Claim No: KH24C50074

IN THE FAMILY COURT AT BEVERLEY

Beverley magistrates' court

Date: 11 November 2024

Neutral citation: [2024] EWFC 369 (B)

Before :

HHJ Stephen Brown

- -

Between :

East Riding of Yorkshire Council

Applicant

- and -

The mother **Respondents**
The father
J, K and L
(Children through their children's guardian

- -

Andrea Ferguson for the Applicant
John Worrall for the Mother
Helal Ahmed for the Father
Philip Goodall for the Children

Hearing date: 21, 24 and 25 October 2024

- -

Approved Judgment

This judgment was handed down remotely at 10.00am on 11 November by circulation to the parties or their representatives by e-mail and by release to the National Archives

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

HHJ Brown:

1. This case concerns 3 young children, who for the purposes of this anonymised Judgment I shall refer to as J, K and L.

2. The children's mother is M, represented by John Worrall.

3. The children's father is F, represented by Helal Ahmed.

4. The children's interests are represented by their guardian, Kim Pickard who instructs Philip Goodall.

5. The local authority which brings these proceedings is the East Riding of Yorkshire Council, represented by Andrea Ferguson. The allocated social workers are Nichola Warren and Molly Nixon.

6. When she was a child, M was involved in a car accident as a result of which she sustained a head injury. F is reported to have diagnoses of ADHD and of ASD. At a CMH early in these proceedings the local authority reported its awareness of these issues. Both parents were directed to file and serve letters from their GPs setting out details of their respective medical histories. In keeping with the often non-cooperative stance the parents have adopted in these proceedings, neither complied. They have both been legally represented throughout and neither parent's legal representatives have raised issues with respect to their client's cognition or ability to provide instructions. I have heard evidence from each of them. They each had a good understanding of the questions they were being asked and a clear ability to express their answers. Insofar as M often resorted to saying that she could not remember particular incidents I am entirely satisfied that this related to her not wanting to answer questions about potentially difficult topics; she was able to remember with clarity non-controversial details from the same parts of the family history and could recall with equal clarity a number of matters which she says other witness have got wrong.

Brief background

7. On 21.3.2024 police found the father, mother (who was heavily pregnant with L), J, K and pet dogs sleeping in a car at Wharram Percy, a remote part of Yorkshire. This followed a period when police and social services had been trying to locate the family who had been reported missing and who were believed to be living in their car to avoid social care scrutiny. The police exercised their protective powers and the following day I made interim care orders. Threshold is not conceded by either parent and the circumstances in which the family came to be at Wharram Percy are disputed.

8. Within proceedings, the mother put forward a family friend – B – as a potential carer for the children. She is someone who the mother has known since childhood and who she thinks of as an 'aunt'. She and her partner, C, were positively assessed and the children moved to live with them under temporary fostering regulations in July of this year.

The issues

9. At this final hearing the local authority, supported by the guardian, invites me to make final care orders for all 3 children. The plan is for them to remain with B and C as foster children but with a view to those carers being assessed as special guardians within the 6-12 month period following proceedings. At the time the local authority was directed to file its final evidence, the children had not long been placed with the carers and there is no special guardianship report before the court.

10. The parent's case is that threshold is not crossed and the children should be returned to their care forthwith.

11. I must therefore determine disputed factual matters and reach a conclusion as to whether they amount to threshold.

12. Even if I find that threshold is crossed, both parents dispute the local authority's plans for the children and so I must determine which of the competing options for the children best meets their welfare needs. (Although the parents deny that threshold is crossed, they both say that they would agree to the children coming home under care or supervision orders).

The law

13. I can only make care or supervision orders if I am satisfied, as per s31(2) of the Children Act 1989, that at the time the children were removed from the care of their parents, which was the 21.3.24, they were suffering and/or likely to suffer significant harm and such harm or likelihood of harm was attributable to the care given to them, or likely to be given to them, not being what it would be reasonable to expect a parent to give.

14. Where there are disputed factual matters, the following non-controversial, legal principles apply. They are drawn from Re L and M (children) [2013] EWHC 1569 (Fam), a decision of Baker J as he then was:

    a. First, the burden of proof lies at all times with the local authority.

    b. Second, the standard of proof is the balance of probabilities.

    c. Third, findings of fact in these cases must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation.

    d. Fourth, the court must take into account all the evidence and furthermore consider each piece of evidence in the context of all the other evidence. The court invariably surveys a wide canvas. A judge in these difficult cases must have regard to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward by the local authority has been made out to the appropriate standard of proof.

    e. Fifth, the evidence of the parents and any other carers is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability.

    f. Sixth, it is common for witnesses in these cases to tell lies in the course of the investigation and the hearing. The court must be careful to bear in mind that a

witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear and distress, and the fact that a witness has lied about some matters does not mean that he or she has lied about everything (see *R v Lucas* [1981] QB 720).

15. My numbering differs slightly from Baker J's, by reason of the fact that I have left out points that relate to non-accidental injury.

16. If I am satisfied that threshold is crossed then I must go onto consider which orders, if any, to make. Each child's welfare is my paramount consideration: Children Act 1989 s1(1).

17. I must have regard to the principle that delay in determining issues is likely to be prejudicial to the children's welfare: Children Act 1989 s1(2).

18. I must have regard in particular to the welfare checklist factors: Children Act 1989 s1(3).

19. I must only make orders if I am satisfied that to do so is better for the child's welfare than making no order at all: Children Act 1989 s1(5).

20. To the extent that any order I make is an interference with the Article 8 rights to a family life of the parents and/or the children, I may only make such orders if that interference is necessary and proportionate to secure the welfare of the children.

The evidence

21. The bundle in this case is on Caselines; I have downloaded it as a PDF and it amounts to 794 pages. I can confirm that I have read all of the key documents from that bundle and many – including the witness evidence on contested matters – multiple times. In addition, I heard oral evidence from PC S (an officer who was present on the 21.3.24); social workers Nichola Warren, Molly Nixon and Kirsty Sample; the parents; and the guardian, Kim Pickard. I heard submissions on behalf of all parties. It is not necessary for me to set out the totality of the evidence that I have read and heard; rather I set out those parts of the evidence that have assisted me in making the findings that I have made and reaching my conclusions with respect to the welfare of these children.

22. Before turning to specific aspects of the evidence, I will set out my general impression of the parents as witnesses.

23. M was a dishonest witness who did not give a straight or credible account of where she or her children had been living in the weeks prior to the 21.3.24. She frequently relied on the answer 'I can't remember' when asked about evidence that would undermine her account. For example, she was asked about text messages reported by an anonymous police witness – who M accepted was likely to be her friend, B (the children's carer, and M's 'aunt' figure). Those text messages, which the police witness said she had received from M, explained that the family were sleeping in the car in Bridlington around the 19th March and that the children had had very little to eat. M's oral evidence was that she couldn't remember sending them. She became upset at a number of points in her evidence and appropriate breaks were allowed. To large extent her upset was understandable given what is at stake. However, on more than one occasion, her upset was triggered, in my judgment, by the fact that she was being asked about cogent evidence which undermined or contradicted her account. I found her evidence with respect to the extent to which she would ever challenge F's behaviour particularly troubling. I do not doubt her love for her children or her desire to say the right thing. Unfortunately, I found her an unimpressive witness who would readily lie, in particular to exculpate F.

24. F's evidence was given in an argumentative and confrontational style: his seething anger was palpable and created a tense and unpleasant atmosphere in the court room. He had to be reminded on more than one occasion not to swear in his evidence and readily accepted having called Ms Ferguson, Counsel for the local authority, a '*cunt'* during a break in proceedings. It is a consistent theme throughout the evidence that he has an antipathy towards authority and challenge. He has also approached these proceedings in that manner, failing to comply with a court direction (to which he had previously agreed) for hair strand testing; cutting his hair in breach of a court warning not to do so; refusing to engage with the originally allocated social worker for the purposes of her parenting assessment; failing to file final evidence on time; and when an extension of time was allowed, then ignoring a court order that his statement must

address why his evidence had not been filed on time. He too was a deeply unimpressive witness, and I did not find him to be truthful or credible.

Threshold matters

(i) The lead up to 21.3.2024

25. The local authority's case is that the parents had effectively been living in their car, with their then 2 young children, M heavily pregnant, and a number of animals for some time prior to the police finding them on the 21.3.24. If the local authority are right about that, then it would have been a thoroughly unsuitable and unhealthy arrangement for young children and the unborn baby. It would be neglectful, emotionally harmful and expose the children to the risk of significant physical harm – not least from the exposure to animal excrement.

26. The parents' case is that they had in fact been on something of an adventure, living in holiday accommodation (albeit they have never provided any corroboratory evidence of such accommodation) and camping since leaving the paternal great grandparents' house at the start of March. The fact that they were sleeping in the car, with their pets, when the police attended on the 21.3.24 was due to the fact that their car happened to get stuck in the mud the previous evening. The night of the 20.3.24 was the only occasion on which they had slept in the car. The children had never gone hungry. They were, according to M's oral evidence, regularly bathed and showered. If there was ever any animal excrement in the car it was solely attributable to the police decision to lock the dogs in the car *after* the family had been taken to Malton police station; there was never any excrement in the car previously. I accept that if that were the case then, whilst the previous weeks may not have been ideal for young children and a pregnant mother, it would not amount to threshold. Conceivably, any family could find themselves broken down and with no immediate option but to sleep in their car overnight.

27. I unhesitatingly reject the parents account for many reasons:

a. There was an anonymous report on the 20.3.2024 that the family were living in a car (C2). It is highly improbable that an anonymous (and, on the parents' case, malicious) referrer would have guessed that the parents' car was going to break down that day, causing them to sleep in the car for that night only; or that the referrer would have made up that particular allegation, only for circumstances to later prove it true.
b. There is a witness statement in the police disclosure; the name of the author is redacted (J125). Whilst it is therefore unattributed, there is an overwhelming inference that it is from B, the children's current carer. The author describes knowing M from birth and having a close relationship with her. The statement contains information that only someone very close to the mother can possibly have known. M is a socially isolated young person and there is no other candidate who could realistically be the author. M in her oral evidence accepted that it was likely to be B. The exhibits (which aren't in fact attached) are given exhibit numbers beginning with B's initials. I find, for all these reasons, that the author was in fact B. The statement includes reference to a text conversation on the 20th March when M told B that the family were stuck in Bridlington and had slept in the car the previous night; she said that they had no money and, having found £1.95, had bought the children some water and sausage rolls. B says that she was so concerned for the children that she asked which supermarket they were close to so that she could place a click and collect order but that 'M avoided telling me' (J129; 708). M's evidence was simply to say that she could not remember sending these text messages. I find that she did send them; the author of the statement could not otherwise have known that the family were living out of their car in the East Yorkshire area.
c. I heard from PC S via the CVP; he was one of two officers who attended to the scene of the family sleeping in their car on the morning of 21.3.24. He was a palpably honest and fair witness with a good recollection of key details of the morning in question. In particular he was able to give me compelling evidence about just how bad the car and the family smelt, telling me that they had had to have areas of the police station in Malton professionally cleaned, after the family's attendance, so strong was the smell. He was also clear in his recollection that not only was there dog excrement in the car when he arrived, but the parents were clearly aware of this given that he witnessed F attempting

to clear it up, whilst still on the scene. I have found no reason why he would lie about these parents and his memory of what he saw and smelt was vivid and compelling. Where there is disagreement between his evidence and that of the parents, I prefer his account. The smell of the car and, more tellingly in my view, its occupants is entirely consistent with the family having lived in deeply unhygienic conditions for more than a single night. I reject the mother's evidence that during the preceding days the children were always showered and clean. That is also inconsistent with the photographs of K – in particular the photograph of ingrained dirt on his feet, taken at the police station on the 21.3.24.

d. PC S, whose evidence I have accepted, was also clear that he was given multiple conflicting accounts by both parents of where they had been in the preceding days. He described the mother as '*belligerent and evasive'*. He formed the view that F was lying to him. If the parents, had – as they now both say – enjoyed a family camping trip to Scotland and a return via the Yorkshire Dales, there would have been no reason for them to be evasive and dishonest with the police or to give multiple accounts of their movements.

e. M was incredibly vague in her evidence to me about the self-reported camping trip to Scotland. She said that she couldn't remember if they paid any money for camping sites; that she 'believes' that there were shower facilities and 'believes' there was a tap. Camping in Scotland in March with 2 young children, dogs and whilst pregnant would be extremely difficult. Matters such as fetching water, going to the toilet at night, keeping the children warm, clean and fed would have been onerous. Neither parent has ever named a particular site or specific location where they claim to have pitched camp. I simply do not accept that if they had lived these experiences, they would have such a vague memory of them and be so unforthcoming with respect to the details.

f. Further in this regard, M accepted under cross-examination on behalf of the local authority that her initial statement to the court, dated 8.4.24, and therefore within around 3 weeks of this reported camping trip makes no mention of it, claiming instead that they had been staying with F's grandparents for 6 weeks.

g. The father told the police, in a written statement on the 21.3.24, that they were living at his grandparent's house (J111). On his current evidence, that would

have been a lie.

h. The proposition that they had lived with the paternal great grandparents for any significant period (either before or after the purchase of the car) is undermined by the facts that the paternal great grandfather told the Barnsley midwife that he only had one bedroom in his property (C55); and told the police that they had stayed only between the 4th and 7th of March (J41).

28. In my judgment, the reason these parents have given so many conflicting and, even on their own cases, *untrue* accounts of their movements in the days leading up to the 21.3.24 is that they are seeking to avoid the reality, which is that having left F's grandparents on or around the 7 March 2024, they were homeless and living out of their car.

29. In addition to the information in the text message, where M said that they had only had £1.95 to buy a bottle of water and some sausage rolls, PC S told me that '*there was certainly no food in the car and no evidence of food*'. I reject the mother's evidence – given for the first time in the witness box – that the family had been for a McDonalds' drive through the previous evening. Two days earlier, on the 19.3.24 she had been asking for £10 to buy fuel, saying that F had lost his wallet: the family clearly had no money.

30. Accordingly, the finding that I make is:

On 21 March 2024 J and K were found to be living in a car with their parents and dogs. M was heavily pregnant. The living conditions were entirely unsuitable and unhealthy. The interior of the car was dirty, smelt and contained dog excrement. The children were unclean and the family had a foul odour, to the extent that Malton police station had to be professionally cleaned after their attendance. The children did not have adequate food. The children experienced significant harm by way of neglect of their physical and emotional needs and were at risk of further significant harm.

(ii) <u>Unstable home conditions</u>

31. As a result of a car accident when she was a child, M received significant financial compensation on her 18th birthday. She used this to buy a house in Wakefield. There was a large amount left over but, according to the parenting assessment, this was spent within around a year, being used for general living expenses. She met F in 2019, becoming pregnant with J in early 2020. In 2021 she sold her house at a considerable financial loss and lived off the money for a while until it was gone. The family moved to East Yorkshire eventually settling in Driffield where K was born in 2022. It is accepted evidence that between around March 2022 and December 2023 – 21 months – the family had settled, rented accommodation in Driffield. They were then evicted from that property. The reasons for that are disputed. The parents say, and again this does not appear contentious, that they stayed in a holiday let in Bridlington for around 2 weeks over Christmas 2023; they then moved to live with the maternal grandmother in January 2024; she reported F to the police, alleging that she had been assaulted in early February 2024. Between that point and the 21.3.24, the situation is unclear: the parents have variously claimed that they lived for 6 weeks with the paternal great grandparents; that they spent time in other, vaguely identified, holiday lets; that they lived with a friend of the mother's at Driffield; and/or that they were camping at unspecified and unremembered locations in Scotland.

32. The local authority seek a finding that the parents have failed to provide consistent and safe home conditions for the children. The parents' case is that, whilst the various moves of location in early 2024 were not ideal, the children did not suffer any harm.

33. There is, in my judgment, a wealth of evidence that points to these parents being unable to maintain accommodation or consistently good enough home conditions for their children:

    a. The redacted witness statement of B reports that when J was a baby, the maternal grandmother had called her upset reporting that the family home was *'a complete mess … [she] told me things were all over, there was dog poo all over and that it smelt really bad … I can recall whenever [she] would send me pictures of J I could see the mess in the background, there would [be] things all over and the mattress would be filthy'* (J126; 705).

b. It is clear from the available evidence that there was a previous occasion, in 2022, when police were looking for the family due to concerns about their welfare. The parenting assessment of M, prepared by Nichola Warren, refers to this, with Ms Warren having read the corresponding police reports. She quotes from log number 222 04/02: '*Couple have been evicted from Holiday let following reports that there was a strong smell coming from the room. The Holiday letting agency have organised for maintenance to attend to deal with the issue. When the maintenance worker has attended he has found that the couple have locked a dog in the shower which was covered in faeces, this resulted in the eviction*'.

c. That statement of B referenced above, goes on to report a later occasion on which a person, who I again infer to be the maternal grandmother, had rung B crying and reporting that the police had found the family living in the back of a van with their dogs.

d. That report is supported by the statement of Nichola Warren who says that '*J and K first became known to East Riding Children's Social Care on 17 February 2022, when a referral was made by [a] Police Officer, due to concerns ... as the family had been sporadically living in a van and were currently homeless'*. When social workers spoke to the parents at that time, they denied they were living in a van, saying that they were living with F's employers; the employer said that they family had slept in an office for 2 nights but they could not stay there any longer than that. When that information was reported back to M she said that she didn't know where they would be sleeping that night as F sorts everything out. The family were offered B and B accommodation by the local authority but declined because they had dogs and were not willing to leave them.

e. When police attended the family home in June 2023 due to a report of an ongoing domestic incident (considered separately below) they described home conditions as poor with limited food, a smell of cannabis and dirty nappies around the home (C84; 194).

f. In September 2023 when J started at nursery the nursery offered to do a home visit which is part of their usual process. However, M declined this describing her own home as a '*shit tip'*.

g. Following the initiation of proceedings, the parents were accommodated by the local authority at a guest house for a period of time, leaving to move to their current accommodation in Driffield. On leaving the Glencoe guest house the owner contacted the local authority to complain about the condition in which it had been left. Apprentice social worker, Clare Woolgar attended the property on 9.5.2024 and recorded, '*as soon as I walked into the room the smell of urine and dog was overpowering (the windows had been open for 24hours and the smell was still very strong). The double bed had all its bedding missing including the mattress protector, sheet, pillows and quilt and the mattress has marks on it. The bottom bunk mattress was full of urine stains and dog hair, the bed sheet and mattress protector for this bed was also missing. The two single quilts were also covered with urine stains. There was also a hole in the wall that looks like it has been punched and the television remote is missing. There is also a large dark stain on the carpet'* (G124; 465). The parents deny that they were responsible for the poor condition of that property, stating that it was always like that. However, that is undermined by the local authority parenting assessment which sets out that there had been previous, planned visits to the couple at the accommodation where the conditions were seen to be good (G178). That acknowledgment is made by the local authority as a concession to the fact that the parents are capable, when they put their mind to it, of keeping their living quarters in an acceptable state. However, what it means is that the conditions described by Clare Woolgar on the 9.5.24, in particular the overpowering smell, the visible dog hair and urine stains are due to the parents' failure to maintain the accommodation. Whilst this incident post-dates threshold, I am entitled to take it into account when considering the overall picture as to the parents' ability to maintain good-enough living conditions.

34. I weigh in the balance that the statement of B is redacted and hearsay; indeed, in some aspects, it is second hand hearsay because it relies on reports from the maternal grandmother, with whom there is clearly no love lost as far as the parents are concerned. However, some of it is based on B's own observations; no one suggests that she has any motivation to lie or exaggerate – her concern for the children is evident. Further, I am obliged to survey the 'wide canvas' of the evidence and the

thing which is so striking about the above summarised accounts is their consistency with each other and with what the police found in March of 2024. This is a family who have repeatedly moved from one form of accommodation to another and repeatedly after a period of time – days or weeks on some occasions, months on others – allowed it to deteriorate to the point that it is unhygienic and, for young children, unsafe.

35. It is also clear to me that the parents have, at various times, sought to avoid professional scrutiny of their parenting:

    a. There are the multiple lies with respect to their whereabouts prior to the 21.3.24 already set out in this Judgment.
    b. In June 2023 both parents were extremely reluctant to afford the police access to the family home; when they did gain access, the police description of the home is as set out above. M told police officers she was worried that they would get '*social services to take my child away'* (J105; 684).
    c. On 21.2.24 M attended a community midwife appointment in Driffield but refused to give an address. She told me in evidence that this was because she was '*staying with a friend and it was nothing to do with them'*. The claim that she was staying with a friend contradicts the parents' case at other times, which is that they were staying with the paternal great grandparents at this point in the chronology. That aside, it was very clear from the unchallenged evidence of the community midwife, that midwifery services were extremely worried for the unborn baby's wellbeing; M was told as much at the appointment. Her current case is that her failure to attend multiple appointments in December and January is because she did not know about them. However, whether she was staying with a friend or with the paternal great grandfather, or somewhere else, she could have provided a contact address through which she could be notified of future appointments. I find that her failure to do so was motivated by her desire to avoid professional scrutiny.
    d. On the 28.2.24, M emailed social care – at a point when professionals were increasingly concerned for the wellbeing of her unborn child – and said '*You must all think I'm really stupid I ain't missing at all as I went to a midwife appointment other day you just wanna take my kids away from me it's not*

happening just cos I'm not living ina. House where u can come and take them doesn't mean in missing id appreciate you stop contacting me as there is nothing wrong with my children or my unborn baby but you causing stress for absolutely no reason n trying to get police involved isn't gunna make anything good happen is it now please do you job and go help the kids who live in abusive homes and leave my kids alone they ain't your problem goodbye' (C6; 116).

36. The finding I make is as follows:

The parents have failed to provide a consistent or safe home for the children and there have been frequent moves of address and location. The living conditions for the children have often been unsuitable and/or insanitary and the parents have not always prioritised the needs of the children over the needs of themselves or their pets. The parents have sought to avoid professional scrutiny of the children and their living conditions.

(iii) Non-engagement

37. During her pregnancy with L, the mother missed many appointments. That much is set out in the unchallenged statements of the midwife in Barnsley and the midwife in Hull. The local authority seeks a finding that the parents have not consistently engaged with professionals seeking to ensure their children's wellbeing and that the mother's failure to engage with antenatal services for L placed him at risk of significant harm.

38. The mother's response is that she did attend some appointments, in any event attendance at such appointments is not mandatory, and since L was born healthy, any failure on her part does not amount to threshold. The father accepts some degree of non-engagement at the outset of proceedings.

39. With respect to the mother's non-engagement with ante-natal services, I take into account the following, which has not been challenged:

a. Prior to the commencement of proceedings, the mother attended 2 appointments, missing 11.
b. After the commencement of proceedings, she attended 2 appointments but missed 4.

40. Of the 2 attended appointments before proceedings began, the first was a routine initial appointment, following the pregnancy being booked. There were then multiple missed appointments. M's evidence is that she did not know about these appointments, having left their home in Driffield at the end of December. Against this, the mother's oral evidence was that the initial move was a planned holiday to a holiday let for 2 weeks. It would have been entirely open to her to provide the address for this to ante-natal services so that no appointments were missed at this stage. Thereafter, when the family were living with the maternal grandmother it would again have been open to M to provide this address so that appointments were not missed.

41. The second, and only other, attended appointment before proceedings were commenced was on the 21.2.24.

a. At this appointment, as set out elsewhere in this Judgment, M refused to provide an address, despite telling me that she would in fact have had an address to give (either that of her friend, or that of the paternal great grandparents, depending on which version of events she relies on).
b. The midwife who conducted that appointment informed M that her baby was tachycardic – had an abnormally fast heart rate – and that he was small for gestational age which put him at risk of pre-term birth, hypoglycaemia and hypothermia. She was advised to attend Hull teaching hospitals that day on an urgent basis which she didn't. I reject M's evidence, given for the first time in the witness box that the midwife told her that her baby was 'dead'. That would have flown in the face of the actual advice – which was that he had an unusually fast heart rate.
c. Such was the midwife's concern that she involved a community midwife sister to repeat their worries for her baby. M still declined to attend the hospital for further assessment.

42. Notwithstanding the concerns that had been set out – and repeated – to M on the 21.2.24, she failed to attend for growth scans on 26.2.24 and 4.3.24.

43. After proceedings had commenced, on 24.3.24 the allocated community midwife from Barnsley offered M an appointment on the 26.3.24. She then texted on the day of the appointment to ask M if she was going to attend. M's response was '*Currently trying to find temporary housing for my 3 dogs so im not sure at the minute*'. The community midwife offered to visit M either that day or the next, but M did not provide information about where she was or might be. It is clear, in my judgment, that M's priority was her dogs, not her own wellbeing or that of her baby.

44. On 5.4.2024 a different midwife contacted Nichola Warren to say that M needed to be seen in hospital to receive an over-due anti-D injection and also antibiotics for untreated chlamydia; her unborn baby also needed urgent checks and monitoring. The midwife wanted M to attend hospital that evening. Ms Warren contacted her to pass that information on. M said it was too late to attend that evening and that the following day she was seeing her dogs; she said she would go on the 7th of April, which was a Sunday. Ms Warren therefore bought her and F train tickets and sent them via email. She did not attend the appointment (G112).

45. A further appointment was then made on the 9.4.24 with the local authority arranging a taxi. Nichola Warren's evidence is that '*M initially told me she would not get in the taxi due to the driver being rude, however the taxi driver then refused to take them on account of F's behaviour. M was asked to still attend, however declined*'. M told me in oral evidence that F '*was doing nothing, the taxi driver started getting cocky and I didn't need it*'. I don't accept that evidence. This was simply the latest in a long line of appointments which for her own reasons M failed to attend, despite the fact that she was well aware of its importance.

46. What is clear from the above is that medical professionals were extremely concerned about the wellbeing of M's baby; there were a number of health risks – tachycardia, poor growth, the mother's untreated chlamydia, the overdue anti-D injection;

professionals repeatedly made that fact known to M; they were pressing on her the importance of attending appointments; and still she repeatedly failed to attend at key appointments. M's response to this is that it doesn't matter because L was in fact born healthy. The factual premise is correct: he was born well. However, M's response misses the bigger point which is that she was consistently prepared to put her unborn baby – and, indeed, herself – at risk because that suited other agendas that she had at that time. I am satisfied that one of those agendas was the avoidance of scrutiny by professionals. I am satisfied that another was prioritising her pets over her unborn baby.

47. I have set out elsewhere in this Judgment the ways that F has failed to cooperate with professionals. Many of those post-date threshold but are still relevant to his attitude towards professionals and authority figures prior to that date.

48. The finding I make is that:

The parents have not consistently engaged with professionals who were seeking to ensure the children's safety and wellbeing. M did not appropriately access maternity care for L during her pregnancy, missing multiple appointments despite being told of medical professionals' concerns, thereby placing him at risk of significant physical harm.

(iv) <u>The father's behaviour</u>

49. The local authority seek a threshold finding with respect to the father's aggressive behaviour. It is also part of the local authority's case that the parents are in an abusive relationship with the father exerting unhealthy control over the mother. That forms part of the parenting assessments before the court, although Kirsty Sample fairly conceded that during her assessment sessions with F – for which M was present – she did not directly observe anything that gave her cause for concern. The parents' case is that they have a mutually supportive and equal relationship which does not feature control or abuse. Given the relevance of this to the welfare determinations I have to make, it is necessary for me to set out the evidence, my analysis of it and my conclusions with respect to their relationship as well as addressing the local

authority's threshold finding with respect to F's aggression. In that regard, there are a number of relevant facts.

50. First, F is incontrovertibly an angry man, capable of speaking and acting in an aggressive and intimidating manner. He accepted that he was angry as part of his evidence and I witnessed his anger and simmering aggression for myself. I reject his evidence that his anger is solely attributable to the local authority's removal of his children. It may well be the case that his *current* anger is attributable to that, but there is a wealth of credible evidence – some of which he himself accepts – to demonstrate anger and aggression pre-dating these proceedings:

    a. During the parenting assessment, when audio recordings were played to him that apparently captured him hitting one of the children, he told the social workers completing his parenting assessment that it was in fact him hitting the maternal grandmother (G207; 548).
    b. He has told social workers that part of his reason for not being able to attend contact in Wakefield is that he used to rob drug dealers and he is concerned they may seek revenge.
    c. He told Kirsty Sample about an occasion when someone had attended at his door and he had 'pimp slapped' them.
    d. When the mother was in labour with J – which was in 2020 and during the Covid pandemic – the hospital notes record F's angry reaction to being asked to wear PPE equipment, slamming the door and a window, becoming angry and aggressive, swearing and eventually being refused re-entry to the hospital. The parents deny that the father acted in that manner and the statement which sets out the evidence is hearsay, relying as it does on other records. However, I find that the described behaviour is entirely consistent with the overall picture as to F's demeanour when he faces challenge.
    e. There was a police call out to the parents' then address in Driffield in June 2023. The report was from a 3rd party – the mother says an ex-partner of hers – reporting that M had texted that him to say that she had broken up with F who had '*smashed a mirror and gone psycho'* (J13). M was taken to the text messages that she had sent to her ex-partner, which were produced as part of the police disclosure. They include the following: '*part of me thinks I should*

call the police'; '*He's just smashed the mirror*'; *'I don't even feel safe anymore*'; '*I need help but I'm scared if I ring them n he sees them he will do something*'; *'if they don't take him I'm fucked*'; *'I'm scared*'. In her oral evidence, M gave an utterly unconvincing answer to explain these text messages away, saying that they were a hoax by her, in an attempt to get F out of her property so that she could cheat on him with the ex-partner to whom she was sending them. There is no suggestion in the text messages that M wants to have sex with her ex-partner; she does not directly invite him to call the police on her behalf; nor does she invite him to come round or suggest she might visit him; she does not say – as would have been much more obvious 'why don't you call the police so that F gets arrested and we can spend time together'. What comes through from those messages is M's fear of F. Not only was M's attempted explanation of the text messages implausible, it was entirely inconsistent with her actions when the police duly attended which was to be obstructive and uncooperative. She did not act in a way that suggested she in fact wanted F removed from the property so that she could cheat on him; she acted in a way that was consistent with her being the frightened victim of abuse. A neighbour reported having heard a loud scream from the property. F shouted and swore at officers. Both parents told me that there had been no domestic incident on this occasion and that M's text messages were a hoax. I don't accept that account. All the evidence points to there having been a domestic incident which frightened M to the extent of reporting it to a friend; the parent's behaviour when the police attended is entirely consistent with them trying to prevent the police from finding out about it.

f. During Nichola Warren's work with F he shouted abuse at her in the street, calling her a '*useless cunt*'. He threatened to '*come and sort out*' the foster carer if Ms Warren did not do so, going on to say, with respect to a male carer that he would '*rip his fucking head off*'. During a 'phone call to the area manager he threatened to start '*snapping necks*' if a problem was not resolved. In his oral evidence, F accepted abusive language but denied making the specific threats that were put to him. I prefer the evidence of Nichola Warren and find that F did make the threats that she has documented in her parenting assessment (G127).

51. Second, in my judgment F has a pervasive need to be in control and have things on his terms. This is demonstrated across a number of contexts, including the various threats to sort out or foster carers or start '*snapping necks'.* There are many other examples in the evidence, and I do not need to set them all out:

    a. He repeatedly told social workers during their parenting assessment work that he was only telling them what the needed to know or hear.
    b. He told me in evidence that '*I will work quite happily with professionals if you stop lying to me and sort my kids out*'.
    c. He refused to share the results of DNA testing that he said he had taken privately for L.
    d. In my judgment, the entire period of time when the family was avoiding social care and the police in February and March 2024 was driven by F's need to be in control – in this case to be in control of his family, to the exclusion of any professional interference.

52. Third, the mother is, with respect to F at least, a passive and unchallenging young woman. I found her evidence about the father's behaviour really troubling. When Ms Ferguson asked her about the fact that F had called the children's social worker a 'cunt', she said '*I can't control him*'. When I pushed her on this, asking about whether she ever challenged or 'called out' his behaviour she said '*I let him express himself however he chooses; I just cry – that is how I get my emotions out*'. The police incident in June 2023 is clear evidence, I find, of an occasion when M was positively frightened of F. When she was asked about a contact session in which she told J not to use the word 'arsehole' but did not challenge F on his repeated uses of the words 'fucking' and 'bastard', she said '*I am not going to correct a 23 year old man about his speech*'.

53. Fourth, it is clear in my judgment that there have been occasions when the father's aggression and/or need for control have impacted the mother's choices and behaviours. By way of example:

a. When she was in labour with J, she attempted to leave the hospital (despite having an epidural fitted); this followed F having been removed from the labour ward and medical staff hearing him telling M to leave.
b. I have already set out my finding that when the police attended the parents' address in June 2023 the mother was frightened of the father and was obstructive to the police who were concerned for her welfare and that of her children.

54. Molly Nixon told me that her concern was less about physical abuse and more about the unhealthiness of the parental relationship. That concern is well-founded in my judgment. The parenting assessment of F concluded that '*F expects things to be on his terms, and it has been recorded through Children's Social Care that he will challenge and disagree with professionals, often to the detriment of their children. F becomes verbally aggressive when he does not get his own way, and this raises concerns for how M is treated within their relationship if she does not do what he wants, and what J and K were exposed to whilst they were in their parent's care. F can be threatening to adults*' (G236). I agree with that analysis.

55. It is likely, in my judgment, that precisely because of the mother's unchallenging and passive nature, F does not have to act in a directly controlling manner towards her very frequently. It is more likely that she simply complies with what he wants. However, because of his anti-authoritarian and sometimes aggressive nature, this is an unhealthy relationship dynamic perhaps best summarised by M's own words: '*I let him express himself however he chooses; I just cry'*.

56. My findings in this regard are as follows**:**

F has frequently acted in an aggressive, abusive and threatening manner, including in the presence of the children.

F has a pervasive need to be in control and becomes aggressive, abusive and confrontational when this is challenged. M is a passive individual who is unlikely to challenge F when he is dysregulated or protect the children from his behaviour.

(v) Drugs

57. Although not specifically pleaded in their threshold document, the local authority invites me to make a finding that F was using cannabis prior to the children being removed from his care. They invite me to do this on the basis of an inference – which all parties accept I am entitled to draw – from his failure to comply with court directed drug testing.

58. F's case is that he last used cannabis prior to J being born and drugs are not, for that reason, relevant to his parenting. Against that proposition, when F was arrested in June 2023 one of the attending officers reported that the home smelt of cannabis, that F's eyes were glazed and he appeared to be under the influence of cannabis, and also that he told police he had taken 3 grams of the drug 24 hours previously (J101; 680). Accordingly, and on the basis of what he himself told police officers in June of last year, I do not accept his evidence that he last used cannabis prior to J's birth. I also note, in this regard, that in her parenting assessment the mother told Molly Nixon that F was using cannabis at the time of the police incident in June 2023. She then changed this in her oral evidence to be in line with the father's evidence about ceasing use prior to J's birth. That is a further example, in my judgment, of the mother's passive and unchallenging nature causing her to fall in line with the father.

59. Within these proceedings, F agreed to undertake drug testing. He then refused to comply with the court direction for such testing and indeed cut his hair. His given reason was that the local authority had not managed, he said, to arrange contact to his convenience. For that reason, he told social workers, he was not going to comply with hair strand testing. I accept that it is entirely consistent with everything else I have learnt about F that he would act in such a petty way and for such a reason; it is consistent with his pervasive need to be in control and his anti-authoritarianism. However, that doesn't preclude me also drawing the inference, which I do, that this was a convenient excuse for F to avoid hair strand testing which he knew would give the lie to his claim to be abstinent from drugs. I draw the inference that F's refusal to comply with a court order, to which he had previously agreed, was in part because he was in fact using cannabis at the relevant time and knew that the testing would reveal this. I also note that in March of this year, F's grandfather told police that on 6.3.24 –

just before the family left his home – he and F had an argument about the latter's 'cannabis use' (J43; 622).

60. The finding I make is:

F uses cannabis and has failed to comply with previously agreed court directions to ascertain the level of his usage. His use of cannabis is likely to increase his propensity to becoming dysregulated and decrease the money available to provide for the children.

Threshold

61. For the avoidance of doubt then, it is my conclusion that the above emboldened factual findings are a basis on which I can say that J and K were suffering and all three children were likely to suffer significant harm. That harm was emotional and physical harm and neglect. It was attributable to the care they were receiving and were likely to receive not being what it would be reasonable to expect a parent to give. I therefore find that threshold is crossed.

Welfare

62. That opens the door to me making public law orders. The competing realistic permanence options for these children are to remain in the care of B and C under care orders or to return to the care of the parents under any orders or none.

63. Whilst I take into account all of the welfare checklist factors set out in s1(3) of the Children Act 1989, in my judgment the most relevant factors in the circumstances of this case are the children's physical and emotional needs (paragraph b); the harm they have suffered and are at risk of suffering (paragraph e); and the capability of the parents and of B and C in meeting their needs (paragraph f).

64. The children are too young to express their wishes and feelings meaningfully, though I strongly suspect that they would all want to feel safe and looked after. As young children, they need safe, secure care in a stable setting. The parents have not provided that. These children have suffered significant harm in the care of their parents who

have neglected them through their desire to avoid professional scrutiny and pursue their own agendas. The parents deny threshold is crossed and, to that extent, it is their case that the care these children were receiving up to the 21.3.2024 was good enough. In my judgment if these children were returned to their parents they would inevitably, and quite quickly, experience sub-standard care again from parents who don't recognise that they have done anything to harm their children previously. I have seen photographs of the parent's current accommodation. The local authority accepts, as do I, that it is a suitable home in which children could be raised. However, these children have had that previously, in particular for a period of time when the family lived in Driffield. The issue is the parents' ability to keep it that way rather than becoming, what M herself described as, a '*shit tip'*. Further, in my judgment, if these children were returned to the care of their parents, it is highly likely that at the first realistic opportunity the parents would seek once again to remove them from the scrutiny of professionals whether by moving geographically or simply refusing to co-operate with any level of oversight. These parents have a long history of failing to work co-operatively – and in F's case civilly – with professionals trying to ensure the safety of their children. Furthermore, as evidenced by the early part of this year and the statement of B, they have a history of falling out with family members and then isolating themselves from sources of support and oversight. I am not satisfied that any level of support could address that at this time. Nor do the parents accept that they need any support. In particular, they do not acknowledge that there is any imbalance in their relationship that needs addressing or that their peripatetic lifestyle caused any harm to the children or placed L, whilst still in utero, at risk of any harm.

65. The children are said to be settled and doing well in the care of B and C who have provided them with a stable and safe home. The parents, on other hand, are wholly lacking in insight into the harm that the children have suffered previously. Until they acknowledge that, they are unlikely, in my view, to be capable of meeting the children's holistic welfare needs. I fully accept that M has been attentive and emotionally attuned to the children in contact, noting that for the vast majority F has not been there. I fully accept that both parents love the children and have a genuine aspiration to resume care of them. I acknowledge that F is a hard-working young man who has demonstrated a good ability to sustain employment and, currently, a home. I have no doubt that when he does not consider himself to be challenged or under

threat, he is capable of being respectful and interesting. However, in my judgment his inherent mistrust of authority and his unusually thin skin with respect to perceived challenge, are a volatile combination that have led to frequent outbursts of abusive and aggressive behaviour and, at other times, simply 'running away'. He is likely to continue to act in that manner until he acknowledges that he has a problem and, thereafter, seeks and benefits from proper help. In the meantime, if the children were in his care, they will be exposed to emotional harm by way of seeing and hearing his aggressive behaviour, and instability and neglect on each future occasion that he falls out with someone and/or pre-emptively decides to move the family. For reasons I have set out, M has not been in a position to shield the children from that and, in my judgment, remains incapable of doing so. Indeed, she too has demonstrated avoidance and at other times confrontation and obstruction, not least in her dealings with antenatal services for L.

66. The pros of a placement with B and C are that the children will have a stable and safe home. They will be with a carer in B who has clearly had these children's best interests at heart throughout their childhoods. She is known to the family, in particular the maternal family and M trusts her to provide a loving home to the children if they cannot return to her care. She will be able to promote family relationships. B and C will protect the children from exposure to their father's aggressive and abusive behaviours.

67. The cons of such a placement are that the children will not be with a mum and dad who clearly love them and, in M's case, based on observations of her contact, has a lot to offer in terms of emotional warmth and attention. They are likely to grow up wondering why they, unlike many of their friends, are not living with their mum and dad. That is likely to cause them a degree of emotional harm.

68. The pros of a placement with M and F would be that it would give these children a sense of family and belonging that they are unlikely to achieve, certainly as fully, in the care of people who are not biologically related to them.

69. The cons of such a placement are set out in this Judgment and the preceding paragraphs of my welfare analysis in particular. Within the proceedings neither parent

has shown a proper ability to focus consistently on the welfare needs of the children. F has barely attended any contact. I accept that his employment has been a significant contributory factor. However, I also note that he refused to attend contact in Wakefield on the basis that he feared retribution from drug dealers who he previously robbed (which, on his evidence, would have to be 4 years ago or more), notwithstanding the fact that he *lived* in Wakefield, with the maternal grandmother, in January of this year, when it suited him. I am entirely satisfied that if F was not so set on proving a point and creating problems, he could have attended much more contact with his children than he has achieved. For her part, M has refused to consent to J being enrolled in a nursery close to his original foster carers and has deprived him of shoes that he was bought by his foster carers because she found them to be 'ugly'. These are still parents whose petty adult agendas stand in the way of them focussing on their children's welfare.

70. When I weigh up all the pros and cons of the competing options for these children I am driven to the clear conclusion that only a plan of them remaining with their current carers will meet their holistic welfare needs.

71. If I approve plans for the children to remain with B and C, M argues that her contact should be higher than the once a month suggested in the care plans. In closing submissions, Mr Worrall said that once a week would not be unreasonable. I have already noted that contact is generally of a good quality. However, the court is now in a position to approve plans of permanence for these children and it is important that they are given an opportunity to invest fully in their placement and come to realise that it is their 'forever' home. The current level of contact, which is 3 times weekly for the mother, is unsustainable and incompatible with family life with their carers. In my view the local authority's plan of monthly contact strikes the right balance between B and C's family life as primary carers for the children, and the need for the children to maintain positive relationships with their parents. However, I note the local authority's commitment to holding a formal review once contact has reduced down to fortnightly to reconsider which level of contact best meets the children's welfare needs. I also note that if there is a special guardianship order application the court will be required, by virtue of s14B of the Children Act 1989 to reconsider the issue of contact.

My orders

72. I therefore make care orders with respect to each of these children.

73. I approve the permanence plan for them to remain in the care of B and C, noting that the local authority's intention is to assess them as special guardians in the near future.

74. I approve the local authority's current proposals for the reduction of contact, noting that it was agreed as part of the oral evidence that there will be a formal contact review once that contact has reduced to a level of once a fortnight.

75. I give permission for a copy of this Judgment to be shared with B and C.

76. I make the usual order for costs.

Afterword

77. In this Judgment, I have said a number of forthright and blunt things about the parents, It is important that they also understand, then, that I do not think either of them has deliberately chosen to harm their children or set out to be neglectful parents. I think they are both immature in their own ways and need to do a lot of growing up. I also think they have become blinded to the bigger picture of their children's welfare by their focus on their own agendas and their desire to do things their own way.

78. I have read with concern F's comment, during his parenting assessment that he was suicidal because of his children being removed. The parenting assessment also notes him saying that although he hopes to be with M for the rest of his life '*they will only separate if he does not get his children back, because he will kill himself'*. Through Mr Ahmed he accepted saying this but denied meaning it. I really hope that is the case. F does strike me as someone who would be capable of taking drastic and self-sabotaging steps in an effort to prove a point. I therefore urge him to seek help – from his GP, through the social worker or from trusted family members – if he is struggling in the aftermath of this Judgment. I urge him to do that both because of his individual

worth and importance as a human being and because of his worth and importance to M and to his children.

79. By virtue of the orders that I have made today, the local authority will maintain parental responsibility for these children. That means it is incumbent on the local authority to satisfy itself that contact arrangements, including the supervision of contact, remain safe for these children and that they are not exposed to any unmanaged risk from the parents. In particular, it is the local authority's responsibility to ensure that these children are not removed from contact by the parents in a rash attempt to run away with them. In the event that the local authority becomes concerned about the risk of this, there are further orders the court could be invited to make and I reserve any future applications with respect to these children to myself in the first instance.

HHJ Stephen Brown