

Case No: ZW19C00132

IN THE FAMILY COURT AT WEST LONDON

West London Family Court,
Gloucester House, 4 Dukes Green Avenue
Feltham, TW14 0LR

Date: 5 March 2020

Before :

HIS HONOUR JUDGE WILLANS

Between :

THE LONDON BOROUGH OF BRENT

Applicant

- and -

(1) RA

Respondents

(2) HH

**(3) ZH (a child through her Children's Guardian,
Azucena Martinez)**

Lucy Logan-Green (instructed by **Legal Services Brent**) for the **Applicant**
John Buck (instructed by **Chesham and Co Solicitors**) for the **First Respondent**
Teresa Pritchard (instructed by **Fort Solicitors**) for the **Second Respondent**
Jean-Paul Sinclair (instructed by **FMW Law**) for the **Third Respondent**

Hearing dates: 13-15 January; 14 February and 12 March 2020

JUDGMENT

His Honour Judge Willans:

Introduction

1. This judgment concerns ZH, a child of less than 1 year of age. The applicant local authority seeks care and placement orders with a plan for adoption. In this regard they are supported by the child's guardian. Both ZH's parents, her mother, RA and her father, HH, oppose the making of either order albeit with different proposals for her future.
2. Within this judgment I will seek to protect the anonymity of the family using initials as above. The same need for anonymity does not attach to the professional witnesses.
3. I have had regard to the documents contained within the final hearing bundle; to the written opening notes and final submissions of counsel for each party, and; to the live evidence of the following witnesses: Ms Anne Mackenzie (independent social worker: ISW); Ms Msongo Mngwali (social worker); RA; Ms Azucena Martinez (child's guardian), and; HH. Within this judgment I will not refer to all the evidence I have received but I will continue to bear it in mind.

Background to proceedings

4. I have drawn RA's essential history from the psychiatric report of Dr Sumi Ratnam and from the report of Ms Mackenzie. I note the following:
 - i) The history until the previous social work involvement is essentially self-reporting. RA's history is international in character (having been

born in the middle eastern country Y) and there are no relevant historic records to set against the history given. I bear in mind this raises questions as to the accuracy of the account particularly as there appears a real issue as to whether RA's report of her brother's homelife is correct given contrary reports that he abducted his children to a foreign jurisdiction [*Ms Mackenzie E71 §5.21*]

- ii) The history given by RA of her early years appears positive albeit disrupted by international travel. There are no relevant issues of concerns raised on her part [*Dr Ratnam E46*].
- iii) Her relationship history comprises three relationships all of which are said to have involved domestic abuse:
 - a) Her first relationship was a marriage to X [2008-9] but this broke down after only a matter of months due to reported domestic violence on his part.
 - b) Next, she married AA in 2009. They have two children, M and H aged 8/9 respectively. This marriage lasted through until 2016 when RA divorced AA. She raised a series of allegations against AA, including that AA had sexually abused the children. As a result there were both private and then public law proceedings culminating in the making of an ICO on 2 November 2017 [*transcript at H79*] and a full care order on 16 April 2018 [*transcript at H124*]. It is noteworthy RA responded to the making of the ICO by taking flight with the children. They were not recovered until shortly after the making of the

final order. They are now residing with AA (against who no findings were made) and it would appear do not have contact with RA.

c) The circumstances of the relationship with HH will be more fully discussed within this judgment. However in summary it would appear RA met HH at some point prior to the making of the ICO and they then spent time together in north-west England prior to the recovery of the children. During this period they married and ZH was conceived. The quality and detail of this relationship is very much in dispute and is a matter on which I am bound to make determinations. RA is clear she has now separated from HH and from a relationship which she would describe as abusive. I understand her to suggest they are formally divorced.

d) RA next 'reappeared' in January 2019 when she was found to be pregnant with ZH.

iv) RA denied any issues with alcohol or drugs.

v) RA has maintained a relationship with her own mother although this is significantly strained from time to time.

5. As in the case of RA, HH's history is largely drawn from his self-reporting. As with RA I have drawn on the ISW parenting assessment, but also other documents found within the hearing bundle. I note the following:

- i) HH is a national of the middle-eastern country Z. His account is of an upbringing in modest conditions and leaving education at age 6. In the course of the hearing I was told he was illiterate. He has a poor grasp of English and required the assistance of an interpreter.
- ii) His status in this country is precarious. His reported history includes involvement in political protest during a period of civil unrest in his native country. He has told me and provided documentation which suggests he is subject to a lengthy prison sentence imposed upon him in absentia. His status in this country was clarified to an extent on the final day of the hearing when he produced a document which suggested he liable for removal but is subject to bail conditions to live within the community. His parenting assessment suggests he is isolated within the community.
- iii) I have a PNC (Police national computer) record of previous convictions in respect of HH. The history of this case includes police call-outs relating to the relationship between HH and RA.
- iv) As with RA, HH denied any misuse of alcohol or drugs.
- v) As to relationship history the account given was of RA being his first serious relationship. He had not been married previously and he has no other children.
- vi) HH provided his account of the history of the party's relationship. As with RA he describes a relationship which appears to have arisen in somewhat unusual circumstances. However, there are material

differences between RA and HH as to the quality and circumstances of the relationship. What is quite clear is that HH was present during the period that the older half-siblings were removed by RA.

Procedural History

6. I would generally refer to section B of the final hearing bundle which contains the formal applications and case management orders made in this case. I would note the following key aspects (there are a range of additional directions which I do not intend to refer to):

- i) The local authority sought and obtained an EPO and then ICO in respect of ZH shortly after her birth. ZH has remained in foster care since.
- ii) On 10 April 2019 the Court ordered the parents to file statements covering important topics such as the party's relationship status; the circumstances pertaining to the older children going missing, and; HH's immigration status. HH sought to comply with this direction in filing a statement on 30 July 2019 [C36]. Unfortunately, RA failed to comply with the direction and her only evidence in the case was filed on the morning of the first day of the final hearing.
- iii) The CMH took place on 9 May 2019. Drug testing was ordered in respect of each parent and further directions were held over for a follow-up hearing given disagreement as to whether the parenting assessment would be community or residential in nature.

- iv) This resolved on 16 May 2019. The court approved a community-based assessment by the ISW. The father was promoting his brother (who lives in Z) as an alternative carer. The Court considered it was necessary for Dr Parsons to meet with HH and provide a psychological assessment in his respect [by 21 June 2019] and confirmed the instruction of Dr Ratnam to provide a psychiatric assessment of the mother [by 4 July 2019]. An IRH was fixed for 27 August 2019.

- v) The Court held a directions appointment on 10 July 2019. At this time the parents had failed to engage/properly engage with the psychologist / psychiatrist and ISW. Allegations had been made between the parents of physical assault and the local authority were raising the question of contact being suspended due to the perceived difficulties with managing contact. The Court extended the time for both the psychiatric report and ISW but discharged the psychological report. At this time kinship assessments were limited to family in country Z. The IRH date was modestly varied and a directions appointment fixed to permit review of the case.

- vi) On 23 July 2019 the Court reviewed the case. RA was said to have attended her appointment with Dr Ratnam, but contact had been reduced due to non-attendance. Dr Ratman was now to report on 16 August 2019 and the time for the ISW and for the consequential evidence was put back with the IRH being redated. Legal advice was directed as to any issues surrounding placement with family in Z.

- vii) There then followed a series of consent orders [*21 August; 23 August and 30 September 2019*] which (a) dealt with difficulties being faced in assessing the family in country Z and which (b) permitted Dr Parsons to assess HH on the basis he made clear he would co-operate with such assessment. The ultimate consequence was that the IRH was further put back to 5 November 2019.

- viii) However the matter returned to Court on 8 October 2019. The Court was informed it was not possible to enter country Z to carry out any assessment of family. The direction for such an assessment was discharged. Quite separately the legal advice raised issues as to the legal stability of any placement. The direction for a psychological assessment was discharged for the second time. Warnings were given to RA as to the likely implications were she to fail to comply with existing Court directions. Given the delay the Court fixed dates for the final hearing.

- ix) On 5 November 2019 the Court held an IRH. Threshold was deemed to be met given the failure of RA to provide any response despite repeated directions. At this point RA was refusing to provide her residential address to the local authority. At the hearing on 8 October 2019 HH did not attend having stated he was frightened RA would kill him. At the hearing on 5 November 2019 he stated the parties had been in recent contact with each other. At this hearing RA put forward a kinship alternative for the first time. The Court refused such an

assessment due to the timing of the request and due to the limited connection between RA and the proposed carers.

- x) I would add that a discrete police disclosure order was made on 5 November 2019 and repeated on 19 November 2019.
- xi) Ultimately Dr Ratnam reported on 18 August 2019 and Ms Mackenzie on 23 August 2019. I have hair strand tests for RA dated 19 June and 29 October 2019. I have a hair strand test for HH dated 29 August 2019. Paternity was confirmed on 25 April 2019. The legal advice with respect to country Z is dated 23 August 2019 and following questions being put 25 September 2019.

Legal Principles

- 7. I am required to treat ZH's welfare as my paramount consideration. I approach this welfare assessment with section 1(4) of the Adoption and Children Act 2002 in mind. Given the application includes a plan for placement (adoption) I have regard to ZH's welfare throughout her life.
- 8. To the extent there are factual disputes to resolve then I must approach the proof of such matters having regard to the following principles. First, it will be for the party making the allegation to prove the allegation. They will do so by establishing the allegation as more likely than not ('the ordinary civil standard'). It will not be for the party subject to the allegation to disprove the allegation. In assessing the truth or otherwise of a matter in dispute it will be important to bear in mind all the available evidence with focus on the evidence given by the parents. In considering the credibility of the witnesses I caution

myself as to the relatively limited light that can be shed on the question by witness demeanour. I will also bear in mind that a witness who has been shown to be untruthful on one matter can be wholly truthful on other matters.

9. The applicant seeks a care order. It is a condition to the making of such an order that the legal threshold has been crossed. This is found at section 31(2) Children Act 1989 and amounts to a finding that ZH has suffered significant harm arising out of the care given to her not being that which the Court would expect a reasonable parent to give or that she is at risk of suffering significant harm as a result of the care likely to be given to her if an order is not made not being that which a Court would expect to be given.
10. The orders sought in this case amount to significant interventions in the family life of these parties. The parties are entitled to respect for their private family life (Article 8). Any intervention must be assessed and justified by reference to the tests of proportionality, necessity, reasonableness and lawfulness. It is a consequence of such principle that intervention should be set at the lowest level consistent with meeting ZH's welfare whilst respecting family life. Any greater intervention would be disproportionate.
11. I am duty bound to consider the realistic options placed before the Court. I must ensure I examine each of those options in a fair and balanced manner. The best way to achieve this duty is to carry out a holistic analysis in which I weigh the positives and negatives of each option prior to rejecting or preferring any option.
12. Whilst a care order amounts to a significant intervention in family life it is much less so than a placement order which opens the door to adoption and the

permanent severance of legal relationships. Such order is recognised as being an extreme intervention, is draconian in character and requires particular justification. The Court has adopted the language of ‘nothing else will do’ to signify the level of justification required to make such an order. Were I to conclude this was the right answer for ZH then I would be required to dispense with the parents’ consent to such an approach (section 52 Adoption and Children Act 2002) and would only do so if ZH’s welfare required me to so dispense.

Analysis of Evidence

Assessment of witnesses

13. I make some initial observations as to the manner in which the evidence was given to me. In the case of the professional witnesses; Ms Mackenzie; Ms Mngwali, and; the guardian, Ms Martinez I would make a common observation. They each gave professional child focused evidence without sign of bias or dogma. They each dealt appropriately with points put and were clear and resolute in the conclusions they had drawn.
14. It was a challenge for RA to manage her emotions during the hearing. On multiple occasions she disrupted the Court process by leaving her seat whether in leaving the Court room or in changing seating within it. Throughout the hearing she demonstrated her views as to evidence in a sufficiently loud manner ‘off camera’ to cause disturbance to the Court process. By the end of the Court process she parted company with her Court interpreter after raising objectively unjustifiable concerns about him (including as to his country of origin). At various times advocates had to request me, or directly requested

RA to control herself so that they could hear/follow the evidence. I gave due allowance for the obvious emotional impact to RA of being caught up in these proceedings. I permitted breaks when the same were sought and encouraged notes to be shared with her counsel rather than loud expressions of opinion on evidence heard. By the end of the hearing I had reached the point of cautioning RA that she would have to leave the Court or be removed from it if she could not contain herself. Thankfully that step was not required. Nonetheless RA did herself no favours by acting in this way. I will turn to the expert evidence in due course, but RA's presentation was confirmatory rather than confounding of those opinions.

15. A discrete issue relates to RA's use of an interpreter. Having now concluded the hearing I make clear that I am in little doubt RA could have obtained a fair hearing without use of any interpreter. Having heard her express herself at many points during the hearing and having heard her evidence it is quite clear that her competency in the English language (both written and oral) was as good as if not better than her interpreter. She spoke in clear English without any strong accent. My understanding is she has lived in this country for many years and my view is that it would be difficult to discern foreign heritage from her accent alone. Notwithstanding this and having spent significant time dealing with examination in chief with her own counsel in English and without any use of an interpreter, RA then took issue with her ability to understand the first questions put to her on behalf of the local authority. I have no doubt this was a tactic to give her time to consider and respond to more difficult lines of enquiry. But even then, she seemed to forget her stated difficulties and

returned to use of English only returning to the use of the interpreter when it suited her to do so.

16. Generally I found her an unhelpful witness who had a story she wished to tell but was unwilling to deal with questions, particularly challenging questions put to her. I found her answers often evasive or off the point.
17. As to the content of her evidence I bear in mind she did not produce her evidence until the very last moment in breach of a series of Court orders. I found her evidence to be at times difficult to follow and there were often apparent contradictions and inconsistencies, particularly when considering the historical events. I listened with care but found it at times almost impossible to reconcile her account with other available evidence.
18. In the case of HH it is appropriate to explain the circumstances in which he came to give evidence. This hearing was initially structured to complete in the week of 13 January 2020. However during that week it became apparent RA had - during the hearing - made further complaint to the Metropolitan Police in respect of alleged assaults carried out by the HH upon her in 2019. On 14 January 2020 the Court became aware the police were intending to attend court to arrest HH on that day. The court obtained the agreement of the police to leave any action until the conclusion of the day. It was expected this would allow HH to complete his evidence based on the witness template provided by the parties. However, the process of examination of RA took much longer than anticipated (for many of the reasons identified above) and HH had not commenced his evidence at the conclusion of the day.

19. Following my rising at the end of the day HH was arrested and taken into custody. As a result he was unable to attend the hearing on the next day (as indeed was the case for the guardian who was unwell) and the hearing had to be adjourned until the next available date when HH's location could be identified and he could be produced at Court. The next date was 14 February 2020.
20. However, HH was not produced on that date and it transpired that by 14 February 2020 (indeed only a couple of days prior to that date) HH was released from custody and had not contacted either his solicitor; the local authority; the court, or; the guardian. He did not attend Court and I determined I had to proceed in his absence hearing evidence from the guardian. During her evidence the court received notice that the father had coincidentally attended the offices of the local authority seeking contact. He was, it appeared, unaware of the resumed hearing. Fortunately he was able to attend court and give his evidence. But as a result it was impossible to conclude submissions on that day and written submissions were directed to avoid further delay.
21. Whilst HH did not conduct himself in quite the same manner as RA I did note during the hearing a significant amount of physical response; smiling/laughing and other gestures when hearing evidence. When giving evidence the interpreter struggled to convey his evidence as it appeared HH could not focus on the questions being asked. He appeared to give extensive and emotive responses and could not contain himself to directly answering the questions put. There was I felt something in his physical presentation which caused me concern. He was wide eyed and appeared on edge. I accept I am not placed to

form any firm conclusions, but I wondered whether his presentation could be explained by earlier positive drug tests. In this regard I feel I shared a similar sense to that experienced by the ISW in her assessment process.

22. I will now turn to the evidence and my analysis of the same by reference of a series of headings.

The removal of the children within the previous proceedings

23. At the heart of the previous proceedings were concerns as to the mother alienating the children from their father by unreasonably preventing contact. RA raised concerns as to their father having hepatitis B but failed to take any steps in respect of immunisation that would allay her fears. Professionals were concerned as to RA's mental health and presentation, holding irrational and unreasonable beliefs that were likely to impact on their relationship with their father. The mother was thought to have coached the children to make repeated false allegations of graphic sexual abuse against the father. The children were being kept out of mainstream education. RA was felt to have a lack of insight into the impact all of this was having on her children.
24. District Judge Robinson (as then was) had a wealth of evidence stretching back to the private law proceedings and was satisfied that there were reasonable grounds for finding the threshold crossed. He made an interim care order. I note this decision was made on 2 November 2017. Ultimately HHJ Tolson made a final care order based on the same threshold on 16 February 2018.

25. RA's response to the ICO was to disappear with the children. Having heard her evidence it is clear she has not moved on in her thinking with respect to the 'risk' that her older children face at the hands of their father. She continued to speak of risks associated with hepatitis and appeared to continue to have concerns as to abuse. She does not have contact with these children and has not done so for some time.
26. RA gave some evidence as to her actions following the ICO. There is no dispute she removed the children from the locality for many months. She explained that she was waiting for a copy of the ICO prior to acting on it and took the children as she was planning her appeal against the decision. In her evidence she said she had waited 5-6 days to receive the order and take it to her lawyer. I found this evidence incredible. RA is sufficiently intelligent to understand the decision taken by the Court in making the ICO. She was, I believe, present and represented by counsel. I simply do not accept she left Court either confused or believing that the decision did not take effect until the order was received. Rather I have no doubt that she acted to frustrate the Court's decision as she did not agree with it. In any event by her continued retention of the children for several months she demonstrated an unwillingness to be bound by the Court process. In her evidence she noted a conversation with her solicitor who warned as to the possibility of arrest. There can have been no doubt in her mind as to the significance of her actions.

The removal to Liverpool

27. This issue raises the question of how the parties came to meet. Both parents speak in terms of meeting on a bus and striking up a conversation. RA claims

HH said he was a lawyer and that this in some way prompted a conversation as to her plight (albeit this was before the ICO). Later he contacted her from Liverpool and she explained her situation and he invited her to come to Liverpool. It is unclear to me when exactly RA claims the first meeting took place although she is clear her children were with her. In evidence she said this was about 4 months before the Liverpool situation. However, when he was questioned HH said this was 2-3 weeks before coming to Liverpool. This does not fit with his statement evidence [C38 §7] in which he times the first meeting on the bus / arrival in Liverpool as being over a period of 7 days. In evidence he explained RA sought help in circumstances in which she said her property had been broken into and she was receiving no help from the police. On her arrival in Liverpool he reported surprise at her turning up with two children as he was unaware she had any children. This contrasts with RA's account as noted above.

28. So from RA's perspective this stranger who had a fleeting meeting with her was her solution when she was presented by the problem of the ICO. From HH's perspective *'in retrospective I can say that it was an incredible story that someone leaves their home with two children and relocates like that, but I was new to this country and it was hard for me to judge'* [C38 §10].
29. The difficulty with all of this is the fact that both parents agree HH was previously an employee of RA's ex-husband AA. HH said the first meeting was 4-5 days after he left the ex-husband's employment. Both appear to suggest they had never previously met and did not know each other although RA has suggested that HH in some way had seen photographs of her and

formed some sort of physical interest in her. This would be a remarkable coincidence therefore for the bus meeting, if true, to have taken place and for the parties then to have joined up in Liverpool without knowing their tangential linkage.

30. The second difficulty is the very limited relationship this would have established to give a basis which would have provided for either HH or RA to suggest to the other that RA and the children should come to Liverpool. This was no more than a meeting on a bus. Both parties appear to accept that the issue of the coincidental employment did not come up in the trip and that they left each other's company unaware of this fact. It is not plausible this would have generated sufficient confidence in each other to act in the manner they thereafter did. I simply do not accept RA was likely to rely upon such a meeting to plan her escape with the children. Equally, despite what he says I do not believe HH demonstrates as much naivety as he suggests.
31. I consider RA is ostensibly a conservative Muslim mother of two children. At the time she was married to her ex-husband. During her evidence she raised strong objection to the presence in the bundle of a photograph showing her bare arm given this was taken without her being fully clothed. Am I really being asked to believe she would have moved to the overarching care of an unknown man in Liverpool based on a limited meeting on a bus? I simply do not believe this evidence as presented.
32. HH suggests he was wholly unaware of the underlying circumstances concerning the removal of the children. He did not know the Court had made an ICO and when he became aware he took steps to resolve the situation.

33. Frankly I am limited as to the detailed conclusions I can reach in circumstances in which both parents have, I consider, kept information back from the Court. I suspect this is partly to protect themselves against the consequences that might flow from breaching the Court order (ICO). On the evidence I have received it is far more likely that RA and HH had formed a more developed relationship than either are willing to describe prior to the move to Liverpool and that it is this which permitted their mutual confidence in each other. The combination of RA's evidence as to HH being attracted to her and the previous agreed employment lead me to conclude that some form of relationship had developed and this underlaid the removal in circumstances in which HH was assisting RA to hide the children. I find it far more likely that HH and RA had developed a relationship; that RA shared the situation she was in, and; that HH pursuant to this relationship gave assistance.
34. I am fortified in this conclusion by the evidence of the parties having a religious marriage ceremony on 17 November 2017. This was only 2-weeks after the making of the ICO. I do not consider this fact to be consistent with the case given by either parent.

The nature of the parent's relationship when in Liverpool

35. In his written evidence HH suggests the marriage was pursued to permit sexual relations between the parties. My understanding of RA's evidence was that it was pursued to permit the couple to live together. This is problematic insofar as I understood HH's evidence to suggest they did not in fact live together but separately with him in an immigration hostel where RA could not

reside. HH contends he assisted RA to obtain separate accommodation and visited her there.

36. Frankly I do not consider a great deal turns upon this save that it demonstrates some strength in the relationship and a closer attachment that either might otherwise suggest at the relevant time.

37. What is relevant is the dispute between the quality of the relationship given by each parent. RA seeks to suggest it was a controlling relationship in which her freedom was restricted. At one point she described the marriage as ‘forced’. HH certainly does not agree with this account but is critical of RA’s abusive care of the children and his dawning understanding as to their abduction. He gives an account of a realisation that the children are those of his ex-employer and various calls made to family member, including by him to the children’s father.

38. I found the competing accounts given by each party difficult to reconcile. I am not assisted by my conclusion that I am not being given an entirely true account by either party although I suspect there are aspects of truth in the accounts. However doing my best I have reached the following substantive conclusions:

- i) The relationship was not particularly happy but it was not a forced marriage. It is quite clear from the evidence that RA wanted to marry HH to resolve her situation. Furthermore the basis for the claim of a ‘forced’ or ‘coercive relationship’ does not stand up to real scrutiny. RA at one point raises complaints as to her cooking as a basis for her allegation of being a ‘modern day slave’.

- ii) I accept the parents may not have lived together at all points. I am though confident they spent considerable time in each other's company and had a sufficient relationship to fully understand what was happening to the children in their care.
- iii) I do not accept RA's account of being restricted in her movements. At one point she refers to being kept in a form of slavery. However, elsewhere to defend her actions in relation to the children she refers to many days trips to benefit the children.
- iv) In any event RA fell pregnant during this period with ZH.
- v) I accept there were calls placed to family members and I accept the evidence of a call being made to the children's father. However this in my judgment does not absolve the parents of their foolish part in the removal of the children. I suspect it is an aspect of the growing realisation that the plan could not be maintained and that a way out was required.
- vi) Ultimately in circumstances which will remain unclear the children were found alone in a park in Manchester on 4 May 2018. I am willing to accept they were not simply 'dumped' there but had been left to be found so that they would be recovered. This does not however lessen the seriousness of the whole incident or the undoubted impact upon the children of what was about 6 months of wholly chaotic removal.

Events after relocating to London / Police involvement

39. The parties then resurfaced on about 31 August 2018 with HH being arrested and taken into custody and RA in hospital under police guard. They were later bailed and failed to sign on for their bail on 18 September 2018 [*detail at CRIS G130*].
40. RA then presented herself to the police on 9 January 2019 and raised allegations as to HH's conduct towards her. In the report she spoke of having been released on bail (in August) only to find her property locked up. This was presumably because she had left it empty when she left with the children in November 2017. She had moved in with her mother, but this relationship had deteriorated, and she had then 'bumped' into HH (although not identifying him to the police) before moving in with him for the last 4 months. During this period she claimed to have been effectively 'locked up' by HH until release just prior to attending the police. Curiously [G266] RA refers to her captor (HH) as '*someone she has known since she was at college 15 years ago*'. This statement falls wholly outside the facts as otherwise detailed by each party. RA indicated she was not willing to support any police action and indicated she would not say who her captor was [G268]. The police observed caution as to whether the complaint was genuine noting:

This is a victim who has been allegedly held against her will, after being bailed for being involved in a kidnap matter. She has failed to sign on according to her bail conditions. Now, she attends a police station claiming that she has been held against her will but has suffered no violence, no sexual assaults but told to cook three times a day in order to remain housed. The victim does not want to provide evidence, does not want to provide details of the offence including suspects details or the venue. There are no lines of enquiry at this stage and it leaves me to think that perhaps this information is not entirely genuine.

The details in such regard are found at CRIS G244. I share the scepticism of the police.

41. On 3 February 2019 [CRIS G293] police were called to a domestic incident and found both parties outside the front of a property. RA seemed distressed and alleged HH was trying to kill her and had hit her. She was noted to have a bleeding nose. HH claimed she had fallen down stairs before suggesting she had caused the injuries to herself by hitting herself. Later she claimed not to even know HH's name as he made her call him sir. She alleged being slapped several times but indicated she would not provide a statement. He had threatened to kill her and her mother.
42. The CRIS report at G96 details the protective measures taken by the police/local authority on the birth of ZH.
43. I note the police/CPS decided not to charge in respect of the removal of the children in May 2019.
44. On 21 May 2019 an incident took place with RA and HH present. HH appears to have become involved in a fight with another male. He was subsequently arrested and bailed.
45. On 10 June 2019 RA's father called the police reporting his daughter had called him at about midnight and asked to be picked up. Her husband (HH) then took the phone and the father could hear arguing. When the police made contact she did not want to report any incident but reported she had lost her accommodation after having her child removed [See CRIS G61 on]. This is clear evidence of the parties remaining in contact through into June 2019.

46. On 2 July 2019 a significant incident occurred at the hostel at which RA was then residing. RA detailed leaving an appointment at the civic centre and was approached by HH. They then travelled back to her hostel together. RA was due to leave the hostel that day. RA then alleges being assaulted by HH in her room. He is said to have grabbed her by the throat and shoved her onto the bed. He is then said to have hooked his finger around her cheek and grabbed her tongue threatening to kill her. At about this point the hostel manager knocked on the door given the commotion that was taking place. A detailed report at G17 indicates there were no visible injuries. RA was resistant to the housing options offered and said she would not block HH's number. She reported wanting her passport back, so she could leave the country.
47. The hostel manager provided a statement [G285]. He confirmed RA had been residing at the hostel since 27 March 2019 and that HH has been residing there with her for the duration of her stay and was seen by the manager on a regular basis. His account on intervening was of HH appearing intimidatory and RA seeming panicked and terrified. He did not witness any direct assault although RA complained of being assaulted and that HH 'tried to rip her tongue out'. The duty manager [G287] confirmed she was 'always with the man' seen during the incident. HH was reported to have left carrying a suitcase.
48. There is an audible recording of this incident [G448] but it sheds little light on the detail of the incident.
49. The police decision not to charge in respect of this offence and the reasoning for the same is found at G282.

50. On 3 July 2019 RA contacted the police concerning malicious media communications made by HH. This appears to be the same incident as detailed in [52] below.
51. On 7 July 2019 RA called the police reporting that HH had attended outside her replacement property. The police attended but he was not in the locality.
52. On 9 July 2019 RA called the police to complain about HH threatening to send a revealing photograph to her mother. She was in hospital with a painful tongue. She did not want to show the photo to male officers and referred to it showing her without her headscarf. She indicated she had to leave the hospital to return home to check on her mother [*CRIS G20 on*].
53. On 3 August 2019 HH was arrested in relation to an unrelated matter [*G288*]/ He was interviewed in respect of the 2 July incident the next day [*G279*]. In interview he denied the allegation and claimed to have been living at the venue with RA. He claimed she was consistently making false allegations against him to impact on his case in respect of their daughter. He claimed she was harassing him by telephone and could prove this.
54. The most recent allegation, albeit not reported to the police until the week of the final hearing, arose on 22 September 2019 [*see social work chronology at C55*]. RA alleged being physically assaulted following which she went to a refuge. In her witness statement RA also referred to a further incident on 21 October 2019 but in evidence she stated this was not correct and there had only been one incident. The social worker spoke to a worker at the refuge who confirmed RA was seen with injuries (a cut lip, swollen nose and bruising).

55. In his evidence HH told me the parties had finally separated and were divorced about 5 months before the hearing (c. September 2019). He provided photos of RA which he claimed showed bruising to RA caused when she became involved in an altercation with her mother. He also provided photographs of the couple together claiming they were taken in November 2019. He also relies upon undated threatening mobile messaging which he claims was sent by RA to him.
56. During the hearing the local authority exhibited the photographs provided by HH and referred to above. The social worker informed me that the original photographs were suggestive of RA not being aware they were being taken and whilst not intentionally explicit they did show more of RA than was appropriate. The social worker appropriately presented the photographs in a zoomed format to remove the elements that might be felt most troubling. Nonetheless RA took strong objection to the photographs, was vocal in her objections; left Court and subsequently contacted the police.
57. I remain somewhat surprised by the level of her objection having regard to:
- i) The sensitive way the local authority managed the evidence
 - ii) The fact that the same photographs had been seen by RA many months before the hearing
 - iii) The fact that the same photographs had been exhibited to the social work statement and included within the bundle without any objection.

RA simply refused to engage with photographs during the hearing. In the case of the photographs showing the parties together, RA disputed these were taken

as late as November 2019 but, despite agreeing she had only been in a rickshaw style conveyance once (as seen in the photograph) she could not provide a contrary date for the events.

58. During the hearing HH indicated he might be able to provide some form of date stamping of the photographs. None was provided. Separately RA stated she had photographs of the injuries sustained in September 2019. I gave her the opportunity to provide the same. None were provided.
59. Finally, having called the police during the hearing HH was then arrested. My understanding is that he was arrested in light of the reports of the September assault but also potentially in respect of the photographs. Importantly he was also arrested in respect of Bail Act offence (failing to attend Court) in relation (I suspect) to the May incident [44 above]. I accept HH's subsequent evidence of being detained until he had served the sentence for the Bail Act offence.
60. What findings can I reasonably make from this history? RA would ask me to find a wholly abusive relationship in which she was a victim of controlling and coercive behaviour; that she suffered physical abuse and harassment and was at times forcibly detained against her will. In contrast HH contends RA was controlling of him making regular unfounded allegations in order to damage his position. In the round he denies abusive behaviour on his part. The local authority stands back from the allegations and note the continued relationship despite the allegations and the failure to support police action. Whatever I find as to the past both RA and HH submit their relationship is now at an end and they want little if anything to do with the other. Each have raised serious concerns and allegations as to the others likely conduct to ZH if

returned to that party's care. HH has reported RA saying she will kill the child and RA has made similar worrying allegations against HH.

61. I have spent some time detailing these issues given the profound difficulty I face in reaching reasoned conclusions upon the personal evidence of HH/RA when I hold such reservations as to their underlying motivations and honesty. I have though reached the following overarching assessment of the parties' relationship since return to London:

- i) It is quite clear the parents have shared a significantly enmeshed and toxic relationship. My ability to fully understand their relationship is limited by my reservations as to the party's openness as to the real circumstances in which it commenced. However, there is clear evidence of breakdown, with police involvement, followed by forms of reconciliation. At times RA has obtained replacement accommodation only for HH then to resurface at the property. The significant concern is the reconciliations have followed serious allegations not trifling disputes. I bear in mind RA made reports akin to modern day slavery in January 2019 only to then be living with HH again in March 2019 (see the account of the Hostel Manager which I accept).
- ii) I accept the evidence of the hostel workers as to HH being present throughout RA's residence at the property. I do not accept RA's account of his presence being explicable by other residents known to HH in the hostel. The evidence of the hostel workers is clear and compelling. I note the evidence of HH leaving with a suitcase and the

audio recording of the incident supports the notion of him having chattels at the property.

- iii) Whilst I cannot be certain as to the exact dating of the ‘November pictures’ I am satisfied these pictures show a relationship enduring for a longer period than accepted by RA. I find it noteworthy she failed to put any alternative date on the photographs despite it being likely the events were memorable. They plainly took place in London and this must have been in 2019. However, on her own case there was no identifiable period in 2019 when they shared a loving relationship.
- iv) I am deeply troubled by the failure of RA to support police action. Each of the reports shows her being more focused on extraneous matters than the question of personal safeguarding. Too often RA is seen to refuse the support and guidance given in favour of the plan of action favoured by herself. Of course I remind myself as to the dependencies that can develop out of a coercive relationship, but I simply cannot reconcile such an understanding with the facts as disclosed in this case.
- v) I bear in mind the allegations of violence and accept there is a prima facie case made out in such regard. I note the evidence of the bloody nose witnessed by the police in February 2019 and of the reported injuries apparently witnessed by the refuge in September 2019. These give me real cause for concern as to the level of violence in the relationship. But my task is not made easier by the absence of clear contemporaneous evidence from RA and from her failure to support

police action. Furthermore, in respect of the September incident I simply do not accept the refuge left RA (as she claims) in an injured state for many days without supporting her complaint to the police. This inaction on her part is a general theme of her history. Even during the hearing and despite being given the opportunity RA failed to evidence the pictures she said were available to prove her injuries; additionally she failed to adequately particularise her allegations even in her very late statement. In general terms I am cautious as to third party reporting as to her presentation when this falls short of actual injuries. I say this as I have witnessed her somewhat over dramatic responses during the hearing and I have been left with a real sense of caution that others may have been misled as to the actual events which have occurred.

- vi) Yet there is supporting evidence which cannot be ignored. My assessment is that the relationship has at times involved physical altercations between the parties and RA has suffered physical harm. However, I also find that she has failed to take adequate steps to safeguard herself and has reconciled with HH after the event.
- vii) I find this enmeshed relationship is likely a function of the inward focusing quality of the relationship in which neither has alternative support networks and are each isolated wholly dependent on the other (at times both financially and emotionally). This leads to RA/HH seeking the other out after periods of dispute and neither having the force of personality to reject the others approach.

- viii) On the evidence I accept the parties are currently not involved in a relationship with the other. However I question how relevant this is having regard to:
- a) The previous history of subsequent reconciliation after breakdown
 - b) The fact that this is not RA's only relationship involving difficulty. In her case all her relationships have been surrounded by problematic features
 - c) The speed at which the relationship appears to have developed and the lack of mature reflection shown by either party prior to deepening their relationship. This leaves me questioning the potential for an equally troubling relationship to replace this one.

Drug use

62. Both parties disputed any illicit drug use. When tested RA showed evidence of ecstasy use between December 2018 and May 2019 [E40] (reducing over the period). When tested HH showed evidence of cocaine, cannabis and tramadol usage in the period April to July 2019 [E101]. Interestingly HH was firm in his suggestion that it was RA who used Tramadol. Each continued to deny actual usage, and each claimed the other had somehow spiked their food and/or drink leading to the positive results. Neither parent challenged the results in principle.

63. I note the evidence of Ms Mackenzie as to being concerned as to HH's presentation when meeting with her and her subsequent receipt of the drug evidence which in my judgment explained his presentation.
64. I also bear in mind RA when asked gave no meaningful evidence of experiencing surprising symptoms of spiked food/drink consumption. I also bear in mind the history given by RA which would appear to provide limited opportunities for HH to spike her food/drink during the period. I question why would he have spiked her food with ecstasy in any event? Furthermore if HH had spiked her food with ecstasy why did he then not claim she had been a user of ecstasy knowing she would provide a positive result?
65. I have reached the clear conclusion that the results should be taken at face value and are evidence of the parent's actual consumption of drugs. I do not accept the suggestion of spiked produce. I find this suggestion fanciful and most unlikely.

Contact

66. At the date of the final hearing RA had not had contact with ZH since 30 September 2019 (some 4-5 months). The local authority told me she had not asked as to ZH's welfare during this period. RA explained her non-attendance as being related to HH attending outside the Civic Centre (where contact was held) on occasions of her contact and harassing her when she left. RA made it clear she would not risk her own wellbeing. The local authority told me that they could not sanction an alternative venue due to the concerns around contact security. However, they told me they had offered to facilitate a taxi to

collect RA at the end of contact and for her to be escorted by security to the taxi to avoid issues. RA refused the same.

67. During the proceedings there was a significant period during which HH did not attend contact. However, I understand contact resumed in October 2019 and he was consistent in attending thereafter. The contact reports are generally positive and recognised as important for ZH. This contact was interrupted by HH's arrest in January 2020.
68. Having assessed the evidence I find both parents have allowed their own needs to be prioritised over ZH's need for consistent and stable contact. I recognise HH was eventually able to commit to contact and I give him credit for this approach. Sadly, I find RA has been unable to reach a similar child focused position. I accept the evidence of the local authority as to their sensible proposals to reduce risk. I find RA unreasonably refused their suggestions. My sense of the evidence is that RA took a position as to there being no contact at the Civic Centre and was not willing to modify her position even when a sensible solution was offered. This demonstrates her focusing on her own needs and her requirement for others to accommodate her needs over those of ZH. I regret RA's failure in this regard.

Court assessments and residual evidence

69. HH failed to engage with Dr Parsons (psychologist) despite sufficient opportunity to do so. The Court deemed such assessment necessary to properly evaluate HH. I am not helped by such failure and I am left with a worrying gap in my understanding of HH.

70. RA engaged with Dr Ratnam. Her conclusions are not challenged [*see final submissions of RA at 26*] and she does not dispute the evidence of the expert that there was a significant risk to ZH of suffering emotional harm unless RA successfully completes therapy for ‘*maladaptive personality traits*’. These traits are of a narcissistic type. The expert identified evidence of disturbance of interpersonal relationships; RA viewing intimate relationships as a way of facilitating escape or rescue from a situation; a tendency to place her needs first and a need for personal gain; an impairment in empathy with her elder children.
71. In respect of therapy the expert had a level of uncertainty pending an assessment of psychological functioning. However, she observed there were few proven therapeutic interventions for this form of personality trait and services under the NHS are limited.
72. Importantly the expert advised that RA tended to see her children as an extension of herself and to place her needs first which could lead to an enmeshed relationship with ZH and impact on her emotional wellbeing as well as her socialisation. The risks were viewed as not being manageable by supervision but were requiring of therapeutic intervention. Unfortunately RA’s tendency to blame others and limited capacity for self-reflection are poor prognostic factors for engagement in therapeutic intervention.
73. Turning to the ISW assessment it is clear RA did not fully engage with the assessment [*E63-4*] and only kept 2 of the intended appointments. On 10 July 2019 she indicated she was unwilling to continue with the assessment. Understandably this left the ISW in a position where she was unable to

complete a comprehensive assessment of RA. From her observations and understanding of the evidence the ISW concluded that: *'[O]n balance it is my view that the vulnerabilities of ZH in RA's care are significant and would place her at risk'*. [E65 §4.3]. The ISW reported that RA was unwilling to share details as to her friends/support on who she could rely. This limited enquiries and in the absence of a reliable support network / supportive and capable partner ZH is likely to be at risk of significant harm. The risks regarding the relationship with HH were thought to continue. The expert sought to examine whether RA had reflected on her history and as to whether there were indicators of change. Sadly she found that RA's *'inflexible attitude and inability to begin to acknowledge the past and now the current presenting concerns means that she cannot be considered to be a safe parent for ZH'* [E65 §4.5].

74. As to HH the ISW noted him to be anxious and distracted including during observed contact. At that point he had been unable to prioritise ZH's needs by consistently attending contact and had significant vulnerability around his legal status in the country and his lack of recourse to housing and/or funds for his day to day needs. In addition to these practical issues one had the historical concerns and the acrimonious relationship between the parents. The ISW observed that HH did *'not have a realistic or viable plan as to how he was going to care for his daughter'* [E66 §4.9]. He presented as hyper during his meetings and the ISW considered she would have benefitted from the expert assessment ordered by the Court (but not provided due to non-compliance). The ISW considered this gap had to be considered as a potential high risk in safeguarding terms.

75. The ISW turned to the mutual positions taken by each parent in expressing concern as to their own safety from the other (and the community more widely) whilst at the same time suggesting ZH could remain safe in their own care. The ISW noted the inconsistencies in the reporting at the time of assessment, e.g. RA commenting as to HH's unreliability and only being interested in ZH to gain rights to remain before then suggesting she would consider moving to his home country to care for ZH together. The expert concluded this showed a lack of insight; dependence and confusion on the part of RA. The expert questioned whether the parties were at that time truly separate [*and note my finding above that they were not truly separate at the time*].
76. On oral examination the ISW did not change her assessment. She specifically dealt with the relationship between RA and her own mother commenting that the relationship was not strong. She noted the counter-allegations raised by each parent but also noted the observations around their continued relationship. She described the relationship as co-dependent. The ISW was asked to reflect on the potential benefits that would arise were the assessment completed and particularly in the context of the parents having separated. It was put to her that this was a material circumstances undermining her overall conclusions. She acknowledged the plain benefits were the assessment to have been completed but was cautious as to suggestions around parental separation given the conflicting evidence. Importantly she was clear the issues were not limited to parental acrimony albeit that was an important feature of the case. The ISW took a similar position when asked in relation to HH. There was a bigger picture to consider including his lifestyle (he denied using drugs); his

immigration status and the gaps arising out of the failed assessment. Finally, the ISW expressed quite separate concerns as to the difficulties that would arise as to the fostering of contact were one parent to have care of the child.

77. The social worker supported the application for care and placement orders. She spoke of the difficulty in knowing where RA lived at any given time. She explained how the local authority offered flexibility around dates; security and cab services to facilitate contact but the same was not accepted by RA. Contact stopped and subsequently when RA spoke to the social worker about her children she did not ask about ZH. When considering RA's lifestyle she commented that RA's lifestyle was transient with the local authority not knowing where she was; it appeared chaotic and it was very difficult to tell the truth from lies. There was no transparency as to what her life was like and what was happening within it. She had borne in mind RA's concerns around security but the reports she was receiving was of RA and HH being seen after contact talking and walking around the shopping centre holding hands. She noted the parents had talked about not wanting to be in contact with each since the commencement of the proceedings. Her understanding was complicated by RA's report of an incident in October 2019 after the date at which RA said she had last seen HH. The social worker was unwilling to accept a current separation fundamentally changed the assessment. Father's engagement only improved during periods of separation; the history was unclear, and it was impossible to tell the truth from lies. HH becomes preoccupied with his relationship with RA and it is difficult to determine how long it will be before that is at the forefront of his mind.

78. The guardian has provided a detailed final analysis. At §63 she observed:

Both parents present with a lack of emotional or financial stability and a lack of a strong family support network in the UK, as well as a lack of stable family home to be able to bring up ZH as a secure and happy child. The ongoing conflict between them and the fact that they are still married...links them together and escalates the risk of harm to ZH if placed in the care of either parent

The level of parental antagonism is demonstrated by the view of each parent that ZH would be better placed for adoption than placed with the other parent. The guardian took the view that current separation would not change her analysis given they have each put their own interests above the child's interests and any change at this stage is only the commencement of understanding. The fact that the mother has recently called the police should be assessed in the light of historic reports followed by reconciliation. She did not agree factual separation would mean 'the evidence was out of date'. Problematically RA's relationship issues are not solely associated with her relationship with HH and so there can be no confidence that problems would not continue to arise whether with HH or not. She told me ZH cannot wait for her mother to engage in a further assessment including further drug testing. She has already waited 10 months for her parents to make a change. She could not sensibly speculate as to when the parents would be ready to care for ZH. The child cannot wait and given neither have accepted any responsibility for the situation they face there are limited prospects for future change.

Welfare assessment

79. Given her age is not possible to ascertain ZH's wishes and feelings. One might infer a likely wish to remain a part of her family if possible. One might additionally infer a wish to have a settled and safe home life. Little more can be said under this heading
80. ZH shares a range of needs with all children of her age. As a vulnerable child not yet 1 year of age she is entirely dependent on her caregiver for her emotional and physical security. Her emotional needs are for a stable and consistent level of predictable care. Her needs are not met by a volatile and uncertain/unstable home life in which adult needs take priority over her needs. During this first year of her life she has received a stable and good level of safe care in foster care. It is vital for her emotional development and for her developing attachments that any move is to an equally child focused setting in which her needs take central priority. Her emotional needs will not be met if she finds herself the centre of a constant heated dispute between her parents. Over the medium term her emotional needs would be met by a care giver who allows ZH to develop by reference to her own needs and not as a projection of the parents own emotional needs. It would be highly damaging were ZH to find herself in the confused situation faced by RA's older children in which they were left to misunderstand central features of their life. Her emotional needs would also likely be hampered were she to grow up in a socially isolated setting particularly were this in the care of an individual with their own personal challenges in life.
81. Her physical needs are for good basic care around food, clothing, suitable accommodation and the other features of daily life. Insecurity in such regard is

likely to be highly problematic with respect to necessary social integration (GP's dentists and schooling). She needs a parent who has some security in their daily life albeit the Court does not seek to socially engineer the child's lived experience. The basic ability to provide housing and resources for basic needs is vital. A parent with a precarious attachment to the society in which they live is likely to be poorly placed to meet the physical needs of the child as they struggle with their own basic needs.

82. ZH as with any other child needs parents who can engage with the professionals who will be part of her life as she grows. Parents who are rigid in their thinking and unwilling to engage save on their own terms are unlikely to meet ZH's needs.

83. The plan is for ZH to be adopted. This will have an obvious and profound impact on ZH. In the first instance this effect will be as to her legal status. It will cut the legal ties she has to her parents on a permanent basis. But it will also have similar effect in relation to her half-siblings and wider family. In the first instance she will see her contact with her parents terminated and this will have emotional consequences. Over the longer term there will likely be an emotional impact as ZH comes to understand her adopted status. She is likely to face a challenge in understanding why her life took this course and may struggle with the implications of having lost her birth family. It would not be surprising if this undermined her understanding of herself and had an emotionally destabilising impact upon her. She is likely to have deep questions to ask which may not be capable of being answered by those around her. Taken together these features have the potential to be significantly damaging

for ZH and will require careful and insightful responses to ensure her welfare needs are secured. In her case I do not overlook the additional cultural aspects which may not be capable of being mirrored in any adoptive placement. This is a further identity feature that would need to be managed and fostered with real care.

84. I have throughout this judgment referred to a range of personal characteristics held by ZH to include her age; sex, and; cultural background and heritage.

85. Turning to harm and risk of the same I bear in mind the legal threshold was found crossed by the Court order referred to above. Within this judgment I have made observations and reached conclusions touching upon these risks. These include the toxic parental relationship; the lack of transparency as to what has been the lived experience of the parents; issues of domestic abuse and volatility; flight risk, and; inappropriate emotional harm. These taken with the other features of the case continue to remain present and real and cannot be anything other than significant.

86. It is important to ask as to the relationship ZH has with family members; the importance of the same to ZH and not only the wishes of those individuals for ZH's future but also their capacity to provide a secure environment in which ZH can develop. In this case the Court has sought to investigate a range of individuals put forward as kinship carers. However, the reality is that none of those individuals remain before the Court as viable options to provide a home for ZH. Importantly, of the wider family there are no individuals who have anything in the form of a meaningful relationship with her such that could be assessed as to having current/future value for her. The only candidates relevant

to this consideration are her mother and father. I do not question the value of their continued relationship with ZH although I cannot overlook the fact that RA has not attended a contact session with ZH for several months. The heart of this judgment is an assessment as to each parent's ability to meet ZH's needs on a continuing basis at a good enough level. I will return to this in my conclusions below. The parent's wishes in respect of ZH's future are clear although complicated by their contrary opinion if ZH cannot be placed in their care.

The party's proposals and a holistic assessment of the realistic options

87. The local authority and guardian seek/support a care and placement outcome.
88. RA appears to accept the need for a care order but asks for the question of placement to be '*deferred*' so that she may undertake a psychological assessment and further drug testing with a view to assessing therapy for her maladaptive personality traits [*final submission* §35]. RA struggled when asked what she would prefer if the Court did not endorse a return of ZH to her care. She was unable to support placement with HH or his family. I bear in mind what she told the ISW as to preferring adoption. In overview RA seeks an order with foster care as the option for ZH.
89. I understood HH continued to prefer placement of ZH with his family overseas. There is no assessment which could support this option. If this is not possible he would want to care for ZH himself. He opposes any placement with RA.

90. The options put before me (realistic or not) are therefore placement / long term foster care or placement with HH.
91. A care order alone (foster care) would benefit from permitting the maintenance of family life through contact. It would leave open the door for permanent return to family life through a discharge order. It would allow ZH to grow with an understanding of her identity and heritage. It would keep her safe from harm in an immediate sense. However, there are real issues with foster care in the case of a child of ZH's age. I bear in mind the observations and distinctions drawn by Lady Black in the case of *re V* between adoption and long-term foster care and in particular the lack of permanence and emotional security offered by long term foster care when compared to adoption. I bear in mind the continuing stigma and other complications which arise from having a statutory parent. I bear in mind the instability that can arise from poorly judged discharge applications. In my experience it is unusual case which prefers long term foster care in the case of a child of ZH's age.
92. The argument behind this suggestion is of change on the part of RA and ultimate successful discharge. I accept were this to happen within relatively short order then this would benefit ZH as it would amount to a return to full family life. However, this potential benefit must be assessed in the light of the evidence in the case and there remains very real concerns as to the prospects of such change. The danger is of ZH being held in an unsuitable setting in the expectation of change which never materialises and as a result hinders ZH's potential to achieve any sense of permanence.

93. Placement with HH, if successful, would offer all the benefits associated with placement with a family member. These points are noted above in the case of foster care but are more explicit where placed with a parent. The child's identity and family life are fully respected. The potential for emotional baggage is avoided. Her understanding of her cultural makeup and heritage is likely to be fully appreciated and developed. There would be the potential for wider family contact.
94. However, wider family contact would be deeply problematic in circumstances where HH is deeply oppositional to RA. Further, HH cannot return to Z and this casts doubt on the ability of ZH to develop paternal family connections. Beyond contact are the concerns around stability of such placement given HH's tenuous immigration status as an individual liable to removal. Overlaying these concerns is the significant concern around the parental relationship; HH's drug use and a real question mark as to his psychological stability. Taken together these features make such a placement risky to say the least.
95. Adoption offers the positives of a secure and safe placement without the toxicity evidenced within this judgement. Importantly for a child of ZH's age it offers permanence and an opportunity for an emotional place central to a family. In simple terms it removes the range of concerns currently assessed as being likely in the care of either parent. I would expect adoptive parents to be matched with regard to their ability to work with ZH to safeguard her against the obvious potential emotional risks that may arise as she develops a growing understanding as to her adoptive status.

96. But adoption is not without concern. Most significantly it will sever family life both legally and practically. ZH will no longer see her parents and there is a probability this separation will be permanent. This is a severe interference in her family life and done without any ability to take her views on the same. I judge it unlikely any placement would fully meet her heritage. Her parents do not share an exact cultural background and it is likely that the heritage of one (or indeed both) may be lost or significantly relegated in significance on adoption.

Conclusions

97. I have no doubt the legal threshold has been crossed in this case. This was determined prior to the commencement of my hearing; is not challenged by the parents and is self-evidently the case having regard to the removal of the previous children and having regard to the toxic quality of the parent's relationship.
98. I do not consider HH offers a suitable or safe placement option for ZH. My conclusions flow from a combination of his personal position (his precarious circumstances as to finances; housing and immigration status); his inherent challenges including the clear evidence as to drug use and the incompatibility of such use with caring for a vulnerable child take together with the real uncertainty as to his psychological stability given his unwillingness to engage in an assessment. This position is then further compromised by the challenges that continue to exist, in my assessment, in relation to the parental relationship. I simply do not accept it is possible to relegate this issue to the past. I can draw little confidence from a period of separation given the history

of reconciliation despite significant allegations. I agree the evidence suggests an enmeshed and co-dependent relationship. To add to these difficulties are the challenges demonstrated by HH in his practical care of ZH during limited periods in his care; the absence of any real support network; a socially isolated situation and the lack of any meaningful plan as to how he intends to care for his daughter. I accept he wishes the best for ZH, but this is sadly not enough.

99. I find the suggestion of foster care as a solution instinctively wrong for a child of ZH's age. I consider this only bears consideration as a route towards a return to RA (or HH). The difficulty for me is that the evidence is strongly against the prospects of such a process being successful. The evidence is clear that RA shows no insight into her responsibility for what has taken place or indeed for the circumstances which underlay the threshold in this case. She seeks to excuse her actions, and this gives no confidence that she is engaged in a process of positive change. The expert evidence is pessimistic as to change or engagement in therapy. Added to this is the uncertainty over timescales in such regard. I judge one is talking about months rather than weeks and this is without regard to the delay which is likely to arise in seeking to engage scarce resources. Taking these features together I judge it most unlikely RA will both engage in therapy and obtain successful outcomes from the same within the timescales of the child. I do not consider this option to be one that meets the welfare needs of the child.

100. I consider there really is only one option in this case that can safely meet the needs of ZH. I consider a care and placement order is required and that nothing else will do. Anything short of this will leave ZH at risk of significant

harm or alternatively will leave her in a placement which fails to meet her fundamental need for permanence. I have reached the conclusion that there should be a care order and a placement order.

101. In reaching this conclusion I am in no doubt that this is the only option that can meet ZH's welfare needs. Her needs require me to make such an order and to dispense with her parents' consent to the same. I do dispense with their consent.
102. I have considered the very serious interference this will have on the parents and ZH's family life. But as I judge ZH's welfare requires such an outcome I consider it both reasonable and necessary. There is no other lesser option and I judge this outcome to be proportionate to the risks in the case.
103. I approve the care order including the plan of reducing contact. I agree that real efforts should be made to respect the parents' wishes as to a cultural placement although I would ultimately place greater weight on the need for a permanent home than the specific details of the placement.
104. I now need to hand down this judgment. I will circulate it to the advocates in the first instance by email and seek any suggested corrections or requests for clarification/amplification by 4pm on Monday 9 March 2020. I will then hand down the judgment at a short mention hearing (t/e 30 minutes) at 10am on 12 March 2020 when sitting at the Family Court at **Barnet**. I understand counsel may face difficulties in attending this hearing at relatively short notice and I release them individually so long as each party is represented. I release the guardian from attendance so long as she is available to give instructions

should a need for the same arise. The parents are not required to attend the hearing although they are welcome to do so.

His Honour Judge Willans