MISS RECORDER HENLEY

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.

Before:

MISS RECORDER HENLEY

IN THE FAMILY COURT **Case No. NE17C00018**

SITTING AT NEWCASTLE UPON TYNE

In the matter of the Children Act 1989

In the matter of

I (born in the month of January 2012)

BETWEEN:

LA

Applicant

-and-

(1) M

(2) F

(3) PGA

(4) I

(A Minor acting through her Children's Guardian, Sally Kendrew)

Respondents

JUDGMENT

Representation

Applicant – Miss Wood (Counsel)

Respondent Mother – Mr O'Sullivan (Counsel)

Respondent Father – Did not attend and not represented

Respondent Paternal Great Aunt – Mr Baker (Solicitor)

Respondent Child – Mr Goodings (Solicitor)

Introduction

1. This is an application for a Care Order brought by LA.

2. The Court is concerned with I (born in the month of January 2012) now aged 6 years 7 months old.

3. The Mother is M, (born in 1996) now aged 22 years old. She is in a relationship with TH, who appears as a witness in these proceedings and who has been permitted access to the Court bundle and has been given permission to remain in the Courtroom throughout the final hearing.

4. The Father is F (born in 1994) now aged 24 years old. He holds Parental Responsibility for I. He has been personally served with notice of the final hearing but has chosen not to attend. He was initially represented in these proceedings, but his solicitor was granted permission to cease to act on his behalf due to his non-engagement. He has therefore been neither present nor represented during the final hearing.

5. The Third Respondent is I's Paternal Great Aunt, PGA. She is I's current carer, having cared for her since 3rd June 2018. She was joined as a party to proceedings

on 23rd August 2018 and appears in person, but with the assistance of Mr Baker, a solicitor acting on a Pro Bono basis, when available to attend.

6. I is represented by her Children's Guardian, Sally Kendrew.

7. Other key family members who have not played a formal role in these proceedings are PGF, the Paternal Grandfather and MGA, the Maternal Great Aunt, each have had the care of I during the course of these proceedings.

Litigation History

8. These proceedings were issued on 10th January 2017, the 26-week timetable for this case expired as long ago as 11th July 2017.

9. This matter has a lengthy and troubled litigation history.

10. On 19th January 2017 the local authority sought an interim care order with a care plan for removal, the application was not supported by the Guardian and the application was not pursued at Court on the basis that the Mother was expected to sign a written agreement and, on that basis, I would remain in the care of the family. The Mother was in attendance at the hearing and was represented. The application for an ICO was therefore adjourned by the Court to 7th February 2017.

11. On 7th February 2017 the written agreement had not been signed. MGA attended the hearing and was able to participate in it, without objection from the parties. The Court made clear that it expected a written agreement to be signed by the LA, the mother, MGA and PGF by 21.2.17. The matter was time tabled through to an IRH on 5th June 2017.

12. On 11th April 2017 the matter was brought back before the Court at the request of the LA to re time table the case. The written agreement had still not been signed.

Due to a change in social worker and the non-engagement of the Mother, a parenting assessment of the Mother had not been completed. The Mother failed to attend that hearing and had not provided up to date instructions to her solicitor. It is recorded on the order that the Mother agreed via a telephone call to MGA at Court that she would engage with the social worker during identified parenting sessions, the dates of which are contained in the order. The Mother in fact only attended two of those four sessions. The Guardian raised concerns at the hearing about the LA's lack of control of the case and lack of co-operation by the family, particularly since the written agreement had still not been signed. She considered the need for an ICO but did not pursue the issue following a discussion with MGA at Court who agreed to sign the written agreement at Court. MGA informed the Court that the Mother was too unwell to attend Court, no medical evidence was provided to substantiate this. The Mother had not complied with the Court's directions in respect of the filing of evidence. The Court granted permission for agreed case papers to be provided to PGF and MGA. To date, none of the parties were able to confirm to me that they had in fact been supplied with these papers. The matter was re time tabled but the IRH on 5th June 2017 remained listed.

13. On 5th June 2017 the IRH was adjourned to 8th August 2017 on the basis that neither PGF nor MGA wished to care for the child in the long term. The timetable was extended on the basis that "the mother has now engaged with the parenting assessment" and the LA would be serving that assessment "imminently". Her engagement was in fact only partial in that she only attended half of the parenting assessment sessions. The Mother had failed to comply with Court orders in that she had failed to file any evidence. It is recorded that "the Father now also seeks to be assessed". I note that the local authority had failed to locate the Father and serve him with notice of these proceedings for several months, despite PGF (his father's) active involvement in the care arrangements and despite the LA being involved with the family since 2016. It was recorded that the Mother had now signed a written agreement but that it would need "slight amendment as the mother was now staying overnight at the home of the maternal great aunt to care for [the

child] on two evenings each week unsupervised". This was not sanctioned by the LA and rather than take any action in this regard, the LA simply amended its expectations, thereby permitting the family to dictate arrangements.

14. On 19th July 2017 the local authority sought a hearing on its application to remove the child from the care of the family to foster care. Both the Mother and MGA were refusing to sign a further written agreement. The Guardian was in support of removal to foster care. Rather than list the matter for an urgent ICO hearing the Court time tabled the filing of interim evidence to an ICO hearing on 18th August 2017, a full month later. The Court listed a Final Hearing for 5 days on 6th November 2017, without listing an IRH and without any final evidence having been served, or the LA's final care plan being known. It is recorded on the order that an ADM was arranged on 1st August 2017, the outcome of which was not known.

15. The application to pursue removal of I to foster care was not pursued on 18th August 2017 and instead permission was granted for the Mother to have a further parenting assessment by an Independent Social Worker, Wendy McGaughey, and a psychological assessment by Dr Susan Cooper, in circumstances in which the Mother had failed to fully engage with the LA's parenting assessment of her. These expert instructions were approved by the Court on 3rd October 2017, following the filing of Part 25 applications. The child took the lead in the instructions.

16. An IRH took place on 24th October 2017. The Mother had failed to engage with each of the expert assessments that had been ordered. The matter was once again adjourned because PGF had indicated that notwithstanding he had withdrawn his offer to care for I in the long term previously, he was now once again caring for her and sought to be assessed as a long-term carer for her. No final evidence had been filed by any of the parties and the matter was re timetabled through to an adjourned IRH on 20th February 2018 and a 3-day Final Hearing on 26th February 2018 without knowing what the local authority's care plan would be or what the positions of the parties would be. Neither parent attended this hearing. The Mother had not

attended contact since mid September 2017 and had not given any recent instructions to her solicitor. The Mother's whereabouts were unknown. The Mother also failed to co-operate in hair strand testing in respect of alcohol use, which the Court had directed. I was made the subject of an ICO on the basis that she remained placed in the care of PGF.

17. On 20th February 2018 the matter was once again adjourned as DBS checks had not been received in respect of PGF and were not expected for a further "4-6 weeks". It is not clear when these checks were applied for and why the Court did not contact DBS directly to have the checks expedited. The matter was listed for a further Final Hearing for 2 hours on 4th April 2018 on the basis that both the local authority and the Guardian were supporting I remaining in the care of PGF in the long term, under the auspices of an SGO, supported by a 12-month Supervision Order. The Mother's whereabouts were unknown, her solicitors had applied to come off the Court record due to lack of instructions. In November 2017 the Mother had informed the social worker she would rather the child be adopted than be placed with PGF. The Father failed to attend the hearing.

18. On 29th March 2018 the Mother attended the Court office in person and completed an application form stating that "we only became aware that there was a Court case two days ago and so would like more time so that I can engage a solicitor". She cites a change of circumstances, including a new partner, new property, an offer of a university place in September and that she is "seeking help for my depression".

19. On 3rd April 2018 (this may be an error as the matter was listed on 4th April) the matter was once again adjourned as the Mother attended the hearing in person and indicated that she wished to contest proceedings and sought the return of the child to her care. The Father was not in attendance. Both LA and CG opposed the adjournment sought on the basis of the Mother's lack of engagement. The final care plan, supported by CG was a placement in PGF's care under an SGO,

supported by a 12-month Supervision Order. The Court adjourned the hearing to 25th April 2018 directing that the Mother file any applications by 20th April 2018.

20. On 25th April 2018 the matter was once again adjourned. It was listed for a final hearing before me for 3 days in August 2018. The local authority's position was recorded as follows: "The local authority is concerned about delay to the proceedings and seeks for the matter to be concluded at the earliest possible opportunity. The local authority considers the Mother has already had sufficient and every opportunity to engage and co operate with assessments in the course of these proceedings and is of the view the court has sufficient information to make a final determination, but would not be opposed to further assessment of the Mother provided that the Court time table allows for it." The Guardian's position echoed that of the local authority. The LA supported the reintroduction of contact to the Mother. The Mother by this time had had no contact with I since September 2017. The Court once again permitted the Mother to be assessed by Dr Cooper, directed that the LA carry out a parenting assessment of the Mother and her partner and time tabled the matter through to final hearing. The Court directed that the Mother's solicitor send her medical records directly to Dr Cooper and the instruction was led by the child. The Mother signed an authority consenting to the release of information from her GP but her medical records were never obtained by her solicitor and so were not sent on to the expert. The Court determined that there was no need for an IRH, notwithstanding that the outcome of these further assessments was not known. The parties agreed that the Mother's contact would recommence on the basis that it would be an exchange of indirect contact before direct contact would recommence on 7th May 2018 for a 1-hour session. Thereafter it would be 2 hours once per fortnight, then after a month, 2 hours once per week for a further month after which consideration would be given to the Mother's partner joining in contact. The Father was not in attendance. The local authority subsequently increased the Mother's contact to two sessions per week from July 2018 until the final hearing, the Mother's partner was permitted to join one of those sessions.

21. On 13th July 2018 the matter was returned to Court as, notwithstanding the positive SGO assessment of PGF, he had once again withdrawn his offer to care for I and had, without consulting the Court or any of the parties, placed her in the care of PGA and had unilaterally changed her school. The local authority sought to assess PGA and did not seek a removal of the child from her care. The Guardian sought a review of the matter at a further hearing once more information was known about the circumstances leading to the change of care and school arrangements. The Mother's partner had not had any contact with I at that stage. The Father was not in attendance.

22. On 23rd July 2018 permission was given to the Mother to share Dr Cooper's report with her GP. She did not do this. Hair strand testing of the Mother was to be carried out. This was not done. Again the matter was re time tabled, including provision being made for an SGO assessment of PGA but without any IRH being listed.

23. On 24th July 2018 the matter was listed before the Designated Family Judge for review on the basis that it had exceeded its 26-week timetable. She listed the matter for IRH before me on 20th August 2018.

24. This matter first came before me on 10th August 2018. I listed the matter that day having been contacted administratively by the child's solicitor due to the LA's non-compliance with earlier case management directions with regards to the filing of its final evidence. By the time the matter came before me the LA had filed its evidence late. At that hearing I was informed that the Guardian did not support the LA's care plan to rehabilitate I to the care of the Mother, but had not at that stage completed her enquiries with regards to which placement option she would be advocating for the child. She expressed her reservations about supporting PGA to continue to care for I at that stage. Her reservations in that regard are set out within her report dated 16th July 2018. Accordingly, I took the view that PGA should be invited to attend the next hearing so that I could consider her status in these proceedings. The Father had not attended the hearing and was not represented and so I directed that he be

personally served with notice of the IRH and Final Hearing, invited to attend those hearings and to secure legal representation and warned that findings and final orders may be made in his absence, if he presented no good reason why he had failed to attend. In light of the professional dispute between the LA and CG I directed that the LA file minutes of its decision-making meetings, a statement from the IRO and from senior management. I also directed that a statement be filed from the Director of Children's Services in answer to the Guardian's concerns that I had changed placements repeatedly and that the LA appeared to have been unable to exercise Parental Responsibility for her effectively, notwithstanding that she was the subject of an Interim Care Order.

25. I heard an IRH on 20th August 2018. PGA attended that hearing and once again I was informed that the Guardian did not support the LA's care plan for I but would support her continuing to remain in PGA's care. At that stage the Guardian's final report was not available and she was not able to state what her recommendation would be in terms of the making of final orders. The Father failed to attend that hearing and was not represented. I directed that the Mother file a statement from her partner TH and made clear that I would expect to hear evidence from him during the final hearing. I also directed that the matter be listed for an adjourned IRH on 23rd August 2018, following CG's report being made available. I directed that the LA's senior management and the IRO consider CG's report and confirm whether in light of her recommendations, there was to be any change to the care plan. I was informed that a decision-making meeting would be arranged for that purpose. PGA accepted my invitation that she was to attend Court again on 23rd August 2018.

26. On 23rd August 2018, the Guardian's final report had been filed. She recommends that a Special Guardianship Order be made in favour of PGA. The LA confirmed that a decision making meeting had taken place, that the attendees at that meeting had read CG's report and LA professionals and the IRO continued to support a rehabilitation plan to the Mother's care. The care plan therefore remained the same. I took the view that, having read PGA's statement in which she highlighted that she

had not had access to the court papers, did not know the Mother well and whilst indicating that she would support a rehabilitation plan if the Court deemed it appropriate, was expressing concerns about the Mother's lack of consistency and lack of engagement, she should be joined as a party to these proceedings and given access to the Court papers. PGA is not entitled to public funding and cannot fund representation on a private basis but was assisted at that hearing by Mr Baker on a pro bono basis. Mr Baker informed the Court that he would be available to assist PGA as much as he could during the final hearing on a Pro Bono basis, but the remainder of the hearing she was content to appear in person. I am very grateful to him for the assistance that he has provided to her and to the Court. The LA had still not produced a Disclosure and Barring Service (DBS) certificate in respect of PGA or a Special Guardianship Support plan and financial assessment in respect of her.

27. On Thursday 23rd August 2018 I emailed a disclosure officer seconded to the DBS to check the progress of PGA's application. I was informed that the local authority had only applied for this on 14th August 2018. I am extremely grateful that in the circumstances, DBS checks were expedited by the service at my request. I was informed that the check was clear and that the certificate would be produced before the end of the final hearing. It is a matter of considerable concern that the local authority did not apply for this certificate, which can take several weeks and sometimes months to be obtained, before it did, particularly since the absence of a DBS check in respect of PGF had led to an adjournment of an earlier final hearing.

28. This final hearing commenced on 28th August 2018. The Father failed to attend the hearing but has been personally served with notice of it. He was contacted on the morning of 28th August 2018 by the social worker by telephone. He confirmed that he did not intend to attend the hearing. I decided that it was therefore appropriate to proceed with the hearing in his absence and am satisfied that it is not in the child's best interests to adjourn the final hearing given the Father's lack of engagement with these proceedings and his lack of reasonable excuse for failing to attend. He

has not sought an adjournment of the hearing and indeed has confirmed that he did not wish to attend.

29. On 28th August 2018 I heard evidence from the social worker and team manager. Both during the team manager's evidence and following the closing of the LA's case, I expressed my concerns that the care plan I was being invited to approve was an entirely speculative one. Despite funding approval having been granted by senior management at the LA for the Mother's therapy on 3rd August 2018, no therapist had been sourced to undertake the work. It was not known:

(a) When the work could commence
(b) Whether a therapist would be able to commence or complete the work within the proposed 12-week period of rehabilitation
(c) Whether the proposed therapist would agree that the Mother was a suitable candidate for therapy
(d) Whether the Mother would engage in therapy
(e) Whether that therapy would be successful
(f) What the impact of the therapy would be upon the Mother, her relationship with her partner, and crucially upon the child and the Mother's ability to meet her needs during the rehabilitation period
(g) It was assumed that any therapist would undertake the therapy whilst also updating the care team as to its progress and likely success without having had confirmation of that from a therapist.

30. No safety plan or written agreement had been produced to set out what the expectations of the Mother, her partner, PGA and other family members would be – it being assumed by the local authority that this could simply be drawn up at a care team meeting some weeks after the conclusion of proceedings. I directed the local authority to file a written agreement setting out the requirements of the plan, expectations of the Mother, her partner and PGA and setting out clearly the implications of any breach of those expectations and directed that the local authority source a therapist to undertake the work proposed. I was informed that the therapist

the LA had thought it would use had in fact moved out of area and so would not be able to undertake the work that the LA had assumed she could. I heard some brief evidence from the Mother in chief to address an issue that arose from her written evidence which was not accepted by the local authority – namely that the Mother stated that from January 2018 onwards she had been attempting to telephone the social worker to re-engage with the Court process and seek contact. At the invitation of the Mother's counsel, I agreed to make a third-party disclosure order against the Mother's partner's telephone provider to ascertain whether this was true, in circumstances in which the social worker disputed that this was the case. The Mother stated that it was her partner's phone that she had used to attempt to make contact.

31. On 29th August 2018 I was informed that the LA had found a therapist who could undertake the work, commencing on 3rd September 2018 and who could meet the Mother during the week of the final hearing to undertake a preliminary assessment. The local authority had not suggested that such a meeting take place on the basis that the Court had not sanctioned the proposed plan and it was therefore not clear whether the Mother would in fact be embarking on the therapy. I invited the child's solicitor to contact Dr Cooper and invite her to make contact, by email, with the proposed therapist to ascertain whether the work that the therapist could offer was consistent with the work she had recommended, in advance of Dr Cooper coming to give evidence the following day.

32. During the course of the Mother's evidence that day it became clear that she did not accept information put to her on behalf of the child arising from the local authority's chronology and a letter from her GP, both of which were in the bundle. In particular information reported from REDS was disputed. I invited the Guardian to make enquiries directly with REDS to ascertain more information directly from them. I was informed that that service indicated that they could not assist beyond what was contained in the Mother's discharge letter. I asked that the discharge letter be located. As a consequence of my request, the parties accepted that none

of them had the Mother's medical records. I raised enquiries of Dr Cooper to ascertain whether she had had the medical records, which the Mother's solicitor had been directed to obtain and send to the expert directly. During the course of that day it transpired that the expert had never been sent a copy of them. I made a third-party disclosure order against the Mother's GP to obtain her medical records and have them sent to the expert and supplied to the Court. I am very grateful to the GP surgery for sending such records that exist in electronic form that day. Those records were sent to Dr Cooper for her to consider in advance of giving evidence. Older archived records (pre-2016) could not be obtained within that time frame. I expressed my concern that the parties had not checked that Dr Cooper had received the Mother's medical records before and that Dr Cooper herself had apparently not requested them. I made plain that given the nature of the Mother's difficulties I would have expected a proper instruction of the expert to have involved consideration of the medical records so that the self reported history taken from the Mother could have been checked against them and to inform the expert's overall opinion and that without that process having been undertaken I was extremely concerned at the weight being attached to the expert report by the local authority, given that much of the care plan had been informed by the expert's opinion.

33. On 30th August 2018 I heard evidence from Dr Cooper, Consultant Clinical Psychologist who had assessed the Mother. Her evidence was interposed in the middle of the Mother's evidence due to her limited availability. She accepted that it had been an omission on her part not to request and read the Mother's medical records. She had not had updating documents prior to giving her evidence and therefore had to read the final evidence of the Mother and the Guardian's report in the witness box. She expressed the view that preferably the therapy that she had recommended for the Mother would be completed prior to the child being placed with the Mother and highlighted a number of risk factors within the plan of the local authority, whilst maintaining her overall optimism that the Mother may well benefit from the therapeutic intervention she was suggesting. I then heard further evidence

from the Mother, allowing her to be recalled in chief in light of the evidence of Dr Cooper and the production of excerpts from her GP records from early 2016 to date. During the course of the afternoon, the Mother left the Courtroom demanding that she be given a break, in a distressed state. I rose to give her time to compose herself and during the break received a message that the LA had decided to change its care plan and that once the Mother's evidence had concluded, her counsel would need time with her to be able to inform her of this. The Court reassembled to conclude the Mother's evidence, no one sought to ask her any further questions and I released her from her oath so that she could discuss matters with Mr O'Sullivan. She was too distressed to return into the Courtroom but at the end of the Court day we reassembled so that I could be informed of the revised care plan. The local authority informed me that in light of the evidence of Dr Cooper and some aspects of the Mother's evidence the LA had changed its care plan and that the Team Manager and IRO had been contacted by the social worker over the luncheon adjournment in that regard. The local authority outlined that it was now supporting the making of a Special Guardianship Order in favour of PGA, supported by a 12 month Supervision Order with a reasonable contact order being made to the Mother on the basis that the LA hoped that during the course of the Supervision Order her contact could be assessed and moved to a position where her partner could supervise the contact. I directed that a revised care plan be filed, together with a draft written agreement setting out the expectations that the LA would have of PGA, the Mother, the Father, PGF and MGA in respect of the contact arrangements for I. I indicated that in light of the evidence I had read and heard I would not sanction any unsupervised contact for PGF or MGA given the evidence before me that they had already breached safety plans by allowing the parents to have unsupervised contact when the child was in their care.

34. On 31st August 2018, the local authority produced its revised safety plan. It provided for the Mother to have contact on a not less than fortnightly basis and for the local authority to supervise contact for a further period of two weeks following which her partner, TH was to be entrusted with the role of supervision. It also

provided for the Father, who has not engaged in these proceedings or in assessments of him, to be able to attend PGA's home at her discretion to have Sunday lunch there with PGF and for MGA to have supervised contact with a view to a risk assessment being carried out if requested, prior to any unsupervised contact taking place. I pressed the local authority for production of its Special Guardianship support plan and financial assessment of PGA. I also indicated that I strongly disagreed with the proposal that the Father, PGF or MGA be afforded anything other than professionally supervised contact given their lack of commitment to the child, breaches of safety plans and capacity to undermine and seek to dictate contact arrangements. I made plain that I did not consider that PGA should be responsible for having to supervise their contact. At the Guardian's request, the local authority agreed, in light of MGA's recent lack of consistency in terms of contact, that prior to any contact being afforded to MGA she is to engage in a risk assessment with the local authority. I also indicated that I strongly disagreed that the Mother's partner should be responsible for supervising the Mother's contact and that this contact should also be professionally supervised and monitored. I was heartened to hear that, having reflected very carefully on the evidence of Dr Cooper, whilst being understandably extremely distressed about its implications for her, the Mother could see that the care plan that had been proposed was not a viable one and that she was consenting to the making of an SGO in favour of PGA and to the making of a 12 month Supervision Order. I commend her for taking this sensible, realistic and child-focussed stance. I was also informed that she intended to proceed with the therapy that has been recommended for her. I very much hope that she does so.

35. By the conclusion of the evidence and submissions, I had been given a copy of an SGO support plan for PGA, but the financial assessment of her had still not been completed with no date set for its completion. I directed an explanation from the LA as to:

    (a) Its late application for a DBS check

(b) Its late filing of the SGO support plan

(c) Its failure to complete a financial assessment in respect of PGA

I informed the parties that I would not approve a final order until the financial assessment had been completed and I had been told it had been agreed by PGA.

Background

36. The Mother's own childhood featured; exposure to parental domestic abuse, including witnessing significant violence inflicted upon her mother by her father, alcohol misuse on the part of her father and her parents' separation. During the Mother's teenage years her behaviour significantly deteriorated, including risk taking behaviour, and she experienced a lack of stability and routines in her care arrangements, which saw her move in between the care of her parents, absconding from her mother's care, which necessitated police involvement. She fell pregnant with I at the age of 15 years old. Very sadly the Mother's pregnancy coincided with her own mother being diagnosed with stomach cancer and as a consequence of her mother's inability to cope with the Mother's behaviour and the implications of her pregnancy, the Mother was placed in local authority foster care pursuant to a voluntary agreement at the end of 2011. Tragically, during the Mother's pregnancy, the maternal grandmother passed away. I was born when the Mother was 16 years old. The Mother indicates that it was during her pregnancy and her mother's illness that she began to suffer from Anorexia Nervosa, although there are references within the bundle to indicate that the Mother has been experiencing signs of anorexia much earlier than that, and possibly from the age of 12 years old.

37. I remained placed with the Mother in a mother and baby foster care placement until she was around 2 years of age. The foster carer contacted the police on two occasions during 2014 due to the Mother's failure to return home to her placement with I. The Mother indicated in her oral evidence that her relationship with that foster carer was not a positive one and she displayed her displeasure at having been reported to the Police. The Mother states that she had some therapeutic intervention

from Barnardos when she was 17 years old; whilst I was in her care, within the foster care placement. References within the Mother's medical records contain earlier histories taken from the Mother in 2016, which state that the only therapeutic intervention she had as a child was bereavement counselling when she was 11 years old. Another history taken from the Mother in 2017 in the LA's first parenting assessment indicates that she was taken to therapy during her childhood by her mother, funded on a private basis and that she had been diagnosed with a "Social Conduct Disorder".

38. The Mother left foster care with I in 2014 and moved to what she describes as a "flat in Gosforth" but what records describe as "sheltered accommodation in Kenton" and elsewhere as "supported accommodation". She then left that accommodation to reside with I in the Hexham area in 2015, notwithstanding that all of her familial support was in Newcastle, on the basis that there were better schools in Hexham than in Newcastle.

39. The LA began to receive referrals about I from early February 2016. Issues raised centred on neglect, which was being evidenced by the child appearing to be hungry, dirty and unkempt when she attended nursery. At that time the Mother was living independently with I. The Mother states that I was in nursery at that time and that she was working / studying full time and therefore she relied upon PGF, the paternal grandfather to undertake child care and it was only after I stayed in his care that she presented in this way. In its earlier assessments of the Mother, the LA disputes this information due to the improved physical presentation of I once she moved to PGF's full time care. On 24th June 2016 the Mother admitted to professionals that she was suffering from an eating disorder and that this could result in her fainting whilst she had the care of I.

40. On 9th August 2016 an initial home visit was undertaken by the social worker, SD. Home conditions were dirty, unhygienic and unsafe. Dog faeces were present on the floor in all of the bedrooms, the kitchen and bathroom. Open bottles of alcohol

were left lying on the floor, clothes and rubbish were present on the floor of all the rooms. Decaying mouldy food was present on all surfaces in the kitchen. The Mother was informed that if home conditions did not improve "within the hour" the police would be contacted with a view to I being removed from her care under police powers of protection. The Mother thoroughly cleaned the house within the hour and advised that she "would have done this" but had just returned home prior to the visit. The local authority put in place a written agreement and decided to undertake an s.47 inquiry.

41. On 12th August 2016 the LA decided to stand down an Initial Child Protection Conference and to work with the family on a Child In Need basis.

42. On 17th August 2016 a further home visit revealed that home conditions were once again dirty, unhygienic and unsafe. Dog faeces were present on the floor, the kitchen was dirty and the home was very untidy. An hour later the home had significantly improved. The LA decided to reconvene the Initial Child Protection Conference.

43. On 25th August 2016 an Initial Child Protection Conference was held and I was made the subject of a Child Protection Plan under the category of Neglect. During September 2016 there were further concerns about the impact that the Mother's eating disorder was having on her ability to care for I, with poor school attendance and poor home conditions being noted.

44. In September 2016 I started school in the Hexham area.

45. On 10th October 2016 I did not attend school. Police attended the family home and noted that home conditions were once again poor, with dog faeces present on the living room floor. The Mother gave oral consent to I being placed with PGF, PGF on a voluntary basis. However, subsequent attempts to secure written consent proved unsuccessful on a number of occasions with the Mother presenting as

aggressive and volatile towards professionals when she was asked to sign documentation. It was not until 14th November 2016 that the Mother formally signed an agreement pursuant to s.20 Children Act 1989 for I to be voluntarily accommodated with PGF.

46. On 21st December 2016 PGF informed the local authority that he would no longer be able to care for I. Unbeknown to the local authority, he placed her in the care of MGA on 23rd December 2016.

47. On 23rd December 2016 MGA contacted the LA requesting an assessment to care for I. An initial screening assessment was positive.

48. On 3rd January 2017, MGA informed the LA that she was unable to care for I in the long term during a placement visit.

49. On 4th January 2017, the Mother requested that I be moved from the care of MGA by no later than 10th January 2017. This prompted the issuing of these proceedings on 10th January 2017. The care and contact arrangements for I from January 2017 onwards are entirely unclear. What has been discovered is that PGF has allowed the Father to have unauthorised contact with I, MGA allowed the Mother to have unauthorised unsupervised overnight staying contact with I and that PGF unilaterally changed the child's school to T Primary School, in the Summer term of 2018 without holding Parental Responsibility or consulting those in possession of it and despite there being an ICO in place at the time. MGA had a car accident in September 2017 and has not had any contact with I since that time. I moved from her care, back to the care of PGF on 26th September 2017.

50. The Mother totally disengaged in these proceedings between September 2017 and the end of March 2018. The Mother had no contact with I between September 2017 and 7th May 2018. The Mother's partner met I through supervised contact in the latter part of July 2018 and has had weekly supervised contact with her until the

commencement of this hearing. The Mother failed to fully engage in any assessments of her until the LA's July 2018 parenting assessment and the July 2018 assessment by Dr Cooper. The Mother has still failed to complete any hair strand testing in respect of alcohol use that has been directed to take place twice in these proceedings.

51. I moved to the care of PGA on 3rd June 2018 from PGF's care. This move was unplanned and made without consultation with any professionals, the Mother or the Court.

<u>The Law in respect of Factual Determinations</u>

52. The law to be applied when considering the issues before the court is well settled. When considering the findings sought by the local authority the court applies the following well established principles:

53. The burden of proving the facts pleaded rests with the local authority.

54. The standard to which the local authority must satisfy the court is the simple balance of probabilities. The inherent probability or improbability of an event remains a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred (*Re B* [2008] UKHL 35 at [15]). Within this context, there is no room for a finding by the court that something *might* have happened. The court may decide that it did or that it did not (*Re B* [2008] UKHL 35 at [2]).

55. Findings of fact must be based on evidence not on speculation. The decision on whether the facts in issue have been proved to the requisite standard must be based on *all* of the available evidence and should have regard to the wide context of social, emotional, ethical and moral factors (*A County Council v A Mother, A Father and X, Y and Z* [2005] EWHC 31 (Fam)).

56. In determining whether the local authority has discharged the burden upon it the court looks at what has been described as 'the broad canvass' of the evidence before it. The role of the court is to consider the evidence in its totality and to make findings on the balance of probabilities accordingly. Within this context, the court must consider each piece of evidence in the context of all of the other evidence (*Re T* [2004] 2 FLR 838 at [33]).

57. The evidence of the parents and carers is of utmost importance and it is essential that the court forms a clear assessment of their credibility and reliability. The court is likely to place considerable reliability and weight on the evidence and impression it forms of them.

58. I also however, must bear in mind the observations of Macur LJ in Re M (Children) [2013] EWCA Civ 1147 "It is obviously a counsel of perfection but seems to me advisable that any judge appraising witnesses in the emotionally charged atmosphere of a contested family dispute should warn themselves to guard against an assessment solely by virtue of their behaviour in the witness box and to expressly indicate that they have done so".

59. The court must always bear in mind that a witnesses may tell lies in the course of an investigation and the hearing. The court must be careful to bear in mind that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear and distress. The fact that a witness has lied about some matters does not mean that he or she has lied about everything (*R v Lucas* [1982] QB 720). I make clear that in reaching my conclusions in these matters, I have given myself this direction in respect of the evidence of the Mother.

60. In the case of *Lancashire County Council v The Children and Others* [2014] EWHC 3 Mr Justice Peter Jackson (as he then was) observed that:

"Where repeated accounts are given the court must think carefully about the significance or otherwise of any reported discrepancies. They may arise for a number of reasons. One possibility is of course that they are lies designed to hide

culpability. Another is that they are lies told for other reasons. Further possibilities include faulty recollection or confusion at the time of stress or where the importance of accuracy is not fully appreciated, or there may be inaccuracy or mistake in the record-keeping or recollection of the person hearing and relaying the account. The possible effect of delay and repeated questioning upon memory should also be considered, as should the effect of one person on hearing accounts given by another. As memory fades, a desire to iron out wrinkles may not be unnatural; a process that might inelegantly be described as "story-creep" may occur without any necessary inferences of bad faith."

61. I also bear in mind the observations of Mostyn J in *Lancashire County Council v R* [2013] EWHC 364 (Fam):

"The assessment of credibility generally involves wider problems than mere demeanour which is mostly concerned with whether the witness appears to be telling the truth as he now believes it to be. With every day that passes the memory becomes fainter and the imagination more active. The human capacity for honestly believing something which bears no resemblance to what actually happened is unlimited."

62. It is also important when considering its decision as to the findings sought that the Court take into account of the presence or absence of any risk factors and any protective factors which are apparent on the evidence. In *Re BR* [2015] EWFC 41 Peter Jackson J (as he then was) sets out a useful summary of those factors drawn from information from the NSPCC, the Common Assessment Framework and the Patient UK Guidance for Health Professionals.

Threshold Criteria

63. The local authority and mother propose that the threshold criteria is satisfied on the basis that:

It is accepted that at the relevant date of 10 October 2016 (when the child was placed with the paternal grandfather, PGF) and continuing up to 10 January 2017, the date of the issue of the proceedings, the child had suffered and/or was at risk of suffering significant harm due to the neglect of her basic domestic, emotional and educational care by reason of the parenting capacity of the mother then being overtaken by her then diminished mental and physical health due to anorexia nervosa

64. I am satisfied that the threshold criteria for the making of final public law orders pursuant to s.31 Children Act 1989 is crossed on the basis of this concession and am satisfied that the child has suffered significant harm in the form of neglect and that she is at risk of suffering significant harm in the form of neglect attributable to the care of the Mother.

Evidence

65. During this hearing, I have heard from the legal representatives on behalf of each party and from PGA in person. I have read the bundle of documents filed for this hearing. I heard oral evidence over the course of 3 days (28th-30th August 2018) from: SD, allocated social worker, NH, Team Manager, the Mother and Dr Susan Cooper, Consultant Clinical Psychologist. At the conclusion of this evidence I was not invited to hear any further evidence and considered that I did not need to do so. I heard oral submissions on 31st August 2018 and reserved judgment. I hand down this written judgment today, 6th September 2018.

66. SD has had involvement in this case for a period spanning two years, albeit that for some of that time case responsibility passed to another social worker. She has provided the majority of the local authority's written evidence in so far as witness statements are concerned and has produced each of the care plans that have been put before the Court. She accepted that throughout her involvement, up until the

period of time that the case was adjourned, post an ineffective final hearing in April 2018, she had not supported the child being returned to the care of the Mother. She confirmed all of her earlier evidence in that regard was accurate. When asked to explain her change of position she indicated that it was in large part due to a combination of the Mother's presentation post April 2018, the quality of her contact with I and Dr Cooper's report. She continued to maintain that the Mother's evidence that she had attempted to contact the local authority from January 2018 to re engage in the Court process was not true and did express some concern about this. She accepted that, to her knowledge, the Mother had never successfully completed a course of treatment or therapy before and had failed to engage in any treatment or therapy during these proceedings. She accepted that it was not known whether the Mother would successfully complete the treatment envisaged and that no therapy had been sourced for the Mother at the point at which she gave evidence. She nevertheless would not accept that the plan she proposed was a high risk one. Her evidence did not inspire me with any confidence that the care plan being proposed had been properly thought through and I formed the clear impression that much of her changed position was as a consequence of the written evidence of Dr Cooper, which she had interpreted very positively. Despite seeking a final care order, she suggested that there would be regular care team meetings post proceedings, which would be attended by the Guardian, failing to appreciate that the Guardian's role by that stage would have ceased. She was unable to give me a clear list of other proposed attendees and appeared to struggle to identify who should form part of the care team. It had not occurred to her to conduct unannounced visits to the Mother's home as part of the assessment process, notwithstanding her experience of the Mother being able to very quickly improve home conditions from deplorable to acceptable within the space of an hour. The Mother was given up to a week's notice of each home visit during the assessment period. I agree with the Guardian that her updated assessment of the Mother and her partner is neither robust nor searching. It fails to properly analyse the impact upon the child of further delay in decision making for her; fails to balance the risks to the child in an attempted rehabilitation plan being unsuccessful; fails to consider

the child's lack of relationship with TH and the infancy of the Mother's relationship with him; fails to properly analyse the Mother's long history of poor engagement with professionals and these proceedings and the implications of that for a rehabilitation of I to her care; fails to consider that the Mother has only had the sole care of I between 2014-2016 during which time there were repeated referrals about the child's safety and wellbeing, notwithstanding that PGF provided regular care for her and that she was in nursery and then school.

67. I found the team manager's evidence to be even less impressive. She has been the allocated team manager for this case continuously for the last two years. For reasons I will expand upon in my welfare analysis, I consider that this case has been exceptionally poorly managed by this local authority, for which she must bear some responsibility. She was unable to assist me any better than the social worker could in so far as the therapeutic input that would be sourced for the Mother, which was a central and crucial aspect of the local authority's plan. I was so troubled by her evidence that I indicated to her my view that the care plan that I was being asked to approve was entirely speculative. I gave her a number of attempts to improve the answers that she was giving me and she was unable to. What her evidence revealed was an expectation that I would be rehabilitated to the care of the Mother and that at some stage very quickly within that process therapy would start, that notwithstanding the confidential nature of that therapy the therapist would be able to inform the local authority of the progress of the therapy, so that it would know "very soon" whether the plan was successful, and before the end of the 12 week rehabilitation period. If the plan was not successful, it would not continue and the child would then go to live once again with PGA. When I highlighted that what this speculative plan entailed for the child would be up to 12 weeks of an attempted rehabilitation plan, followed by a decision making meeting and, if unsuccessful, a (hopefully) short delay whilst a further set of proceedings were issued and then a further set of potentially contested proceedings for the child, she appeared incapable of recognising that for I what was being suggested by the local authority was a potential delay in final decisions being made for several months, should the

rehabilitation plan prove unsuccessful. She also appeared unable to grasp that during that entire period the child would be in limbo and could not be told where she would be living on a long-term basis. I was deeply troubled that the best interests of the child appeared to have been lost in the local authority's decision making and that the need for I to have stable and settled care arrangements after she has experienced so much disruption in her care and welfare arrangements had not been prioritised within care planning for her. The local authority appeared to have discounted the lamentable delays that had already taken place in this case, ignored the Mother's failure to engage in these proceedings or attend contact for a seven-month period and failed to recognise the need for final decisions to be made for I's care without further delay. The team manager's appreciation of the legal process and the role of the Court in approving care and welfare arrangements for the child also appeared to be somewhat deficient with no recognition that the Court needed to know the terms of a written agreement, the details and timescales of the therapy and the mechanism by which the success or otherwise of the therapy would feed into the plan as part of its decision making. She appeared to have little appreciation that ultimately on the LA's plan, should the rehabilitation plan fail, it would be a Court that would be once again called upon to adjudicate that decision either through an application to discharge the Care Order, or an application for a Special Guardianship Order or both, and that all the while the child would be waiting for a final decision to be made. She also failed to appreciate that the local authority would not be able to dictate the pace of the therapeutic process or treatment plan devised for the Mother, and whether the LA funded it or not, without discussion with a proposed therapist and without that therapist assessing the Mother and agreeing to the terms the LA suggested, it may be that the Mother and the therapist were not prepared to give the LA the information it would seek during the rehabilitation plan.

68. I was even more troubled by the LA's planning in this case having heard the evidence of Dr Susan Cooper, Consultant Clinical Psychologist who assessed the Mother in these proceedings. Dr Cooper had not, as part of her assessment, asked

to see or been supplied with the Mother's medical records. The Court order sanctioning her instruction had expressly provided that the Mother's solicitor was responsible for supplying these to her. Contained within the limited medical records that my third-party disclosure order managed to secure within the course of one day, was the Mother's written authority for the release of information and the letter sent from her solicitor to the GP surgery. The request was for an "update", not for the medical records and so this direction was not complied with. None of the other parties had checked that Dr Cooper had received the Mother's medical records and Dr Cooper accepted that it was an omission on her part that she had not requested them. I make plain that in a case of this nature I do not consider that a psychological assessment, which relies heavily on the self reporting of the subject of the assessment, without access to the subject's medical records and therefore without an opportunity to cross reference and challenge what is being reported, is not a full and proper assessment. For reasons I will expand upon later, I do not consider that the Mother is a reliable historian and I consider that Dr Cooper relied far too heavily upon the Mother's self report. She was not able to challenge the Mother without the medical records and could not therefore assess how the Mother responded to being challenged on issues, a crucial part of any plan. I am also satisfied that without sight of the Mother's full medical records, she was not able to form an informed opinion in respect of the Mother's levels of insight into her mental health difficulties and history of engagement or non-engagement with services and thereby Dr Cooper could not reliably predict the Mother's likely engagement in future. As she accepted in the witness box, from a psychological perspective the history is a good predictor for the future. The history here is of a Mother who has never successfully and fully engaged with a professional she disagreed with or who challenged her, who has a very lengthy history of disengagement and failure to fully comply with and complete treatment plans devised for her. Dr Cooper accepted that the limited medical records made available to her as a result of my order, revealed a number of "red flags" and that ideally, she would have seen all of the Mother's medical records and the clinical records from REDs. What became clear from listening to her evidence was that the

local authority had taken her assessment to be far more positive than it was, and had made certain assumptions about the proposed therapy, namely:

(a) That it could be done safely alongside a rehabilitation plan
(b) That what was being proposed was a short-term course of therapy in isolation, and
(c) That it could dictate the treatment plan in terms of the duration and timescale of the work.

69. The local authority had not consulted Dr Cooper about this plan or understood that it would be the therapist devising the treatment plan and that that would depend upon the therapist's assessment of the Mother, or that the Eye Movement Desensitization and Reprocessing (EMDR) work that was being proposed for the Mother was just one aspect of the work proposed to specifically address trauma but that alongside that work would be the need for longer term therapy of a different nature to attempt to assist the Mother to build her resilience and coping strategies. Dr Cooper had not assessed the Mother's partner and had assumed, based upon the Mother's self report, that he was fully supportive and aware of all of her difficulties. Again, that had not been established. The Mother's relationship with TH is in its infancy and how much of the Mother's history her partner is aware of, other than from her self-reporting to him, is not clear. Dr Cooper's assessment is solely of the Mother. She did not assess the child and was not giving an opinion in respect of what the right outcome for the child would be, what the risks to the child would be of a rehabilitation plan, what the impact on the child may be of further disruption or indeed, what is in the child's best interests. It is for the local authority to consider those issues, keeping the child's best interests paramount in its thinking and not what is best for the Mother.

70. In forming my assessment of the Mother, I have had the benefit of hearing her evidence, reading her GP records from the beginning of 2016 to date, reading the Court bundle and hearing the evidence of the social worker and Dr Cooper who assessed her. I make clear that I have not assessed her solely as a result of her

performance in the witness box and in the Courtroom. I also make clear that I have tremendous sympathy for the Mother; her difficulties are not of her making. She has experienced much adversity and trauma in her life, which very sadly has left its mark upon her. I have given myself a R v Lucas direction in respect of her evidence. I do not consider that the Mother is a reliable historian. This is, in part, due to her own admissions in evidence and throughout her medical records that she has a poor memory and is "not good" with dates. It is also in part due to her defensiveness, her tendency to minimise her behaviour and responsibility for it, her tendency to wish to portray herself as 'much better' now and in a favourable light, her inability to fully appreciate the extent of her difficulties due to her lack of insight into them and her desire to blame others and deflect responsibility for her actions. Overall, she presents as an immature, fragile and damaged young woman who seeks to do things on her own terms. A repeated theme is her inability to cope with being challenged – prior to the local authority reassessing her post April 2018 and then supporting an attempted rehabilitation plan to her care, she had not engaged well with the social worker. There are repeated references to her behaving in an uncooperative and even aggressive and hostile manner to a range of professionals, including her CPN who she refused to work with, her GP who she has made complaints about, and the social worker. There are also repeated references to poor or non-engagement and her only agreeing to certain aspects of recommendations and only then when she agrees with them, for example:

(a) Her failure to engage with her leaving care social worker
(b) Her failure to engage with housing services in Northumberland
(c) Her failure to consistently engage with I's schools
(d) Her failure to engage with the local authority whilst I was under a Child Protection Plan
(e) Her failure to sign a s.20 agreement in respect of I's accommodation
(f) Her failure to sign two written agreements
(g) Her failure to engage in a treatment plan at REDSs
(h) Her failure to attend appointments with her solicitor
(i) Her failure to attend appointments with her CPN

(j) Her failure to attend appointments to complete a treatment plan once she discharged herself from REDs

(k) Her failure to follow that treatment plan by not attending for monthly weights and blood tests to be taken by her GP

(l) Leaving hospital before she was treated

(m) Her failure to attend Court hearings

(n) Her failure to comply with Court directions

(o) Her failure to attend assessment sessions with the local authority, with Dr Cooper and with Wendy McGaughey, ISW

(p) Her failure to undertake hair strand testing in respect of alcohol use

(q) Her failure to attend supervised contact with the child.

71. During the Mother's evidence, she admitted for the first time, that whilst I was placed with MGA she was staying at her home overnight on four or five nights a week and having unsupervised care of I during that time, whilst MGA was out at work. Initially she attempted to deny that she was aware that she was not permitted to do this and became extremely argumentative and then distressed when challenged about this issue. Ultimately, she admitted that knew that she was not supposed to be there but then sought to argue why she should have been allowed to be there and got upset blaming her Aunt for this, as "her guardian" rather than accepting any responsibility for it. This was a clear breach of a safety plan that had not been disclosed prior to her entering the witness box. She also accepted that her failure to engage with earlier assessments of her directed in these proceedings, such as the assessment by the local authority, the assessment by the Independent Social Worker and the assessment of her by Dr Cooper which should all have taken place in 2016 and 2017 and could not take place due to her failure to attend assessment sessions, was because she knew that they would be unsuccessful. She has thus been permitted, by the Court process and by the local authority to manipulate the evidence presented in this case so that she has been assessed, not within the time scale of these proceedings, or more importantly a time scale appropriate for the child, but as and when she wished to. During her evidence she sought to control

the manner in which she gave evidence, at times she stated she was not prepared to answer certain questions, at other times she sought to dictate what she was asked and the way she was asked it. She raised objection to being unable to discuss issues with her counsel and her partner during the time that she was on oath, she complained that she felt "bullied" when being cross examined, she complained that it was "unfair" that she could not discuss her medical records with her counsel during her evidence and on two occasions she requested a break at times that I did not consider it was appropriate or necessary for her to have one, and responded by telling me she would have one when she wanted and ran out of the Courtroom in a state of audible distress. Her behaviour was not only childish but also manipulative. I made plain at the time that I did not consider that she was being questioned unfairly or that the manner in which she was being cross examined was in any way robust. The only cross examination she faced was conducted on behalf of the child, she was rarely pressed to answer questions she did not wish to, apart from by me, and when she was pressed immediately reacted very badly. The behaviour I witnessed is documented within the local authority's assessment of the Mother dated 7th July 2017, which states, "There have been concerns, although not recently and not witnessed by the current social worker but in previous meetings and particularly when I was placed with family members that M's behaviour is quite inappropriate and she has been seen to shout, scream and uncontrollably cry when professionals attempt to have a conversation with her. This is to the point where it is not possible to have a conversation with M and is dominated by this childlike behaviour. M appears to use this to defer from the conversation if this was challenging or became too much for her with questions that she did not or could not answer." My assessment of the Mother's behaviour mirrors this analysis. The Mother's behaviour was, at times, childlike and appeared to me to be a strategy to avoid answering questions she did not wish to when challenged. She became hysterical, running out of the room, screaming and crying. Her volatility when challenged is deeply troubling.

72. I am satisfied that the Mother's ability to successfully engage in therapy will depend upon whether it is undertaken on her terms and if not, it is sadly likely that she will disengage. I have no confidence that she will cope with being challenged during therapy or that if a therapist gives information that is in her view negative about her she will continue to work with them. When discussing the prospect of the social worker and her partner being entrusted to identify signs that she is not coping or that her mental health is declining she became highly argumentative with me about what she would accept were warning signs of a deterioration. She told me that I was not qualified to tell her what warning signs of a deterioration in her mental health would be as I was not a medical professional and she would only accept Dr Cooper providing that. The examples I gave were examples lifted from Dr Cooper's evidence which had immediately preceded this part of her evidence, and from the treatment plan within her medical records at the point of her discharge from REDs, but she failed to recognise that and demanded that I use "a different example" than the very most recent documented concerning example of her behaviour, an incident that she had failed to disclose to any professional in this case or in her witness statement, which occurred on 28th July 2018 when she collapsed and ended up in Accident and Emergency having been drinking alcohol and having not eaten for in excess of 24 hours. Her behaviour gave me a graphic example of quite how difficult a therapist would find it to inform others what warning signs would be – the Mother is simply so argumentative, dismissive and has such little insight into the fragility of her mental health that she will not accept what those signs are. It also highlighted how very difficult her partner and others would find it to challenge her about signs and symptoms of any deterioration. I have no confidence that she will engage or comply with a safety plan or therapy that is anything other than completely on her terms. She has a distorted and unrealistic perception of the extent of her mental health difficulties, choosing to fixate on her anorexia and her weight and ignoring the bigger picture that that is just one facet of her problems. Whilst accepting that she has PTSD she was openly dismissive of "talking therapy" and appeared only willing to undertake EMDR on the basis it was something she had not tried before and was a short-term course of therapy, failing

to recognise that this was not the only recommendation that Dr Cooper was making. I do not consider that pending successful completion of therapy she should be having unsupervised contact with I and am satisfied that given the Mother's resistance to challenge, contact should not be supervised by anyone other than a professional for the foreseeable future.

Care Plans

73. The original final care plan presented for this hearing recommended that the child be rehabilitated to the Mother's care over a 12-week period, commencing in the week of 3rd September 2018. The LA sought a Care Order and considered that the rehabilitation plan could take place alongside therapy for the Mother, which it would pay for but which it had not yet commissioned. The contingency plan was a placement with PGA under an SGO.

74. At the conclusion of the Mother's evidence, having heard the evidence of Dr Cooper, the local authority changed its care plan to recommend that the child be placed with PGA under a Special Guardianship Order, supported by the making of a 12-month Supervision Order.

Legal Framework in respect of welfare decisions

75. I remind myself that the child's welfare is my paramount consideration. That is section 1(1) of the Children Act 1989. In considering what orders to make I have regard to the Welfare Check List found in section 1(3) of the 1989 Act.

76. In relation to the threshold criteria of section 31(2) Children Act 1989 I have regard to whether I am satisfied that the child has suffered or is at risk of suffering significant harm.

77. When considering which orders if any are in the best interests of the child I start

very clearly from the position that, wherever possible, children should be brought up by their natural parents and if not by other members of their family. The state should not interfere in family life so as to separate children from their families unless it has been demonstrated to be both necessary and proportionate and that no other less radical form of order would achieve the essential aim of promoting their welfare.

78. I have looked again at the words of the then President in Re B-S (Children) [2013] EWCA Civ 1146 as well as the judgments in Re B (supra) and reminded myself of the importance of addressing my mind to all the realistic options for the child, taking into account the assistance and support which the authorities or others would offer.

79. In considering whether to make public law orders I have had close regard to the Article 6 ECHR and Article 8 ECHR rights of each parent and of the child, but I remind myself that where there is tension between the Article 8 rights of the parent or adult family member, on the one hand, and of the child, on the other, the rights of the child prevail; *Yousef v The Netherlands [2003] 1 FLR 210*.

Positions of the parties

80. The local authority now invites the Court to place the child with PGA, under the auspices of a Special Guardianship Order, supported by a 12-month Supervision Order.

81. The Mother had agreed with the local authority's original care plan and was consenting to the making of a Care Order on that basis. Once the local authority indicated a change of care plan she consented to it and agrees to the making of a Special Guardianship Order and 12-month Supervision Order. Her position prior to the change of care plan had been that if the local authority's application was not successful, she would seek weekly unsupervised contact at weekends with the child.

Once the local authority revised its care plan, she agreed to her contact taking place on a professionally supervised basis albeit on a not less than weekly frequency on the basis that it would take place in the community. She opposes a change of school for I.

82. PGA is committed to caring for I on a long-term basis as a Special Guardian. She consents to the making of a 12-month Supervision Order for the child. PGA proposes that the Mother's contact takes place on a supervised basis in the community and that I should change school to attend the school nearest her to home from January 2018. She puts forward her mother, PGGM, as an emergency contact for health and education purposes and seeks to rely upon her for child care.

83. The Children's Guardian did not support the local authority's application for a Care Order and did not support the care plan to attempt to rehabilitate the child to the Mother's care. She invites the Court to appoint PGA as a Special Guardian for I and supports the making of a 12-month Supervision Order. She proposes that the Mother's contact takes place on a supervised basis and at a fortnightly frequency.

Welfare analysis

84. In light of the changed position of the parties, I am now invited to make a Special Guardianship Order in favour of PGA, by consent and to make a 12-month Supervision Order in favour of this local authority, by consent. I am invited to determine issues in respect of contact using private law orders if necessary.

Discussion and conclusion

85. In determining the right placement option for the child, I must consider her needs now and in the future.

86. I is a 6 and a half year old little girl who has experienced much disruption and

instability in her short life. Her primary attachments have been disrupted. She began life living in a mother and baby foster care placement with the Mother, she then moved with the Mother to supported accommodation in Newcastle Upon Tyne where she was in the Mother's sole care from the age of 2 years old. It is likely that the Mother had assistance to care for her from MGA and PGF during this period of time. Notwithstanding the familial support that she had in Newcastle, the Mother moved to the Hexham area with I in 2015. I was enrolled in nursery in Ponteland from 2012-2016, (from the age of 9 months old). The Mother told me that I attended five days a week for full days at nursery, but records indicated that she attended 3 days a week for at least part of that time. The Mother states that she relied upon PGF for child care and that he would have the care of I in Newcastle on one or two nights each week in 2016. During the course of protective measures being taken by this local authority, I has experienced at least four changes of primary carer – living twice with PGF, with MGA and now with PGA. She has had illicit and unauthorised contact with the Father, the frequency and duration of which is not known. She experienced the Mother staying overnight with her and caring for her on an unsupervised basis on four or five nights a week when she lived with MGA, without the knowledge of professionals or the Court. She then experienced a seven-month period without having any contact with the Mother during the course of these proceedings. The impact and effect of all of this instability and disruption upon her in the short term is not well known. Her care givers and parents have not been reliable or, in my view, trustworthy in openly and honestly reporting any emotional and behavioural difficulties that she may have had whilst in their care.

87. The only independent evidence of the impact of all of this upon her is documented by her schools. In 2016/2017 a school in the Hexham area. A report from her class teacher is dated 11th November 2016. It reports that I was most settled in the first two weeks of starting school, in September 2016, but that this then changed with her often attending late, appearing unkempt, reporting that she was hungry and that the dog had "pooed everywhere". She presented as "clingy" towards her teachers and tearful if things did not go her way. She was often collected late and was

reluctant to leave school to go home with the Mother. She did not have a P.E. kit in school and so the school had to provide her with one. School considered that she was much more settled and well presented once she moved to the care of PGF. A further report dated 18th January 2017 from the same class teacher stresses how "very concerned" the school was at her "rapid" deterioration which they had noted since Christmas and continued to observe on a daily basis. I was noted to be sad, crying, with "extremely high" levels of attention seeking. She was disruptive in class, had very poor focus, she would hit other children and pull their hair, she would hide under tables if she did something wrong and refuse to come out, she would throw things on the floor, hurt other children, break things, run out of the classroom, tip water on the floor, smear soap on the walls of the toilets, run off and throw her shoes away. She asked every day who would be picking her up and asked for the Mother every day. She talked of missing her granddad. School were unable to reassure her as they too did not know who would be collecting her from one day to the next.

88. I moved schools in the Summer term of 2018 to T Primary School. This move was arranged by PGF without any consultation with the Mother, the local authority, the Guardian or the Court. He did not hold Parental Responsibility for the child. The Mother and the local authority did. On 16th July 2018 the Guardian contacted LC, Welfare and Safeguarding Lead at the School. She reported that when I first started school she was very quiet, kept her head down and would not make eye contact. She was unable to read and write and reluctant to engage in activities. She is now reported to be very settled, doing well and is "on track academically". School reports that when I first moved to the care of PGA she was very upset but that she now appears to have a good relationship with her, is always clean and tidy. Her attendance is 100%.

89. It is likely that all of this instability and disruption to her care arrangements and attachments will have an impact upon her in the short, medium and long term. The formation of a secure primary attachment to a stable, consistent and dependable

carer is essential to a child's emotional and psychological development and well-being throughout their life.

90. I am satisfied that the LA has grossly over estimated how resilient I is. In her statement dated 16th August 2018, I's IRO states, "The current situation is that I has coped remarkably well and appears to be resilient and overall, [sic] a very happy child who is healthy and achieving well in school with no identified additional needs." Given that I's current school was not consulted and was not part of her care team, this information does not appear to have been based on any objective evidence or assessment of how I is in fact presenting. It is a naïve and superficial opinion. I also have the benefit of a statement from the Service Director for LA's Children's Social Care dated 16th August 2018. He states, "There have been no safeguarding concerns raised whilst I has been living with family members whilst in placement and there is no evidence that the moves have impacted negatively on her. It is the view of the allocated social worker that supporting I within her family, given the quality of their care, overrode the authority's concerns about the lack of communication from them. It remains the view of the allocated social worker that I has not been harmed as a result of the unplanned moves and that I was best placed with these family members." I disagree. I am satisfied that I has suffered significant emotional harm as a consequence of the instability in her care arrangements and disruption to her primary attachments. The local authority's failure to appreciate what the impact of all of this instability would be in respect of a child between the ages of four and six years old is deeply troubling. The absence of evidence of emotional and behavioural difficulties from the family who were caring for I at the time does not mean that she has coped well. They have not been open and honest with professionals. The best evidence is available from the schools that I attended and they have highlighted significant concerns about her welfare. The local authority's failure to include I's current school in her care team or seek information from it is unacceptable and must be corrected immediately.

91. It is in my view likely that I will need support in the future to address these

difficulties and PGA should be alive to that now. PGA needs to understand that if I does prove to be a challenging child to care for that this is likely to be as a consequence of all of this instability and attachment disruption and that she must request assistance from her local authority as the need arises, once the Supervision Order to this local authority expires. PGA can keep a copy of this judgment and has permission to disclose it to her local authority, the child's GP and the child's school in future if required, to access services for her.

92. This is a deeply troubling case, which has been very badly mismanaged by the local authority. I agree with the Children's Guardian that the local authority has failed to protect I from harm due to its poor oversight of the case. The child has been very badly let down, not only by the local authority and her family but also by the Court process. It was entirely contrary to the best interests of this child for the Court to adjourn these proceedings in April 2018 and permit the Mother a further opportunity to engage in assessments after she had disengaged for a period of 7 months and not had any contact with this child during that period of time. The message that adjournment sent to this vulnerable and fragile young mother was that she could, after all that had gone before, dictate the assessment process, choose when and which assessments she would engage in, and otherwise control the pace of decision making for the child. This message was unfair for the mother, not in the Article 6 ECHR sense but in a human sense.

93. The Court's paramount consideration is the welfare of the child. Inimical to the child's welfare is delay in decision-making. There are cases that necessarily extend beyond their 26-week time table in the interests of justice. This is not one of those cases. The inordinate delays in this case are borne out of poor case management and a failure by the local authority to get a grip of what was happening on the ground for this child and its failure to undertake timely assessments. A failure to engage in assessments by family members is not a reason to extend filing dates. A failure to engage without a very good reason should result in an assessment being completed on time, utilising the information known about the individual and

recording the efforts made to offer appointments and the individual's failure to attend sessions. The family had been given an opportunity at the outset to retain the care of I on the basis that a written agreement was to be signed. Once that agreement was not signed in a timely fashion and in the terms that the local authority sought, it should have returned the matter to Court promptly and sought removal of the child to foster care.

94. I make plain that in my view I should have been placed in foster care as soon as it became clear that the written agreement was not being signed, pending further assessments. I's contact with family members should have been professionally supervised. Instead, what followed was a disastrous and emotionally harmful series of placement disruptions for her, an unauthorised and unplanned move of school and illicit and unpredictable contact with her parents. Notwithstanding that I was made the subject of an Interim Care Order whilst placed with her family, the LA failed to exercise its Parental Responsibility for her appropriately and failed to ensure that it effectively and safely monitored her care arrangements and made decisions about her welfare.

95. Information gathered from I's school in July 2018 by the Guardian is deeply concerning. It reads as follows, "the Local Authority have not kept them informed and have not communicated well with the school…they have never been invited to Care Team Meetings in respect of I, they have never received any written or verbal information regarding I and why she is looked after…from the beginning [the Father] would regularly come to collect I with PGF… [school] contacted [the LA] on a number of occasions to see if this was allowed, as the school had no information about I's parents or the concerns, but nobody ever responded to these requests….It was PGA who informed the school on 6th June 2018 that I was now living with her. Again, she tried to contact the allocated social worker but gained no response…The school have not been told when I has contact and at what time it takes place…on 16/07/18 they were informed by Children's Services that I would be collected at 2.45pm, so that she could have a full 2 hour contact with her mother.

I had not been informed of this arrangement prior to attending school."

96. The local authority's assessments of MGA and PGF were deficient and flawed. They are of poor quality and fail to take into account the lack of co-operation and engagement by those adults with professionals and their lack of commitment to the child. Their lack of compliance with a safety plan and inability to protect the child was not properly analysed and instead far too much weight was placed upon their familial relationships and relationship with the child.

97. The assessment of the Mother by Dr Cooper was born out of a flawed instruction, based heavily upon the self report of the Mother, an unreliable historian. Its focus is very much on what is best for the Mother, not what is best for the child. The updated assessment of the Mother and her new partner by the social worker is a superficial one, which fails to robustly assess and balance the significant risk factors in this case. The Mother's relationship with TH is in its infancy; he has never cared for a child before. He only met I in supervised contact towards the end of July 2018. They have never parented a child together before. They say they met towards the end of 2017; they have not yet known each other for a year. During the time they knew each other the Mother was still in contact with her ex partner who violently assaulted her in January 2018 whilst she was intoxicated. They entered into a relationship shortly after this assault. They have only lived together since March 2018 and moved in together very quickly. The impact of the stresses and strains of caring for a child upon their relationship has not been properly considered. Nor has the impact of any disputes between them upon the Mother's mental health. Her current stability is based, in very large part, upon the stability of her relationship with her partner. Should anything jeopardise that, she may well unravel. Should she become acutely unwell again, the result will be the neglect of this child. Neglect in the emotional sense, as the Mother will be too preoccupied with herself and her own difficulties to be emotionally available for the child, and neglect in the physical sense because if the Mother once again becomes anorexic she will lack the energy required to meet the child's basic care needs, including her personal care, will lack

the energy to ensure that the home conditions are of a good enough standard and will be unable to ensure adequate school attendance. Further risk factors for the child are highlighted in Dr Cooper's report dated 13th July 2018, "There are obvious risks associated with M's anorexia nervosa. There are physical health problems in that she may faint whilst caring for I. There have also been problems with her sleep; she has overslept in the mornings and has not got I to school on time. If she is preoccupied with food, she will not be emotionally or cognitively available for I. If she is hungry and her sleep is poor, she is more likely to be irritable and is not going to function at her best. Because her eating disorder has been a means of regulating her emotions, she is less likely to be able to regulate her emotions appropriately and this puts I at risk of developing emotional problems when she grows up (if she cannot regulate her emotions, she is not going to be able to model this behaviour to I). There is also a risk she would model inappropriate eating behaviours to I and therefore provide the foundations for I to develop an eating disorder when she grows up."

98. I am satisfied that some of these risk factors, in particular the Mother's inability to appropriately manage her emotions, remain a risk for I within the confines of a contact setting. As was highlighted in the SGO assessment of PGF dated 19th December 2017, the Mother "is not currently engaged in any form of mental health services or support having discharged herself from these. [The Mother] was engaged with the REDs service…she struggled to engage…and there was consideration as to whether she should become an inpatient however [she] would never volunteer for this and did not want to be an inpatient. It was discussed with her on occasion and once she was advised that should she lose any further weight she would be sectioned and become an inpatient due to her weight being so low…She gained weight following this and the last time she was weighed at the GP practice she was a positive weight for her height and her BMI was acceptable. In February 2017 bloods were taken from [the Mother] with positive results. There is no monitoring of this however, and only [the Mother] states that she is feeling well doing well with her eating. She does appear and present as healthy although

equally, as with many people with anorexia she would be able to hide this well so it is largely unknown if she continues to do as well… [The Mother] discharged herself from REDSs and was offered support through a CPN at the Fairington Centre in Hexham to follow on her counselling support and mental health around anorexia however, she has never engaged in any of these appointments or supports offered with her eventually being discharged in March 2017 due to a lack of engagement." To date, this remains the position and the Mother is not currently engaging with any health professionals with regards to maintaining good mental and physical health.

99. Within the Mother's medical records is a letter from her GP to her solicitor dated 8th May 2018, which states, "With regards to her diagnosis of anorexia, I can confirm that [the Mother] has not consulted a GP regarding this since July 2017." The Mother was weighed in December 2016 and on 18th April 2018, between those dates no medical professional has weighed her. Overall there is a 5kg weight gain in that period, but it is not known how her weight has been during that period of time. In September 2017 she attended Accident and Emergency having taken an overdose of Paracetamol whilst intoxicated. She was seen by the Crisis Team and referred to the Community Mental Health Team but failed to engage with them. In January 2018 she was assaulted by her previous partner and sustained multiple injuries whilst intoxicated. The Mother has never completed any work to address domestic abuse issues and did not attend for medical follow up after this. In February 2018 she was again seen in A & E with suspected UTI and slightly abnormal liver function, she was advised to have an abdominal ultrasound but failed to attend follow up appointments. In December 2016 the Mother was seen in hospital having taken what she reported to be an accidental overdose. She was seen in hospital due to intoxication from alcohol in June 2016, July 2017 and July 2018. She has not complied with hair strand testing in these proceedings to assess whether she has an issue with alcohol and Dr Cooper raised some concerns with regards to the Mother's alcohol use in her oral evidence, stating that this may be a "red flag". She has never done any work in respect of alcohol misuse.

100. When the Mother's GP reported her attendance at A & E on 7th July 2017 to the social worker, the Mother made a complaint about the GP to the GP practice. I am satisfied that the reason for that complaint was because she did not want the social worker to be aware of that hospital admission and what it revealed and for no other reason. The history taken from the Mother by the hospital at 07.01 on 7th July 2017 was that she had been "drinking with a friend. Not yet been home. Has had alcohol ++, thinks she may have been spiked though initially booked in due to intoxication. Vomited in the casino then became unresponsive so an ambulance was called…Long discussion regarding eating disorder. Previous anorexia has been eating less over the last month. Doesn't want access to help, is calorie restricting. No longer has contact with her nurse, has not spoken to her GP or family." This information had not been volunteered to professionals involved in this case by the Mother and has clear implications with regards to her recovery from anorexia. The Mother states that she may well have said this but it was not true. I reject her account and am satisfied that it is likely that one of the reasons why the Mother has not attended for regular weights to be taken is to mask her difficulties in this regard.

101. On 28th July 2018, the Mother attended A & E at 20.02, she was intoxicated and had suffered a head injury. The medical history given reads as follows, "Seen with boyfriend and friend. @ Ladies Day today, has been with one friend all day, has been doing rounds, and the Mother appears disproportionately intoxicated to friend h/o eating disorder, not eaten since 0100 yesterday. Went to toilets in club, fell/collapsed, hit rear of head on toilet, found by members of public unconscious…". The Mother accepted during her oral evidence that certain aspects of this history could only have been given by her, such as details of her previous medication. I am satisfied that it is likely that she also informed the hospital staff when she last had anything to eat as she was with her friend that day and her boyfriend before that, neither would have been aware of the total period she had spent without eating. Prior to the medical records being disclosed this incident had

not been reported to professionals involved in this case by the Mother or TH. Neither included it within their recent statements to the Court. The Mother states that following this incident she missed contact and TH had told the LA that she was "unwell". I am deeply concerned that neither of them were open and honest about this incident with professionals or with the Court. The Mother argued during her evidence that this was not relevant. I disagree. In the context of previous concerns about her alcohol use, which were sufficient to cause the Court to twice conclude that hair strand testing was necessary in these proceedings, and in the context of the Mother having a lifetime diagnosis of anorexia nervosa I consider that her intoxication and failure to eat anything for over 24 hours leading to her collapse is highly significant and relevant information that the Court and professionals needed to know. I reject the Mother's account that she simply slipped in the toilet. I am satisfied that it is more likely that she collapsed due to the fact that she had not eaten and was intoxicated. I note that collapse was one of the specific symptoms highlighted as a warning sign in respect of her anorexia when she was discharged from the REDs service. The Mother's failure to appreciate the relevance of this incident, if genuine, only serves to highlight her lack of insight. Equally, if TH failed to appreciate the relevance of this incident it only serves to highlight his lack of appreciation of the Mother's difficulties.

102. The LA has relied far too heavily upon the self-reporting of family members in this case and has failed to gather and properly analyse independent evidence. The paucity of evidence is not evidence that all is well, it is as a result of the Mother's failure to engage in professionals which means that her difficulties, which have been well established and evidenced are not being actively monitored. The Mother has continuing difficulties with regards to her mental health difficulties in the form of a life time diagnosis of Anorexia Nervosa, PTSD, difficulties in regulating her emotions which may well stem from childhood (there are references to a diagnosis of Social Conduct Disorder from childhood in the papers, which I am satisfied has not been properly and fully considered by Dr Cooper due to her failure to analyse the Mother's full medical records), potential alcohol misuse issues and a

history of overdose, none of which is being currently treated or monitored by health professionals. These issues pose a continuing risk of significant harm to I in the form of neglect and emotional harm and there is scant evidence other than that reported by the Mother that they have resolved or are not an issue for her. Her self reported stability has not been independently evidenced or verified and the local authority has relied far too heavily on what she has told them.

103. With regards to the appropriate care arrangements and legal framework in this case, there is now just one realistic placement option before the Court – a placement with PGA. I have had the benefit of reading the SGO assessment in respect of her. I has been placed in her care since the beginning of June 2018. Her school states that her attendance is now exemplary and that her presentation is good, since being placed with PGA. All parties support this placement. Due to my lack of confidence in the LA's assessments in this case, I have had reservations about whether this is the right placement option for I, particularly in light of the Guardian's concerns as documented in her July 2018 report and for that and other reasons, I joined PGA as a party to these proceedings, have given her access to the full Court bundle and invited her to attend throughout the final hearing and listen to all of the evidence, which she did. At this stage, PGA is the only viable and realistic placement option that remains in I's family. The alternative would be local authority foster care, which would be a very bleak prospect for a child of I's age. The Guardian has been reassured that a placement in PGA's care is the right placement option for the child by observing PGA during this hearing and by her lengthy visits to PGA prior to filing her final report in these proceedings. She is of the opinion that PGA can offer I the stable, safe and permanent home that is required and that she is capable of meeting her needs to a good enough standard now and in the future. Having read the Guardian's previous concerns about PGA, they relate predominantly to her capacity to withstand undue pressure from other family members, such as her brother PGF, and her ability to prevent the Father, in particular, from having illicit contact with the child. At this juncture I do not consider that a further assessment of PGA is necessary, or that decision making for

I should be delayed any further given the unacceptable delays that have already been occasioned in that regard. I have given consideration to whether the placement should be supported by the making of a Care Order but consider that that would be ineffective due to my lack of confidence in the LA and its ability to effectively exercise Parental Responsibility and manage arrangements. What I consider is essential however, is that PGA is fully supported during the course of Supervision Order and by the Court to make decisions with regards to the contact arrangements for I. Given the poor decision making and inadequate assessment work filed by the local authority to date, I intend to make clear within this judgment my expectations for I's contact which will form the framework for private law orders and will inform the care team and PGA what is expected of them. The local authority will not hold Parental Responsibility for I and so will not be able to take decisions in respect of contact arrangements, which I am satisfied are unlikely to be child focussed or safe. I also intend that I's school is informed in respect of who can and cannot attend the school and collect I and who is to have contact with her so that it is aware and can perform a safeguarding role in respect of her.

104. I am satisfied that PGA should be appointed as I's Special Guardian and that she requires enhanced Parental Responsibility to make decisions about I's care and contact arrangements throughout her minority. I am satisfied that both I and PGA require a 12-month Supervision Order to provide them with support over the course of the next year. This will allow the child to fully settle in placement, will allow the LA to support and monitor the placement and contact arrangements and provide advice and assistance to PGA and I as the need arises.

Contact between I and the Father

105. The Father has failed to engage with these proceedings, has failed to comply with assessments and has failed to attend Court. He has had illicit and unauthorised

contact with I, which has not been in her best interests and has not been safe for her. I am satisfied that the Father should not have any direct contact with I until and unless he fully engages with a risk assessment, to be completed by the local authority. He shall not attend her school, but is entitled to be invited to care team meetings and to receive updates in respect of her education and health. Until and unless he fully engages in a risk assessment, his contact with I will be limited to indirect contact only, in the form of cards and gifts at Christmas, Easter and for I's birthday to be supplied to PGA's mother. PGA's mother PGGM (his grandmother) is then to pass items on to PGA who can assess their suitability before giving them to the child, if appropriate. PGA is to encourage I to supply items of indirect contact for the Father at Christmas, Easter, on his birthday and on Father's Day. Should the Father co operate with a risk assessment and direct contact be deemed to be in the child's best interests by the local authority and agreed by PGA who will be taking a decision in this regard, such contact is to be facilitated on a no more than monthly basis and shall be fully supervised by professionals for at least a year from the time of its reintroduction. The purpose of which is to assess the quality of the contact and to assess the Father's reliability in attending contact over a 12-month period. Should the Father seek to have anything other than monthly direct contact with I, supervised by the local authority, then he will need to make an application to the Court for a child arrangements order. This will allow the Court to make a decision about his contact and will alleviate the burden from PGA of having to determine whether he should be permitted to have anything other than professionally supervised contact.

Contact between I and MGA

106. MGA has had no contact with I since September 2017 when she relinquished care of her for the second time. Her commitment to I is highly questionable as is her ability to co operate and engage with professionals. She has demonstrated an inability to put I's needs before the Mother's. She breached a

safety plan by permitting the Mother to have unauthorised and unsupervised contact with I and failed to disclose that to the local authority. She failed to sign a written agreement designed to ensure I's safety. I am satisfied that until and unless she fully engages with a risk assessment to be carried out by the local authority, she should not have any direct contact with I. Any direct contact in future must be professionally supervised for at least a 12-month period following its reintroduction, to ensure that she does not use her contact to permit the Mother to have unauthorised contact with I, to assess the quality of her contact and to assess her commitment to attending contact. Any contact that she has shall not take place more often than once each month. In the interim, if she wishes to have contact with I, such contact is to take place on an indirect basis and be restricted to cards and gifts to be passed via the local authority at Christmas, Easter and for I's birthday. Should she seek anything other than direct contact on a monthly basis, supervised by the local authority, then she will have to apply to the Court for a Child Arrangements Order so that the Court can determine whether or not that is in the child's best interests.

Contact between I and PGF

107. PGF has been a consistent figure throughout I's life. She undoubtedly has an attachment to him. He has however relinquished the care of her twice in these proceedings and has permitted the Father to have illicit and unauthorised contact with her, failed to co operate with a safety plan and been responsible for much instability and disruption in I's life, which I am satisfied has caused her significant emotional harm. Due to his breaches of safety plans and the illicit contact that he has promoted to the Father, I am satisfied that he cannot be trusted to keep I safe and protect her from harm. Any direct contact that he has with I is to be professionally supervised and shall not take place more than once per month. Indirect contact in the form of cards and gifts may be exchanged, both ways, via PGGM, (his and PGA's mother). If he wishes to challenge these arrangements he will need to make an application for a Child Arrangements Order to spend more

time with the child.

Contact – PGF, MGA and the Father

108. I am satisfied that it is not in the child's best interests for her to have anything more than monthly supervised direct contact with any of these three adults. Each has the capacity to destabilise and disrupt I's placement with PGA and to manipulate her into making arrangements that are contrary to the child's best interests. Contact has to be consistent and reliable. Each of these adults has let this child down. Contact with a child is a privilege. Each of these adults have abused that privilege and are not to be given the opportunity to do so again. None of these adults are to be permitted to attend I's home, or her school. If I is in the care of any other adult, they are not to attend the home of that adult whilst she is there. All direct contact that they have with the child is to be professionally supervised, arranged and monitored by the local authority for at least the first 12-month period following its introduction, and if appropriate for longer than that. If their contact is to progress beyond professional supervision, they will each have to satisfy a Court that that is in the child's best interests by making an application for a child arrangements order. The local authority cannot make this decision; it will be for a Court to determine. I do not consider that PGA is able to withstand pressure from these adults at this moment in time and therefore am satisfied that it is the Court who will need to make the decision. The priority at this juncture is for I to be able to form a secure primary attachment to PGA, she needs to be sent a clear message that it is PGA who is her primary carer and who will be the one who provides stable, consistent, dependable care for her throughout her minority. None of these adults are to be permitted to interfere with that process or be allowed to challenge PGA and her decision making for the child. These contact arrangements are devised to give PGA the time and space to allow her to develop the confidence to make decisions about I's day to day care and welfare needs, free from interference, and to allow I and PGA the opportunity to develop their relationship without any of these adults seeking to assert that their knowledge of and attachment with the child

is greater than hers. I also needs an opportunity to settle into her new home, make new friends and adjust to her new school arrangements without unduly high levels of contact with these adults. If monthly direct supervised contact is established, that level of contact recognises the reciprocal love and attachment that the child has with each of these adults. It also assists to preserve her identity and relationship with each of them in a safe and predictable way, without interfering with her placement. As I gets older she must be given the opportunity to spend her weekends and school holidays with her carer and her peers so that she is able to develop healthy and meaningful attachments and friendships, too much contact with these family members will detract from her ability to do so. Should monthly contact be established for any of these adults and they fail to commit to attending on a regular and consistent basis then contact is to be reduced to take place six times per year in school holidays. Any Court being called upon to make decisions about contact must be provided with a copy of this judgment.

<u>Contact between I and the Mother</u>

109. The Mother's contact with I shall be supervised by the local authority for the duration of the 12-month Supervision Order as a minimum. It can take place in the community and may include TH, provided that such contact is safe and is in the child's best interests. I am satisfied that it must remain professionally supervised for the following reasons:

(a) To assess the Mother's commitment to attending contact on a regular and reliable basis over the course of a year.

(b) To ensure that the child is protected from any emotional instability displayed by the Mother which poses a risk of significant emotional harm to her

(c) To protect the child from the risks arising from the Mother's fragile mental health

(d) To protect the child from any disputes that may arise between the Mother and any other family member, including the Mother's partner

110. I am satisfied that until and unless the Mother demonstrates that her mental health is stable and that she is able to regulate her emotions appropriately it is not in the child's best interests to have unsupervised contact with her, or for her contact to be supervised by anyone other than a professional. This is because the Mother does not react well to being challenged and this places any family member or her partner in an invidious position if they consider that the Mother is not well enough to attend contact, should not be afforded contact because she is for example, late or has not been committed to attending contact. Supervising contact is an arduous task, which requires close monitoring of all that is said to the child, and an ability to safely monitor and protect the child, including by refusing contact. I am satisfied that at the current time, PGA does not know the Mother well enough to perform this role and that it represents an unfair burden upon her which could cause her undue pressure and in turn could destabilise the placement. I am satisfied that the local authority should be acting as a buffer to protect PGA from having to make arrangements directly with the Mother, thereby reducing the prospect of direct conflict occurring between them. PGA will however have the ultimate say with regards to when and where contact is to occur and its duration. The Mother can make suggestions about community-based venues but proper and sensible regard must be had to the time taken to transport the child from school to the venue and from the venue to her home during term time.

111. I am satisfied that until and unless the Mother successfully completes not only trauma related therapy (CBT or EMDR) but also longer-term coping and resilience therapy, TH should not be supervising her contact. This is because the Mother's current stability as far as her mental health is concerned, is largely due to their relationship. TH has not been in a relationship with the Mother for long and does not know I well. I has a close relationship with the Mother and I am satisfied that any attempt by TH to attempt to properly and closely supervise contact would appear very unnatural to I and would not be received well by the Mother. He would be charged with having to assess the Mother's mental health and fitness to attend contact and would have to challenge the Mother if anything she said to I was

inappropriate. In light of his failure to inform the LA of the Mother's attendance at A & E on 28th July 2018, I would question whether he would feel able to report difficulties with the Mother's mental health to professionals and PGA, due to his loyalty to the Mother, and in part, a lack of appreciation of what the Mother's difficulties are. An inability to do so would place the child at risk of harm. If he was able to fully and properly perform this role, it is likely to lead him into conflict with the Mother from time to time. That conflict may well lead to arguments and a lack of stability in their relationship. This in turn could seriously destabilise the Mother's mental health.

112. In so far as the frequency of the Mother's contact is concerned, I am satisfied that it should take place no more than once per fortnight. I accept the Guardian's recommendation in that regard. The Mother's contact has only recently been reintroduced. It was increased by the local authority in line with its deficient assessment of her and inappropriate care plan. I is not going to return to the care of the Mother and that message needs to be sent to both the child and the Mother. As the Mother told me in oral evidence, I is a bright child who will realise from the frequency of contact what the plan for her is. She is not to be given the impression that she is going to return to the Mother's care. Nor is the frequency of the Mother's contact to be allowed to interfere with her ability to make a secure primary attachment with PGA or to be allowed to interfere with I's ability to make new friends and fully engage with school activities. For the avoidance of doubt, I is not to be removed from school early for the purposes of attending contact. The duration of contact will be dictated by the time available following the conclusion of the school day in term time. I should be able to enjoy her evening meal with the Mother during contact and this can form part of the activity they do together, as can the completion of any homework she may be required to do. I must be returned back to PGA's care in time for her to complete her bed time routine. During school holidays, the Mother's contact can take place for longer periods of time, subject to the availability of contact supervisors and subject to an appropriate activity being agreed upon by PGA, which can be enjoyed in the community.

113. The Mother's contact is not to progress beyond professionally supervised contact without the authorisation of the Court, upon the application of the Mother for a Child Arrangements Order. In order to satisfy a Court that anyone other than a professional can supervise the Mother's contact, there must be a full assessment of the proposed supervisor. This judgment must be disclosed to the proposed supervisor in full so that they are fully informed about the issues and risks involved.

114. To progress to unsupervised contact, the Mother will need to satisfy the Court of the following:

(a) That alcohol misuse is not an issue and therefore she must submit to 12 months' worth of hair strand testing for alcohol use
(b) That she is in recovery from anorexia and this must be demonstrated objectively by at least 12 months' worth of monthly weights and blood tests taken by her GP, in accordance with the discharge plan she should have followed after she was discharged from REDs. Direct evidence must be supplied from the Mother's GP to substantiate this.
(c) That she has successfully engaged in and completed therapy to address her multiple trauma and to assist her to regulate her mood and increase her stability and coping skills. This must be evidenced objectively, without reliance on the Mother's self report.
(d) That she has attended contact on a consistent and reliable basis over the course of a 12-month period on a fortnightly basis. Should she fail to attend contact due to ill health, that ill health needs to be evidenced by the production of a letter from her GP.

115. If the Mother fails to attend contact on a consistent and regular basis, then its frequency is to be reduced to take place on a monthly basis. Should she fail to attend monthly contact consistently then it is to be further reduced to take place six times per year in school holidays.

116. In setting these arrangements for contact I recognise that I has a close relationship with the Mother, that they love each other and that ideally I would wish to have as much contact with the Mother as possible and would want to return to her care if at all possible. However, contact for I needs to be consistent, reliable and safe. I have already highlighted the risks to I from the Mother's mental health difficulties. Those risks present in contact and are the reason why it must continue to be supervised. The Mother has a history of completely disengaging from contact. She abandoned I for seven months during these proceedings. It is not in I's best interests for contact to be set at such a level that she will be let down by the Mother. The requirements I have set for the Mother are nothing beyond that which the Mother should have demonstrated during these proceedings. They are the foundation for any positive assessment and are the minimum requirements, which the local authority should have expected of her. If the Mother's anorexia is in recovery, her mental health is stable, and she does not have an issue with alcohol, as she asserts, then they should not be difficult for the Mother to evidence. The supervision of the Mother's contact is a very difficult issue for PGA to take decisions about; it requires objective evidence, which she has no power to produce. Given the LA's assessment of the Mother to date, I have no confidence that it can properly advise PGA about this issue.

117. I accordingly make a reasonable contact order in favour of the Mother, which sets out in the recital to the order what "reasonable" is to entail and stipulates the conditions upon which it is to take place.

School

118. PGA seeks to change I's school so that she is able to attend the school local to where they live, from January 2019. All parties accept that I should continue to attend her current school between September 2018 and January 2019, and indeed by the time I hand down this judgment I will have started back at that school,

following the end of the school Summer holiday. That is the school that I has been expecting to attend and no arrangements and preparations are in hand for her to move school ay this juncture.

119. PGA does not drive and so is reliant upon public transport to take and collect I to and from school each day. I's current school is in Newcastle Upon Tyne; she is living in Gateshead. Depending on the route taken it is a distance of between 4 and 6 miles from her home to the school. I does not now live in the catchment area for the school she attends and therefore it is unlikely that any of her peers will live near her home with PGA. I has only attended her current school for one school term. The Mother objects to a change of school because it represents further change for I. Under the auspices of a Special Guardianship Order, PGA is entitled to use her Parental Responsibility to the exclusion of the parents in respect of this issue and therefore she does not need me to make a decision about it – the decision is hers to make. However, since this disputed issue has come to my attention, for the avoidance of doubt, I am satisfied that PGA's decision to move I's school for the commencement of the new term in January 2019 is in the child's best interests. It will make it easier and less time consuming for her to be transported to and from school on public transport and will allow her to attend the school local to her home so that she can form friendships with peers who live in her local area. It will also assist to reassure I that this is the area in which she is to live, with PGA, on a settled and permanent basis throughout her minority. It will allow her to attend her next more senior school with friends she has made in primary school who will attend alongside her, making that transition an easier one for her to manage when the time comes.

120. Once I moves school, her new school must be invited to form part of the care team and must be informed that the only adults who are entitled to take and collect her from school are PGA and her mother, PGGM. PGGM is PGA's designated emergency contact for health and educational purposes and is her support and nominated back up carer for I. Again, under the auspices of the SGO

PGA is entitled to make this decision. Neither the local authority nor the Guardian have any concerns about PGGM providing this role. It is essential that PGA, as a single carer, has the ability to use familial support where appropriate. This is the only family member that she is able to rely upon due to the restrictions to PGF and the Father's contact with I. PGGM is not to permit PGF or the Father to have any contact with I and they are not to attend her home when she has the care of the child. If she is unwilling to sign a written agreement to this effect, then she is not permitted to perform this role.

121. Both the Mother and the Father continue to hold Parental Responsibility for the child and are entitled to be informed promptly in respect of I's health and education. They are each to be invited to care team meetings. Neither is permitted to attend I's school or medical or hospital appointments for the child save for with the agreement of PGA, I leave this issue to her discretion but plainly if I is seriously unwell I would expect the parents to be informed immediately and for them to be permitted to attend hospital to see her. Each parent is to be consulted in so far as major decisions about the child's education and health are concerned but decisions about her day to day care are to be taken by PGA. I anticipate that it will take the next 12 months for PGA and indeed for the Mother to adjust to the fact that it is PGA who is entitled to and indeed must make these decisions about I's care, and for that reason the 12 month Supervision Order is required to allow the local authority to act as a buffer for PGA whilst she grows in confidence as the child's carer. The local authority is to act as a conduit for the Mother's queries and complaints, it does not hold Parental Responsibility and so cannot take decisions, but it can offer to mediate, hold a Family Group Conference and can advise, assist and befriend PGA and the Mother whilst they each adjust to PGA's new role and status.

122. Due to my concerns about the LA's mismanagement of this case, I direct that a copy of this judgment be provided to the Director of Children's Services, the IRO and each member of the care team so that, I hope, lessons can be learned.