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Case Nos: OX20C00042 and OX20C00045

IN THE FAMILY COURT AT OXFORD

**IN THE MATTER OF S31 CHILDREN ACT 1989 AND SS21 AND 52 OF THE
ADOPTION AND CHILDREN ACT 2002 AND
IN THE MATTER OF A, B, C AND D (CHILDREN)**

Date: 27 May 2021

Before:

HHJ Vincent

Between:

OCC

Applicant

and

a mother

Respondent

and

a father

Second Respondent

and

A, B, C AND D

(By their Children's Guardian, Isha Phillips)

Third to Sixth Respondents

Margaret Styles instructed by Oxfordshire County Council
Elisabeth Hudson instructed by Reeds solicitors for the Respondent mother
Charles Hogan instructed by Wilsons Solicitors for the Second Respondent father
Alex Perry instructed by Oxford Law Group, solicitors for the child

Hearing dates: 19, 20, 21, 24, 25 and 27 May 2021

JUDGMENT

Editorial note: in the judgment the children and their parents were referred to by their first names. In this judgment their names have been replaced with made-up names or 'the mother' or 'the father'. I have used the names Emma and Jamie for the parents and Abby, Ben, Charlotte and Daniel for the children.

Social workers, experts and other professionals are referred to either by their real names or initials.

Short judgment

Emma and Jamie

Emma and Jamie are mum and dad to four beautiful children called Abby, Ben, Charlotte and Daniel.

Emma has extra learning needs and autism. Emma had some difficult times in her childhood. These things make life hard for her.

Jamie has extra learning needs. He has antisocial behaviour disorder.

Emma and Jamie can find it hard to manage their feelings. When they are having difficult emotions they can get angry.

They have had arguments with each other. They find it hard to get on with other people. They find it hard when they feel someone else is criticising or judging them.

Problems with parenting

Emma and Jamie love all their children very much. Because of their difficulties Emma and Jamie have struggled to give their children the care they need:

- The children had lots of injuries. Emma and Jamie were not making sure they were safe;
- They could not always meet basic needs. The children did not always have healthy food, clean clothes, or a sleep routine;

- Emma and Jamie did not always know how to play with the children. They kept the children in high-chairs for a long time. Abby and Ben were behind with their speech and language, and behind with their emotional development;
- Emma and Jamie did not always know how to manage the children's behaviour. If the children were shouting or crying or needed their parents' attention, Emma and Jamie did not know what to do. Sometimes they got angry. If the children were throwing food or running about Emma and Jamie did not know how to help them calm down and to be safe;
- Sometimes Emma and Jamie argued in front of the children. This could make the children frightened. If parents cannot manage their feelings and their behaviour then children can grow up behaving in the same way. Abby, Ben and Charlotte have all had difficulties managing their feelings and their behaviour;
- Emma and Jamie were not always able to keep the flat clean and tidy. Sometimes it was messy and unhygienic and not a safe place for children;
- Jamie's anti-social behaviour has made the children upset, like when Abby was very upset by fire alarms going off. The family nearly lost their home because of Jamie's anti-social behaviour;
- Emma and Jamie find it very difficult to work with social workers and other professionals. The children have seen both parents get very angry and shout at professionals. This can make the children confused about whether they can trust adults;

- if the children needed help to keep them safe the parents may not call for help because they do not like working with social workers.

My decision

Emma and Jamie said to the judge they would work with social workers and make changes.

Emma and Jamie have had a long time to prove that they can make changes, but things stayed the same for the children.

I do not think that Emma and Jamie can change the way they are as parents so that it would be safe for the children to come home.

I do not think it would be fair on the children to wait any longer to see if Emma and Jamie could make changes. The children need to be settled.

I have decided that all four children should be placed for adoption. Abby on her own, Ben and Charlotte together, and Daniel on his own.

I know Emma and Jamie love their children and it will be very hard to be separated from them.

But I think it is better for the children to be adopted where they will be safe and have their needs met, than to go back to their parents. I do not think their parents can look after them in the way they need.

HHJ Joanna Vincent

27 May 2021

Long judgment

Introduction

1. Abby is five. Ben is three. Charlotte is two. Daniel is one.
2. Their parents are Emma and Jamie. They have been in a relationship for six years. They both have learning disabilities. Both parents have been helped by an intermediary at the final hearing. I am grateful to both the intermediaries who have been a huge source of support. They have helped counsel frame questions appropriately, taking time to review written questions in advance, have helped the parents understand the process and what is being said, and made sure that we took breaks and followed the ground rules previously agreed.
3. Emma has a diagnosis of autism. She had a lot to cope with in her childhood. Social services were involved because her father was convicted of sexual abuse of her half-siblings in 2007, and the local authority was also concerned about neglect. Later, she moved with her mum to live in a refuge after her step-father assaulted her mum. Emma moved to live with her aunt when she was fourteen but this relationship broke down the following year. By the age of sixteen she was living on her own.
4. Emma was living in [*place name redacted*] in 2014 when she met Jamie.
5. Jamie is four years older than Emma. He has a diagnosis of antisocial behavioural personality disorder.

History of social services' involvement with the family

Social services' involvement 2015 to 2018

6. Social services first became involved in 2015 when Emma was pregnant with Abby. At the time she was eighteen and living with Jamie and his family. It was very overcrowded.
7. Abby was on a child protection plan [in 2016 – dates redacted] when the support was stepped down to Child in Need plan. At the time social workers were worried about:
 - Emma's ability to meet all Abby's needs consistently;
 - Arguments between the parents in front of Abby;
 - Abby having marks on her armpit that looked like bruising and Emma not taking her to the doctor;
 - Emma's low mood which meant sometimes she was not responding to Abby when she cried, or did not cuddle her, or did not interact with her;

- Whether the parents' learning difficulties meant they needed extra help to understand how to parent Abby.
8. Social services felt there had been some improvement by December 2017 and the case was closed.
 9. Ben was born in *[date redacted]* 2018.
 10. In August 2018 Emma asked for help from social services about antisocial behaviour from a neighbour (her cousin). She said he broke into the home and held a knife to her throat while she was holding Abby. She was pregnant with Charlotte. An assessment was completed and the family was put on a child protection plan in October 2018 under the category of neglect. At the time social workers were worried about:
 - Unexplained bruising on Abby and Ben and the parents not taking them to the doctor;
 - Emma finding it difficult to regulate her emotions – shouting, screaming and swearing in front of the children;
 - Complaints of antisocial behaviour by Jamie to neighbours;
 - Jamie taking money from Emma so she did not have enough money to spend on things for the children;
 - Abby and Ben being left in their highchairs or car seats for a long time;
 - Abby showing signs of developmental delay – difficulty with speech and language, not seeking out stimulation and not interacting with her environment;
 - Emma still not responding to Abby; Abby presenting as stressed.

Abby's injuries

11. At this time Abby was going to nursery and there were a lot of reports of her having injuries. Between December 2018 and [x] April 2020 the following records of her injuries were made:
 - [x] December 2018 small bruise on right side just above hip;
 - [x] December 2018 bruise. Emma said she had thrown herself on the floor;
 - [x] December 2018 bruise on right side above hip;
 - [x] December 2018 bruise on right side of eye. Jamie said she was singing and hit her head on the television;

- [x] December 2018 four bruises on the back of each leg at the top of the thigh;
- [x] March 2019 Abby had a bump/bruise and a scratch on her head. Her parents said she fell off a slide;
- [x] April 2019 PAMS assessor reported small bruise on her left cheek. The parents said her youngest cousin hit her with a toy;
- [x] May 2019 PAMS assessor noticed a cut below Abby's left eye. Her parents said she walked into a door;
- [x] May 2019 Abby taken to hospital by her parents after being hit with a swing at her grandparents' home and hitting her head on concrete;
- [x] July 2019 bruises on Abby's knee, arm and front and back of Abby's thigh seen. She was taken for a child protection medical and the doctor thought these bruises looked like a grab mark;
- [x] July 2019 scratches on her private parts which Emma said was from a kitten;
- [x] July 2019 Abby was seen for another child protection medical and had bruises under her ribcage. Her parents said she bumped into a table;
- [x] August 2019 further unexplained bruising seen at a follow up child protection medical;
- [x] August 2019 bruise on Abby's head which parents say happened when she fell over;
- [x] November 2019 attended A&E with fingers trapped in a door. Observed to be very quiet;
- On [x] January 2020 Abby went with her mum to hospital. Her mum said she had hit her head on the floor.
- [x] April 2020 [name redacted], Abby's aunt raised concerns about bruising on Abby's body in unusual places.

Social services' involvement 2019-2020

12. Charlotte was born in [date redacted] 2019. Midwives visiting around that time said sometimes things were settled at home, but sometimes all the children were screaming and the parents could not look after them. It was agreed that a PAMS assessor would carry out a parenting assessment to see what support they would need to help them with their three young children.
13. On [x] February 2019 Jamie was served a Warning Notice of Community protection due to antisocial behaviour.

14. The parents moved Abby to a new nursery in May 2019. In June the nursery reported concerns about her behaviour, hitting, kicking out, spitting, throwing things, refusing nappy changes, shouting/screaming and having 'trashed a room'.
15. On [x] May 2019 there were still concerns about Jamie's antisocial behaviour. He was served with a Notice of Community Protection.
16. In June 2019 the parents said they did not want to work with the PAMS assessor any more.
17. On [x] July 2019 the parents were requested to bring Ben and Charlotte for child protection medicals but the parents refused. The doctors were concerned about the level of anger and swearing on the phone, especially because the children were there. The parents did bring the children for their medicals on [x] July. Ben had bruises on both thighs at the front which the parents said came from falling on Lego.
18. On [x] July 2019 a social worker visited and reported a strong smell of nappies and cat pee.
19. On [x] July 2019 a social worker visited and reported a strong smell. The flat was untidy with toys, food, dirty nappies, cat food on the floor. Abby had several small bruises on her back, side and leg. Ben had a mark and scab on his head which his parents said happened when he banged his head in his grandparents' back garden.
20. On [x] August 2019 the flat was messy, there was a lot of washing up to do, there was food on the floor as well as cat food on the floor.
21. At a visit on [x] August 2019 Emma refused to let the social worker check the children for bruises. The flat was messy with crisps and dirty nappies on the floor. Jamie said the fire alarm kept going off which was keeping the family awake. Ben was banging his head. When Ben cried his parents did not respond to him.
22. On [x] September 2019 there was a multi-agency professionals meeting called by the anti-social behaviour team. They had CCTV evidence which they said showed Jamie had damaged the front door of the flat, done graffiti, left dog poo in the lifts, set off fire alarms and set a fire in the bin chute. The police were planning to prosecute him. The City Council were planning to take steps to end the tenancy. Social services were worried about Emma and the children and also worried about Jamie's mental health.
23. On [x] September 2019 Ben was seen at hospital with severe nappy rash.
24. On [x] September 2019 Jamie was arrested for setting off false fire alarms, criminal damage and causing public nuisance, and arson with intent.
25. On [x] October 2019 family support worker visited. Jamie told her that the cat had been killed by a weed killer pellet put through the letter box by a neighbour and that Abby had found the pellet.

26. On [x] October 2019 Abby was permanently excluded from pre-school. She had hurt a teacher by pulling her hair and slapping her face.
27. On [x] October 2019 Emma sent a text to social services saying, *'Hi me and [Jamie] do not want you to come to our flat anymore and we don't need your help and we won't be coming to the group meeting and [redacted] meeting as well.'*
28. On [x] October 2019 Jamie's GP called social services because of worries about his mental health. Social services asked the GP to contact Jamie to help him. The social worker then received text messages saying, *'why are you calling up the doctors on [Jamie]'*, don't do it again or I will report you, and *'all you lot do is give him lots of stress for no reason whatsoever.'*
29. On [x] November 2019 there was a more positive visit. The parents were seen to interact well with all three children. But Abby was playing roughly with the younger children, not listening to her parents and throwing toys. She was wearing a nappy and drinking juice from a bottle. The social worker was worried that the parents were not giving any stimulation or responding to the children's cues and could not manage Abby's behaviour.
30. Pre-proceedings was started in December 2019, but the parents did not attend the first meeting.
31. The house was clean and tidy on visits in January 2020 and the social worker thought there was a good improvement.
32. On [x] January 2020 Abby went back to the nursery she had been going to in 2018.
33. On [x] January 2020 Jamie was convicted and sentenced for criminal damage and causing a false alarm of fire. He denied the arson charges.
34. In February 2020 at a visit Ben had a bruise which his parents said happened when Abby threw a toy at him. The children were arguing over toys and were very boisterous.
35. On [x] March 2020 Ben was taken to hospital with a nasty injury to his eye. Jamie told some different stories to the doctors about what had happened.
36. On 23 March the country went into lockdown because of the Covid pandemic.
37. At a pre-proceedings meeting on [x] March 2020 the parents agreed to Abby going to live with her aunt [*name redacted*]. At this time Emma was pregnant with Daniel.
38. On [x] March 2020 the nursery reported that when her dad had come to collect her the previous week, Abby had run away from him and locked herself in the toilet. Nursery staff said when she did go home with him she looked scared and anxious.

39. The local authority made applications for care orders for Abby, Ben and Charlotte on 3 April 2020.
40. On [x] April 2020 Abby told her aunt that she did not want to have a video call with her dad because he had thrown a remote control at Ben. This was reported to the police and Jamie was arrested. He was not allowed to go back to the family home at night and his contact with the children had to be supervised. The police talked to Abby but she did not say anything more to them about Ben's injury.
41. Daniel was born on [date redacted] 2020. Care proceedings were issued for him and joined to the proceedings for Abby, Ben and Charlotte.
42. At a home visit on [x] April 2020 Jamie threatened the social worker. The social worker says Jamie said that he knew people and someone would end up dead.
43. At the first hearing on 17 April 2020 the judge made an interim care order for Abby, she was to stay with her aunt [*name redacted*]. It was agreed that the three younger children should stay with their mum under a supervision order. Emma's mum [*name redacted*] moved in to help. There was agreement that the father was not allowed back home – his bail conditions did not allow him to stay at the property or have unsupervised contact with the children.
44. Jamie had not attended the hearing but later it turned out that he and his brother had been with Emma and listening in. At that time Jamie had moved back into the house and did not want to leave, even though that was against his bail conditions.
45. Later on [x] April 2020 Jamie called the police and said that Emma had threatened him with a knife and hit him with a frying pan. He told the police that she had dropped Daniel on his head. Emma said this was not true. She said that Jamie had taken lots of things from the house including bikes and scooters, toys and games, laptop, tablet, two DS and games, shoes, all the towels, bedsheets, and kitchen equipment.
46. On [x] April Emma had an argument with her mother and asked her to leave.
47. Emma was then looking after three children including a newborn on her own. Social workers visited every day and were very worried about the children. These are some of the things they were worried about when they visited:
- The TV was on very loudly in Charlotte's room where she was in her cot. The social worker said it was deafening. The social worker thought that Emma might have had it on loud to cover the noise of Charlotte crying;
 - There was a strong smell of poo. The cat's litter tray was in the room where children could get to it;
 - the children were strapped into high-chairs for a long time;

- The children were not always dressed;
 - The house was messy, the children were not being given healthy food, there was food all over the floor;
 - One time Ben was throwing food (noodles) and his mum didn't do anything about it. The food that had been thrown was still on the floor a few days afterwards;
 - Emma was finding it hard to manage if more than one child needed her attention at the same time;
 - The children were not in a routine;
 - Emma was feeling very low and was missing Jamie.
48. On [x] April Jamie made serious allegations against [maternal aunt's] partner [*name redacted*]. These were investigated and were found to be untrue. Jamie had previously made a number of complaints about the way [*the maternal aunt*] looked after Abby.
49. On 27 April 2020 social services and the police went to the flat and Ben, Charlotte and Daniel were taken into foster care under police protection.
50. On 28 April 2020 the Court made interim care orders for all four children. Abby stayed with her aunt, Ben and Charlotte went into one foster placement and Daniel to another.
51. On 1 July Abby moved to her current foster placement as her aunt decided that she was unable to meet her additional needs.
52. During these proceedings the parents have been assessed by Dr Hannah Jones, a psychologist.
53. The parents had a parenting assessment carried out by MK.
54. They have had contact with the children while they have been in care. During lockdown this contact took place by video or phone contact. More recently they have been having face to face contact.
55. A final hearing was supposed to take place in February 2021 but unfortunately the judge was unwell and another judge could not be found. The case was relisted before me in May.

Parties' positions at final hearing

56. The local authority asks the Court to make care and placement orders for all four children. This means that the local authority could place the children for adoption.

The local authority's plan is for Abby to be with one family, Ben and Charlotte together, and Daniel in a different placement.

57. Emma and Jamie love all their children very much. Emma and Jamie think they are good parents to all their children. They think the local authority is not being fair and has no reason to worry about their parenting.
58. They say that Abby has got problems and they have asked for help from the local authority for a long time but never got any support. Emma and Jamie would love Abby to come home, but because she has extra needs, they would agree to her being placed for adoption. They think that it would be better for her to be settled permanently in another family where she is not with so many other children close to her age and where her needs can be met. They think that adoption would be better than being in foster care because then she would not have to move around to new carers. In agreeing to this, Emma and Jamie are showing that they are thinking about Abby's needs and what would be best for her.
59. Emma and Jamie would like Ben, Charlotte and Daniel to come home to them. If the Court thought they would find it easier to look after just two children, they would like Ben and Charlotte to come home. They love Daniel very much but because he has not lived with them since he was [a very young baby], they have a better bond with Ben and Charlotte. If Daniel cannot live with them, they think it would be better for him to be adopted rather than be in foster care.
60. The children's guardian supports the local authority's applications for care and placement orders for all four children.

The law

61. I must first consider whether the threshold for making any orders as set out at section 31 of the Children Act 1989 is crossed:

“... a court may only make a care order or supervision order if it is satisfied – (a) that the child concerned is suffering, or is likely to suffer, significant harm; and (b) that the harm, or likelihood of harm, is attributable to the care being given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him...”
62. There are some details of the threshold document that Jamie and Emma do not agree about which I will deal with later. They do agree that in general, the threshold for making orders is crossed.
63. 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.

64. Whenever a court is coming to a decision relating to the 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.
65. In considering the care plan, the court must consider how it deals with the impact on the child of any harm that he has suffered or is likely to suffer, the child's current and future needs (including those needs arising out of that impact), and the way in which the long-term plan would meet the child's current and future needs.
66. With respect to the application for a placement order, section 21 of the Adoption and Children Act 2002 states that the Court can only make a placement order against parental consent where it is satisfied that consent should be dispensed with.
67. In reaching my decision the children's welfare is paramount. The court should not make any orders unless it is satisfied that it is both necessary and proportionate to secure the children's welfare. The Court must take the least interventionist approach.
68. I have regard in particular to the case of Re B [2013] UKSC 33 in which the justices of the Supreme Court considered the approach the Court should take where the local authority's application is for adoption. Lord Neuberger said at paragraph 104 of his judgment:

'... adoption of a child against her parents' wishes should only be contemplated as a last resort – when all else fails. Although the child's interests in an adoption case are 'paramount' (in the UK legislation and under article 21 of UNCRC) a court must never lose sight of the fact that those interests include being brought up by her natural family, ideally her natural parents, or at least one of them.'

69. Baroness Hale said at paragraph 198 of Re B:

'Intervention in the family must be proportionate, but the aim should be to reunite the family where the circumstances enable that, and the effort should be devoted towards that end. Cutting off all contact and ending the relationship between the child and their family is only justified by the overriding necessity of the interests of the child.'

The evidence

70. At the final hearing I listened to evidence from these witnesses:

- LW, social worker;
- MK, PAMS assessor;
- Dr Hannah Jones, psychologist;
- PU, social worker from the family finding team;
- The children's mother, Emma;
- The children's father, Jamie;
- Isha Phillips, children's guardian.

71. I have read all their statements and reports. I have read all the documents in the file which include the contact records of the times the parents spent time with the children either on video/phone or face to face.

LW

72. LW has been the children's social worker since March 2020. Her witness statements (and that of the first social worker JS) set out clearly all that has happened over the years since Abby was born. She explains all the reasons why she has been very worried about the children for a long time. She has worked very hard to help Emma and Jamie. She has worked hard to get other people to help them. The parents have shouted at her, been rude to her, and she has been threatened, but she has still tried her best to help them and to make sure that the children are safe. I think that she has been fair to the parents. When she has seen good parenting or other people have told her positive things about the parents, she has taken note, and weighed the positives in the balance.

73. She was asked if she could have done anything more to engage with the parents. She said the parents either did not answer the phone or put the phone down on her, or sent her messages saying they did not want anything to do with social services. Because of this and because she had been threatened by Jamie, she did not feel it was appropriate to just turn up at the house. I do not think there is anything more she could have done to work with the parents.

74. The parents said that LW told them they could not take Christmas or birthday presents to the children in contact. Emma says this was in September during the conversation when LW told her about the local authority's plan to ask the Court to place the children for adoption. I do not think that LW told the parents they could not take presents. If this is what the parents thought I think they must have misunderstood.

75. LW carried out the Together or Apart Assessment on 2 October 2020. She says:

- *Abby, Ben and Charlotte have additional emotional needs which may need more intensive parenting than the average child requires, Abby also. They have all suffered trauma throughout their childhoods. Charlotte and Ben are nonverbal and have not wanted to engage with family time with their parents and Abby has shown extreme distress around family time with parents and siblings and this is a serious concern;*
- *Ben and Charlotte also have high needs in regard to their developmental delay, night terrors and Ben being very full-on and needing constant attention. Although the carer is able to manage Ben, having Daniel, a small baby in the home as well would mean that the carer would struggle to manage three children in part due to the small age gaps between them and their stage of development, meaning a lot of parental input is required. In addition, there is Ben and Charlotte's high needs as well as managing the trauma impacts. All of the children's needs would compete and may not receive the full care that they need;*

- *It is my view that option one (placement of Abby alone, Ben and Charlotte together and Daniel alone best meets the children's needs currently and in the long term. Abby would continue to have intense therapeutic care, Ben and Charlotte would continue to bond and Daniel will not have any delay in his permanency.*

PU

76. PU is the family finding team manager. She gave evidence about the process for finding adoptive placements for the children based on her experience and information from the preliminary steps the local authority had taken in respect of these four children to explore the availability of potential adopters both in county and in other places in England.

MK

77. MK is a specialist social worker who works with parents with learning disabilities and carries out parenting assessments of them, tailored to their particular needs. Jamie did not want to take part at first but Emma persuaded him to work with Michelle. She looked at lots of different sides of parenting with Jamie and Emma and asked the parents what they needed help with. Then she made her assessment of what she thought they needed help with. In a detailed report she has explained the reasons for her conclusions and she has made recommendations for what might help the parents. She carried out her report in a way that was fair to the parents, and had covered all areas of parenting that she needed to. Her oral evidence was consistent with what she said in the report. She came across well, as very professional, experienced and with substantial knowledge and expertise in her field. I accept her report and its conclusions.

78. This is a summary of MK's conclusions:

- *Across the total 84 worksheet skills which have been assessed and described in this report, 32% are identified as high priority rating 3*. These skills are in the areas of: child healthcare general, parental responsiveness, development: stimulation visual, development: stimulation language, responsibility and independence, household routines, cooking, general safety, safety outside the home, safety abuse, relationships and support;*
- *In respect of [the mother's] 38% of parenting skills across 11 domains have been rated three indicating an immediate teaching need for the safety and welfare of the children in [the mother's] care. In respect of [the father] 42% of parenting skills across 11 domains have been rated 3, indicating an immediate teaching need for the safety and welfare of children in [the father's] care;*

- *[the father] and the mother's commitment to change is a fundamental factor to a successful outcome. The father has stated that he does not feel he needs to make any changes to his parenting. This is demonstrated in the low score 5/45 in the self-assessment 'I need help' from both parents. The significant difference in the self-reported areas of need and the PAMS assessment scoring show the large extent to which both parents lack insight into their parenting abilities/needs;*
- *The parenting domains where the father and the mother need immediate support are largely the same which shows that neither parent has the skills to raise the standard of parenting to balance out the vulnerabilities of the other parent. Furthermore, the vast number of domains requiring attention present a mountainous task for these parents to achieve, significantly in the domain of parent home care safety which encompasses abuse;*
- *I believe that Abby, Ben, Charlotte and Daniel would continue to be exposed to an emotionally and physically neglectful chaotic home environment if they were to return to the co-parenting or single parenting care of the father and or the mother. The father's lack of emotional regulation and the mother's inconsistent emotional availability and inability to prioritise the needs of the children over her relationship could have significant ongoing impacts on children so young and vulnerable.*

Dr Jones

79. Dr Hannah Jones's report is dated 30 September 2020. She spent time talking with both parents, did a range of tests to inform her conclusions about their psychological profiles, and had read the case papers. I thought her report covered all relevant matters and when she was questioned about it, what she said was consistent with what she had written. She also presented very well, as knowledgeable and experienced in her area of work. She was careful not to give an opinion outside her own area of expertise. I accept the conclusions in her report.
80. She said that Emma and Jamie both have learning difficulties.
81. She said that Jamie had antisocial personality traits and some paranoid personality traits. She thought that Jamie was at raised risk of depression.
82. The mother had a personality where she prefers to be on her own and does not trust other people. She does not find it easy to make an emotional connection to other people. Dr Jones agreed with the previous diagnosis of autism. Dr Jones thought that Emma's personality traits were *'of clinically significant strength – that is not only are they present, but that they are also likely to be persistent, pervasive, and problematic.'* Dr Jones says in her report:

- *I have discussed above both parents' psychological profiles and how these are likely to impact upon behavioural decision making. Inevitably this will include parenting behaviour. Issues of adult cognitive functioning are pervasive, stable and enduring and are therefore extremely unlikely to change regardless of intervention. Matters of practical parenting are largely beyond my remit, however I would suggest that both parents will need support in parenting the children as they grow and mature due to the level of cognitive functioning of the children likely being greater than their own. I would also suggest that both parents' ability to take on advice, implement and sustained change is likely to be significantly impaired by their level of cognitive functioning.*
- *In my opinion it is likely that as a result of both parents' psychological difficulties and co-occurring learning difficulties they will have a poor ability to mentalise; that is to consider their own mental state and that of others. This means they will be less able to consider the feelings of others and the impact their actions will have upon them.*

Emma

83. Emma came to Court every day of the hearing. It is not easy to listen to people talking about you and your family, but she attended every day of the hearing, engaged with the intermediaries and listened to all the witnesses. When the time came for her to give her own evidence she did her best to answer all the questions and to tell me the truth.
84. Emma said a lot of things in evidence which were the same as things she had said to Dr Jones, to MK and to LW.
85. She did get emotional when listening to some parts of the evidence, but a lot of the time she did seem to be quite in her own world, as Dr Jones said was characteristic of her personality, with a very sad expression. Of course it is understandable that she is very sad that her children are not living with her.
86. She did not find it easy to talk about the children or to reflect on why so many professionals had been worried about them in her care. She said that she would work with social workers and she would do all the courses that she was told to do so that the children or some of them could come home. But she did not think there were any problems with the way she looked after the children. She did not think that she needed to make any changes. She thought it was just the local authority telling her she had to make changes.

Jamie

87. Jamie found it hard to control his emotions. He got upset quite easily and when he was upset then he came across as very angry. Dr Jones said in her report that parents

who have a paranoid personality type can often misinterpret inoffensive statements as judgmental or critical. That seemed to be the case with Jamie.

88. It was a very stressful situation to be in Court. There were times that Jamie wanted to leave the building and not come back. Emma supported him at these times. It was positive that he was able to calm himself down and make the decision to carry on with the hearing.
89. Jamie said that when the children were living at home everything was wonderful and brilliant. He did not agree that the local authority had any reason to worry about the children but said they had been out to get his children off him from day one. The only thing he could think of that the local authority were complaining about was that the flat smelled of cats.
90. There were a few people that he said he couldn't fault and had been very helpful to him. One of those people was [name redacted] the family support worker, another was a teacher at Abby's nursery. But mostly he seemed extremely angry and hostile about all the professionals who had tried to work with him. He said that his whole family hated social workers and thought they were evil and that it was disgusting that they had removed the children from their parents' care.

The guardian

91. The guardian left Cafcass at the start of the year. She has showed huge commitment to the children by remaining as their guardian nonetheless, and despite the adjournment of the final hearing from February to May. She has made a huge effort to be available to come to Court this week, listen to the evidence and to give evidence herself. Because she was not working at Cafcass she has not seen the children recently nor met with the parents. She has spoken to the parents on the phone in the past. She agreed that if she had known there would be such a long wait for the final hearing she might have passed the case to a different guardian who could have visited more recently. But then it would be to somebody picking up the case right at the end whereas Ms Phillips has been the children's guardian since the beginning of proceedings and has a much better knowledge of the case than a new guardian would have done.
92. Ms Phillips prepared both an initial analysis and a final report. Her reports are detailed and show a good understanding of the evidence. She has considered the impact on the children of their experiences when in their parents' care and the expert evidence from the assessments about whether or not the parents would be able to make changes, and sustain those changes so as to enable the children to go home and to be safe and have their needs met. Ms Phillips' report is balanced, well reasoned and fair. After she listened to the evidence of the other witnesses she made it clear that she had not heard anything to change her mind, only to reinforce the opinion she had reached.

Threshold

93. The threshold document is attached to the end of this judgment.
94. There is disagreement about the incident of [x] March 2020 when Ben's eye was injured. Jamie accepts that it happened, but he does not accept that he should have been supervising better. He says that there was nothing he could do to stop Abby throwing a plastic stool at Ben.
95. Jamie has given different explanations about what happened:
- In his response to threshold he said he went out of the room to use the toilet, Abby and Ben were arguing. He came back and put Abby behind the stairgate in her room to let her calm down but she then climbed over the stairgate and threw the stool at Ben. He said broadly the same in his evidence to me at Court;
 - when he took Abby to hospital on the day he said that he was looking after the children, he went to get prawn crackers and Abby threw the remote at the TV and smashed the TV screen. He said he told her this was naughty and she then threw the stool at Ben's eye;
 - he told another doctor that Abby had tried to strangle Ben and then threw the piano chair at him. He said Ben fell down on his back and had gooey stuff coming out of his mouth. Then he said when he tried to separate Abby and Ben, Abby got angry threw the remote at the TV and broke it;
 - this is similar to what he said to a nurse, that Abby suddenly lunged at Ben, tried to grab his throat and then hit the corner of his face with a chair, and that he was watching TV at the time. He said Ben had blood oozing from his eye;
96. Jamie told me that his head was 'all over the place' at the time, and so what he says now is more likely to be the right version.
97. I do not know which version is the right one. What I do know is that Ben had a serious injury, the area around his eye was so swollen that his eye was closed. Jamie was looking after the children. It was his job to keep them safe. If Abby was the one to hurt Ben in any of the ways he described either to me or to staff at the hospital, then he has responsibility for not supervising her. If Abby was right that it was Jamie who threw the remote control at Jamie then that would obviously be his responsibility and it would be very harmful to Abby to have been blamed. The police talked to Abby and she did not say anything more to them about this.
98. There is not enough evidence to find that it was Jamie who hurt Ben. Although I do not know what happened, I am satisfied that it was more likely than not that Jamie should have been taking better care of his children at the time and this could have prevented Ben from having a nasty injury to his eye.
99. I would comment at this point that it is important that any local authority working with a family must keep under continual review not just the situation as it is at the

time but to continue to reflect and review the history. In the description of injuries to Abby, it would appear that a social worker, doctor or teacher accepted an explanation given for an injury having happened and no further reviews were carried out. But in hindsight, after such a number of injuries, and looking at the wider context, it may be felt that further investigation and review was warranted. In those circumstances it might be wise to keep more detailed records, or photos, to assist with that process. I make it clear that no party is seeking findings as to the cause of any of the injuries sustained by the children and I am not making any, other than to find it proved that the father was not taking appropriate care of his children at the time Ben sustained his injury.

100. The other two areas of disagreement on the threshold are about the assessments. Although the assessments were carried out after the time the children were taken into care, they are assessments about the way the parents were looking after their children at that time, and about their personalities and cognitive functioning at that time. The conclusions are therefore relevant to the question of threshold. The parents say that they do not accept the conclusions of the reports. However, I find that the assessments were thorough, fair, and both MK and Dr Jones to be good witnesses who explained clearly their conclusions, the information they had obtained to inform their conclusions, and both were very experienced in their particular fields. No substantive reason has been put forward by the parents to say why they disagree with the conclusions. I therefore find that paragraphs 5 a and b are proved – it should be made clear that this paragraph can only relate to the time protective measures were taken.

Welfare analysis

101. I have considered all the evidence and the two welfare checklists at section 1(3) of the Children Act 1989 and section 1(4) of the Adoption and Children Act 2002.
102. It can generally be assumed that children would want to grow up living in the same household as their brothers and sisters, to be brought up by their mum and dad and to know their extended family.
103. There is a concern that because Abby's parents thought she had problems, they treated her differently from the other children. She slept on a mattress on the floor, she had a stairgate for a door, and no toys, because her dad said she had broken them. One report of the incident when Ben was taken to hospital says her father shouted when she was there that she was evil and 'no child of mine'. Nursery staff reported her acting as though she was frightened of her dad. When she went to live with her aunt she did not want to have contact with her dad even on video or by phone. She continued to be extremely distressed at the idea of seeing him when she was in foster care. Because her mum did not feel that she could see Abby on her own,

Abby has not seen either parent since September 2020. It is a very unusual for a child of this age to express by words and behaviour in the way she has, that she does not want to see a parent. So in her case, even though she is very young, it cannot be assumed that she would have wanted to return home to her parents' care.

104. Abby has been in a specialist foster care placement since July 2020. She has still presented as a child impacted by trauma, finding it hard to manage her emotions, and getting extremely distressed at times. When she went to live with her aunt she was still in nappies and there have been significant difficulties around toileting. However, she has made good progress in all areas and benefited from the attuned, attentive and consistent care she has received from specialist and experienced carers. When she lived with her parents she had seen a doctor to be assessed for autism. She saw the doctor in February 2021 who thought she no longer showed any traits of autism and so she was discharged from the clinic.
105. Ben is developmentally delayed; his speech is limited and his social development is behind what would be expected. In many ways his presentation when he went into care was similar to Abby's at the same age. Because of their experiences he and Charlotte, albeit to a lesser extent, also have a need for a better than average style of parenting to help them to recover from their experiences of neglect and to make progress in all areas of their development.
106. Daniel is a young baby who has only been in the care of his parents for a very short time. He has been in foster care for all but the first [few] weeks of his life. He needs a very high level of care to meet all his needs. He needs to be permanently settled so that he can form a secure attachment to his carers, whether that is with his parents or a new family.
107. There has been a lot of support for the parents over a long time from lots of different services. Unfortunately the parents do not understand the concerns of professionals and they feel strongly that the local authority is criticising them for no reason. Over the years there has been no improvement in the parents' ability to parent their children. Because they do not think there is any reason to change, it is not likely that they will be able to make the changes they need to become better parents.
108. The reasons that the parents are not able to care for the children are as follows:
- (i) The children had lots of injuries when their parents were looking after them. Their parents were not making sure they were safe. Since they have been in foster care the children have not had anything like the number of accidents or falls to cause bruising that happened when they lived with their parents;
 - (ii) The children did not always have healthy food, clean clothes, or a sleep routine. The parents could not always meet basic needs;

- (iii) The parents did not know how to play with the children, to soothe them or to talk to them. This meant Abby and Ben were behind with their speech and language and behind with their emotional development;
- (iv) The parents did not know how to manage the children's behaviour. If the children were shouting or crying or needed their parents' attention they did not always get it, or else their parents may have been angry with them. If they were throwing food or running about their parents did not know how to help them calm down and to be safe;
- (v) The parents would argue a lot in front of the children. This could make the children frightened and think they might get hurt. If children see that their parents cannot manage their feelings and their behaviour then children grow up behaving in the same way. Abby, Ben and Charlotte have all had difficulties managing their feelings and their behaviour;
- (vi) The parents have not always been able to keep the flat clean and tidy and sometimes it has been unhygienic and not a safe place for children;
- (vii) Jamie's anti-social behaviour has caused the children to be very upset, for example when Abby was very upset by the shouting and by fire alarms going off. His behaviour has meant that the family nearly lost their flat;
- (viii) The parents find it very difficult to work with social workers and other professionals. The children have seen both parents get very angry and shout at social workers and other professionals. The children could grow up very confused about whether or not to trust adults.
- (ix) Because the parents are hostile to social workers, if the children needed help to keep them safe the parents may not call for help because they do not like working with professionals.

109. When considering the capacity of the parents to look after the children I have to consider whether the local authority could put support in place for the parents to help them improve their parenting capacity. But having regard to all the evidence and in particular the parenting assessment, it is clear that the amount of support that would be needed to help the parents is not realistic to put in place. They would need someone with them all the time to supervise, support and to coach.

110. But even if they did have that level of support, I do not think the parents would be able to benefit from it. The parents say that they would work with the local authority in the future and they would do anything asked of them. But the history shows that they have not been willing to work with the local authority in the past. Jamie and Emma do not like it when social workers make suggestions or try to explain why they are worried about the children. I do not think that the parents would be able to work with the local authority to make the changes that would be needed.

111. The notes of contact sessions show that there have been lots of times when the parents play nicely with the children, take care of them and make them laugh or smile. However, what is very clear from seeing all the records is that there are also lots of times when the parents do not seem to know what to do with their children. They have not been able to act on advice from social workers and contact supervisors to bring toys or food or to sit down with the children and play. They have often ended up watching the children, and they have not been able to set boundaries and manage the children's behaviour or cope if more than one child wants their attention at the same time.
112. Having regard to the parenting assessment, it is clear that the parents need support in nearly all aspects of parenting. Abby's difficulties started when she was very young and I am satisfied that they were largely caused by the parenting she received. I do not consider that if the parents had only three or even two children to look after that it would be easier for them to manage. I do not think they would be able to meet the physical, emotional and social needs of even one child in their care throughout their childhood.
113. Assessments of other family members were carried out. [Maternal aunt] was positively assessed to care for Abby at the start of proceedings but she then came to the conclusion that she would not be able to put herself forward as her long-term carer. Assessments of two other aunts were negative. There are no other members of the family who could care for any of the children.
114. There is a risk of harm to the children of ceasing to be members of their original families and growing up as adopted children. There is a risk of harm to them of not growing up with their siblings, although it is part of the local authority's plan that sibling contact should be encouraged once they are in their placements. This harm could affect them for their whole lives, and the fact of them becoming adopted away from their birth family will become an essential part of their identity which they may find hard to come to terms with.
115. However, the risk of the children returning to the care of their parents in my judgment far outweighs any risks to them of being separated from their birth families. If any of these children returned to their parents' care they would be at risk of significant physical and emotional harm. This is because their parents are not able to take care of them, to keep them safe, to make them feel safe, and to meet their needs.

Conclusions

116. I have had regard to all the evidence I have seen and heard and all the factors on each of the welfare checklists. The quality of work from all professionals in this case is very high. There are no gaps in the evidence. I agree with the conclusions of the experienced guardian:

Unfortunately, despite the support the local authority has provided it is still not safe for any or all of Abby, Ben, Charlotte and Daniel to be in their parents' care. The father and the mother are not able to offer the children parenting that will ensure they are protected from experiencing further harm. They have limited insight into the impact their behaviour has on the children and they have not been able to prioritise the children. Abby, Ben, Charlotte and Daniel need permanence as soon as possible therefore they cannot wait for the father or the mother to be ready to care for them.

117. For all these reasons, I am satisfied that each of the children's welfare requires that they are separated from their parents and placed into the care of the local authority.
118. I have considered the realistic options for these young children who urgently require their futures to be settled after proceedings which have lasted for well over a year. They need permanence, to receive consistent, loving and attuned care throughout their childhoods, and for their whole futures. It would not be in their interests to be permanently in the care system at their very young age, to have the intrusion of social workers in their lives and the risk that any foster placements they were in may come to a sudden end, causing disruption to their attachments, school moves, house moves and all the losses that entails.
119. I am satisfied that the only orders that will meet the children's needs are placement orders that authorise the local authority to find adoptive parents for each of the children. I am satisfied that nothing less than adoption will do to meet their welfare needs.
120. I have had regard to LW's 'together or apart report' and the particular characteristics and needs of each of the children. I agree with her assessment, endorsed by PU, that Abby's needs would best met by being in a placement on her own or with another child of a greater age gap than any of her siblings. I agree that Ben and Charlotte should be placed together and a placement for Daniel found separately. I would hope that the children are encouraged and enabled to continue to have contact with one another while they are still in care and post-adoption.
121. I consider that the welfare of the children requires that they are placed for adoption and therefore that I should dispense with the parents' consent to the making of placement orders.
122. I know that to take four young children from the care of their parents and place them for adoption will have a lifelong effect on the children and their parents. I am sorry for the pain that it will cause to the parents. I know that they do love their children very much, and they wanted to be given another chance. However, the children's futures need to be settled now. It is not fair on the children to wait longer for the parents to try to show they can make changes when they have already had a

very long time to do so and not managed it. It is not fair on the children to wait longer where the prospects of the parents being able to change in the ways they need are so low. For all the reasons given in this judgment, I have concluded that I must make the care and placement orders as sought by the local authority.

123. I hope that the parents may revisit with their solicitors the recommendations of Dr Jones, in particular that referrals are made to the adult learning disability team. They could be supported with their reading and writing, with therapy, and the mother could have specialist support for her autism. Pause, an organisation which helps and supports mothers who have had children removed from their care, is also now established in Oxford and I hope the local authority may be able to provide information to mother's solicitors so that consideration for referral to this service could be made.

HHJ Joanna Vincent
Family Court, Oxford
26 May 2021

IN THE FAMILY COURT AT OXFORD

CASE NO: OX20C00042

IN THE MATTER OF S31 CHILDREN ACT 1989 AND IN THE MATTER OF ABBY, BEN, CHARLOTTE AND DANIEL

BETWEEN:

OXFORDSHIRE COUNTY COUNCIL

Applicant

- and -

A MOTHER

1st Respondent

- and -

A FATHER

2nd Respondent

- and -

**ABBY, BEN, CHARLOTTE AND DANIEL
(Via their Children's Guardian, Isha Phillips)**

3rd to 5th Respondents

**AMENDED FINAL THRESHOLD STATEMENT
WITH PARENTAL RESPONSES**

The Local Authority contends that the threshold criteria under Section 31 Children Act 1989 is hereby satisfied on the basis that, as at the relevant date [*dates redacted*], the children were suffering and/or were likely to suffer significant harm, such harm being attributable to the care given or likely to be given to them if the Order were not made, not being what it would be reasonable to expect a parent to give them.

The Local Authority contends that the threshold criteria is met on the following basis:

1. The children have suffered and are at risk of suffering emotional harm and neglect as shown by the following:
 - a. The local authority has been involved with the parents and the children since 2014 – 2015 the services provided have not enabled the parents to make changes in that period sufficient to prevent the issue of these proceedings and to enable the Parents to consistently provide safe and good enough care for the children.

- b. The following services and interventions have been provided :
- Social worker support including child protection processes
 - Family support worker support
 - Early help
 - Health visitor and GP support
 - Nursery nurse intervention
 - Speech and language therapy
 - TVP and anti-social behaviour team
 - Tenancy management officer
 - Housing support
 - Family group conference
 - Financial support

Response of Parents:

The father does not dispute that the agencies above have provided services, and he accepts that the children have not consistently received safe and good enough care.

The Mother accepts this.

2. The children have had a lot of bruises over time and the parents have not always been able to explain how the children got them. If the children were being supervised appropriately the parents would be able to say how they were injured or prevent the injuries. When children are not supervised adequately, they can get physically hurt. On [X] March 2020 Ben received a serious injury to his eye. The father has told differing accounts of how Ben was injured. This indicates the father was not supervising Ben and Abby sufficiently to know how the injury occurred or to stop this injury, which a parent should have done; the mother not being present and the father having left the children alone.

Response of Parents:

The Father accepts the incident but says it was not because he was not supervising the children sufficiently but an inevitable accident.

The Mother accepts this – she was not present.

3. The parents have put the children at risk of emotional harm and neglected the children's care as shown by the following:
- a. Because of concerns about the relationship between the parents and the incident where Ben was injured, the father agreed to leave the family home on [x] April 2020.

Response of Parents: Accepted

- b. The mother was not able to work with her mother who was helping her to care for the children after the father left, and she struggled to cope with the care of the 3 younger children. They had to be protected by the police on [x] April 2020.

Response of Parents

The Father was not allowed home so he cannot comment.

The Mother accepts this.

- c. The father's actions have led to him being given a community protection notice on [x] May 2019, and being convicted for subsequent antisocial behaviour on [x] January 2020. Possession proceedings were issued thereafter. This has led to the housing authority withdrawing the family's secure tenancy and there being a demoted tenancy. This placed the children at risk of losing their home.

Response of Parents: Accepted

4. The parents have not consistently been able to work with the social workers and others. The mother has gone for long periods without speaking to the social worker and the father has been aggressive. The children have often been present and have seen their parents' behaviour which would be emotionally harmful. It also caused the children's needs to be neglected as support was not used.

Response of Parents:

The Father accepted in the past but no longer the case since proceedings started.

The Mother accepts this.

5. The children have suffered and are at risk of suffering emotional harm and neglect because of their parents' inability to care for them adequately as indicated by the following:
6. The PAMS assessment has found that the parents lack the capacity to look after their children safely and adequately in multiple areas; neither parent compensates for the deficits of the other, and that it is not safe to allow the children to return to the parents' care

Response of Parents:

The Father and Mother accept the report says this but dispute the conclusion

- a. The psychological assessment of each parent, inter alia, shows that:
 - i. The mother has currently an extremely limited capacity to prioritise the needs of the children and act protectively.
 - ii. The father through exposing the children to his anti-social behaviour has demonstrated a deficit in his ability to safeguard them and prioritise their needs above his own, and the mother has not demonstrated an ability to act protectively in response to this.

Response of Parents:

The Father and Mother accept the report says this but dispute the conclusion