being that her reconciliation with the Father was only discovered upon her pregnancy with F being revealed.

146. The Mother's case is that she always intended to inform the local authority about this relationship on the Monday following the weekend that BJ stayed over in her home and that she could not call over the weekend as the social worker would not be at work. I do not accept her evidence about this. SF's evidence was that she was aware of the relationship during the week preceding the weekend as she had seen it announced on Facebook and because the Mother told her during the course of the Thursday that BJ was going to attend the family home that evening. On Thursday 18<sup>th</sup> January 2018 the Mother attended a Court hearing. The social worker was present at Court. The Mother did not inform the social worker of the messages that she had been exchanging with BJ or her arrangements to meet with him that evening. The Mother asserts that she was unable to inform

the local authority that BJ was staying at the property, as it was a weekend. This does not explain why she failed to inform the local authority on the Friday that he had visited her property the night before. On Monday 22<sup>nd</sup> January 2018 the Mother cancelled an appointment with the Family Support Worker. She failed to inform her about BJ when she spoke to her by telephone. She also spoke to the social worker by telephone later that morning, at a time that she was with BJ in his property with the two youngest children. The Mother accepts that she lied about her whereabouts saying she was in Jarrow at the time. The Mother failed to tell the social worker about BJ during that telephone call. It was only after she was confronted by the social worker about him that she admitted her relationship with him. Fortunately for the children, her relationship with him was discovered relatively quickly. Had it not been, I do not accept that the Mother would have been open and honest about it. I am satisfied that the Mother was taking steps to conceal her relationship with BJ from the local authority and that she behaved dishonestly in failing to reveal it when she attended Court on 18<sup>th</sup> January 2018. I am also satisfied that the Mother's behaviour represents a lack of honesty with the local authority and that she had opportunities to inform the social worker and the family support worker before she was confronted, and effectively forced to admit her relationship, but did not take them.

147. The Mother accepts that she was advised by the social worker on Monday 22<sup>nd</sup> January 2018 not to allow BJ to have any further contact with the children until safeguarding checks could be carried out. She accepts that she agreed to this. She accepts that she failed to follow that advice and met up with him again on Wednesday 24<sup>th</sup> January 2018. She states that this was in order to return his phone charger. She accepts that R and F were with her. This meeting was discovered because it led to the Mother being assaulted by the children's Paternal Grandfather, an incident which took place in front of the children and which necessitated police involvement. Again this demonstrates extremely poor decision making on her part. I do not accept that it was necessary for her to meet BJ or that there was any excuse for her doing so. If he needed his phone charger,

she could have asked someone else to supply it to him – SF, SF’s husband, or the range of other friends that she has discussed during this hearing. She could have equally asked the LA to assist her to return it to him. She did none of those things. She demonstrated a clear inability to follow and a disregard for professional advice.

148. Not only did the choice of partner expose the Mother and the children to a risk of significant harm, the fact that she entered into a relationship at all gave rise to the potential that she would face repercussions from the Father or his family. This was the first relationship that she had had following her relationship with the Father coming to an end. Very sadly for the Mother, the ending of her relationship with the Father has not ended the risk of harm that that domestically abusive relationship poses to her and to the children. As was revealed during SF’s evidence, since the Mother separated from the Father he has continued to attempt to contact her both directly and through SF and other friends and neighbours that live near by. He is persistent in his attempts to get messages to the Mother. This is a form of on going pestering, which constitutes continued domestic abuse. I make clear that this is in no way the Mother’s fault and all the evidence I have heard confirms my view that the Mother is behaving entirely appropriately in respect of this by not replying to him, inviting her friends and neighbours to do the same and by keeping professionals informed.

149. I am satisfied however that she was aware that by entering into a new relationship there was a heightened risk of harm to her and thereby to the children, should the Father and his family discover her relationship. I have reached that conclusion because the Mother told me that she chose to change her surname on Facebook and set up a new profile to prevent any of them being aware that she was in a new relationship. She did that before BJ announced on Facebook that they were in a relationship, but on the same day, so that she could be included in his sharing of that information without the paternal family being aware. It may well be that she could not have predicted that within days she would be physically

assaulted by the children's paternal grandfather for being, in his words, "a cheater", but I am satisfied that she was aware that entering into a new relationship posed a level of risk which is why she took steps to conceal it.

150. I have no doubt that the incident by which the Mother was assaulted by the children's grandfather by being hit in the face in front of R and F was an extremely frightening and distressing one for them to witness. They are likely to have suffered significant emotional harm as a consequence. Clearly this event was not in any way the Mother's fault. Nor is it acceptable that the consequence of the Mother entering into a new relationship is that she is at risk of physical harm. It is however a very sad reflection of the reality that she lives with, that having endured a controlling, violent and domestically abusive relationship for a decade, the risks posed by that previous partner and his family have not diminished. It is all the more reason for her to seek the support of the local authority and to follow professional advice before entering into any new relationship, something that she did not do.

151. Can the risks identified be managed? The answer to that question, sadly, is no. I am satisfied that what the Mother's relationship with BJ and the choices that she made surrounding it reveal is that there is simply no support, court order or professional monitoring which would enable any of these children to remain safely placed in the Mother's care. The making of a Care Order, the most draconian order the Court could make would enable the LA to share Parental Responsibility with the Mother but I am satisfied that that would not assist. So much is clear from the fact that all of this happened whilst the children were the subjects of Interim Care Orders and therefore whilst the local authority held Parental Responsibility for them. The local authority was supporting and monitoring the family. That level of support was very high – it involved a family support worker visiting three times each week. The Mother also had daily support from SF. None of this prevented the children from being placed at significant risk of harm. Fundamental to any plan to place the children in the Mother's care is her

ability to work openly and honestly with professionals and to follow advice. The Mother has amply demonstrated that she is simply unable to do this. She has also sadly demonstrated that yet again she has prioritised her need to have a relationship above the needs of the children. I have no confidence that if given another opportunity, the Mother would be able to make safe choices for her children however much she would wish to.

152. I am satisfied that had this relationship with BJ not been discovered and the children removed, it is likely that it would have continued and it had every prospect of becoming domestically abusive. Such domestic abuse would have once again placed the children at risk of physical and emotional harm, likely resulted in the Mother's mental health deteriorating and once again precluded her from meeting the children's needs to a good enough level. This was the embryonic stage of yet another cycle of neglect and significant emotional harm for these children.

153. This case is not a single-issue case. Once the children were removed into foster care it became apparent, through the improvements that the children made, that they were not all reaching their full potential in the Mother's care. Their progress, particularly in so far as A's emotional presentation and the resolution of her soiling, highlights how with the right care, they were able to flourish. Good enough care for these children means that their health needs are fully addressed and their development is appropriately supported. I am satisfied that notwithstanding the improvements made by the Mother, these children were still not reaching their potential in the Mother's care and therefore were not being provided with good enough care commensurate with their needs. Once they had been neglected and were exhibiting signs of emotional disturbance and delayed development they needed a higher level of basic care to address those needs. That higher level of basic care is being provided to them now that they are in foster care but was not being provided to them by the Mother. It may be that this was as a consequence of the demands of the sheer number of children that she had in her

care, which precluded her ability to provide them with the individual attention that they needed, however, I accept the local authority's evidence that even with less children in her care, history demonstrates that over the years these children have been neglected. This includes when the Mother only had A in her care and before that, only K.

154. Notwithstanding all of the improvements that the Mother made, she also failed to follow professional and medical advice in respect of A's soiling. This was despite the support she was being offered by SF, despite these proceedings being on going, and despite A being the subject of an Interim Care Order with all the professional oversight that brings. In her witness statement dated 29<sup>th</sup> June 2018, SF accepts "It is entirely correct that I was actively involved in the day to day care of the children when they were in M's care. I was aware of A's bowel condition, I was aware that she was prescribed a number of medications. I was present on more than one occasion when M tried to give A her Movicol and A became very upset and started to be sick. In fact I suggested to M that perhaps she was overloaded with different medication and therefore suggested that if it was the Movicol that seemed to be making her sick maybe M should try and see how she got on without giving it to her. I accept that this was not the correct advice. I should have discussed with M taking A back to the GP to discuss this further and the GP would have given further advice." Once again, SF was not the protective factor that the safeguarding plan envisaged.

155. Contrary to medical advice the Mother failed to collect A's Movicol prescription for December 2017. Prior to her removal to foster care, the Mother accepts that the last time she was given Movicol was in November 2017. The Mother states that the reason for this was because she thought that A was on too much medication and that the Movicol was making her physically sick. It has not made her sick in foster care but I do not consider that the Mother and SF are necessarily lying about this. A being sick was a reason to take her to the GP and seek medical advice.



156. The Mother accepts that she failed to seek any medical attention or advice in respect of this issue to see whether alternative medication could be offered. The implications of this failure to follow advice for A were very serious; it rendered her constipated and no doubt in significant discomfort. It resulted in her, at the age of seven years old, needing to wear pull up nappies every day and each night. As was revealed in foster care, once her medical needs were met and health advice followed, this issue quickly resolved. The Mother's neglect of her health needs caused A to suffer significant, unnecessary and completely avoidable harm. Physically she was in discomfort but the effect on her emotionally and psychologically cannot be underestimated. It can be no coincidence that since this issue has resolved A is much happier in school, less tearful and upset, is more confident and has a much wider circle of friends. This is a further example, which reveals that there is no advice, support or Court order, which would permit the children to return to the Mother's care, as even with the very highest level of support and oversight A's health needs were neglected. The risk of neglect in this case is ever present. Again I am satisfied that that risk cannot be ameliorated by any service, support or advice that could be provided.

157. Turning to consider the welfare findings sought:

158. I am satisfied for all of these reasons that the Mother has not been able to demonstrate that she is able to maintain changes to her lifestyle to allow the children to be provided with a good enough standard of care.

159. In the Father's final statement dated 24<sup>th</sup> June 2018 he accepts that he is unable to care for any of the children, stating, "I put myself forward to care for R and F. The assessment was negative. I had planned on challenging it. However, recently I was drinking heavily and when I stopped I suffered seizures and had to be admitted to hospital where I was for 5 days. My admission to hospital has been a wake up call for me. I have realised how serious my drink problem is. I

need to get help with it. I have given a lot of thought about whether I will continue to put myself forward to care for R and F. I realise that isn't realistic. I need to address my problems before I can care for a child.”

160. On the basis of these admissions, I am satisfied that the Father has not been able to demonstrate that he is able to maintain changes to his lifestyle to allow the children to be provided with a good enough standard of care.

161. I am satisfied, for the reasons I have already given, that the Mother has failed to be honest with the LA in failing to report a new relationship with a partner who was considered a risk to the children.

162. I am satisfied on the basis of the Mother's admissions that she has allowed her new partner to stay at the family home overnight and spend time with the children despite on going care proceedings and oversight of the Courts and by virtue of which, the children have been exposed to significant harm

163. I am satisfied that by meeting with BJ on Wednesday 24<sup>th</sup> January 2018 in the presence of R and F, the Mother again exposed those children to her new partner despite an agreement with Children's Services not to allow any contact and despite her awareness that he may be a significant risk to her children – and that as such, the Mother has failed to take on board advice from Children's Services.

164. I am satisfied for the reasons I have already given, and based upon the professional evidence which I accept, that the Mother failed to have A's health needs (bowel) monitored by her GP when the Mother took the decision to stop A's medication without any medical advice. Since A has been allowed to complete her programme of medication in foster care, her soiling has resolved, she no longer wears pull-ups at night and she is not wetting during the night.

165. There has been no challenge on the Father's behalf to the finding sought that the Father removed H during a supervised contact session without permission; this resulted in police being called and the Father being arrested for child abduction. This matter is clearly established on the local authority's evidence and I have seen the original contemporaneous contact notes from the relevant contact session. The Father has never sought to deny this to professionals or file any evidence about it to contradict the local authority's evidence. I make the finding sought.

166. I am satisfied that sadly none of these children can safely return to the care of the Mother for all of these reasons and that when I balance all of the positives that I acknowledge exist for the children in her care, against these negatives unfortunately these negatives prevail. The comparison of the Mother as a realistic option to care for the children cannot be done in isolation and I have balanced all of the positives pertaining to a placement in her care against the significant negatives contained in the care options proposed for the children by the local authority. It is always better, if at all possible, for children to remain placed with their family, ideally a parent, and with each other as a sibling group.

167. I do have concerns about the robustness of the assessment of the Mother carried out by the social worker prior to the events of January 2018 coming to light, and the previous intention to leave these six children at home in the long term whether under care orders or supervision orders. I also have concerns about the ready endorsement of those plans by the Guardian. The children's schools and health professionals had clearly been voicing concerns about the viability of the children remaining at home and had been doing so for a considerable period of time. Their involvement was far more long standing than the social worker's and the Guardian's. The long term analysis was lacking in this case. Had the incident in respect of BJ not been discovered and the Court gone on to make final orders it was simply a matter of time before another set of care proceedings would need to be issued. There are patterns of behaviour here that had not changed. The Mother

was going through a good spell and had made significant improvements, but looking at the extensive history in this matter there was over a decade's worth of evidence to question whether that could be sustained.

168. The Court does not make a decision to separate children lightly. It is an extremely draconian step to take. I make clear that in considering the care plans I have given them the scrutiny I consider they require in light of the nature of the orders sought. I have required the Child Permanence Reports for each of the four youngest children, I have also required the record of ADM's decision making and the Decision Making Minutes at which these care plans were decided. I have read all of those documents carefully. I have given anxious consideration to whether these children should be separated and if so, into which sibling groups. In some ways, the children's current placements and divisions have assisted in this decisions making as the children's current pairings are working well for them. The Mother, who knows these children best, agrees that if they must be separated these are the right groupings for them as they allow each child to be placed with the sibling he/she is closest to. I am also conscious of the children's respective ages. I am satisfied based on the updated sibling assessment, the unanimous evidence of the professionals and the views of the Mother that these are the right proposals in terms of the division of the siblings in circumstances in which sadly they cannot all be cared for together. I am also satisfied that their respective and divergent needs in terms of the placements required for them mean that they must be separated.

169. Given R and F's ages, they are more easily adopted than the older children, they are of an age where they have very good prospects of an adoptive match being found for them and given their more limited exposure to neglect and emotional harm by virtue of their ages, they are less likely to experience placement breakdown as a result of their behaviours. As younger children their sense of birth identity is less well established, which reduces the prospect of the children rejecting adoptive carers or struggling to form secure attachments to

them. F is unlikely to have any enduring memories of his birth family and R's memories will be limited. These siblings enjoy a very good, close and loving relationship and do not pose a significant challenge to a carer if placed together. The Mother has confirmed that since F's birth R has always been very close to him. They are a manageable sibling group to place. For F and R, given their very young ages, long-term foster care is not a good outcome for them. It would involve them spending 15 years and 17 years respectively in the care system, with all of the instability that that can bring. They are likely to need to move placements in that time, other children may well move in and out of their placements, and sometimes at short notice, which is likely to detract from their ability to form secure attachments with their carers. The formation of secure attachments for children of their ages is essential for their long-term emotional development. If they remained in foster care, they would be cared for by professional carers, rather than having a family of their own. They would have continued professional involvement with all of the intrusion that that would bring for them. I am satisfied that in circumstances in which they cannot be returned to the care of their birth family nothing but adoption will do for them and that they deserve the opportunity to be permanently claimed by adoptive carers, not only for their minorities but throughout their lives.

170. In so far as A and J are concerned, at their respective ages the prospect of them being successfully adopted is not realistic. This is not only as a consequence of their ages but also as a consequence of their strong sense of identity, their attachment to the Mother and their desire to have contact with her. It is for these reasons that an adoptive placement is unlikely to be successful for them, even if one could be found. A and J are thriving in their current placement and there is every prospect of them being able to remain there in the long term. A and J have a positive sibling relationship and are a manageable sibling pairing for their carers. The Mother told me that since these two children were born in the same year, the bond they have is "unbreakable" and that they love being together. I am satisfied that in circumstances in which they cannot be safely returned to the care

of the Mother, that this is the right placement option for them and that they should be placed together. It follows therefore that because of their own individual needs, it is not in the best interests of the oldest two children to be placed with the youngest two children.

171. In many ways the decision in so far as O and Hare concerned is the most difficult. They are of an age where long term foster care and adoption are each realistic placement options for them. Both the local authority and the Children's Guardian acknowledge that the recommendation for them to be adopted is "finely balanced". I make clear that my decision has been a finely balanced one.

172. The children's current carers have expressed a wish to foster them in the long term, and there is every prospect that they would be positively assessed and matched to do so. These children are happy and thriving in their placement and to continue to be placed within it allows them the opportunity to continue to be placed in the North East, attending the same school as their older two siblings, enjoying contact with each of their parents and with each of their two older siblings. They are six and five years old respectively, which means that they are likely to retain clear memories of their birth family, that they have established attachments with their birth family members and that they already have a sense of identity. These factors could make it more difficult for these children to form positive secure attachments with a new adoptive family. Each of these children has expressed a wish to return to live with the Mother, who they each enjoy having contact with. I agree with Miss Moulder that a six month search does not dilute the severity of adoption as an option or dilute the test that I must apply.

173. Having given this decision very anxious consideration, I consider that these children deserve the opportunity to have a permanent placement within the true meaning of the word, with a new family rather than professional carers and free from the state intervention that they would each endure in the care system for over a decade if they were to remain in long term foster care. I am satisfied that

adoption is a realistic option for these children given their ages and profiles. It may be that it is not an achievable option but I am satisfied that the benefits of an adoptive placement for them in terms of the enhanced prospects of security and stability outweighs the negatives of this placement option and outweighs the positives that would be afforded to them if they remain in long term foster care. I have confidence that the matching process will be sensitively and carefully undertaken, with input from the children's social worker who clearly knows them well and who is the author of their Child Permanence Reports. Careful matching and good quality life story work should reduce the prospects of an adoptive placement breaking down. I am confident that this will be done properly by the local authority. I am satisfied that nothing but adoption will do for these two children.

174. In terms of the contact proposals for those children who remain in long term foster care are proposed, I am satisfied that the proposed contact reduction between the children and the Mother is appropriate, as she sensibly concedes. I am satisfied that monthly, community based supervised contact for the Mother is in the children's best interests. The Mother has good quality contact with the children, which they enjoy. Her commitment to attending contact is excellent. Contact needs to be set at a level that promotes the children's relationship with the Mother but does not interfere with their ability to settle into their long-term placements and enjoy life with their carers and extra curricular activities. It also needs to be at a level which is manageable for the carers and which allows the children to adjust to the concept that they will not be returning to the Mother's care. I am satisfied that monthly contact with the Mother strikes the right balance for those children that remain in foster care. Monthly contact also represents a regular opportunity for sibling contact between all four of the oldest children, should O and H not be adopted. I am satisfied that if this contingency plan comes into effect that the additional inter sibling contact, to be organised between foster carers is appropriate. Because of the prospect that some of the children may not be successfully matched for adoption, it is essential that goodbye contacts do not

take place until and unless a match is found and that contact is promoted on a regular but reduced basis, as is proposed, until and unless a match is found to enable contact to continue, should the children remain in foster care. Any goodbye contact between the four youngest children needs to be very carefully managed and planned as is it anticipated that R and F will be matched with adopters relatively quickly and possibly before it is known whether a match will be found for O and H. As such it will not be clear at that stage whether they will see each other post adoption. I am satisfied the local authority has considered that this and that care will be taken to avoid the children becoming confused.

175. In so far as the Father's contact is concerned I am satisfied that the three occasions per year that is proposed in the care plans of any of the children that remain in long term foster care is appropriate. The Father's commitment to attending contact with the children during these proceedings, and indeed his commitment to attending this hearing and the IRH, both of which he absented himself, from has been shamefully inadequate. The Father abducted one of the children from a session of supervised contact and therefore even within the confines of a professionally supervised contact arrangement he poses a risk of significant harm to the children. I have been provided with a schedule of attendance in respect of the Father's contact. This year, he has attended six out of a possible fifteen sessions of contact, on one of those sessions he abducted H. His contact is currently promoted on a fortnightly basis. I am satisfied that following the making of final orders, the proposed contact reduction is appropriate and that a reduction to three times per year is proportionate and in the best interests of the children, given his very poor commitment to attending contact and the impact that such poor attendance is likely to have on the children. The frequency of contact can and should be reviewed during the time that any of the children are placed in long-term foster care and can be increased or reduced subject to his commitment to attending it, the quality of that contact and the children's wishes and feelings.

176. In so far as the children's holiday arrangements are concerned, A and J's



foster carers propose to take them on holiday staying locally in a caravan. There is no objection to this arrangement by the Mother, on the basis that the children's foster carers have agreed to bring the children back to facilitate contact sessions.

177. R and F's foster carers propose to take them on holiday for one week to Spain towards the end of August 2018. This holiday has not yet been booked, is consented to by the Mother but is not agreed by the Father. The only known basis for his objection is that he would miss having contact with the children. Given that at most he has contact once per fortnight with the children and in light of his exceptionally poor attendance at contact, I do not consider that this is a valid reason why this holiday should not take place. In approving the children's care plans I approve the contact reduction that is proposed in respect of each parent, which will mean a gradual reduction in the Father's contact. In answer to my questions about this issue, the social worker confirmed in evidence that the holiday could take place between the Father's planned contact sessions without any interruption to them. I therefore can see no basis for any proper objection to the holiday in so far as the Father's contact is concerned.

178. I am satisfied that it is in the children's best interests to go on holiday with their foster carers, not only because it will, I have no doubt, be an enjoyable experience for them and something they would wish to do but also because the alternative would be that they go into respite care for the duration of the holiday which I am satisfied is unnecessary and disruptive to them. I give credit to the Mother for agreeing to these proposals; hers is a child-focussed approach. The Father's approach is an entirely selfish one, which I am satisfied, should not be permitted. I give permission for these holidays to take place as proposed.

179. I approve each child's care plan and make Care Orders in respect of each of them on the basis that such orders are necessary and proportionate in this case.

180. I must now turn to consider the local authority's application for Placement

Orders in respect of O, H, R and F.

181. In considering whether to make a Placement Order I must consider not only what is in each child's best interests during their minority but also what is in their best interests throughout their lives. Having already concluded that nothing but adoption will do for them, a Placement Order is the order which provides the local authority with the legal permission required to put the care plans that I have already approved into effect. I am clear that it is in each child's best interests throughout their lives to be adopted and thereby claimed not only throughout their childhoods but also into adulthood.

182. There is a pressing need for plans to be implemented for each child without delay – they are already 6 years old, 5 years old, 3 years old and 11 months old respectively. O, H and R have been the subjects of these protracted proceedings for over a year. F has been the subject of care proceedings for his whole life and has now spent over half his life in foster care. I have come to the firm conclusion that the only plan, which meets each child's needs, is one of adoption and that that plan needs to be implemented without delay. Consequently, I have no hesitation in concluding that each child's welfare requires me to dispense with their parents' consent and I make a placement orders in respect of each of them.