

IN THE LIVERPOOL FAMILY COURT

Neutral Citation Number [2023] EWFC 142

Case No. LV22C50003

Courtroom No. 25

35 Vernon Street
Liverpool
L2 2BX

Friday, 2nd June 2023

Before:
HIS HONOUR JUDGE PARKER
SITTING AS A JUDGE OF THE HIGH COURT PURSUANT TO SECTION 9(1) SENIOR
COURTS ACT 1981

B E T W E E N:

THE LOCAL AUTHORITY

and

F & G

MS L BRIGGS KC and MR KHAN appeared on behalf of the Applicant
MR R HOWLING KC and MS J MALLON appeared on behalf of the Respondent Mother
MS S GROCOTT KC and MS HOWARD appeared on behalf of the Respondent Father
MS O'NEILL and MR BRINDLE appeared on behalf of the Children through their Guardian

JUDGMENT

This Transcript is Crown Copyright. It may not be reproduced in whole or in part, other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

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

HHJ PARKER:

1. The Court is concerned with the welfare of four children: A, who is 15, B, who is six, C, who is four and D, who is three months. The applications before the Court are made by the Local Authority and are applications for care orders in respect of A, B and C dated 5 January 2022, application for a care order in respect of D, dated 23 January 2023, application for a placement order in respect of D, and an application for a special guardianship order in respect of B and C in favour of E, the paternal grandmother.
2. The Local Authority are represented by Ms Briggs KC and Mr Khan. The first respondent is the children's mother F. The mother is represented by Mr Howling KC and Ms Mallon. She opposes the applications and wishes to have the children returned to the care of the father, G, and herself. In the alternative, for A, B, and C to remain in their current placements but opposes a placement order for D come what may. As an alternative for D, she suggests longterm foster care, possibly with A. The second respondent is G, who is the father to B, C and D. The father is represented by Ms Grocott KC and Ms Howard. He wishes for all four children, and, certainly, B, C and D to return to live with the mother and himself.
3. That threshold is met is agreed. A's father, H, has had no notice of these proceedings and following a consensual application by the mother and the Local Authority, and an *ex tempore* judgment given by me following scrutiny of the application and order of this Court, the Local Authority was absolved from its responsibility to notify or consulting in respect of A's welfare. The children are represented through their Guardian, I. She, in turn, is represented by Ms O'Neill and Mr Brindle. She supports the Local Authority application save that she is of the view that contact should be more frequent between A, B and C and the mother and father than once per month, suggesting once per fortnight, with additional sibling contacts and special occasion contacts.
4. I will refer to the 1st respondent as F or 'the mother' and to the 2nd Respondent as G or 'the father' in this judgment.

Background

5. Three-month-old baby sibling J, now deceased, was found unresponsive in the family home by the mother, aged 13 weeks, whilst in the care of her parents, on [redacted] during the late afternoon at around 4.15pm to 4.20pm. A made the 999 call. The three sibling children were removed by police and placed in police protection. There was a police investigation into child neglect. The mother and father were believed to be under the influence of drugs and/or

alcohol. The home conditions were very poor, drug and alcohol use evidenced and a lack of appropriate supervision. I have seen bodycam footage of the scene in the aftermath of J's death which was a difficult watch. I have also seen photographs of the state of the premises and the drugs seized.

6. There is a lengthy history with the parents and their respective children. The Local Authority case is that the issues that are now before this Court only came to light as a result of J's death. They were concealed from professionals. Prior to 1 January 2022, there was a history of substance misuse, neglect and chaotic behaviour and the advocates' chronology sets out the following:

- 1) 2003, the mother's children K and L removed from Mother's care in care proceedings which were commenced in 2003.
- 2) On 11 September 2023, during the L child protection medical, bruising was seen owing to poor supervision. There was an allegation of inflicted cigarette burn which was said to be likely placed on the skin and not brushed.
- 3) 9 February 2006, there was a judgement resulting in K and L being adopted.
- 4) October 2007, A, as yet unborn, was subject to the child protection plan under the category of physical abuse.
- 5) [Redacted], A was born.
- 6) 20 November 2008, A was accommodated following a referral from Housing, aged 10 months, for seven months with a week at home in March 2009. The mother was under the influence of alcohol with A in her care.
- 7) 24 March 2009, A ceased to be accommodated.
- 8) 30 March 2009, A returned to foster care after a short period of being at home owing to being left in the care of an inappropriate adult. The Local Authority notes state this was after a report was made that the mother had allowed another child in her care, her niece, to roam the streets. The police were aware at the time.

- 9) 6 February 2010, the mother was drunk in charge of a child at Pizza Plus, slumped and trying to get up, slurring and clearly drunk, did not know where she was, could not give details of family in the locality and the child's nappy was heavily soiled. A police protection order in respect of A was taken out and he was placed in accommodation for the third time.
- 10) 8 February 2010, a health visitor visited the mother at her hostel. The mother would not speak to the health visitor as she was too upset. A was in foster care and there were alcohol issues.
- 11) 11 February 2010, a health visitor visited the mother's hostel. Mother was not present. A was reportedly back in the mother's care.
- 12) 17 February 2010, a health visitor visited to the mother's hostel. A was well. Mother was upset about the report to Children's Services. She said she did not realise she was drunk until she got outside and she would not let this happen again.
- 13) 25 February 2010, Mother was convicted of being drunk while in care of a child and given a two-year probation order.
- 14) 5 March 2010, an initial child protection conference. A was made subject to a child in need plan.
- 15) 27 May 2010, A was placed on a child protection plan: category "Physical Harm".
- 16) August 2010, A child's protection plan transferred to the Local Authority.
- 17) 2019, care proceedings re: M, half-sibling, Father's son.
- 18) 13 July 2019, half-sibling N, died following sustaining catastrophic head and other injuries.
- 19) 7 October 2020, I gave judgment in proceedings relating to M. I found that N's mother's then partner caused the death of N through inflicted injury. In my judgment, I said:

“E...”, the partner, “...deliberately inflicted the injuries to [N’s]’s head which resulted in his death. This was an impact injury. He also caused acceleration and deceleration to [N]’s head which caused the extensive and numerous bilateral retinal haemorrhages. He also deliberately inflicted bruising injuries to [N]’s forehead, ear, nose, chest, penis, pelvic area, and legs”.

7. The previous history of chaotic lifestyle, substance misuse and neglect appear to have ceased. Feedback from the younger children’s nurseries about their more recent contact with the family and the presentation of the family was very good. There were no referrals from A’s school or B or C’s nurseries. However, the Local Authority’s case is that the picture of the circumstances within the family home that was revealed on 1 January 2022 was one of longstanding polysubstance misuse including illegal prescription drug use, complete neglect of the needs of four vulnerable children for a full day, physical risk to children in the home and a lack of care in respect of J, who was a poorly baby suffering from bronchiolitis.
8. When the father was interviewed by the police later that day, he gave an account of alcohol and substance misuse on the mother’s part that had lasted for many years and impacted on her care of the children. The Local Authority does not seek to prove that J’s death was as a result of the parents’ actions. The pathological evidence does not establish causation of death, at least, in part, because there is an incomplete picture provided by the parents. The Local Authority argues that the reality is where such serious neglect exists, the worst that can happen is the death of a child and any of the F/G children could have come to serious physical harm on the night of 31 December/1 January, such was the degree of neglect and risk in the home conditions.
9. In a composite schedule of agreed findings before the hearing began, the parties identified those matters which were agreed and those in dispute. I now read that into this judgment:
 1. Drug and alcohol use:
 - 1.1 It is agreed that the mother was abusing cannabis, cocaine, codeine at the relevant date. It was not agreed that she was not prescribed codeine at the relevant date. This allegation, that the mother was using codeine without prescription, was withdrawn during the hearing.
 - 1.2 It was agreed that the mother has misused alcohol and cocaine throughout her relationship with the father since around 2015. It is not agreed that has compromised her ability to parent the children. The mother did not accept that this has compromised her ability to parent the children because she would be away from the home when misusing alcohol and cocaine, and the father would care for the children, save for, on 1 January 2022, when caring for J only.

1.3 It was agreed the father was abusing cannabis and codeine at the relevant date. He was not prescribed codeine at the relevant date.

1.4 It was agreed that prescription drugs belonging to a third party were found at the family home on 2 January 2022. It is not agreed that the parents had obtained these illegally and were abusing prescription drugs. The mother accepts that there were prescription tablets on the kitchen counter in the family home. The mother accepts that they were drugs belonging to someone else. She does not accept misusing those drugs. She was providing them to her mother who had been diagnosed with cancer and was in an immense amount of pain.

2. 1.5 It is not agreed that the parents' substance misuse put the children at risk of physical harm owing to lack of monitoring and supervision, lack of basic care, likelihood of inappropriate handling and failure to follow safe sleeping guidance.

The mother accepts that on 1 January 2022, her drug and alcohol misuse placed J at risk of physical harm due to a lack of monitoring and supervision. The mother accepts that on 1 January 2022, her drug and alcohol misuse placed J at risk of physical harm due to a lack of basic care. The mother does not accept that J or the other children were at risk of physical harm due to inappropriate handling or failure to follow safe sleeping guidance. J was placed in her cot pram with her feet at the bottom, lay on her back to go to sleep. J was not covered with the duvet. The mother was sleeping with the duvet and the ambulance team placed this onto the pram after their arrival. The mother does not accept the allegation in respect of the elder children as they were in the care of the father.

3. Home conditions:

3.1. It is agreed that the following harmful substances were found in the property and within reach of a mobile child on 1 January 2022: Oramorph, Epilim, mirtazapine, diazepam, codeine, cannabis, leaf tobacco, cigarette ends, open cans of beer, glasses containing the dregs of alcoholic drinks.

1.

3.2. It is agreed that the children were at risk of finding and ingesting drugs and alcohol left around the family home.

3.3. It is agreed that home conditions were cluttered and dirty on 1 January 2022 with food waste in and around the children's beds, soiled nappies, and faeces on the floor in the bathroom. Conditions were sufficiently dirty to put a child at risk of physical harm.

4. 1 January 2022:

- 4.1. It is agreed the mother was under the influence of alcohol and drugs on 1 January 2022. She remained under the influence of drugs and/or alcohol at the point of police and ambulance arrival that afternoon.
- 4.2. It is not agreed that the mother slept from about 10.00am to 4.30pm on 1 January 2022. The mother's case is that she went to sleep at around 12.00pm until 4.15pm.
- 4.3.
- 4.4.
- 4.5. It is agreed the father slept from about 5.00am until about 4.30pm on 1 January 2022.
- 4.6. It is not agreed that the four children were left without proper care or supervision from around 5.00am until 4.30pm on 1 January 2022 owing to the parents being intoxicated and/or asleep. The mother accepts that J was in her care from around 9.30am to 10.00am on 1 January 2022 until around 4.15pm when the ambulance team arrived. The mother accepts that during this time, J was left without proper care or supervision. The three elder children were in the care of the father and, so, this is for him to respond to. The father says that he took responsibility to care for the three younger children during the night. The father assumed that the mother collected J around 5.00am/5.30am and she was, therefore, in her mother's care until 4.30pm. The mother took responsibility to care for A.
- 4.7. It is agreed that from about 5.00am, neither parent offered A, B or C any food or drink, took B or C to the toilet, offered A, B or C any supervision in home conditions that were hazardous.
- 4.8. It is not agreed that from about 10.00am until 4.00pm, neither parent offered J any formula, nappy changes, or monitoring. The mother accepts this from 12.00pm until 4.15pm. The father accepts this.
- 4.9. It is agreed that on 1 January 2022, J was unwell. She had been diagnosed with bronchiolitis. A reasonable parent would have offered J careful monitoring owing to her illness. The parents offered her no monitoring.
- 2.
- 4.10. It is agreed that the mother found J dead at some time between 4.00pm and 4.30pm on 1 January 2022. J had been dead for several hours when she was found. The post-mortem doctors, O and P, concluded, 'Cause of death has not been ascertained after thorough autopsy because the history is unclear. We do not know exactly when the baby was last seen alive, what her exact sleeping position was, what coverings were over her and whether there was any unusual breathing, evidence of high temperature or other symptoms in the hours leading up to her death. Although there is evidence of a mild viral respiratory tract infection accompanied by a Covid-19 positive PCR testing, we feel this is insufficient to explain death on the balance of probabilities, and, given the other circumstances in the case, cause of death is, therefore, unascertained'. The

evidence of O, consultant paediatric pathologist was obtained in answer to a number of questions. When asked what she meant by 'other circumstances' in the post-mortem, she replied, 'Maternal intoxication, lack of clear history of circumstances due to the prolonged period of lack of adult supervision of J during the day prior to her being discovered deceases absence of a clear history of her sleeping position, bedding used and position of her body or bedding at the time she was discovered'. In addition, she was unable to opine as to the time of death based on the established rigor mortis, save that it was likely that it occurred at least two hours before J was discovered. She was unable to give a view on the time of the last feed from the contents of milk in the stomach: 'I am not aware of the exact volume of J's final feed. At her age, a formula feed would usually be 120 to 150 millilitres. If she drank a whole feed of this size, then most of it had been absorbed or emptied from the stomach before she died and, therefore, she most likely survived for longer than 78 minutes after her last feed. However, as we cannot estimate with certainty when J died, this is of limited use in determining when the last feed was'.

4.11.It is not agreed that owing to the parents' incapacity through sleep and/or substance misuse on 31 December 2021/1 January 2022, there is no proper account of when J was last seen alive, what her exact sleeping position was, what coverings were upon her and whether there was any unusual breathing/evidence of high temperature or other symptoms in the hours leading up to her death. The mother assumed the care of J at around 9.30am/10am on 1 January 2022. This is not accepted on behalf of the mother prior to that time. J was last seen alive by the mother at around 12.00pm. The mother placed J into her cot pram on her back with her feet placed at the bottom with a single blanket tucked under her arms. From about 12.00pm, the mother accepts she was asleep. The father accepts he was asleep between the hours of 4.00am on 1 January 2022 and after 4.00pm and assumed the mother had taken responsibility for J.

4.12.It is not agreed that as a result of the parents' failures to offer J reasonable care and supervision, the circumstances of her final hours are unknown. This is likely to cause her siblings significant and lasting emotional harm. The mother accepts that the children have suffered significant and lasting emotional harm by the death of their youngest sibling which has been determined to be of natural causes. The father accepts that the children have been subject to significant and lasting emotional harm as a result of their younger sibling's death caused by natural causes.

5. 1 January 2022, failure to protect

5.1.It is not agreed that the father was aware that the mother was intoxicated on 31 December into 1 January 2022 and her ability to care for J or any child was compromised. The father was aware that the mother had had a few alcoholic drinks but was not intoxicated. The father does not accept that at around 5.00am/5.30am, the mother was unable to care for J or any of the children. The father was assured that evening that the mother was spending time with the maternal grandmother as she was at the end of life and, therefore, would not have drunk too much.

5.2.It is agreed that at some point in the morning of 1 January 2022, J was taken from her cot in the family bedroom and brought

downstairs into the mother's care. When the father realised that the mother had taken J, he did not retrieve her from her mother's care.

3.

5.3. It is not agreed that a reasonable parent would not have left any child in the mother's care on 1 January 2022, by so doing, the father failed to protect J and by so doing put her at risk of significant harm. The father does not accept this. The mother was not, at that point, intoxicated where she was unable to care for J.

6. Historic inadequate parenting and substance misuse:

6.1. It is agreed that the mother's first two children, K and L were accommodated and, subsequently, adopted.

6.2. It is agreed that A was voluntarily accommodated at 10 months of age for four months. The mother was spoken to by police after A had been found in the care of an inappropriate adult. The mother was unable to give a proper account of who had been supervising A.

6.3. It is agreed that A was, again, voluntarily accommodated from 30 March 2009 after the mother was found to have failed to supervise her niece who was found wandering the streets. The mother had not reported her niece missing. A returned to his mother's care on 8 June 2009.

6.4. It is agreed that the mother was drunk in charge of A when he was 24 months old. A was accommodated by the police using their protective powers.

4.

6.5. It is agreed that the mother has been capable of achieving periods of stability, only to relapse years later.

The law

10. The burden of proof lies with the Local Authority. It is the Local Authority that bring the proceedings and identifies the findings they invite the Court to make. Therefore, the burden of proving the allegations rests with them. The parents need prove nothing. Findings of fact in these cases must be based on evidence. As Munby LJ as he then was observed in *Re A (A Child) (Fact-Finding Hearing: Speculation)* [2011] EWCA Civ 12:

“It is an elementary proposition that findings of fact must be based on evidence including inferences that can properly be drawn from the evidence and not on suspicion or speculation. It is not uncommon for witnesses in these cases to tell lies in the course of investigation and the hearing. The Court must be careful to bear in mind that the witness may lie for various reasons such as shame, misplaced loyalty, panic, fear, distress, and the fact that the witness has lied about some matters

does not mean that he or she has lied about everything: *R v Lucas* [1981] QB 720”.

11. I also take into account the decision of the Court of Appeal in *Re H-C* [2016] EWCA Civ 136, where McFarlane, LJ, as he then was, now, of course, the President, said at paragraph 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 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 LR 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.

12. The mother’s legal team also invite me to consider the decision of the Court of Appeal in *Re P (A child)* [2018] EWCA Civ 1483 in support of their application to adjourn this final hearing and to direct an expert report from a consultant psychiatrist or psychologist to assess the risk of relapse of the mother in terms of her misuse of alcohol and cocaine. The Court of Appeal in *Re P* referred to the decision of Sir James Munby, the then President in *Re S (A Child)* [2014] EWCC B44 (Fam) in which he addressed the Family Drug and Alcohol Court approach to, in that case, an extension to the 26-week timetable:

“There must be a robust and realistic appraisal at the outset of what is possible within the child’s timescales and an equally robust and realistic ongoing appraisal throughout of whether what is needed is, indeed, being achieved or not within the child’s timescale. These appraisals must be evidence-based with a solid foundation, not driven by sentiment or a hope that something may turn up. Typically, three questions will have to be addressed: first, is there some solid, evidence-based reason to believe that the parent is committed to making the necessary changes? If so, secondly, is there some solid evidence-based reason to believe that the parent will be able to maintain that commitment? If so, thirdly, is there some solid evidence-based reason to believe that the parent will be able to make the necessary changes within the child’s timescale?”.

13. The Court of Appeal in *Re P*, allowed an appeal from the decision of the circuit judge who had refused the mother’s application for an adjournment of the proceedings for a period of six months and made a final care order and placement order. There are some important

distinctions between that case and this case. In *Re P*, the mother had, in the absence of support from the Local Authority, located and engaged independently with the AA, the specialist rehabilitation service, a community drug and alcohol service and worn a SCRAM bracelet. She was now availing herself of all follow-up opportunities. Similarly, her engagement with AA was three to five times per week. In addition, up until the final hearing of the Local Authority's application for a placement order, the mother was having contact with the child four times a week. Not only was the quality of that contact good, but the foster carer told the Children's Guardian that in her almost 30 years of fostering, "the mother is one of the most impressive parents" she had met in terms of her connection and her relationship with her daughter.

14. In addition, there was a report from a Dr Hallstrom whose uncontested evidence was as follows:

"The mother has made all the progress that one could hope for and expect of her to date. She is a very different person to the person I examined at the beginning of the proceedings. She looks physically and mentally well and has embraced the AA process of recovery which is probably the best programme available for aiding recovery. She has now been dry for a year".

In the present case, the mother has not been dry. She admits to drinking socially, albeit on a limited basis when accompanying the father to watch football games at the pub. She says that she wishes to start with AA but has not done so yet. Her engagement with We Are With You is limited and I was less than clear about her future commitment. On any view, her engagement with services to help address what her leading counsel described as "an addiction" is at an embryonic stage. She had, as recently as late June 2022, drunk to excess with her sister and her presentation was such that the father was driven to call the police. I accept that that was the day of the inquest into J's death but knowing of the issues in the case, she had returned to alcohol as a coping mechanism.

15. I am not persuaded by this application, having heard all of the evidence, and weighed up the pros and cons of each option for each child, considered individually. Therefore, it is dismissed. I will, however, set out my ruling on it at this part of the judgment, for ease of reference. The proceedings have been ongoing now for some 18 months, albeit only for the lifetime in respect of D. A coach and horses has been driven through the PLO timeframe and section 32 of the Children Act 1989. The application does not withstand analysis set against the overriding objective set out in the Family Procedure Rules at 1.1 *et seq*. Having regard to any welfare issues involved and, in particular, the delay is, in my judgment, inimical to the

welfare of children, it would not deal with the case expeditiously, and the mother had ample opportunity to make such an application much earlier in the proceedings but did not do so until the closing stages of the final hearing. It would not be a proportionate way to deal with the case as it would involve more delay and expense to the public purse and I already have two experts who deal very regularly with issues like addiction and risk of relapse.

16. The parties are on an equal footing. The mother is represented by leading and senior junior counsel and has been able to give her own evidence around these issues. It would not save expense to go down this route. It would incur it. The case has already had seven days of final hearing time after a number of case management hearings. This would require even more court time to be set aside. In addition, I am not satisfied that it is necessary to direct this additional expert evidence in order to deal with the case justly: section 13 Children and Families Act 2014 and the Family Procedure Rules 25. I also have regard to the following pursuant to Family Procedure Rules 25.5: it would provide an opinion of an expert presently unconnected with the case to opine of the mother's risk of relapse into alcohol and drug abuse. That would be the question for the expert to answer. Giving permission would extend the court timetable by at least several months to enable the report to be prepared and then the case to reassemble when all participants are available, once the other parties have had an opportunity to put questions and receive answers from the expert and then to set out their written response.
17. I note, also, that leading counsel for the mother suggests that after the report has been obtained, there should be an assessment by an independent social worker, therefore, providing for months and months of delay. The application is made well beyond the case management directions which provided for any application for expert evidence. I will assume that any report could be prepared within legal aid rates but if not, then that would be a further reason for refusing it. In my judgment, this application should fail and does so.

Evidence

18. I have had regard to the extensive bundle of documents in this case: photographs, bodycam footage in the immediate aftermath of J's death and very helpful opening and closing submissions from each of the parties. I have also heard evidence from a number of live witnesses, including the social worker, the mother, the father, the Children's Guardian, Q, drug and alcohol testing expert and R, friend of the mother.

The father's police interview

19. This, in my judgment, was a key piece of evidence. The father was interviewed by police on 2 January 2022. In his interview, he said at F169 *et seq.*:

Q: “So, what’s the relationship? I mean, at the start, what was it like with the two of you?”.

A: “To be honest, it wasn’t the best. You know, because she was drinking and I was drinking at the same time, and when two people are drinking, it just doesn’t go well, does it? So, that’s the reason why I don’t drink anymore. As soon as we had the kids, I stopped. Before that, I was getting drunk nearly every day with her. I used to drink but not as heavy as I started doing. I wouldn’t say she’s an alcoholic but she likes to drink. She wouldn’t drink in the morning like, but it’s just like when she starts drinking, she doesn’t know when to stop. Like, she can start at four in the afternoon and you’ll wake up in the morning and she’s still sitting there getting drunk. It’s not a regular thing but when she does do it, it’s like a two-day thing where she’ll be getting pissed all day and then in bed all the next day, and there’s me, struggling with four kids”.

Q: “So, of course, you stopped drinking when your oldest daughter was born, was it? When did you stop?”.

A: “When B was born. Yes, it’s not just because the kids were born as well. It’s because of all the fighting me and F were having. I said, ‘One of us is either going to end up in jail or dead if we carry on’, so, I decided to stop drinking”.

Q: “So, did it turn quite physical between the two of you?”.

A: “Yeah. I didn’t mind that she kept drinking as long as she didn’t bring it around me or the house, so, I said, ‘When you’re going to drink, do it somewhere else’. I said, ‘Don’t come back to the house, you know until you’re even sober’”.

Q: “So, would she go away? Like drinking for...?”.

A: “No, but sometimes, half the time, she wouldn’t. She’d just go and get pissed and come back in”.

20. At F173 *et seq.*:

“The one thing I always said to her, ‘If you’re getting pissed, leave the kids alone’, because she’s drunk. Just people who are drunk shouldn’t be around kids. I mean, obviously, she’d be in the same house but don’t be like – the baby, for instance. That baby shouldn’t have been out of the cat. But even that night this happened, she said she wasn’t even going out to drink and then she come back in an hour later and you can – I can tell when she’s just had one. And, obviously, when I knew she was going over to her mum’s, I just knew what was gonna happen. She was going to get drunk”.

Q: “Did you speak to her about that?”.

A: “Yes, I did. We’d had a little argument. I said ‘D’you know what? You do what you want’, I said, ‘Just go out this house and go and drink’, cos no matter who tells us something, she’s not going to listen. She’s that type of person. When she says she’s got to do something, she going to do it. There’s nothing you can do to stop her. And there’s no point causing a big scene because the kids hate it when I shout. So, if I shout, the kids are gonna end up crying. So, I just left it and said, ‘I’m going to bed with the kids’”.

21. At F185 *et seq.*:

Q: “How often does she use cocaine?”.

A: “When she drinks”.

Q: “Okay, so, could that be on a daily basis if she’s drinking on a daily basis? Okay, you’re nodding your head”.

A: “Yes, sorry, sorry”.

Q: “Has she used that in front of you?”.

A: “She has done, yes”.

Q: “And if you challenge her on that, what would she say to you?”.

A: “She’ll just do what she wants”.

Q: “Would that lead to arguments?”.

A: “Yes”.

Q: “So, if she has mixed cocaine and alcohol, would you see a difference in her demeanour”.

A: “Yes, she’s a completely different person. Like, her face just changes. It’s hard to explain but her face changes completely. Yes, or even if – even ale. I can just tell. She changes into a different person”.

Q: “Does she become aggressive?”.

A: “She can do, yes. That’s why I say to her, ‘Don’t drink around me’ because it has caused a lot of problems in the past”.

Q: “When she went to her mum’s on New Year’s Eve, had she drank before she’d gone?”.

A: “No”.

Q: “Okay. Had she taken –

A: “But I said to her before she went, ‘Don’t be drinking’. And, like I said to you, she doesn’t listen. She does what she wants.

Q: “Had she taken cocaine before she’d gone out?”.

A: “No. I know she’d had it when she’d come back because I could tell by her face”.

22. F188 *et seq.*:

Q: “So, she’s come back home just before 12?”.

A: “She’s come back home about ten to 12. You could tell. She’s only been over there, what, an hour? You could tell she’s fucking half-bevvied. I didn’t have to smell it. I didn’t go up to her to smell it. It’s just the look of her face. She goes like a monged face if you know what I mean?”.

23. F198 *et seq.*:

Q: “So if you said to F, ‘I’m going out with my mates for the day’, what would her reaction be like?”.

A: “I don’t know”.

Q: “Are you worried about leaving the children on their own with K?”.

A: “I wouldn’t say I was worried but I’d just rather I was there”.

Q: “Is that in case she drinks, is it? That’s the reason why? You just nodded your head. So?”.

A: “Yes”.

The evidence of the social worker

24. The social worker confirmed her written evidence at C6, C11, C101, C122, C151, I180, I203, I240, I279, I287, I333, I341. In dealing with the parents, she said, in her assessment the father had recognised the Local Authority’s concerns more than the mother. From the beginning, he had recognised the need to address his cannabis use. Within the initial assessment, he agreed with the Local Authority’s concerns over neglect and why they were so worried. Following the initial split from the mother, he appeared forthcoming. That was when he told the social worker of his concerns over the mother’s alcohol and cocaine use. He said he was frustrated that she had made comments that she did not remember the day of J’s death and that she had invented her statements.

25. In her initial assessment, she was concerned that during the initial assessment, the father had shown an inability to show insight into their concerns, particularly over the mother’s sister. However, when her mother was involved in the conversation, he was unable to challenge the mother’s views of her own sister. That suggested that he would not be a protective factor in that sense. In terms of the mother, at the start of proceedings, the social worker was taken aback at the mother’s inability to recognise the concerns of the Local Authority. When she challenged her, the mother recognised her alcohol and substance misuse but followed that up

with saying that it would not have changed anything anyway. Then, in the same sense, she said she had no problem, she was not addicted and could easily stop.

26. In terms of engagement, attendance at meetings, LAC reviews, personal educational plans, both parents really struggled to attend them on a regular basis. A had attended his first LAC review but the parents did not. Attendance at meetings was quite poor which made the social worker worry about their engagement should the children return home. She recognised that contact was relatively good though the parents would be regularly late. She said that the mother only first acknowledged that she could have done things differently after the social worker filed her initial parenting assessment. Since then, she had accepted that she should not have gone out, drank and taken substances.
27. The family support worker completed direct work with the parents. They could talk about neglect but could not apply it to their own parenting. Therefore, the social worker had a concern about their insight. The mother still limits her acknowledgment to events of the night in question. On one occasion, Mother said that the father never brought it up whereas the father did say that alcohol and cocaine was the main source of their arguments and this led to physical abuse in their relationship. The mother's hair strand testing results were not reassuring. These proceedings had been ongoing for some time. This was the predominant issue raised from the beginning. The social worker said that she would have expected to see regular engagement with them whereas it was sporadic at best.
28. When she contacted We Are With You prior to final evidence to get an overview of their engagement, she specifically asked for a professional opinion on engagement and what that would tell us about the likely future use. However, their response was that it was too early to tell which, as we are more than a year post proceedings, the social worker did not feel reassured that abstinence could be achieved and sustained. At the beginning of the proceedings, the father had said he would seek to abstain from cannabis. She was also concerned that the father struggles with anxiety and how cannabis helps. She said it would only make his drug use worse, and if he was to improve his mental health, he would need to deal with his cannabis use. Similar to the mother, his engagement with We Are With You was sporadic at best. Again, when contacting We Are With You for an overview of his engagement, they could not provide it due to a very brief involvement.
29. Codeine use was discussed in the parenting assessment and the father appeared to accept the social concerns over him getting it from family and friends rather than prescription or over the counter. Their view was that it had taken the father a long time to seek help from his GP.

The father was not able to evidence an ability to challenge the mother in front of professionals and, therefore, he was not a protective factor should the mother use drugs and alcohol if the children were to return home. The social worker also expressed her concerns about the parents' dishonesty. For example, in relation to the incident on 29 June 2022. The father had called the police following the incident when the mother and her sister returned home, both under the influence of alcohol.

30. The social worker said her concern was that she met the father for a parenting assessment session the day after and, at that time, she had not received the police log, so, was unaware of what had happened. The father was not forthcoming about the incident and did not inform her of it. When she spoke to the mother, the mother told her that the police had confused her with another set of twins who lived on the street, which was blatantly dishonest. When the social worker addressed this in a joint session, that was the only time they recognised that it was not the truth. The mother also suggested that she was not under the influence of alcohol.
31. The social worker said that a more recent incident was when she was informed by the school and E, that T, the mother's twin sister had assaulted the father outside her home. She was initially informed by the school. E also told the social worker that she was worried at how her son, the father, was. She informed the social worker that the father wanted to report the incident to police and speak to her about it. When the social worker managed to speak to the father about the incident he reported, he refuted wanting to report it to the police. Furthermore, the mother suggested to the social worker that the first time she used cocaine was after J was born. She said she had only used it on one occasion before New Year's Eve. Then, later, she told the social worker of a second time, at Christmas Eve. However, looking at the father's police interview, it suggests that the mother was a regular cocaine user before New Year's Eve.
32. The social worker said that the parents' dishonesty meant that they could not be satisfied that any safety plan would be adhered to. The social worker said that she accepted that the cause of death of J was unascertained. She said that the Local Authority were not looking to blame the parents for the death. Around 4.00pm, the baby was found dead. Both parents accepted that J was very unwell. There was no evidence of regular monitoring. Parents who are incapacitated through alcohol or drugs are not best placed to look after unwell children. As the baby was unwell, the parents should have been supervising the child on a regular basis. The child was three months old. They knew the baby had bronchiolitis. Between 8.45am and 3.45pm, there was no use made of the mother's mobile phone. The social worker accepted that J was seen being fed at 10.00am in the morning. The social worker said that her issue is

that there had been no consistent account from the parents of the events of that morning. In the assessment, she challenged the mother about her inconsistent accounts. The mother had got up and walked to the kitchen. The father followed her and said that she needed to address her attitude. The mother said that it was because he gave the wrong story. When they had separated, the father had said that the mother had made up her account.

33. Prior to 1 January, when the mother could maintain periods of stability, A was placed in care several times. Her older children were adopted. The social worker said that the police interview of the father indicated domestic abuse prior to 1 January with regular cocaine and alcohol misuse. The social worker said she accepted there had been regular engagement with the schools and no evidence of health concerns but there were clearly problems at home. J's death had opened up a lot of issues that were in existence at that time due to drug and alcohol misuse, domestic abuse, and A's complexities. The social worker said she accepted that the mother had done some work with We Are With You but her engagement had not been consistent. She had completed the three-day course. However, her misuse of drugs and alcohol was an issue over many years and, in that context, three days was not a lot.
34. She said that apart from 29 June 2022, when there was evidence of the mother drinking to excess, there was a positive cannabis result and the mother had not declared any cannabis use. The social worker said that she believed that the mother's use of alcohol was a coping mechanism. In court was the first time that the mother had accepted that she was drinking, said the social worker. Before, she had said it was only her sister who was drinking. The social worker said that she was informed that she was not drinking. In addition, the mother had said that she did not know that she was pregnant, on 29 June 2022. The social worker said that she was worried about relapse on the part of the mother. She said that "We have not seen consistent engagement with We Are With You and they would have a person in their ranks who could opine on the mother's risk of relapse". However, when she had sought such opinion, she was told it was too early in the mother's engagement to tell.
35. In terms of alcohol and drug misuse, the mother had reduced her alcohol use. However, her history is that we have been here before and ended up with children at risk. The social worker said she would want to see stronger engagement by the mother. As a social worker, she could see the risk of relapse for the mother. During the initial parenting assessment, the mother's engagement was poor. The mother did not acknowledge problems. The social worker said that if there is no alcohol or drug misuse by the parents, they are able to meet the children's needs. However, prior to 1 January 2022, generally, the children presented at school in a tidy and timely manner. The social worker said that prior to 1 January, they did not have access

to the property and, therefore, had not seen its condition. However, there were prescription drugs on the kitchen counter and C and B could have reached for those and suffered significant harm.

36. The social worker did not accept that the state of the premises shown on the bodycam footage taken by the police officers and the still photographs were entirely due to the Christmas period. She acknowledged that prior to 1 January, the health visitor and midwife had attended and they could have informed Social Services if they were sufficiently concerned over the state of the property. She also acknowledged that the parents had shown good emotional warmth in contact. The contact notes were generally positive. The contact was of adequate quality. On occasions, the father had shown a short temper with A, and, at times, A had avoided the next contact. She said, in discussions with the father about his relationship with the mother, he spoke about arguments and about alcohol and cocaine use of the mother. The predominant reason he stopped drinking was that it had led to arguments. Now, he only drinks if watching Everton.
37. When they were drinking, there was pushing and shoving. He had not mentioned anything to the social worker but she saw it in the police interview. He had spoken about arguments but not the physical abuse. He said if the mother had been out drinking, she would need to stay away from the home until she sobered up. The social worker found his insight into the mother's substance and alcohol misuse concerning; that he had stayed in the relationship. Even though the parents had purported to operate a safety plan, the mother had not always stayed away, pursuant to it. The father had told the social worker in his assessment that he remembered A seeing the mother drinking and saying, "Are you drinking again?". The social worker said that that suggested that A had seen this more than once. The fact that the physical incidents described to the police in interview had not been mentioned to the social worker caused concern about openness.
38. She said that she was particularly concerned at the conflicting views between the father and the mother, the father saying he had always discussed alcohol and cocaine use and the mother saying that she was not aware of his views. In addition, the issue of the maternal aunt: the father had concerns, and rightly so, but the mother was saying that she was not aware of his concerns. The social worker accepted, from her observations, that the children have a good secure attachment. There is no sibling rivalry, no jealousy, no scapegoating by a parent, no unhelpful alliances, and no unhealthy hierarchical system. She also accepted evidence of good parenting and the contact records.

39. However, she said neglect is a wider spectrum. Not all neglect cases look the same. She was not suggesting that 1 January 2022 was typical of their experience on all other days. However, the mother had a history of a terrible upbringing and terrible relationships. She had lost two children to adoption. She had had A removed from her care a few times. She understood the difference in time periods and, despite the new relationship and Father's positive insight, the mother finds herself, again, not having made the necessary changes, and the same risks are appearing once again.
40. It was put to her that she had extrapolated from 1 January 2022, and pulling in the mother's history to say that this was the children's lived experience. The social worker responded that 1 January enabled the Local Authority to open the door to see what was happening to the children. Neglect is not simple. It does not mean that the children were unlikely to show the effects of neglect. The issues in the mother's history seemed to be popping up again and again and exposing the children to risk again. The social worker highlighted the initial hair strand testing to show that alcohol and cocaine abuse was not a one-off. In addition, the father used cannabis on a daily basis. The family were living in very close proximity, with the three girls sleeping alongside the parents. The social worker smelled cannabis on the father, although not every single time she had seen him. The house they are in now is more appropriately sized.
41. The social worker suggested that drug dealers came to the house. That, she had taken from the text messages. She felt the texts spoke for themselves. In any event, there was a risk in giving the home address to drug dealers. That was dangerous. In respect of codeine use, she accepted that the father was getting it from friends and other people. She said that she had been telling the father to speak to the GP from the beginning and was aware that he was saying that, now, he has a prescription. She was glad that he had finally sourced the right support but was worried at how long it had taken him. She agreed that there are aspects of the father's parenting that are good. In terms of risk factors posed by the father, his daily cannabis use affected his parenting; his ability to be alert. Home conditions were so poor, he was unable to be a protective factor for the risks that came with the mother. That included his inability to challenge the mother. Her responses suggested that he had not. Also, the ability of the father to challenge issues that came with the mother's sister. In addition, recent hair strand testing showed cocaine use.
42. The social worker said that despite the reporting from the health visitor, at E11 and E18, it was difficult to accept that the conditions shown on New Year's Day were just a one-off. The social worker said that her analysis of the neglect was that it was not every day of their lives

that they were exposed to neglect but that there was the potential to extend to the level where the children were at risk of significant harm. The social worker also accepted that there had been announced visits to the home with no concerns expressed. The social worker said that she was aware of the positives in the parents' case. However, the mother had continually presented a mindset of not seeing patterns of behaviour with alcohol misuse and cocaine misuse. The mother had previously been arrested and convicted in 2010 of being drunk in charge of A. The social worker asked the mother to reflect on it and she said that she did not think that she was drunk.

43. At F64, is a police protection authorisation record:

“Mother was reported to be drunk in charge of the child at Pizza Plus, in (redacted). When police attend, staff state she has been asleep on the floor. On arrival, she was in the process of getting up. She was clearly under the influence of intoxicants. The child was awake in a pram watching proceedings. Female had slurred speech. She was unaware of her whereabouts or how she had come to be there. The child was in a heavily soiled nappy”.

She said that A had been accommodated twice. At I100:

“The social worker reported that A was accommodated for the first time on 21 November 2008, following a referral from Liverpool's housing manager for child protection. It was agreed at a looked-after child review on 26 February 2009 that A would be rehabilitated to the mother's care. The second period of accommodation began on the following day, 30 March 2010 when a phone call informing the department that two weeks previously, when the mother was looking after her niece, the child had been seen alone, roaming the streets in Liverpool”.

44. In terms of the father, the following potential vulnerabilities were noted: he does not have his own bank account. He has no mobile phone. He decided he would not drink as a result of the arguments. He had not separated at the point of the police attendance, 29 June 2022. The father said he was frustrated with the mother and was saying she had just made up her statement. When the mother is not there, he presents as more open and insightful. When told of the alleged assault by T, the paternal grandmother had said that the father was very concerned, and cried and was going to call police. The grandmother was very worried when she spoke to him. The father gave the social worker a different picture. Therefore, the social worker said, that:

“We cannot depend on the father to ring the alarm bells and follow the safety plan. It is difficult to manage the risk of harm in those circumstances. It is also a dysfunctional relationship between the mother and the maternal aunt and, in front of the mother, the father will

not speak up about risk. The father was now distancing himself from what he had said in the police interview about the mother's alcohol misuse. Clearly, the mother was a regular and chronic alcohol drinker, based on testing and the father's account. The children are at risk of physical harm, poor handling, emotional harm as the parent was not then emotionally available. The same if the mother was under the influence of cocaine. This could lead to a breakdown of routine. A is likely to be uncomfortable around his mother if she is drinking and, just generally, the impact of neglect.

If the mother was under the influence, the father would be left caring for children, and he would be using cannabis. He is also taking codeine, providing a cocktail of drugs. He struggles with his anxiety, and this is likely to have an impact on him as a carer. The evidence suggests that there are often regular family fallouts with the genesis being alcohol and children would witness that. The evidence from the police suggested that when they attended the property on 1 January, the children appeared unaffected by having numerous people in their property and a chaotic scene which suggested they were desensitised"

45. In dealing with A, the social worker said that since he had been placed in [redacted] House in 2022, he had displayed few challenging behaviours. There were two incidents of aggression where he hit a door and threw a plate at a door. There had also been some occasions when he urinated into bottles to avoid having to leave his video games. The social worker is concerned that he does not openly discuss his emotions. He has, however, been shown to flourish with the right support in place through his placement at [redacted] House and his placement at [redacted], he has shown that he can settle and thrive in the right environment. The risk to A in the community when exposed to neglect at home and, in particular, substance misuse with the potential for drug dealers coming to the house puts A at risk of exploitation in the community and at risk of using drugs himself through a normalised view of the use of substances at home.
46. She accepted that A was clear in his wish to return to the mother's care. She agreed that the wishes and feelings of the children should be listened to but safety had to be prioritised. She did not agree that he may vote with his feet and did not think that was a risk. He had been in the same placement for a significant period of time. There had not been one single missing episode. A is a young 15-year-old and the placement operates with the right boundaries around him during his free time. She said it is important with the permanence plan that the child understands the permanency of the placement. She said that there would be an impact on A if he returned home, especially where cannabis was used regularly and there was risk of relapse of the mother. He would be at risk of neglect but also of using substances as it had become normalised. At present, he was settled in his current placement, there was stability and his emotional needs were being attended to as well as his ADHD.

47. The social worker said that her understanding was that the mother used to struggle to manage A's behaviour. She said that A, C and B have a loving relationship. If A was the only child to go home, that would have a detrimental impact on the sibling relationship as none of them would understand why and C and B could resent A. They would question why A was home and not them. C and B had expressed a wish to go home in an age-appropriate way. Whilst the mother had a difficult relationship with the paternal grandmother, she did support the placement if the children were not returned to her.
48. In terms of D, long-term foster care was not a realistic option for D and A. A was settled in placement. Finding a foster placement for a 15-year-old is very difficult. They would not look to move him as he is settled. That would also mean D in foster care for all of her childhood, subject to the intrusion of LAC reviews, the stigma of being a looked-after child and so on. A, on the other hand, would only be in a foster placement for up to three years. The social worker said that the sibling relationship should be maintained where possible but was mindful of the need for permanency for each individual child. It would be incredibly sad for D to be separated from the other siblings, and the Local Authority accepted that. However, unfortunately, they maintained that long-term foster care was not appropriate for a child as young as D.
49. In terms of D, the social worker had asked the paternal grandmother if she wished to be considered as a carer for D. The social worker thought that the paternal grandmother wanted to but could not manage all three children due to her own health needs and was not having contact with D as a result. If she was to be adopted, she did not wish to build a relationship with her. The grandmother had refused to move forward with the foster carer assessment in respect of C and B as she thought she would not pass, so, the special guardianship assessment had taken place. In terms of the question of an open adoption for D, she said the likelihood of ongoing face-to-face contact for the parents post adoption was pretty low. They were recommending letterbox contact in any event between siblings, parents, and D. There was a concern about open adoption when parents have contact with siblings as it can lead to placement breakdown. If D were to be adopted, that would be devastating for C, B and A and the Local Authority would need to put appropriate support in place. Overall, I found the worker to be an impressive witness. I considered her to be fair, measured and balanced in her evidence.

The mother's evidence

50. She confirmed her evidence at C38 with one amendment and her evidence at C175. She said that she gave a “no comment” police interview at F210 because she was advised to do so. In terms of her alcohol and drug use, she said that she started using cocaine when she was about 26 and always used it whilst socialising. She is now 39 and so she has been using it for 13 years. She said that she takes it three times per month. She would normally take two £15 bags. That would give her six lines of cocaine. She would phone somebody to get the cocaine and that would be a drug dealer. The drug dealer would come and meet her wherever she was. She has used her telephone to contact those dealers. She has messaged them giving them her address but she maintained that they do not come to her door. They would phone and she would meet them at the bottom of the street. She said she always paid upfront.
51. Since March 2022, she said she had not touched any cocaine. Between New Year’s Day 2022 and March 2022, she was taking cocaine three times a month, she said. She said that she had last seen her sister, T, a few months ago. They send messages to each other still. She saw her last on the occasion of her daughter’s 18th birthday. The mother said she realises that she is a bad influence and that is not what she needs right now. Her sister has moved to [redacted]. New Year’s Eve 2021 into New Year’s Day 2022, she accepts she took cocaine; two £15 bags. She maintained that she had never taken cannabis despite her positive test in March 2023. She maintains that she tested positive as the father smokes in the shed in the back garden and they go in there together. The mother said that she would smoke a cigarette. She said that when she was 15 in a care home and other residents were smoking cannabis, she tried it and had a panic attack. She accepted taking codeine which she maintained was for her back.
52. In terms of her alcohol use, she said prior to June 2022, she drank too much. She never drank at home, she said, and would not drink around the children. However, when she went out, she went out with the intention of getting drunk. She said that she is a binge drinker. She has difficulty knowing when to stop. She first recognised this when J died. She would get drunk every time she went out. On 29 June 2022, she had been to J’s inquest. She then went out with her sister, T. She said, initially, in her oral evidence that she did not know that she was pregnant then. That was clearly a lie as her later evidence revealed. She said that she had not drunk since she knew that she was pregnant. That was a lie too. She said that she was going to group sessions at We Are With You but felt that she needed one to one. She says she now has a new worker, U. She has not met her yet, she said. She had attended every session apart from when she was in hospital with D.
53. She said she had been on a three-day course to give insight into using drugs and the impact of drugs on the family. She said that she does not intend to binge drink again. She has been to

a pub and had one alcoholic drink and then gone home. If she went out and had one line of cocaine, she knows that she would need more. She said her triggers are the people that she is around; people that she socialises with, in particular, her twin sister, T. When she has a drink and has cocaine, she has a good time and likes to sing. It gives her a high and then she comes down. Next day, she will be left with a hangover. She would normally sleep for a good few hours. In 2010, she said that she was drunk in charge of A. She had been lying to herself about how much she drinks. She says she does not drink or take cocaine around children. She said she does not come home under the influence of drink. She stays out. That, in my judgment, was a lie and was inconsistent with the father's evidence.

54. In terms of the events of New Year's Eve/New Year's Day 2021/22 and the state of the house then, that was not the normal state of the property, she said. In November 2021, it would have been clean and tidy. She said, now, they are in a four-bed house and the bedrooms are ready for the children. In terms of her relationship with the father when drinking and taking cocaine, she said they would argue about anything. It could get physical, pushing each other. She maintained that they never hit each other. She said that the father stopped drinking in 2020. It took the tension out. The father is very supportive. "If he disagrees with me, we talk about the situation", she said. The mother disagreed that the father cannot stand up to her. She maintained that their safety plan worked. However, on New Year's Eve, it had not worked. She took people back to the house when the children were there and she was drunk.
55. She maintained that Messrs V and R had left her property between 11.00 and 12.00 that evening but she could not be accurate on times. She last fed J at 10.00 am on New Year's Day and last changed her after she fed. She last gave her Calpol just before her bottle but cannot remember what time. She cannot be accurate on times as to when she last saw J alive. She said, We Are With You wanted to discharge her as she does not use drugs anymore. In terms of non-cooperation with the social worker, she had been to two face-to-face meetings, one in A's school and one in D's child protection meeting. She had not gone to other meetings. She found it too hard to be around people after J's death. She felt she had not been fairly assessed by the Local Authority. She accepted, in the witness box, that she had said more about alcohol and drug use in the witness box than before.
56. Historically, she said that A was subject to a child protection plan when he was seven months old. He was moved out of her care at 10 months old. He was later returned to her. Alcohol was an issue in A being removed from her care. In 2010, A was removed from her care as she was drunk in charge of him. At L218, the following is in the Social Service records:

“The police were called to the pizza parlour at 11.00pm. When the police arrived, they found the mother on the floor outside the shop, unable to stand up, with the pram by her side. The mother was described as being ‘disorientated and extremely drunk’. She was swearing, slurring her words, unable to stand up and she was being aggressive towards the police. The mother told the police that she did not know where she was and she only had some loose change on her, and this was not enough for her to make the journey home.

The arresting officer said that A had no hat and gloves and he was wearing a tee shirt, pants, and a coat. He had a very wet and soiled nappy and there was no rain cover in the pram. The officer said that in addition to the wet and foggy conditions, the temperature outside was zero degrees. The officer who changed A’s nappy at the police station said that A’s bottom was ‘red raw’ and there were signs of a nappy rash on his bottom which could indicate that he had been in a wet and soiled nappy for some time. The officers also found an empty, dirty bottle in the mother’s bag. The officer fed A two bottles of milk which the officer said he ‘wolfed down’, indicating that he was hungry”.

A was placed with the foster carers at 1.30am and the mother was charged with being drunk whilst having the care of a child under the age of seven.

57. When A was very little, he was removed three times due to her alcohol misuse. When she was asked about the father’s interview with the police, she denied that she was drunk nearly every day together with him. She said that they would get drunk on weekends but would not drink in the school week. The father was not telling the truth. She did agree, however, that she could start drinking at 4.00 in the afternoon and when the father awoke in the morning, she would still be sitting there getting drunk. “It could be a two-day thing”, she said. She agreed that she drinks Fosters, Carlsberg, champagne but, initially, denied vodka. She said that she did not think about stopping. She said she did not realise that she had a problem back then. She said that the arguments would get quite physical, with pushing and shoving. That was probably every time they had a drink together; certainly, every week. She said she just felt so guilty. She is sorry for A.
58. She agreed that half the time she would “...get pissed and come back in”. It would not have had a good impact on the children. She agreed that A, C and B would have been impacted by it. It would be harmful to them to see her coming in drunk and seeing the arguments that she had with the father. She agreed that alcohol could make her aggressive and it would be visible in her face. She agreed that when she described it as making her “a fun person”, she was minimising the effect of alcohol. She agreed that in the past, she had done her best to cover up alcohol and drug use. She was asked about the health visitor trying to see her between

3 and 17 April 2021. The attempts by the health visitor were all to no avail and the mother said she could not remember if she tried to conceal the house being in a state.

59. It was put to her that she had constantly said to the social worker that the father had not challenged her about alcohol and drug use. She maintained that she was not lying, it just did not come across as a problem. I do not believe her on this evidence. She said, "He has challenged me but I pushed back and carried on drinking". She agreed that the hair strand test showed that she had a positive chronic use of alcohol which equals at least 7.5 units per day over a month for each segment analysed. She agreed that this was more than just binge drinking. She said, "I lost my daughter; I was drinking all the time". It was put to her that the tests between mid-August to mid-January 2022 showed that she was drinking then as well. She agreed that she was drinking a lot before J's death. She agreed that her drinking did compromise her care for her children. She would return home drunk. She could not care for the children the following day because she was hungover. She agreed that it happened far more than she had previously conceded. She maintained that was not drunk since June 2022. She agreed that she was drunk on 29 June 2022. She was aggressive to the point the police were called to the home. She denied it to the police and made up a story that the police were mistaken.
60. It was put to her that she was lying when she said she did not know that she was pregnant when she got drunk. It was put to her that the parties had received an email from her solicitors on the Monday before, saying that she was pregnant. The mother then replied "Yes, but we did not know if we would keep it". The mother is lying on this issue. In my judgment, she well knew that she was pregnant when she got drunk. Indeed, shortly thereafter, she said "Sorry, I did lie". It was put to her that she will lie to hide things if she is worried about it. She said that she could not remember what she thought. It was put to her that her sister, T, had attacked the father in the car. I282, the social worker statement:
- "The father informed that when they reached T's home, W has likely reported this conversation to her mother, following which T came out of her home screaming and shouting and scratched his arm. However, he said that he pushed her away first".
61. When asked why the mother did not report this account when she was asked what had happened, she informed that she did not know about it as she did not observe it, despite being in the car seat next to the father, whereas the father stated he told her not to tell the Local Authority because he felt it would be twisted or used against them. It was put to her that they had both covered it up, which she denied. She said she did not see what happened. "He did say that we should not tell Social Services as it would be twisted". The mother

accepted that it was something that they should have mentioned. They just did not want to make matters worse. She accepted that her sister was drunk when she attacked the father and that there were children around.

62. She was asked about the police photos: pictures of codeine phosphate, prescribed to a third party, X. She said that they came from him but she was going to give them to her mother. She did not pay him. She did not give them to her mother. She did not use them. It was put to her that the blister pack was open. She replied that she was taking codeine phosphate. She said that she did not know what the effect of codeine plus alcohol would be. She agreed that she should not take it with alcohol or codeine. She was asked about I263, paragraph 10.17 in respect of the social worker:

“The mother informed that she first tried cannabis when she was 26 years old and has never tried it since due to the fact that she had a panic attack. The mother stated that she started taking cocaine when she was out with friends as a stranger had offered her to try it which she did. The mother informed that she did not use cocaine since until after J was born. This is concerning as the father discussed in his police interview and with the allocated social worker that the mother is known to use cocaine when she is drinking alcohol. She said that she took cocaine before J’s birth. She had two different dealers. While she would message the dealers and give her address, she did not, in her message say, ‘Meet me at the bottom of the road’. She said, ‘They would normally ring at the bottom of the street to let me know that they had arrived’”.

63. I do not believe this evidence. I consider it highly unlikely that there would not be a single text message arranging to meet at the bottom of the road. All the text messages simply provide an address for the drugs to be delivered to. I consider it likely that drug dealers were attending at the property in which the mother was present, based on the text messages. Even if I am wrong on that, the dangers of giving drug dealers a home address cannot, in my judgment, be overstated. That, in itself, exposes a risk of significant physical harm to anyone inside the property. Those risks cannot have escaped anyone who lives on Merseyside, as painful experience shows.
64. She was asked about Oramorph again, in the name of X. She got this from him. She got it for her mother, again, she said. She did not give it to her. She did not know why it was open. Nobody in the house used it. She said that X had passed her a bag with an assortment of drugs in it. She was also asked about diazepam shown at F139. Again, this was from X. She did not take it even though that was open. She maintained that the respondent must have used it. I do not believe her on this evidence. If her mother had cancer and was in pain, then, there is no proper reason why her mother would not get her own pain relief from her GP. In addition,

if X did not require them and had, therefore, given them to the mother, it would not explain why he was the one who had opened the packaging and used the tablets.

65. The combination of the fact that these were somebody else's prescription drugs being supplied illicitly, they were in the house, they had been opened, lead me, on balance, to find that they were for the mother's own use. She said the drugs are all in a bag in her kitchen. She maintained that the children could not get the drugs. She said that A is old enough not to take any medication. I found that to be, at best, complete naivety on the part of the mother and, at worst, pure dishonesty. She said that she was using cocaine after the birth of J. She was shown several photographs of the home conditions as discovered by the police. The house is clearly in an unsafe condition for the children. The report from We Are With You dated 7 March 2023, at E277, was put to her:

"F was referred to We are We Are With You, Liverpool, on 28 November 2022 via self-referral, for support with alcohol and cocaine use. Her first appointment with We Are With You was on 28 December 2022 whereby an initial assessment was completed. F stated on her assessment that she has been free from substances for nine months but would like support to maintain her abstinence. Following this, one-to-one appointments had been offered to F regularly. F has attended two appointments with her key worker but We Are With You, in total, has cancelled one and did not attend one. F has attended a three-day intuitive recovery course to aid with her recovery. F has started to complete work with her key worker toward maintaining recovery. F will continue to be offered support from ourselves regarding her recovery. There is also a post-treatment service which F will go into before being discharged from service and she will receive an exit plan to aid her long-term recovery".

66. The mother said she did not know when her next appointment was. She had had a missed call from the service. She said that she wants to abstain from drugs. She has to be realistic, however. She is not binge drinking, she said. She has had a drink four times watching football. She said that she has never asked for help before and this is the first time she has realised that she has a problem and wants help. She said she is going to be open and honest. She said that she was not honest before because, if she was, then she did not think she would get her kids back. This, in my judgment, provides a key insight into the reasons for the mother's dishonesty. In my judgment, it is also evidence to support a finding that she cannot be relied upon to be open and honest with safeguarding professionals in the future.
67. She did not think that the father taking cannabis was a problem which, in my judgment, demonstrates a complete lack of insight. She was asked, "Is it good enough for the father to

come into the house smoking cannabis daily?”. The mother replied, “No, but he is getting help”. She said:

“He should have engaged with We Are With You and come off drugs. He smokes outside with the door shut. He smokes in the garden shed in the evening”.

She said that she did not think the cannabis affected his parenting. He had no problems with other substance misuse when J died.

68. It was put to her that the father says he was misusing codeine and using cannabis at the same time. She agreed that would make him a less-than-suitable person to look after four children. She agreed that she did not know what he was doing when she was out. It was put to her that the parents tried to use the safety plan before and it had not worked. The mother said that they did not have the right support then but now they have the father’s mother and aunt. It was put to her that if things went wrong, they would cover up. The mother denied that she would cover up saying that she is here saying that she needs help. It was put to her that for 15 months her alcohol use had been covered up, she had lied to the social worker and the Court and, therefore, it was impossible for the Court to think that she would be open in the future. The mother said that she had not asked for help before.
69. The witness, V, she described as her brother-in-law. She said she has not known where he is all along. She had spoken to her sister who said that V was not in the right mental state. She had spoken to T who said that V did not want to come to court. She maintained that her legal team had never read the statement of V to her nor shown it to her and she had never read it. I would find that astonishing if it were true. In my judgment, it is not. She was asked why there were food containers in and around the children’s beds, for example, an open yoghurt pot in C’s cot and a paper plate and spoon. She did not know why they were there or who put them there. On top of the bed, there was a jam jar containing cigarettes which the father later disputed. There was, in the kitchen, an ashtray containing cigarettes, which, she agreed, was dangerous for children.
70. The mother maintained that she had drunk after midnight. Her sister’s statement at F88 was put to her where her sister says that from 10.00pm, she was drinking at the grandmother’s home. I did not believe the mother on this evidence. The father told police, at F188, that when she came back from the grandmother’s she was “half-bevvied”. The mother then said that she could not remember having a drink before midnight. I do not believe her. Having said that she did not drink vodka earlier in her evidence, she was asked why, at C54, there was vodka in the fridge. She said that she had it for a hamper. She was then asked, “Why was it

open?”, and she said that she did not remember. Again, she was lying. In addition, there was a glass at the property which a police officer had described as smelling of vodka, at F75. The mother then said, “I accept it must have been me drinking vodka but I don’t remember”.

71. Thus, the lies continued. In the evening, she maintained that she did not take cocaine until she had dropped A back off at the house but she did accept that she was drunk. She was then asked why, at 3.15am, she had conducted a Google search for tramadol. It was put to her that she was drunk and she wanted tramadol at that stage. The mother said the search was for her mother. I do not believe that evidence. That is fanciful. Why would she bother, when she has a host of pain-relief drugs back at home, and what was she hoping to achieve at 3.00am in the morning for her mother?
72. The mother was then asked about events surrounding J’s death. She accepted that J had bronchiolitis. She accepted that her phone was not used between 9.02 in the morning and 4.00pm. She agreed that J should not have been taken downstairs. She denied making up most of her statement. She said that J had a blanket over her. She did not know the guidance that loose bedding can move and obstruct an airway. She maintained that there was not a duvet in the cot. Later, in her evidence, she was asked why she had not spoken to the social worker about all her problems with drink and drug use. She said it was because she felt embarrassed. I do not accept this evidence. It was because she wanted to conceal the evidence to try to assist her case.
73. The mother was asked about J’s condition of bronchiolitis. She accepted that she had had to take her to the GP for medication in November. On 7 December, she agreed that a text message showed that she was trying to buy drugs: L175. She was asked about the text message on 11 December 2021 when she said to her friend, “Fucking hell love, you want it as well?”. It was put to her that she was on drugs at that stage. The mother suggested that that meant “Are you alone as well?”. The mother was lying. In my judgment, it is clear that she was suggesting that her friend might be on drugs as well as her. That would explain the response from her friend, “Only had enough for a twenty love”. She agreed that at L176, she sent a text message asking for drugs and she accepted that the text suggested that the dealer should go to her actual address.
74. It was put to her that she failed to take one of the children to an appointment with an ophthalmologist on 20 December, yet later that night, she ordered drugs to be sent to her sister’s address. Then, in the early hours of 24 December, she messaged a drug dealer on two occasions within a quarter of an hour of each other asking for drugs to go to two different

addresses: [redacted], her mother's and [redacted], her sister's property. She agreed that there was no alternative explanation but that she was on drugs again. At L142, she sent text messages to the father asking him to come and get the children at 9.30 in the evening. He replied, how could he, as he had C, and that she should leave the baby there, at her mother's and walk them over.

75. Then, at L144, she sent a message on 26 December at about 2.00am to the father, asking him to put the mother's and the children's dinner in the fridge. That indicated that the plan was for the mother to take Christmas dinner over that day but had not done so. At L178, there was another text message to a drug dealer asking them to come to another address, [redacted]. This was at 6.40 in the morning on 26 December. She said that that was her friend's house. That was also where X lived with somebody called Z. She also agreed that there was a text message at L124 which referred to "lem" which was a reference to cocaine. She agreed that on Boxing Day, at 8.20am, she was trying to get cocaine. She said she was up all night drinking. She said around Christmas, she would have been out of the house for two days and nights taking cocaine and alcohol. She agreed that, at the time, C and J were both very sick. She agreed that the text at L121 was a text from X asking her to take the labels off the tablets he had supplied her. She said she forgot to take them off. This, in my judgment, establishes, on balance, that the mother knew that in supplying her, the mother, with drugs, that had been prescribed to him, that was illegal. The mother's response supports that too.
76. R gave some very brief evidence. He was an extremely poor witness who, obviously, felt utterly conflicted. He had provided a statement to the police at F111. In his statement, he said he left the mother's property, he thought, at 9.20am on New Year's Day. He could not give an exact time of when his friend, V, arrived. He just remembered him feeding the baby and then they left. His friend, V, who could not be brought to court despite the best efforts of the Court, through a witness summons and bench warrant, and the bailiffs and the police, had provided a statement dated 2 January 2021 to police. In that, he said that just before midnight, he went with the mother to her house so that he could wish the father a Happy New Year. He did not stay long.
77. On 1 January, at about 8.40am, V got a call from R saying that he had stayed over at the mother's. At 9.20am, he went to the mother's house. When he got there, he went into the house, letting himself in. He walked into the living room and saw R sitting on the left side of the couch and the mother was sitting on the right side by the window feeding J with her bottle. He said that R and he left the mother's just before 10.00am. I am not satisfied that the mother

and/or father have conspired with V to pervert the course of justice by assisting him to avoid the bench warrant that I issued. I am, however, satisfied that they each know a lot more about what has been happening behind the scenes than they have let on. For example, the father did not disclose that he had V's phone number and actually rang him during the currency of the hearing purporting to pass on a message about his availability and the mother described him as her brother-in-law, partner, or former partner to her twin sister.

78. When the mother resumed giving evidence, she confirmed the father's cannabis use which was three spliffs a day. He would go out to the shed three times per day to smoke it. She said that she did not think that he would smoke it around the children. She agreed that the Haribo box with cannabis it was in their bedroom on the floor. That would pose a risk to children. At F133, she was referred to a photograph of roll-up cigarettes in an ashtray. She said that the ashtray would get taken outside and would be brought back in with dogends in it, hence, the picture. The mother acknowledged a number of failings: coming back and being intoxicated and under the influence of cocaine in the house. Having come back, she should have left the children alone. She got J up because she was crying, she said, but she did not wake the father up.
79. It was put to her that if the father was right, and she had taken J from the Moses basket at around 5.30am, she was then searching for music on Google between 5.55am and 6.26am: L100. She maintained that J was still upstairs and that she had got her up when V came in. She acknowledged that at about 4.00pm on the afternoon of New Year's Day, she had gone upstairs with J, and A had heard her scream. A was the one who made the 999 call to the emergency services. She accepted that this would have had a serious impact on him.
80. The statement of AA, the emergency medical technician with North West Ambulance Service was put to her at F97:

“I spoke to the mother in the kitchen and was asking her some questions about the baby's medical history. I first asked what time she last saw the baby well. She shouted to the male in the living room shouting, ‘Babe, what time was it when you last fed her?’. I heard the male shouting something like ‘Two o'clock this morning’. The mother then responded, ‘It was two o'clock today’”.

It was put to the mother that this demonstrated that she did not know when she fed her last. The mother replied, “I cannot remember”. As she has given a “no comment” interview, it was suggested to her that the first time that she said that she had fed J at 10.30 to 11.00am was her statement on 14 March 2022. She agreed with this. She was then asked why it was that she

was asking the father when he last fed J on New Year's Day. The mother said she was not thinking straight.

81. Then, it was put to her at I247 in the social worker records that the mother was suggesting that she gave J Calpol at 10.30 to 11.00am. She was asked how she remembered that in the summer of last year but did not tell the paramedics. Again, she said she was not thinking straight. The various accounts recorded at L245 were put to her. It was put to her that she could not give a straight account of what happened. The mother replied that she had told me everything that she could remember. She denied making anything up. It was put to her that the bodycam footage showed her to be under the influence of drugs and inebriated and that A, B and C had been exposed to that. The mother agreed that what the children were seeing time and time again was harmful to them. In my judgment, this mother has very little recollection of events during the morning of New Year's Day 2022. That, in my judgment, was because she was under the influence of alcohol and cocaine and was either intoxicated or asleep. I attach no weight to her purported recollection. I prefer the written evidence of the witnesses V and R given to the police who have both been evasive through their sense of conflict in wanting to protect the mother within these proceedings.
82. In terms of A, she said A has expressed a clear wish to come and live with her. He asks why he cannot come home. He is upset that C and B are with the grandmother but he is not. She said that she is happy with the present unit that he lives in. They support her and A. They are meeting his needs. Whilst he urinates in bottles so that he can carry on gaming, she accepted that gaming was an issue when he lived with her. She accepts the diagnosis of ADHD. She said, at his old school, he was excluded on a number of occasions. He was excluded a number of times when he was with her in her care as well. He is doing better in [redacted]. He has the right level of support with his outbursts and the children like him. Whilst he was 15 in January, the mother accepted that his emotional age is not the same as his chronological age. He is more like a 13-year-old. She would encourage him to remain where he is if he stays in care.
83. In terms of C and B, she would be happy for them to remain with the grandmother if they are not returned to her care. She would want to see them more in the grandmother's house and not at the [redacted] Centre. The contact notes, she agreed, show structured, enjoyable the sessions generally. The girls enjoy it. In terms of D, she said that she was very upset that D has a plan of placement for adoption and no contact. Overall, I found the mother to be an unimpressive witness. She was dishonest on a number of occasions and, at times, her apparent epiphany in the witness box about the harmful effect of drink and drug use on the children

appeared less than authentic when contrasted with those on the part on those on the part of her evidence.

The father

84. He confirmed his written evidence at A28, response to threshold, C62, C91, C112, C148 and C193. I then heard from the father, briefly. He said that there was nothing in the transcript of his police interview, at F163, that he had left out or needed to clarify. In terms of the Haribo box containing cannabis and drug paraphernalia, he said that that should have been on the wardrobe in the bedroom. It was put to him that the police officer who found it said that it was on the bedroom floor and the father simply replied that he did not leave it there. In terms of the safety plan, he said that once or twice, that had broken down. If the mother came back under the influence of drugs and alcohol, then, there would be an argument.
85. He said, in terms of his own drinking, that would only be if he was watching the football and he would only have one and a half pints. He did not like drinking due to the arguments he had with the mother. He just decided, when B was born that he wanted to stop. He said that he and the mother were drinking all the time, or, should he say, “a lot”. “If we both drank, the children would not be looked after or fed”. There was a clear recognition of causation of significant harm. In terms of his non-engagement, he said he attended one LAC review at the beginning. When he went, he felt as though he was attacked, blaming him for J’s death. That was why he said he was not going back. He felt that everybody was blaming him: police, social worker, everyone. In terms of the family group conference, the purpose of this was to see if the children came home, what plans could be put in place to keep the children safe. In terms of his current house, he said it is a bigger property and is prepared for the children to come home.
86. As far as his drug use was concerned, he said he had no issues testing for cannabis. He uses it on a daily basis. He would smoke cannabis in the back garden at night time. He would wait until the children were asleep before he went outside. He also smoked tobacco. Neither of them smoked in the house, he said. He did not want to put cigarette stubs in the back garden as they had kids. I did not understand that answer as it was clear that the cigarette stubs were in an ashtray in the house. He said he did not challenge the report showing codeine use. He was getting codeine from his friends for his back, he said. When asked why he did not get drugs from his own GP, he said he was struggling to get an appointment. He was being dishonest in giving this evidence, in my judgment. He was engaged in illicitly securing prescription drugs from drug dealers.

87. He maintained that he has back problems and has been told by a physio that he has scoliosis. He is now taking his own tablets from his GP: Naproxen and dihydrocodeine. He maintained that even though there was a finding of low-level cocaine in his hair between mid-September 2021 and mid-December 2021 and October 2022 and December 2022, albeit at a low level, he did not take cocaine. He said he did not agree with cocaine. He referred to the mother taking cocaine, drinking all night, sniffing, and staying up all night. He said he did not want to do that. Initially, he denied that taking cannabis and codeine made him more sleepy. He said he has loads of friends but they do the wrong thing and he does not bother with them. They take drugs and go out drinking all the time. He said it is not nice for the children knowing that the mother is out there. A had knowledge of it. He said he thought he spoke to A about it.
88. He was asked about his cannabis use. He said that when he was first tested in March 2022, he was using cannabis on a daily basis. He would have two joints before bed: C69, paragraph 28, and his account to the social worker, I258, was that he was spending £80 per week on cannabis. He agreed that he had increased his cannabis use during the course of the proceedings to three times per day. He denied that he ever smelt of cannabis. He did not accept the social worker's evidence that she smelt cannabis on him. I prefer the evidence of the social worker on this issue. She was fair enough to say that she did not smell it on him all the time. He agreed that it is possible that A knows of his cannabis taking and possible he would smell it. He was initially evasive about the effects of cannabis upon him and said that he did not know what the Court wanted him to say. I told him to tell the truth, twice. Eventually, he said that he gets "stoned". It makes him tired, sluggish, and slower. He is less mentally sharp and less emotionally available to the children. He is less attuned to their emotional needs when stoned.
89. He was referred to his statement at C194, paragraph 11:

"It is no secret that I have had a longstanding issue with cannabis misuse. I have been smoking cannabis for around 15 years. This was a normal way of living for me. When I was having a bad day, it chills me out".

He said before the baby, he had no mental health problems. He was then asked about the account given to the social worker at I258, "G notes that he finds that this, smoking cannabis and doing drugs at night helps with his anxiety and thinks it helps his memory". The father maintained that he was not using it to cope with anxiety. I do not believe him on this evidence and prefer the evidence of the social worker.

90. He agreed with the statement at C69, paragraph 28, that he did wish to make positive changes and would like to stop smoking cannabis completely. He accepted that his use of cannabis had increased over the proceedings. He would get his cannabis from different drug dealers: three different people who were all friends. He agreed that the mother had also got drugs for him from her drug dealer friends. He agreed that there was no place in the house that was safe to store drugs in the Haribo box as there were young children in the house. There is a particular stupidity and consequential danger for children in storing drugs in an empty box of sweets. He accepted that he abused codeine. He would use it in table form: codeine phosphate, co-codamol, dihydrocodeine. He agreed that he got codeine from friends, I258, paragraph 10.6, but denied getting it from family. He said he understood that it was dangerous to do this. It was also dangerous for children in his care. He said he would take codeine every day, a few times a day. He did not know what the strength of the tablets he was taking was. He increased his codeine use through the proceedings.
91. In dealing with New Year's Day 2022, he agreed that he did not wake up for 11 and a half hours. That was possibly due to drug taking. He agreed that it was possible that it had prevented him from waking up when J was crying. He said that if the children were returned, he would not take cannabis around the children and would not take cannabis and codeine together. He said that, eventually, he would like to stop taking cannabis as soon as possible. He has had 17 months, almost, to achieve this but has simply increased his drug use. He maintained that he did not use MDMA. He could not answer why he had tested positive for cocaine: E248. He said he was drinking very frequently before B was born. Then he stopped. He began drinking two pints at football since these proceedings began. He agreed that he was encouraged to go to We Are With You early in the proceedings. He agreed that his attendance could be better and that it was not good enough.
92. He agreed that he was only halfway through the course, and the Local Authority was right to be concerned about his drug use. The report from We Are With You, dated 23 March 2023, states:

“Attendance and engagement: G attended a face-to-face assessment appointment on 9 December 2022. He was very polite and friendly and engaged well throughout the assessment. On 3 January 2023, G did not attend our first one-to-one session. Client stated he had forgotten about the appointment. Rescheduled appointment for 16 January 2023, initially.

13 January 2023, I attempted to make contact with G on this date as I had spoken with his partner's key worker who had informed me of a home visit she had arranged with G's partner. I attempted to contact G

to see if he was happy for me to attend this same visit that was scheduled for 24 January 2023 with his partner's key worker but got no answer.

16 January 2023, G presented at the office for the next scheduled appointment we were meant to have. I explained to G that I had attempted to contact him relating to the above home visit. He confirmed he would be happy for me to attend this visit alongside his partner's key worker.

24 January 2023, G's partner cancelled the home visit due to having recently given birth and having clashed appointments.

15 February 2023, I attempted to call G to discuss the next home visit with him. No response. His partner's key worker managed to speak to his partner to confirm the next home visit.

7 March 2023, myself and G's partner's key worker attended their address for the home visit, as planned. G engaged well in conversation with me throughout the visit. We discussed his current substance misuse and methods G can adopt to cope with triggers, urges and cravings alongside some harm-reduction work. I issued G with a cannabis workbook which he agreed to start working through before our next appointment.

G has answered few telephone calls yet has communicated well during our sessions and any successful telephone contact made. He is always polite and well-mannered. His engagement could be better as we are yet to have our first session since his assessment. We are due to start working through the cannabis workbook which G will also be expected to take home, complete, and reflect on. He has, currently, completed 20 out of 50 pages, according to his written statement, 5 April 2023".

93. He said that before B's birth, the mother drank nearly every day. He agreed that he told police that one of them would have ended up dead or in prison. It was put to him that two adults drinking, having arguments, the mother using cocaine, the father using cannabis, did mean that A was not well looked after. He agreed. He said that when the mother used alcohol, she changes. She is aggressive. She drinks all night and into the day. It would be scary for the children to observe. The father said he could not remember the mother being out for three days on the trot over Christmas. He agreed that J, at this stage, was a poorly baby, coughing and going red. He said after the mother had been out drinking, normally, when she got back, again, on the next day, there would be an argument. He would say to her that what she was doing was not on.
94. He agreed that he should not get stoned but he did. He agreed he smoked cannabis on New Year's Eve 2021/2022. He said he smoked it every day. He said the children were out of their routines. They went to sleep late. It was put to him that he had said to police, in interview, that the mother should not have had the child, J, downstairs with her. He agreed and said, "I should have done more to protect her". He was asked about the relationship

between the mother and her sister. He said that they would get drunk together. On 29 June, he called the police. He did not know if the mother took cocaine, then, but he knew that she had had a drink and he knew that she was pregnant on that day. The day after the appointment, the parenting assessment took place with the social worker. He agreed that he did not tell her that the mother was pregnant or that he had called the police the night before. He thought it would affect them getting the children back. He said, "It does not look good if she is pregnant and drunk and the police were called". He agreed that it was not good. He agreed that the risks are still present. It was important that the Local Authority knows if risks are present. He agreed that he was putting his own needs in front of those of the children. He agreed that in telling the mother not to tell the social worker about it in case it was held against them, he was putting his own needs before the children.

95. It is also part of the evidence which shows, in my judgment, that the father cannot be trusted to work openly and honestly with safeguarding professionals into the future. In terms of the safety plan, he agreed that things went very wrong on New Year's Eve/New Year's Day 2021/2022. Nobody was able to identify what had gone wrong other than that routine went out of the window. He said everything went wrong that night. It was put to him that if things go wrong and the mother relapses, there is no way that the father would tell professionals and seek the help that was needed. The father replied, "No". The father agreed that the mother had not binged with drink since 29 June. They would both drink alcohol, albeit, limited if they go out to watch Everton on the television. He said that one of the main problems is her sister, T. He said the mother realises that she is a bad influence on her. He maintained that the mother does not use cannabis and has never used it. However, often she is with him when he smoked cannabis.
96. In terms of ceasing his cannabis use, he said, "It's not as easy as just stopping". He agreed that codeine gave him a certain kick and he was not taking it just for pain. He agreed that prescription drugs being passed around illicitly was trendy on the street. He has discussed the mother going to AA and said that she wants to go but is looking for help. No explanation was provided for why she has not gone already. The father said that he wants to help learning how to break the habit. He agreed that the children were neglected on New Year's Eve over into New Year's Day 2021/2022, and the house was chaotic. He maintained it was not normally like that. He agreed that the mother had been out on "two or three benders" over the Christmas period. He was asked why he had not stopped his cannabis use when the proceedings had been going on for 16 months. He replied, "I have just not been in the right frame of mind".

97. I then interposed Q from DNA legal. In dealing with the mother's test results, she said she could not say how much had been consumed from those results. If inhaled, then a person could absorb quite a lot of smoke if in the same room as a user. If ingesting a lot of smoke, then the point is reached when the body starts to metabolise but that cannot be confirmed from hair testing. Whenever cannabis is consumed passively, the body will inhale it and start to excrete it. Passive inhalation can lead to metabolism. On behalf of the father, Ms Grocott KC said that the father did not dispute the results from DNA Legal in respect of cannabis and opiates. However, he did challenge the finding that he had used cocaine. She said that cocaine hydrochloride has a very high boiling point and is unlikely to be in the environment. Inhalation of crack cocaine can do but that is a negative result for that in this case. Passive inhalation could not cause these results. If cocaine was in the air and was being breathed in, it is possible for minute amounts to be inhaled but it would not give this result in these findings.
98. It was put to her if other users in a pub are taking cocaine, then it would be possible to get results shown through passive inhalation. The expert said that she did not believe that to be true. If the father had consumed trace elements of the drug, it would not give these results. It was more likely that the results were caused by consumption of the drug. She agreed that there are other variables and people can react differently. She agreed that one has to look at all the other circumstances before supporting direct cocaine use by an individual but that does not take away from her conclusion that cocaine was being consumed. She could not confirm the manner in which it had been consumed from hair strand testing.
99. The father resumed his evidence at this point. He agreed that as the mother came back intoxicated in the early hours of New Year's Eve, she should have left the children alone and should have not removed J from the cot. He was asked if the safety plan suggested that something had happened in the past to generate it. The father replied that nothing had happened. It is just because he did not think that somebody who has been drinking should look after children. Because she was drinking and taking drugs, she should not be around children. He was asked about the bodycam footage. He agreed that the mother still looks drunk and under the influence of drugs. He said that he had said that the mother had made up her statement. The mother had said to him before they split up that she did not remember events clearly. He agreed that it was unlikely that her memory would have got any better. If she cannot remember, then, in giving different versions, then she must have made it up.
100. The father said he could not manage her drinking and cocaine use around the children to keep them safe. If she cannot remember, then, in giving different versions she must have made it

up. The father said he could manage her drinking and cocaine use around the children to keep them safe although he recognised, he could not get her to tell the truth. However, he believed that the mother had learned a lesson and it was a hard lesson to learn. He agreed that the significant risks of harm to the children posed by alcohol and drug use of the parents was emotional and physical. He agreed that, realistically, the children had been in bed from 1.00am and were not up until 4.00pm in the afternoon. That was 15 hours in their bed or cot. The mother was asleep on the couch downstairs. He agreed that the mother is not teetotal. Her understanding of the safety plan is that she can have a drink. The father's understanding was that there should be no taking of cocaine. He agreed that he told the police that she just cannot start and then stop. He said, "She is her own woman; I am not going to tell someone what to do".

101. On one occasion, she came in drunk and he took the children out to his family to keep them safe. He said that the safety plan will not work in the future:

"She should not be going out for days drinking, so, the plan, now, is not to go out all night. If she was to go out, the plan is to get the children looked after by family".

On New Year's Day, he said he did not know that she was going out to get drunk. The plan was for the family to have Christmas together but she did not stick to it. Over Christmas, she went out for two and a half days and did the same on New Year. He was left looking after the children. She came home with a hangover and she spent nearly a full day in bed. I found the father to be less unimpressive than the mother and, at times, he showed insight. However, his evidence still has the shortcomings set out above.

102. I then watched the bodycam footage taken by the police officers who attended the late afternoon of New Year's Day 2022. It was a difficult watch. The whole experience would have been significantly emotionally harmful for the children. I agree with the father's assessment of the mother that she did appear still to be under the influence of drink and drugs. I approach my assessment of the mother, and the father, for that matter, with great caution, particularly, bearing in mind the loss of J and the huge emotional shock and distress for. However, in making all due allowances, the mother was still, clearly, in my judgment, under the influence and at times exhibiting odd behaviour, for example, paying more attention to her mobile phone than the children.
103. Finally, I heard from the Children's Guardian. She said that she had been present through all the evidence heard over the past two weeks. None of the evidence had changed her analysis. Having heard the parents give evidence, her concerns were greater. Both parents had made a

number of concessions in their evidence. Based on what she had read and heard, all four children would be at risk of significant harm if they were returned to their parents' care. She said she did not believe that the situation could be safely managed. She had read the notes of the family group conference and heard proposals but, in light of the risks, the lack of honesty and openness of the parents, she did not think it would safeguard the children. She would have concerns about how to manage the risks.

104. If findings were not made, then she would have to see a safety plan. There would need to be some further assessment of the parents but she did not see how the risks could be managed. She said that there was no evidence of significant drug use over a longer period of time, including the run-up to the night in question. There was also drug use during the course of proceedings and levels of dishonesty. The risks are based around the mother's drug and alcohol use. Although she accepted that the last test was negative, she did not have confidence that the mother would maintain that change. She is still drinking some alcohol and she struggles to do that if not to excess. Alcohol, for the mother, carries the threat of cocaine use, historically. She has a long history of drug and alcohol misuse. This goes back to 2008. er, cocaine use goes back 13 years. She is concerned over the mother's ability to abstain. The mother herself expressed concern about her ability to abstain and felt as though she needed support.
105. There have been concerns over the father's drug use which, it would seem, has increased over the proceedings. His cannabis use is longstanding. He admits dependency. He admits needing help to come off that. His use of codeine and the fact that he has been obtaining that without prescription, notwithstanding he has a prescription now regarding that, there are concerns about him obtaining additional painkillers above the prescription drugs and how that would impact on his parenting ability. In addition, the Guardian was concerned about the ability of both parents to adequately and safely parent the children. The Guardian said that what we saw over New Year's Eve and New Year's Day was that neither parent was capable of providing safe care. The evidence shows that this was not a one-off incident. There have been previous occasions when the mother has been out and comes back under the influence of alcohol and drugs.
106. The father is not able to control what the mother does. She does what she pleases. It also showed that half the time, she does not stick to the safety plan. The Guardian said it was highly likely the children would be at risk of significant harm. She said that there were neglect issues surrounding the death of J. Whilst she accepts the postmortem was inconclusive, the Guardian had major concerns around the circumstances surrounding the death of J. She had

concerns that had the parents been capable, they might have noticed something about J sooner and it was possible that something could have been done, but we will never know. I note, of course, the pathologist acknowledged that J may have died suddenly.

107. The Guardian said that she would have expected the parents to have been attentive to J. She repeated that she did not think that they were responsible for her death. The bodycam footage, she felt, did not show the state of the property. It is very difficult to tell as there is so much clutter present and decorations. The bedding on the children's bed seemed not to be clean, with bits of food in the bed. There were things lying around. The door was hanging off. Three younger children in bed with their parents asleep. When the police arrived, they commented that the mother appeared to be under the influence and slurring her words. The Guardian thought that the mother came across as mumbling. She accepted that people can accept bad news differently and, indeed, I approach this evidence with great caution.
108. The Guardian said that she has worried about C, in particular, who had been in the cot for 16 hours. She would expect a two-year-old to be crying out at that stage. It was almost as if she was used to it. She was surprised that she was not demanding attention and just standing there, despite the chaos around her. Both parents accepted that the mother was under the influence of cocaine and alcohol; the father, fatigued and stoned. The children would have suffered harm from the mother returning in that state, and the father accepted it. He had said that half the time, she would not stick to the safety plan.
109. When a parent is under the influence of drugs and alcohol, that will have an impact on a child. "For a child to see a parent under the influence of drugs and alcohol is scary", said the Guardian. For the parents, it impacts on their ability to parent and respond. That is harmful for children. To have both under the influence is harmful to children. The Guardian said she believed that neither parent was capable of responding to the children in that state. She said that she believed it was highly likely that the mother had returned under the influence of alcohol on previous occasions and would do so in the future. The difficulty, in this case, is that it would seem that neither parent can say, as a result of being on substances, when J was last fed, last seen alive, and this was a child who was poorly. Even if, overnight, the parents should make sure that they are able to safely care for a child. At least one should not be under the influence of drugs and/or alcohol. The parents have no idea when they last saw her when she was fed, and there was a period when neither accepted having the child in their care.
110. The Guardian accepted the mother's last two drug and alcohol tests were negative: summer 2022 to March 2023. She accepted there was no evidence of excess alcohol since

June 2022. However, she said her concern was the risk of relapse. We Are With You have been concerned over the lack of engagement, commencing late and missing appointments. It was too early for them to comment on the risk of relapse. The Guardian said that, based on other cases and the history of this case, in terms of having a wholly accurate prediction, it is difficult, even with a professional opinion. She was not sure that a psychiatric or psychological report would give the answer. Whilst the mother had shown some honesty in the witness box, it had come very late.

111. Whilst she was showing a greater insight and accepting now that in the parenting assessment, she needed to address her drug and alcohol use and she was at the very start of the process. Whilst that is really good, there has been evidence of excess alcohol or cocaine use for 11 months, the mother has been here before. She has demonstrated periods of abstinence before. However, previously, she had children removed when she was in her early twenties. She had had issues with drink and drugs going back to 2008 and up to 11 months ago, where her drinking was being problematic. Whilst the mother and father say she does drink but only has one drink, the Children's Guardian did not have confidence she would continue to drink moderately.
112. In terms of A, he had been very clear to the Guardian that he wanted to go home. He is, however, quite settled in his placement but this is his mum. The Guardian did not know what A understood about why his sisters are placed with the grandmother. She did not ask about that. She was not sure that that would have helped at all now. However, A is upset at not being with his family. He just wants all his family to be back together at home. He is aware that the outcome could be that none of the children return home. She agreed that A, C and B would be devastated if their sister, D, was placed for adoption.
113. In terms of evidence of chronic neglect of the children, she said there was a lot of concern about A's emotional presentation in the past which could well be suggestive of neglect. The picture we have A, whilst in the parents' care is worrying. What we now know was going on whilst A was living there, the state of their relationship, the drinking, the mother's drug and alcohol use, Father's drug use, those emotional problems could be as a result of all of that. Since he has been in a residential placement, he had experienced firm boundaries and attentive parenting and those problems had almost disappeared.
114. The Guardian disagreed with the suggestion that the change was all due to him getting one-to-one attention in a small class and not being treated in a harsh way as he was at his previous school. The Guardian said that that had helped but not made a major difference. The Guardian

agreed that a lot of what the mother and father did was right but there was evidence from individual sources like the health visitor at Well Cared-For Children of their significant engagement with school and nursery, clean and tidy and not the kind of children that one would normally see from a chaotic household. It would seem that there have been periods of time when their needs have been met. The parents manage quite a lot of the time, to maintain routines, attendance at school and nursery and the children were not currently displaying emotional problems. However, there had been times when the care had fallen short and been dangerous for the children. New Year's Eve and Day, the children were left uncared for for a long time. On New Year's day, they were not supervised and cared for and their needs were not met. C could not get out of her cot. B could get out of her bed and do who knows what. In terms of basic physical and emotional needs, these were not met that day. Also, their admissions of the parents found ongoing drug and alcohol use and reports of that impacting on the parenting ability of the parents.

115. The impact upon the parents' ability to be present to meet the physical and emotional needs of the children: both parents accept that their care had fallen below what it should be at times. New Year's Eve and New Year's Day it was likely that the children were placed at risk of significant harm and would be if returned to the parents. About 17 hours had passed from when the father went to sleep until B got up. Even for young children like that, it was a long time: 12 hours maybe but not 17 hours. In addition, the father did not hear Mother take J out of the Moses basket. It is very hard to know what was going on at this time because there is so much confusing information around timings. However, it is likely the children were in their beds for too long a period of time. It is very hard for children of their age to determine lived experiences.
116. The Guardian did not accept that the parents had been dealt with by professionals as though they were being blamed for J's death. She did not think that the parents would deliberately harm their children. She did not think that the parents had a difficult relationship with the social worker. She did, however, accept that it would have been difficult for the parents in that they had to wait until January 2023 for the Children's Guardian to say that she was not pursuing causation of death findings against the parents. However, there are so many neglect issues surrounding the death of J, it is difficult to ignore them.
117. She said that if D was to be adopted, then there would need to be some careful work done with all the children around their sense of loss. A would need to have it explained to him that there were a number of concerns that led the Court to make that order for D and the reasons why the Court, the social worker and the Children's Guardian thought that it was not safe to return

to the parents. The Guardian would need to discuss this with the social worker. The Guardian said that we can only go by what we do know and what the parents have admitted: getting drunk nearly every day when A was nine or 10. He would have been aware of that. We know from what has been heard in evidence and from statements that there were times when Mother returned to the home under the influence of drugs and alcohol. There were also times when the father's use of drugs impacted on his care of the children.

118. The mother was not able to ascribe any of her difficulties to her own mother at the start of proceedings. She was now accepting that, and that is a huge move forward, yes. Previously, the mother had denied being a child in care due to her own mother's drinking. Part of the risks, in this case, are to do with the father's drug misuse as well as the mother's use of cocaine and alcohol. The safety plan which Father tried to put in place went wrong on New Year's Eve/New Year's Day and showed the inability of the father to safeguard the children and adequately care for them himself. The Guardian said that she was not confident that the mother would abstain and that the father would protect the children. She would be extremely concerned about any of the children returning. In fact, if this was to be the decision, she would want to see a safety plan.
119. She would want to see both parents working closely and consistently with alcohol and drug services. She would want to see the father drastically reduce his cannabis use or even stop it. He should only take prescription painkillers prescribed for him by the GP. The mother should abstain from alcohol and drugs for a period of at least another six to nine months. She would want to see better acceptance of an insight by the mother, particularly with respect to remaining drug and alcohol-free. Her difficulties stemmed back to childhood and it is likely that she would benefit from counselling to address those issues.
120. C and B are young children who need certainty and permanence. If they cannot return now, they should have the certainty of remaining in one place. It would be a family placement. Decisions would be down to E if progress was made by the parents and then should see no issue why contact arrangements should not be relaxed. She considered that contact between the parents and the children should take place once per fortnight. There should also be contact once per fortnight between the siblings.
121. The Guardian said that she was not concerned about the relationship between the father and the paternal grandmother but she was concerned about the difficulties between the mother and the paternal grandmother. If the father was struggling to manage the mother, this could cause problems for the father in reaching out for support from the grandmother. It is likely that A

needs life story work. She accepts that the outcome will be difficult for him. Reducing contact from three to four sessions per week to once per month is artificial. The Guardian said she was not sure that monthly was sufficient to meet A's needs. That would need to be kept under review. Perhaps, once a fortnight or once a week would be good for him. She did not think that A would vote with his feet if he had to stay in placement. He has not done so before. In terms of inter-sibling contact, she felt there was no reason why additional contact could not be organised and possibly supervised by the maternal grandmother. The siblings should be seeing each other at least fortnightly. The children should have contact with parents fortnightly. E's views will be important on this.

122. If D was to be placed for adoption, there would be a massive impact on A. He would be likely to need a lot of help. It would be helpful if he could see a counsellor; the one he saw previously. The Guardian said she had not discussed with A the fact that she supports D being adopted but she agreed that it something he needs to be told. The Guardian said that she did not know how the girls feel about A not living with them. When she went to see them, C was in a sulk due to problems at school. The grandmother had had words with her. B was very quiet and neither were prepared to engage with the Guardian. In terms of D, if she is placed for adoption, then she would be deprived of inter-sibling contact. However, the chances of an open adoption were very difficult. I found the Guardian an experienced Guardian with over 30 years of social work experience, to be an impressive witness. Like the social worker, I found her to be fair and measured and balanced in her evidence.

My findings

123. I agree with the closing submissions of the Local Authority in terms of the proposed findings, and, therefore, find as follows:
- a. F has a longstanding problem with alcohol use. She was a chronic excessive alcohol user for the period mid-August 2021 to mid-February 2022 and has been a binge drinker. F would go out drinking to excess on a weekly basis. She would go out with the intention of getting drunk and did not know when to stop once she had started drinking. I do not accept the mother's account of only going out three times per month, at weekends. That is not consistent with either hair strand testing or chronic excessive alcohol use or the father's account of frequency of drinking.
 - b. The mother has a longstanding problem with cocaine use spanning 13 years. She uses whenever she drinks. She uses two £15 bags when she goes out which generates six lines. She obtains cocaine from local drug dealers who are aware of the family's address.

The mother was using prescribed codeine at the same time as drinking alcohol to excess and cocaine. This is dangerous and can lead to significant effects on functioning. The NHS information leaflet that was produced by the Local Authority during the hearing states as follows:

“If you take recreational drugs such as cannabis, cocaine, and heroin while you are taking co-codamol, you are more likely to get the serious side effects of the codeine and co-codamol. These can include breathing difficulties, heart problems, fits and even going into a coma. Some recreational drugs such as cannabis also increase common codeine side effects such as sleepiness and dizziness”.

c. The mother’s alcohol and drug use impacted her capacity to parent negatively, not just at the time of J’s death but prior to that time and for a period of years. The mother’s alcohol use is a source of arguments in her relationship with the father. Until B was born, both parents were drinking and their arguments became physical every week. This caused significant harm to A. After B was born, the father stopped drinking to excess but the mother continued. The mother would come home drunk and would be hungover the next day. This happened more regularly than she was prepared to admit to professionals. The mother’s face changes when she uses alcohol and she becomes aggressive. The children were exposed to the effects and after effects of alcohol abuse on the mother which caused them significant emotional harm. A has commented on it to her directly. The mother has minimised the extent of her alcohol abuse and its effects on her. She has done her best to cover up her drug and alcohol use and to hide it from professionals. The father has challenged the mother about her alcohol abuse and she has continued to abuse alcohol, notwithstanding his views.

d. The father has used cannabis since being a teenager. Cannabis use impacts on his parenting by rendering him physically and mentally slower and less responsive to their needs. The father has used codeine without prescription or advice since at least August 2021. Codeine use poses an additional risk to the father’s parenting capacity and is dangerous when combined with cannabis. On occasion, the father has used cocaine during these proceedings. The father has used tramadol without prescription during these proceedings. The father has increased his cannabis use during these proceedings. The father has increased his codeine use during these proceedings.

e. The mother went out from Christmas Day night 2021 until 27 December 2021. She used alcohol and cocaine. She was also on codeine at this time. Her going out was contrary to plans that she had made with the father for a family Christmas. The mother obtained prescription drugs from X. On Boxing Day, one or both of the parents used the codeine

contained in the packet of drugs. On New Year's Eve, the mother went out before midnight, with A. She met her sister, T, drank alcohol and took cocaine. Shortly before midnight, she returned home with V and A. The mother was intoxicated at this point. A was in her care and would have observed that she was intoxicated.

f. After midnight, the mother returned to the maternal grandmother's home, taking A with her. She drank more alcohol and took more cocaine and became further intoxicated. At about 1.30am on New Year's Day, the mother took A home. The mother then went out again where she continued to drink alcohol and take cocaine. In the early hours of the morning, the mother came back home with R. She played pop music and made noises that could be heard from the bedrooms in the family home. After 9.00am on New Year's Day, V came to the family home. He and R left by 10.00am. The mother fell asleep after V and R left. She did not offer any further care to any of the children, including J.

g. Neither parent could offer the Court a full and reliable account of who was caring for J on New Year's Day. The parents' failure to offer such an account is due to their drug use and intoxication. No adult admits to caring for J from the early hours of the morning save for a brief period when V and R were present between 9.00am and 10.00am. The mother admits putting J to sleep in loose bedding contrary to safe sleeping advice. The mother drank alcohol to excess on 29 June 2022 after J's inquest. She was with her sister, T. She was pregnant at the time. The mother became aggressive with the father to the point that he needed to call the police. The mother knew she was pregnant when she got drunk on 29 June 2022. She had instructed her solicitor to inform the other parties of her pregnancy two days before the inquest on 27 June 2022. The father was aware of that pregnancy before that date.

h. The mother made up a story about mistaken identity to cover up her drinking whilst pregnant on 29 June 2022. In October 2022, when the father was attacked by T, he and the mother colluded to cover up the incident feeling that it would impact on their case for return of the children. In covering up this incident, they put their own needs before those of the children.

Welfare

124. In her statement of 31 March 2023, the mother said:

“I can confirm that should no additional findings be made against myself and the second respondent father at the composite final hearing, then, of course, I agree with the Local Authority case that all four children be returned to our care. However, if additional findings are

made against myself and/or the second respondent father and the Local Authority's plan is for the children to remain separated from us, then, my views may change. If, at the composite final hearing, the Court accepts the Local Authority's evidence and suggests that B and C cannot return to the care of myself and the second respondent, they should remain with the current carer, the maternal grandmother, E, under the auspices of a special guardianship order, then, I would not oppose this. If the Court deemed it necessary for A to be made subject to a care order and remain in long-term foster care then, again, provided that this is what the Court believes is necessary, I would not oppose this.

In respect of D, the Local Authority set out that they believe that she should be placed for adoption, and they set out that her finding permanence at her age is more important than having a continuing relationship with her parents and siblings. I simply do not agree and entirely oppose D being placed for adoption. My views are that the bond between the children and D are strong, and I do not believe that this has been explored thoroughly enough within the together and apart assessment. I believe it would be extremely difficult for the children to suffer the loss of another sibling and, effectively, need to grieve for D as they are. According to the Local Authority's plan, they would never see their sibling again but, instead, would only be able to send indirect contact.

I am of the view that if additional findings are made against us and the Court rules that the children cannot return to our care, then a foster placement should be found for A and D to be placed together. I would, therefore, oppose adoption in respect of D. I would not oppose a care order in respect of D with a long-term foster care accompanied by A if the Court deems that it is not safe for her to return to mine and the second respondent's care".

125. In written closing submissions on behalf of the mother, Mr Howling KC and Ms Mallon set out the following:

"It is accepted that Mother has tested positive for cannabis; a drug which she says that she has never used because 'she does not get on with it'. In his police interview, Father agreed, F185. Mother has absolutely no reason to lie about the use of cannabis when she has so freely admitted to both cocaine and alcohol abuse. The evidence of Q was clear: it is possible that being in an atmosphere in which cannabis smoke is present could lead to the ingestion of smoke which the body then metabolises to produce the first of the cannabis metabolites 11hydroxy-Delta(9)-THC. The Court will note that the second metabolite, 11-Nor-9-carboxy-Delta-9C was not detected in any of the mother's hair samples.

It is submitted that the Court should accept Q's unchallenged evidence as the Guardian did and make a finding that Mother has not actively consumed cannabis. Mother has made it clear to the Court that she does not intend to take cocaine again. Mother and Father both agree that Mother has had the occasional drink but no more since 29 June 2022,

the last occasion when she admits to having drunk to excess. There was nothing in the papers which gainsays her evidence on this point. Mother has no reason to lie about this point. The Court is invited to accept Mother's evidence on this issue.

Mother has interacted with We Are With You, E277, to address her addiction. Mother has been criticised for not seeking help earlier and for poor engagement. In fact, the report shows a positive level of engagement albeit, not an absolute commitment. It is accepted that Mother requires ongoing support. She has recently instructed, following her evidence that she intends to attend AA. It is submitted that the mother was honest about her own addictions and showed insight into the fact that she has had an issue and what the causative triggers are; mainly her sister T. T has moved away which can only be for the better".

126. The father's case as set out in his position statement before the final hearing began was that the father accepts that if the New Year's Eve arrangements represented the normal experience of the children and were expected to be repeated, this would cause harm to the children in his care. However, the arrangements over Christmas and the New Year were not a reflection of the care the children received. The father relies on the professional witness evidence filed from the school, E38, E39, nursery, E154, health visitor, E4, E14, which attests to B and C being well presented at school and nursery with good proactive engagement, and, as at May 2021, the family home being "clean, tidy and free from clutter", notwithstanding the issue of overcrowding. The father asserts that the lived experience of his daughters up to the Christmas and the New Year was wholly positive and is reflected in the presentation of B and C to professionals at the time and now.
127. The father has accepted things went wrong on New Year's Eve but this was an exception rather than the norm. The children who have a voice, namely B and A would wish to go home. The children's relationship with each other which is still evident notwithstanding the separation of brothers from sisters, demonstrates that they were well cared for. D: the father rejects the draconian adoptive plan for D which would result in yet more loss for himself, the mother and A, B and C based on the events of New Year's Eve.
128. **His final position was that should** the Court hear evidence and make findings adverse to the mother, the father would wish to consider the same and an alternative family plan. He does not, at this stage, wish to separate. He wishes to jointly parent his children at home and he believes that the mother's acceptance of partying issues and a move away from her sister, taken together with the negative drug and alcohol results of the mother and the removal of the children are sufficient reasons why the events of New Year's Eve will not be repeated.
129. In written closing submissions on his behalf, Ms Grocott KC and Ms Howard set out the following:

“As in the opening, the father concedes that were the events of New Year’s Day the daily experience of the children, then the facts would support the link to significant harm. However, we continue to assert that the evidence does not support a finding that the events of New Year’s Day are likely to have been the daily lived experience. The evidence from the school, nursery, and health visitor, together with the together and apart assessment and FGC note support a finding that the children were well-presented at school with good parental engagement, good attachments, clean, well-nourished and the home conditions are acceptable. This picture is also supported in the evidence of E, save for home conditions as she did not visit the home. The police describe the children as ‘delightful’.

The father rejects that A, B or C have suffered significant harm. The care over Christmas and New Year 2021/2022 was suboptimal arising from the binge drinking of the mother and the burden of care responsibility falling on the father. But these conditions were outside the normal lived experience of the children. The safety plan did work up until then as described by the father in his police interview.

We ask the Court to accept the accounts given as true. We agree with the position adopted by the mother that this case began as a child death case, then a neglect case and that it is now a substance misuse case which has not been adequately assessed or fairly assessed whilst the parents remain responsible, in some way, for the death of J.

Whilst the father is yet to tackle his cannabis use, he has addressed the illicit pain-relief issue and is now more fully aware of the potential dangers of mixing codeine and cannabis. He wishes to reduce his cannabis use. The parents were living in a cramped two-bed house. The parents now have a four-bed accommodation which they have decorated for the children to return home. The kitchen is without cupboards and the bathroom needs updating but both are in hand. The mother is 11 months alcohol and cocaine-free. The children wish to return home. The *Re B-S* analysis necessary to indicate nothing else other than stranger adoption will do for D with the impending consequences of further grief and loss for A, B and C and the parents has been undertaken not on evidence but on speculation and should be rejected”.

130. The Guardian’s position is set out in written submissions. The Children’s Guardian concurs that the section 31 threshold is passed. The Children’s Guardian supports the care plan for A and agrees that he should be subject to a care order. The Children’s Guardian supports the care plan for B and C to be jointly cared for by their paternal grandmother, E, pursuant to a special guardianship order. A special guardianship order will provide permanence outside the parents’ care whilst remaining in the extended family and enable the carer to share enhanced parental responsibility and limit the involvement of state services in B and C’s lives. The Children’s Guardian concurs that the risks of D experiencing significant harm are too high. The risks cannot be safely mitigated. There are no realistic extended family options for D. D

cannot wait for her parents to address their various issues. Nothing else will do for D other than to be subject to a care order and a placement for adoption order. The contact plans, as amended, are agreed by the Children's Guardian.

131. In determining issues of welfare and in respect of A, B and C, I have regard to the provisions of section 1 of the Children Act 1989. In respect of D, and in accordance with the guidance given by McFarlane J, as he then was in *Re R (A Child)* [2014] EWCA Civ 1625, I move to section 1 of the Adoption and Children Act as the superior test in respect of the question of adoption for which it will follow that if I am satisfied that a placement order should be made, then it will also follow that a care order should be made.

A, B and C

132. I remind myself that their welfare is my paramount consideration. Any delay in determining any question relating to their upbringing is likely to prejudice their welfare. I also have regard, in particular, to:

- (a) The ascertainable wishes and feelings of the child concerned, considered in light of their age, and understanding. The Local Authority acknowledge, very fairly, in my view, that A, B, C and D have experienced some very good parenting at home and have had nothing but positive observations in respect of their attachments to one another. They love their parents and want to go home to be with them and each other. I have no doubt, at all, that the mother and father love the children dearly and are desperate for them to return home. At C191, there is a short letter from A in which he says that he would like to go back home. If he could, he would be "so happy" because his present placement feels like an isolation from his family.
- (b) Their physical, emotional, and educational needs. A is 15 years old and presents as younger than his chronological age. He does not have a relationship with his father, H. His father has not been made aware of these proceedings. He has experienced considerable instability in his life having spent periods, when younger, in foster care, as a result of his mother's drug and alcohol misuse and domestic abuse in a previous relationship. He has, since, been exposed to drug and alcohol abuse and further domestic abuse

whilst in the care of his mother and G. He clearly has a need for permanence and stability where he can be free from the impact of parental drug and alcohol misuse and domestic abuse. A has a diagnosis of ADHD and is prescribed medication for this. He attends [redacted] and is reported to be doing well in contrast to his last school where he had a number of fixed-term exclusions as a result of his behaviour.

He has been in his current residential placement for just over a year. He has settled there. There are no concerns about his emotional and behavioural presentation. He likes and is settled in his current placement. A was present when his sister, J, was found dead. He was involved in calling emergency services and giving instructions to his mother whilst she tried to resuscitate J. This will have been extremely traumatic for him. He had bereavement therapy which has come to an end but he would like to have some more. He currently has family time three times a week with his mother, the father, and his siblings. He has an additional contact once a week with his mother. He enjoys this contact.

B is aged six. There are, currently, no concerns about her health or development. She is very settled with her paternal grandmother but does ask when she is going home. She has a close bond with the grandmother and her Auntie BB, who lives with them. She attends [redacted] where she is reported to be doing well. C is four. There were no concerns about her health or development. She is also very settled in her placement with the paternal grandmother. She has a close relationship with her and her Auntie BB. She attends [redacted] where she is doing well. Where possible, of course, the children should be brought up together with their mother and the father. They have suffered inordinate loss and none of the Local Authority's care plans will suffer further loss and grief. All of this is rightly acknowledged by the Local Authority. Both B and C have been exposed to parental drug use, the mother's alcohol misuse and to domestic abuse. Both girls enjoy regular family time with their parents; A and D, three times a week. The girls both

require permanence and stability in a warm, loving environment where they can be free from parental drug and alcohol misuse and domestic abuse.

- (c) The likely effect on them of any change in their circumstances. I am satisfied that each of the three children is settled in their current placement; A in his residential placement and B and C with their paternal grandmother. If, as the mother suggests, A was to be placed with D in a foster placement, then he would need to move placement for what would be short period of time. He would then leave the placement, leaving B alone there. At present, there is no way of knowing how stable that placement would be. I also accept the evidence of the social worker that it would be extremely difficult to find a placement for him at his age at that time.

Alternatively, if he moves back to live with his parents, then, clearly, his wishes would be observed. He would be able to live with his birth mother and he would continue to have contact with B and C. He would, however, in my judgment, be at risk of suffering significant emotional and physical harm through drug and alcohol drug misuse by the mother, drug use by the father, consequential neglect and at risk of physical harm, for example, using some of the illicit drugs that are likely to be present in the home as they were on 1 January 2022. When it was put to the mother that A could have reached drugs that were on the side of the cupboards, the mother made what was, a best, a naïve remark and, at worst, an utterly reprehensible remark that A would know, at his age, not to touch drugs. This is in a household where drug use has become normalised. Such a remark shows a complete lack of insight and a disregard for her child's wellbeing. If the three children remain in the current placements, they will continue to have ongoing contact with their birth mother and the girls with their birth father, G.

- (d) Their age, sex, background, and any characteristics which the Court considers relevant. A is 15, B, six, C, four. They are male, female and female respectively. I have dealt with their background and any

characteristics which I consider relevant in my findings earlier in this judgment.

- (e) In terms of any harm which the children have suffered or at risk of suffering. There is compelling evidence to say that A will have suffered significant physical and emotional harm by reason of his mother's illicit drug use, chronic excessive alcohol abuse and G's drug abuse and excessive alcohol use for a period of time with consequential domestic abuse. He has been in and out of care several times going right back to his early years in 2010. The girls will have suffered significant emotional harm by reason of the mother's alcohol and drug misuse and G's daily use of cannabis and illicit use of codeine.

They were also at risk of significant physical harm being in the presence of so many illicit drugs on the premises. In addition, in my judgment, they will have suffered periods of neglect as they did during the Christmas period into New Year 2021/2022. They will have also suffered significant emotional harm during the morning of New Year's Day 2022. The police bodycam footage reveals a desperate scene surrounding the death of their sibling J. The chaos caused by the visiting emergency services and exacerbated, in particular, by the mother's intoxication with drugs and alcohol. That, along with the fact that the mother had taken J from her cot and brought her downstairs caused an angry reaction from the father which would have added to the children's overwhelming sense of anxiety and confusion and significant emotional harm. Frankly, the children could not have failed to suffer significant emotional harm.

I agree with the social worker and the Children's Guardian that neglect is a spectrum. There is no "One size fits all". Children will show the impacts of neglect in different ways and at different times. However, what is clear, in my judgment, based, largely on the evidence that has come from the mouths of the parents themselves, is that they have each suffered significant emotional harm and long periods of neglect, albeit, at other times, they have enjoyed a good standard of parenting. Should the children return to the care of the

mother and the father, then, in my judgment, they will continue to be at risk of suffering significant physical and emotional harm. The risk of the mother returning to a life of excessive drinking and drug misuse is too high, in my judgment. Even the father, in custody, recognised the clear risk in paragraphs eight and nine of his statement dated 5 April 2023. Based on the current evidence, I consider it likely that she will. Even now, she has not abstained from alcohol and continues to drink socially albeit in moderation based on her own evidence.

Her hair strand testing also shows that right up to the middle of November 2022, she was testing positive for cannabis with the metabolite of cannabis detected and continued to test positive for cannabis to the middle of February 2023, albeit the metabolite of cannabis was not detected between 5 December 2020 and February 2023. In other words, exposure to illicit drug use has continued into this year. The conclusion of Lextox at E296:

“The mother has tested positive for a constituent of cannabis, delta 98c in all six hair sections analysed, which cover the approximate time period from the middle of August 2022 to the middle of February 2023. In addition, a metabolite of cannabis, hydroxydelta-98-c has been detected in the three oldest hair sections analysed. The detection of that indicates the use of cannabis”.

Therefore, these findings are, in my opinion, and on the balance of probabilities, more likely than not due to the use of cannabis. The mother also tested positive for cannabis from mid-August 2021 to mid-February 2022 in the high range with the older segment at medium range thereafter. She also tested positive for cannabis mid-March 2022 to mid-June 2022. Her case is that she does not smoke cannabis as she cannot get on with it. The father also said in his police interview that the mother does not use cannabis. He repeated that in evidence. However, I am satisfied, on the balance of probabilities that she has used cannabis. Her case is that she has ingested cannabis by being in the close proximity of the father in the garden shed which is where he chose to smoke his cannabis. Whether she is actively using cannabis or simply putting herself in

a position where she is inhaling so much of the cannabis smoke of the father that she tested positive for its direct use and has metabolised it is not, in my judgment, as significant a difference as may be thought.

It is also unlikely that she would expose herself to such large amounts of passive inhalation of cannabis smoke if, to use her words, “she cannot get on with it”. It is argued, on her behalf, that she has no reason to lie about her cannabis use as she accepts her use of cocaine and alcohol use. I disagree. The motive for lying about it is that the drug results reveal cannabis metabolites up to mid-November 2022. That evidence to support a finding of drug use extends beyond her cessation of cocaine and chronic excessive alcohol use. It is more recent. Even if I am wrong in my finding that she has been actively using cannabis, she is still putting herself in a position where she is exposed to the harmful effects of that illicit drug. In addition to that, I am also satisfied that she was and will be likely to continue to abuse prescription drugs illicitly obtained from friends as I find she was doing. I do not believe that she got all those drugs from X to give to her mother. They were also for her personal use.

The combined abuse of illicit drugs and/or alcohol with prescription codeine is becoming an all-too-familiar tale before this Court. Almost always, the use of codeine is blamed on a back condition, in my experience. Of course, there will be those cases where codeine is taken for a genuine back condition. However, in this case, I am satisfied that the obtaining of prescription drugs from X by the mother was not to treat a back condition or the mother’s cancer. She knew that in taking those prescription drunk, she was acting illegally.

- (f) How capable each of the parents and any other person in relation to whom the Court considers the question to be relevant is of meeting his needs. The mother has shown a lack of self-awareness around her substance misuse problem. She failed to recognise that alcohol was an issue during the initial parenting assessment. The mother,

in the witness box, 16 months after commencement of proceedings, admitted to her longstanding problems with alcohol misuse. This is a step in the right direction. However, in my judgment, it is too little, too late. The mother has admitted to that in the face of overwhelming evidence. In respect of other matters, however, she has continued to be dishonest where she thinks it might assist her case or escape criticism or blame. She has lied to professionals and the Court previously to conceal the truth of her drug and alcohol abuse. In my judgment, the Court can have little confidence that the mother would work openly and honestly with safeguarding professionals in the future so that they might manage risk. In so finding, I have considered the full range of possible alternative reasons for her dishonesty.

This dishonesty, where it is applied to the events of New Year's Eve and New Year's Day 2021/2022, has prevented a proper investigation of the circumstances of J's death. The mother has lied about the time when she last fed J and the time when she, herself, fell asleep. I find that she slept from about 10.00am. I attach weight to the police statements of Messrs V and R despite R's poor performance in the witness box and V refusing to come to court, the absence of mobile phone use after 9.45am when contrasted with her use of the phone at other times, including through the night and early morning and the fact that she had been up all night drinking and taking drugs from about 10.00pm. She also, clearly, has no reliable memory.

I agree that the evidence of O as to the presence of 15 millilitres of milk in J's stomach post-mortem does support the mother's case that J was fed at 12 noon, as has been suggested more than once on the father's behalf and in closing on behalf of the mother. As the father suggested, she made up most of her statement. This dishonesty was, in part, to help her cope with her own sense of grief but also to avoid professionals and the police detecting any culpability on her part, for neglect. Having shown a basic level of insight and openness in his police interview and the first parenting

assessment, accepted by the Local Authority, the father appeared to be motivated to change at the start of these proceedings. He has not only failed to execute change around substance misuse, he has increased his use of cannabis and cocaine, used as a cocktail, despite them having an admitted negative impact on his parenting capability. He was evasive when questioned about his illicit drug use, saying, “I am not an expert” and “I don’t know what you want me to say” when asked about the effects of cannabis on him.

The evidence of E describes the difficulties imposed on the father by the mother’s substance misuse. The mother’s substance misuse caused difficulties in G’s relationships with his own family. They were not, at the relevant date, as close a family as has been suggested. E’s evidence described a father who was struggling to cope with managing four children, a partner who was defying any attempts to calm her down, his own anxiety and his own drug misuse.

The father confirmed the truth of his police interview. The mother denied large parts of it. Even the fact of discretion in which the father challenged the mother were not agreed. In oral evidence, the father accepted that he knew that the mother was pregnant on 20 June 2022 but she denied or was unclear about her own state of knowledge on that date. The father has shown that he is unable to stand up to the mother. He is not able to be positively protective and, instead, has shown a willingness to cover up issues. The father’s response to the alpha and DNA legal test results for cocaine use is that he has been visiting pubs which are so crowded with active cocaine users that there is cocaine powder in the air that he has ingested. He visits those pubs with the mother. I am satisfied, on a balance of probabilities, that the father has used cocaine, based on the expert evidence of DNA and W. Even if I am wrong on that, this is a harmful environment for recovery from polysubstance misuse.

The oral evidence of both parents illustrated an attitude to prescription drugs that was all too common these days amongst

illicit drug users. Controlled prescription drugs were used by the parents, mixing them with alcohol and/or other drugs, other than for genuine medical reasons, in my judgment. Substance misuse of the extensive type that has been admitted in this case comes with an inherently high risk of neglect, significant physical harm through access to illicit street prescription drugs and significant emotional harm. The parents have admitted not only to the substance misuse, and, by extension, those risks but also the fact of significant harm to the children on New Year's Eve and New Year's Day. The parents have admitted the children being exposed to the mother's substance misuse by returning home intoxicated by drink or drugs, A, in particular, witnessing her being intoxicated and aggressive and her being incapacitated by being hungover after the event.

I reject the parents' case that New Year's Eve and New Year's Day was a one-off. I agree that the events of 1 January 2022 have lifted the lid on what was really happening in the family before then, albeit not evidenced by professionals working with the family health visitor, school, and nursery. The parents have lied, colluded, and covered up matters of concern throughout these proceedings and in the witness box. I find that the children were probably exposed to neglect and the harmful sequelae, parental drug, and alcohol abuse on other occasions. I recognise the positive observations of the children's schools and the health visiting service. As Ms Briggs KC concedes on behalf of the Local Authority:

"Sometimes they were very good but when the mother was on a bender, which was frequently, there was a strong potential for the children's needs to be neglected and for them to suffer harm".

That potential came to fruition on more than one occasion, as admitted by the parents, when accepting that the mother came home drunk and defied G's wish for her to stay away.

"These children have had some very good parenting. It is right that this is acknowledged. However, the warmest of parents can place children at risk when their consciousness is altered by drugs and alcohol. Children's Services can offer help and support but without swift acknowledgement, there is a problem, followed by an open

working relationship, support and management of that risk is impossible”

I agree.

“The parents had two jobs: first, to be open and honest. This did not have to be from the outset but it needed to happen before they got into the witness box. The father showed good signs at the outset of proceedings but, for example, later, was willing to hide and collude to conceal the two incidents with T.

“The mother has been dishonest to the point of total obstruction of the aims of the assessment. It was barely possible to discuss substance misuse with her for much of the proceedings because of her denials. The second job is to achieve sustainable recovery from substance misuse. The father failed in this regard, completely. The mother has done remarkably well to reduce her alcohol consumption and her cocaine use. The Local Authority is concerned, however, of whether this can be sustained, taking into account that only this week has the mother managed to admit that she had a problem to address. The fact, also, that she was around drugs several times a day, going to pubs where she is surrounded by alcohol and cocaine per G’s account, and remains disinclined to tell the full truth about anything that might cause concern amongst professionals are all extremely poor indicators for sustaining this progress. This before one even reaches the safety plan, which is not fully formed, is denied in part by the mother and, indeed, by the father, and envisages future use of both alcohol and cocaine by the mother who, of her own admission does not know when to stop once she has started.”

I accept these submissions. Sadly, in my judgment, neither of the parents is capable of meeting the needs of any of the children consistently to a good-enough standard, either together or separately. I do not accept that their reason for not engaging fully with professionals because they felt as though they were being blamed for J’s death, having seen the video and photographic evidence, and heard oral evidence of the parents, any affront to sensitivities or avoidance of blame or criticism, that they should have expected, is misplaced. They should have expected to be subject to scrutiny and investigation and to do otherwise was, in my judgment, to put their own needs first above those of the children. I reject the suggestion that there was no evidence to support the

Local Authority case that the children have suffered significant harm as a result of their parenting. A has been demonstrating behavioural difficulties: a number of exclusions from school which have settled down in his current care regime. Even the father describes behavioural difficulties in the home: C194, aggressive behaviour around the home which the father suggests requires anger management or therapy. Those behaviours appear to have abated in care. However, in any event, I draw the reasonable inference from the oral evidence given by the parents that the children would have suffered significant emotional harm from the drink and drug abuse of the parents and domestic abuse described by the father, which I accept. In addition, they would be likely to be at risk of significant emotional and physical harm in the future.

- (g) The range of powers available to the Court under this Act and in the proceedings in question. I have considered the range of powers that I have. I note the mother's concession in her statement that if the Court made additional findings against her, then she would like for A, B and C to remain in their current placement. Having considered all options for the three children, I am satisfied that there should be a care order made in respect of A. Such an order is proportionate and consistent with his welfare. I have considered his Article 8 rights and those of the mother. I have approved the permanence provisions of the care plan, as amended, to take into account the views of the Children's Guardian as to contact. I am satisfied that there should be a special guardianship order in favour of the paternal grandmother, E, in respect of B and C. Such an order is necessary, proportionate, and consistent with their welfare. I have, again, considered their Article 8 rights and those of their parents. I approve the permanency provisions of the care plan as amended.

D

133. I have found the decision-making process particularly difficult in respect of D. Indeed, it has occupied my mind constantly outside of normal working hours. There are, clearly, pros and cons with each of the three options: a placement order, a return to parents under a public law order or long-term foster care. Having heard all of the evidence, I have

had to step back and consider all those three options alongside each other, their pros, and cons, and identify which, on balance, is in her best interests and meets her welfare needs. It is very clear to me that there is no panacea. I have regard to section 1 of the Adoption and Children Act 2002. I remind myself that my paramount consideration is D's welfare throughout her life. I remind myself that the European Court of Human Rights has held that in identifying where a child's best interests lie, two considerations must be borne in mind: the first is that the child's best interests and her ties with her family be maintained except in a case where the family has proved particularly unfit. Second, it is in the child's best interest to ensure development in a safe and secure environment *YC v United Kingdom* [2012] 2 FLR 332.

134. I also remind myself that any delay in coming to the decision is likely to prejudice the child's welfare. I note that these proceedings have been ongoing now in respect of A, B and C for 16 months, for D, since she was born on [redacted], just over four months ago. I also have regard to the following matters, amongst others:

(a) The child's ascertainable wishes and feelings regarding the decision considered in light of the child's age and understanding. D is too young to express any wishes or feelings.

(b) The child's particular needs. She is a very young, very vulnerable child. She is only a little older than J at the time of her tragic death. She has an absolute need for loving, nurturing care in a safe environment free from parental drug and alcohol abuse and domestic abuse. She needs permanence and stability. Any decision that I make will involve change for her. She will need to build up attachment with her carers in any new placement, and, therefore, it is crucial that the next move is her last.

(c) The likely effect on the child throughout her life of having ceased to be a member of the original family and become an adopted person. On adoption, cessation and membership of the original family is total and intended to be so, full time. The original parents' parental responsibility is extinguished and there is a complete severing of all legal ties with the family. The cut-off from the family of origin may have a potentially damaging impact on the child's sense of identity and emotional well-being. Becoming an adopted person provides for the child permanence; a substitute family where the adopters are legally responsible, and, therefore, fully committed to fulfilling their parental responsibilities.

In focusing upon the likely effect upon the child of these changes, I focus upon the degree of interference with the child's Article 8 rights to family life that would be consequent upon adoption. I balance that against the family life the child will enjoy with an adoptive family. As an alternative to adoption, the mother argues for long-term foster care and a placement with A. The difference between adoption and long-term foster care was considered by the Court of Appeal in *Re V (Children)* [2013] Civ EWCA 913. At paragraph 916 Black LJ said this:

"I make the following observations:

- i) Adoption makes the child a permanent part of the adoptive family to which he or she fully belongs. To the child, it is likely therefore to 'feel' different from fostering. Adoptions do, of course, fail but the commitment of the adoptive family is of a different nature to that of a Local Authority foster carer whose circumstances may change, however devoted he or she is, and who is free to determine the caring arrangement.
- ii) Whereas the parents may apply for the discharge of a care order with a view to getting the child back to live with them, once an adoption order is made, it is made for all time
- iii) Contact in the adoption context is also a different matter from contact in the context of a fostering arrangement. Where a child is in the care of a Local Authority, the starting point is that the Local Authority is obliged to allow the child reasonable contact with his parents, section 34(1) Children Act 1989. The contact position can, of course, be regulated by alternative orders under section 34 but the situation still contrasts markedly with that of an adoptive child. There are open adoptions, where the child sees his or her natural parents, but I think it would be fair to say that such arrangements tend not to be seen where the adoptive parents are not in full agreement. Once the adoption order has been made, the natural parents normally need leave before they can apply for contact.
- iv) Routine life is different for the adopted child in that once he or she is adopted, the Local Authority have no further role in his or her life (no Local Authority medicals, no Local Authority review no need to consult the social worker over school trips abroad, for example)".

(d) The Local Authority recognise that with the loss of J, the four children have suffered inordinate loss and, on the Local Authority's care plans, will suffer loss and grief. In particular, they will feel a sense of loss if D is placed for adoption. In addition, A will feel a further sense of loss in not being in a familial placement like his two sisters,

B and C. They were right to do so, in my judgment. This is very much a balancing exercise in which there are pros and cons of a placement for adoption. The paternal grandmother has been asked by the Local Authority whether she would be prepared to be assessed as a carer for D but, unfortunately, she is unable to take on the extra commitment. There are no other suitable family friends or carers.

(e) Dealing with the child's age, sex, background, and any of the child's characteristics which the Court considers relevant, she is a very young, very vulnerable female child, aged four months. Dealing with any harm within the meaning of the Children Act 1989 which the child has suffered or is at risk of suffering, D was placed into foster care when she was born. It is the risk of harm in this case which the Court considers. The evidence that I have considered under this heading in respect of A, B and C is also directly applicable under this heading and, accordingly, I do not repeat it.

(f) The relationship which the child has with relatives and with any person who is a prospective adopter with whom the child is placed and with any other person in relation to whom the Court considers the relationship to be relevant including the likelihood of any such relationship continuing and the value to the child of its doing so. The ability and willingness of any of the child's relatives to provide with a secure environment in which the child can develop and otherwise of any of the child's needs. The wishes and feelings of the child's relatives. Again, the evidence that I considered in relation to A, B and C and how capable each of their parents is of meeting their needs is directly applicable here and, accordingly, I do not repeat it. I do, however, acknowledge that contact has been generally of a good standard and the parents love D very much

(g)

(h) I also consider the whole range of powers available to the Court in D's case. I must not make any order under this Act unless I consider that making the order would be better for D than not doing so. If D were to be returned to her parents, then she would be able to continue to be brought up by her birth parents, enjoying contact with her siblings. She would have no issues with her sense of identity, no sense of "Why was I the only one to be placed for adoption", no

sense of rejection. Clearly, if placed for adoption, life story work of good quality would be vital. Indirect letterbox contact would also help to mitigate those feelings, if present. If she were to be placed in long-term foster care then, again, she could continue to enjoy a relationship with her birth parents and her siblings through contact. She may struggle to understand why she is not in a family placement like her sisters and, at a time when her level of understanding was such that she could distinguish between herself and A, he would have left the care system.

5.

135. However, in my judgment, the risks to her emotional and physical well-being are too great for the Court to be satisfied that the parents could provide good-enough, safe-enough care throughout her childhood. That is because of the risks posed by alcohol and drug misuse by the parents, the risk of domestic abuse and neglect. The risk of relapse in terms of the mother's drug and alcohol use, recognising that she accepts that she still drinks occasionally is simply too high. The father's drug use has continued and increased throughout these proceedings. Neither shows sufficient insight into the harm of their respective addictions. Neither shows a level of honesty upon which the Court can base its trust in the parents to work openly and honestly with the parents so that risk could be managed safely.
136. Placement in long-term foster care would carry with it state intrusion throughout her childhood. There would also be a risk of placement breakdown which, in my judgment, is likely to be higher than that in relation to adoptive breakdown. Permanency in placement is now essential for all four of these children. I recognise that either a return to the parents for D or placement in long-term foster care would keep her birth family ties going and avoid a further sense of loss, particularly, for A, B and C and I accept that it will be hugely upsetting for them. They will clearly need ongoing professional input to help them cope with their sense of loss and understanding around that loss.
137. However, on balance, I have come to the view that stability and permanence in their placement is, in my judgment, more important than maintaining those birth family ties. The price to be paid for maintaining those birth family ties, either placement into an unsafe environment with the parents or an uncertain foster placement with ongoing state intrusion is too high. I repeat that I have found this to be an extremely difficult decision. It has occupied my mind greatly over the last three weeks. I am satisfied that only a placement order will do in D's case. Such

an order is necessary and proportionate and consistent with her welfare. In those circumstances, I dispense with the consent of the parents pursuant to section 52 of the Adoption and Children Act 2002.

138. I recognise that this judgment will come as a crushing blow for the parents, particularly the decision in respect of D. I also fully accept that they love all of the children and have fought to have them back in their care. Their children will know that in due course and that they did not reject any of them or give up on any of them. It is not any of the children's fault either. Sometimes, love, on its own is not enough and this is one of those cases. This was not a one-sided case where there were only negatives in the parents' case. At times, they did provide good-enough care. It has been a balancing case rather than an overwhelming one. That concludes this judgment.

End of Judgment.

Transcript of a recording by Ubiquis (Acolad UK Ltd)

291-299 Borough High Street, London SE1 1JG

Tel: 020 7269 0370

legal@ubiquis.com

Ubiquis (Acolad UK Ltd) hereby certify that the above is an accurate and complete record of the proceedings or part thereof