

IN THE FAMILY COURT SITTING AT BOURNEMOUTH

Courts of Justice
Deansleigh Road
Bournemouth
BH7 7DS

Date: 4 January 2019

Before:

HIS HONOUR JUDGE DANCEY

Between:

A Local Authority	Applicant
- and -	
A Mother	1st Respondent
-and-	
B	2nd Respondent
-and-	
H and I (by their children's guardian)	3rd Respondents

Jessica Habel (instructed by **the Local Authority Legal Services**) for the **Applicant**

Tim Coombes (instructed by **Aldridge Brownlee**) for the **1st Respondent**

Debbie Lasenby (**Dutton Gregory Solicitors**) for the **2nd Respondent**

Gareth Bishop (**Battens Solicitors**) for the **3rd Respondent**

Hearing dates: 10-12 December 2018

JUDGMENT

His Honour Judge Dancey:

Note about anonymisation

- 1) This judgment is anonymised in accordance with the Practice Guidance issued in December. The children I am concerned with are three of a sibling group of nine. I will refer to the children in order of age by the initials A to I to avoid jigsaw identification of the parties and family. The three children subject of this judgment are B aged 17, H 4½ and I, 22 months. The relatives I will describe as the mother, grandparents (meaning the maternal grandparents unless indicated otherwise) and the wide extended family of uncles and aunts, described here as uncle J and so on.

- 2) I have not identified the local authority or any of the professionals on the basis there is no need to do so.

Easy read version of this judgment

- 3) Because the most important audience for this judgment is the family (in the widest sense) and, in due course, H and I, I have prepared an easy read version of the reasons for my decision, an anonymised version of which is at the end of this judgment. An un-anonymised version will be made available to the family.

What the case is about

- 4) In these care proceedings the options for the care of the two youngest girls of a group of 9 siblings, H aged 4½ years and I aged 22 months, are care by their 17 year-old sister B, supported by the wider family, or placement for adoption.
- 5) The professional witnesses in the case – B’s social worker and H and I’s social worker, an independent social worker (ISW), a child and adolescent psychologist, and the children’s guardian - are all of the opinion that, while B is completely committed to caring for her sisters, and can meet their basic care needs, she does not have the emotional attunement to fully understand the impact on her or on H and I of their neglected upbringings. They all say that H and I, who have insecure attachments, need reparative and attuned parenting by a carer who is able to anticipate their emotional needs – to be able to read them, as H and I’s social worker said, or stay one step ahead as the psychologist put it. Impressed though everybody is by B, the unanimous view of the professionals is that she cannot meet those needs.

Who’s who and current circumstances

- 6) There is a complex maternal family network. It is important for my decision to set it out.
- 7) The mother is one of 6 adult siblings. They all had the same satisfactory upbringing. Except for the mother all the siblings have grown up as well-rounded people, most of them in happy relationships with their own families with all the signs of successful parenting. It is a close-knit family living geographically close with family members popping in on each and sharing activities with each other pretty much daily. Like any large family they have disagreements but none that result in lasting falling outs.
- 8) By contrast the mother has had a series of unsatisfactory and risky relationships (particularly with her current partner), some involving domestic violence, and her parenting has been neglectful. Nobody can understand why. She does not have mental health issues and does not misuse substances. When the mother gave evidence at a hearing in July I asked her what she thought had gone wrong. She was quite unable to give me an answer. She did not oppose me ruling her out as a carer for any of the children at that hearing.
- 9) The care proceedings have involved 7 of the 9 children of the mother. A, aged 18 is adult and C aged 15 is placed with her paternal grandparents under a special guardianship order. They have not been part of these proceedings.
- 10) B’s father has not played any part in these proceedings. B has infrequent contact with him but he does not appear to be a supportive figure. B has been staying with her boyfriend but is currently staying with her aunt J (and her two daughters

aged 3 years and 7 months) pending a move in a few weeks to single rented accommodation. If H and I are to live with B larger accommodation will be found.

- 11) D, a boy, is 14. His father is not known. He is living with his grandparents under a care order I made in October this year. Also living there are A and the grandparents' youngest son aged 21.
- 12) E, 11, and F, 9, (both boys) are living with uncle K and his partner L, under care orders I made in July this year. Also living there are K and L's sons aged 15, 12 and 9. L is doing attachment work as part of her training as a foster carer for E and F.
- 13) G (a girl) is 8. She is living with her uncle M and his wife N under a care order I made in October. Also living there are M and N's children, a girl aged 9 and boys aged 6 and 3.
- 14) The father of E, F and G has taken part in the proceedings. Indeed, G lived with him and his partner for a time before he indicated he could no longer care for her and she moved to M and N in July 2018.
- 15) D, E, F and G are doing very well in the care of their relatives.
- 16) H and I have been with the same foster carer since the making of interim care orders in February this year. They see her as their primary carer and their main attachment is with her. Whatever the outcome, everybody agrees H and I should stay together.

Brief history of the proceedings

- 17) The care proceedings were issued at the end of January 2018 and interim care orders made a week later. Since then all the children have been in the care of relatives or, in the case of H and I, their foster carer. The mother sought return of the children and was assessed. There was an appalling history of neglect within which the children's home, health and education needs were not adequately met. They were exposed to the mother's multiple partners and domestic violence. The threshold criteria have not been contested by the mother.
- 18) By the end of June it must have been apparent that none of the children could be reunited with their mother. B had been living with her, although had spent time with aunt J and her grandparents. B appeared to be supporting her mother having care and offered to stay with her to assist.
- 19) At the end of June B put herself forward to care for H and I. Other family carers had been explored but they were already full to capacity with the care of the other children. B seemed to be the only alternative to adoption for H and I. The local authority's plan by this point was placement for adoption.
- 20) At this point B was still only 16. There was obvious concern whether she would be able to meet H and I's needs given her own upbringing and tender age. With the agreement of the parties I gave permission to instruct an ISW to do a viability assessment of B. Within two weeks the ISW provided a fairly full report (for a viability assessment) in which she raised a number of concerns and advised that B would not be a viable placement option.
- 21) At the start of what was listed as a final hearing on 17 to 20 July 2018 I made care orders in respect of E and F. I heard evidence from the ISW, B's social worker,

the children's previous social worker and the mother. The ISW remained of the view that B was not a viable option to care for H and I. I will turn to the detail of her concerns later. The social workers agreed, although H and I's previous social worker did wonder in his evidence whether concern over B as carer rather than sister wasn't a first world problem (in the sense that in other cultures such arrangements are more commonplace and accepted).

- 22) The mother's evidence exposed her inability to address her shortcomings as a neglectful parent in any real sense. She did not continue to put herself forward and I ruled her out on the basis that, as she accepted, she was not a realistic option.
- 23) I also heard evidence from B, the grandparents and uncle M who I 'hot-tubbed', that is to say they gave evidence simultaneously, sitting in the well of the court, but having all affirmed to tell the truth. I did that partly because it created a more relaxed and supportive environment within which B could give her evidence and it enabled me to see the family interacting. Both of these were considerations for increasing the chances of getting best evidence. In the event I believe all considered the exercise to be successful.
- 24) B's social worker was recalled to comment on the family's evidence. She accepted she could not now say that nothing else but adoption would do and agreed that further assessment of B was called for. I commended the social work team for their constructive problem-solving approach.
- 25) With the agreement of the parties I gave permission to instruct the psychologist to do an assessment of B, H and I. I also directed a family group conference.
- 26) By the time of the next hearing in October, the psychologist's reports were to hand. He too recommended that, while B could meet H and I's basic care needs, she was not in a position to meet their emotional needs. I will also come back to the psychological evidence in more detail later. B's solicitor sought permission to instruct a further ISW assessment. In light of the psychological evidence I did not consider that necessary but adjourned the application until the final hearing when the psychologist's evidence could be considered.
- 27) At the hearing in October I made care orders in respect of D and G, leaving only B, H and I to be considered. In respect of B, it was by then common ground that the court should not make any orders, however, in order to preserve her legal aid and representation, determination of the final position in respect of B was deferred until final orders for H and I could be made.
- 28) I finally heard the matter at a hearing between 10 and 12 December. The mother did not attend the hearing but was represented. I heard evidence from the psychologist, B's social worker and H and I's new social worker. I also heard evidence directly from B who instructs her solicitor direct. This was followed by collective evidence (again using 'hot-tubbing') from the grandparents, aunt J, uncle K and his partner L and uncle M. M's partner N could not be present but sent an email supporting B and the family's position. I heard from the guardian and H and I's social worker was briefly recalled.
- 29) Following oral submissions by Ms Habel for the local authority, Ms Lasenby for B, Mr Coombes for the mother and Mr Bishop for H and I, I reserved judgment. I did so because of the difficult issues this case raises.

The parties' positions

- 30) The local authority, supported by the guardian, seek care and placement orders for H and I with reducing contact to the family. The local authority confirms it will try and find adopters prepared to allow direct contact between the siblings, B in particular. However, they are clear they cannot promise that and say that early permanent placement must be the priority, even at the expense of open adoption. The guardian firmly agrees with this approach.
- 31) If care and placement orders are made the mother's contact, currently supervised once a month for 1½ hours, would reduce to once every 8 weeks, supervised with final contacts to be arranged once an adoptive placement was found. Consideration would be given to a one-off meeting between the mother and the adopters.
- 32) B's contact is currently 3 times a week at the foster carer's home. Contact with the other siblings and wider family is once a fortnight for 6 hours. If care and placement orders are made the plan is for reduction of contact with the siblings, the grandmother, aunt J and N to once each school holiday at a local children's centre, supervised by community resource workers. B would be able to attend the contact for an initial 30 minutes on her own and thereafter throughout the contact with the siblings. The older siblings (with aunt J) would attend for the first 1¼ hours, the younger siblings (with N) for the second 1¼ hours. The grandmother would attend throughout the 2½ hours, after B's initial 30-minute session.
- 33) Once an adoptive placement is found 'goodbye' contacts would be arranged. This is subject to matching with adopters agreeable to open adoption, in which case the plan would be for a 'see you' contact to allow for a gap while the girls settle.
- 34) B accepts she needs to do work to better understand the impact on both her and H and I of their neglectful upbringing and to learn how to meet the emotional needs of H and I in an attuned way. However, she says she is ready to do the work and would seek transition of H and I's care to her while that is done. She says she will be supported by the extended family who are prepared between them to commit to practical and emotional support of B, H and I half a day every day. It is said that N will be able to pass on what she has learned in attachment training.
- 35) Ideally B would propose a special guardianship order but she cannot apply until she is 18. She would propose applying in due course. In the meantime, she suggests a child arrangements order bolstered by a supervision order in favour of the local authority.
- 36) B is clear that she would keep the mother out of H and I's lives. In fact the mother has not recently sought to interfere or undermine their current placement and has recently moved away from the area where the family lives.
- 37) The mother would want to resume care of all the children but appreciates by my ruling that she cannot. Therefore, she supports B in her attempt to keep H and I within the family.

Legal principles

- 38) Although I am still dealing with three children in these proceedings, B, H and I, the position regarding B is agreed. The focus has therefore been on the options for the futures of H and I. Although technically the welfare of each of the three children is the court's paramount concern, when looking at the options for H and

I, given the plan is for adoption, it is their individual welfare *throughout their lives* that is the court's paramount concern.

39) I take into account both the welfare checklists in section 1(3) of the Children Act 1989 when considering the application for care orders and section 1(4) of the Adoption and Children Act 2002 when considering the placement applications.

40) The rights of B, H and I, the mother and the extended family under Article 8 of ECHR to respect for private and family life are engaged. This means that the order I make should interfere with those rights only to the extent that is necessary and proportionate – the order of least intervention. To the extent that the Article 8 rights of the children conflict with those of the adults, the rights of the children prevail. For the avoidance of doubt, if the Article 8 rights of B on the one hand and H and I on the other conflict, then the rights of H and I prevail.

41) Before making a placement order I must analyse the pros and cons of both realistic options, comparing one against the other one to decide the outcome that best meets the children's welfare needs. Authorising placement for adoption is the most draconian order the court can make. It would sever all legal ties between H and I and the wide and close-knit family of which they are members. Even with the possibility of open adoption and some direct sibling contact, family life for them would change in the most fundamental way for the rest of their lives. And so the court has to be satisfied by the local authority that nothing else short of adoption will do: *Re B (A Child) (Care Proceedings: Threshold Criteria)* [2013] UKSC 33, *Re B-S (Children) (Adoption Order: Leave to Oppose)* [2013] EWCA Civ 1146, *Re R* [2014] EWCA Civ 1625.

42) As Baroness Hale said in *Re B*

“the test for severing the relationship between parent and child is very strict: only in exceptional circumstances and where motivated by *overriding requirements* pertaining to the child's welfare, in short, where nothing else will do.”

43) This reflected what the Strasbourg Court said in *Y v United Kingdom* (2012) 55 EHRR 33, [2012] 2 FLR 332, para 134:

“family ties may only be severed in very exceptional circumstances and that everything must be done to preserve personal relations and, where appropriate, to ‘rebuild’ the family. It is not enough to show that a child could be placed in a more beneficial environment for his upbringing. However, where the maintenance of family ties would harm the child's health and development, a parent is not entitled under article 8 to insist that such ties be maintained.”

44) That said, there is no legal presumption or right for a child to be brought up within her family. The only right is “for the arrangements for the child to be determined by affording paramount consideration to her welfare throughout her life (in an adoption case) in a manner which is proportionate and compatible with the need to respect any ECHR Art 8 rights which are engaged”: *Re W (A Child)* [2016] EWCA Civ 793 (McFarlane LJ as he then was).

45) I also bear in mind, as Ms Lasenby asks me to, what Hedley J said in *Re L (Care: Threshold Criteria)* [2006] EWCC 2 (Fam) (directed to the question whether

threshold is met, but no less relevant in my view to the welfare analysis that follows):

“..society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent. It follows too that children will inevitably have both very different experiences of parenting and very unequal consequences flowing from it. It means that some children will experience disadvantage and harm, whilst others flourish in atmospheres of loving security and emotional stability. These are the consequences of our fallible humanity and it is not the provenance of the State to spare children all the consequences of defective parenting. In any event, it simply could not be done.”

46) I am not asked to make findings on any factual matters. The task is more analysis of the evidence. Much of that has been expert evidence, both psychological and social work (accepting that the social workers and guardian are experts in their own fields). But there is also the evidence of B and of the rest of the family. The evidence of all of the witnesses is important and must be analysed. I bear in mind that although I am making a welfare decision rather than making findings the burden remains on the local authority to prove the evidence supporting its case for care and placement orders.

47) As Mr Coombes reminded me – experts may advise but it is the court that decides after weighing up the expert evidence against all the other evidence: *Tower Hamlets v MK* [2012] EWHC 426 (Fam) (Baker J) and *A County Council v K D & L* [2005] EWHC 144 (Fam) (Charles J).

48) The issue was also considered in *Re D (A Child)* [2010] EWCA Civ 1000, a case which I have found particularly helpful. There the factual concerns that led to the proceedings being brought had largely fallen away (although threshold was still crossed); yet the expert psychologist concluded that the parents could not meet the children’s emotional needs. The Court of Appeal upheld the judge’s rejection of the expert evidence (which had been supported by the guardian). Hughes LJ (as he then was) said:

“24. ... In the context of a child care case, the judge is the decision maker, the expert is not. Where there is as here undisputed expert opinion evidence, the judge ought not to reject it without sound and articulated reason. This judge said at paragraph 171 that it was for him to weigh the evidence of [the psychologist] and the guardian in the context of all the evidence both oral and written in the case. To the extent that he parted company with the evidence or recommendations of [the psychologist] or the guardian, he recognised that he must give his reasons.

25. The judge did not in this case decline to adopt the prognosis of [the psychologist] or the similar conclusions of the guardian without reason. He declined to adopt them because he judged them against the empirical evidence and found them wanting. Where there is, as there often is, evidence of different kinds like this evidence -- part expert, part historic, part factual, part other expert opinion -- someone has got to weigh the overall effect of it taken together; that someone is the judge. That he should have done so was not simply permissible, it was the job that he was there to do. The judge did not fall into the trap of setting himself up

as an amateur psychologist. What he did was to weigh the expert evidence against the empirical evidence, which is a different task. Nor did he simply rely on his own impression of the parents in the witness box, although he did make a passing reference to mother's presentation.

26. The empirical evidence in this case did not paint an idealised picture by any means. This is a family with many problems. Many of them do stem no doubt from mother's limitations, but that is true of a very large number of families. The judge was entitled to come to the conclusion that if these children had to be removed from home, then so would large numbers of families with parents with learning difficulties and psychological profiles such as mother's. He was no doubt conscious of the limitation of mother in for example discerning and prioritising the interests of the children, but sadly that is true of countless parents including many without any of the limitations of this mother. “
- 49) What this makes clear is that, if I am to disagree with the combined view of the psychologist, ISW, two experienced social workers and the guardian, I can only do so on the basis that I have weighed their evidence against other empirical evidence and not on the basis simply of my impression of the family. The dangers of relying on what I might call ‘judicial instinct’ are obvious. I see the family in court for a limited period and hear them actually giving evidence over the course of a few hours in total. While the psychologist also sees them for a limited period (and does not necessarily see the interaction between all family members), the social workers and, in this case, the guardian, have a much greater opportunity to observe the family and to work with them outside the artificial court environment. Where the evidence of the social workers and guardian chimes independently with that of the psychologist it forms an important body of evidence.
- 50) This does not mean that the professional evidence should not be tested. If the assessments are shown to be flawed and there is other empirical evidence from the family showing that the professionals have got it wrong, then of course I am not bound by the professional opinion. And I must be alive to the danger of professionals being led by a potentially flawed expert view such that the combined professional view becomes infected with the same flaw.
- 51) But the requirement is to weigh the empirical evidence, whether it comes from the professionals or from the family, and not be persuaded just by a more favourable impression of the family than the professionals seem to have reached. Put another way – where the judge's heart says one thing and his or her mind another, it is the mind that should prevail.
- 52) There is another point to make here. When B came to give her evidence she was asked questions by Ms Lasenby but the parties all agreed she should not be cross-examined in the conventional way. Instead I was invited to put questions to her. As this had clearly been thought about carefully by the legal representatives with advice from the professionals I did not disagree. I did however voice a concern about the danger of allying myself with the questioning and resulting evidence in a way that would not happen if B were questioned by the advocates for the local authority and instructed by the guardian.

- 53) In the event what followed was a fairly free-flowing and open dialogue with B which I felt gave her an opportunity to say what she needed and for the court to hear her best evidence.
- 54) The very recent decision of the Court of Appeal, given on 11 December, in *Re F (A Child: Placement Order: Proportionality)* [2018] EWCA Civ 2761 is a reminder of the need for proper analysis of the consequence of risk (including lack of insight) and proportionality. The following passage from the judgment of Peter Jackson LJ includes the context for the decision being made:

- “22. I fully endorse the submission that this court should be slow to interfere with the evaluation of a specialist judge whose conclusions emerged from the crucible of a trial. Moreover, as Mr Tyler freely acknowledged, the local authority behaved entirely properly in stepping in to protect Robbie from harm at his parents' hands. The starting point on this appeal is therefore a complete acceptance by this court of the problems with which the judge was faced. The evidence showed the mother to be a vulnerable person who has repeatedly let her own needs get in the way of her responsibilities towards her son, placing him at clear risk of significant harm. Her decisions to flout the written agreement, to continue to drink, to remain in touch with the father, and then to lie about it, were extraordinarily foolish. Her insight into her shortcomings was limited. The professionals who had been working with her in good faith were understandably deeply disappointed. Moreover, they and the judge were absolutely right to be concerned about delay for a child of this age, when the proceedings had already been on foot for eight months.
23. However, this was not the whole picture. The relationship between mother and child is of good quality, with no complaint being made about Robbie's daily care over the 11 months he lived at home and was regularly seen by a range of professionals. The mother herself does not have serious mental health problems or any established addiction. She is not an alcoholic. Her drinking in recent years has been described as behavioural. Until her late 20s, she was functioning normally. She therefore has a different profile to very many parents who come before the Family Court in cases of this kind.
24. In these circumstances, close attention needed to be paid to the nature and extent of the risks. As foreshadowed at the start of this judgment, there must be (to borrow a phrase from a different context) an intense focus on the *type of risk* that is involved, *how likely* it is to happen, and what the *likely consequences* might then be. Only by carrying out this exercise is it possible to know what weight to give to the risks before setting them alongside other relevant factors. So, for example, the risk of further physical harm to a child who has been severely injured by a denying parent is likely to be a factor of predominant weight. By contrast, to borrow from the evidence in this case, where a mother who untruthfully denies drinking goes to a park at night to drink alone, leaving her baby with its grandmother, the court will view that risk with a sense of proportion.
25. Similarly, close attention must be paid to the true significance of lies and lack of insight in the context of assessing welfare. Lies, however

deplorable, are significant only to the extent that they affect the welfare of the child, and in particular to the extent that they undermine systems of protection designed to keep the child safe. However, as noted by Macur LJ in *Re Y (A Child)* [2013] EWCA Civ 1337, they cannot be allowed to hijack the case. See also Sir James Munby P in *Re A (A Child)* [2015] EWFC 11 at [12]:

"The second fundamentally important point is the need to link the facts relied upon by the local authority with its case on threshold, the need to demonstrate why, as the local authority asserts, facts A + B + C justify the conclusion that the child has suffered, or is at risk of suffering, significant harm of types X, Y or Z. Sometimes the linkage will be obvious, as where the facts proved establish physical harm. But the linkage may be very much less obvious where the allegation is only that the child is at risk of suffering emotional harm or, as in the present case, at risk of suffering neglect. In the present case, as we shall see, an important element of the local authority's case was that the father "lacks honesty with professionals", "minimises matters of importance" and "is immature and lacks insight of issues of importance". Maybe. But how does this feed through into a conclusion that A is at risk of neglect? The conclusion does not follow naturally from the premise. The local authority's evidence and submissions must set out the argument and explain explicitly why it is said that, in the particular case, the conclusion indeed follows from the facts."

Although these observations about lies and lack of insight are directed to proof of the threshold, they can equally be applied to the welfare evaluation.

26. Drawing matters together, I find that there is substance in Mr Tyler's submissions. The judgment leaves a number of key questions unanswered. How likely is it that the child would come to catastrophic physical harm of the kind mentioned by the social worker? If the mother resumed drinking (as she was doing throughout the time she was caring for Robbie), how serious would the consequences for him actually be? Accepting that the range of protective measures could not provide an absolute guarantee, would they not in fact reduce the likelihood of harm to an acceptable level, or at least ensure that the authorities were alerted to a deteriorating situation before enduring harm was suffered? Is this a case where a care order accompanying a return home might provide additional safeguards?
27. I would also accept the submission that, while the judge showed himself to be very much aware of the salient features, he did not gather them together and balance them out so as to justify his welfare conclusion. Nor, although he mentioned necessity and proportionality in passing, did he confront the ultimate question of whether this very extreme order could be justified on the whole of the evidence. Was the risk really bad enough to justify the remedy? It is true that the judge's conclusion was based on the advice of the social worker and the Guardian, both of whom he found to

be impressive witnesses, but their assessment is open to the same analysis as his.

28. Making every allowance for the matters that rightly concerned the professional witnesses and the judge, I conclude that it has not been shown that the evidence in this case meets the exacting standard necessary for orders leading to adoption.”

55) It seems to me these observations are highly relevant to the decision I have to make.

56) Before I can make a placement order in respect of the girls, the local authority must satisfy me under section 52 of the 2002 Act that the mother’s consent should be dispensed with on the grounds that their welfare requires that be done. ‘Requires’ means imperative rather than desirable.

57) Finally, at the stage of making an adoption order the court is obliged to consider the question of post-adoption contact (section 46(6) of the 2002 Act). The plan in this case is for open adoption if adopters can be found who will agree. This is an issue which has been brought to the fore by the President most recently in his address to NAGALRO in March 2018 “Contact: a point of view” in which he considered the research by the British Association of Social Workers and the University of East Anglia setting out the potential stabilising benefits of direct contact after adoption and invited all those involved in adoption planning and decision-making

“to ask, in each case, whether the model of life-story work and letterbox contact is in fact the best for the individual child in the years that lie ahead for her, or whether a more flexible and open arrangement, developed with confidence and over time, may provide more beneficial support as the young person moves on towards adolescence and then adulthood.”

It is noticeable, in the short months since dissemination locally of this address and consideration of the issue at local meetings, how often open adoption is now positively and firmly on the agenda in care and adoption planning. If there were a paradigm case for it to be considered in relation to siblings and wider family at least, then I would suggest this might be it.

The evidence

The family history and chronology of neglect

58) I start this section with a brief summary of the history of neglectful care by the mother that occupies no less than 86 pages of the court bundle. It is important to understand B’s own neglectful upbringing.

- a) The chronology starts with A’s birth in 2000 and B’s in 2001 with missed immunisations and other later medical appointments, including dental and ophthalmological appointments. This became a repeated concern throughout the chronology. By 2002 A was already displaying

aggressive behaviours. When D was born in 2004 it was noted that the mother had four children by four different fathers.

- b) From 2004 unhygienic home conditions were reported and A's behaviour was out of control. Domestic abuse incidents were being reported to the police with damage to property and injuries to the mother. The children were observed playing unsupervised in the road. The children were made subject to child protection plans from time to time
- c) In 2007 A and B's school attendance was noted as 40% (poor school attendance for all the children is also a repeated theme throughout).
- d) Further domestic violence is reported in 2008 (involving E, F and G's father).
- e) In 2009 A, B, C and D were all attending school late and presented as tired and unclean.
- f) There are regular reports of the mother failing to engage or attend appointments.
- g) There are repeated references to the children swearing and otherwise showing challenging behaviours or behaviours suggestive of fear (eg cowering).
- h) In 2012 the grandmother reported that B (then aged 10) had run to her house after A was hurt. B had left through a window and suffered an injury to her foot and wrist. This was apparently not the only occasion B had left the house without permission. B referred at school to a drunk man being in the house and the children being left alone with him.
- i) Also in 2012 B reported being assaulted by her mother.
- j) I note occasions when the wider family expressed concerns to Children's Services, for example in 2012 when the grandmother and uncle M reported their concerns about A.
- k) By 2013 B was noted to have turned to the wider family to meet her needs and was staying occasionally with aunt J when the mother was unavailable.
- l) In 2014 there was a physical altercation between the mother and B when it is said they hit each other. The mother said B was manipulative and difficult to manage. B was, against her wishes, the mother's birthing partner at H's birth which it was thought might have been traumatic for her.
- m) B stayed with her grandmother in 2015 for a week. There was an argument between B and the mother and her male friend during which it is said that B hit the male friend and was 'shown the door'. In May 2015 there was an argument between the mother and B during which B was bitten by the family dog. Uncle M expressed concern about the relationship between the mother and B which seemed to escalate into violence.
- n) Further violence between the mother and B and B and C was reported in March 2016.

- o) In June 2016 B was (aged 14) refusing to go to school and the mother was saying there was nothing she could do to persuade her. In July 2016 the mother was fined for B's low school attendance. In October 2016 her school attendance was 26% reducing to 17% in November 2016
- p) There are repeated references to the mother getting into rent arrears and other financial difficulties and facing possession proceedings.
- q) In January 2017 B went to stay with aunt J following a disagreement when the mother told her she could not stay. The grandmother reported that the mother had called B a 'slag' and said that the house was better when B was not there. B said she did not think she had got on with her mother since she was 10 or 11. A family agreement that B should return to her mother's care at the end of January broke down when disagreement resulted in B returning to aunt J's care.
- r) In May 2017 there was a disagreement between B and aunt J resulting in B returning to her mother's care. In evidence B told me that she had struggled with her confidence and boundaries set by aunt J. She thought she had behaved immaturely by leaving.
- s) A few weeks later the mother called the police reporting that B had slapped her in the face during an argument. B disputes this happened.
- t) At around this time it appears A and B were expected to babysit the younger children but were arguing about this.
- u) In June 2017 it was reported that B had not attended school since returning to her mother's care and had missed a number of her GCSE exams.
- v) A number of home appointments to progress repairs to the home were cancelled by the mother. Poor and chaotic home conditions were noted in October 2017. The social worker observed violence between D and F, witnessed by H and I.
- w) In January 2018 B went to stay with the grandparents (along with A) but returned to her mother's care at the end of March. The grandmother told the psychologist this was because B didn't like her rules. B told the psychologist she had been willing to comply with her grandmother's rules and she left because her family disliked the people with whom she socialised (she had a group of older friends) and were judgemental about them and her boyfriend. B told me in evidence that H and I had been staying for a few days but then left and she struggled with this. So the reason why B left her grandmother's home to go back to her mother is unclear.

Pen-pictures of H and I

- 59) Having set that context it is important to have an early picture of the girls which I take largely from the unchallenged evidence of their social worker but also some observations of the psychologist.
- 60) I has always lived with H. It is a significant and generally positive relationship, subject to some competitive behaviours, including some physical lashing out at each other at points of anxiety.

- 61) In the first year of her life I will have experienced unpredictable and unregulated behaviours by her mother and older siblings which will have been frightening and unsettling. It is likely therefore that I will have ambivalent feelings towards her immediate family members.
- 62) I can present as sullen and angry, shouting, screeching, controlling and hitting-out if she is not given full attention or she is feeling unsafe. These behaviours were evident when I came into care in February but reduced over the first five months of the placement, only to re-emerge and intensify since contact with B and the wider family has been increased. I usually presents as angry when B is in the foster home.
- 63) When I is alone with her foster carer there is no real evidence of these behaviours. She presents as content and happy when with the foster carer, unsettled and anxious when separated from her or when B is present.
- 64) On arrival at the placement I's hair was matted and infested with head lice. In May 2018 she was diagnosed with Raynaud's Syndrome (causing some areas of the body, eg fingers and toes, to become numb with cold because of limited blood circulation). She has sensitive skin and reacts to some foods.
- 65) I is within that critical stage during which attachments are being formed and which will found her future emotional development.
- 66) Although she is generally well, H spent the first 3 years and 9 months of her life in a neglectful and unpredictable home which at times will have been frightening for her. The behaviours of some of the older siblings (B included) may at times have mirrored the behaviour of their mother. She too will feel ambivalence towards members of her immediate family.
- 67) Given that this was H's environment throughout the critical years of her attachment development it is unsurprising that she is showing behaviours indicating attachment difficulties – seeking adult attention, struggling with peer relationships, presenting as watchful, hypervigilant and trying to take control of situations. When she arrived in foster care H was defiant and oppositional and had the occasional temper tantrum.
- 68) As with I, these behaviours have re-emerged since contact with B and the wider family has increased, particularly directly after contact with B. Her behaviour in placement and school has deteriorated with tantrums, shouting, screaming and damage to fabric and furnishings in the placement. In school H is using food as a comfort and collecting and carrying around objects which she had tried at times to take home or hide. At times she has been tearful and not wanting to leave school when B is waiting for her outside.
- 69) The social worker told me that there are signs that both girls' behaviour is settling now that contact has been reduced.
- 70) H is at or approaching the developmental stage of autonomy – understanding that she has an individual place in the world and starting to negotiate relationships.

The ISW report 12 July 2018 and evidence on 17 July 2018

- 71) The ISW interviewed B but, as this was a viability assessment completed in short order, did not see her with H and I. B was noted largely to blame any shortcomings her mother had on her partner relationships. Otherwise she did not

recognise failings of care as other than ‘little things’. She had thought her childhood experience to be ‘quite good’, although as she was maturing her view was beginning to change. B was of the view that she had ‘turned out alright’ and felt motivated to give her children ‘more than what she was given’. The ISW saw any maturing of view and acceptance and understanding of her own neglectful childhood as very much in its infancy, which was worrying.

72) The ISW noted that although B had a close bond with H and I and had acted as their carer at times, she had not had their full time or primary carer at any stage. B was not clear about how she would implement guidance and boundaries.

73) The ISW summarised the concerns as they were at that time:

- a) lack of independent accommodation;
- b) limited savings/means to support the children;
- c) B entered her current relationship quite quickly suggesting future vulnerabilities around relationships;
- d) two of her three supports were known to Children’s Services (including her boyfriend who was being accommodated);
- e) although the family were well-meaning in their offer of support, the demands on their lives meant this was not realistic;
- f) in the recent past, B had seen her mother as not placing the children at risk and felt there were only ‘little’ concerns;
- g) historically B had left the home after being unhappy with her mother only to return later;
- h) B struggled having boundaries in place as a child and had poor parental experience, raising concern how she would effectively implement consistent boundaries and routines, particularly as the girls mature;
- i) B lacked full insight into the experiences of her sisters and impact on their welfare;
- j) her ability to protect and ensure the girls’ ongoing safety was a significant concern given the impact on her of her upbringing and her own vulnerability with which she had yet to fully deal;
- k) the mother (and her partner) could jeopardise the placement;
- l) B is not, because of her age, eligible to apply for a special guardianship order and a child arrangements order was unlikely to be sufficiently robust.

74) The ISW concluded in her report, and confirmed in her evidence, that B was not a viable option for the care of H and I.

75) The question of independent accommodation is now being addressed and is not a significant concern. Nor do I understand the local authority to be saying that B is unable to manage her finances; indeed, she has been able to save for driving lessons. It appears the mother has moved out of the immediate area and B and the family seem sufficiently well motivated to protect the children from her. The question of special guardianship could be addressed next year, when B reaches 18;

in the meantime, a child arrangements order bolstered by a supervision order would be a more robust outcome.

76) So, some of the concerns held by the ISW in July have been or can be addressed satisfactorily. Other concerns continue to be held by the professionals.

77) *The psychologist's preliminary report 28 August 2018*

78) The psychologist saw B for two hours at her grandmother's home before making his preliminary report. He felt B was unlikely to have emerged emotionally unscathed from her upbringing, with the likelihood that there are some aspects of her emotional functioning which have been adversely affected. Unless B could identify and recognise such issues it was unlikely that therapeutic support would be effective. B was defensive about the impact of neglect on both herself and H and I, taking a narrow view of her sisters' experience. She tended to minimise the neglect they had all suffered.

79) B may be, thought the psychologist, a little naïve in her expectations of what would be involved in looking after two young children, not so much in terms of practical demands but the emotional demands and stresses that would be placed on her.

80) The psychologist identified psycho-educational work as the most likely effective intervention to help B understand the demands and pressures of parenting young children and in relation to attachment issues, in respect of which she seemed to the psychologist to have something of a blind spot. It was hoped this would develop B's behavioural management skills, her understanding of attachment issues and to develop her ability to reflect on her parenting. He also thought it might be helpful for B to have a parenting mentor with the intention of reviewing the work and to help B become more emotionally attuned and to gradually shift her from her defensive tendency to detach from her emotions (which she would need to do if she was to become fully and effectively engaged in the process of parenting H and I).

81) The psychologist could not give a timescale for this work and thought it likely that the process of B developing mature and comprehensive parenting skills, and the capacity to reflect on her own parenting, would be a 'work in progress' for some time to come.

Parenting mentor work/work with H and I's social worker

82) As a result of the recommendation for a parenting mentor it was arranged for contact between B and H and I to move into the foster carer's home so that the experienced foster carer could act as mentor. H and I's social worker also undertook three sessions of work with B.

83) There are notes of five sessions of contact in the foster home at the end of September 2018 and the first two weeks of October. Understandably B was not relaxed during the first session. At the start of another session B was told by the social worker that she was not supporting placement (or, as B put it, she was told "We're going for adoption"). I am inclined to agree with Ms Lasenby that the start of a contact session was not the time to impart this news.

84) A number of positives were noted during these contact sessions but there was also a fairly consistent pattern of concerns supporting the professionals' view:

- a) B did not pick up on H and I's cues for interaction;
- b) when she was advised about this and shown modelling B seemed to understand but did not change her reactions or increase her verbal interactions;
- c) B usually presented as emotionally quite flat and did not talk much with H and I;
- d) she did not instigate play with H and I, although she responded appropriately when they initiated play.

85) The social worker's sessions also took place at the end of September, early October. The social worker talks of B having a 'script'. B was surprisingly positive about her mother's parenting bearing in mind the history. B was clear she had learned from her mother's care that the home environment was not very important, children could do what they want and although there are threats there are not consequences, children didn't need to attend school, relationships with partners are all consuming and it is not good to be alone. The overriding script for B seemed to be that 'family is all'.

86) The social worker also observed some tensions within the wider family:

- a) B identified that shouting was sometimes necessary to be heard in the wider family, with uncle M in particular sometimes being vocal and assertive;
- b) on a positive note B was observed at a family meeting to stand up to uncle M when he challenged the move of contact to the foster home (on the basis that would reduce contact with the wider family) – this was an example of B being able to 'hold her own', rather undermining the characterisation of her by the psychologist as compliant and submissive;
- c) when drawing an eco-map of perceived social support, B identified not only her grandmother, aunt J, uncle M and his partner N as the most significant sources of support, but also her boyfriend which surprised the social worker as B did not know whether the relationship would be long-standing and she felt she was the adult within the relationship;
- d) the wider family is not that keen on the boyfriend;
- e) B said she was completely open and honest with her family, telling them everything, yet there was a matter she discussed with the psychologist set out in a separate confidential report which she plainly has not discussed with them;
- f) there is some difference between the wider family view of traditional gender roles and B's more modern approach of not ascribing roles by reference to gender.

87) The social worker was concerned that B might be depressed given her consistently flat emotional presentation. She was also concerned that in testing B presented an overly positive picture of her wellbeing well above the normal range, suggesting she wanted to present well.

88) Two criticisms are levelled at the social work done by the local authority:

- a) My order of 20 July 2018 required the local authority to provide an amended care plan and working agreement (a contract of expectations) so that B could clearly understand what was expected of her. That was not done despite a number of reminders from both B's solicitor and the solicitor for H and I. No excuse is given by the local authority. That is an important failure.
- b) H and I's social worker accepted that more could have been done to review and feedback with B, explaining to her where she was falling short and what she needed to do, with more modelling style training.

The psychologist's main report 3 October 2018 and evidence

89) The psychologist saw B again in September 2018 for 3 hours at her grandmother's home. The psychologist concluded that:

- a) B was unlikely to be able to fully and consistently meet H and I's emotional and developmental needs in the longer term.
- b) Although B had avoided some of the adverse consequences of inadequate care and had emerged from her dysfunctional childhood with a reasonable capacity for personal organisation, she did not have enough insight and capacity for reflective thinking to be able to create sufficient psychological distance from the neglectful care received from her mother. She did not consider herself in need of therapeutic intervention.
- c) B had shown some ability to act responsibly but this was not rooted in authentic emotional maturity and it was highly likely that the consequences of B's neglectful upbringing would impair her capacity to parent her sisters.
- d) It was a positive that she had allied herself, at times, with the healthier branches of the family and had moved away from her mother's care, although her relationship with the wider family had been ambivalent and she had not been able to sustain these episodes. My impression from the evidence of the family was that B's relationships within her wider family are becoming stronger and more consistent as time goes on.
- e) However, the psychologist told me in evidence that he had not seen anything to suggest that the family showed real understanding of the extent of H and I's emotional needs (or, for that matter, those of B) and the level of challenges at a psychological level B would face.
- f) The psychologist thought B was 'compliant and submissive'. In fact there are a number of examples to show that at times at least, B is anything but:
 - i) she stood up to uncle M in a family meeting when he was vocal about moving contact to the foster carer;
 - ii) she certainly stood up well in questioning at both hearings – at the last hearing Ms Habel commented to the family after an exchange with them during their evidence, "I am picking up on your anger" to which B retorted entirely appropriately, "that is not anger, it's passion";
 - iii) more significantly though, B has pursued a determined plan to care for H and I for six months (a) having been told by me, her solicitor

and her family that she should not feel she has to put herself forward and giving her every opportunity to withdraw and (b) in the face of negative assessment by no less than five professionals.

- g) The psychologist referred to a number of recent examples of failure of self-care (returning to her mother from the more stable care of relatives and consequent failure to attend school and take important exams) as demonstrating B's inability to look after herself and demonstrate maturity and responsibility and the rejection of opportunities for psychological growth and emotional stability. This reflected the model of neglect which B had internalised from her mother.
 - h) He also thought B presented with what he described as 'manic defence' – that is, flight into intense activity (such as work) as a way of managing intolerable feelings, which she finds difficult to access and express, about her neglect by her mother. There was a concern held not just by the psychologist (it was also expressed by H and I's social worker) that B may be putting herself forward to care for H and I not only out of a sense of responsibility for ensuring H and I get better care than she did, but also as a way of rescuing herself from her past.
 - i) Although there is affection between B and H and I, they do not regard her as a robust attachment figure. Their primary attachment is to their foster carer, with their own relationship being the other most significant. Other family members, including B, received only a modest scattering of positive allocations in the Family Relations Test.
 - j) H demonstrates behavioural problems and presents as a child who has insecure and possibly disorganised attachments. There are themes of omnipotence and controlling behaviour.
 - k) I's development is somewhat delayed, quite possibly as a result of neglectful care, and she also presented as having experienced insecure attachments.
 - l) Both girls were at risk of developing emotional, behavioural and relationship problems if not provided with appropriate long-term care from a sensitively responsive and emotionally attuned carer.
 - m) Not only would it not be in H and I's interests to be placed with B, neither would it be in B's interests. B does have some potential to acquire greater maturity and insight which she would need to move out from her mother's shadow, but this is unlikely to happen if she has the care of H and I who would place demands on her which she could not meet and which would, ultimately, prove to be a frustrating and damaging arrangement for them all.
- 90) The psychologist observed 2 hours of a contact session between B and H and I. B was a kind and gentle presence but a little passive in her role. She rarely gave the impression that she felt able confidently to occupy a parental role towards her younger sisters. She reacted to events rather than structuring the session or setting an agenda with the confidence of a parent. She tended to focus on one sister or another without bringing the other into play. The girls easily drifted to other adults rather than B whose role was that of a sister rather than carer.

- 91) It is said in relation to this that B has yet to take on a caring role and it is not unnatural therefore that her current role should appear both to the girls and observers as one of sister rather than carer. However, the observation by the psychologist fits with that of the social workers and the guardian and it is notable, given that B puts herself forward to care, that she has not over the last 6 months been able to show during assessment (including observed contact) that she can be more than a sister and can take on a caring role. H talked to the guardian about B as a sister who comes to play with them. This is in my view an indicator of B's current immaturity, which is unsurprising given her age.
- 92) The psychologist also noted, as did the social worker, that the girls behaviour had regressed with increased contact with B. They reverted to shouting or screaming when they wanted something. The foster carer described this as a return to the behaviour shown when H and I came into care in February. By July they had settled, with significant improvement. The foster carer thought that the girls' regressed behaviour meant they were not ready for adoption.
- 93) It is not suggested that B has done anything in contact to provoke H and I's regressed behaviour. The thinking, including that of the psychologist, is that the mere presence of B is a reminder of the neglectful care H and I had at the hands of their mother. H had told the psychologist about an occasion when I had fallen off a bed while in B's care. He did not accept this as fact but pointed to it as an internalised model that H has taken in.
- 94) I would add these observations:
- a) any care that B gave to the girls when with their mother does not seem to have enabled them to see her in a safe or sufficiently rescuing role such that they could now regard B as a source of safety and nurturing;
 - b) indeed the psychologist doubted the view that B had enthusiastically, effectively and competently been taking on the role of carer towards her younger sisters for many years – this bears out point a) above;
 - c) this is of course a problem that could be worked on through attachment work over time, however, it does support the view that there is not currently a secure attachment relationship between the girls and B;
 - d) thus, any attachment work to address the question of B's role as a secure care-giver from the girls' perspective is likely to be medium to long rather than short-term work.
- 95) The psychologist was not sure whether B would be able to relegate her relationship with her boyfriend in order to devote her time to care of H and I. When I asked B about this relationship I got a fairly non-committal response.
- 96) The psychologist thought it highly likely that unintentionally neglect will form part of her pattern of care of H and I – what he described as the risk of intergenerational transmission of neglectful or abusive parenting commonly seen in the family court. This was not a view shared by the social workers or the guardian who felt that B was motivated and able to meet their basic care needs. Their concern has really focused on capacity to meet emotional needs. However, the psychologist did consider that B may well at some point have to face the consequences of the neglect she suffered which may well result in depression or resentment if she were caring for her sisters in the long-term. In that event I can

see a risk that B's care could become neglectful given the poor script she has to work from.

- 97) The psychologist thought that H and I should be placed together, however, he considered there would be real challenges in contact between them and their older siblings in the event of adoption. In principle he saw this as desirable but in practice found it difficult to see how it could work safely without running a high risk of the mother discovering their whereabouts and disrupting the adoptive placement. The psychologist acknowledged that he had not assessed the mother but the chronology suggested she had not been able to adhere to recommendations.
- 98) B felt inhibited in her assessment by the psychologist. As Ms Lasenby pointed out, he was a middle-aged man interviewing a girl of 17 and discussing some intimate issues, some of which she may well have found embarrassing. The psychologist acknowledged the difficulty but said this was, for a child and adolescent psychologist, familiar territory and he made due allowance in his assessment. He did not consider the fact that the dialogue may not have been free-flowing affected the fundamental question of insight.
- 99) The psychologist did sense conformity, that is, B feeling the need to do what was expected of her by her family. This is robustly challenged for the reasons I have already given.
- 100) Ms Lasenby explored with the psychologist the work that might be done with B. He thought that things would 'tick along' apparently well enough for the first 6 to 12 months were H and I to be in B's care. Incredible Years (aimed at managing emotional behaviour difficulties) he thought would be helpful, but only once B had care of the children. He was not familiar with PEEP (Peers Early Education Partnership), designed to support early and important relationships in a child's life, which the guardian has recommended, and which can be accessed at most children's centres.
- 101) The psychologist thought that video interaction work (videoing B interacting with the children and feeding back to her) might also be helpful and nudge her in the right direction. He agreed that B had done all that had been asked of her but felt that the fundamental question of insight would need a year's therapy and even then he questioned whether the 'seeds' were there for the work to be done. He felt that B and the family has simply not 'got it'. The therapy would be specific parenting work through a provider such as the Anna Freud Centre in London.
- 102) There is a need, thought the psychologist, for B to be one step ahead in meeting the girls' emotional needs, anticipating them, but he thought she simply does not have the capacity for that at the moment. He agreed that might come with time, experience and maturity, but not in the girls' timescales.
- 103) The psychologist was impressed with the work done by H and I's social worker with B which he described as a substantial piece of work which included psycho-education. He agreed with Ms Lasenby that there is a difference in comparing a few years development in somebody in their later twenties to somebody of B's age; a faster rate of maturation would be expected in a teenager. It was suggested to the psychologist that it is unfair to B to judge her against unwise decisions made by her, albeit relatively recently. The psychologist thought it would have been helpful if there had been a glimmer of recognition and insight into patterns of

behaviour. Instead B just shut down when questioned, saying it was “just a stupid thing I did”, without any reflection.

- 104) The psychologist was also asked about the impact of adoption.
- a) The impact on B would depend much on whether she received emotionally attuned support from the family. He sensed that at the family meeting there had been quite a lot of anger and irritation, largely with the social workers, which caused concern about support.
 - b) The most difficult thing for H (and I) would be separation from the foster carer, who is her primary carer. H does not have an attachment disorder, so the psychologist thought she would be able to transfer her primary attachment to prospective adopters. He accepted this meant she could also potentially transfer attachment to B.

The social work evidence

- 105) The focus of B’s social worker has been to assist her with practical issues and foundation regardless of outcome. She had not specifically been working with her (as H and I’s social worker had) on emotional issues. She said B was willing, she engaged well, followed up calls easily, obtained information and was compliant to advice. B had addressed all practical aspects and done really well.
- 106) B’s social worker was also social worker for D and had worked with the family. She spoke warmly of the grandparents’ busy household being the hub with other family members often being there. She had no concerns about emotional warmth within the family.
- 107) All that said, B’s social worker did not consider it would be in B’s best interests to take on the care of H and I.
- 108) H and I’s social worker recognised that the wider family have provided successful placements for D, E, F and G. A family meeting was held on 13 November for the express purpose of exploring whether they could also offer placements for H and I. That has not proved possible.
- 109) This social worker also acknowledged that B had demonstrated commitment to H and I through her plan to care for them, through contact and through her actions – organising her diary, communicating effectively with professionals and attending a demanding programme of assessment and contact. The foster carer found B to be likeable and willing to take on board advice and guidance and change her approach. She had also shown a degree of resilience. There is no concern about B’s ability to provide practical care (the only real concern in that respect arises from the psychologist’s opinion that B may model her care on her mother’s neglectful style and his prognosis of possible depression in B and consequent neglect).
- 110) Based on the regression in both girls’ behaviour since contact was increased, the foster carer has significant concerns about the adverse effect of contact on the girls’ emotional security and resulting behaviour.
- 111) The social worker noted an occasion when B suggested to I that she put her own dirty nappy in the bin, suggesting unrealistic expectations of the children. The social worker seems not to agree with the psychologist’s concern that B’s model of care may reflect that of her mother and says it is more likely that B would

neglect the girls' need for stimulation and development rather than their more basic needs.

- 112) The social worker noted, as had the foster carer, the lack of proactive interaction between B and the girls, despite discussion around the subject at the first session at the foster placement at the end of September. Often the girls would come to the social worker for interaction rather than B.
- 113) In evidence the social worker remained clear that B could not meet the girls' emotional needs. She felt B was trying to find a sense of her own fulfilment in taking on a mothering role without much sense of her own needs being met. She thought the psychologist's description of 'manic defence' fitted with her assessment of B as driven to activity in trying to fulfil the role.
- 114) Incredible Years has not yet been offered, the next course being available in January 2019. In any event the social worker's understanding was that, while IY was useful to help develop parenting strategies, it was designed for children with more normative behaviours rather than those with traumatic experience such as the girls have had.
- 115) The social worker stressed that these girls need reparative parenting from robust attachment figures who can read their behaviours and emotions and respond. The social worker talked about the need for better than good enough parenting. Although it is an expression I have myself used in the past, on reflection I suggest it is not a helpful phrase to use. Good enough parenting, if one is to use that expression, is what is required to meet the particular needs of particular children. If a carer is unable to meet the particular reparative parenting needs arising from a child's neglectful upbringing, then the child's needs are not met. There is not some objective standard of what is 'good enough parenting' above which is 'better than' or below which is 'not good enough'.
- 116) The social worker acknowledged that the family would know B better than the professionals but questioned whether they had looked at her in the same way. She was concerned that the level of involvement of the wider family proposed could confuse the girls about who their primary carer is.

B's evidence

- 117) B was concerned that some things she had said to professionals had been taken out of context and that she had not made herself clear. She hoped to do further training so that she could understand how to become more attuned to the girls. She acknowledged she needed help with this. This was something she had come to understand since the sessions started at the foster placement and watching how the foster carer interacted with the girls. Reading the contact notes from the sessions in the foster placement had also made her think – she recognised quite a bit of what was reported and could see where the social worker was "coming from". She did feel that some positive things had not been noted, for example, her singing songs to the girls.
- 118) She felt that nobody had sat her down and explained how she could have done things better (and to an extent this criticism was accepted). She had spoken a lot to her family about how things would work. During the week she would spend a lot of time with the family which would help her emotionally and give her support.

- 119) She acknowledged there were occasional differences within the family which she said went with a massive family, all with different opinions and all wanting to be heard. She did not think there had been much observation of the wider family (the previous social worker had turned up for an hour or so). She stressed that she felt things were very different when she was with the family. When other siblings are around the girls didn't know who to go to. When she went out with them in October they came to her to meet their needs.
- 120) Asked about the impact on the children of their upbringing, B was only able to give a limited response. She said I throws herself on the floor if she does not get the attention she wants. She noticed jealousy between the girls. As to additional difficulties, she said it was hard for her to recognise this because she was "one of those children myself – I need it explained".
- 121) She also agreed to an extent with what the psychologist had said but felt that just because she had been brought up one way did not mean she would parent in the same way. "I have different morals to my mum". This opened up to her the last time she went back to her mother. Reading the court papers (and she clearly had read them carefully) made her realise the way her mother spoke to her was not normal. Her good traits she had learned from her wider family, not her mother.
- 122) B clearly found it difficult to think about the possibility of adoption and became emotional (but appropriately so) when it was mentioned. If the girls were to be adopted she would want to keep in contact with them, although she felt she would struggle emotionally. She would want to meet the adopter if possible.
- 123) I asked B about her work. She has come to the realisation that she would not be able to care for the girls and work, although she would like in time, once the girls settled, to be a working mother. She would like to take some of the core GCSEs she missed, perhaps through an apprenticeship.
- 124) She thought her relationship with her boyfriend was in its early stages but she saw it as long term. Currently she sees him three or four times a week. She did not feel he was the jealous type who would not be supportive of her taking on care of her sisters. She felt she 'wore the trousers' in the relationship. She said her boyfriend has ADHD and tends to be hyperactive.
- 125) B was clear that her priority would be the girls over work or other relationships. She felt ready to take on the challenge with the support of her family. She thought the girls would come to see her as their carer. She was inclined to accept that the greater impact of adoption might be on her and the family than the girls (given their primary attachment at the moment) but still felt strongly about the girls losing seven sibling relationships and the effect on those siblings too.

The family's evidence

- 126) The family speak as one in their support of B. The exercise of 'hot-tubbing' their evidence rather emphasised this in a positive way.
- 127) At the start (and at the time of the July hearing) uncle K and L did not think B had thought through what a challenge it would be, but she had shown herself to be determined and proved herself, they felt, more than capable.
- 128) Uncle K and L also spoke of F's difficulties (they describe him as selective mute) and the attachment training that L has had and would share with B.

- 129) Uncle M spoke about how G had come on in leaps and bounds and was now a different girl altogether.
- 130) All the family were at pains to explain how they were there for each other all the time and would make themselves available for B and the girls, whether it be going to activities or otherwise supporting B emotionally or practically.
- 131) They felt they saw a different side to B to that portrayed by the professionals. Uncle M pointed out how B had put him in his place at the family meeting when he disagreed about the contact plan. He respected her for that. They agreed with B that disagreements in the family didn't last. A falling out with C after she made some unkind comments (noted in the social worker's evidence) had been repaired. Uncle M also said he had seen B acting on the girls' cues and felt she had a maternal instinct. The grandmother felt she had picked up a lot from the foster carer.
- 132) The family felt that H and I's social worker had a lot of negative feelings towards them. Uncle K spoke about pressure on them to apply for special guardianship for E and F to get them out of care.
- 133) On the question whether it was in B's interests to take on care of the girls, aunt J said it would affect her far more to lose her sisters than it would to look after them.
- 134) The family were very clear they were not, as Ms Habel suggested, forcing B to make the decision to care for the girls, saying they had taken seriously what I said in July about giving B room to withdraw if that was the right thing to do. They had repeatedly told her she could do that. She was not under pressure not to disappoint the family.
- 135) It was also clear from the family's evidence that the mother was very much out on her own and there seemed little prospect of her being brought back into the fold in a way that might undermine placement of the girls within the family.

The guardian's evidence

- 136) I can deal with the guardian's position and evidence quite briefly. Essentially, she agrees with the evidence of the ISW, the social workers and the psychologist and supports the application for care and placement orders. She too gives considerable credit to B and the wider family but shares the concerns about lack of emotional insight and capacity for emotional attunement that will be needed to parent H and I successfully. While there would be a lot of family support, she agreed with the psychologist that it would not be enough to fill the gaps. She agreed that part of B's drive was a desire to fulfil needs of herself and the girls, wanting to please and not wanting to let the girls or the family down.
- 137) The guardian had observed good contacts and there was no criticism of B's manner around the girls. Specifically, the guardian did observe B actively get up and play with the girls which she felt others may not have seen. B's progress in relation to meeting the girls' basic needs had not surprised the guardian, although she had made more progress than was anticipated in July. The guardian could not support a transition to B's full-time care which would take at least 6 months.
- 138) The guardian was very pleased with the way D and G's needs were being met (she had less involvement with E and F but had heard no concerns).

- 139) I pressed the guardian quite hard on the impact on this large family and the girls of adoption, particularly where seven out of nine children were able to stay in the family. What life story work, I wondered, could satisfactorily explain why they alone had to be taken out of the family and adopted? I also wondered whether there was a risk of a professional barrier to the idea of sibling care. The guardian could understand that risk and had not herself experienced a case of a sibling of B's age putting herself forward (and nor, for that matter, have I).
- 140) The guardian is not involved with post-adoption work, and so deferred to H and I's social worker who is, on the question of work that could be done with the girls post-adoption.

The social worker re-called

- 141) H and I's social worker was recalled briefly to deal with the topics I had raised with the guardian. She was clear that it was not just a question of a life-story book but the whole narrative the girls would receive from their new family which would help them to understand why things turned out as they did.
- 142) I asked whether it would be feasible for B to move in with the foster carer as part of transition of care. An enquiry was made overnight before submissions and I was told this would not be feasible from the foster carer's point of view. In any event the social worker stressed that the attunement/attachment work needed would not be a small piece of work. There had first to be recognition by B of her own emotions before she could start to think about the emotions of the girls.
- 143) I asked the social worker whether her views remained the same having heard the evidence of B and the family that morning, and whether B's evidence had impressed her. Her views remained trenchantly unchanged. She said B is impressive and the articulation of her evidence had not come as any surprise to her.
- 144) The social worker told me that the local adoption agency does not currently have a pool of prospective adopters; so a match would have to be found with new applicants.

The parties' submissions

The local authority

- 145) Ms Habel stressed that the professional evidence in this case lined up. While there has been good progress by B on practical matters the real difficulty lies in her ability to understand and process her own emotions. The psychologist considered therapy would be needed for a year before B could understand what has really happened to her. Ms Habel pointed to the psychologist's evidence that part of B's subconscious motivation was to repair herself by repairing, or rescuing, her siblings. No parenting training will address the fundamental impact on B of the parenting of her.
- 146) Ms Habel submits that the wider family may well give practical support but they did not experience B's parenting and do not fully understand how it will have affected her to be able to give the necessary emotionally attuned support. There are potential sources of tension within the family that are likely to surface.
- 147) Ms Habel focussed on the harm suffered by H and I in the care of their mother and the attachment behaviour difficulties they exhibited, which had settled on

coming into care only to regress with increased contact with the family. Ms Habel says the risk to the children is of emotional harm but also harm arising from neglectful care. These risks are, she says, too great such that, on comparative evaluation, adoption is a proportionate response.

B and the mother

- 148) I can take Ms Lasenby and Mr Coombes' submissions together.
- 149) Ms Lasenby spoke of B as a resilient young adult, working, in a steady relationship and not using substances. She stressed the drastic consequences of adoption, with the girls being taken out of their family for the rest of their lives without the prospect of any realistic relationship with the original family. She also referred to the catastrophic consequences of adoption disruption and the higher rates of disruption for children older when placed.
- 150) Ms Lasenby suggested that quite a bit could be done to ameliorate the risk around emotional attunement. She noted the social worker was not surprised by B's evidence but also noted how B had talked about what was going through her head when she had made unwise decisions, how her evidence was reflective and how the 'seeds' were there. Ms Lasenby was not suggesting that B has not been damaged by her experience but does suggest that basic work could be done now and developed with the girls in her care.
- 151) Ms Lasenby pointed to the support proposed by the family which she described as "wrap-around", including L passing on her attachment training. This is a family with a proven track record of meeting the needs of other children who have suffered the same neglectful experience. They have also supported B in respect of her own needs and could do the same, it is suggested, for H and I.
- 152) Ms Lasenby was critical of the professional work in some respects. The contract of expectations was an important document which, despite chasing, never materialised. There was a lack of review and feedback. Some of the contact sessions in the foster placement were handled insensitively (for example starting one session by telling B of the plan for adoption). There was, Ms Lasenby suggests, a generally negative attitude by professionals. Some of the psychologist's conclusions about B, for example that she is compliant and submissive, do not chime with experience of her, including in evidence.
- 153) Mr Coombes reminded me of the evidence of a psychiatrist before me in another case recently when he rejected the mantra, relied on by the local authority here, of the best predictor of the future being the past. That, says Mr Coombes, is not always right and need not be right here.
- 154) The mother would want the children to be cared for within the family, regardless whether she takes any part in that. She is supportive and there are no recent indications that she would be disruptive or undermine placement within the family.
- 155) Mr Coombes asked me to consider carefully what Hedley J said in *Re L* (supra). It is difficult he said to put that to one side. He stressed that the decision was one for me, not the expert or other professionals. The local authority had not, he submitted, been sufficiently mindful of the Article 8 rights of the girls but also of the wider family.

156) It struck Mr Coombes, when coming to the papers for the first time recently, that this was a very unusual family. He suggested that this is a family that does not function in a conventional first world family way with separate nuclear units but more as one might expect from a third world culture, all speaking together as one family and providing mutual support.

The guardian

157) Mr Bishop stressed that the guardian acknowledges the positive bond between B and her sisters. Their love and affection was apparent to the guardian in contact. No criticism is made of the care given by B or how she has conducted herself. She has been more reflective about her mother's care over time and been prepared to recognise the neglectful harm suffered by all nine children.

158) The harm the guardian asks me to consider is not immediate but longer-term. It is beyond the next 12 months and what might be described as a honeymoon period. It would also be catastrophic if placement within the family broke down and the guardian would say the risks of that compared to risk of adoption disruption are higher.

Impression of the witnesses and findings on the evidence

159) All cases turn on their own circumstances. All cases have running throughout them the welfare of the children as the court's paramount concern. This case presents an unusual feature which adds a layer of complexity. B is herself still legally a child, she is subject of these proceedings and she has suffered neglectful care throughout her childhood. A number of questions arise which have caused the professionals and the court to think hard:

- a) What about B's own interests?
- b) Is it better for B to be able to get on with her own life – relationships, work, further education – unencumbered by the care of two young siblings?
- c) Or will the loss of her siblings from the family, and possibly her own sense that she has failed in her bid to rescue them, impact more detrimentally on B than the burden of care?
- d) How much does B understand about her own neglectful upbringing?
- e) Are the 'seeds' there for work to be done with her to help her understand?
- f) Does B understand the impact of the same neglectful care on H and I?
- g) How does this impact on her capacity for emotional attunement?
- h) What do the girls need in terms of emotional attunement?
- i) What happens if these needs are not met?
- j) Can the girls see B as a primary care-giver, with all the need for security and emotional safety that entails, rather than a big sister who comes to play?
- k) And can the girls therefore transfer their primary attachment to B?
- l) Do the wider family understand these emotional, rather than practical, needs?

- m) Is there a risk of multiple care-givers so that the girls cannot identify their primary carer (especially given their need to adjust to the idea of B as primary carer rather than sister)?
- 160) I have already identified the criticisms levelled at the local authority's approach and of aspects of the psychologist's conclusions. I have asked myself the question whether the unusual dynamic – sibling as carer – has created a barrier for the professionals which has created a bias in their approach. I have also considered whether any criticisms of the professional approach, insofar as they are made out, vitiate their recommendations in such a way that the court should not follow them.
- 161) Fundamentally I am sure that all the professionals have approached this case in a balanced way and with the welfare of H and I as their paramount concern, just as it is for the court. Although their views have been clear, perhaps even trenchant, I do not believe that they have been distracted or biased by the unusual dynamic presented. They have been prepared to reflect on their position, most notably when B's social worker gave evidence in July that there should be further assessment of B as carer.
- 162) The failure to provide a contract of expectations was important but it could not, in my view, have changed the fundamental concerns about emotional insight and attunement. Nor does the fact that there could have been more feedback or that some contact sessions might have been handled a little more sensitively. The psychologist's fundamental recommendations are not undermined just because others may not see B as compliant and submissive as he did.
- 163) There is no doubt that B is impressive. Given her neglectful background it is surprising how articulate, reflective and balanced she seemed to be in giving her evidence. And the family is plainly supportive of each other in a way that caused me to wonder why it was said they would not, between them, be able to meet H and I's needs. Could I really say in these circumstances that nothing else would do?
- 164) But this is where impression and empirical evidence must be distinguished. Of course, what the family tell me and the professionals stands as evidence to be compared with the professional evidence. While I would wish to stress how impressed I have been by the commitment, love and affection demonstrated by the family (especially by B) the empirical evidence does in my judgment support the evidence given by the professionals such as to outweigh that given by the family.
- 165) Reminding myself that the burden of proof lies on the local authority, I am satisfied about the following matters:
- a) All the children suffered neglectful care at the hands of their mother until they were removed in February this year or, in the case of B, left finally in July. They were exposed to a chaotic lifestyle, chaotic and poor home conditions, a lack of a regular father figure with a series of male relationships with the mother, some at least of which were violent, with failed schooling and medical and dental treatment.
 - b) There was a fundamental failure by the mother to meet the children's emotional needs.

- c) It is unlikely that the appropriate care B received during times she spent with aunt J and her grandmother will have sufficiently compensated for the neglectful care she otherwise received throughout her childhood.
- d) I agree therefore with the psychologist that B will have been impacted by such neglectful care. I also agree that B is only just starting to be able to reflect on the care that she received. It is only relatively recently that B has made unwise decisions about leaving appropriate care to return to the neglectful care of her mother and has referred to her mother in positive terms suggesting lack of understanding. I accept that for B the transition to a more reflective position may have started but it is the beginning of a long journey.
- e) I accept the evidence that both H and I have behaviours indicating insecure attachment with family members. This is an unsurprising consequence of the neglectful care they received and the inability of the family (including B) to compensate with care that might make the children feel safe. That is not a criticism of the family or B. While the children were in the care of the mother and there was children's services involvement, and while the family made referrals expressing their concerns, it was difficult for them to step in before the children were removed.
- f) So far as B is concerned, she provided some care for the children while they were still with their mother, but she was herself at that point conditioned by the poor levels of care she was receiving and could only provide limited support for her sisters. Such care as B did give her sisters before February 2018 was insufficient for H and I to see her now as a safe care-giver.
- g) Consequently, H and I have associated the family and B with a time when their needs were not being met and this is reflected in the regression in their behaviours since the increase in contact and anxiety in B's presence.
- h) There is a significant risk, which cannot be ignored, that H and I will continue to display challenging behaviours, however much reflection and training B undergoes. These are likely to increase as they move from their foster carer, with whom they have their primary attachment. The question is whether the children can be sufficiently soothed in the care of B to resolve such behaviours quickly. If they do not abate, B will be faced with the stress of challenging behaviours which are likely to impact on her own wellbeing. Having taken on the challenge of care it is likely she will want to persevere. She may do so at the expense of her own wellbeing. I agree with the psychologist's concern that this could lead to depression and, possibly, neglectful care of more basic needs as well as emotional needs.
- i) The family, while well-intentioned and committed, have limited understanding of the issues set out the preceding sub-paragraphs with the result that, although they would provide adequate support to meet basic care needs, they do not currently have the reflective insight needed to meet B's emotional needs or those of H and I.

- j) This view is supported by the evidence of the interactions between the family and the social workers at some points, for example at the family meeting in October and on 13 November when the focus seemed too much to be on criticism of the social work approach.

The welfare analysis

- 166) With these conclusions in mind I now turn to the welfare analysis by reference to the welfare checklists. Although the care application (with the 1989 Act checklist) and the placement application (with the 2002 Act checklist) are separate, there is considerable overlap and it is appropriate to consider them together, always remembering that the making of a care order does not necessarily lead to the making of a placement order.
- 167) I remind myself that the welfare of H and I *throughout their lives* is the court's paramount concern.
- 168) The children are of an age and level of understanding where their wishes and feelings cannot be ascertained. It is safe to assume that they would wish to be brought up within their family provided their needs could be met.
- 169) Although I have concluded there is a risk of neglectful care if B's own wellbeing is impacted by the demands of two challenging children, I am going to focus on the children's emotional and psychological needs. Accepting as I do that down to February the children lacked attuned parenting and secure attachment, these are plainly children who do have particular needs now for reparative, attuned parenting. They are getting this from their foster carer as the improvement in their behaviours down to July demonstrates. H, who has spent the entire early formative years in neglectful care, especially has this need for attuned parenting.
- 170) The likely effect on the girls throughout their lives of ceasing to be members of their original family and becoming adopted persons is of course fundamental as everybody acknowledges. That is particularly so where they would be taken out of a sibling group of nine and away from the wider close-knit family with whom they have had close relations. I accept the evidence of the social worker that the children would, through living with a new family who meet their needs, receive a narrative to help them understand why they could not remain with their family.
- 171) The effect of separation and severance of legal ties may to an extent be mitigated by open adoption and reasonably regular contact with siblings. It is unlikely however that would sustain the more close-knit sibling relationships they would expect to have if they remain within their family. In any event, open adoption cannot be guaranteed, the plan being to find prospective adopters willing to agree open adoption if possible but not to delay if otherwise suitable adopters are not willing.
- 172) And even planned open adoption must be subject to some basic pre-conditions if it is to be successful – that the children become settled in their placement, that contact with the original family is not unsettling for them and that the original family having contact accept the adoptive placement and do not undermine it. What we do know is that H and I's behaviour has regressed since increased contact with the family. This begs the question whether open adoption runs the risk of association with neglectful care. That is not to say that work could not be done with H and I to make them feel safe in contact and ameliorate any anxieties

they may have, but the question of contact with the original family is unlikely to be without its difficulties.

- 173) And I need to deal here also with the risk of adoption disruption. When it happens it is catastrophic. Having been removed from the birth family and placed in a new forever family (as it is promised), and the bridge of legal ties to the birth family having been well and truly burnt, breakdown of the adoptive placement throws the adopted child back into the care system quite probably now feeling doubly rejected. It is unsurprising that such children may feel responsible for having been removed now from two families – “it must be my fault”.
- 174) The risk of adoption disruption overall, it is thought, is relatively low compared to long term foster placement, special guardianship or placements under child arrangements orders. The overall figure is around 3%. However, a large proportion of children for adoption are infants who are ‘more adoptable’ and who may not have as much unpacked emotional luggage as children of H’s age. Research suggests that children placed for adoption at 4 years and over are 13 times more likely to suffer disruption¹. And, rather as the psychologist suggests that disruption of the placement with B might happen further down the road (perhaps 12 months), so too the research finds that adoption disruption is most likely to happen with later placed children around adolescence rather than immediately.
- 175) And, as it is agreed H and I need to be together, I necessarily shares with H the higher risk of disruption of placements of older children.
- 176) All that said, as the Court of Appeal pointed out recently in *Re B-P (Children) (Adoption or Fostering)* [2018] EWCA Civ 2042, when undertaking the welfare balancing exercise, the potential benefits that adoption may bring in terms of commitment, security and permanence (in that case in comparison to long-term foster care) must be considered.
- 177) I have considered the girls’ age, sex and relevant characteristics above and in the pen-pictures earlier in this judgment.
- 178) Consideration of the harm the girls have suffered and are at risk of suffering is critical to the balancing exercise. Harm, as defined by section 31(9) of the 1989 Act, can be summarised as ill-treatment or impairment of physical or mental health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another, including sexual abuse and non-physical ill-treatment. Development means physical, intellectual, emotional, social or behavioural development.
- 179) I have outlined the neglectful harm these children have suffered prior to their removal in February. Principally the harm was emotional damage and the impact on the girls’ psychological and emotional development, including the lack of secure attachments within the family. Fortunately, the psychologist does not consider the damage extends to more generalised attachment disorders. This suggests the girls may well be able to make attachments in the future. What

¹ *Beyond the Adoption Order: Challenges, intervention and adoption disruption*: Selwyn et al (April 2014) DfE and *The impacts of abuse and neglect on children; and comparison of different placement options*: Wilkinson et al (March 2017) DfE (see para 75).

seems clear from the evidence of their regressed behaviours since July is the ongoing impact of the harm the girls suffered before removal.

- 180) Risk of future harm may arise whichever option is decided. I have set out above some of the risks associated with adoption. The risks associated with placement with B are, in my judgment, greater both in terms of likelihood of occurrence and consequence.
- 181) The professional evidence was that, even where the child is older when placed, the risk of breakdown is lower than is likely with placement with B. I agree. Given the combination of my conclusions about B's lack of insight into her own emotional needs and those of the girls, her comparative youth and immaturity, the difficulties for the girls of adjustment from sister to carer, the high likelihood of ongoing challenging behaviours and B's lack of resource and experience to deal with them, I would consider the risks of any placement with B to be high.
- 182) What would be the consequence of breakdown for the girls? As matters stand, the wider family are unable to accommodate care of the girls. I have no reason to believe that situation will change in the foreseeable future in the event of breakdown of placement with B. I would have to assume in the event of breakdown that, once again, the girls' emotional needs would not have been met. Having re-established relationships with the family (currently not primary attachments) the girls would potentially face disruption of those relationships once again. The question would arise whether the girls could stay together. What if H was then 6 or 7 and regarded as too old to adopt yet I was still adoptable?
- 183) And if the girls' emotional needs continued not be fully met in the care of their sister, as the psychologist considers likely (and as I accept), what would the impact be in behavioural and developmental terms for the girls? I would expect them to have significant difficulties within sibling relationships and with their sister/carers and in peer relationships at school. Behavioural difficulties may result in poor school attendance and exclusion. The risks of difficulties in adolescence would be much higher with lower resilience to substance misuse and other risky behaviours.
- 184) That is not to say that adoption is a panacea. However, I do consider that if the girls are well matched, the chances of a successful placement with carers able to meet their emotional needs is much greater than placement with B.
- 185) Further, while not minimising the risk consequent on adoption disruption, the social worker did make the point in evidence that, even following disruption, many adopters will remain involved as part of their commitment.
- 186) I have in part addressed the final matter, that is the relationships which the girls have with (in this case) relatives, including the likelihood and value of such relationships continuing, the ability and willingness of the relatives to provide a secure environment in which the children can develop and otherwise meet their needs and the relatives' wishes and feelings regarding the children.
- 187) The answer to the first and last of those is straightforward.
- a) If the girls are placed with B I would expect their relationships with the wider family to continue and for there to be value to the girls in them doing so. I have significant doubts whether the mother can offer much, if anything, of benefit, through an ongoing relationship. But obviously the

relationships with siblings and wider family would be of benefit. As is often said, sibling relationships are the most enduring we are likely to have.

- b) The relatives have made their wishes and feeling regarding the girls clear. They too have Article 8 rights to respect for private and family life to be interfered with only to the extent that is necessary and proportionate.

188) Nor is the willingness of the relatives to provide a secure environment in which the girls can develop in doubt. The crucial question is whether they can do so. My conclusion, based on the evidence I have heard, is that they could not.

Conclusion

189) As might have been clear to the family during the course of both hearings, I would very much have hoped it would be possible to keep the girls within the family through placement with B. Particularly given that the professional evidence all pointed one way, I have been careful not simply to go along with it but have tried to test the evidence by asking some difficult questions, both of the professional witnesses and my own analysis of the evidence.

190) Having weighed the pros and cons of both realistic options I sadly come to the decision that the likelihood of breakdown of the placement with B, the consequences for the girls of that happening, and the risks of their emotional needs not being met even if the relationship does not breakdown, are just too great. Those risks outweigh, in my judgement, the disadvantages of placement outside the family. The potential for the girls to have their particular emotional needs met within an adoptive placement is sufficiently greater that it justifies the making of care orders and placement for adoption. In short, I conclude that is the only option that will do and it is therefore a necessary and proportionate interference with the girls' Article 8 rights and those of the family.

191) I am satisfied that the girls' welfare requires that the mother's consent to the making of placement orders be dispensed with.

192) I also approve the local authority care plan in relation to contact and endeavour to find an open adoption placement if that is possible (although I agree not at the expense of an otherwise suitable placement if that will cause delay). In the event of open adoption the question of contact will in any event be kept under review.

193) For these reasons I make the care and placement orders sought in respect of H and I.

194) As agreed, I make no orders in relation to B herself.

EASY READ VERSION OF REASONS FOR DECISION

1. The local authority wants me to make orders about H aged 4½ and I aged 22 months, placing them in their care and allowing them to be placed for adoption.
2. H and I's sister B, who is 17, wants to be able to care for H and I for the rest of their childhoods. She would have the support of the wider family of the grandparents and uncles and aunts.

3. B, H and I have 6 other brothers and sisters ranging in age from 18 downwards. B will go into her own rented accommodation soon. H and I are in foster care. All the other children are being looked after by the wider family who have done an exceptional job taking them in alongside their own children.
4. This has happened because of the very poor care all the children received from their mother.
5. The question is whether B, with the support of the family, is able meet H and I's particular needs.
6. There has been a lot of expert and professional evidence, from a number of social workers, including an expert independent social worker, a child and adolescent psychologist and a children's guardian appointed by the court.
7. All the professionals say the same thing. They agree that B has done everything asked of her. They believe she would be able to meet H and I's practical care needs. But they also all agree that she would not be able to meet H and I's emotional needs. I can summarise the reasons for this as follows:
 - a. B will have been affected by the poor care she received throughout her childhood.
 - b. At the moment she is only just starting to understand this.
 - c. H and I have also been affected by the care they received.
 - d. This is seen in their challenging behaviours. When they came into care in February their behaviours got better. But since contact with B and the wider family increased in July it has got worse again. This is probably because they connect B and the family with the care they got from their mother.
 - e. The girls need carers who can anticipate and respond to their emotional needs (give attuned parenting). Without that their needs will not be met and their challenging behaviours are likely to continue.
 - f. In particular the girls have not been able to form secure attachments with a primary care giver other than their foster carer. This means they have not had a safe adult figure they can look to for their security. This affects how they make relationships and some of their behaviours.
 - g. The wider family would be able to help with practical support for B and the girls but do not understand enough about what happened to them and B to be able to help them with enough emotional support.
 - h. There is also the problem that the girls see B as their big sister and more as somebody to play with than as an adult carer.
 - i. All these circumstances mean the girls are likely to find it difficult to adjust to B as a carer and to be able to form a secure attachment to her.
8. If the girls are placed with B it may be that things will work out for a while but soon things are likely to become difficult. Because B doesn't have the insight into the girls' emotional needs (or her own) they are likely to carry on making real demands on her. They are likely to behave in challenging ways. B may struggle to cope with this. She may not be able to carry on looking after the

girls. The rest of the family could not take them in because of their commitments to their own and the other children.

9. B and the family believe they could manage. They also firmly believe the girls would be better off staying in the family rather than being adopted by strangers.
10. There is a lot of force in what the family says. Provided the family can meet the girls' needs they should be brought up by the family. They should only be adopted if there is no other alternative.
11. I have listened carefully to B and the family. I was impressed by what they had to say. They are obviously committed to the girls. There is lots of love and affection shown towards them. If that was all it took the answer would be easy.
12. But it is not all it takes. I have weighed up what the professionals say and what the family says. I agree with the thinking of the professionals and their reasons. While I believe B could meet the girls' basic care needs, I do not think she could cope with their emotional needs, even with support from the family.
13. I have thought about the consequences of the two options and the risks that each involves. Adoption is not without risk, especially for children like H who are a bit older. But I think the risk of putting the girls with B is much higher for the reasons I have set out. And the consequences for the girls if things do go wrong would be really serious. Their emotional needs would not be met and their emotional and psychological development would be affected.
14. I am very grateful to the family for coming to court and giving evidence. I know they have done their best to find a solution that avoids adoption.
15. But I have decided that it is in the girls' best interests lifelong to have the potential for the commitment, security and permanence and attuned parenting that adoption could provide for them.
16. I have very much had in mind the impact of this not only on the girls but also B, the other siblings and the wider family. I know the decision will cause great upset.
17. The plan is to try and find adopters will allow direct contact between the girls and their siblings and possibly other family members. This cannot be promised but I know the local authority will do their best to make this happen.

His Honour Judge Dancey

December 2018