



**THE FAMILY COURT SITTING AT OXFORD**

**BEFORE HER HONOUR JUDGE OWENS**

**CASE NO: OX18C00136**

**9<sup>TH</sup> MARCH 2020 TO 18<sup>TH</sup> MARCH 2020 4<sup>TH</sup> TO 7<sup>TH</sup> MAY 2020 AND 13<sup>TH</sup>  
MAY 2020**

**OCC v C**

**Ms Reynolds, Counsel, for OCC**

**Ms Gray, Counsel, for the First Respondent Mother, M**

**Ms De Freitas, Counsel, for the Second Respondent Father, F**

**Dr Gatland, Counsel, for the Third, Fourth and Fifth Respondents A, B and C**

**acting through their Children's Guardian**

This judgment is being handed down [in private] on 1<sup>st</sup> June 2020. It consists of 43 pages and has been signed and dated by the judge. The Judge has given permission for the judgment (and any of the facts and matters contained in it) to be published on condition that in any report, no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by name, current address or location [including school or work place]. In particular the anonymity of the children and the adult members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that these conditions are strictly complied with. Failure to do so will be a contempt of court. For the avoidance of doubt, the strict prohibition on publishing the names and current addresses of the parties and the child will continue to apply where that

information has been obtained by using the contents of this judgment to discover information already in the public domain.

### **Introduction, Background and Evidential Summary**

These proceedings concern applications for care orders in respect of A, B and C and placement orders in respect of B and C. They are aged seven years, five years and just over 2 years. Their parents, M and F, are the First and Second Respondents.

I have conducted two previous fact-finding hearings in respect of these children, in April and May 2019 and September 2019. My judgment handed down on 13<sup>th</sup> May 2019 sets out the background to proceedings in detail, as well as explaining the unusual circumstance of having to have two separate fact-finding hearings, and I adopt that background for the purposes of this judgment, as well as adopting the findings made during my two previous judgments.

This hearing is to determine what is in the welfare interests of the three children.

Since the last fact-finding hearing the children have remained in foster care, A with one foster carer and B and C placed together with another foster carer. A number of assessments have been conducted during the proceedings, some of which are also referred to in my previous judgments and therefore are not repeated here. Dr Kennedy, who had provided an earlier psychiatric assessment of the family (E86-134 14<sup>th</sup> February 2019), has since had sight of my fact-finding judgments and updating evidence and has provided an answer to the specific question about whether any of this altered his original conclusions (E381-382). In addition, since September 2019

an ISW completed a PAMS parenting assessment of the parents (E326-380 dated 3<sup>rd</sup> January 2020). The conclusions of that assessment were that neither parent had the ability to parent of the children in any combination to a good enough standard. The children all have complex needs, with genetic chromosomal abnormalities which mean they are more susceptible to future health and learning difficulties. The extent of these are as yet unknown and cannot be accurately predicted.

The final hearing of this case commenced on 9<sup>th</sup> March 2020 as the Covid-19 virus inexorably made its way across the globe. At the time I started it had seemed entirely feasible to at least conclude the evidence and hear closing submissions within the hearing time allowed. However, as the hearing progressed witnesses and professionals involved in the case began to self-isolate in accordance with Government guidance and it became progressively harder to hear all the necessary evidence. By mid-way through what should have been the second and final week it was no longer possible to source an intermediary to support M and it was apparent that I would not be able to conclude hearing evidence within that week, ie by the end of the day on 20<sup>th</sup> March 2020. Then on the following Monday, 23<sup>rd</sup> March 2020, the nation went into lockdown. Remote working became a requirement for many of us in the judiciary to keep the justice system going. I was able to pilot a relatively new HMCTS video platform. With the full consent of all concerned, and being mindful of judicial advice issued on 9<sup>th</sup> April 2020 and a handful of cases about remote hearings, I was able to convene an FCMH to test whether it would be possible to continue this case remotely.

The outcome of that FCMH was that the case was able to proceed as a wholly remote hearing, though (as has been the case in all forms of remote hearings) it was necessary to allow longer for the hearing than would have been the case in a face to face hearing. Shorter sitting days and frequent breaks were already necessary ground rules to help M in this case but those became critical to the success of the resumed part-heard hearing. In the event, I managed to conclude evidence within the 4 days originally scheduled for the resumption of the part-heard remote hearing, with closing submissions having to move to 13<sup>th</sup> May 2020. As anticipated when I had to adjourn part-heard on 18<sup>th</sup> March 2020, I reserved judgment and set the date of 1<sup>st</sup> June for formal handing down of the judgment. This timescale allowed for the judgment to be sent in draft form to all parties with time for them to request any amendments or clarification and, importantly, time for M to be able to go through the draft judgment with her legal team and intermediary (though this was done remotely). The fact that these parents with their undoubted vulnerabilities could fully participate in a remote hearing was nothing short of impressive and due to their willingness to resolve the proceedings in the interests of the children, as well as the commitment and co-operation of the advocates in ensuring an effective remote hearing. Advocates agreed a shortened essential bundle for the parents to use during the hearing and Counsel for the Local Authority used her own printer to get this printed and then posted to the parents. One other key factor which persuaded me to continue with a remote hearing was that no party required the parents to give evidence. The issues in this case were such that it could have been possible to determine them without hearing from the parents but the parents chose to give evidence. Another key factor was that due to my own circumstances it would not have been possible for me to continue with a face to face hearing. The options in this case were therefore either to continue with a remote

hearing in some form before me, adjourn to await a date when face to face hearings could safely resume though that may be at such a distance as to make it unjust, or abort the hearing and try to re-list before another judge who may be able to conduct a face to face hearing. On balance I agreed with the advocates and parties that the first option was the better of the three.

None of this is to say that the remote hearing itself wasn't at times without minor problems. Advocates occasionally lost connection and it was M herself who sometimes spotted these moments before I did. However, despite these issues, the hearing proceeded and I hope that both parents felt they had had a fair hearing. I was also impressed by the parents' ability to operate their tablet to remain connected to the hearing and the discipline which they and the advocates and professionals showed in the hearing itself in not trying to speak over one another if more than one microphone was unmuted and using the chat room function to alert me and the others to any issues or need to speak when muted. I am extremely grateful to everyone for this.

However, there is one aspect of this case which has been highlighted by Ms Gray in her closing submissions as a cause of concern, namely the actions of the Local Authority about disclosure of evidence. This issue, in my view, is one that is rightly a concern and, whilst it has not prevented a fair hearing and is unrelated to the remote nature of the final part of the hearing, came dangerously close to de-railing the final hearing. Dr Gatland also noted the concern about this and the fact that I had repeatedly pointed out to the Local Authority that the burden of proof falls upon them to prove their case. It is not for the parents or the Guardian to disprove the Local Authority case. The example of what information had or hadn't been disclosed to

contact supervisors was raised by Ms Gray in her closing submissions, and there is also the example of Ms de Freitas on behalf of F asking what evidence there was about parenting courses being offered to F. The adequacy of Local Authority decision making is a key issue in this case so I will consider that later in more detail in this judgment, but there were also issues with obtaining the necessary documentary evidence in relation to that as again Ms Gray and Dr Gatland noted. Overall there has been a tendency for some of the key pieces of evidence about what information was provided to the contact supervisors to inform their support of contact and decision making by the Local Authority to be disclosed late and in piecemeal fashion. This is deeply unhelpful not just to me as the Judge but also to the other advocates and the parties. Doubly so when one remembers the vulnerabilities of these parents and their need for greater time (and help in the case of M) in understanding the evidence in the case. In my view this was also not helped by the Local Authority seeming to struggle with the requirements of Practice Direction 27A in what should form part of the Bundle (so much so that I have still ended up with two Bundles for this hearing – the so-called Main Bundle and the Post Fact-Finding Bundle) and what should simply be served on parties with the Local Authority persisting in relying on or referring to documents contained in a Checklist Bundle which in reality is simply that which should have been served on the parties and only added to the Bundle if it met the criteria under PD 27A. I have lost count of the number of times I had explained the requirements of PD27A and thought that I had set in place a timetable for the content of the Bundle to be agreed or for me to make a ruling on content if not agreed in the run up to the final hearing commencing earlier in March. In saying this, I have no doubt that this was not deliberate failure by the Local Authority and may also have been affected by the national public health crisis in part. This does not, however,

explain or excuse the late disclosure of the information that was provided to the contact team which had been requested by solicitors for M early on, nor does it explain or excuse the late disclosure of the decision-making documents and case notes. I would suggest that the Local Authority in future needs to a) ensure compliance with the provisions of PD 27A and allow sufficient time in the filing of evidence to do so when making submissions about case management directions, and b) ensure that it does not produce documentary evidence late on in the course of final hearings when the issues that those documents relate to (eg such as decision making documents when there is a challenge to the adequacy of decision making) were well-known before the final hearing commenced. Failure to adhere to both of these principles in future cases, particularly where there is a possibility that some of those may be taking place in some form of remote hearing, does indeed risk breach of the article 6 rights of the other parties involved in those cases in my view.

Over the course of this final hearing, I have read the Main Bundle and Post Fact-Finding Bundle. I have heard evidence from the ISW who completed the parenting assessment, the Family Finding social worker for B and C, the social work assistant team manager, the team manager, F, M and the Guardian. The previous allocated social worker, who is no longer employed by this Local Authority, had been due to give live evidence in the early part of the hearing. However, she notified the Local Authority that she was unwell with symptoms that would lead to her having to self-isolate. She initially indicated she would be able to give evidence remotely despite this. However, on 11<sup>th</sup> March 2020, after much communication backwards and forwards with the Local Authority, she produced a sick note which signed her off for 7 days. The Local Authority did not seek to call her at the resumed remote part of the

hearing as it had closed its case prior to this point. The last three witnesses gave evidence remotely via the HMCTS CVP (Cloud Video Platform) system as that is the system used for the remote part of this final hearing.

### **Parties' Positions**

The Local Authority seek final care orders for all 3 children. The final care plan for A is long term foster care. The final care plans for B and C are for adoption and placement orders are therefore also sought for them.

M agrees with the final care plan for A. She doesn't agree with the final care plans for B and C and wants them to be returned to her care. Her case is that she has not had enough support to manage all 3 children in the past, can learn to parent B and C to a good enough standard and look after them safely with help and support from F and professionals.

F's case is now the same as M's. His final statement said that he wanted all 3 children to return to his care, but he amended this when he knew M's final position after the IRH in February. F has said that he will give up work to help M look after B and C, but he has also said that he needs to continue working and will employ a child minder to help M. He also says that he has not had enough support in the past and is willing to learn to parent the children to a good enough standard.



The Guardian agrees with the Local Authority that none of the children can safely return to the care of their parents. He supports the making of a final care order for A and endorses the final care plan for long term fostering in her case as being in her welfare interests. However, the Guardian does not agree that adoption is in the welfare interests of B and C and asks me to instead invite the Local Authority to amend their final care plans for B and C to ones of long term fostering.

### **Relevant legal considerations**

In addition to considering section 31(2) of the Children Act 1989 regarding threshold, I have considered the welfare checklist in section 1(3) and had regard to the article 8 rights of the parents and the children. As implied above, I have also had regard to the article 6 rights of all concerned, particularly the parents, not least in relation to the remote hearing that I undertook to conclude this case. In relation to remote hearings, I have had regard to *Re P (A Child: Remote Hearing)* [2020] EWFC 32. I have also considered the options for the children applying the considerations set out in *Re B-S (Children)* [2013] EWCA Civ 1146. As there are placement order applications for B and C, I have also had regard to the welfare checklist set out in section 1 of the Adoption & Children Act 2002.

I have been mindful of the fact that before I can make placement orders, I must be satisfied that the welfare of B and C requires the consent of their parents to be dispensed with (s51(1) Adoption and Children Act 2002 (and *Re P (Placement Orders: Parental Consent)* [2008] EWCA Civ 535). Dr Gatland for the Guardian produced a very helpful and in my view accurate summary of the applicable legal principles which was largely agreed amongst the advocates. A copy of that summary

can be found at A156-164 in the Bundle, though I do note that Ms Reynolds for the Local Authority has provided a different emphasis in her closing submissions on the issue of adoption versus long term foster care (A95-A96). Ms Reynolds has submitted that there is a current consensus of social work opinion ascribing to the view that adoption is, as a matter of general principle, a more stable and permanent care arrangement affording a higher level of commitment to a child than long term foster care. She then refers to various text books on the subject. Ms Gray for M also reminded me of the *President's Guidance: Family proceedings: Parents with a learning disability* published 10<sup>th</sup> April 2018 which, as she noted, incorporated links to key research papers on the subject. She also highlighted the case of *A Local Authority v G (Parent with Learning Disability)* [2017] EWFC B94 before HHJ Dancey which referred to and summarised the *Good practice guidance on working with parents with a learning disability (updated September 2016)* published jointly by the Department of Health and Department for Education and Skills. However, it appears that there is no dispute on the overall legal principles which I must apply, including that it is for the Local Authority to prove its case on balance of probability and the welfare of these particular children must be my paramount concern. I will return to the issue of the difference in emphasis between advocates when looking at the issue of adoption versus long term foster care later in this judgment since I regard it as something that must be considered in the context of these children in this case considering the evidence that I have heard and overall in considering what is in their welfare interests.

## **Findings**

Threshold was something that I explicitly dealt with at the end of the second fact-finding in October 2019. I was therefore somewhat disconcerted to be faced with an argument between Ms Gray and Ms Reynolds at the end of this welfare hearing about the threshold findings. Ms Gray was asking me to remove various items that had formed part of the findings made earlier at the conclusion of both fact-finding hearings from the final threshold document because she asserted they were not capable of crossing threshold. She also asked for one point of clarification to be added to reflect the finding made in my judgment about concealment by M. This last issue was the easier of the two to deal with as, having heard from the advocates, I did accept that the finding I had made in my judgment at lines 1087-1088 (JUD45 Main Bundle) was not fully covered in the schedule of findings without the addition of the words "*from F (though not from professionals)*" to item 10 on the schedule of findings. In the main the other items that Ms Gray sought to remove from the schedule related to a lack of supervision by M. In this sense they are also directly relevant to threshold. The one notable exception to this is item 6 on the schedule which I specifically found did not amount to a finding of lack of supervision and had not been advanced by the Local Authority on the basis that this incident related to a risk of sexual harm as I noted in my judgment (line 1026-27 JUD 43). Given this and my finding that there was no lack of supervision at the time of this single incident, I can see that this is not a finding which is now relevant to threshold. In those circumstances I have removed item 6 entirely from the threshold findings, but this is the only item that is removed. I append the amended schedule to this judgment which now forms my threshold findings for the purposes of section 31(2) (Appendix A to this judgment).

I have next considered welfare disposal with regard to A. All parties agree that the final care plan for A which proposes that she remains in long term foster care is one that meets her welfare needs. A's needs are extremely challenging and complex as the evidence in this case demonstrates. As a result, she requires a specialist placement to enable her needs to be met and long term foster care will ensure that those needs are met. She is currently in a specialist therapeutic foster care placement with carers who are skilled in ensuring her needs are met. She moved to this placement in September last year. She has recently started at a special school and is on a reduced timetable. Dr Kennedy assessed A as having complex issues and the Guardian agrees that *"she presents as a child with significant emotional and behavioural needs"* (E388). A's complex needs include delayed cognitive development, a likely learning disability, poor concentration, hyperactive impulsiveness and she displays some signs of ADHD. Professionals have noted that she also had little sense of stranger danger or body boundaries and that she is displaying some signs of attachment problems. The Guardian has been unable to ascertain her wishes and feelings due to her difficulties, but has noted that she is happy in the care of her current carer (E389). The Guardian has also noted from his own observations of A that she *"is a very demanding child who is very testing. She seeks attention from her carer all the time and does not like it if her carer's attention is taken away from her. A needs lots of reassurance and needs to be constantly supervised. There is no doubt that A's behaviour has improved since being in care but even so, her needs are at such a high level that she is going to need specialist care and parenting for the distant future"* (E389). I have also noted the evidence from Dr Kennedy in his Family Report which noted that there is an interplay between A's organic issues and the poor parenting that she has been exposed to which has contributed to her extremely challenging and

complex behaviours and needs (eg E90-91). This is significant when I turn to consider B and C and the issue of parenting capacity and risk of harm to them. In relation to A, though, I am satisfied that the final care plan for her to be placed in long term foster care under a full care order is one that does meet her welfare needs and in fact is the only realistic option for her at this point.

I have next looked at whether M and F would be capable of parenting B and C to a good enough standard and whether it would therefore be possible to return B and C to the care of their parents without a risk of further harm to B and C. M and F accept that they would not be capable of parenting B and C to a good enough standard at this stage without support. The parenting assessment of M and F completed by the ISW (E326-E380) was very clear that M *“does not have the ability to parent these children alone. In my opinion, she would need the constant attendance of a more able adult who is aware of each child’s individual needs and who can both supplement M’s impoverished parenting style and encourage her to play in a calmer and more creatively focused way and support her efforts for more positive interactions than she appears presently able to achieve.”* (E347). The case put by M and F is that she would have support from either F or childminder/s. The ISW did consider the extent to which F co-parenting with M would enable the deficiencies in M’s parenting to be overcome. She noted that from the contacts she observed M does not co-parent cohesively with F at all (E347), there appears to be a lack of communication between the parents as well as a lack of encouragement or support, and in fact F’s engagement with the children in creative play was better when he was on his own (E370). F’s parenting skills were noted to be limited (E370) and, in the opinion of the ISW, he had *“failed to prioritise the opportunities to learn skills in relation to parenting these*

*children since the children have been removed and through his work on his (PQ) it was evident that he was quite content to leave M to manage the children despite knowing that she was struggling” (E375). The conclusion of the parenting assessment was that “neither parent has the ability to parent any of the children in any combination to a good enough standard” (E377).*

The ISW had been asked to consider what support might be required for the parents if any of the children were returned to their care in any combination. Her conclusion was that *“If the Court were minded to return any of the children to the parents’ care, in my opinion there would need to be a consistently high level of multi-agency professional support to ensure that each child's specific developmental and presenting needs were consistently met to a good enough standard. 5.3.2 Respectfully, I consider that a high level of professional support would need to continue for some considerable time throughout childhood due to each child's specific areas of need as are currently identified. 5.3.3 Further, given the parents difficulty in managing the children's behaviours now, it could likely be anticipated that the children would become increasingly more challenging as they grow and develop in the coming years. 5.3.4 Respectfully, in my opinion, parents would certainly need further parenting support suited to their learning style, there would need to be family work incorporating the specific needs of the individual children, and in respect of M's cognitive difficulties. Home support would need to be suited to M's learning style. In my opinion F would need to be at home full-time, and these parents would likely benefit from couple counselling.” (E378).*

As was noted by Dr Gatland in her closing submissions, the ISW remained clear and consistent under robust cross-examination that the combination of M's difficulties and need for constant support and supervision, with F's lack of proactivity, would mean that if B and C were returned to their parents' care there is little chance of their complex needs being met (Transcript 1 page 24).

M's case, and that of F, is that they were not provided with sufficient support prior to the removal of the children. F also argues that he has not had sufficient opportunity to complete a parenting course since the children were removed. As is set out in the social work evidence at C18-22, there has been social work involvement with this family on and off since 2013. From 2018 a Team Around the Family (TAF) was in place. It was known from a relatively early stage in the chronology that M had a level of learning difficulty and therefore learning needs (C18 chronology notes this from August 2013). It is not clear from the local authority evidence how much they knew about F's requirement for some learning support when at school, however from my experience of seeing F in various court hearings over the course of these proceedings it must have been apparent that at the very least he is someone who takes extra time to process information and needs a degree of accommodation of this from people explaining things to him. That being said, he is someone who not only works full time but is able to supervise those under him and does not have a learning disability. A cognitive assessment of M was completed during these proceedings (E24-29) by Frank Furlong. He concluded that she did not have a learning disability but did have vulnerabilities such that she *"experiences general difficulties with learning. M's profile indicates deficits across a range of cognitive skills and additionally, she also experiences significant literacy, numeracy and written language*

*difficulties...Notwithstanding weaknesses in her cognitive functioning, M demonstrated (with support) her ability to understand information that was presented to her using simplified language where necessary” (E29).* In my view it again would have been apparent to any professionals working with M prior to this assessment that she has a level of difficulty in processing information and hence needs some support with learning. This was noted by some professionals in the period prior to the children being removed, for example the school welfare lead as Ms Gray highlighted in her closing submissions. It is also the case that it was only in September 2018 that the children were placed on a Child Protection Plan with a view to further support being offered to the family (DM2-7q-r). However, this Child Protection Plan was derailed by the precipitating events and injuries that led to the children being removed from the care of their parents.

Ms Gray criticises the Local Authority in her closing submissions for not providing the family with more support prior to the children being removed, and contrasts the support that is now being provided to A and will be provided to her under the final care plan. However, in my view this is a simplification of the situation. It is easy to forget that there are a range of factors which complicate the support that this family would need, in my view. These factors include the complex needs of the children themselves both arising from their organic issues but also from the extremely poor parenting that they experienced when in the care of their parents, as well as the vulnerabilities of the parents themselves to differing degrees. It is important to distinguish between what is known now and what was known then, though, to avoid judging the adequacy of support with the benefit of hindsight. As I have noted, the cognitive assessment of M was completed in December 2018 and notes a complex set



of issues for M that do not equate to a learning disability. The aspects of A's challenging behaviour that have been such a feature of this case appear to have only really been apparent to anyone from about 2018 (perhaps unsurprisingly as Dr Kennedy noted the impact of chronic neglect and abuse - C18 chronology, E90 and E124-125).

I think it is also important for A's future that she is not in any way singled out for blame in terms of the difficulty of managing her behaviours. I am concerned that there is a marked tendency on the part of both parents to simply rely on the difficulty of managing A's behaviour, particularly with her siblings, as a reason for their inability to parent all three children. There have been many contacts that are positive from reading the contact notes in the Post Fact-Finding Bundle. However, there have also been recurrent themes of M being unable to cope including setting and maintaining boundaries for all three children (CN.2-7, CN.2-8, CN.2-22, CN.2-68, CN.2-91). This has continued in contacts with only B and C and has also included instances of F being unable to ensure that both children are involved and engaged (CN.2-11, CN.2-18, CN.2-91). In addition, including more recent contacts, there are concerning examples of M being unable to ensure safety and being alerted to risk by either the contact supervisor or B (CN.2-18, CN.2—30, CN.2-91, CN.2-106, CN.2-94). Whilst it is undoubtedly the fact that managing all three children together is exceptionally challenging, it is also an oversimplification to say that the parenting A received in the past has not fed into the difficulties that she now has. Dr Kennedy's evidence proves this. It is also clear that even in contact with B and C alone, M in particular still struggles to meet the needs of the children and to ensure safety despite a high level of support from the contact supervisor. This reinforces the evidence from

the ISW about the extremely high level of support that M would require in the future if B and C were to be returned to her care.

Having reviewed the evidence carefully, I am satisfied that the support provided by the Local Authority considering what was known at the time was adequate. It included a nursery nurse supporting M with home visits every fortnight for six months (DM.2-7k), support from the Health Visiting Team and School (DM.2-7k). TAF from May 2018 (DM.2-7l), Child Protection Planning from 6<sup>th</sup> September 2018 (DM.2-7a though this was interrupted by the burn injuries to A), an Adult Social Care Needs Assessment of M in October 2018 (E397-E404), and direct work with a play therapist in contact sessions. It was not exceptional, but it was adequate. In saying this, I have also been mindful of the fact that much of the guidance about working with parents with learning disabilities a) is not necessarily directly applicable to these parents who do not have learning disabilities and b) only in fact dates from the latter stages of the time the Local Authority were involved with this family (ie from 2016 onwards). The support that was provided to the parents from that point onwards also didn't have the benefit of a cognitive assessment of M, but did include tailored support through the TAF, the health visitor team and the school welfare lead. The extent of A's complex needs was also not known until she was assessed during these proceedings either, and the precise diagnosis of the genetic deletion that all three children in fact carry was also not confirmed until late on in these proceedings.

In terms of future support that could be provided to the parents, I have clear evidence from both the ISW and Guardian about this, as well as the assessment of Dr Kennedy. The Guardian's view is that F also takes no responsibility for the neglect of the

children (E392), something that has also struck me about F's evidence. He has accepted that aspect of threshold formally but I saw nothing in his written evidence nor his oral evidence to me that demonstrated a real acceptance that what he had done in the past had caused the children to be neglected. However, it was clear that he wants to do a parenting course and this had been discussed with social services briefly during the Family Group Conference in January 2019 (C320 – where it is clearly a follow-up). The earlier reference to a parenting course is a very brief note from 19<sup>th</sup> December 2018 (C317) which simply states in relation to a referral for the Family Links course “*F offered but reluctant to attend due to working pattern*”. This evidence and that of the Family Group Conference was produced late and only after F had repeatedly asked for the notes of the Family Group Conference meeting to be disclosed. M has attended this course, F has yet to undertake it, but it may be that both need something more tailored to their learning difficulties/styles. I remain unclear as to why F has not yet undertaken any such course as the Local Authority evidence does not address this in detail at all. All that is clear from the evidence is that his working pattern seems to have caused some issue with his undertaking the generic Family Links Programme that M completed.

However, regardless of this the most significant aspect about whether F could complete an appropriate parenting course is whether this would be likely to augment his parenting skills to such an extent as to effectively fill the gap that the deficit in M's parenting ability creates and do so in a timescale that meets the needs of the children. The ISW considered this in her report at E375: “*the amount of work needed in this area would likely mean that the timescales would be improbable for these children who need consistent skilled parenting and permanency as soon as*

*possible*". This evidence from the ISW is compelling, I find. B and C are children who have a heightened level of potentially complex needs because of their organic issues, and B has a heightened level of complex need as a result of her behaviour and delayed development arising from the chronic neglect and exposure to risky adults that she has suffered in the past. Added to this is the aspect of how much day to day involvement in parenting F would be able to offer. His case about this has seemed to vary at times. From hearing his evidence on 4<sup>th</sup> May it seems to be the case that he is not proposing giving up his work but was instead proposing that he would employ a child-minder to cover periods when M would otherwise be looking after the children on her own. He set out a sketch of a proposal that would have him getting the children up and ready for school, then taking them to school on his way to work, then a child minder or family member collecting them from school and staying with them until F got home from work. F did put in his statement that he had investigated giving up work but that was not possible financially (C294 para 7). He told me in evidence that he wouldn't be eligible for benefits and M also told me this. From my knowledge of the benefit system it would appear to be that he would not be eligible for Income Support if he voluntarily gave up work, at least for a period of some weeks. It is not clear what discussions there have been with social services about this, but in any event as the Guardian noted working has been incredibly important to F not just for financial reasons as it is obvious to anyone who listens to him that working, providing for his family and having a level of responsibility in his job is important to his self-esteem and sense of identity. It is therefore not something that he should be criticised for, but the fact that he needs to keep working for several reasons not just finances does mean that he cannot physically be as available to parent the children as Dr Kennedy and the ISW noted that he would need to be (E131, E378). On balance, I

find that F would not be able to improve his parenting sufficiently quickly to meet B and C's need for permanency, nor would he be as available because of his need to work and therefore he cannot sufficiently fill the gap in the deficits in M's parenting.

Added to this is the evidence of the ISW to me when she acknowledged that such is the deficit in M's parenting capability she would need a skilled worker "*on her shoulder all the time*" (transcript 1 page 35) to help her with the children both practically and emotionally.

I have considered whether family support would instead fill the gap, with a professional child minder as F and M propose. There are two issues with this on the evidence before me. One is that it is not clear how much family support there may be. M has very little family support available to her as the assessment of the ISW makes plain (eg E333). F's family support is also not clear from either the ISW assessment or from his own evidence. I am also concerned about the impact upon B and C of having a variety of care givers involved in their care considering the compelling evidence from Dr Kennedy and the ISW that what the children need is *consistent* parenting (E347 for example). A, B and C have also been assessed by Dr Kennedy as needing compensatory parenting "*they need long term well-attuned parenting to overcome the physical neglect and abuse that they have suffered*" (E130). These children therefore need better than good enough parenting. I find that even with some paternal family support and the possible involvement of a child minder this would not provide B and C with the necessary compensatory parenting and may well cause a risk of harm to them by exposing them to inconsistency in care providers. I therefore find that B and C cannot be safely returned to the care of their parents as the social

work evidence (C235), that of Dr Kennedy (including his addendum after receiving updating evidence at E381-382), that of the ISW and the Guardian (E393) all demonstrates. Put plainly, if B and C were to return to the care of their parents they would suffer further neglect and possible other significant harm as happened in the past.

The next aspect I have considered is issue of whether B and C should be placed for adoption as the Local Authority submit is in their welfare interests, or whether their welfare needs should be met by a plan for long term foster care. In approaching this question, applying the relevant law, my starting point must be that adoption is the most draconian outcome in any public law case and is only to be sanctioned by the Court if nothing else will do. It is not therefore that one starts with adoption as somehow the 'gold-standard' of permanency for children. I also must consider what is in the welfare interests of B and C in particular, not just what may be generally found in research or text books.

There are positives and negatives in the general sense with regard to both long term foster care and adoption for any children. Long term foster care can bring with it a risk that placements may break down (and that this can sometimes happen without much notice), but equally it can provide access to ongoing support for children and carers through the status of the children as Looked After Children with a Local Authority who shares parental responsibility and statutory responsibility for them. Equally, adoption can bring with it a greater sense of permanence and stability in the legal and psychological sense, and there is a potential for post adoption support through the Local Authority fostering and adoption team. The respective general

advantages and disadvantages are well-rehearsed in cases such as *Re LRP (Care Proceedings: Placement Order)* [2013] EWHC 3874 (Fam) and *Re V (Children)* [2013] EWCA Civ 913 as Dr Gatland noted in her legal summary document. As she also correctly noted in referring to *Re A (Children: Adoption/Long Term Foster Care)* [2013] EWCA Civ 1021, where the question of ongoing sibling contact was a significant consideration, ultimately, I must apply the welfare checklist in the Adoption and Children Act 2002. I have also noted earlier in this judgment that my decision is about these particular children considering the evidence before me about their welfare needs and therefore, as Dr Gatland also submitted, a careful and specific rather than generic analysis is needed.

The first item on the welfare checklist is the ascertainable wishes and feelings of the children concerned, taking into account their ages and understanding. At 5 and 2 years old B and C are too young to be able to articulate their wishes and feelings independently. However, B and C have a close bond and B is noted to be very protective of C and comfort him when he is distressed. I have no doubt that they would therefore want to stay together if possible.

The next heading is the children's particular needs. In this case there is a consensus amongst the professionals that B and C need compensatory parenting, that B has complex needs arising from her organic issues and the impact of the neglect and abuse that she has suffered, and C may well also develop more needs as he grows older arising from his organic issues (C253, C245). They both have a familial genetic chromosomal deletion and B has a second chromosomal deletion which is as yet of uncertain significance due to the scarcity of published research about it. Both will

need to be subject to ongoing monitoring and review by a clinical genetics specialist team in some form. B “*may need long term intervention and support to enable her to achieve independence*” (D43) B’s has “*particular needs because of her complex picture*” as Dr Kennedy noted (E130). The ISW told me that both children will need carers with particular skills to meet their developmental delay (transcript 1 page 21). B is likely to need additional support as he gets older (C270). Both children are recommended for Education Health and Care Plans in order to support their learning and in light of their pressing additional needs (C242 and D43). C already has speech and language delay and mild global developmental delay (PC15). Both children will need ongoing speech and language therapy (D31, D42, PC 13). Both children are also likely to benefit from occupational therapy (D31, D43). B has been referred to CAMHS for assessment (C279) and it is noted that C may need a referral regarding his mental health and specialist psychological help (PC12). The professional evidence is also consistent and compelling that these children need stability and permanency sooner rather than later, not least because of the protracted nature of these proceedings arising from the difficulties with determining fact-finding.

The next heading is the likely effect on B and C (throughout their lives) of having ceased to be members of their original family and become adopted persons. The evidence is that M and F love B and C very much and clearly enjoy spending time with them. However as is noted by the Guardian in his final analysis they do not have a strong attachment to their parents in view of their young ages (E390). The ISW also noted that M’s parenting style was less likely to have given rise to a strong attachment (E335). B is also noted to be showing signs of attachment difficulty (PC8). Severing their relationship with their parents, whilst undoubtedly traumatic for the parents, is



not therefore going to have as great an impact on the children now. As they grow older, they are undoubtedly potentially going to be curious about their birth parents and the reasons for their removal from their birth family. However, with the right parenting and support this seems unlikely to be a cause of emotional distress for them in the future and their identity needs can be met through, for example, some form of life story work. Far more significant for them both now and later, in my view, is what might happen both now and throughout their lives if the sibling bond between B and C were to be severed considering all the evidence about the strength of this bond. I will return to consider this in more detail when I look at the risk of harm to them.

The next heading is their age, sex, background and any of their characteristics which the court considers relevant. I have nothing to add under this heading to that which I have noted above in relation to their ages, needs and the strength of their sibling bond which I have considered under the likely effect on them of having ceased to be members of their original family and below under risk of harm.

The next heading is any harm (within the meaning of the Children Act 1989) which the children have suffered or is at risk of suffering. This is perhaps the most significant aspect of the welfare checklist considerations for B and C. This is the crux of the dispute between the Local Authority and Guardian. The Local Authority case is that the potential negative aspects of long term foster care mean that such a placement would potentially cause the children harm. The Guardian on the other hand argues that this is the case about adoption for B and C.

In her closing submissions, Dr Gatland described the relationship between B and C as “*of paramount importance to them*”. She then listed the evidence from the social evidence which includes a Together or Apart assessment (C258-257), which is strikingly close to the list of evidence which I had highlighted in the Bundle about this issue:

- a) B and C are a close sibling group and have a close bond (C249 final social work statement; C263, C268 sibling assessment);
- b) B is very protective of C (C263);
- c) B will comfort C when he is distressed (C268);
- d) B and C have always lived together and do not display the same competitive behaviour that B and A displayed (C271);
- e) Their outcomes will be enhanced if they are together and it is in their interests to maintain their sibling bond (C251);
- f) They have displayed a strong attachment to each other in their placement and B feels part of the sibling group (PB18 – from the Child Permanency Report for B);
- g) C still feels a part of this family (PB71 CPR for C);
- h) When the Guardian spoke to the foster carer she could see no reason why C should be separated from his sister and they would be badly affected if they were separated.

The evidence of the Family Finder is particularly relevant at this point. The evidence in the Bundle from the Family Finder at C290 made it clear that there was one potential adopter in the area and seven in total but in reality this number is likely to be

lower. The number of potential adopters for C alone is much higher (greater than 100), whereas for B alone the figure would remain at 7 (C290). In her oral evidence to me the Family Finder accepted that she had only ever matched one other child with a single chromosomal deletion in six and a half years, and that she had never had a case like this one (transcript 2 pages 5 and 17). She also confirmed that the number of potential matches for both B and C together (7 out of around 760) is low (transcript 2 page 15) and that it would be reasonable to suggest that factors such as the children's significant current and unknown future needs, contact with A and the geographical implications of placement for this might reduce the number even further (transcript 2 page 18). I was struck by her evidence that once a search for placements jointly and separately began in parallel, they would not remain in parallel for long because of the imbalance between the number of potential adopters for C alone compared to those for B alone (transcript 2 page 16). She also told me that six months was unlikely to be a long enough time to find a joint placement for B and C with their needs, much less the four-month period suggested by the IRO (transcript 2 pages 19 and 20). The IRO recommendation can be found at DM2-5). The Guardian also gave me compelling oral evidence about his professional view of the impact upon B and C of being separated.

Balanced against this, the evidence from the social work assistant team manager who countersigned the final care plans was that she endorsed the final care plans, even though as she told me the children have complex needs and the case is finely balanced, was unable to explain to me why a figure of six months had been reached for the period to search for a joint placement in this case other than this was often the case, and that sibling contact may not be guaranteed to be promoted in an adoptive

placement. Her evidence to me about the differences or similarities between long term foster care or adoption in terms of access to support was also striking. As Dr Gatland noted in closing, she didn't seem to accept (or perhaps know) that children who are Looked After have priority for support and services and I agree with Dr Gatland that the absence of any apparent discussion about the children's needs being met as Looked After Children with priority access to services and support is a concerning omission. The social work assistant team manager accepted that support services for adoptive placements are also available to children in long term foster care, and that the positive aspects of adoption in the final social work statement at C253 apply equally to long term foster care. She also referred to research about adoption being the best outcome to achieve permanence for children but did concede that none of the research known to her dealt with children with particular vulnerabilities. It is safe to say that the combination of vulnerabilities that B and C both have is rare and probably therefore unlikely to have been replicated in sufficient number to allow any comparative research to have been conducted when one thinks about the issue with the lack of comparative studies about the effect of the second chromosomal deletion that B has.

I also heard evidence from the social work manager who signed off on the child permanency reports for B and C. Dr Gatland described her evidence as 'remarkable' and in my own view it was certainly striking. The social work manager in question accepted during her oral evidence to me that the reports she signed were authored by one of the earlier social workers in the case and the allocated social worker whose evidence is the final social work statement at C231-257 in fact had no input to those reports at all. A feature of this case, partly no doubt to do with the lengthy

proceedings, has been the number of social workers assigned to the case – five seems to be the accepted number. It became apparent that not only had there been these five social workers but that there had not necessarily been consistency of social work management either as the assistant team manager had also changed at least once. It had been submitted to me by the Local Authority that the social work manager who signed off on the child permanency reports (in fact described as the author at one point though that seems to have been an overstatement of her role) had provided the necessary continuity of oversight. It remains less than clear to me if this was the case since the individual in question told me that she had endorsed those reports but also accepted that they had been prepared without the final local authority evidence including the parenting assessment. The reports also contain, as was submitted by Dr Gatland, rather generic analysis of the factors for and against adoption and long term foster care (PB48 and PB101). They also significantly fail to address the potential impact on B and C of ceasing to be members of their family in any form, including the impact on them of ceasing to be siblings if placed separately, do not identify any support that may be needed to assist the children if adopted (jointly or separately), or how contact might be secured if they were to be placed separately. This concerningly replicates the final social work evidence which also has a marked lack of detailed analysis of these issues – just a single sentence at C251 “*separating B and C may cause confusion, anxiety, and a further sense of loss which may add to the complexity of their needs*”. Given the complexity of the children’s needs it is also very worrying that the final social work evidence and the child permanency reports also do not consider how priority access to services as Looked After Children may in fact be a positive benefit to B and C of long term foster care. Nor does it acknowledge that they are currently thriving in foster care and the permanency plan for A (who also has

complex needs) acknowledges that long term foster care is the best outcome for her in no small part because she needs better than good enough parenting coupled with therapeutic support.

I was not impressed with the evidence to me from the social worker who signed the child permanency reports, I am afraid. Her evidence that adoption has not yet been ruled out for A despite the final care plan, her age, complex needs and all the local authority evidence stating that the best permanency outcome for her was long term foster care was worrying to say the least. She also told me that for B and C it *“is accepted that adoption for children of these ages is absolutely the best”*. It is hard to disagree with the submission of Dr Gatland that the overall tenor of her evidence pointed to a conclusion that she had started from the perspective that adoption is the ‘gold standard’, ie the ideal permanence option unless the child is not adoptable in which case a less favourable option would be considered. That is wholly against the law as it currently stands and perhaps explains the absence of analysis of the respective positives and negatives of long term foster care in the child permanency reports.

As I have noted earlier, the Family Finder accepted that this case is finely balanced. The evidence of the Guardian was portrayed by Ms Reynolds in her closing submissions as showing that he was against adoption in principle. With the greatest of respect to the Local Authority in this case, that is not how I viewed the Guardian’s evidence to me, either in his final analysis and recommendations or in his oral evidence. He was criticised in cross examination by Ms Reynolds for not being able to list any advantages to adoption for these children. However, that criticism is not

valid in my view. I took from his evidence that his professional view is that permanency for B and C, when one weighs in the balance the risk to them of being separately placed if a joint adoptive placement cannot be found and their complex needs which encompass requiring reparative parenting and ongoing additional support in the short, medium and likely long term, against the risks to them of a long term foster placement breaking down and the continued involvement of social services in their lives and a lack of legal identity as part of a foster family, could best be achieved through long term foster care. I found his evidence extraordinarily compelling and, I must say, focussed on the needs of these children in a way that the final social work evidence and child permanency reports singularly failed to do at times.

On balance, I have concluded that long term foster care would best meet the welfare needs of B and C. The negatives of long term foster care for them are the same as for many children and do bear repeating: they would not legally be part of their foster family unlike in adoption, they would be subject to a long period throughout their childhood and potentially until 21 years old of state intervention in their lives as looked after children, long term foster placements can break down for a variety of reasons that may have nothing to do with the children themselves and this may therefore mean that there is no guarantee that they would remain in the same placement and may experience changes of placement and hence instability and all of the harmful consequences for them that may flow from that. These are, in fairness, set out in the local authority evidence. However, in this case long term foster care also has some distinct advantages which apply particularly to B and C. They would have priority access to services and support as the evidence from the Guardian made plain. They have a heightened level of complex needs which makes this aspect even

more important for them. They will need better than good enough parenting to cope with their complex needs and, although there is an equivalence of access to support for adopters and long term foster carers, the ability to provide the reparative parenting that they need is bound to be significantly enhanced by the children also having access to priority services themselves as looked after children, I find. Perhaps most significantly for these particular children, long term foster care provides a greater certainty of their remaining together as siblings. It would also enable them to maintain contact with A though the evidence about the importance to them of this is less clear cut than the evidence about the strength of the bond they have with each other. As the Guardian told me, in a long term foster placement the children can also achieve the sort of psychological permanency of relationship that B and C clearly need. With the sort of complex needs that B and C clearly have, it is also far from clear to me on the current evidence that they will understand the nuances of the difference between being an adopted child and a foster child in this sense. They have clearly bonded very well with their existing foster carer which nobody disputes. That fact alone also bodes well for them being able to transfer the bond to a new, long term, foster carer in my view. They are also thriving in foster care, another factor that suggests they would continue to do so in a long term foster care placement in contrast to some cases that deal with where the children concerned are clearly struggling with a lack of permanency.

Adoption, on the other hand, would provide them with the sort of legal permanency and relationship in their adoptive family that is an undoubted benefit for many children. It would mean a legal relationship that continues into adulthood in terms of inheritance, and achieves a psychologically permanent relationship long into



adulthood. As I have noted the support services for adopters are the same as for long term foster carers. Beyond these positive aspects for B and C, I have struggled to identify any more that apply particularly to them on the evidence before me. In fact, in my view there are considerable negative aspects to adoption for B and C. I find that there is only a small possibility that they could be placed together for adoption and that the likelihood of them being placed separately is very much higher as the Family Finder's evidence demonstrated. In fact, because C is clearly potentially more likely to have a wider pool of potential adopters and B such a small pool, it seems in fact quite likely that the local authority would struggle to find a suitable adoptive placement for B that met her needs including ongoing contact with both C and A as that would impose a geographical limitation as the Family Finder accepted. In addition, given the complex needs of B and C now and unknown needs in the future, there does seem to me to be a more than negligible risk of adoption placement breakdown for B in particular. If they could be placed together this raises the prospect of them being separated even if a joint adoptive placement were to be found. In part this conclusion is drawn from the evidence about the support services that they are both going to need now and in the future and the fact that even with post-adoption support it is going to be hard work for any adopters to access these (which was the tenor of the Guardian's evidence to me and chimes with my own experience in Family cases involving adoption breakdown). It is also drawn from the evidence about the strength of the sibling bond between B and C and the risk of harm that I am clear could be caused to them if that bond were not preserved as the Together and Apart assessment clearly demonstrates it needs to be.

The final heading is the relationship which the children have with relatives and with any other person in relation to whom the court considers the relationship to be relevant, including (i) the likelihood of any such relationship continuing and the value to the children of doing so (ii) the ability and willingness of any of the children's relatives, or of any such person, to provide the children with a secure environment in which the children can develop, and otherwise to meet the children's needs, (iii) the wishes and feelings of any of the children's relatives, or of any such person, regarding the children. In terms of B and C themselves I have really covered this above. However, in relation to their relationship with their parents and wider family, despite the abnormal rivalry between B and A, the sibling relationship is clearly an important one and the local authority evidence acknowledges this. Sadly, neither the parents nor any wider family member can provide B and C with the parenting that they need. There is a benefit to all 3 siblings in having some parity of relationship with their parents, ie as looked after children in long term foster care they will see their parents at regular intervals and this may in fact help to play a part in diminishing the rivalry between A and B in my view. In other words, I can see that if A were to have contact with B and then B were to move to the letterbox only contact with her parents that the final care plan proposes at D45, then I can see a real potential for B and C as they get older to ask why A sees their parents but they do not and for this to add fuel to the rivalry between B and A.

I find that adoption is neither necessary nor proportionate for B and C in light of my findings. I cannot conclude that that their welfare throughout their lives requires that they be adopted and, in fact, have found that long term foster care is a far more suitable welfare disposal for them. As a result, I cannot conclude that nothing else but

adoption will do for B and C and cannot accordingly endorse care plans that offer the most draconian outcome for children involved in these sorts of proceedings.

## **Conclusions**

Considering my findings above, I will grant a final care order to the Local Authority in respect of A and endorse the final care plan for her to be placed in long term therapeutic foster care. There is one issue about contact for A which I will deal with below.

In respect of B and C, I invite the Local Authority to reflect on my findings and to amend their final care plans for B and C to be placed together in a long term foster care placement. I will not grant the placement order sought for B and C and dismiss those applications. In saying this, I remind the Local Authority that if they do not accede to my invitation to amend the final care plans for B and C then I cannot grant their applications for care orders and would then have to dismiss those applications too. This would risk B and C returning to the care of their parents who, as I have found, cannot parent them safely. The stakes for B and C are therefore extremely high.

In relation to contact, I did find the Local Authority evidence about what is intended somewhat confusing. It seems to be the case that they agree with the Guardian's recommendation that contact between the siblings should be six times per year, but they do not agree to an additional three contacts with the parents per year, ie a total of nine for the children in some form. They do agree with the request from M that there

could perhaps be a joint contact with both parents and all 3 siblings at Christmas, if everything goes well with contact in the meantime. I have a distinct lack of evidence from the Local Authority to explain the rationale for preferring contact six times per year between the siblings as opposed to nine times including the parents. I can, however, see that much of the Local Authority evidence may have been prepared on the basis of adoption for B and C which is certainly the case for the final care plans. Assuming that A is not participating in the contact sessions initially given the issues that contact between the three children and their parents seems to currently create from the contact notes, and given the need for the priority to be for the siblings to have contact with each other and settle with their respective long term foster carers in their two placements, I can see the merit in the Guardian's recommendation. I will therefore endorse that as the contact plan for the children and would again invite the Local Authority to amend the final care plans accordingly.

## **APPENDIX A**

### **SCHEDULE OF THRESHOLD FINDINGS**

**Final Threshold Document: 1<sup>st</sup> June 2020**

The threshold criteria under Section 31 Children Act 1989 is hereby found to be satisfied on the basis that, as at the relevant date, being, 18<sup>th</sup> October 2018, the children A, B and C were suffering and were likely to suffer significant harm, such harm being attributable to the care given and likely to be given to them if orders were not made, not being what it would be reasonable to expect a parent to give them, on the following basis:

**Injuries to A on/around 16<sup>th</sup>/17<sup>th</sup> July 2018:**

1. On/around 16<sup>th</sup> July 2018 A suffered two sets of injuries to her left mid-thigh – both similar in appearance being abrasions with some scab formation and immediately anterior to the abrasion a rounded purple bruise. The uppermost abrasion is curved and the lower is smaller and the curve is less obvious.
  
2. On/around 17<sup>th</sup> July 2018 A suffered injuries to the cubital fossa (elbow area) of her right arm – namely five scabbed areas of different size and shape, including two linear abrasions just below the elbow crease on the inner aspect of the forearm.

**Injuries to A on/around 16<sup>th</sup> August 2018:**

3. On 16<sup>th</sup> August 2018 A was examined by Dr Clare Robertson, Consultant Community Paediatrician, and was found to have the following injuries:
  1. Upper right anterior/inner thigh, just near the groin crease – area of dried discoloured skin 2x1cm, with some scabbing over it which was a possible old scratch.

2. Upper right anterior/interior thigh, 3 curvilinear scratches – 1 measuring 8mm and 2 measuring 5mm, clustered together, orientated in the same direction. Surrounding these were a few small dot scratches.
3. Right anterior thigh, mid-level, linear scratch 12mm in length and 2-3mm wide, with scabs in interrupted patches along it, and red skin around it.
4. Right anterior thigh, just below number 3, 5mm curvilinear scratch, with a small dot scratch next to it, and some faint bruising around it.
5. Left posterior thigh, mid-level, 1 curvilinear scratch, approximately 5mm in length, and another red/purple linear mark of similar length just near it
6. Right posterior thigh, mid-level, triangular-shaped bruise measuring approximately 4.7x3.5cm. there was some sparing within the middle of the bruise.
7. Right foot sole, lateral aspect, lesion 1cm diameter of area of broken skin and scab (mother reported that this had occurred when A had stood on a safety device for a plug. A said “B did it”).

**Injuries to B on/around 16<sup>th</sup> August 2018:**

2. On 16<sup>th</sup> August 2018 B was examined by Dr Clare Robertson, consultant Community Paediatrician, and was found to have the following injuries;
  - 2.1. Left thigh, upper lateral aspect, a cluster of 3 small circular faint bruises, approximately 1cm in diameter
  - 2.2. Left thigh, upper lateral aspect (above No.1), a cluster of 3 small bruises, each approximately 5mm diameter

- 2.3.Right thigh, lower inner aspect, small circular bruise 5mm
- 2.4.Right thigh, upper lateral aspect, 2 faint bruises, 1 measuring 5mm diameter and 1 measuring 15x10mm
- 2.5.Left thigh, lower anterior aspect, area of discoloured hyperpigmented skin 15mm x 3mm, probable healing graze
- 2.6.Left anterior mid-thigh, long thin healing linear scratch, 4cm
- 2.7.Left lower abdomen, over anterior iliac crest (bony prominence), small bruise
- 2.8.Right buttock, 3 faint bruises – 1 circular – 1cm, 1 linear – 2cm long and 1 circular – 1.5cm
- 2.9.Base of spine, just above crease between buttocks, 1cm circular red mark that looked like healing graze
- 2.10.Lower left back, just near No.9, patch of dry skin with a few dots of scab on top of it
- 2.11.Just above No.10, lower left back, yellow circular bruise, 1cm diameter
- 2.12.Upper left buttock, small 5mm diameter circular bruise and red linear mark 1cm in length
- 2.13.Mid back, just left of the spine, linear red mark 2cm in length
- 2.14.Mid back, just to the right of the spine, long healing linear scratch, 5.5cm
- 2.15.Mid back, just to the left of the spine above No 13, small graze

2.16. Top of the back, central area of dry skin with a few small scratch marks

2.17. Right upper arm, outer aspect, 2.5cm long thin curved scratch

2.18. Left upper abdomen, 3cm linear scratch

2.19. Several small bruises on both shins – not recorded individually – typical of accidental injury

3. The injuries listed above at items 1, 2, 3.1-3.5, and 4.1-4.4 were caused by the girls during abnormally vicious fighting between them.

6. The injuries listed above at items 1-5 were caused by the Mother's failure to protect the children through inadequate supervision.

**Injuries to A on/around 17<sup>th</sup> October 2018:**

7. On 17th October 2018 A was examined by Consultant Paediatrician Dr Rudy Ridwan and was found to have, among other marks, the following injuries [E11]:

7.1. a 5cm round contact burn on her right shoulder in the form of two concentric circles with connecting spokes consistent with the shape of a nozzle of hair dryer;

7.2. approximately 4cm above the 5cm contact burn on the right shoulder there are burn lines with part of a similar shape burn;



- 7.3. similar circle shape impression burn on the border of her right buttock and thigh – full contact shape of 5cm round burn as on shoulder;
- 7.4. above the complete round burn on the buttock, burn lines consistent with partial contact mark similar to the proximal burn lines on her shoulder.
8. The hairdryer as the cause of the injuries cannot be excluded.
9. The injuries would have been very painful almost immediately.
10. The injuries were caused by the mother's failure to protect the children through inadequate supervision.

Sexual Harm:

11. A exhibits age-inappropriate sexualized language and extremely graphic behaviour and refers to apparent sexual abuse and B also exhibits some concerning behaviours.
12. A has been exposed to inappropriate adult sexual activity or conversations and this occurred in the care of her Mother. This was negligent exposure on the part of the Mother.
13. There was a pattern of concealment by the Mother from Father (though not from professionals) of the amount of time that E spent at the house.

Neglect and other harm:

15. The Mother lacks insight about the potential risks arising from people such as E and D, but at the relevant time her culpability was significantly reduced by fact that no work around this had been undertaken with her.

16. There was inadequate supervision of the children, particularly the girls, and this included times when D and E may have been present in the house.

17. The parents are unable to implement sufficient supervision and boundaries to safely manage the behaviour of A and B, including:

- a. home visit by social worker on 4<sup>th</sup> October 2018 – throughout the visit A and B were fighting with each other over toys and moving furniture, they went upstairs unobserved by Mother and A was spraying body spray around and into B's eyes;
- b. 19<sup>th</sup> June 2018 – A observed running off from her Mother and the Mother not responding to this;
- c. 24<sup>th</sup> April 2018 – the Mother reports A has stabbed B in the face with a fork, had kicked C in the head and hurt B in the eye;
- d. The girls were allowed to wear very little clothing around the home regardless of who else was present.

18. The children have experienced chronic neglect of their basic needs, including:

- a. multiple physical injuries as a result of abuse and/or lack of supervision [as set out above];
- b. inadequate stimulation and Mother struggles to engage them with play (A and B have poor speech and communication skills, C is often observed strapped into his buggy and faced away from others);
- c. ineffective use of guidance and boundary setting
- d. persistent head lice infestations and inadequate treatment of the same.

19. The Father has failed to protect his children from physical and emotional harm due to his lack of ability to use effective guidance and boundary setting and has displayed a lack of curiosity about A's extremely concerning behaviour at the point that those behaviours first became apparent.

20. C is at risk of physical, emotional and sexual harm as a result of the parenting he receives from his Mother and Father which is the same as received by his sisters.

A handwritten signature in black ink, appearing to read 'A. Jones'.

1<sup>st</sup> June 2020

