

IN THE FAMILY COURT
(Sitting at Milton Keynes)

Case Nos. MK20P00112 & MK34/2021 & MK35/2021

351 Silbury Boulevard
Witan Gate East
Central Milton Keynes
MK9 2DT

Friday 23rd April 2021

Before:

MR RECORDER STOTT

(In Private)

BETWEEN:

A LOCAL AUTHORITY

Applicant

and

Mother

1st Respondent

and

Father B

2nd Respondent

and

A & B

(acting by their children's guardian)

3rd & 4th Respondents

Ms Sophie Gayner, Counsel, instructed by A Local Authority
Dr Emma Gatland, Counsel, for the 1st Respondent Mother
Mr Stuart Yeung, Counsel, for the 2nd Respondent (Father to B)
Mr Daniel Cooper, Solicitor, for the 3rd & 4th Respondents

Judgment

WARNING: This judgment was delivered in private. Reporting restrictions apply to the contents in this document as the case involves children. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this judgment is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.

Introduction

1. I give this judgment on the 5th day of a 5-day hearing. I am concerned with the welfare of two children. A, born in 2018 and B, born in 2019. Both children remain in foster care under interim care orders.
2. The applications before me are for care and placement orders. The care plan is for the children to be placed together by way of adoption.
3. A local authority is represented by Ms Gayner of counsel.
4. Mother (Mother) of both children is only 19 years of age and is represented by Counsel, Dr Emma Gatland.
5. The father of A is Father A. He is not represented and is not a party to these proceedings. He does not have parental responsibility as he is not named on A's birth certificate.
6. I have read in the local authority evidence that many attempts have been made to contact him and he was eventually located in prison and I understand that he has now been released.
7. Father A's personal adviser made contact with the local authority in January 2021. Despite further attempt to reach him, contact was eventually made in February 2021. He informed the local authority that he did not want A adopted and that he will make contact with a solicitor and engage in the proceedings. I have not been informed of any further developments on this front but I am satisfied he is aware of these proceedings.
8. The father of B is Father B. He is also 19 years old. He is represented by Counsel, Mr Stuart Yeung. He has parental responsibility for B as he is named on B's birth certificate.
9. The children are represented by their guardian. The solicitor for the children is Mr Daniel Cooper.

Chronology and Background

10. In July 2020, A Local Authority applied for a care order. An application was further made in April 2021 for placement orders for both children. These proceedings are now in week 40 and were extended beyond the statutory 26 weeks by reason of further assessment and judicial availability.

11. However, these are not the first set of proceedings. The first set of proceedings concluded as recently as January 2020 with 12-month supervision orders made to A local authority. Both children were to live with Mother and have contact with Father B. I note the same guardian was the also the guardian in those proceedings.
12. Mother has been known to social services for a number of years. She herself was a looked after child between the ages of 14 and 16. She became pregnant with A when she was 16 years of age.
13. When A was only 10 weeks old, the police attended at a property where Mother was staying which was entirely unsuitable. Mother was asleep and A awake in a bouncer being prop fed. Risky adults were at the property smoking cannabis. Alternative accommodation was arranged but this was refused by Mother leading the local authority to apply for an application for an EPO and Recovery Order as Mother and A went missing and were not found until a few days later.
14. Once located, Mother was arrested and A placed into foster care. An interim care order was made.
15. Mother and A then moved to a placement in Leicestershire, however this broke down a few days after the move. Mother was clearly struggling with her mental health and had self-harmed whilst at this placement.
16. A community-based assessment was undertaken by a well-known ISW. The conclusion reached was that Mother required a stable placement in order to demonstrate whether she could live independently with A. The assessment period suggested this be at least a period of 3 months.
17. Mother and A moved back to the local area into a semi-independent accommodation. Notice was given on this accommodation as Mother was staying with her boyfriend, Father B.
18. A short time later, Mother confirmed she was pregnant.
19. The PAMS assessment undertaken. The assessment was incomplete due to Mother's lack of engagement. Concerns remained about Mother's ability to place A's needs first, her accommodation and the stability required to test out her parenting. The ISW's concerns were

heightened due to the pregnancy. The ISW recommended a full assessment of the support available to Mother be undertaken.

20. The plan therefore was for Mother to move into a foster placement for assessment and development of her own independent living skills. However, she struggled in this placement and reported feeling suicidal resulting in her leaving. The local authority arranged a mental health assessment but she did not return to this placement.
21. B was then born and a joint parenting assessment was undertaken at a residential unit. This took place over a period of 12 weeks and A also joined the assessment.
22. During this assessment, Father B and Mother admitted regular cannabis use. Hair strand testing was arranged and both parents have tested positive for cannabis use.
23. A psychological assessment by Dr Hannah Jones was commissioned on the basis of the recommendations made by the unit. The recommendation was for Mother to engage in Narrative Exposure Therapy, a form of psychotherapy treatment for trauma disorders. The timescales for this therapy was suggested to be 4 to 12 sessions of approximately 90 minutes each session. It was believed that this therapy could offer Mother considerable benefit in terms of life-long change and improvement of functioning and she would likely need the upper end of the number of sessions.
24. The residential assessment was a success and the family returned to their local area. Mother and Father B had abstained from cannabis use and moved into a 2-bedroom property together. The plan was to remain together as a family. As such, a care plan for a 12-month supervision order made to A local authority and supported by the guardian.
25. Shortly before the final hearing, the parents had an argument and separated. Father B admitted to cannabis use shortly before the hearing.
26. A therapist was then identified for Mother and the local authority agreed to fund 12 sessions of therapy. Notwithstanding the changes to the family dynamic and cannabis use of Father B, a 12-month supervision order was made.
27. Very sadly, things deteriorated quickly under the supervision order. Concerns about Mother's mental health increased. Father B and Mother remained separated. Mother only engaged in the

initial therapy sessions before refusing to engage further. The impact of all of this meant she was not able to consistently meet the children's welfare needs.

28. Shortly after the final hearing, Mother informed the social worker that she was pregnant but the decision was made to terminate the pregnancy. She was using contraception at the time. This understandably impacted on her mental health and a marked deterioration was noted in her mental health which manifested in poor engagement with services, a period of instability for herself and the children and with the children moving between the care of Mother, Father B and the maternal grandfather's partner, 'C'.
29. A few months later, Mother informed the social worker that the children were no longer in her care. Mother was continuing to struggle with managing her own mental health following a new relationship ending and as a consequence asked for the maternal grandfather and C to take care of the children.
30. Notwithstanding the point of crisis, Mother remained opposed to engaging in therapy. C was also concerned about Mother's wellbeing and presentation.
31. During that time, the local authority received an anonymous phone call. It was reported that Mother was overheard shouting at the children and using expletive language. Mother believed it was C who had made this call and both she and Father B immediately removed the children from C's care.
32. By the end of that same month, Mother contacted social services. She informed them that she cannot care for the children at this time and that she wished to die. Father B subsequently took care of B.
33. At the first hearing in these proceedings, it was agreed that A would remain in the care of C under an ICO with an exclusion requirement attached. B was to remain in the care of Father B under an interim care order again with an exclusion requirement.
34. On the same day, an incident occurred where Mother attended C's property in her pyjamas seeking to remove A. Threats were allegedly made to C and the police were in attendance.
35. Updating hair strand test results were received which evidenced Father B continuing to use cannabis over a 6-month period at medium levels.

36. One month into proceedings, the local authority EDT received a call from Mother informing them that she had been assaulted by Father B whilst she was holding B. As a result, she had taken B from his care and B was subsequently placed with C. Whilst what actually took place remains in dispute, it is clear that an argument ensued in the presence of B, Mother took B from Father B's care and he did not stop her or seek any professional assistance. Mother accepts that she breached the s.38a exclusion requirement attached to the interim care order.
37. Following the incident between the parents, a Child Protection medical was undertaken which included a CT scan. The consultant paediatrician noted a number of bruises or injuries of concern.
38. The report sets out that B suffered bruises after her father threw her onto a sofa. Mother was visiting at the time which she should not have been as she was meant to only have supervised contact. Nine injuries or lesions of concern were noted on examination.
39. A follow-up medical review was undertaken by a different consultant paediatrician, which highlighted two additional bruises which were unexplained. I have not been asked to undertake any fact finding as to the nature of these bruises or lesions nor do they feature as part of the local authority threshold.
40. Subsequently, arrangements were made for both children to stay with C under interim care orders.
41. A few months later, a bruise or lump was noted on B's head during a contact session with Father B. This was explained as an injury caused by rough play between the children. However, father B was very concerned about this and sought for C to be arrested and investigated. The police did become involved which resulted in no further action being taken against C.
42. The upshot of this allegation was C withdrew from the assessment process and both children were moved to an emergency foster placement.
43. An order made at that stage records a reconciliation of the parents and that they wished to be assessed together. I note the social work chronology sets out that Mother then confirmed that she was no longer in a relationship with Father B.
44. A care planning meeting took place whereby the local authority's care plans for care and placement orders were shared. Mother found this extremely upsetting and suggested that she

may end her life. An ambulance crew were dispatched and Mother attended hospital for treatment of cuts to her arms. A Mental Health Act assessment was arranged but she left hospital prior to the assessment being undertaken.

45. Updated hair strand testing for Father B suggested ongoing cannabis use over the past 4 months at a medium level.
46. Updated hair strand testing of Mother indicate repeated cannabis use at medium levels over the 5-month period prior to samples being taken albeit at reducing levels.

Parties Positions

47. In light of the above history and assessment undertaken in these proceedings, the local authority seek care and placement orders for both children.
48. Mother is opposed to a plan of adoption for either child and seeks time to address her issues in order for the children to be rehabilitated to her care. She asks that these proceedings be extended until her therapy has finished, her progress reviewed and for a final decision to be made at that point. In the alternative, she asks that the application for a placement order be dismissed and for a care order to be made with a care plan of long-term foster care.
49. Father B too was initially opposed to a care plan of adoption. In his final evidence, he set out that he seeks to care for both children but if not he would support Mother's application. On the week prior to the commencement of the final hearing I received a position statement from Mr Yeung, Counsel for Father B, which sets out that he has considered matters carefully and has taken the difficult and child-focussed decision to neither consent nor oppose the orders sought by the local authority. He in no way seeks to undermine Mother's case. He sought for his attendance to be excused from the hearing as he did not feel he could cope and to be updated by his counsel. I will address this further in my judgment. He attended remotely on the first day of the hearing. He also attended my judgment remotely.
50. The guardian has filed a detailed final analysis. He supports the making of care and placement orders for both children for the reasons set out in that analysis.
51. There are no other family members in a position to care for the children. C initially progressed with positive engagement whilst A was in her care however after B joined the placement, C withdrew from the process. She found it challenging to manage various aspects of the children being in her care and moving to a foster placement.

52. Paternal grandmother to B, was assessed to care for both children. Following some initial social discussions, she withdrew from the process.

The Law

53. I must first consider whether the threshold for making any orders as set out at section 31 of the Children Act 1989 is crossed. If the local authority establishes that threshold is crossed, the Court then goes on to consider what orders should be made, having regard to all the circumstances of the case and with particular reference to the factors set out at section 1(3) of the Children Act 1989.

54. Whenever a court is coming to a decision relating to a care plan of adoption of a child, the Court must also have regard to section 1 of the Adoption and Children Act 2002, in particular the factors set out at the checklist at section 1(4) of that Act.

55. With respect to the application for a placement order, section 52 of the Adoption and Children Act 2002 sets out that the Court can only make a placement order in the absence of parental consent where it is satisfied that the children's welfare requires that consent should be dispensed with.

56. In reaching my decision, the children's welfare is my paramount consideration and their welfare has been at the forefront of my mind throughout this hearing.

57. I remind myself that a care plan for the adoption of a child must be an option of last resort and will not be ordered unless it is demonstrated that nothing else will do, when having regard to the overriding requirements of a child's welfare.

58. There is a need to ensure that this is a proportionate response to the harm identified and the Court must be satisfied that there is no practical way of the authorities providing requisite assistance and support (Re B [2013] UKSC 33; [2013] 2 FLR 1075).

59. The Court must grapple with all the realistic competing options and give them proper, focussed attention (Re B-S (Children) (Adoption Order: Leave to Oppose) [2013] EWCA Civ 1146).

60. Family ties may only be severed in very exceptional circumstances and everything must be done to preserve personal relations and, where appropriate, to 'rebuild' the family (YC v United Kingdom 92120 55 EHRR 967).

61. It is not enough to show that a child could be placed in a more beneficial environment for his upbringing. In deciding issues in respect of the welfare of the children, the Court's task is not to improve on nature or even to secure that every child has a happy and fulfilled life but to be satisfied that the statutory threshold has been crossed.
62. The best person to bring up a child is the natural parent, provided the child's moral and physical health are not in danger. The Court recognises also that there are very diverse standards of parenting. Children will inevitably have very different experiences of parenting and very unequal consequences flowing from it. Some children will experience disadvantage and harm, while others flourish in atmospheres of loving security and emotional stability.
63. The State does not take away the children of all the people who abuse alcohol or drugs, who suffer from physical or mental ill health. The Court's assessment of the parents' ability to discharge their responsibilities towards the child must take into account the practical assistance and support which the authorities or others would offer.
64. That being said, the Court of Appeal made clear in *Re R (A Child) (Adoption: Judicial Approach)* [2014] EWCA Civ 1625, [2015] 1 WLR 3273 that, "*Where adoption is in the child's best interests, local authorities must not shy away from seeking, nor courts from making, care orders with a plan for adoption, placement orders and adoption orders. The fact is that there are occasions when nothing but adoption will do, and it is essential in such cases that a child's welfare should not be compromised by keeping them within their family at all costs.*" The Court's paramount consideration remains the children's welfare.
65. The Court should not make any orders unless it is satisfied that it is both necessary and proportionate for such orders to be made to secure the children's welfare. I have had close regard to the Article 6 ECHR and Article 8 ECHR rights of each parent and of the both children and I remind myself that where there is tension between the Article 8 rights of the parent, on the one hand, and of the child, on the other, the rights of the child prevail; *Yousef v The Netherlands* [\[2003\] 1 FLR 210](#).
66. In written submissions, I have also been referred to the well-known authority of Hedley J *Re L (Care: Threshold Criteria)* [2007] 1 FLR 1050 and the quote of Lord Templeman in *Re KD*, Wall LJ in *Re P (Placement Orders: Parental Consent)* [2008] EWCA Civ 535 [126]; [2008] 2 FLR 625 (endorsed in *Re B-S*):

[24] "A child's circumstances may 'require' statutory intervention, perhaps may even "require" the indefinite or long-term removal of the child from the family and his or her placement with strangers, but that is not to say that the same circumstances will necessarily 'require' that the child be adopted. They may or they may not. The question, at the end of the day, is whether what is 'required' is adoption."

67. I have been referred to s.32(5) of the Children Act 1989 and Pauffley J's reminder from *Re NL (a child)* [2014] EWHC 2740 (Fam) that "*justice must never be sacrificed upon the altar of speed*" and also to *Re TG (A Child)* [2013] EWCA Civ 5, where the Court of Appeal emphasised the importance of case management.
68. In respect of threshold matters, I have been reminded of *Re A (A Child)* [2015] EWFC 11 and the need to link the facts relied upon to demonstrate that harm has flowed or likely to flow from these facts.
69. I have also had regard to *Re P (a child)* [2018] EWCA Civ 1483 and *Re A, B, C, D and E (Children: Placement orders: separating siblings)* [2018] EWFC B11 and *Re S (A Child)* [2014] EWCC B44 (Fam).

Threshold

70. I note that the court was satisfied that the s.31 threshold criteria were met in the previous proceedings in accordance with separate documents for each child dated January 2020.
71. There has been discussion between the advocates and I have been presented with a nearly agreed s.31 threshold document.
72. For the avoidance of doubt, I am entirely satisfied that the s.31 threshold criteria are met for the making of public law orders as set out in the document and as per the threshold criteria from January 2020. There is one issue on threshold which requires determination but in any event, in my judgment the matters set out clearly cross the threshold criteria which is not disputed by any party.
73. I was asked to consider whether cannabis use impacts on Mother's ability to consistently meet and prioritise the children's needs. Father B accepts this. Mother however disputes this and whilst she accepts smoking one 'spliff' of cannabis she says that, as Father B or other adults were present and the children in bed, the children were not at risk of significant harm.

74. I do make a finding that cannabis use does impact on Mother's ability to consistently meet and prioritise the needs of the children in accordance with the s.31 threshold criteria and I will address the reasons for this later in my judgment.

Evidence of the Social Worker

75. Along with the bundles prepared for the care proceedings which include the previous case papers, I also have the placement application bundle. I have had the ADM decision records and redacted care planning minutes.

76. I heard oral evidence from the social worker. Due to I.T. difficulties she attended Court in person on the 2nd day of the hearing along with Counsel. I have read her statements and assessments. In summary, the social worker was also the allocated social worker in the previous proceedings. She has been allocated since January 2018, some nearly 3½ years. She told me the children's behaviours have settled recently but they have had their attachments disrupted. The children need emotionally responsive and nurturing care which is over and above what would be normally expected. She was questioned extensively by Dr Gatland about Mother's therapeutic journey, the sessions remaining, the progress she was making and whether the children's timescales would allow an opportunity for Mother to complete this. She did not agree that the children could wait. She told me the proceedings have already been extended. She was not confident that if the proceedings were extended further they would conclude within 4 to 5 months as suggested on behalf of Mother. Further assessment would be required including psychological assessment to ascertain the impact and benefits of therapy as well as parenting assessment.

77. The social worker confirmed contact was a very positive experience for both children but was worried whether Mother and Father B would be able to manage letterbox contact twice per year if the children were placed for adoption.

78. The social worker was concerned that A would be over 3 post June 2021 and that would reduce the likelihood of him being adopted and that the children have already waited a long time for permanence. They need to settle and it would be developmentally too long for them to wait any longer. She confirmed that the care plan was for the children to be placed together and she was the author of the sibling assessment which sets out the reasons for placement together.

79. The social worker did not agree that the proceedings should be extended to allow Mother to complete her therapy. She recognised that Mother loves her children unconditionally and acknowledged that she has recently engaged well with the therapy to address her traumatic

childhood experiences, her complex post-traumatic stress disorder and the poor coping mechanisms associated with her childhood trauma.

80. She was asked about Mother's recent engagement with Compass to address her cannabis misuse. She was asked about her analysis of the various realistic options, the benefits and detriments of each option and was questioned as to whether the local authority had properly considered long term foster care as an option and the advantages that may bring.
81. The social worker agreed with the guardian's analysis and recommendations in respect of the care plans for both children but was worried about the level of contact if the Court made care and placement orders and in particular the parents' ability to manage the contact. I found she gave considered and balanced evidence.

Evidence of Mother.

82. I heard oral evidence from Mother and read her statements. She attended in person to give her evidence. I very much had in mind the assessment of Dr Jones that professionals should be mindful of her significant history of victimisation and abuse. I took the view that the Court should also adopt this approach when considering her evidence.
83. Mother has been engaging in therapy and has missed only a few sessions. The sessions have only recently started to look at past trauma as the initial stage was relationship and trust building. She has not previously been willing to engage in therapy as she felt it was not needed. She believes she has changed or is changing and that is not *'100% petals and roses'*. She accepted she struggled with the care of the children due to her mental health and she was not perfect. She was fundamentally opposed to the children being adopted and whilst she understood the reasons why professionals were supporting adoption she did not and could not accept it. I understand her position.
84. As part of the written evidence, a therapeutic midway report sets out that work was due to commence at the end of the previous proceedings but Mother was not emotionally ready to begin at this time due to some disruption in her personal circumstances. There was also some delay due to the Covid-19 pandemic impacting on face-face appointments. The report records that Mother has experienced complex and repeated trauma that have likely impacted on the way she relates to herself and others.
85. It is further recorded that it was necessary to prioritise the therapeutic process of stabilisation, emotional regulation and the development of trust. Due to the clinical complexity, the duration of therapy needed to be extended to successfully treat the presenting trauma. A further 25 sessions were requested from the treating team.

86. At the start of the hearing I received an email from Mother's Counsel which sets out as follows:-

'Hi [Mother], as requested we had 12 initial sessions [...]– our therapeutic relationship started to develop from the beginning, which is key to this type of work between client and therapist. We then sent a report from the practice to [the social worker] with mine and our Clinical Psychologist['s] input asking for a further 25 individual sessions – due to the complex trauma experienced. We then had a further 10 approved – 15 short of the recommended number for this type of clinical intervention. If we were working with a private client – this type of work would be up to 12+ months' work and not just tied to 37 sessions'.

87. I have considered this evidence when I heard Mother's oral evidence and the progress she has been making with therapy.

88. Mother told me that she has recently spoken to Compass about her cannabis use. She was previously using £20 per week which is 1/8th (I assume is 1/8th of an ounce). She said she has not used cannabis for 3½ weeks but told me she felt she did not need professional support around this anymore although but was willing to engage in 1:1 sessions with Compass.

89. Mother accepts she has a high level of anxiety but she goes to therapy each week and is taking medication prescribed by her doctor to help her anxiety and sleep.

90. In so far as contact is concerned, she did not want it to reduce if the Court accedes to the applications and believes that she is able to manage contact notwithstanding the decision of the Court.

91. She accepted that A has had 9 placement moves and that it is important for the children to have stability. She accepted she did not commence therapy despite the recommendations to do so in the previous proceedings until late last year, in part, because she did not understand the benefits of therapy. Mother just wants the chance to prove that she can care for her two children and told me that the children did not deserved to be adopted and they will struggle to understand the reasons why if such an order is made.

92. She bravely accepted that the children will be impacted if they did not return to her care or remained in foster care pending any further final decision if I allowed her application for an adjournment. Mother clearly has her own view of the care system having been a child in care herself, which she told me was not positive in that the care system does not solve the problems and is often misunderstood as being a good solution by professionals.

93. Mother did not feel that the guardian's analysis was fair but accepted she still had some work to do which she was addressing by her therapy before being in a position to care for the children.
94. Overall, I found Mother to be a likeable witness. She answered questions and gave me a good impression of who she was, what was important to her and also her struggles with her mental health. I had no doubt at all that she loves both children unconditionally. She wants what is best for them and is wishing to do everything she can to have them in her care. At times she was realistic about her own childhood difficulties, although I do not accept she fully understands the impact of this as yet on her own parenting. I also believe she underestimated the impact of cannabis on parenting and that she did not need long term support in managing her cannabis misuse. In my judgment she does need the support of Compass and she should fully engage with them.
95. On hearing her evidence, one can feel nothing but great sympathy for Mother. She is doing her best to address events which happened to her in the past which are not her fault. She has been a victim and a survivor of abuse which has caused her great emotional pain and anguish and as a result she has developed maladaptive self-coping mechanisms to protect herself from her own experiences and trauma. This understandably in turn has had a significant impact on her parenting ability and will continue to do so until such time there is mitigation or resolution of her complex PTSD.

Evidence of Father B

96. I did not hear oral evidence of Father B and in light of the position taken by him, no one sought to cross-examine him.
97. As part of this case I have had regard to the emotional impact on him of these proceedings and invited him to attend the final hearing when and if he felt able to do so. I make no criticism of his struggle to attend to listen to the evidence and as I indicated to the parties, this Court fully recognises the difficult decision he has taken not to pursue a positive case and the insight he has of the welfare needs of the children and his current inability to meet those needs. I also record that I have no doubt that he loves both children very much and if circumstances permitted he would wish to be able to care for them both notwithstanding that A is not his biological son.

Evidence of the Guardian

98. I heard oral evidence from the guardian. I have also read his final analysis for these proceedings and his analysis in the previous proceedings. He confirmed his recommendations made in his analysis.

99. He accepted there were many positives and that he was impressed with Mother and the changes she has made. He affirmed his report that Mother could meet many of the children's needs.
100. He repeated several times in his evidence that this was a finely balanced case and not at all clear cut. There are two children who love Mother very dearly but also two children who have been in the care system for all their lives and court proceedings for around 2 years. A balance needed to be struck between the progress made against the risk of ongoing harm and instability for the children.
101. The difficulty for the guardian was in terms of timescales. He told me that the '*court process is not black and white and a lot of grey areas, you have to make judgments on steps forward and steps back and to consider the strengths and weakness, how the children are doing and what could happen in the future*'.
102. He agreed that Mother had come forward quite a long way from when he first become involved in the previous proceedings. He formed the impression that whilst it was a difficult start to therapy, she is now internally driven to make changes for herself and her children and he was happy to accept that the therapeutic relationship with Mother and her therapist had now moved on from the purely relationship building stage.
103. Whilst not being able to see the children in contact, he had read the contact notes and observed the many references of affection between Mother and the children. However, he reflected that there were still big gaps in the parent's ability to parent away from a contact setting.
104. The guardian justified his recommendation to the Court on the basis, in part, on his observations of a parent who has come a long way but has a long way to go and that these are two children in second set of care proceedings who have had a huge amount of disruption and uncertainty for the future.
105. He was not convinced that everything will be resolved by therapy but that the diagnosis of complex PTSD explained a lot about Mother's presentation and behaviour and that '*whilst therapy is the key to unlock the door it is not the solution to everything*'.
106. He told me that this a difficult and emotive case. He has been a guardian for 2½ years and this is hardest recommendation that he has had to make. He has also worked with many children in the care system as social worker for many years and that in the timescales of Mother and the children, he has had to consider whether their respective needs and timescales are travelling alongside each other together on a similar track or whether they now diverge. He

believed that it has now become a point of divergence and the *'timeframe for the children does not run the same way as Mother's'*.

107. He was worried about what would happen to the children at the point Mother completed her therapy and accepted that whilst timescales were not absolute, he has weighed all the positives and negatives and the benefits and detriments in order to make his recommendation to the Court on behalf of the children. He would only support an extension of the proceedings if it was *'warranted and purposeful'* and his recommendation to the Court was that the balance of harm is not tipped in favour of a delay to these proceedings and that it would not be a case of *'4 to 6 months of therapy. Given the history there would need to be psychological assessment, parenting assessment of around 12 weeks at a parenting assessment centre'*. He told me a future breakdown if the children were to be returned to Mother would be *'catastrophic'*.

108. Notwithstanding robust cross-examination from Dr Gatland, I found the guardian to be a thoughtful, fair, reflective and considered witness. He was balanced in his evidence and gave insightful reasons as to why he reached the conclusions he did, albeit they were finely balanced.

Discussion, analysis and decision

109. I have given this case a great deal of thought and consideration. I have all the factors of section 1(4) of the Adoption and Children Act 2002 firmly in my mind when coming to my decision in this case.

110. When first reading the papers, I noted the young ages of the parents. Mother has been exposed to considerable harm and trauma herself as a child which of course will have influenced and impacted on her parenting abilities. She requires therapeutic intervention to overcome her early life experiences. Details are set out in the report of Dr Jones, forensic psychologist, in the previous proceedings and I do not propose to set them out. They are there to be read and I have been referred to various references in that report.

111. Mother has a long history of mental health difficulties and she has had periods of being very low, of self-harm and suicidal ideation. Whilst it is positive that she is engaging in therapy, I take judicial note that therapy itself can be a traumatic experience and is not an easy process, as part of the therapeutic journey is to overcome previous trauma.

112. As set out already in this judgment, both children have already been subjected to huge amounts of upheaval in their young lives. There have been moves for A from his mother's

care, to foster care, to residential care and for both children from residential care, to parents, then to family and then back into foster care. I am told that A has had 9 placement moves, 4 of which were in these current proceedings.

113. After the children moved from C's care to foster care, notice was given on the placement as two full time carers were unable to manage the children's behaviour. Therefore, the children moved to an independent foster carer with two full time carers and no other children in placement.

114. The children were reported to have settled well, but sadly notice was again given on the placement as the carers were unable to meet the needs of both children and they moved again to a new placement, where they have remained to date.

115. The guardian has concerns about the children's attachment style given the number of placement moves. Both the local authority and the guardian opine that the children require stability, security of placement, good parenting and a that there is a real need to provide a high level of parenting to address the impact of harm already suffered. I agree with this opinion. The question is should the decision of permanence be made now or should it await the outcome of Mother's therapeutic intervention?

116. The parents' relationship has been on and off with reports of arguments and conflict. The parents appear to have separated now but there remains uncertainty about them remaining apart if the children remained with Mother. Mother told me in her evidence that she is not in a relationship at present and that her relationship with Father B finished around 7 months ago.

117. The addendum parenting assessment sets out that the concerns from the previous assessment remain as yet unaddressed. Therapy has commenced and has moved on from the building rapport stage and managing Mother's current emotional wellbeing. Although not clear from the email, the Narrative Exposure Therapy has now commenced. It is recommended that 25 sessions are now completed with a view to there being a possible 37 sessions in total. I have set out the email from the therapist already in full. This is far in excess of what Dr Jones' opined would be required but of course the true level of therapeutic input can only be addressed by the treating therapist.

118. Mother still suffers from poor emotional wellbeing and has been inconsistent until recently in her engagement with support and interventions despite showing some signs of positive progress in the past. Again, I found that her evidence was measured but at times came

out as a stream of her thoughts and feelings about the question being asked rather than answering it. I make no criticism of this; it is simply an observation.

119. It is evident to me from written evidence that the children require a high level of positive parenting, perhaps reparative parenting in order to undo some of the harm they have suffered. They are getting this parenting at present.

120. From the HST results, cannabis use by both parents continues. I note that Mother told Dr Jones in the previous proceedings that she had no intention to return to substance misuse, describing it as 'stupid' and discussed the potentially negative impact this could have on parenting. This has not been borne out by the HST.

121. In their updating parenting assessment, the local authority believe that Mother uses cannabis as a coping strategy and this will decrease her availability to care for a child. I agree with this and moreover that that cannabis use brings not only risks to Mother's mental health but also impacts on her ability to parent the children as it is used as a coping mechanism. Cannabis is an illegal drug and needs to be supplied or purchased. That in itself brings risks to children and I have already set out that the local authority have previously applied for an EPO in the previous proceedings due to Mother's associations with risky individuals who used cannabis. I do find that the reason for Mother's cannabis use is somewhat minimised and I do find that until she undertakes meaningful work with Compass it places the children at risk of significant harm.

122. The main thrust of this mother's case is that I need to consider the welfare of the children and determine whether or not there is sufficient evidence to justify an extension of the proceedings in the hope and expectation that Mother will undertake successful therapy. I of course have to consider this against the timescales for these children and the harm they have already suffered or are likely to suffer.

123. In order to answer the question on the mother's primary case, I have had to consider section 32(5) of the Children Act 1989. If I decide to grant an extension, I may only do so if the Court considers an extension is necessary to enable the Court to resolve the proceedings justly. The test is no longer for 'planned and purposeful delay' and I am reminded by Dr Gatland that I have to carefully consider the exercise of my case management powers tailored to the actual facts of this case when I consider what is in effect a case management application by Mother for an adjournment.

124. I have also considered the matters as set out in *Re S (a child) (interim care order): Residential Assessment* [2015] 1 WLR 925, namely:

- i. whether Mother is committed to making the necessary changes;
- ii. whether there is a reason to believe she is able to maintain that commitment;
- iii. whether she is able to make the necessary changes in the children's timescales.

125. All parties agree that Mother is committed to therapy and committed to making changes. So the real question for me to consider is whether she is able to make the necessary changes within the children's timescales and if so, should I adjourn to allow Mother to complete her therapy or make different orders than sought by the local authority. In my judgment, I cannot answer that question in isolation but it should be considered as one of the realistic options before this Court when examining the totality of the evidence.

126. Sadly, there are no other members of the wider maternal or paternal family who could care for the children, so the realistic options are stark. Should I adjourn the proceedings and leave the children in placement under interim care orders, should I make a care order with a care plan of long-term foster care or should I approve the local authority care plans for adoption?

127. I have of course looked at these realistic options holistically. I also agree with the guardian that the likely wishes and feelings of the children would be to return home to Mother, especially in light of their ages and understanding.

128. *The children's particular needs* – Both children are reported as happy and healthy. A is reported as struggling to manage his emotions at times, with this being beyond what would be expected of a child of his age. He requires structure and routine. He has responded well to SALT intervention. His foster carers have described him as quite complicated to care for. He takes time to reflect but there is no evidence that he requires any specialist intervention. B is described as smiley and sociable but struggles with separation. She can become jealous of A and make attempts to undermine him.

129. *The likely effect on the children throughout their lives of having ceased to be a member of the original family and become an adopted person* – The children are likely to have an understanding of their birth family notwithstanding the number of placement moves. Contact is a very positive experience for both children. Both children will feel a sense of loss and the impact of such loss will likely affect both children in different ways at the different stages of their development and across their whole life. If adopted, all direct contact with Mother, Father B, paternal grandmother and wider family would cease, permanently. As they grow older and become more aware of adoption, this may trigger a sense of being different and an awareness

of this loss. Placing both children in an adoptive family will mean that they will be denied permanently the opportunity of being cared for by Mother and enjoying a range of birth family relationships. This is a very significant loss indeed but this loss can be ameliorated by good quality life story work and letterbox contact.

130. It can be further mitigated by having a loving and secure family provide long term consistent care and the children will be able to adjust to this. The local authority has reassured me that they are to be placed together.

131. *Any harm which the children have suffered or at risk of suffering* – both children have suffered emotional and physical harm whilst in the care of Mother and Father B as set out in the threshold document. Both children are at risk of future harm arising from the parents' mental health needs and of substance, namely cannabis misuse.

132. *The relationship which the child has 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 child of it doing so, (ii) the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the child can develop, and otherwise to meet the child's needs and (iii) the wishes and feelings of any child's relatives, or of any such person, regarding the child:* I have addressed this already in my judgment. The professional evidence before the Court leads to a conclusion that neither parent is in a current position to provide the children with safe care. The assessments undertaken in respect of Mother and the contact notes record that Mother has a very warm and loving relationship with both children. The local authority's care plan is for indirect letterbox contact twice each year.

133. Having considered the totality of the evidence and given the ages of the children, it would be wholly contrary to their welfare best interests to be placed in long term foster care by way of a care order on its own. Whilst it would have the advantage of the children maintaining their relationship with the parents and wider family, assist in fostering familial and identity needs and allow Mother to undertake therapy and, in time, perhaps apply to discharge the care order, it would have very considerable disadvantages.

134. There would be the ever-present risk of placement breakdown or a move to a new foster home, perhaps as already evidenced in the number of moves thus far. Both children would be the subject of regular social worker visits and Looked After Children reviews. There would be

no sense of security, stability or of belonging, which could be achieved in a permanent adoptive home.

135. A placement for adoption would secure a permanent, stable, safe and loving home for the children where the children would be able to gain a tangible sense of belonging to a new family throughout the whole of their lives. Given their ages and the family finding evidence adoption as siblings is a realistic option.

136. Adoption would, however, sever the children's legal relationship with Mother and their fathers for the whole of their life. This would be a very significant disadvantage for both of them and of course would be devastating for Mother, Father B and the wider family. Whilst adoption would offer a sense of belonging, this must be balanced against the very real negative impact of ceasing to be part of their birth-family, with the knowledge that the adoption was without the consent of Mother, Father A, Father B and family members. This is likely to leave questions in due course about birth family and the reasons for adoption. Life story work would ensure that they can be supported by adoptive parents(s) with identity needs, together with ongoing indirect contact with parents, but this is more limited than a direct relationship.

137. I have in mind that whilst delay is always contrary to a child's interests, A will be 3 in June and B 2 in July. Whilst the history of these proceedings is important, it is not determinative. I have well in mind the progress that Mother has made and that if she maintains the progress then the outlook may well be very positive for her. However, I have to consider the evidence before me about therapy, the most recent evidence being the letter from the treating therapist which I have included in full in this judgment.

138. In consideration of the children's ages and experience, in my judgment their welfare interest will be best served by being settled now with a permanent primary carer.

139. The children have a limited time in which they are able to gain maximum advantage of an adoptive placement, especially as a sibling pair. This has to be considered against the quality of contact Mother has with both children.

140. There comes a time when the welfare interests of A and B, which is the Court's paramount consideration, must be given precedence. A care plan for the adoption of a child must be an option of last resort and will not be ordered unless it is demonstrated that nothing else will do, when having regard to the overriding requirements of a child's welfare.

141. Father B has considered that it is not realistic for him to care for the children. I agree with his position. I therefore undertake a balancing exercise as to the risk of harm to both children if they were to return Mother's care upon completion of her therapy against making orders now.
142. Mother's preferred option is the children remaining in their current placement whilst she continues on her therapeutic journey. That would mean adjourning these proceedings. I would have to consider it necessary, to resolve these proceedings justly, to extend these proceedings further. As part of that I have to look at what this timescale will mean. I accept the submission that timescales are not absolute and that I have to place them in the mix when I balance the care plan for adoption.
143. There is no precise timescale for Mother's therapy and assessment. Therapy could be completed in 4 to 5 months or it could continue up to 12 months. There would need to be further assessment and I agree with the guardian that this is likely to involve updating psychological and parenting assessments as well as care planning and evidence from the parties. I think it unrealistic that this case would be ready for final hearing in under 9 months. I understand the point made by mother's counsel that Mother is unable to place a precise timescale on her therapy, nor can the local authority put a precise timescale on a matching process. Those again are all factors I need to consider but I cannot ignore that these proceedings are already in week 40 and, without the evidence as to the likelihood of successful therapy and the impact of this, it is a significant factor.
144. I fully acknowledge that Courts are often faced with cases where therapy has not yet begun and that this is not one of those cases. I also acknowledge that Mother has already made significant changes and the guardian is impressed with what she has done and the positives of her parenting. I am presented with a mother who has now fully engaging in therapy and developing insight. She argues that this proposed adjournment would test out the engagement further and demonstrate progress. She identifies this as the clear purpose and benefit of an adjournment as almost all of her mental health difficulties are associated with her diagnosis of complex PTSD.
145. However, on the evidence before the Court, in my judgment I am not satisfied that there is a sufficient prospect of the Court being in a position to decide whether the children could be safely placed in the care of Mother compatible with the welfare needs and timescales of the children. I have undertaken this difficult balancing exercise and in my judgment, the evidence in respect of therapy cannot be seen in isolation. Moreover, the evidence before the Court as to

the success and timescales for therapy are not sufficient for me to be satisfied that Mother is able to make all the necessary changes within the children's timescales. I agree with the local authority and guardian that the timescales for the children are different for those of Mother and where there is conflict the rights and welfare of the children prevail. I do not find that it is in their best interests to delay the making of a final decision and accept the recommendations of the guardian having carried out my own balancing exercise.

146. I acknowledge that this is a decision of utmost significance and importance for Mother and the children. Having considered the evidence holistically, it is with an extremely heavy heart that I am satisfied that the only option which would meet the welfare best interests of both children throughout their life is a placement for adoption. Their welfare best interests lead me to make such orders, as in my judgment nothing else will do when having regard to the overriding requirements of a child's welfare. Final care and placement orders are the proportionate and necessary orders for the Court to make.

147. As difficult as it is, I do not believe it is in the children's best interest to delay matters further and I therefore must refuse the application to extend these proceedings to allow Mother to complete her therapy.

Conclusion

148. Whilst I have no doubt that both parents love the children very much, having considered and applied the law to the evidence as set out above. I cannot make an order to delay the final decision for the welfare of the children.

149. I therefore conclude with an extremely heavy heart that the only realistic option is for me to make care order and placement orders on the basis of an approved care plan to place both children for adoption together.

150. I am satisfied that it is in the welfare best interests of both A and B that I make placement orders. As neither Mother nor the fathers agree with the plan for the children to be adopted, pursuant to the provisions of s.52(1)(b) of the 2002 Act, I dispense with the consent of both of Mother, Father B and Father A on the ground that the child's welfare requires their consent to be dispensed with.

151. To Mother, I recognise the very deep love you have for your children and your overwhelming desire to provide them with a safe and loving home. Your early life experiences have had a significant impact on you and these were no fault of yours and I am deeply

sympathetic to your position. I have had to make a difficult decision which I think is best for both children and I have given this a great deal of thought and consideration.

152. I note the guardian records that you are committed to attending therapy and would continue to do so no matter what the Court decided. I implore you to do so. There is nothing more that could have been said or done on your behalf to advance your case. Dr Gatland has been impressive and persuasive on your behalf. I agree entirely with her that you have shown commitment, strength and courage. I hope that you continue to do so notwithstanding the outcome today.

153. To A and B, if you read this judgment one day I hope you understand that I have had to make a very difficult decision about what is best for you both. I do not have a crystal ball to assist in my decision. You need to be fully aware that your mother loves you very much and unconditionally. She has fought courageously in this hearing and given palpably heartfelt evidence about her love for you both. I wish you both well for your futures and I hope that in time you come to understand the decision of this Court and your mother's bravery.

154. I am grateful to the advocates for the sensitive way in which they have advanced their respective cases and for their written and oral submissions.

155. Whilst not encouraging any future applications or commenting on the merits of any such application, I would simply make the observation that if any future applications were to be made, this is exactly the type of case which would benefit from the appointment of a guardian at the very outset of such application, with the Court to appoint a guardian who has had previous involvement with this case.

156. In an email after submissions, the local authority have confirmed to me the following:

- iv. the Local Authority are entirely committed to placing the children together in an adoptive placement;
- v. the search at this time will only be for a placement together;
- vi. as per the family finding statement, there are several couples identified as suitable;
- vii. the Local Authority is therefore confident that the search/matching would not take a lengthy amount of time;
- viii. the Local Authority would however continue to search for up to one year for an adoptive placement together, if necessary;
- ix. there are review meetings every 6 weeks;

- x. the Local Authority would undertake a sibling assessment after one year if no adoptive placement for the children together was found at that stage; all options would be reconsidered.

157. For the reasons given, the Court makes the following Orders:

(a) A Care Order in respect of each child endorsing a care plan of a placement together with contact to remain at the current level for one month before reducing to once per week for one month then reducing to fortnightly contact for 1 month and thereafter monthly until the children are matched;

(b) A Placement Order in respect of each child endorsing a care plan of the children being placed together;

(c) The Court dispenses with the consent of Mother and the fathers for the children being placed for adoption.

158. That concludes my judgment.