

Neutral Citation Number: [2025] EWFC 10 (B)

Case No: SE24C50121

**IN THE FAMILY COURT AT SHEFFIELD**

Sheffield Designated Family Court  
48 West Bar,  
SHEFFIELD  
S3 8PH

Date: 24<sup>th</sup> January 2025

**Before :**

**H.H. Judge Marson**

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**Between :**

**SHEFFIELD CITY COUNCIL**

**Applicant**

**- and -**

**(1) THE MOTHER**

**(2) THE FATHER**

**(3) THE CHILD**

**Respondents**

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**Ms Harriet Jones** (instructed by **Sheffield City Council**) for the Applicant  
**Ms Helen Davey** (instructed by **Howells Solicitors**) for the First Respondent Mother  
**Mr Andrew Lord** (instructed by **GWB Harthills**) for the Second Respondent Father  
**Mrs Donna Tilbrook** of **Best Solicitors** for the child

Hearing dates: 13<sup>th</sup> – 16<sup>th</sup> January 2025  
Judgment handed down on the 24<sup>th</sup> January 2025  
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**Approved Judgment**

This judgment was handed down remotely at 10.30am on the 24<sup>th</sup> January 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives

### **IMPORTANT NOTICE**

**This judgment was given in private. The court permits publication of this judgment on condition that (irrespective of what is contained in the judgment) in any published version of this judgment the anonymity of the child/ren and members of their family must be strictly preserved. All persons, including the parents, their legal representatives, legal bloggers and representatives of the media, must ensure that this condition is strictly complied with.**

**Failure to do so may be a contempt of court.**

#### **H.H. Judge Marson**

- 1) The original version of this judgment included the names of the child, parents, other family members and all professionals involved with the family, and specific dates were identified. This published version has been altered to preserve the privacy and anonymity of the family concerned.
- 2) The court is concerned with the welfare of a girl called Z who was born on [redacted] and is now 2 years old. Z has been represented at this hearing by Mrs Tilbrook, who in turn has taken her instructions from the children's guardian, Ms Lindsey Wright.
- 3) Z's mother is M who is represented by Ms Davey, and any references to the 'the mother' in this judgment refer to M.
- 4) Z's father is F and he is represented by Mr Lord. Similarly, any references in this judgment to 'the father' refer to F.
- 5) The local authority in this case is Sheffield City Council. It is represented by Ms Jones, and I may refer to it hereafter as 'the local authority'.
- 6) The substantive application before the court is brought by the local authority under section 31 of the Children Act 1989. It was issued on the 12<sup>th</sup> April 2024. At the IRH which was listed on the 18<sup>th</sup> November 2024 it was agreed by all parties that Z should reside with her maternal grandparents, [names redacted] under a child arrangements order supported by a 12 month supervision order. The local authority seeks a supervision order in order to support the family and to assess further any planned rehabilitation of Z to the care of her parents.

- 7) The parents accept the proposed final care plan but would like Z to return to their care in the next 12 months. Whilst neither parent opposes the making of a supervision order, neither parent accepts the facts pleaded to satisfy the section 31 statutory criteria which would enable the court to make one.
- 8) The children's guardian supports the placement of Z with her maternal grandparents and the making of a supervision order for 12 months.
- 9) Accordingly, this composite final hearing is essentially a finding of fact hearing to establish which facts are capable of being proved by the local authority to the requisite standard in order to satisfy the section 31 statutory criteria. The welfare element of the proceedings and the nature of any orders this court should make are all agreed, but it is important to Z and to the progress of any rehabilitation plan for Z to the care of her parents, to determine the disputed issues and any risk her parents may present to her welfare.
- 10) The local authority submits the findings, with some amendments to the schedule initially pleaded, have now all been proved, the parents deny all of them. The children's guardian supports the local authority and submits the amended schedule has been proved by the local authority in its entirety.
- 11) I have had the benefit of reading the written reports and statements filed by the parties together with the child's nursing notes and safeguarding contact sheets from Sheffield Children's Hospital (SCH). I have also listened to, and read the transcript of the Police interviews given by each of the parents to the South Yorkshire Police on the 5<sup>th</sup> September 2024.
- 12) I have heard oral evidence from 10 witnesses in the following chronological order:
  1. **Witness 1 (W1)** (a Ward Manager at (SCH));
  2. **Witness 2 (W2)** (a paediatric nurse at SCH);
  3. **Witness 3 (W3)** (a domestic assistant at SCH);
  4. **Witness 4 (W4)** (a Staff Nurse at SCH);
  5. **Witness 5 (W5)** (s Senior Staff Nurse at SCH)
  6. **Witness 6 (W6)** (a nurse at SCH);
  7. **Ms Laura Egan** (the allocated social worker);
  8. **The Mother;**

9. **The Father;**

10. **Ms Lindsey Wright** (the Children's Guardian).

- 13) It should be recorded that even where I do not refer to any particular piece of written statement, evidence or report during the course of my judgment it has nevertheless now been read and taken into consideration, and I have determined only those issues which required resolving to determine the purpose of this hearing justly.
- 14) It should also be noted that where reported speech is given in italics in this judgment it may be taken directly from the written evidence or from my contemporary notes of the oral evidence, and where it is from the latter it is materially and factually accurate but it is possible that some quotations may not be verbatim due to the speed at which the note was written during the oral evidence.
- 15) The hearing has been conducted as a hybrid hearing with the children's guardian participating remotely via the CVP to accommodate her availability except for when she gave her evidence in person. All other parties, witnesses and interpreters attended court in person. No party has raised any concerns regarding the format of the hearing during the hearing itself.

**The Law**

- 16) The relevant law which applies to hearings of this type is set out below.
- 17) In describing the background and in the narrative parts of this judgment, I may address matters upon which the parties do not agree. I may give my findings on these disputed matters as they arise and when doing so, I apply the following principles derived from the judgment of **Baker J** (as he then was) in the case of **A Local Authority v (1) A Mother (2) A Father (3) L & M (Children by their Children's Guardian) [2013] EWHC 1569 (Fam)**:-
- The burden of proving an allegation lies with the party who is making it, in this case that is the local authority;
  - The standard to which it must prove it is the usual civil standard namely the balance of probabilities.

- Findings must be based on evidence and on inferences which can be properly drawn from the evidence but cannot be based on mere suspicion or speculation.
- Evidence cannot be evaluated and assessed in separate compartments. A Judge in these cases must have regard to the relevance of each piece of evidence to other evidence and exercise an overview of the totality of the evidence in order to come to a conclusion whether the case put forward by the local authority has been made out to the appropriate standard of proof.
- Whilst appropriate attention must be paid to the opinion of medical experts, those opinions need to be considered in the context of all the other evidence. It is important to remember that the roles of the court and the expert are distinct and it is the court that is in the position to weigh up the expert evidence against its findings on the other evidence. It is the judge who makes the final decision.
- In assessing the expert evidence..... the court must be careful to ensure that each expert keeps within the bounds of their own expertise and defers, where appropriate, to the expertise of others.
- 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.
- 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**)

### **Lies and Credibility**

18) As the President, McFarlane LJ observed in **Re H-C (Children) [2016] EWCA Civ 136** at paragraph 97:

97. *A family court, in common with a criminal court, can rely upon a finding that a witness has lied as evidence in support of a primary positive allegation. The well-known authority is the case of **R v Lucas (R) [1981] QB 720** in which the Court of Appeal Criminal Division, after stressing that people sometimes tell lies for reasons other than a belief that the lie is necessary to conceal guilt, held that four conditions must be satisfied before a defendant's lie*

could be seen as supporting the prosecution case as explained in the judgment of the court given by Lord Lane CJ:

*“To be capable of amounting to corroboration the lie told out of court must first of all be deliberate. Secondly it must relate to a material issue. Thirdly the motive for the lie must be a realisation of guilt and a fear of the truth. The jury should in appropriate cases be reminded that people sometimes lie, for example, in an attempt to bolster up a just cause, or out of shame or out of a wish to conceal disgraceful behaviour from their family. Fourthly the statement must be clearly shown to be a lie by evidence other than that of the accomplice who is to be corroborated, that is to say by admission or by evidence from an independent witness.”*

98. *The decision in R v Lucas has been the subject of a number of further decisions of the Court of Appeal Criminal Division over the years, however the core conditions set out by Lord Lane remain authoritative. The approach in R v Lucas is not confined, as it was on the facts of Lucas itself, to a statement made out of court and can apply to a “lie” made in the course of the court proceedings and the approach is not limited solely to evidence concerning accomplices.*
99. *In the Family Court in an appropriate case a judge will not infrequently directly refer to the authority of R v Lucas in giving a judicial self-direction as to the approach to be taken to an apparent lie. Where the “lie” has a prominent or central relevance to the case such a self-direction is plainly sensible and good practice.*
100. *One highly important aspect of the Lucas decision, and indeed the approach to lies generally in the criminal jurisdiction, needs to be borne fully in mind by family judges. It is this: in the criminal jurisdiction the “lie” is never taken, of itself, as direct proof of guilt. As is plain from the passage quoted from Lord Lane’s judgment in Lucas, where the relevant conditions are satisfied the lie is “capable of amounting to a corroboration”. In recent times the point has been most clearly made in the Court of Appeal Criminal Division in the case of **R v Middleton [2001] Crim.L.R. 251**. In my view there should be no distinction between the approach taken by the criminal court on the issue of lies to that adopted in the family court. Judges should therefore take care to ensure that they do not rely upon a conclusion that an individual has lied on a material issue as direct proof of guilt.*

- 19) In **Lancashire County Council v The Children and Others [2014] EWHC 3 (Fam)** at paragraph 9 of his judgment and having directed himself on the relevant law, Jackson J (as he then was) said:-

*‘...where repeated accounts are given the court must think carefully about the significance or otherwise of any reported discrepancies. They may arise for a number of reasons. One possibility is of course that they are lies designed to hide culpability. Another is that they are lies told for other reasons. Further possibilities include faulty recollection or confusion at the time of stress or where the importance of accuracy is not fully appreciated, or there may be inaccuracy or mistake in the record-keeping or recollection of the person hearing and relaying the account. The possible effect of delay and repeated questioning upon memory should also be considered, as should the effect of one person on hearing accounts given by another. As memory fades, a desire to iron out wrinkles may not be unnatural; a process that might inelegantly be described as “story-creep” may occur without any necessary inferences of bad faith.*

20) Further guidance was given by **Peter Jackson LJ** in the case of **Re H (Children: Uncertain Perpetrator: Lies)[2024] EWCA Civ 1261** after consideration of the judgment of Macur LJ in **Re A, B and C (Children)[2021] EWCA Civ 451**.

Para 21: *“The court’s view of a witness’s overall credibility and reliability will naturally contribute to its evaluation of whether it can accept their evidence on the critical issues. If it concludes that lies have been told, it will consider what weight, if any, should be given to that aspect of the matter, after due consideration of any explanations have been offered. That is part of the normal process of sifting and weighing the evidence, and explaining the result. The family courts encounter many forms of bad behaviour and they are used to assessing their true significance for the issue in hand. There is no special rule of evidence for lies.”*

Para 22; *“I would therefore make one observation about the description of good practice in Re A, B and C. At [58(iii)] it is said that the court should seek to identify the basis on which it can be determined that the only explanation for the lie(s) is guilt. That draws on the slightly different jury direction in the Crown Court Compendium... which requires that a lie is only capable of supporting other evidence against a defendant if the jury are sure that it was not told for a reason advanced by or on behalf of the defendant, or for some other reason arising from the evidence, which does not point to the defendant’s guilt.”*  
Para 22

Para 23: *“Relying on a literal reading of Re A, B and C, Mr Barnes further argues that the court is required to exclude a lie from consideration altogether in any case where it cannot be satisfied (to whatever standard) that the only explanation for it is to conceal guilt. I do not accept that submission. There will be some cases where the ultimate finding is so critically dependent on the assessment of the particular lie – that the court may out of caution wish to direct itself in accordance with Re A, B and C. .... It will be sufficient for the judge to recall that the true significance of a lie must be carefully assessed, for all the well-known reasons noted by the judge in the present case. A general exclusionary rule, exclusively directed at lies, would be inconsistent with the duty on the court to consider all the evidence. Once it has done that, its conclusion in an individual case may be that the lie was told to conceal guilt, but that is a*

*conclusion, not a test...Any other approach would hamper the court in carrying out its important assessment of credibility and its evaluation of particular issues of fact.*

- 21) The dicta of Peter Jackson J (as he then was) in **Re BR (Proof of Facts) [2015] EWFC 41**. In particular paragraphs 4-7:

*The court acts on evidence, not speculation or assumption. It acts on facts, not worries or concerns.*

*Evidence comes in many forms. It can be live, written, direct, hearsay, electronic, photographic, circumstantial, factual, or by way of expert opinion. It can concern major topics and small details, things that are important and things that are trivial.*

*The burden of proving a fact rests on the person who asserts it.*

*The standard of proof is the balance of probabilities: Is it more likely than not that the event occurred? Neither the seriousness of the allegation, nor the seriousness of the consequences, nor the inherent probabilities alters this.*

*Where an allegation is a serious one, there is no requirement that the evidence must be of a special quality. The court will consider grave allegations with proper care, but evidence is evidence and the approach to analysing it remains the same in every case. In my view, statements of principle (some relied on in this case) that suggest that an enhanced level of evidential cogency or clarity is required in order to prove a very serious allegation do not assist and may lead a fact-finder into error. Despite all disclaimers, reference to qualitative concepts such as cogency and clarity may wrongly be taken to imply that some elevated standard of proof is called for.*

*Nor does the seriousness of the consequences of a finding of fact affect the standard to which it must be proved. Whether a man was in a London street at a particular time might be of no great consequence if the issue is whether he was rightly issued with a parking ticket, but it might be of huge consequence if he has been charged with a murder that occurred that day in Paris. The evidential standard to which his presence in the street must be proved is nonetheless the same.*

*The court takes account of any inherent probability or improbability of an event having occurred as part of a natural process of reasoning. But the fact that an event is a very*

*common one does not lower the standard of probability to which it must be proved. Nor does the fact that an event is very uncommon raise the standard of proof that must be satisfied before it can be said to have occurred.*

*Similarly, the frequency or infrequency with which an event generally occurs cannot divert attention from the question of whether it actually occurred ...*

- 22) The court must guard against the danger of reversing the burden of proof. The burden remains at all times upon the local authority to prove the facts alleged to the requisite standard, and it is not for a parent to disprove facts or present an alternative explanation for events. The risk of inadvertently reversing the burden of proof by according improper weight to a parent's inability to provide an explanation for these serious allegations is particularly acute. ***Re M (Fact-finding: Burden of Proof) [2013] 2 FLR 874 at 881:***

*'The burden of proof lies on the local authority to prove the case against the parents. The standard of proof is the balance of probabilities, and that means the same in this kind of case as in every other, a simple balance of probability. Suspicion is not proof, and the burden must always remain on the local authority and should not be reversed...'*

and

*'That, too, was the effect of the judge's view of the case: that absent a parental explanation, there was no satisfactory benign explanation, ergo there must be a malevolent explanation. And it is that leap which troubles me. It does not seem to me that the conclusion necessarily follows unless, wrongly, the burden of proof has been reversed, and the parents were required to satisfy the court that this is not a non-accidental injury.'*

- 23) In respect of similar fact evidence, I have applied the principles identified in **R v P (Children: Similar Fact Evidence)[2020] EWCA Civ 1088** and the analysis from the criminal case of **R v Mitchell (2016) UKSC 55**. The principles from that criminal case apply to family cases and establish that a court has to be satisfied that a propensity for certain conduct has been proved to the civil standard. It was stated "*Where similar fact evidence comprises an alleged pattern of behaviour, the assertion is that a core allegation is more likely to be true*

*because of the character of the person accused as shown by the conduct on other occasions*". There must be evidence of striking similarity.

24) The question whether harm is attributable to unreasonable care was considered by Ryder LJ in **re S (A Child)[2014] EWCA Civ 25** where he identified the use of the term 'non-accidental as a catch-all for everything that is not accidental and drew the true distinction necessary for section 31(2) as between:

*“ an accident which is unexpected and unintentional and an injury which involves an element of wrong. That element of wrong may involve a lack of care and/ or an intent of a greater or lesser degree that may amount to negligence, recklessness or deliberate infliction”.*

25) As Ryder LJ pointed out, whilst it may be useful to distinguish deliberate infliction from say negligence, it is unnecessary in any consideration of whether the threshold criteria are satisfied because what the statute requires is something different namely, findings of fact that at least satisfy the significant harm, attributability and objective standard of care elements of section 31(2).

26) In respect of the welfare considerations, I have directed myself in accordance with section 1 of the Children Act 1989 and had regard to the welfare checklist in section 1(3). I have reminded myself of the principle contained in section 1(2) in respect of delay, and of the need for it to be better for the child to make an order than no order as set out in section 1(5). I have also had regard to the interference with family life which must be proportionate to the risks which exist, and the necessity for compliance with the ECHR.

### **The Background and Allegations**

27) The following facts are set out to understand the context of this judgment and are agreed or unopposed unless stated otherwise.

28) Z is the first child of her parents who are married. There is one full sibling who has been born during the course of these proceedings called [redacted], born in October 2024. He is not the subject of these or any proceedings.

- 29) The mother told the local authority she moved with her family from Afghanistan to live in the UK in 2007. Her date of birth is [redacted] so she would have been around 13 years old at the time and she is now 30. She returned to Afghanistan in 2019 for a while.
- 30) The parents are first cousins, the maternal grandmother and paternal grandfather are siblings. The parents met as children and after a period when there was no contact between them until they were adults, they were re-introduced in a video call and were subsequently married. In their parenting assessment they struggled to recall the exact dates of their engagement and marriage but agreed it was a marriage of love and not simply arranged by the family which surrounds them.
- 31) The mother returned to the UK following her marriage but the father was unable to accompany her due to problems with obtaining a visa. Instead, the mother visited the father in Afghanistan in 2020 and 2021 and it was during one of her visits that Z was conceived. Z was born in the UK.
- 32) The father was eventually able to come to the UK and he met his daughter for the first time in October 2023. It follows he was not responsible for any care provided to Z prior to that date.
- 33) In May 2023, whilst the father was still in Afghanistan, Z was admitted to Sheffield Children's Hospital (SCH) because she was unwell. Following diagnostic tests she was diagnosed with acute lymphoblastic leukaemia. In June 2023 her condition deteriorated and sadly, she suffered a cardiac arrest and required 12 minutes of CPR. As a result of her cardiac arrest she sustained a hypoxic brain injury and a subsequent diagnosis of cerebral palsy. Z now requires a feeding tube known as a PEG (Percutaneous Endoscopic Gastrostomy), she is visually impaired and cannot move unassisted. It is likely she will have long term mobility and other developmental difficulties.
- 34) While Z was in hospital between May and October 2023, she was cared for by her mother, who relied upon and was supported by her younger sister [name redacted]. Z remained in hospital until June 2024.
- 35) From around August 2023, medical staff employed by SCH became increasingly concerned about the care the mother, and subsequently the father, were providing to Z.

- 36) Between August and December 2023, the local authority asserts the hospital noted that on at least 11 occasions, the mother paused the child's feeds, meaning that Z's fluids were not at the required level and thereby placing her at risk of harm from inadequate nutrition and hydration. The mother denies these allegations. Following the completion of the oral evidence the local authority conceded the father was not involved in the feeding regime because at the relevant time he had not been given the necessary training. He accepts the mother did turn the feed off on occasions but he agrees with her evidence that this was only after she followed medical advice to do so.
- 37) The hospital staff also noted that the child was left alone on the ward by the parents on multiple occasions when she requires 24 hour care. The parents accept Z requires 24 hour care and that there were occasions when they both left the ward but they assert they only did so after informing hospital staff of their departure and deny it was on multiple occasions.
- 38) Due to Z's cerebral palsy, a 24-hour postural management programme was put in place by the hospital to assist her physical development with seating, standing, personal care, positioning, play and future interaction. The local authority asserts the parents received training and were able to demonstrate they knew how to use the equipment but they were observed not to follow this advice consistently. The parents deny this. The father also asserts he was not given any training in a language he could understand and if this allegation did happen it was not his fault.
- 39) On the 1<sup>st</sup> December 2023, Z was found by hospital staff to be lying in her own vomit and left by the father for 30 minutes without being changed. On the 25<sup>th</sup> January 2024, she was found in a similar state for up to four hours. The parents deny this.
- 40) On the 5<sup>th</sup>, 22<sup>nd</sup>, 24<sup>th</sup> and 26<sup>th</sup> February 2024, Z was seen by hospital staff with a dummy taped to her mouth, notwithstanding that advice had been given to the parents on the first occasion it happened about how dangerous this was due to the risk of Z choking by the aspiration of vomit with potentially fatal consequences.
- 41) On the 26<sup>th</sup> February 2024, ward manager, W1 spoke to the parents about the incident on that date where the local authority asserts the parents had done this, and before W1 entered the room she observed the father, through a window, forcibly holding a dummy in Z's

mouth with his thumbs. Z looked visibly distressed and was trying to spit the dummy out. The parents deny this happened. The parents accept a dummy was taped to the child's mouth on one occasion on the 5<sup>th</sup> February 2024 but they assert they were advised by a nurse to do this who also provided them with the tape. They deny doing it on any further occasion or behaving as alleged by W1 on the 26<sup>th</sup> February.

- 42) Hospital staff also reported their observations of poor stimulation and poor attachment between them and Z, with the parents being overly reliant on use of a dummy rather than attempting to bond with their daughter and providing emotional support to her.
- 43) In December 2023 concerns were raised by social care about the parents not following advice about their housing situation. At that point in the chronology the parents were living in the property of a family member and this property was not suitable for Z's discharge from hospital as it did not have wheelchair access. Rather than working collaboratively with social care to find a solution, the parents made themselves intentionally homeless on the 10<sup>th</sup> January 2024 and were residing in emergency accommodation. At this final hearing they still do not have suitable accommodation in which to care for their daughter's disabilities.
- 44) On the 11<sup>th</sup> March 2024, both parents were arrested on suspicion of child cruelty arising from the observations of medical professionals outlined above. Bail conditions were put in place until April 2024 and these have subsequently been extended and remain in place until May 2025. They preclude unsupervised contact between Z and her parents. Following their arrest, the parents' contact with Z in hospital was reduced to 2 hours per day and supervised by a support worker. In March 2024, the father was observed telling Z to '*shut up baby, shut up*' whilst being preoccupied by his FaceTime conversation rather than comforting his daughter who was crying. This is not pleaded against the father and was not put to him in evidence and I have not considered it further for that reason.
- 45) As a result of the accumulating concerns, an initial child protection case conference was convened in March 2024 and Z was made the subject of a child protection plan under the category of neglect.
- 46) In April 2024, Z was ready for discharge from hospital but could not be discharged to the care of her parents, not least due to the bail conditions which are in place. This led to the issuing of this application on the 12<sup>th</sup> April 2024 and Z was made the subject of an interim

care order without any opposition from her parents on the 3<sup>rd</sup> May 2024. On the 18<sup>th</sup> June 2024 she was discharged from SCH and placed in the care of the maternal grandparents where she remains. It is agreed by all parties Z is thriving in their care and this is where she should continue to be cared for at the conclusion of these proceedings.

### **The Evidence of the Local Authority**

- 47) **Witness 1** confirmed the veracity of her written statements and gave evidence consistent with them. Her evidence supports that given by W2 relating to the 26<sup>th</sup> February 2024 where W2 witnessed Z to have a dummy taped to her face. When W1 went to speak to the parents about the incident on the 26<sup>th</sup> February she told the court she first observed them through a window in their room which she described in her oral evidence as being about 30cm x 30cm in size. She confirmed she saw the father sitting at Z's head with his hands on either side of her face holding the dummy in Z's mouth and using his thumbs to anchor the dummy in place. Z was crying and visibly distressed. In her oral evidence W1 described it as being a similar to a grip used by nursing staff when they firmly hold an oxygen mask over a child's face whilst conducting CPR.
- 48) W1 told the court that when she entered the room, the father immediately removed his hands from Z's face and removed the dummy "*because he knew it wasn't the right thing to be doing and it alarmed me*". W1 told the parents it was extremely dangerous for Z to have the dummy taped in place due to the risk of choking and possible death if she were to choke. The mother stated she was unaware of these risks. W1 challenged the mother about that assertion because it was documented in the child's safeguarding contact sheets (SCS) on the 22<sup>nd</sup> and 24<sup>th</sup> February 2024 that nursing staff had found Z with a dummy taped to her face on both dates, and each time they had given the parents the same advice about the dangers associated with it. The mother gave no response to W1's challenge. W1 informed the parents she would have to notify social care about her concerns and did so. W1 firmly rejected the suggestion this incident had happened on the 5<sup>th</sup> February 2024 and maintained her account the incident happened on the 26<sup>th</sup> February.
- 49) W1 confirmed Z was fed through a feeding tube and she was a child who would vomit frequently, and if this happened during a feed then it would be the usual procedure to pause the feed and inform nursing staff. She agreed, this is the advice which would have

been given to the parents but her concern was not simply the pausing of the feed in itself by the parents but the amount of time the feed was paused for and *“there were longer periods when the feed was paused which nursing staff were not aware of”* which indicated that medical advice was not being consistently followed for Z. When asked, W1 denied the mother only paused the feed upon advice from medical professionals.

- 50) W1 accepted there were occasions when medical professionals had to repeat advice to the mother to ensure it was understood and gave the example of the mother using the standing posture frame, but if the advice was repeated, the mother could understand it. W1 could not recollect any occasion when staff on her ward had alerted her to the mother not understanding their advice but she expected those concerns would have been notified to the nurse in charge of the shift in the first instance.
- 51) W1 told the court they did not have an interpreter on the ward for the parents to use face to face but they did have the services of one to use over the telephone. The mother had declined to use an interpreter over the telephone.
- 52) W1 identified two occasions where Z was left lying in her own vomit for a period beyond that which was acceptable namely, on the 1<sup>st</sup> December 2023 and the other on the 25<sup>th</sup> January 2024. In the first incident, the mother reported Z having been sick at 12 noon and nursing staff offered to help the parents to change the bed but the mother declined their offer of assistance. 30 minutes later, the occupational therapist noticed the father was in the room with Z and Z was still lying in her own vomit which he hadn't cleared up. On the 25<sup>th</sup> January 2024 at 3pm the mother reported Z to have vomited and that Z had not been changed, but Z was seen by nursing staff still to be wearing the wet and vomit covered top four hours later at 7pm, the parents deny this and assert Z had been left in the same top on nursing advice because she was asleep.
- 53) **Witness 2** confirmed the veracity of her written statements and the information recorded in the SCS dated 26 February 2024 and gave evidence consistent with them. W2 is a paediatric nurse and on the 26<sup>th</sup> February 2024 she was approached by a domestic assistant on the ward, Witness 3. W3 was asking her for advice because she had seen Z with a dummy taped to her face. W2 went to investigate and found Z with a dummy taped to her mouth, no one was in the room with Z to supervise her. In her oral evidence W2 described the dummy being *“very tightly stuck to her face, my concern was that she couldn't suck the*

*dummy to move it and it was a choking hazard if she had vomited.... It was that tight she (Z) couldn't even move it".*

- 54) W2 removed the dummy and notified the nurse in charge, Witness 5 about what she had seen and done. W2 was asked to complete a safeguarding contact sheet for the child which she did the same day, and whilst doing so noticed there had been two earlier incidents documented by nursing staff where a dummy had been taped to Z's face and the parents warned of the dangers of Z choking if they did this.
- 55) When asked in cross examination on behalf of the mother if the date this incident occurred was incorrect and should have been recorded as the 5<sup>th</sup> February 2024, W2 was very clear it had happened on the 26 February and said: *"No. It is definitely that date, 26 February. I witnessed the incident and spoke to the nurse in charge and wrote the safeguarding contact sheet there and then"*.
- 56) **Witness 3** confirmed the veracity of her written statement she gave to the Police on the 10<sup>th</sup> April 2024 and gave evidence consistent with it. The redacted statement the court has from the Police does not identify the date of the incident W3 is referring to but she is clear there was only one occasion when she saw Z with a dummy taped to her face and that was the incident she reported to W2. There is no evidence to contradict this and I infer from it that the date she is referring to is the 26 February 2024 which is the date given to the court by W2. With respect to the remainder of her oral evidence, W3 supported the evidence given by W2 relating to the 26<sup>th</sup> February 2024. W3 was very clear she saw Z with a dummy taped to her face on that occasion.
- 57) **Witness 4** confirmed the veracity of her written statements and gave evidence consistent with them save and except the date in her statement she gave to the Police on the 18 April 2024 has a typing error in it and the incident date should read the 24 February not the 22 February 2024. She also confirmed the truth of the contents of the SCS she prepared dated 24 February 2024.
- 58) W4 is a staff nurse and told the court she saw Z with a dummy taped to her cheeks on the 24<sup>th</sup> February 2024. In her written evidence it is described as *'one piece of thin white medical tape approximately 4cm long was stuck to each side of the dummy to stick it down to the cheek'*. W4 states she asked the mother why she had done this and the mother's reply was *"because Z*

*was very upset and wanted her dummy but kept spitting it out*". W4 states she told the mother this was not safe for Z and briefly left the room to obtain some adhesive remover and removed the tape from Z's mouth herself. In her oral evidence, W4 was quite clear this is what the mother said to her and there was no doubt in her mind that the mother had understood the advice she was giving to her about not to tape the dummy in place. W4 could not recall the father being present at the time.

- 59) When asked in cross examination on behalf of the mother if she may have been confused about the date and it had happened on the 5<sup>th</sup> February 2024 instead, W4 rejected this suggestion and said she had written the SCS on the same date the incident had happened and had given the advice about not doing it again.
- 60) **Witness 5** is a senior staff nurse, he confirmed the veracity of his written statement and gave evidence consistent with it. W5 was the staff nurse in charge on the 26<sup>th</sup> February 2024 when he was approached by W2 and she informed him she had checked on Z and found her alone with a dummy taped to her face. The dummy was immediately removed by W2 and not directly witnessed in place by W5.
- 61) When the parents returned to the ward, W5 spoke to them. He told the mother *"another nurse has just been in to check on Z and found her dummy was taped to her mouth"*. The mother's response to this was *"yes, with a blank expression on her face"*. W5 explained the risks of doing this namely, that it was a choking hazard with the risk of aspirating on vomit, and the mother's response was *"oh right"* again with a blank expression on her face. The father was also present in the room at the time of this conversation but remained silent.
- 62) In his oral evidence W5 was very sure of the date and confirmed he could remember *"very vividly what happened on the 26 February"*. He robustly denied this happened on the 5<sup>th</sup> February 2024 as the parents suggested. The reason he had such a clear recollection of the date is because he was not the nurse in charge on the 5 February 2024 and said *"I wasn't even at work on that date"*. W5 stated, after speaking to the parents he expressed his concern to W1 who informed him she would also speak to the parents to enable him to carry on with his ward duties. After W1 had spoken with the parents, W5 had another conversation with her, he told the court *"after [W1] spoke to the parents she spoke to me and told me she saw dad holding the dummy in Z's mouth with both of his thumbs. She said she was going to follow up with social care so I could manage the responsibility of the ward as the nurse in charge"*. I pause to note that the

information W5 remembers being told by W1 about the father's behaviour is entirely consistent with what W1 told the court and corroborates her account.

63) W5 could not be certain the father understood what he said to the parents on the 26<sup>th</sup> February but he was satisfied the mother understood him and he relied on the mother to convey the information to the father.

64) **Witness 6** confirmed the veracity of her written statement and the SCS she had created and gave evidence consistent with those documents. W6 is a staff nurse who was looking after Z on the 26<sup>th</sup> February 2024 and also witnessed Z with a dummy taped to her face on that date. In her written evidence W6 states she asked the mother whether she was aware she is not allowed to tape a dummy onto Z's face. The mother confirmed to her that another incident had also happened a few days ago and the nurse on that occasion had informed her it was not safe for her to do this. In her oral evidence W6 firmly denied ever advising the parents that it was acceptable to tape the dummy to Z's face because she was aware of the high risk of aspiration of vomit caused by the obstruction of Z's mouth. W6 also denied providing any tape to the parents to enable them to do it.

65) W6 denied the incident occurred on the 5<sup>th</sup> February as suggested by the parents and denied giving the parents any apology for any wrong medical advice, she said: *"I haven't given them any tape and I haven't told them to tape the dummy to her face so why would I apologise for the advice?"*

66) **Ms Laura Egan** is the child's allocated social worker and she has submitted a number of statements, assessments and the amended support plan for the proposed supervision order. It remains the local authority's intention to support the maternal grandparents to care for Z throughout the duration of the supervision order whilst further assessing the parents' ability to meet Z's needs outside of the timeframe of these proceedings. The assessment of the parents' ability to care for Z has been limited by their bail conditions and by their inadequate accommodation. Ms Egan has no concerns about the ability of the maternal grandparents and extended family to meet Z's holistic needs and described Z as 'flourishing' in their care. I accept that opinion as it was not challenged by any party. The grandparents have ensured appropriate medical attention has been sought for Z when needed during these proceedings, they have ensured Z attends all of her health appointments, and the parents have been included by them in those health appointments and kept informed.

### **Ms Lindsey Wright**

- 67) The children's guardian agreed with the evidence of the social worker about the high level of care being provided by the grandparents to Z. Ms Wright had spoken to them last week and seen Z in a videocall at the same time. Z *“was alert and awake, she has grown a lot since I last saw her in September, and she looked happy and settled. She has a lovely bond with her grandmother. Z likes to be held and touched, it was a lovely observation, she also has a lovely bond with her (maternal) aunt who was also there. I was very pleased by what I saw, Z is receiving excellent care by them”*. Ms Wright explained the grandparents, aunt and maternal uncle are working extremely well as a team to care for Z but there is still a need for respite care for the grandmother who is Z's primary carer. Z continues to receive chemotherapy and is frequently sick, and Ms Wright expressed her concern that the current supervision plan does not sufficiently address the support the grandparents may require in the longer term. She would like to see the inclusion of a financial package, respite care, how the grandmother is to be given a break, and further training in using the PEG tube by the maternal uncle to enable him to help out more.
- 68) Ms Wright was unable to give any timescale for the progression of time Z spends with her parents or the likely progress of any rehabilitation plan to their care. Ms Wright has spoken to the grandparents about the possibility of Z remaining in their care for the long term throughout her childhood and they are committed to their granddaughter and willing to do this if required. They are aware a rehabilitation plan may not happen.
- 69) Ms Wright explained that if the court makes findings against the parents, those findings will need to be discussed with the parents to see if there is any shift in their insight and understanding, and there will need to be further assessment of their ability to work openly, honestly and collaboratively with professionals. This would also need to be balanced against the welfare interests of Z at the point at which any suggested rehabilitation plan is proposed and whether it meets her welfare to be moved from the care of her grandparents at that stage.
- 70) Ms Wright had recently attempted to make contact with the parents by text message but there had been no response from them.

### **The Mother's Case**

- 71) I have borne in mind there is no responsibility upon either parent to provide any explanation or to the disprove the facts alleged by the local authority. With that important proposition in mind, the mother's evidence, following translation, included the following.
- 72) The mother explained that English is not her native language and whilst she is able to understand it there are some words she finds difficult to use and comprehend. To ensure she understood and gave evidence correctly, the mother has been provided with a court appointed interpreter.
- 73) The mother confirmed in evidence she was provided with an interpreter on the ward but said his 'Pashto' wasn't that good. The mother stated she always had an interpreter at the start and when asked 'Following that point, when you were given advice about the PEG feeding, was that given in English or not?' Her reply is: *"At the start the nurse told me they will be passing a pipe in her tummy and I didn't know how that would take place and after that they would arrange an interpreter"*. The mother stated she had been given advice on multiple occasions by different professionals but they didn't always provide her with an interpreter and she found it difficult to understand '100%'. The mother was asked about which parts of the advice did you not understand, and her reply is: *"I understood the advice that was given to me about the feeding and not taping the dummy"* but she denied having been given advice '3, 4 or 5 times' not to tape the dummy in place and maintained her account it had only happened on one occasion and this had been on the advice of Witness 6 who provided the tape for this purpose. She denied doing this on any other occasion.
- 74) In respect of Z's feeding regime, the mother accepted she had received and understood the training for carrying out Z's feeds and stated she always spoke to the nurses if she encountered any problems and strictly followed their advice. The mother agreed the nursing note entries for the occasions she had stopped or paused the feeds were likely to be correct but maintained she had done this following the advice of nursing staff and it hadn't been her decision. Her evidence is: *"I stopped (the feeds) after being advised by staff, I have never taken any decision by myself"*.
- 75) The mother was cross examined about an entry in the nursing notes dated 27 November 2023 where she had left the ward and needed to be summoned by staff to return to start the feed. The mother denied this to be the case and said: *"I have never delayed the feeding, if it was delayed it was because of the nursing staff. This entry is obviously incorrect because I stayed with my*

*daughter 24 hours and whenever I went to (the hospital's on-site accommodation) I would go after informing them and asking permission. I never went making my own decision".*

- 76) When asked about other occasions in the nursing notes when it is recorded the mother had left the ward for 2-3 hours and returned to [the on-site accommodation], thereby delaying Z's feeding regime, the mother continued to deny this had happened.
- 77) The mother was asked about the observations of the dietician on the 29<sup>th</sup> January 2024 who witnessed the father looking at his phone on a bed whilst Z was left crying and distressed on the bed with her dummy having fallen out. The mother denied the father would have behaved in this way and told the court, "*I have never seen him with a mobile phone and we have never left Z alone on the bed*".
- 78) The mother denied ever leaving Z on her own on the ward at any time without nursing permission, and denied the occasion where it is recorded they did so because the father was 'bored'. Her initial oral evidence is that she only left the ward once with the permission of nursing staff, and this occasion was to facilitate the father's registration with a G.P. Later in her evidence she admitted to leaving the ward twice, once as above and a second occasion with the father to address their housing situation. I pause to note the father, in his oral evidence, admitted to three occasions when they left the ward together whilst Z remained in the hospital and in his Police interview he conceded there were four occasions.
- 79) The mother maintains her denial that Z was left lying in wet and vomit soaked clothing and bedding or that she ever had to be prompted to change her. She maintained her account that Witness 6 had told them to tape the dummy to Z's face on the 5<sup>th</sup> February 2024 and provided the parents with the tape to do this. The mother denied witnessing the father firmly holding the dummy in Z's mouth with both thumbs on the 26<sup>th</sup> February and maintained that incident never happened.

### **The Father's Case**

- 80) Similarly, I have borne in mind there is no responsibility upon the father to provide any explanation or to the disprove the facts alleged by the local authority. With that important proposition in mind, his evidence, following translation, included the following.
- 81) The father's case mirrored that of the mother's and he confirmed there was nothing in the mother's evidence to the court which he disagreed with.
- 82) The father explained he relied on the mother to explain things to him because she spoke better English than he did. He denied he was given any training by the hospital and stated "*Since I came to the UK I have no idea about the medicine or anything else, I wasn't given any information in that regard*". He stated it was his wife, the mother, who had been given all of the training and knew how to do everything. He agreed the mother could have given him some training and he was able to copy her in caring for Z but stated the hospital should have trained him and provided an interpreter. I pause to note this evidence is in conflict with the evidence provided by SCH.
- 83) Notwithstanding his evidence that he had been unable to communicate with nursing staff without an interpreter, the father maintained that he knew he and the mother had been given permission by nursing staff to pause the feeding regime because the mother would inform him about what was being said and what was happening: "*My wife would tell me things in Pashto...they (his wife and the nurse/s) would speak to each other and then she would do that*". The father denied he or the mother ever did anything without permission from nursing staff.
- 84) The father admitted he had left Z alone in the hospital on three occasions but only with prior permission from nursing staff. The occasions he accepts were; to register with the GP; to resolve his housing situation; and a third occasion when the parents were given the keys to their existing accommodation and they moved their belongings into it.
- 85) The father admitted to having a mobile phone and accepting a call on it from hospital staff on the 30 November 2023. He denied the mother had said in her evidence that he did not own a mobile phone.
- 86) The father was asked about the events of the 26<sup>th</sup> February and his behaviour on that date. He denied the date and stated it was the 5<sup>th</sup> February, but he told the court "*I do not know*

*the date because when I came to this country I did not know the dates were important*". He denied behaving as witness 1 had alleged and said: *"If she had seen me she would tell me that it is wrong. I did not do this"* and he suggested W1 should have got him an interpreter. Neither parent had any explanation for why W1 should make any false allegations against them.

### **Analysis of the Credibility and Reliability of the Parents and Other Witnesses**

- 87) There is a stark contrast between the evidence given to the court by the hospital staff and that given by the parents. It is not possible for both versions to be correct and the court must decide who is more likely to be telling the truth.
- 88) Having considered the totality of the evidence available to the court, I am persuaded there has been no evidence adduced from which this court could conclude any of the medical professionals from SCH are not telling the truth. I do know, and have considered, that even an honest and truthful witness may make a mistake and whether this may provide an explanation for any of the disputed facts in this case. However, I have been persuaded it does not, and the evidence of witnesses 1, 2, 3, 4, 5, and 6 is entirely truthful and reliable. I find it to be reliable because it is all contemporaneously recorded in Z's nursing notes and in the SCS each nurse completed on each incident date. I cannot identify any evidence for why different nursing staff would have completed a SCS if no incident had occurred or why they would falsify any date when they made the notes at the time the incident occurred.
- 89) When I turn to consider the credibility and reliability of the local authority's witnesses as a whole, I am also persuaded by the striking similarities in the evidence of its accuracy and veracity for the following reasons.
- 90) Firstly, there are striking similarities in their evidence when they each speak of the parents taping Z's dummy to her face or cheeks on different dates; when W1 speaks of the father using his thumbs to anchor Z's dummy in her mouth which is a similar mechanism to the tape used to fix the dummy in place; and the parents' understanding of medical advice but failing to follow it consistently. I cannot identify any reason why so many different people on different dates would give a similar account about the parenting Z received unless it were the truth.

- 91) Secondly, I also find their evidence entirely credible because each witness corroborates the account of the others and there is no evidence at all that any of them have colluded or conspired together to present the court with a false narrative. To be fair to the parents, they have not actively suggested this to have been the case other than submitting the medical records and SCS are wrong, but it is quite simply implausible that so many witnesses could give such consistent evidence unless it is the truth and the parents are being dishonest about it.
- 92) In contrast, the parents have not always given a consistent account. The mother admitted to leaving Z on the ward on only two occasions whereas the father admitted they left on three occasions and in his Police interview admitted to four. The mother asserted the father did not own a mobile phone whereas the father admitted he did have one. I am persuaded their evidence is less reliable than the very clear recollection and contemporaneously recorded evidence from SCH.
- 93) In conclusion, where any conflict in the evidence arises between that given or recorded by members of the hospital staff in this case and the evidence of the parents, I prefer the evidence of the hospital employees and the contemporaneous hospital records to be more reliable.

### **The Court's Findings**

- 94) The local authority initially pleaded the threshold against both parents equally but they are entitled to be considered separately in each finding sought.
- 95) Paragraph (1) is accepted by the parents but it is not, in my judgment, a finding to satisfy the statutory threshold. It is factually accurate that Z suffered a hypoxic brain injury and has a diagnosis of cerebral palsy which causes her to require a level of care which is greater than a different child of the same age, but the parents are not responsible for Z's health situation arising and its relevance is limited to Z's future care needs. The local authority concedes this, and it has been removed from the schedule I have approved below.
- 96) I find paragraph (2) to be satisfied and I approve it but not all of the sub-paragraphs in their entirety against both parents.

- 97) In submissions, the local authority seeks the Finding in paragraph 2(a) against the mother only. It is right to do so because the father was not in the country between August - October 2023 and the local authority has failed to persuade me he received the appropriate training in respect of Z's feeding regime when he did meet Z after October 2023. It is correct he cannot be held responsible for any failure to follow a feeding regime he was not trained in.
- 98) In contrast, the mother was trained to be responsible for the child's feeding regime and failed to follow the medical advice consistently by pausing the child's feeds for longer than advised, by failing to notify nursing staff when she had done so, and by delaying the start of feeds by being absent from the ward. I accept the evidence in the child's hospital notes and from W1 in this regard about the many occasions when this happened. I do not accept the mother's suggestion the staff at SCH have consistently failed to record their own advice about when they told the mother to pause the feed because this would be in direct conflict with the nursing note entries. One example of which states in the unchallenged notes of the dietician that Z *"has been struggling over the past couple of mornings as is vomiting when waking up. Staff having to give feeds overnight as mum has been turning the feed off at random points in the day"*<sup>1</sup>. Another example is on the 14<sup>th</sup> November 2023 where it records; *"feed recommenced at 14.45, stopped by mum at 1600 as she thought Z was due a break from feeds. Explained to mum she wasn't due a break until 2200 and continued the feed"*. That was the second time on that date the notes refer to the mother stopping the feeds against medical advice.
- 99) On the 27<sup>th</sup> November 2023, Z had pulled out her NG tube overnight and an agreement was reached between the mother and nursing staff that her feed would be delayed until 9.15am to allow Z to sleep longer. The notes record; *"Mum rang the ward from [the on-site accommodation] at 09.20 to say she wouldn't be coming to the ward and for nursing staff to wake Z and pass the NG tube without her presence...Contacted mum after, to attend ward to start feed as soon as possible as Z already behind on the feed plan. Feed commenced approx. 11.00 by mum. Feed continues to be stopped and started and therefore Z behind on targets"*. This evidence persuades me that not only did the mother leave the ward but refused to return promptly when asked by nursing staff. I do not accept the mother's evidence that this delay was the fault of the nursing staff. Similar entries exist for the 1<sup>st</sup> and 13<sup>th</sup> December. By stopping and/or delaying Z's

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<sup>1</sup> Page I422 entry dated 24.11.23

feeds, her fluid intake was restricted and likely to cause her to receive inadequate nutrition and hydration. This was neglectful of Z's welfare and also likely to cause her physical harm.

100) Paragraph 2(b) is proved against both parents and I have been persuaded they both left Z on the ward unattended on multiple occasions without ensuring suitable alternative nursing care was readily available to her. The father did not deny he knew this should not happen, his evidence is that it did happen but it was limited to the few occasions he is prepared to admit to, and only after the parents sought permission. I do not accept the parents always sought permission because it is recorded in Z's notes it happened on multiple occasions and the parents had to be summoned to return to the ward.

101) Examples include; on the 16<sup>th</sup> November 2023 it is recorded: "*Mum and dad left [Z] alone from 12.00 to 15.00 missing her 14.00 medication. Mum was aware before she left about the medication time. They left because dad was 'bored'*". In evidence, both parents denied using the word bored. They both asserted they didn't know the word 'bored' in order to use it. I find this to be highly improbable because the mother has been living in the UK since she was 13 years old, she attended school in the UK, she is able to converse with nursing staff in the English language, and I noted she had no difficulty at all with providing instructions to counsel in English during the hearing itself. I find it to be another example of where the parents are not telling the truth and the nursing notes are correct.

102) Further examples include overnight on the 16/17 November 2023 between 23.00 hours – 00.45 hours when Z was left on her own on the ward. On the 17<sup>th</sup> November 2023 there is another entry recorded at 5.15pm: "*Z's parents were not there from around 13.30. She was with the play team for a while then she was crying badly and could not settle for a long time. Called mum's number and dad answered the call. Informed him that she is crying and required them to come back, he agreed to it. After a while mum called back and reported that they will be late and dad does not understand English.*"

103) I do not accept the parents' assertion the father did not understand the contents of the call or the need for them to be on the ward caring for their daughter. The reason I don't accept this is because the hospital did provide the services of an interpreter and this was available to them by telephone. There are references to an interpreter for the father being used by the hospital on the 17<sup>th</sup> November 2023<sup>2</sup>, and the unchallenged evidence of

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<sup>2</sup> I1016

Nurse [X] is : *“Mum and dad have had extensive training and education to be able to care for [Z] and her complex needs. Information has been provided in many forms, verbal (with interpreter for dad), written (in English and in Urdu) and visual (with picture charts and instructions).* I also take into account the father’s evidence that he would ask the mother for explanations if he was unsure.

104) There are further examples of Z being left alone on the ward overnight on the 4/5 December 2023 between 22.00 and 02.00 hours; and a physiotherapy report confirming ‘mum and dad are not always present on the ward when we go to deliver therapy sessions’ which I accept because it refers to the mother having a good relationship with them and I cannot identify any reason for why they would say this if it were untrue.

105) Finally, the conflicting accounts given by the parents about the number of occasions they accept leaving Z on the ward persuades me they are not telling the truth about it.

106) I find Paragraph 2(c) proved against both parents. This relates to the postural management programme which they failed to implement consistently. I am persuaded that they were given, and understood, the necessary training and equipment they needed to use because the evidence of the physiotherapy team confirms this, and there were many occasions when the mother in particular demonstrated her ability to use these safely to Z’s benefit. The finding is that they did not do so consistently, and there were occasions when they were not present to facilitate physiotherapy sessions. I also make this Finding against the father because there is evidence to prove he was provided with pictorial aids to support both parents to follow the therapy advice, and the physiotherapy report confirms their attempts to involve him: *“Dad will only get involved in therapy sessions when explained to him that he needs to know how to use equipment and be involved in Z’s care to support mum. Dad is rarely actively engaged with Z and is often using his phone throughout sessions when not prompted to be actively involved”*.

107) Paragraph 2 (d) relates to Z being left lying in wet and vomit covered clothes or bedding for longer than a reasonable parent would leave her in that condition. In respect of the incident pleaded on the 1<sup>st</sup> December 2023 the parents accepted this in part in their oral evidence but their evidence is that the father tried his best to clean Z up. I do not accept this and prefer the medical notes which confirm the following: *“At approx. 12 noon mum said [Z] had been sick. I offered to help change the bed with her but mum confirmed she was okay as she would give Z a bed bath with dad’s help. Approx 30 mins later the O.T. said that Dad was in*

*the room and Z was laying in sick and Dad wouldn't clean her as he said mum would do it. Myself and [a staff nurse] went in to change the bed and I explained to Dad it is not acceptable to leave [Z] laying in sick and she needs changing. As we began changing the bed, Dad did not offer to help us."*

108) The other date pleaded and found proved relates to the 25 January 2024 and an entry made at 19.00 hours: *"At 15.00 mum reported that [Z] had vomited earlier but Z had not been changed. She was still wearing the wet and vomit covered top. I suggested to mum that she should change her. Mum subsequently did"*. It is clearly not reasonable parenting to leave a child lying in bed in wet and vomit soaked clothes for around four hours. I also note that whilst it is not pleaded, there is another example recorded in the early hours of the 26 January 2024.

109) Paragraph 2(e) relates to the parents taping the dummy to Z's face on the 5<sup>th</sup> February 2024. They accept they did this and seek to mitigate their actions by suggesting they did so on medical advice. I do not accept this and prefer the evidence of Witness 6 who denied giving this advice. Not only do I find her evidence to be more reliable I have also noted that whilst her handwriting and signature appear in the nursing notes on the 3<sup>rd</sup> and 4<sup>th</sup> February 2024, there is no entry made by her on the 5<sup>th</sup> February at all and the recordings for this date are made by a different nurse. This corroborates W6's account that she did not provide the parents with any advice on that date. There is no evidence before the court that she was working on that date.

110) The parents have not disputed this was a dangerous thing to do to their daughter, and the father's evidence in his Police interview differed from the mother's to the extent he told the Police the idea of taping the dummy to Z's face originated from the mother not the nurse: *"So my wife was holding the dummy, and [Z] was crying and she was to remove her dummy she would be upset and crying and my wife asked [W6] is it ok to put a tape, and she said if she's happy you can"... "So I had come from Afghanistan and think different, very different here. In Afghanistan if you put the dummy in, you do anything, they won't say anything to you. Here, I didn't know things were different, if you were allowed to do this." ... "When she cry she would open the mouth it would come out, and it wouldn't stay...and she was crying, it would come off after two minutes"... "She only put the tape only once, to keep her quiet, and she can pray...she did pray, and then when it became a big things I was scared"*.

111) I am persuaded that the more plausible explanation is that the mother, in the first instance, decided to tape the dummy to Z's mouth on the 5<sup>th</sup> February in order to calm, settle and quieten Z. It may have been on one of occasions when she prayed similar to the

incident on the 26 February, and the father did not intervene to prevent this as he does not identify any reason to do so. This of itself was a dangerous act which is attributable to their parenting and which a parent acting reasonably would not have done but it was probably not carried out with any active intention to cause harm to Z.

112) However, of particular concern is the parents' decision to repeat this act on three further occasions after they had been told by medical professionals about the dangers this posed to Z the first time they did it. I am persuaded the parents did do it repeatedly as it is contemporaneously recorded alongside the details of conversations nurses had with the parents and their response. On one of the occasions, on the 26 February, the parents left Z unsupervised with the dummy taped to her face where she was found by W2 alone in the room. This was a particularly high risk and negligent act because there was no one present to care for Z immediately had she started to vomit, as she was frequently prone to do, and choke. On these four occasions, Z was only kept safe by the swift observations and intervention of medical professionals.

113) Using a degree of force to keep the dummy in place with tape is strikingly similar to how the father is alleged to have behaved by W1 when he forcibly held the dummy in place with his thumbs on the 26 February. I find W1 to be the more truthful witness and she is supported in her evidence and observations by what she said to W5 on the same date. I do not accept the parents' denial the incident simply did not occur because it is behaviour which is consistent with how they have behaved on earlier occasions when they taped the dummy in place. I find the parents are telling a lie about this in order to conceal their own wrongdoing and to avoid the consequences. They have not advanced any alternative explanation for the court to consider other than to deny it happened.

114) Finally paragraph 2(g) in the original schedule is factually accurate as it relates to the parents' arrest but this is not a finding to satisfy the statutory threshold and the local authority is correct not to seek to add it to the final schedule in their submissions.

## **Conclusions**

- 115) I have been persuaded that at the time the local authority intervened to protect Z she had suffered and was likely to suffer significant harm attributable to the care her parents had provided to her, and were likely to provide to her in the future, if any order had not been made. I am persuaded the local authority is entitled to the findings set out below and the statutory threshold for the making of a public law order is crossed.
- 116) I confirm I have borne in mind that the welfare of Z is my paramount consideration when deciding what orders to make, if any, and I have considered the welfare checklist. I accept the unchallenged evidence in respect of the welfare recommendations for Z and the recommendations of the children's guardian about the contents of the supervision plan. I agree that the only realistic care plan this court could possibly endorse is Z continuing to be placed in the care of her maternal grandparents, [names redacted].
- 117) This is a culturally appropriate family placement, it has been tested out for the past 7 months and Z is described as flourishing in their care. If Z were able to express her wishes and feelings about where she wants to live, Z is likely to want to be with her birth family where she is loved and flourishing. It means there will be no changes to her care arrangements and no disruption to the psychological and emotional attachments she has been developing to her grandparents for the past 7 months, all of which is very positive for her welfare.
- 118) I have noted the evidence given by Ms Egan when she said: "*Housing is the biggest factor – that would be the most significant influence on full rehabilitation to the parents' care*" but I disagree. The most significant barrier to Z being placed in the care of her parents is their dishonesty. Z is a very vulnerable child who has, and is probably always going to have, a need for long term support and intervention from health, education and social care agencies in one form or other. The ability of her primary carer/s to work openly, honestly and consistently with those professionals to promote her welfare will be essential. During this hearing, the parents have demonstrated a lack of those qualities and this gives rise to an ongoing likelihood of harm being caused to Z by their care.
- 119) The changes in Z's health and welfare from being a normal healthy child to one with ongoing complex needs is desperately sad for her and for her family, and one cannot help but have a great deal of sympathy for them as they adjust to the reality of their situation. I do not underestimate how difficult it must have been for these parents to have to deal with Z's diagnoses and the complexities of her health needs 24 hours a day. It is likely there were times

in the hospital when they felt very tired or frustrated or even bored by the relentless pressure of the constant care they were being asked to provide. It would perhaps have been understandable if they had admitted this to be the case. But rather than admitting to their mistakes they have chosen to be dishonest about them and it is their dishonesty which makes it very difficult for professionals to trust them to keep Z safe. It presents a significant obstacle to any professional who has the responsibility of monitoring any escalation of risk. Having listened to the parents' evidence and in light of the findings I have made, it is difficult to conceive of any date in the short to medium term future when Z could be safely returned to the care of her parents without an evidentially supported, robust assessment of their insight, their acceptance of their wrongdoing, and of their ability to work openly and honestly with professionals as the guardian suggests.

120) I will approve the final care plan and make a child arrangements order for Z to live with [the maternal grandparents] and I make a supervision order to the local authority for 12 months. I am persuaded this is a proportionate order to make given Z's complex health needs and the potential for her parents to play an increasing role in her life. For the immediate future, the time Z spends with her parents will be supervised by the maternal grandparents at their home, and any changes to this arrangement or the supervision plan will be reviewed and updated at regular child in need meetings during the lifetime of the supervision order.

121) In accordance with Rule 12.73 and Practice Direction 12G, the local authority shall provide a copy of this judgment to the child's independent reviewing officer (whose role will come to an end following the discharge of the interim care order caused by today's order), and the South Yorkshire Police for the purpose of any criminal investigation and/or to enable the Crown Prosecution Service to discharge its functions under any enactment.

122) I direct the advocates to draft the order arising from this judgment. The Schedule of Findings in respect of the section 31 threshold criteria are set out below and will be incorporated into the order which I am to approve in due course. In the event any party requires any further clarification or reasons, I am willing to give those once it has been brought to my attention. I remind the parties any application for leave to appeal must be made within 21 days of the date this judgment is formally handed down in court at 10.30am on the 24<sup>th</sup> January 2025 and in accordance with the judgment of **McFarlane LJ** in **Re H (Children)**

[2015] EWCA Civ 583, the order which is going to be drawn by the court on the 24 January will have that reminder recorded on the face of it.

H.H. Judge Marson

24<sup>th</sup> January 2025

**SCHEDULE OF FACTS FOUND BY THE COURT TO SATISFY THE  
SECTION 31 STATUTORY CRITERIA**

At the time the Local Authority took its protective measures, the child, Z was suffering and likely to suffer significant harm and the likelihood of harm was attributable to the care given to her or likely to be given to her by her parents not being what it would be reasonable to expect a parent to give to her.

The significant harm found by the court takes the form of physical and emotional harm caused by neglect of her welfare arising from the following facts:

1. Not found.
2. The parents have not been able to provide the child with the parenting and care she requires. The care they have given to her has been physically and emotionally detrimental to her and has caused, and is likely to cause, significant physical and emotional harm and neglect of her welfare.
  - a. Between August 2023 and December 2023, the mother, [name redacted] stopped or paused the child's feeds in hospital on many occasions against medical advice, causing the child to have a fluid intake that was insufficient and likely to cause her significant harm from inadequate nutrition and hydration.
    - i. On the 29<sup>th</sup> August 2023; 11<sup>th</sup> September 2023; 3<sup>rd</sup> October 2023; 30<sup>th</sup> October 2023; 14<sup>th</sup> November 2023; 17<sup>th</sup> November 2023; and the 23<sup>rd</sup> November 2023, the child had her feeds turned off, against medical advice, by the mother.
    - ii. On 1 December 2023 [the mother] turned off the child's feed in the day and night causing the child not to meet her fluid targets.

- iii. On 13 December 2023 the child's feed was found to have been disconnected by the mother.
  
- b. The parents have left the child on the ward on multiple occasions, without ensuring alternative care was available from medical staff. The child requires 24 hour care. Neither parent was able to demonstrate they were able to provide that care consistently and this was likely to cause significant harm to the child. One example date is included below:

On the 16<sup>th</sup> November 2023, the parents left the Ward between 12 noon and 3pm, despite knowing that the medication time for the child was within that time. It was explained by them that they left the ward because [the father] was "bored".
  
- c. The parents have been unable to follow consistently the 24 hour postural management programme for the child which will aid her future development. The child has been found left lying on her back on multiple occasions; The child was found, on the 4<sup>th</sup> December 2023, lying on her parents' bed unaccompanied.
  
- d. The mother, [name redacted] and the father, [name redacted] neglected the child's physical welfare to the extent that she was caused significant emotional harm and was likely to be caused physical harm.
  - i. On the 1<sup>st</sup> December 2023 the child was found by hospital staff to be lying in her own vomit. Neither parent cleared up the vomit, and the child was found 30 minutes later still lying in her own vomit. The father was in the room but did not clear up his child, and did not offer to assist when hospital staff cleaned her.
  - ii. On 25 January 2024 the child was found to be in a wet top covered in vomit. Mother had to be prompted to change it.
  
- e. On 5 February 2024, the child was found to have been left with her dummy taped to her mouth by the parents. This was likely to cause significant physical harm to the child from the risk of choking by the aspiration of vomit. Parents were advised this was unacceptable and not to be repeated.
  
- f. Having been advised that this was a dangerous practice, the parents taped the dummy into the child's mouth again on three further occasions on 22<sup>nd</sup> February 2024, 24<sup>th</sup> February 2024 and 26<sup>th</sup> February 2024. On each occasion they were advised not to do this. On 26 February 2024 the father, [name redacted] was observed to be holding the dummy in the child's mouth with both of his thumbs keeping it in her mouth.
  
- g. Not found.

**ENDS**