

IN THE FAMILY COURT AT MIDDLESBROUGH

Russell Street
Middlesbrough

Before HIS HONOUR JUDGE BROWN

IN THE MATTER OF

REDCAR AND CLEVELAND BOROUGH COUNCIL (Applicant)

-v-

(1) **MOTHER**
(2) **FATHER**
(3) **THE CHILDREN (by their Children's Guardian)** (Respondents)

MISS M BARKER appeared on behalf of the Applicant
MISS P ABLADEY appeared on behalf of the First Respondent
MR J WORRALL appeared on behalf of the Second Respondent
MRS L HARLAND appeared on behalf of the Third Respondent Children (by their Children's Guardian, Lynn Howard)

JUDGMENT
31st OCTOBER 2024

WARNING: 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.

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STATUTORY ANONYMITY APPLIES

JUDGE BROWN:

1. I am going to direct a transcription of this judgment. I announced earlier that I will approve the care plans of Redcar and Cleveland Borough Council, and this is a judgment explaining my reasons. Can I say to the transcriber that the judgment should be anonymised the key provided.
2. These proceedings concern three children, [Tommy], born on 27 November 2018, therefore soon to be six; [Annie], born on 7 February 2021, [Annie] is then three; and [Charlie], born on 7 August 2022. He is therefore two.
3. The mother of each of the children is X, who I will refer to as the mother in this judgment. The father's of both [Annie] and [Tommy] are deceased. The father of [Charlie] is Y. Although he is only the father of [Charlie], for ease of reference I shall refer to him as the father during the course of this judgment.
4. The case has been listed before me for final hearing. The care plans of Redcar and Cleveland Borough Council are supported by the children's guardian are for the permanent placement of the children away from the mother and the father.
5. Due to [Tommy]'s age and experiences, following a sibling assessment it has been determined permanence for him should be by way of long-term foster placement, preferably remaining with his current carer. Insofar as [Annie] and [Charlie] are concerned, assessment has concluded that despite the fact that they have lived separately in individual placements since December 2023 when they were removed from parental care, the nature of their attachment is such that a joint placement should be sought for them. Taking into account their age and presentation it is Redcar and Cleveland Borough Council's case that an attempt should be made to place these children for adoption.
6. The plan of Redcar and Cleveland Borough Council indicates that any adoptive placement should be open to direct sibling contact to [Tommy]. Furthermore, so that permanence can be achieved as soon as possible Redcar and Cleveland Borough Council invites the court to sanction a care plan which limits any search for an adoptive placement to 12 months. Redcar and Cleveland Borough Council plan also indicates that the two youngest children will not be separated and also indicates that a plan which does not support ongoing sibling contact between [Tommy] and his two younger siblings will not be regarded a suitable placement.
7. Both the mother and the father who remain in a relationship oppose this plan and they seek the return of some or all of the children to their joint care. By the time of final submissions this had distilled down to the following situation: they accepted that [Tommy]

would remain in long-term foster care, but they sought the return of the youngest two children.

8. Proceedings were instigated on 4 December 2023. The mother had been known to Children's Services since January 2016. Her relationship with the father of an older child, [Rosie], namely a man called Father 2, was reported to feature domestic abuse. Care proceedings were initiated. Although the mother resided in a mother and baby placement with her daughter, ongoing concerns in the parental relationship were noted and ultimately the care plan resulted in proceedings concluding with an order for placement for adoption with regard to that little girl.

9. In June 2018, the mother was pregnant again and expecting a further child to Father 2. This child was [Tommy]. Following assessment, care proceedings concluded in August 2021 and [Tommy] remained in the care of his mother under a supervision order. The mother was pregnant at this stage with her third child, who when born was [Annie]. The father being Father 3. [Annie] was born in February 2021. Since a supervision order was already in force and no additional order was sought, Redcar and Cleveland Borough Council ceased its involvement in October of 2021.

10. [Charlie] was born in August 2022, the father being the father in this case. The current local authority involvement started following a referral on 11 October 2023. On that day [Tommy] was observed to have an injury to his back. He disclosed he had been pushed by the father resulting in him sustaining that injury. As well as complaining of this, [Tommy] shared that he was unable to leave his bedroom as the door handle had been removed.

11. The children were not removed at this stage, however on 20 November [Tommy] was observed to have a bruise behind his left ear and disclosed at school that the father had caused the injury by hitting him with a book. Further, information came to light from a third party that the mother had shared a picture of a handprint on [Tommy]'s back with the caption "I got him back", allegedly referring to the mother hitting [Tommy] since she had said at that time that he had hurt his sister, [Annie].

12. Matters took their course, and following the issue of care proceedings, interim care orders were made on 5 December 2023 and the children were placed outside of parental care and have remained out of the parents' care since. [Tommy] spent some time in the care of a paternal aunt, but this placement broke down in March 2024 and he was placed in foster care. [Annie] and [Charlie] as I have said already have been in separate foster placements since December 2023.

13. The case was timetabled towards a fact-finding hearing and was listed to take place before His Honour Judge Murray, the designated family judge for this area on 19 August 2024 with a time estimate of three days.

14. Having broadly denied the allegations of mistreatment towards the children, on 19 August the parents filed additional statements in which certain admissions were made. This resulted in the court making significant factual findings about the parental conduct to the children and those findings are set out in the case management order dated 19 and 20 August 2024.

15. The findings were as follows, and I quote

1. “The significant harm or likelihood of significant harm is physical, emotional, and/or neglect, and it arose from the following facts:
2. On or around 6 May 2023 [Tommy] suffered an injury of several red marks on either side of his spine:
 - a. This was an inflicted injury caused by The mother forcefully hitting [Tommy] several times on his back with her hand, having lost her temper with him.
 - b. On the evening of 6 May The father was aware of The mother causing this injury to [Tommy].
3. On or around 15 August 2023 [Annie] suffered an injury of bruising to her back covering the entire width of one side of her back:
 - a. This was an inflicted injury caused by forcefully hitting [Annie] several times on the back.
 - b. The injury was caused by the mother losing her temper with [Annie].
4. On or about 11 October 2023 [Tommy] suffered an injury, a superficial abrasion to the skin on the lower left side of his back, just above the left buttock, measuring six centimetres by 2.5 centimetres:
 - a. This was an inflicted injury caused by [Tommy] being pushed over by the father who pushed his way into the room in an aggressive way.

- b. The mother was aware of the father causing this injury to [Tommy].
- 5. On or before 20 November 2023 [Tommy] suffered an injury of a significant cluster of bruises behind his left ear, including
 - i. two approximately one-centimetre purple linear bruises parallel to each other at the top and behind his left ear,
 - ii. circular purple bruises with discrete edges, one centimetre by 0.5 centimetres, located behind the two linear bruises,
 - iii. approximately one-centimetre horizontal linear red scratch behind the top of the left ear on his scalp.
 - a. this was an inflicted injury consistent with being hit with a book.
 - b. this injury was caused by the father.
 - c. The mother was aware of the father causing the injury to [Tommy].
- 6. Prior to the finding of fact hearing the mother and the father had not given a truthful account of how the children had suffered these injuries and have colluded to lie repeatedly throughout the proceedings including to the social worker, police in interview, and the court within their statements, The mother even falsely accusing [Tommy] of causing the injury to [Annie].
- 7. The above incidents are not the only times that [Tommy] and [Annie] were assaulted by the mother and the father. This happened on numerous occasions. They were hit on their back, leg, bottom and hands. These were not gentle taps as stated by the parents, and the children were routinely subject to aggressive and violent behaviour from The father and Mother.

8. The mother and the father have referred to [Tommy] in harsh, derogatory and harmful terms, including and I quote, “cunt”, “scruffy cunt”, The mother only using that terminology and “little shit”, and would shout at the children to excess.
9. The mother was aware that the father had assaulted the children, and the father was aware that the mother had assaulted the children. Both parents failed to protect the children from this harm and did not report this to the police of Children’s Services.
10. The mother has caused significant emotional harm to [Tommy] by:
 - a. repeatedly telling him that he tells lies,
 - b. informing him that social services attend when he tells lies,
 - c. encouraging him to lie to medical professionals,
 - d. encouraging him to lie to social services and police,
 - e. encouraging him to make false allegations against other family members.
11. Prior to 11 October 2023 [Annie] and [Tommy] slept in a bedroom which did not have an internal door handle. A rope was used to keep the door shut. The children were unable to open the bedroom door from inside.”

16. These were on any version significant findings of prolonged physical mistreatment leading to physical and emotional harm. Judge Murray confirmed the directions for the filing of final evidence and care plans, and this included provision for a parenting assessment, a full connected carers assessment of the paternal grandparents, a sibling assessment and any additional welfare findings sought. Also, placement directions were made the children’s guardian appointed as a reporting officer in those proceedings.

17. It should be noted that the connected carers assessment of the paternal grandparents did not proceed due to a combination of factors, which included a failure on their part to commit consistently to assessment sessions, and a breakdown in the relationship between the father and his parents, in the course of which he raised concerns about allegations of alcohol abuse and domestic violence in the context of his upbringing. On 11 September 2024 the

paternal grandparents confirmed they did not want to be assessed any longer to care for [Annie] and [Charlie]. There are no other suitable family carers available to the children.

18. The parenting assessment of the mother and the father is negative. Since this extensive document represents the main case against the parents it is important to set out in summary form what the 28-page document concludes and why.

19. Looking at this document then as a whole, the following points seem to be relevant.

- a. The extent to which the parents have given full and honest accounts of the physical and emotional harm suffered by the children. Father lied about losing his mobile phone when consideration was given to it being examined in the context of the examination into the mistreatment of the children. In the parenting assessment, the father indicated he would refuse to give access to his mobile phone for examination, even at this stage having had time to reflect upon that decision. This raises continued concerns about his openness.
- b. When the parents were asked about any messages that may cause concern should Redcar and Cleveland Borough Council examining the telephones consider those messages, the father referred to a message in which the mother refers to “murdering this child” referring to [Tommy], and where the father responds by saying “I’ll deal with him when I get home.” The parents indicated that such messages should not be interpreted literally. The mother, when asked about messages on her phone that Redcar and Cleveland Borough Council would be concerned about, the mother referred to messages where she referred to [Tommy] as “a cunt” on numerous occasions. The mother said she was ashamed. The father when asked about the derogatory names replied “I hear parents say this all the time at work. Why have I got my kids took off me when I hear this every day”. Redcar and Cleveland Borough Council concluded that the parents failed to recognise the impact on [Tommy]’s emotional wellbeing caused by using hateful language of this type. This remained the position despite engagement in the Solihull Parenting Program. It concerned Redcar and Cleveland Borough Council about the extent of such inappropriate behaviour towards the children in the light of the parents’ attitude and concern, and also about the extent to which the parents had been open and honest about these things.
- c. A further message was put to the parents relating to an occasion when [Tommy] was locked in his room. The message referred to what passed

between the parents, and it was as follows: “Let him out. He needs his dinner. He keeps knocking on his door.” The message was sent by the mother to the father. When the parents were asked about the upsetting message and whether it was upsetting to read, the father responded, “Yes, it is also upsetting that we asked for help and never got it. If someone pulled their finger out of their arse at the beginning”. Redcar and Cleveland Borough Council suggested that this message encapsulates the father’s lack of insight into the effect of their conduct on the child.

- d. Differing accounts were given by the parents about the circumstances in which [Tommy] was locked in his room. Reference was made to the previously quoted text message. The mother accepted [Tommy] had been put in his room because he was naughty but was unclear about whether the yellow rope was used to secure the door. The mother accepted that she should not have secured his door, and the parents should have just spoken to him. The father’s response was to contradict this account, and he replied “I know he was locked in his room. There were times when [Tommy] would destroy the house and kick off. I know this was the time where we asked for help from the school, GP, and early help but got nowhere”. The parents appeared to minimise this issue. The mother stating for example “It would not be every day but could be three days in a row or something”. That is referring to the number of times that [Tommy] was locked in his room. The father said, and I quote again “It’s not like he doesn’t have anything in there. We would ask for help so many times. I have the paper trail.” Redcar and Cleveland Borough Council indicated that between 2021 and 2023 the parents received some limited practical parenting support at early help from the health visitor for [Tommy]’s behaviour. Offers to attend the New Parents Group on two occasions were declined. The early help worker indicated that during this period home visits were often cancelled by the parents. Parenting support was offered to the mother in October 2023 to which the mother responded, “If you can’t get me moved it’s pointless”. All in all the parents’ approach to [Tommy] being locked in his room for prolonged periods and their responses when asked about this were regarded by Redcar and Cleveland Borough Council as highly concerning. The impact that this would have upon a young child, making him as the assessment says “feel lonely, frightened, and

rejected” this was highlighted with the parents and the assessment noted that [Tommy] continued to experience regular nightmares in foster care. Further [Tommy] has been able to tell professionals, and I quote: “I was locked in my room, but I could get out with my hands under the bottom of the door, but then that thing would spring back at me when I tried to open the door”. When asked what he was referring to, he said “The thing that mum and dad put on the door, so it stayed shut”.

- e. The parents were unclear about whose idea it was to lock [Tommy] in his room. When the mother was asked to be honest about the situation she said “It was my idea. I’ve been in and out of foster care myself and I knew it was wrong”. When asked why it was done, the reply from the mother was “Just to stop him coming out and trashing my house.” Redcar and Cleveland Borough Council concern was that to purchase a rope and to act in this way was a planned action.
- f. The handprint on [Tommy]’s back. The mother accepted that she initially blamed her brother [Andrew] as well as telling [Tommy] to blame her brother as well. The mother accepted that she lied to the police in her interview as well as to the court and to social care. The mother’s initial explanation that she smacked [Tommy]’s back in retaliation for him hitting [Annie] now also appears to be untrue since in her statement she accepted she had hit [Tommy] since she could not manage his behaviour. It would seem the truth only came out by mistake. The mother sent a photograph of a slap mark to a friend of her brother by accident who then disclosed this information to the authorities.
- g. The mother accepts that she showed the social worker a photograph of an injury to [Annie]’s back in January 2024. She now accepts that when she said [Tommy] had caused this injury it was a lie, but in fact she had hit [Annie] in response to [Annie] “... accidentally headbutting her”. These episodes of physical harm to the children cause significant concern and the fact that the mother has attempted to cover them up by blaming others raises real concerns about the protection of the children and the viability of any plan to safeguard the children from physical harm in the future.
- h. The significant injury sustained by [Tommy] caused by the father, and the circumstances in which they were caused were also surrounded by a high level of untruth and deceit. In the course of the parenting assessment the mother

said, and I quote “The father told me to take the blame. He said he had proof that he was at work so they would come after me anyways.” The mother then went on, “He told me if I didn’t take the blame he would leave me.” When asked about the concern that she would put her relationship with the father over and above the safety of the children and being honest with the court, the mother responded, “I didn’t like being on my own.” The parents maintained this untruth for 10 months up until the fact-finding hearing.

- i. Concerns persist about the nature of the parental relationship and the extent to which the parents are being honest about the extent to which it is a stable relationship. The parents indicated on 27 August 2024 that they were on a break which appeared to contradict the comment by the father that he made on 27 August that he had been on the phone to the registry office since the parents planned to marry in 2025. The mother did not accept that the fact that the father had tried to encourage her to take the blame for causing the injury to [Tommy]’s ear indicated that the father was controlling. When asked what the couple argued about, the mother said “Usually what he ...” the father, “... did to [Tommy]. I wouldn’t call him out in person” and she talked of sending him text messages about this. The mother was challenged about her failure to call out the father for his conduct towards [Tommy], but in the course of the parenting assessment she was not able to provide any real answer to this point. When asked why the mother had participated in the Freedom Program and whether she would complete this program again, the mother replied “I don’t know why I was asked to do it. I just said I’ll do anything I needed to get the kids back home”. Despite completing the Freedom Program significant concern was expressed about the mother’s ability to identify that it was not a healthy feature of a relationship to be asked by one’s partner to take the blame for something that she had not done.
- j. In the parenting assessment the father was asked about his conduct towards [Tommy]. The father’s explanation surrounding the purchase of the rope and the decision to utilise it to lock [Tommy] in his room remained unclear. He said as follows, “I would tell mother it wasn’t a good idea, but just do it. I would just do as she says”. He then accepted that he had bought the rope. He said he did not wish to put the rope on [Tommy]’s door, but then went on, “I had to buy it and was forced into it”. It was pointed out to the father that none

of this had previously been disclosed to his solicitor or to Children's Services. The father stated that the rope was never put on [Tommy]'s door whilst he was in the home. It would usually be whilst he was at work. He said he would ask the mother how long [Tommy] had been in the room, and he said this could be "From one minute to an hour". The father claimed he had told the mother this was wrong, and the father was challenged about the fact that [Tommy] appeared fearful of him in contact. He said this, "I think I might have scared him, and I shouted at him and raised my voice". Father then continued, "I admit, I have locked him in his room, but it was mother telling me to". This was a direct contradiction to what the father had said earlier in the same session and appeared to contradict the mother's account as well.

- k. The occasion when the father threw a book at [Tommy] and caused an injury was discussed. The father accepted that [Tommy] was at another home when the incident with the book took place. He had been informed by the mother about [Tommy]'s behaviour and had travelled to the property. When challenged about his actions and the fact that he had travelled from his home to the other property and then behaved as alleged and why this made it difficult to suggest his actions were caused by a temporary loss of temper, the father when asked said, "I didn't think it through properly, it's like I'm always the one to deal with his behaviour. I was so stressed". The father sought to explain his behaviour by blaming stress at work, his sister's recent cancer diagnosis. When asked why he had hidden this for the duration of the care proceedings, the father stated, "I thought if I said I had my rotas to prove where I was then I would get away with it". The father indicated that in future he would install cameras in the living room, kitchen and on the stairs, so that, and again I quote, "I want proof. If something happens again I have footage".
- l. The father was asked about physical harm perpetrated by the mother to the children. Like the mother, the father sought to blame the mother's brother [Andrew] for the injuries to [Tommy] and sought to blame [Tommy] for the injury to [Annie], with the truth only emerging at the fact-finding hearing. The father indicated in a solo assessment session that he did not believe that the mother could manage caring for the children should they return home. When asked why he thought this, the father indicated that in his opinion, the

mother struggled to manage the children in family time with the oversight of the worker, let alone within the family home.

- m. The father identified certain issues in the parental relationship. He indicated money was a big stressor. When he and the mother did not speak for a full day this would be because he had told the mother that they could not afford a certain thing, and this would result in her not speaking. It is recorded the father accepted that his relationship with the mother was unstable and toxic. The father said, and I quote, “My dad always said if you give a woman an inch she will drive a bus through it”. When asked about why he sought the mother to take responsibility for causing the injury to [Tommy]’s ear, the father said this, “I just told her I had proof where I was. She said there would be more chance of the children coming home if she took the blame. I know she was scared of losing me. I told her to choose the kids. I told her we can work on things down the line, and I would come back home. I knew in court it wasn’t going my way, and I thought enough was enough”.
- n. In the final analysis, Redcar and Cleveland Borough Council expressed significant concerns about the significant injuries sustained by the children and the dishonest and differing narratives provided about the circumstances in which in the injuries were caused. Redcar and Cleveland Borough Council concluded that there continued to be clear evidence of the minimisation of the importance of what had happened. There had been a failure, even now, to provide a full account of the problems within the home, and overall the parents lacked any real insight into how their conduct had impacted upon the children. Although the parents engaged in the Solihull Parenting course, and attended the Points on Parenting course in September also this was at, insofar as the Solihull course was concerned, this was at a time when the parents continued to be untruthful about the circumstances in which injuries were caused and the problems within the home. Although the parents had shown commitment to contact and to the assessment process, the view of Redcar and Cleveland Borough Council is that their commitment to assessment and further work is only “surface compliance”. Overall, the view of Redcar and Cleveland Borough Council was that the parents had not shown true remorse for their actions, nor did they understand or acknowledge the impact of their actions on the children and seek to qualify any acceptance by blaming the

behaviour on [Tommy], on the circumstances they faced at the time as well.

In the circumstances then the parenting assessment was negative.

20. As well as the parenting assessment, Redcar and Cleveland Borough Council has undertaken a sibling assessment of the children. In summary, the conclusions of that assessment are as follows: “It has been observed by way of family time recordings, feedback from foster carers, and sibling contact, that [Annie] and [Charlie] share a close relationship where they engage in positive and meaningful play. Observations of [Annie] and [Charlie] are that they deeply love one another and become very excited at the prospect of spending time together during family time and sibling contact. There has been on hostility or aggression observed between [Annie] and [Charlie], and they openly share affection to one another. Redcar and Cleveland Borough Council understand and appreciate that [Charlie] and [Annie] have not resided together since December 2023. Since December 2023 and the present, [Charlie] and [Annie] have enjoyed consistent sibling contact, including sleepovers with one another. Foster carers to [Annie] and [Charlie] share that the time spent together is a positive experience, with both children thoroughly enjoying their sleepovers. [Charlie] and [Annie] share a bedroom during sleepovers with no issues. Both [Charlie] and [Annie]’s carers state that they believe [Annie] and [Charlie] being placed together would be an appropriate plan for the children. [Charlie] and [Annie]’s carers have shared some reservations at the prospect of the children residing together after such a long time residing apart, however, they share the view this is purely based on the length of time separated, not because of the children’s relationship, or that they have significant needs themselves. As mentioned within the sibling assessment, [Tommy] has experienced a significant amount of trauma throughout his short life which is currently manifesting through his behaviour and emotional wellbeing which is understandable. At this time, the nightlight in his bedroom is left on with the door open. He is experiencing extreme behaviours and matters such as throwing objects around the room and throwing the sand tray. [Tommy] finds it particularly difficult attending family time sessions. Professionals have observed him to become easily agitated and frustrated at [Annie] particularly when she chooses to play with [Tommy], or even when [Annie] wants to be in the same vicinity as [Tommy]. [Tommy] has been heard to say in family time that “I hate having brothers and sisters. I want to be on my own”, which was in reference to [Annie] wanting to sit next to [Tommy] at the table. [Tommy] has told his carers that he feels he is being treated differently to [Annie] and [Charlie], which considering the harm the children have suffered is a real possibility. The assessment later continues, “It is not felt by Redcar and Cleveland Borough Council that a placement for

[Tommy], [Annie], and [Charlie] together will be beneficial to either stepsibling. It is felt that [Tommy] requires his own placement where he is the sole child in order for him to thrive and receive the care and love that he requires. Redcar and Cleveland Borough Council would be concerned about placing [Annie] and [Charlie] together. This placement would not be sustainable and will be detrimental to all the children's needs.

21. The report ultimately concludes as follows, and again I quote, "It is therefore the recommendation of Redcar and Cleveland Borough Council that [Charlie] and [Annie] should reside together with [Tommy] residing in a placement of his own. A placement of all three stepsiblings together would be detrimental to all of the children's needs and would not provide them with a chance to thrive and develop. Redcar and Cleveland Borough Council have carefully considered and balanced this view and would seek to highlight that any future placement for [Annie] and [Charlie] will be required to promote direct sibling contact with [Tommy]. It is felt that this would maintain the children's attachment and sense of identity, whilst allowing the children to reside in a placement which benefits their own individual needs".

22. So that is a summary of the background and the significant assessments that have been undertaken in the case. Before turning to my analysis of the evidence and making any relevant factual findings and my welfare analysis of the realistic options, I must summarise, albeit briefly, the legal principles at play.

- a. The significant factual findings have already been made in this case, but in relation to any additional findings of fact sought by Redcar and Cleveland Borough Council in the course of the hearing I remind myself that the burden of proof is on Redcar and Cleveland Borough Council. The standard of proof is the simple balance of probability. In other words, a fact is either proved or it is not. If it is not proved, the court behaves as if that incident or occurrence alleged had never taken place. There is no room for speculation.
- b. I remind myself in relation to the issue of lies told by witnesses that I should take account of the relevant revised direction referred to in legal terms as a Lucas direction. Thus I should only take into account a lie told by a witness if I am satisfied that there is no innocent reason for the witness to have lied in his or her evidence, and that such a lie is not germane to a serious issue which needs to be determined in the case. The mere fact a lie has been told does not prove the primary case against a party or witness who has been found to have lied, but the court is entitled to take this into account when determining the

relevant factual matter. The court must always bear in mind that people can lie for many reasons. That can include nervousness, fear, or to bolster an otherwise honest case.

- c. Findings of fact must be based on the evidence, including inferences that can be drawn from the evidence and not mere suspicion, surmise, or speculation. There is no obligation on the party to prove the truth of an alternative case put forward by way of a defence, and the failure by a party to establish the alternate case or advance of probabilities does not prove Redcar and Cleveland Borough Council's case in itself. As I have said it must be proved on the balance of probabilities as already suggested.
- d. When making any additional findings, and when undertaking my overall welfare analysis, I must consider the whole of the evidence. This includes oral evidence, written statements, and expert testimony. I am entitled to rely on hearsay, but I must remind myself that it is not the same as first hand evidence, but I must have regard to its provenance and consider if there is other evidence that can support it.
- e. The performance of a witness in the witness box is important, but I must not reach my conclusion about the witness based purely on that performance. The court must remember that parties can be nervous when giving evidence.
- f. In terms of the welfare outcome, since Redcar and Cleveland Borough Council is seeking to persuade the court that a final care order should be made with a plan of adoption, and if that plan is approved a placement order should be made, the court must take the following approach: where the court is invited to make a care order the court must be satisfied that the threshold criteria under section 31 of the Children Act are made out. If I am satisfied all the facts have been proved which cross the threshold then this opens a gateway for the consideration of what if any public law order is proportionate in the circumstances.
- g. I must remember since there is a plan of adoption that it is the welfare of these children throughout their lives that is my paramount concern. In short, the question for the court with regard to a plan of adoption will nothing less than adoption meet the welfare needs of the individual children throughout their lives?

- h. When deciding whether to approve Redcar and Cleveland Borough Council care plan and decide which option best meets the welfare needs of the children in question, the court must set out the realistic options, look at the positives and negatives of each outcome against the backdrop of the welfare checklist before reaching a conclusion. The appropriate welfare checklist is the one found at section 1(4) of the Adoption and Children Act 2002.
- i. As well as matters set out in the welfare checklist, the court must remind itself that it is not looking for perfect parenting, but good enough parenting. It is always important that the court reminds itself of the oft quoted but nonetheless important words of Hedley J in *Re L (Care: Threshold Criteria)* [2007] 1 FLR 2050 para 50, "... society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate, and the inconsistent. It is not the province of the state to spare children the consequences of defective parenting. In any event, it simply would not or could not be done".
- j. If a plan of adoption is approved then the court must ask itself two related questions. First, is adoption in the best interests of the child or the children in question? And secondly, are the grounds on which the consent of the parents can be dispensed with?
- k. In the recent case of *Re F* [2018] EWCA Civ 2761 Peter Jackson LJ in effect summarised what we would expect the court to address in these circumstances.
 - i. The type of harm that might arise
 - ii. The likelihood of it arising.
 - iii. The consequences for the child.
 - iv. The extent to which the harm could be reduced or mitigated.
 - v. The comparative evaluation of welfare between the realistic options, and in family placement and adoption.
 - vi. Proportionality.
- l. Finally, in the recent Court of Appeal case of *Re R and C* (Adoption or Fostering) [2024] EWCA Civ 1302, the court emphasised the need for, and I quote, "A balancing exercise in which each option is evaluated to the degree of detail necessary to analyse and weigh its own internal positives and negatives and each option is then compared side by side against the competing options." See paragraph 72. And further at paragraph 68 "Under the current

law, as the president said in *Re B (A Child)* [2013] UKSC 33, “It will only be in extremely unusual cases that a court will make an order stipulating contact arrangements to which adopters do not agree”. The paragraph continues, “... but that does not obviate the court’s responsibilities set the template for contact for the placement stage in this case, both to meet the children’s short-term needs, and to set the template. There was of course a possibility that the search for such adopters might be unsuccessful or that adopters might subsequently refuse to agree to contact, but in the circumstance of this case, that possibility was not a sufficient reason to refuse to make a placement order”.

23. So that is the background to the case against which I have got to reach my conclusions. In reaching my decision, I have considered the documentation and the court bundle, and I have heard oral evidence from the key social worker, Mrs Morgan, and the father, and the children’s guardian, Liz Pointer. When the time came for the mother to give evidence, unfortunately she felt unable to do so. It was clear to me observing her throughout the day that she was very anxious and was clearly extremely upset by the process; something which the court can understand. I explained to the mother via her counsel that I would very much like to hear what she had to say. It was important that she had the opportunity to say how and in what way she disagreed with any facts relied upon by Redcar and Cleveland Borough Council, and also why she disagreed with the overall plan.

24. I indicated that I could consider compelling her to give evidence, but would only consider that as a last resort, if at all. I indicated to the mother that measures could be put in place to assist her to give evidence if this is what she wanted. I invited her to consider the possibility of giving evidence via video link or in court with the number of parties present slimmed down to the truly essential participants. I adjourned briefly for the mother to consider these alternative options, and for Redcar and Cleveland Borough Council to consider whether in reality it sought for me to compel the mother to come to the witness box.

25. When the mother returned she remained unwilling to give evidence. She indicated if compelled she might give evidence via video link, but in reality she remained extremely reluctant and upset at the prospect of giving evidence. I reinforced to the mother, via her counsel, that if she did not give evidence although I would still have to evaluate the quality of Redcar and Cleveland Borough Council’s testimony and the parenting assessment, if there was no effective challenge to it and reminding myself that the social worker was not cross-examined about the veracity of her recordings in the parenting assessment in any significant

way by either parent, then it was difficult for the court to reject the conclusions reached in that parenting assessment.

26. Redcar and Cleveland Borough Council invited me to consider using my power to compel the parents to give evidence. I considered that if I exercised this power the court would have to be prepared to enforce its order which may ultimately mean committal to prison for the mother. The court took into account the relevant case law, including *Re T (Children)* [2020] EWCA Civ 1344 and *Re HC (Children)* [2014] EWCA Civ, specific reference missing. The principles to be drawn from these cases were that when a case is actively contested it was normally important the parents should give evidence so that the court was able to make effective decisions about giving the parents the opportunity to put their points to the court to explain their actions and to set out their version of the disputed facts. Further, that if a person refuses to give evidence the court has a wide discretion to draw inferences, but the discretion must be applied in accordance with the individual facts of each specific case.

27. Having taken all these matters into account, I determined that it was not proportionate to direct a clearly unwilling witness to give evidence. I was satisfied that the consequences of not giving evidence were clearly explained to the mother. I also took account of the fact that substantial factual findings had already been made. I took account of the fact that the parents had filed evidential statements, and that much of the court's ultimate analysis would be based upon the factual findings already made, the parents conduct in the runup to those findings being made, and any additional clarity the parents have given, and the extent to which I regarded the factual basis of the parenting assessment as being accurate, and the extent to which I agreed or disputed the social worker's analysis and conclusions in the parenting assessment.

28. As I have already indicated and recorded earlier in my judgment, the facts upon which the threshold for making a public law order are sought, they have already been determined by the court in 2024. I am more than satisfied that these facts cross the threshold and open the gateway for the court to consider the realistic options open to the children in the context of this case.

29. Redcar and Cleveland Borough Council has also filed an additional document setting out welfare findings on 12 to 26. I do not propose to laboriously go through each and every one, but to identify the broad issues which Redcar and Cleveland Borough Council indicates are relevant to the welfare outcome, and to discuss these matters in my analysis, and make whatever relevant findings I think appropriate.

30. In short, the welfare findings indicate that nothing has changed in the parents' parenting capabilities in any significant way and thus the children would remain at risk of suffering significant physical and emotional harm. Further, that the parents continue to lack insight into their parenting deficits, and that the engagement in the Solihull Parenting Program is not something that is indicative of significant change especially if the parents continue to provide a false narrative as to what was happening at home between the period of March and April 2024 when the work in that parenting assessment was taking place. And the court reminds itself that fuller admissions about the reality of the parent's conduct in the home were not made until a number of months later. Further, the dynamics of the parental relationship continue to be unstable, characterised by tensions and a lack of trust, complicated by the parents' dishonesty about what was happening in the home during this period of time and since.

31. Redcar and Cleveland Borough Council contends that all children are making good progress in foster care which gives some inkling into the poor parenting they have received whilst at home. [Tommy] himself is exhibiting the aftereffects of significant trauma and continues to suffer nightmares and display the emotional consequences of those experiences.

32. In conclusion, Redcar and Cleveland Borough Council contend the parents lack insight into their conduct and the impact on the children, and their continued failure to give a consistently honest account of what happened in the family means that the children will be at risk of significant harm if returned to their joint care. As a result of that it is impossible, Redcar and Cleveland Borough Council says, to devise a safety plan that could help keep the children safe in the parents' care in the future.

33. I turn now my discussion of the issues in the case.

34. The findings made by the court in August 2024 clearly indicated that for a prolonged period of time the children were exposed to inadequate and at times cruel parenting.

Although it may have been that [Tommy] had some underlying neurodiversity, I do not know, I am satisfied that a large component of his challenging behaviour and his current insecurities as demonstrated in foster care are a result of the parenting that he received whilst living at home with the mother and the father.

35. It is clear to me that both parents had adverse experiences when children, and this may explain to some degree their wholesale failure to offer the children consistently appropriate parenting, and this is especially so in light of their own needy behaviour in the context of what I find to be a dysfunctional relationship.

36. I have already commented that the mother found the whole experience of court quite overwhelming. She presented to me as quite a fragile person, although as I say further analysis of her was not possible since she felt unable to give evidence. That said, there is ample evidence contained in the papers to support such a view.

37. The father, when he gave evidence, became upset. I am prepared to accept that with hindsight he was ashamed by his conduct, although I was left with the distinct impression that he still struggled to understand the real impact of his behaviour and sought to qualify any such acknowledgements by other explanations, for example, that he worked long hours, as a result of which he was not often in the house. Also, that he was under stress, and that he was also further stressed by a diagnosis of cancer received by his sister.

38. The task of the court and the professionals in this case has been made difficult by the fact that the parents have told so many lies in the course of the proceedings, and in the course of the parenting assessment. They denied the truth of what had been going on in the family home right up until the day of the fact-finding hearing. They engaged in parenting work in March and April 2024 whilst maintaining a false narrative as to their conduct towards the children. In those circumstances, it is hard to see how that work could have any real validity or worth.

39. I find the terms of what was recorded in the parenting assessment about the parents and what they said during that assessment was accurately recorded by the social worker, Mrs Morgan. Insofar as there is any conflict between what the parents say about what they have said about the various incidents covered in the parenting assessment I accept without question the accuracy of the conversations as recorded by Mrs Morgan in her parenting assessment as summarised earlier in this judgment. I found her to be a credible and conscientious witness, in contrast sadly to the parents who were often unreliable and inconsistent.

40. I also accept, without question, Mrs Morgan's analysis of the facts in the parenting assessment and the conclusions which she reaches about what this means for the parents' ability to care for the children in any configuration, namely all three together, or the two youngest together. As I say, the acceptance by the end of the evidence was that the reality was [Tommy] was not going home and was staying in foster care.

41. The parents initially sought to blame other people for the injuries seen, not just with regard to [Annie] but also [Tommy]. The mother sought to scapegoat [Tommy] for an injury to [Annie] that she, the mother, had in fact caused herself. She then attempted to blame her

brother for this injury. The truth in relation to this only came out when the mother sent a picture of the injury to another person by mistake.

42. The findings were of significant physical harm to [Tommy] in terms of injury to the ear. Further, there was compelling evidence that at times his demanding behaviour was met with disproportionate sanction. The parents eventually accepted that for a period of time it was standard punishment to shut [Tommy] in his room and for the door to be secured by use of a rope, although the narrative given by the parents in the parenting assessment about this was at times inconsistent and confusing.

43. I find that neither of the parents has been able to fully acknowledge the issues with their conduct, and both have at times to a greater or lesser extent sought to blame other issues for their own failings. The harsh reality is here that this episode and their broader parenting of [Tommy] was substandard and at times I am afraid positively cruel.

44. I find that both parents have given varying accounts, as I say, about this. I am satisfied that the most likely account of the many and varied accounts given by the parents is that the mother was left to care for all three children for the vast majority of the time and she just could not cope. I find that it was the mother who suggested the securing of [Tommy]'s door with a rope, and this she did, although I am satisfied that the father also used this method as well. I find that the mother's inability to cope explained the significant marks to [Tommy] and [Annie] when she hit them with her hand leaving significant bruising.

45. I find the father's evidence about his involvement in the home to be very concerning. Due to the comments I have made about the general unreliability of parents as witnesses, the court has got to be circumspect in the findings that it makes, however, I am satisfied that for long periods of time the father was working long hours in his job as a pub manager and providing little practical day-to-day assistance to the mother. I find that he was aware that the mother was struggling and did little in a practical sense to help out. When he was about, I am satisfied he was often irascible, stressed and angry, and I have no doubt that this resulted in him shouting at the children, and on the odd occasion reverting to physical chastisement as was recorded in the factual findings.

46. I find that he knew that the mother needed more help and that he buried himself in work. I found that despite knowing about the mother's struggles, he did little in a practical sense to improve the situation. He was unable to explain why, knowing of the problems in the home, he did not seek to adjust his working hours. I accept within families there may be financial imperative. I am satisfied however that this was largely an excuse on his part in this case and was primarily an abdication of responsibility to the children and to the mother.

47. Having heard the father give evidence, although he was quick to point out he does not believe the mother can cope and said so in the parenting assessment, I find the suggestion that he would act differently should the children return home permanently is unlikely to be sustained. I am not satisfied in the medium to long-term that things would not slide back to the mother being in charge most of the time, something which would give rise to the risk of future further significant physical and emotional harm.

48. The father's evidence about what approach he would take should the court determine that the two youngest were placed for adoption was also revealing. He indicated that if this happened he would separate from the mother and return to live in the south of England with his parents from whom I may say he is currently estranged.

49. This seemed a somewhat contradictory approach when it was indicated in August that he and the mother intended to marry in 2025. This should also again be contrasted with other pronouncements about the parents' relationship when in June and August they talked about being on a break. I find that there is an underlying fragility in the parental relationship, evidenced to a degree by the things that the father has said. It is hard to square an intention to marry with the suggestion he would leave the mother if the youngest children are adopted.

50. The court has already commented on the number of inconsistencies or untruths that the parents have practiced over a prolonged period of time. This has already been determined to some degree by the court in the context of the factual findings made in August, but I find it is an ongoing issue when one views what the parents have said in the context of the parenting assessment. I should say as well that in final statements filed in August the parents have contradicted each other in a number of ways and also contradicted things that have been said in the context of the parenting assessment.

51. The court has already given itself a self-direction on the use to which lies can and should be put in care proceedings and I remind myself of that again. Broadly in this case I am satisfied that even now the parents have not given a full and frank account of the problems within their relationship and what was going on in the family home at the crucial time. I am satisfied that the court does know that as is encapsulated in the factual findings, the circumstances were highly concerning, and the risks to the children were significant.

52. The prime problem that arises from the parents' dishonesty is that it makes it extremely difficult firstly to fully appreciate the level of risk to the children should they live in the family home, but it also makes it impossible to manage the risk by putting in place measures to support the parents and protect the children.

53. The court reminds itself that the parents were able to disguise the treatment of [Tommy] for some time, even when he was attending at school, when we now know that he was being hit and locked in his bedroom. If the parents cannot be trusted to give a true account of what is happening or acknowledging that they are struggling with the care of the children and that they need help, and it is impossible to formulate a package of support and monitoring to safeguard the children.

54. In his own evidence, the father accepted that if the children returned home it was unlikely that the parents would be motivated to be truthful if the consequences of being truthful may mean that the children would be removed. Although it was suggested that removing [Tommy] from the equation with him remaining in foster care would permit the parents to care more appropriately for [Annie] and [Charlie] to a good level, I am afraid that I disagree.

55. I find that the underlying issues that the parents have as individuals and in the context of their relationship would give rise to similar risks in the future as the children faced in the past. I find as [Annie] and [Charlie] become older and more challenging I am not satisfied that the parents would be any better equipped to meet the needs of the children.

56. I find that the children remain at risk of physical and emotional harm, and although the parents have engaged in parenting work, I have already commented about the validity of that work being undertaken as it was at the time when the parents were continuing to be dishonest about the problems that they were having with caring for the children. I am satisfied that parenting help has been offered in the past to the parents and they were reluctant to accept it.

57. It must be accepted that the parents' commitment to contact has been excellent. There is clearly love and warmth in the relationship between the parents and the children, although there are more complexities in the relationship between [Tommy] and father, which in large part I find are due to the father's past treatment of [Tommy]. However, the parental performance in contact, which I will note is all that is open to them at the minute to demonstrate change, also provides some indicators of the broader problem.

58. It is clear that the mother on occasions struggles to cope with all of the children, and in recent times, namely as recently as a week or so ago, a decision was made to return contact from the community into an indoor venue due to the concerns about the mother's ability to manage.

59. The father's contact takes place on a weekly basis. It is clear that he is probably the more capable of managing the children in the context of contact, but the assessment of him and his answers in the course of his evidence continue to raise real concerns in relation to

how he would manage parenting day-to-day. He accepts he needs to address issues with anger management. He is positively seeking this work with his GP, but at this stage the position is that it has not got off the ground.

60. Applying then the test in *Re F* to the court's conclusion, the type of harm that might arise. The consideration of this case indicates that the type of harm that may arise in future is physical, emotional and developmental harm. There is clear evidence of the children suffering this harm, and the risk of these types of harm in the past as a result of the parents' inadequate care and the methods that they have employed when caring for these children.

61. The next thing is the likelihood of the harm arising. Well, for the reasons that I have already given I am not satisfied that the parents have yet gained a full appreciation of their conduct. I think they lack significant insight, and I think any parenting work has only scratched the surface of the significant problems that they have got. As I have said already, I think there are significant underlying problems that the parents have as individuals, and in the context of their relationship, and I think this leads me to conclude that the likelihood of the historic problems arising in the future is very high indeed.

62. The consequences for the children if the harm arises. The consequences for the children should history repeat itself I find are clearly evidenced by [Tommy]'s current presenting behaviour. Although the parents sought to argue that there may be some underlying neurodiversity which explains [Tommy]'s behaviour, and although the court cannot absolutely rule this out as a contributing factor to [Tommy]'s presentation, I am more than satisfied on all the information that I have read that the fundamental explanation for [Tommy]'s presentation both whilst in the care of the parents and now in foster care is explained by the parenting he has received whilst he was living at home with the mother and father.

63. I am satisfied he has suffered significant physical and emotional harm attributable to parental care. I am satisfied that [Annie] has suffered physical harm as well. I am also satisfied that the children suffered and were placed at risk of suffering emotional harm due to living in the same home where [Tommy] was treated in such an inappropriate fashion and the other children were exposed to the unpredictable moods and conduct of both parents.

64. I am not satisfied, as I say, that the parents have demonstrated any significant insight into their actions from any work they have undertaken. The value of work is questionable due to the inaccurate factual basis upon which it proceeded due to the parents' dishonesty maintained as it has been over a prolonged period of time.

65. The extent to which the harm could be reduced or mitigated. The fundamental problem with protecting children and reducing the risk of physical and emotional harm which I find is inherent in a placement with the mother and father lies in the extent and the duration of the dishonesty that the parents have perpetrated in this case. It is clear that [Tommy] was subject to significant mistreatment whilst in the care of his parents. This was something the parents managed to hide for a significant period of time.

66. The fundamental bedrock of any protection plan would be an ability on the part of the parents to work openly and honestly with professionals. The court has no confidence, given the parents' historical conduct, this is something that would happen. The father himself in evidence, as I have already mentioned, said that he found it extremely difficult to admit problems if this meant the children may be removed. I regard the father's suggestion that the family home could be monitored by CCTV cameras being totally unrealistic and inappropriate in the context of family life.

67. I am not satisfied that [Tommy] being removed from the equation and remaining in foster care will be likely to result in a significant reduction in risk to [Annie] and [Charlie]. I find the complex dynamics of the parental relationship and their own individual needs means the court is far from confident that as these children grow and become more challenging that the parents would not revert to similar behaviour as evidenced in the past, and result in the children suffering significant harm.

68. I accept that the parents have expressed remorse for their past behaviour, but the duration of this behaviour and the lengths to which the parents went to disguise this from the wider world makes it extremely difficult to be confident that professionals would be in any better position to safeguard the children in the future should they return home.

69. Although selected reference has been made to some of the contact notes which do indicate some more appropriate parenting, especially on the part of the father, the court is far from confident that this provides any significant evidence from which the court could be confident in the future that the parents parenting has improved significantly. There is a world of difference between a highly supervised setting for contact, and the rigours of day-to-day parenting of children.

70. The comparative evaluation of the welfare between the realistic options. Looking then at the realistic options open to the children. Insofar as [Tommy] is concerned, neither mother nor father seek to argue they are currently in a position to care for [Tommy] and do not oppose the plan for long-term foster care for him. I accept the realities of [Tommy]'s

position set out in the sibling assessment. The reality is that he could not at this stage be placed with his siblings.

71. Taking into account his age and current presentation, the court accepts that it would not be feasible to place him for adoption, either in a single placement or with his siblings. In those circumstances then, the only realistic option for him is that he remain in long-term foster care, it is hoped with his current carer. I will return to [Tommy] in the context of sibling contact a little later in my judgment.

72. In terms of [Charlie] and [Annie], all of the interested parties argue that their future should be in a joint placement. This is despite the fact that since December 2023, largely due to the unavailability of joint foster placements, they have lived separately. The sibling assessment, which is unchallenged and with which I agree, clearly recommends a joint placement of siblings together. The realistic options broadly considered for these children are as follows: return to the care of the parents, long-term foster care, placement for adoption.

73. Looking at the situation of the parents, the advantage of a placement in the care of the parents is that both children will be raised by mother, and [Charlie] by his father, and [Annie] by the man she regards as her father. It would also leave open the option of extensive sibling contact. It would bring all the advantages that a family placement brings to children in terms of identity and belonging as they grow.

74. In terms of disadvantages, I have determined that the parenting assessment of Redcar and Cleveland Borough Council correctly identifies the risk represented by the return of one or both of these children to the parents' care. I regard the risk of physical and emotional harm in such an option as being significant for the reasons I have given. I do not accept there are any sufficient measures that can be put in place to manage that risk, again, for the reasons I have already given.

75. Next then, placement of the children together in long-term foster care. The advantage of such a placement would be that it would protect the children to a degree from the risks inherent for the placement back in the care of the parents. It would allow a continued relationship between the parents and the youngest children, as well as the relationship with [Tommy].

76. The disadvantages of such a placement. The following arguments are often rehearsed in the context of long-term foster care. It would not offer the children of this age a sense of permanence which an adoptive placement could bring. Foster placements can and do break down for a number of reasons. Although such a placement would protect the children from the day-to-day risk in the care of the parents, it would not necessarily insulate the children

from any ongoing issues in the parental relationship which the children could be exposed to through the medium of contact. The looked-after process can mark the children out as different and it can be intrusive with ongoing visits from social workers, and the overall requirements of the looked-after process.

77. Placement for adoption. As I have said, although the court must consider the individual needs of [Annie] and [Charlie], the reality here is that all professionals, and indeed the parents, do not believe they should be separated. Redcar and Cleveland Borough Council has been clear in its oral and written evidence that any adoptive placement for these children must be joint, and furthermore, that any adoptive placement must be prepared to offer direct sibling contact at a meaningful level.

78. As I have already indicated earlier in the judgment, although the previous jurisprudence on post-adoptive contact orders has not been overturned, the decision in *Re R and C* referred to earlier has emphasised that it is necessary for the court, in circumstances very similar to the circumstances faced by this court, to, and I quote "... set the template for future contact at the placement order stage".

79. Looking at the broader advantages of adoption, in the case of *Re R and C* the appeal court was again keen to emphasise "... a value to a child's welfare of the permanence which only adoption can provide". A successful adoptive placement can offer the children long-term stability, a sense of being claimed and assimilated into a family for life. On the facts of this case, the benefits of an adoptive placement may well be enhanced if in addition to providing stability it permits the continuation of the sibling relationship with [Tommy]. Although the relationship between [Tommy] and his siblings at the moment is not assessed as being especially close, the benefits of sibling relationships are well-rehearsed. Such relationships can be lifelong even if at times the closeness of that relationship waxes and wanes.

80. The disadvantages of an adoptive placement are clearly known. Anyone sitting in the family court on a regular basis understands that adoptive placements can and do fail. The consequences for the child or children can be significant if this occurs. In this case, an adoptive placement is likely to mean that there is a cessation of the direct relationship between the parents and their youngest children. This will have an emotional cost because it is clear from contact that the parents and the children have a connection and there is evidence, even though the relationship is not without its problems, that there is emotional warmth and love shown in the context of contact.

81. The court accepts as well that despite Redcar and Cleveland Borough Council care plan there is the potential for best intentions in relation to sibling contact not to be realised or sustained. The court is also alive to the possibility that seeking an adoptive placement which is prepared to facilitate direct contact may not be easy to achieve. It may delay permanence planning for [Annie] and [Charlie], and even ultimately result in the plan reverting to one of long-term foster care.

82. Some may have argued that the best prospect for securing an adoptive placement for [Annie] and [Charlie] would have been at the cost of direct sibling contact with [Tommy]. However, as I have already recorded this issue has been agonised over by all the professionals involved in formulating the care plan, including the children's guardian, and the conclusion has been reached that the best or even least worst option is the one proposed by Redcar and Cleveland Borough Council.

83. Having balanced all these matters together, I have reached a clear conclusion sadly that the placement with the parents for either of these two young children is unrealistic and is not likely to be a safe option in the foreseeable future unless something significant changes. Although I have considered the benefits of long-term foster care in terms of permanence for [Annie] and [Charlie], it is a poor second to a successful adoptive placement. The permanence of an adoptive placement can offer is a crucial factor for the court in reaching this conclusion and will have the added benefit of sibling contact if adopters can be found who will facilitate this contact between [Tommy] and his siblings. I have balanced the benefit of such a course of action, and I am satisfied that there are no grounds on which I should disagree with the unanimous professional opinion on this issue.

84. In reaching the decision to approve Redcar and Cleveland Borough Council care plan for the children I have considered the welfare checklist in the Adoption and Children Act 2002, section 1(4) in relation to the plans relating to [Charlie] and [Annie], and in addition, with regard to [Tommy] I have taken account of the matters under section 1 of the Children Act 1989. In light of the situation of [Tommy], and the inevitability of his plan, and the lack of any other realistic options, I will focus my discussion of the welfare checklist in relation to the plans for [Annie] and [Charlie].

85. The ascertainable wishes and feelings with regard to this decision, taking into account the children's age and understanding. [Annie] is three and [Charlie] two. It is difficult to place significant reliance on their wishes and feelings due to their age. It is clear that they have a relationship with their parents and their brother. I have already recorded that there is

evidence of warmth and love in the contact. It has been observed when contact occurs with the parents.

86. The particular needs of the children. Both [Annie] and [Charlie] require stability as a matter of priority. Their lives have been marked by uncertainty. They have been subject to court proceedings for almost a year, and the time for a permanent decision to be taken with regard to them is now long overdue.

87. The likely effect on the children throughout their lives of having ceased to be members of the original family and becoming adopted persons. The court is satisfied that there will be an emotional cost of this, at least in the short-term since it will mean severing the direct relationship with [Annie], [Charlie], and their parents. This may be upsetting and confusing for both children. It will undoubtedly be devastating for the parents. However, if an adoptive placement is successfully achieved it will offer them the stability that hitherto they have not had, save for the period of time where they have lived in foster care. It is hoped that their link with [Tommy] can be maintained directly through contact.

88. The children's age, sex, and background, and any other characteristics which the court or agency able to consider is relevant. I do not consider there are any specific matters under this heading which are not covered by other parts of the welfare checklist.

89. Any harm which within the meaning of the Children Act which the children have suffered or are at risk of suffering. I have already rehearsed in detail in this judgment the harm that the children have suffered in the care of their parents, and I have expressed my clear views about the significant risk of future harm should the children return to their parents' care. I have determined that the risks associated with such a placement cannot be managed and there are no reasonable measures that could be put in place that could ensure the children's welfare would be safeguarded.

90. The court acknowledges that severing the direct relationship between these children and their parents may well be at an emotional cost to both of the children immediately and as they grow older when the reality of their adoptive status becomes clear. However, overall the court has concluded that the risks inherent with returning the children to the care of their parents far outweighs any risks or potential risks presented by an adoptive placement.

91. The relationship which the children have with relatives and any person who is a prospective adopter with whom the child is placed, or with any other person in relation to whom the court or agency considers the relationship to (inaudible):

- i. The likelihood of any such relationship continuing the value of that to a child.

- ii. The ability and willingness of any of the children's relatives or for any such person to provide them with a secure environment in which the children can develop and otherwise meet the children's needs.
- iii. The wishes and feelings of any of the children's relatives or any such person regarding the child.

92. I have already expressed the view that sadly it is not possible to enable the continued relationship between [Annie] and [Charlie] and the parents to continue at this stage. It must be via the post-box system, and they must be given information about their origins by the use of life story work. I have concluded, however, that there is value to maintaining the sibling relationship with [Tommy], something which all of the professionals agree.

93. For that reason, planned continued sibling contact is at the heart of the search for any adoptive placement. This is the template, to use the words of the Court of Appeal, for the future contact in the context of the placement order. I am satisfied on the facts of this case, that the position should be secured by the making of a contact order under section 26 of the Adoption and Children Act 2002. This is a course of action with which Redcar and Cleveland Borough Council agrees.

94. I have considered the ability and willingness of any of the child's relatives to offer secure home to the children and sadly for the reasons given either this is not possible or no such person is available. I have considered the strongly held views of the parents, which I understand, as they cannot agree to the plan of adoption. Unfortunately, for the reasons I have given, I have to override their views and make the order that in the court's opinion it will best meet the welfare needs of the children.

95. In the circumstances I am satisfied that nothing short of a plan of adoption will meet the welfare needs of [Annie] and [Charlie] throughout their lives. I am also satisfied that the importance of the sibling relationship with [Tommy] means that an adoptive placement must be sought that will promote direct contact. Consequently I approve the making of care orders upon the basis of the plans filed in relation to each of the children.

96. I should say I have also considered more broadly the principle of proportionality of the outcome. I regard such an outcome as proposed by Redcar and Cleveland Borough Council in relation to the individual plans for the children as being proportionate to the issues in the case.

97. Consequently I must then consider the placement application with regard to [Annie] and [Charlie]. I must ask the two interrelated questions. First, is adoption in the best interests of the children, both individually and jointly on the facts of this case? The answer to

that question is yes, for the reasons I have already given in the judgment relating to the care proceedings. Secondly, are there grounds on which the consent of the parents can be dispensed with? The answer to that question is also yes, since the welfare of the children requires that I make such an order.

98. Finally, as already indicated, to underscore the importance of sibling contact on the basis of the recent authority of *Re R and C*, noting the agreement of Redcar and Cleveland Borough Council and I believe the guardian as well for such an order being made, I make a section 26 contact order then for contact between [Annie] and [Charlie] and their brother [Tommy]. Redcar and Cleveland Borough Council proposes that this is set at a notional frequency of six times each year. Redcar and Cleveland Borough Council is willing to include in the draft case management order the additional recitals of conditions suggested in the case of *Re R and C*.

99. So in those circumstances I make final care orders with regard to [Tommy], [Annie] and [Charlie], and I make final placement order in relation to [Annie] and [Charlie]. And I make a section 26 contact order to regulate the contact between [Tommy], [Annie] and [Charlie]. I reserve any future applications for adoption to myself bearing in mind my involvement in the case and for the view that has been taken in relation to sibling contact. So that is the judgment.
