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IN THE FAMILY COURT AT BLACKBURN

Case No: PR19C00438

64 Victoria Street
Blackburn
Lancashire
BB1 6DJ

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Before:

HIS HONOUR JUDGE BOOTH



In the matter of C (Children)

MS WATKINSON appeared for the **Applicant**
MS WALL appeared for the **First Respondent**
MS PROBERT appeared for the **Second Respondent**
MR HARRISON appeared for the **Third to Fifth Respondents**

Hearing dates: 12th -23rd and 28th April 2021

Anonymised Judgment

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HIS HONOUR JUDGE BOOTH:

1. This is my judgment in Part IV Children Act 1989 proceedings concerning three children: Charlie, who is 5 years of age; Cathryn, who is 3 years of age; and Rebekah, who is 23 months. The mother of all three children is Anna. The father of Charlie and Cathryn is Andrew. He does not have parental responsibility for the children, and has played little part in their lives to date. He has been served with notice of the proceedings, but has taken no part, and is not represented. The father of Rebekah is Luke. He has parental responsibility for her, and he has played a full part in these proceedings. **The names used in this anonymised judgment are not the real names of the parties.**
2. The Local Authority has been represented by Ms Watkinson of counsel; mother by Ms Wall of counsel; Rebekah's father by Ms Probert of counsel; and the children, through their Guardian Miss Katherine Culshaw, by Mr Harrison of counsel. I am grateful to all the advocates for the assistance they have given me in what proved to be a challenging final hearing for reasons I will explain in due course. All of them have committed a great deal of energy and effort in representing their various clients, for which they are all to be commended.
3. I heard evidence over nine days. That was the time allocated to the case. I have been provided with written submissions by the advocates, and I reserved this judgment so that I could give full consideration to both the evidence I had heard and read, and the submissions made to me.
4. This judgment relates to the final hearing where I am asked to make findings of fact sought by the Local Authority, both for the purposes of threshold and for events after the issue of proceedings. I must also go on to deal with the welfare issues that arise and to make decisions about the future lives of these three young children.
5. This case throws into sharp relief the difficulty created when there have been flaws in the investigation of what has happened to the children so as to impact on the weight I can give to the conclusions drawn by professionals based on those investigations.

The proceedings

6. The application for care orders in respect of each of the three children was issued on 9 August 2019. Those proceedings should have concluded within six months. As it is now the end of April 2021, when the case was dealt with as a final hearing, that statutory requirement has not been met. I will explain in due course why that has happened.
7. Following the issue of proceedings, the matter came before the court on 14 and 15 August 2019. The initial plan was for the children and their mother to go into a placement at a mother and baby assessment unit where they would have been subjected to CCTV surveillance as part of an initial assessment process. The Local Authority changed that plan to one of removal into foster carer, and on 15 August 2019 that plan was not actively opposed by the parents. The children have been separated from their mother and Luke ever since.
8. There were a series of hearings before the court during the first half of 2020 when case management decisions were made. Those included on 13 January 2020 an independent social work assessment being directed on the application of the parents. The parents

were at that stage unhappy with the way the matter had been investigated by the Local Authority, and they received support in their concerns from the then Children's Guardian.

9. At a hearing on 19 June 2020 I decided that the children should move from foster care, with Charlie and Cathryn moving to the care of their maternal grandmother, and Rebekah moving to the care of her maternal great-aunt. A fine balance had to be struck between the advantages of a placement within the wider family against the separation of the children when they had hitherto lived their lives as a sibling group.
10. At a hearing on 4 August 2020 two procedural steps were taken, one of which has impacted very considerably on the timetable. I was correctly persuaded that the instruction of Dr Keenan, a consultant paediatric haematologist, was necessary to investigate Charlie, and whether there was any explanation as to why he might bruise more easily than other children, if indeed he did. The investigations subsequently by Dr Keenan have required blood samples to be taken from Charlie. That has caused delay. The ability of Charlie to travel during the COVID 19 restrictions has added a further complication, with ultimately it being necessary for him to go to London for testing. The final report from Dr Keenan was not received until shortly before the final hearing, when he had reached a definitive conclusion. A second decision was to order an addendum independent social work report. That in the event did not add to the delay.

The Findings sought by the Local Authority

11. The Local Authority seek findings in support of the section 31 Children Act threshold criteria as follows:

"(5) Luke drinks alcohol to excess, and is violent and aggressive when intoxicated, including in front of the subject children.

(6) Between 12 pm on 14 July 2019 and 12.30 pm on 15 July 2019 Luke assaulted Charlie by punching him at least once to his face, and to his back. As a result of this assault / these assaults, Luke inflicted the following injuries on Charlie:

- (i) a 1.5 centimetre red / purple petechial area just under the left eye;
- (ii) 1.5 centimetre by 1.5 centimetre purple circular bruise on the left cheek halfway between the zygomatic arch and the mandible;
- (iii) 0.7 centimetre times 0.7 centimetre brown bruise on outer aspect of left scapula region;
- (iv) 2 centimetre by 1 centimetre oval brown bruise, slightly medial and inferior to (iii);
- (v) 1 centimetre times 1 centimetre circular brown bruise, slightly medial to (iv), and lying approximately 2 centimetres further down the back;
- (vi) 1 centimetre by 0.5 centimetre oval brown bruise, slightly inferior and lateral to (v).

(7) Each of the injuries that Charlie sustained at paragraph (6) above would have been very painful. Charlie would have been distressed and cried when he had sustained each of these injuries. The pain and distress would have lasted for several minutes. Any adult nearby would have seen Charlie's distress.

(8) In the event that mother was present in the property when Luke assaulted Charlie, she failed to protect her son, and failed to alert the police or any professionals to what Luke had done to him.

(9) On 15 July 2019 when mother knew that Luke had assaulted Charlie, she:

(a) attempted to influence her son to prevent him repeating allegations of being punched by Luke;

(b) branded Charlie a liar to professionals in a bid to undermine the allegations of assault that he had made, and continued to make against Luke;

(c) deliberately misled nursery, social work and medical professionals by claiming that Charlie's injuries were caused by his broken bed or by being hit with a rubber duck by his sister when she was knew that this was untrue;

(d) prioritised her relationship with Luke over the welfare and safety of her children.

(10) Luke was dishonest with professionals about his movements on 14 July 2019 with the intention of concealing the time he spent alone with the children, and the assault(s) he carried out on Charlie.

(11) On or before 15 July 2019 mother and / or Luke inflicted the following non-accidental injuries on Charlie:

(a) 0.5 centimetre by 0.5 centimetre oval brown bruise over the mid anterior left thigh which was caused by Charlie being hit at this site with a hard object or punched;

(b) 0.5 centimetre times 0.5 centimetre oval brown bruise on the anterior medial aspect of the right middle thigh, which was caused by him being hit with a blunt object.

(12) As a result of the aforesaid, Charlie, Cathryn and Rebekah were suffering or likely to suffer significant harm, and that harm or likelihood of harm is attributable to the care given to the children, or likely to be given to the children if the orders were not made, not being what it would be reasonable to expect a parent to give to them."

12. The hearing was conducted largely remotely. On the days when the mother and Luke gave evidence, the hearing was partly attended at court. I heard evidence from the following witnesses: Dr Keenan; Dr Ahmad, consultant paediatrician; Dr Ashlea Norton, treating paediatrician; AB, maternal grandfather; CD, maternal grandmother; Lauren Bates, former key social worker; Katheryn Holt, former key social worker; Deborah McKelvey, key social worker; Jayna Adshead, social work manager; Kerry Byatt, Independent Social Worker; EF, former foster carer; the mother; Luke; Katherine Culshaw, the Children's Guardian.
13. Six witnesses were due to give evidence but, in the event, did not do so. I had a substantial volume of documentation. An attempt had been made to reduce the size of the bundle. In the event, material was produced by the Local Authority during the trial which added greatly to the volume of material I had.
14. One of the practical difficulties that this case threw up was that the social work documentation had been provided on behalf of the Local Authority by its legal department. It transpired during the evidence of the two former key social workers, who no longer worked for the Local Authority, that material they had written and wished to refer to was not in the material disclosed. Investigation ultimately revealed that although the legal department of the Local Authority thought they had access to the whole of the computerised record keeping system, that was not the case.
15. The matter is now the subject of an internal investigation by the Local Authority as plainly not only might this case have been derailed but there is a risk that other cases involving this Local Authority may have proceeded without all the relevant information being disclosed. Although the circumstances were less than satisfactory, I am as confident as I can be that the relevant material in this case was ultimately disclosed. That was one of the reasons why the advocates had to make substantial extra efforts to put the material in order, to review it, and to assess its relevance or otherwise. That should not have needed to happen.

The Local Authority case

16. The Local Authority case is that the threshold facts they ask me to find are made out. They ask me to make further findings in relation to an incident that occurred in January 2020 at which time the children were in foster care, when a major incident occurred at the family home at a time when both parents were under the influence of drink.
17. The Local Authority invite me to conclude that based on those findings that not only is the threshold for the making of public law orders crossed but that I should go on to decide that the welfare interests of the children demand their long-term separation from their mother and Luke, and that they should remain with their current carers, subject to Special Guardianship Orders giving their carers enhanced parental responsibility. They are then to be the primary decision-makers for the rest of the children's minority.
18. The Local Authority social work evidence is derived from the three key social workers who have in turn been responsible for investigating and collating the evidence in this case, and carrying out assessments, and they have all concluded that the allegations contained in the threshold document are made out, and have concluded that it would

not be safe for the children to return to the care of their mother and Luke, even if I was to decide that the threshold findings were not made out.

19. The conclusion that the children could not be safely returned to the care of their mother and Luke was also a conclusion reached by the Independent Social Worker Kerry Byatt. Her conclusion was also on the basis that that was the position irrespective of whether the threshold findings were made out or not.

The parents' case

20. The parents invite me to conclude that there have been no inflicted injuries on Charlie, and that the bruising described in the threshold document is all accidental bruising typical of a boisterous and adventurous child. As for the incident in January 2020, they invite me to find that it was a minor blip but of limited significance given the absence of the children at a time when the mother and Luke were under pressure from these care proceedings, separated from the children, and generally at a low ebb. They seek for the children to be rehabilitated to their care.

The Children's Guardian's position

21. The Children's Guardian, who had taken over the case in 2021, and so had had no involvement in the evidence-gathering phase, but had the considerable advantage of listening to all of the evidence before finally expressing her views, was in direct alignment with the Independent Social Worker, namely that whilst the findings on the evidence in the view of the Guardian were made out, the children in any event could not safely be returned to the care of their mother and Luke.
22. I am therefore faced with unanimity of professional view from those with a social work background.

The Law

23. How should I approach my task? Let me set out the law. The advocates have agreed a statement of the law which I will append to this judgment as an annex. I have taken it all into account, but I will provide my own summary within the body of this judgment:
24. The law relating to fact finding and applicable in this case, can be summarised as follows:
 - (i) It is now well established that the burden of proof lies at all times with the Local Authority; the standard of proof is the balance of probabilities.
 - (ii) A finding of fact must be based on evidence, including inferences that can properly be drawn from the evidence, but not on suspicion or speculation.
 - (iii) When considering cases of suspected child abuse, the court must consider all the evidence and consider each piece of evidence in the context of all the other evidence. The court invariably surveys a wide canvass. A judge in these difficult cases must have regard to the relevance of each piece of evidence to the other evidence, and to exercise an overview of the totality of the evidence to come to the conclusion whether the case put forward by the Local Authority has been made out to the appropriate standard of proof.

(iv) The evidence of the parents and any other carers is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability.

(v) It is common for witnesses in these cases to tell lies during the investigation and the hearing. The court must be careful to bear in mind that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear, distress; and maybe out of fear that the truth will not speak loud enough. The fact that a witness has lied about some matters does not mean that he or she has lied about everything.

(vi) The legal concept of proof on the balance of probabilities must be applied with common sense.

(vii) The court should have regard to the inherent probabilities. This does not affect the legal standard of proof.

(viii) The fact that the parents fail to prove on the balance of probabilities an affirmative case that they have chosen to set up by way of defence does not of itself establish the Local Authority's case.

(ix) The parents may in some respects be good parents. That does not necessarily mean that they are willing and able to protect their children in the way that might otherwise be expected.

(x) Where repeated accounts are given of events, the court should think carefully about the significance or otherwise of reported discrepancies. They may arise for many different reasons such as lies, faulty recollections or contamination from other sources. They may simply be the effect of a human reaction of unconsciously filling in the gaps.

(xi) The court's function is to make the findings of fact that it is able on the evidence, and then analyse those findings against the statutory formulation. The gloss imported via the use of unexplained legal, clinical or colloquial terms is not helpful to that exercise. The threshold is concerned with whether the objective standard of care which it would be reasonable to expect for the child in question has not been provided so that the harm suffered is attributable to the care actually provided.

25. Some of those propositions require a little further detailed consideration. As I will be finding the mother and Luke have lied about important matters. As was emphasised by McFarlane LJ in *H-C (Children)* [2016] EWCA Civ 136, the central point in *R v Lucas* [1981] QB 720 is that a lie is never taken of itself as direct proof of guilt. A lie is capable of amounting to corroboration. In *Lancashire County Council v C & M & F (Children: Fact Finding)* [2014] EWFC 3 Peter Jackson J set out some helpful observations in the way in which lies and discrepancies can pollute the evidence of the case in ways which may not be sinister.
26. The reason I have inserted my reference to the law at this point is to emphasise the need for careful investigation with an open mind, which begins the moment an allegation is brought to the attention of the Local Authority, and subsequently to the court; and that requirement for careful investigation with an open mind continues right through the litigation process up to and including the final hearing.

Background

27. Let me set out a little bit of background information. The mother of the three children Anna had a relationship when she was a teenager with Charlie and Cathryn's father. She has described that relationship as amounting to little more than a sexual relationship. Andrew had a conviction for sexual activity with a 6-year-old child, about which the mother says she was deceived into believing that it was all a mistake. As a result of that relationship, the children were initially referred to Lancashire County Council. Mother took the sensible decision to distance herself from Andrew, and to limit his involvement with the children.
28. Luke had had a troubled childhood. His mother was an alcoholic and had been subjected to appalling physical violence by his father. He spent a large part of his childhood living with a relative. He too has a history of alcohol abuse, and there are recordings of occasions when he has been violent when under the influence of alcohol. He was known to Blackburn with Darwen Borough Council when he was involved in a relationship with another young woman and her child. That child was believed by Luke to be his. Care proceedings in relation to that child resulted in DNA testing which revealed he was not the child's father.
29. When he commenced his relationship with the mother of Charlie and Cathryn, Blackburn with Darwen Borough Council became involved, and a child in need plan was put in place in respect of the children. The concerns that that child in need plan was designed to deal with related primarily to Luke's drinking and the risks he potentially posed when under the influence.
30. Other records revealed by the police and by the Local Authority appear to show a series of incidents involving Luke and the effect on him of drink. On 25 September 2016 he was issued with a penalty notice for being drunk and disorderly in a public place. On 28 April 2017, when he had care of the child he believed he was son, who was then 18 months, and whilst he was drunk, he punched his uncle to the head, leading to the police being called, and Luke being removed.
31. On 31 January 2018 Luke's mother called the police alleging that he had assaulted her, assaulted his younger brother, and assaulted his younger sister whilst intoxicated. Luke challenged this version of events, not least on the basis that his mother as an alcoholic could not be counted as a reliable witness, and he gave an account whereby his siblings were injured accidentally. He accepted he had been drinking. Why I should accept his account as he remembered it when drunk when I should not accept his mother's account was not explained by him.
32. On 9 February 2019 Luke had the child he believed to be his son at the home he was then sharing with the mother and Charlie and Cathryn, the mother being pregnant with Rebekah. The police had been called out on a report that Luke had effectively abducted the child he believed was his son. That was not an accurate description of what had happened. The important point is at a time when he had hold of the child, and at 4.30 am when the police called, Luke smelt strongly of intoxicants, became angry and started shouting at the police, causing the child to cry.

33. As long ago as April 2019 the Local Authority made it clear to the mother and Luke what it was they were concerned about in relation to the children, namely Luke's drinking and his violence when under the influence.

The Threshold Findings

34. Let me deal next with the incident or incidents that are the subject of the threshold document, and in relation to which the Local Authority invite me to make specific findings.
35. In the summer of 2019 Anna was in contact with both her parents. Her parents had separated, and her mother had remarried. Both her parents were occasional visitors to the home she shared with Luke, and she would take the children to visit her parents. Her parents were concerned that all was not as it should be in the relationship between mother and Luke. AB told me that while initially he had got on well with Luke, and that they had socialised together and he had managed to find a job for Luke, he had over time become somewhat disillusioned.
36. AB formed the impression that Luke was lazy. The job he had found for him lasted only a couple of days. It appeared clear to AB both from what he saw and what his daughter described to him that Luke provided little or no help with the children or in looking after the home. His priority was playing games on his Xbox.
37. CD was equally unimpressed with Luke. She told me, and mother and Luke accepted, that whenever she attended at her daughter's home, Luke absented himself upstairs and had no interaction with her whatsoever.
38. The weekend of 14 / 15 July 2019 has been the subject of detailed investigation. When asked about matters by the police in an interview, Luke described the Friday as a day when nothing happened, with the family at home, with him spending a lot of time on his Xbox. Saturday, he described as a repeat. One difference was that Charlie went to see his grandfather AB. While at his grandfather's house he was given a bath so that his grandfather can say he did not have any injury to his face nor did he have an injury to his back. What Charlie by then would have had were lots of bruises and marks to his legs and arms consistent with his age and being a young man with a lot of energy.
39. On the Sunday there was an unusual occurrence. Luke says he spent the day at his mother's house helping her with her garden. There is no evidence to gainsay what he says. Mother's grandfather, that is AB's father, was in hospital, and a decision was made late in the afternoon of the Sunday for AB to go and visit his father. The mother asked if she could go as well. To that end Luke returned from his mother's home in time to be there to look after the children whilst mother went to her father's house to be taken to the hospital.
40. The question arose as to how much experience Luke had in looking after all three children on his own. At that stage Charlie was only 3, Cathryn 2 and Rebekah 3 months' old. He told me of occasions when mother had been to the shops, and he had babysat. He could give me no other example of an occasion when he had had them for any length of time. Perhaps reflecting his lack of experience in caring for the children in those circumstances, mother had prepared the children for bed, and indeed put them in bed, in anticipation of Luke's return from his mother's.

41. The picture that was painted was that by approximately 6.30 pm on the Sunday evening, Cathryn and Charlie were in their respective rooms and in bed. Cathryn apparently at that time slept readily, Charlie not so readily, so that the practice had developed of removing his toys from his room so that he was not distracted from sleep. Cathryn and Charlie were in separate rooms. Rebekah was in her crib in the bedroom occupied by her parents.
42. In that bedroom was a sofa, and Luke's Xbox. Mother told me that she left shortly after Luke returned home, and returned having visited her grandfather some three hours later. Luke told me that he went up to his room, and spent the evening playing on his Xbox. He said there were occasions when he had to attend to Rebekah, feeding her and changing her, but that at no time did he go into the rooms occupied by Charlie and Cathryn, either to check whether they were asleep or to otherwise ensure things were as they should be.
43. He said there was no baby monitor but that such was the construction of the house that he could have heard anything should either of the children have made any noise. He told me that the three hours passed uneventfully. He heard mother's return home, and as she opened the door Charlie cried. Both parents told me they thought he had been woken by the sound of the door. Mother says she attended to Charlie straightaway, took him in the bathroom, switched the lights on, and could see his face, and is now able to say that there were no marks on his face.
44. The following day, 15 July, a Monday, was a day when Charlie was due to attend his nursery. His usual times at nursery were 1.00 pm lunchtime until 4.00 pm. That day there was also a Child in Need meeting in respect of the children scheduled to take place at the nursery. On her way to nursery mother and Charlie called in to see AB. AB had a shop which was a short distance both from the mother's home and from the nursery.
45. AB told me that when he saw Charlie, he was horrified. He saw a bruise on Charlie's face which he described as a substantial bruise. AB's evidence was that when he drew attention to the bruise, Charlie told him, "Daddy did it". By daddy he was referring to Luke. Mother's immediate reaction was to say, "No, Daddy didn't do it". AB described mother storming out of the shop with Charlie.
46. In his sworn statement AB set out a little more, and used slightly different language. He says when he asked Charlie what happened, Charlie's reply was, "Daddy hit me". He then relates mother's response to that reaction, and describes Charlie searching for an answer in response to his mother's intervention, and saying, "Granddad did it. Mother did it".
47. When Charlie got to nursery, mother told the staff that he had a black eye. I was due to hear evidence from four of the nursery staff to whom Charlie spoke but in the event their evidence was not challenged, and so they did not attend. The first was GH who asked Charlie, "What did you do to your eye?", and he replied, "Daddy did it". IJ asked Charlie, "What happened to your eye?" to which Charlie said, "Daddy did it, and my back. He hit me because I was naughty". KL asked,

"How did you do the bruise to your face?" "Daddy did it, Daddy done it". MN asked what happened, to be told, "Daddy did this".

48. Additionally, Charlie was described as making a fist with his hand, and indicating that he had been punched both to his face and to his back. It was only at nursery after Charlie had mentioned his back that the nursery staff lifted his clothing to discover bruising there. Mother had made no mention of bruising to his back, and it is difficult to know how Charlie would have been aware of it other than by its infliction.
49. The Local Authority say that mother's reaction to Charlie saying that daddy hit him, where she refuted that suggestion in vehement terms is significant because it indicates that firstly she knew what had happened to him, and secondly, she was protecting Luke at the expense of her child.
50. There were further conversations at mother's home, after Luke had left following the Local Authority's intervention, where Charlie said daddy hit him, both to the social worker and to CD.
51. The complaint by mother and Luke of the way the Local Authority have approached this case is that from that moment onwards the Local Authority have worked on the premise that what Charlie said was an accurate description of what happened to him. That far from approaching the case with an open mind, the Local Authority have proceeded throughout on the basis that Charlie was a reliable and accurate historian, and that there was no other plausible explanation for what had happened to him.

Child Protection Medical

52. A child protection medical was carried out on 16 July 2019 by Dr Ashlea Norton, who was a paediatric registrar with considerable experience in examining children with injuries. She noted 22 marks and bruises on Charlie's body. Her conclusion was that many of the injuries noted were consistent with accidental injuries in a mobile and boisterous child such as Charlie. There were three injuries to Charlie's face with which she was concerned, and which she identified as the marks that Charlie had stated to the nursery and social worker had been caused by Luke.
53. During that medical Charlie did not give any explanation for his injuries. His mother had however proffered the explanation that he might have injured himself on his damaged bed.
54. The other injuries of concern to Dr Norton were four marks on the left side of his back for which there was no explanation save that mother had suggested it might be due to his younger sister Cathryn, then 2 years of age, hitting him with a rubber duck. Although Dr Norton based her conclusions on the basis that Charlie had said he had been punched, that is not in fact what Charlie had said. He had said he had been hit, and he had made a fist and a punching action.
55. One of the matters raised by Ms Wall and Ms Probert was the inadequacy of the totality of the medical examination. First, no photographs were taken, the sort of photographs familiar in these sorts of investigations where a ruler is used to demonstrate the size of bruising and its exact positioning. Dr Norton was clear that she had advised that

photographs be taken but that, because of the unit she was working on at the time, that facility was not available. It appears that neither the police nor the Local Authority caused photographs to be taken although the police materials suggest they were. No photographs have ever emerged.

56. Dr Norton was questioned as to whether she had approached Charlie's injuries with an open mind. I am completely satisfied that she did. She said when she saw Charlie there were two options, either the injuries were inflicted or they were from an unwitnessed accident. She was asked whether she had misinterpreted the injury to the eye in that Charlie was a child susceptible to styes in his eye, and that a photograph of poor quality taken some days later appeared to show what might have been a sty. Dr Norton was clear she would have recognised a sty had Charlie had one at the time of her examination. It is noteworthy that his mother did not suggest at the medical examination that he had a sty.
57. The mark that was most concerning to Dr Norton was the mark under his eye which was of petechial bruising, which she says is very rare in accidental injuries, the Royal College of Paediatrics suggesting it occurs in less than 0.3 per cent of accidental injuries. Similarly, most injuries to children's faces occur within a T-shaped area extending across the forehead and down from the forehead through the nose area to the mouth area down to the chin.
58. She was asked further about the back injury. She was clear she was not looking at fingertip marks of a child who had been grabbed, but was unable to draw any conclusions as to causation from the marks. Her view was that what was said by a child had to be taken seriously, and readily accepted that what the child had said formed part of the picture that she had to assess in reaching her medical conclusions.

Expert medical evidence

59. As I have indicated, expert instructions were sought from Dr Ahmad, a consultant paediatrician, and Dr Keenan, a consultant paediatric haematologist. Dr Ahmad was concerned by the volume of bruises evident on Charlie at the time of Dr Norton's examination. He too struggled to see how there could be an innocent or accidental explanation for the injuries near to Charlie's eye and for the injuries to Charlie's back. As far as the four back injuries were concerned, his opinion was that whilst a child might fall on, for example, a hard toy, sustaining an injury, or potentially two injuries at the same level, it was unlikely that a fall could produce four separate bruises. Nor could it be assumed that the four separate bruises had been caused in the same incident.
60. The effect of that evidence is to make it unlikely that Charlie was accurate in describing, if he did, a single punch to his back. Dr Ahmad was concerned about the injuries to Charlie's leg. Dr Norton thought them consistent with a boisterous child, although unusually placed in an area not of bony prominence. She was willing to accept that the injury itself did not necessarily connote anything untoward. Dr Ahmad accepted that such injuries could on the balance of probabilities be equally accidental as non-accidental.
61. The question then arises as to whether Charlie had a propensity to bruise. Is there some medical explanation as to why he had so many bruises and / or might provide an

explanation as to why he might bruise easily in circumstances that were entirely innocent but absent bruising easily might raise suspicions?

62. Dr Keenan was critical of the examination carried out of Charlie for not including a full range of tests of his blood. This is what led to a series of samples being taken from Charlie, and a range of tests being carried out. Initially there was concern that Charlie might have a mild form of Von Willebrand condition. That is a genetic condition, a lifelong condition, but which might explain him bruising more readily than someone without that condition.
63. Dr Keenan's view was that the final set of tests, the platelet aggregation studies, were definitive. These were normal. Whilst that testing does not definitely rule out mild Von Willebrand condition, Dr Keenan's view was that it was so unlikely that the clinical conclusion was that he does not have it.
64. Ms Wall and Ms Probert have contended that in the absence of genetic testing to rule out the possibility of Von Willebrand condition, I should reject Dr Keenan's evidence, and conclude that I cannot rule it out as a potential explanation for Charlie's bruising.
65. The counter argument is that there has in fact been no subsequent bruising to Charlie that cannot be explained away by his boisterous and energetic nature.
66. Could there have been a temporary condition that might have been relevant in July 2019 but from which he subsequently recovered? The only explanation Dr Keenan could give that might fit with that analysis is the effect of a particular epilepsy drug which Charlie was not taking.
67. Dr Keenan's conclusion was that there was nothing in the evidence from the testing or otherwise that could lead to the conclusion that Charlie was more susceptible to bruising than any other child. He also made the point that "easy bruising" means different things to different people. Some individuals bruise more than others, but for no medical reason.

What else might have happened?

68. What other factors are relevant here? First, Charlie's bed was the suggestion made by his mother that might explain the injury to his eye. I was told, and indeed shown a photograph to confirm this, that his bed had broken. Over the weekend in question he had been sleeping on the floor on his mattress with his broken bed pushed up against a wall. The possibility was raised that he had been playing with his broken bed, and had accidentally poked himself in the eye, or had a piece of the broken bed still attached to its webbing swing back and hit him in the eye; and that knowing he should not have been playing with the broken bed, and in order to deflect blame from himself, he blamed Luke.
69. It was said by Luke that Charlie had a habit of getting up in the night, and that it was not unknown for him to go down into the kitchen, and to help himself to food, Charlie being a child with a very healthy appetite. It was said that he could have banged himself, and not reacted as an injured child normally would by crying, because he knew he should not have been downstairs.

70. What was missing from the accounts of mother and Luke was any incident of Charlie crying that might be linked to him injuring himself. The only incident of crying mentioned was when he was awoken as his mother came through the door on her return from her hospital visit. I was told by Dr Ahmad that Charlie would have cried and been distressed when he was injured, both in the area of his eye and on his back, and of course the back injury may represent several separate injuries. Is it plausible that Charlie could have sustained those injuries accidentally or otherwise without reacting?
71. What else is there in the evidence to assist in identifying how Charlie has been injured? A factor that influenced the Children's Guardian was something said by AB, Charlie's grandfather. He was describing what it was he saw when Charlie attended at his shop on Monday, 15 July 2019 on his way to nursery. AB said, "I thought he had had a crack", in other words that he had been hit.

Police and social work investigation

72. What reliance can be placed on what Charlie said and described? First, there had been a previous occasion witnessed by his grandmother CD when he had hurt himself on a pool cue, and had blamed Luke for injuring him, when that simply had not happened.
73. It appears a decision was taken by the police not to carry out an Achieving Best Evidence interview of Charlie. The reasoning for that is unclear as there are not sufficient records, but it was known that at the time Charlie's speech was somewhat delayed. He was otherwise progressing normally consistent with his age. But AB described having to be familiar with Charlie to always know what he was saying, and it may well be that the decision not to carry out an Achieving Best Evidence interview was the correct one. But it means there was no investigation as to his understanding of the difference between truth and lies, no investigation of his understanding of what a hit was, what a punch might be, and to investigate with him the circumstances in which he says he was injured, such as where it took place, when, who was present, what happened afterwards, all matters likely to be raised in a properly conducted ABE interview.
74. There was an interview set up with a police officer and Lauren Bates, who was the key social worker in July 2019. It is clear there was no adequate preparation for that meeting, and it elicited nothing helpful to my considerations. Lauren Bates was challenged on her failure to ensure that photographs were taken, her failure to follow up on the question of an ABE interview, and her failure to examine the broken bed when that was being proffered as a potential explanation by Charlie's mother.
75. It is clear from her evidence that she worked on the basis that the police and social services were carrying out a joint investigation, taking the lead in different areas so that it was the police who were the decision makers in relation to an ABE interview, and it was the police who were examining the broken bed. She ultimately accepted it would have been desirable and good social work practice for her to carry out her own investigation of the bed but as far as the ABE interview was concerned she had no training in ABE interviews, and so any interview would have had to have been conducted by the police.

76. She was also challenged on the basis that she did not approach the investigation of Charlie's injuries with an open mind. She accepted it was her role to collect evidence, and her view was that what Charlie had said, and I note she described it as a "disclosure" in her evidence until corrected, had to be investigated jointly with the police. She accepted that her notetaking at the time of her initial investigation was inadequate. She had failed to record the questions asked as well as the answers given so that the full context of what might be said by a child could be known. Miss Bates left the Local Authority on 8 August 2019 when the case transferred to another social worker.
77. What other evidence is there that is relevant to how Charlie got his bruising? In setting out the narrative I have recorded that mother left the children alone with Luke for some three hours whilst she visited hospital. That fact was not disclosed by mother or Luke in the initial investigation. Why would they want that piece of information not to be known? Could it be they had forgotten? That is unlikely. More likely is that Luke had little or no experience of looking after the children for any length of time. That would explain why mother had the children in bed before she departed. He described to the police playing on his Xbox throughout the time he was looking after the children. CD was of the view that he did nothing to help with the children. AB knew from his interactions with the family that that was the case.
78. The next social worker to get involved was Katheryn Holt. I may need to consider her work with the family in a little more detail in due course. She was questioned about her failure to review the state of the evidence when she took over from Lauren Bates, and her failure to identify the gaps in the evidence that existed, such as the absence of an ABE interview, and to establish for herself why that was. She accepted that she had assumed that everything that should have been done to investigate matters at the time had been done, and did not revisit the initial investigation.
79. There had been no handover when Miss Bates left her employment with the Local Authority, and the evidence of both Miss Holt and Miss Bates was somewhat handicapped by the absence of the full file of Local Authority documents being made available when they gave their evidence.
80. Miss Holt had also subsequently left the employ of the Local Authority, and that meant that neither she nor Miss Bates was able to interrogate the system that contained their records, and at several points in both of their evidence they referred to documents that they remembered creating, which were not within the papers.
81. As I said when I reminded myself of the law, it is important to put all of the evidence in the context of all the other evidence, and that my assessment of the parents is critical. How does the fact that the investigation by the police and by the social workers in the initial phases was less than optimal affect my assessment of that evidence? The question of defects in an ABE interview were considered by the Court of Appeal in the case of *Re B* [2006] EWCA Civ 775 where Hughes LJ said this:
- "[40] There was no question of this evidence being inadmissible for failure to comply with the ABE guidelines, and that has not been suggested in argument for either parent. In a family case evidence of this kind falls to be assessed, however unsatisfactory its origin. To hold otherwise would be to invest the guidelines with the status of the law of evidence and it would invite that

question: Which failures have the consequence of inadmissibility? Clearly some failures to follow the guidelines will reduce but by no means eliminate the value of the evidence. Some may be purely technical and have no impact at all on value. Others may reduce the value almost to vanishing point.

[41] The question for us in this case is whether the judge was compelled to the conclusion that he must disregard this evidence altogether. Mr Anelay submits that the failures here were so wholesale that that must be the consequence, on the basis that otherwise there is no point in having the guidelines.

[42] With that submission I do not agree. The purpose of the guidelines is not disciplinary; it is to present the court and for that matter the parents with the most reliable evidence which can be obtained. In every case the judge cannot avoid the task of weighing up the evidence, warts and all, and deciding whether or not it has any value or none. Everything will depend on the facts of the case. The exercise has perhaps something in common with the one which judges are used to carrying out when confronted with hearsay evidence, often in a family case third or fourth-hand hearsay.

[43] On the other hand, I agree with Mr Anelay that the fact that one is in a family case sailing under the comforting colours of child protection is not a reason to afford to unsatisfactory evidence a weight greater than it can properly bear. That is in nobody's interests, least of all the child's."

82. It is that final paragraph that most directly applies to the task I must carry out.
83. I must investigate an incident that occurred on 20 January 2020. By their own admission both mother and Luke had been drinking. That appears for mother to be a relatively rare occurrence; less so for Luke. They accept that they had an argument, they accept that Luke pushed mother by putting his hand on her shoulder, and that she left the house and went to a neighbour's. That description of the events of that night by mother and Luke is a gross misrepresentation of what happened.
84. Mother telephoned her father. His evidence was that she told him she had been battered. She rang him in the early hours of the morning. This incident occurred six months after the children had been removed from the care of mother and Luke, and at a time when mother was seeing very little of her father. They had hardly communicated since the children had left mother's care when she had decided not to go into a unit with the children but to return to live with Luke, and to let the children go into foster care. That decision of course had had the effect of separating the children from their grandparents. It is a decision mother tells me she now regrets. However, it forms part of the background. Upon receipt of a call from his daughter out of the blue in the early hours of the morning, AB left his home, and went to his daughter's home. She emerged out of the neighbour's house at the sound of his banging on the door.

85. He gave me an accurate description of what he saw. He had no reason to lie or distort his evidence. There was broken glass. A crate of beer bottles was at the bottom of the stairs, with the glass broken. Furniture was overturned. He found Luke in the house with blood dripping from his arm. He found a knife covered in blood. Luke had harmed himself with the knife. He told Luke to leave, and take his dog with him. There were dog faeces on the floor in the downstairs living room, together with a coffee table overturned. He went upstairs, to find that the couple had been living upstairs, with the bathroom filled with dirty pots. It was clear to him that his daughter was frightened at what had transpired.
86. He said that after Luke had left, his daughter was crying, and she told him what had happened. He said he rang CD, who came and collected mother. He accepted that he had not seen the incident itself, but that he saw the aftermath.
87. When CD gave evidence about this incident, she said that mother had a mark on her forehead, and had explained that Luke had thrown the crate of beer at her; and she said how later on Monday, following this incident, mother had said to CD that she had lied about the incident, and that it was she that had thrown the bottles. CD said there was a change of story, and CD was adamant that what mother was saying now about this incident was a lie as it did not sit with her recollection. She also said that mother covers for Luke.
88. The questions that arise as a result of this incident are several: Is it another example of Luke being aggressive when drunk? Is it an example of mother and Luke not telling the truth? Is it an example of mother covering for Luke when she knows he is in the wrong?
89. CD had strong words to say in criticism of her daughter. I must put that too in its proper context. Miss Culshaw, the Children's Guardian, described to me contact visits of mother to see Charlie and Cathryn, in the care of CD, and described them as looking after the children as if they were a team, each able to assist the other, anticipating when the other might need help, and so on. They clearly get on well.
90. What about AB and his relationship with mother? When she called him in the early hours of the morning seeking his help, he responded immediately, without hesitation. I have no doubt that if he received a call now seeking his help he would respond in exactly the same way. But he too is critical of his daughter, and is clear that she was not telling the truth. Their views of their daughter deserve careful consideration and carry significant weight.
91. Another factor I need to weigh in the balance, that I have already alluded to, was mother's decision not to oppose the children going into foster care at a time when she was offered the option of a placement together with her children in a unit where they could be together and could be assessed. She told me she regretted that decision, and made it based on the assumption that where it was proposed she went was going to be exactly the same as where she had been for a few days leading up to the court hearing, which she found uncomfortable, and she thought was unsafe for her on her own with three young children.
92. She asked no questions about what might be available where it was proposed she go and relied entirely on her own assumptions. That is her explanation, which I find both

odd and unconvincing. The Local Authority invite me to conclude that it is yet another example of mother putting her relationship with Luke ahead of the interests of her children.

93. What did I make of the relationship between mother and Luke? The Local Authority rely on the evidence of Katheryn Holt, who was the second key social worker. Her practices have been much criticised, and in some respects, she accepted that some of the work she had done was not entirely satisfactory. She relied on her experience rather than on methodical record keeping and reporting. Her involvement with the parents was clearly limited.
94. It was due to deficits in the work she had presented to the court that led to the appointment of an Independent Social Worker Kerry Byatt. There were no criticisms of the way in which Miss Byatt went about her work, and I have every confidence that I can rely on what Miss Byatt said to me.
95. Miss Byatt was adamant that she had approached the case with an open mind, and recognised that if she is instructed on a case then it usually indicates that there is a dispute between the Local Authority and the parents. Her conclusion was that the children would be at risk if returned to the mother and Luke, and she relied on her assessment of the parents as being in an enmeshed relationship whereby mother would not report problems, where mother did not see Luke's drinking as a difficulty.
96. Miss Byatt was concerned about the cumulative effect of incidents of Luke drinking to excess, in circumstances where he did not see it as a problem, and in turn mother did not see it as a problem. Of particular concern to Miss Byatt was mother's reaction on 15 July 2019 when Charlie told his grandfather that "Daddy did it". She immediately contradicted Charlie, and subsequently told the social worker that Charlie was a compulsive liar.
97. Were there grounds for mother saying that Charlie was a compulsive liar? I have mentioned the incident with the pool cue. The foster carers have recorded incidents of Charlie saying things that were not true. I heard from the male foster carer. What emerged from his evidence was the inadequacy of the record keeping resulting from the training that the couple had had as foster carers from Lancashire County Council, and the approval of their notetaking by Blackburn with Darwen Borough Council, when the notetaking was plainly inadequate to be of any use to anybody.
98. Again, there was no context, no background, no explanations of what was said before Charlie was said to have lied, nor of the exact words used. Note-taking was done most evenings but not every evening, and no notes made during the course of the day.
99. What impact on my assessment of the mother does her reaction to Charlie and her correction of him and subsequently describing him as a compulsive liar have on my assessment of her? It suggests she is not a supportive parent. It suggests that she is more willing to be critical of her child than to be open to the possibility that Luke might have done something wrong.

Submissions on behalf of mother

100. Ms Wall on behalf of mother invites me to conclude that the local authority has failed to make out their case that the injuries to Charlie were non-accidental in nature nor that they were caused by something done to him by Luke. She denies injuring Charlie to his thigh and I have accepted that the medical evidence does not support the local authority assertion.
101. More generally she submitted that the failings of the evidence gathering by the social workers and the failures in the way the case has been presented to the court, in particular, the failure to produce all the relevant documentation ahead of the final hearing mean that I cannot safely rely on that evidence nor assume that the parents have had a fair opportunity to answer the case brought against them.
102. She emphasises the absence of medical evidence that can age the injuries. She points to the failure to have genetic testing to rule out every possibility that might explain bruising. She points to the failure to undertake an ABE interview of Charlie nor to carry out with him an exercise to establish his understanding of what might have happened to him.
103. As far as the welfare stage of the exercise is concerned she submits that it would be a disproportionate outcome that resulted in the children not being rehabilitated to the care of their mother given appropriate time and support from the local authority.

Submissions on behalf of Luke

104. Ms Probert analysed the evidence in relation to the fact-finding exercise in detail as follows. She accepted on Luke's behalf that the threshold for the making of public law orders was crossed although took issue with paragraph 5 of the Threshold Findings in particular, submitting that there was no evidence that any event took place in front of the subject children and no evidence that he had harmed the children or placed them at risk of harm.
105. She said that whilst he acknowledged that he binge drinks and on some of those occasions he drinks excessively, she challenged the testing results about the full extent of his drinking. She accepted that there was a clear pattern of Luke's alcohol use which is drinking on occasions and when he does drink he can drink to excess.
106. She submitted that the local authority reliance on hearsay evidence in relation to two incidents said to support the allegation of him being violent when drunk meant I could give little weight to that evidence. An allegation of a violent assault on his uncle Peter was an incident said not to pose a threat to the child he thought was his son who was with him at the time. Luke had no recollection of the incident. The second incident was when the police called at mother's home where Luke was with the child he thought was his son. The police evidence was that he smelt of intoxicants not that he was intoxicated.
107. In relation to a third incident where it was said that Luke was violent to his mother and younger siblings when drunk, this relied on the evidence to the police of his mother who was herself an alcoholic and from whom there was no statement within these proceedings.

108. She contended for findings in the alternative, namely
- Luke drinks alcohol and his pattern of drinking can include binge drinking to an excessive level.
 - On two occasions, on 28 April 2017 and 31 January 2018, whilst under the influence of alcohol Luke has had altercations with family members.
 - On one occasion, on 9 February 2019, Luke became angry and shouted at police when they attended at his address unexpectedly at 04:33.

Conclusions on the Threshold and fact finding

109. What therefore do I conclude? I am satisfied that Charlie sustained injuries to his face and his back by being hit. The medical evidence supports that conclusion. Although on its own Charlie's description of what happened to him might not be adequate, when put in the context of the other evidence, it becomes compelling.
110. When did that happen? Most likely when Luke was in sole charge of the three children, and mother was at hospital with her grandfather. That would provide an explanation as to why Charlie was crying when his mother returned home. It was not her opening the door that caused him to cry, but his crying was the aftermath of being assaulted by Luke.
111. In my judgment it is a proper inference to draw that the reason why mother took Charlie to the bathroom, switched the lights on, and looked carefully at him, was because she could see his distress, and knew he was injured. The likelihood is that she knew then that he had injuries to his face. If she did not know then he had injuries to his face, she certainly knew the following morning.
112. The suggestion that Charlie injured himself, either on the bed or in some other way, might have provided an explanation if there were simply injuries to the area around his eye, but there was not. There were injuries to his back which were not there when he was bathed by his grandfather 24 hours earlier. Those injuries are consistent with him being hit. Charlie would only know to refer to injuries to his back if he had felt the pain of being hit.
113. Luke has a problem with alcohol. The testing that has been done of him has demonstrated that he is a binge drinker. By his own admission, when he has one bottle of beer, he cannot stop himself from consuming everything else he has bought. He buys his bottles of beer in crates of twelve.
114. Clearly, he does not become aggressive and violent every time he drinks to excess, but when he does become aggressive and violent having drunk to excess, he is plainly completely out of control. It appears from the history it is those he is closest to, such as family members and mother, who are most at risk.
115. His drinking and the fact that it causes him to lose control from time to time and become aggressive and violent has been a known problem since before he began his relationship with Charlie and Cathryn's mother. He said in his evidence to me that he now realised he had a problem, that the evidence in the case had opened his eyes. Miss Culshaw thought that was significant, and a step in the right direction. I beg to differ. I am not

persuaded that Luke has the remotest intention of changing his ways. Had he wished to do so, he would have done so at any stage during the last five years.

116. The evidence does not tell me whether on the occasion when Charlie was injured Luke was affected by drink. However, when I consider the incident in January 2020 there is no doubt that he was. He was violent to mother as she told her father when he responded to her desperate telephone call. He deliberately injured himself with a knife. Mother's description to her own mother of Luke throwing the case of beer bottles at her is likely to be true. Luke was clearly out of control.
117. I make the Findings contended for by the Local Authority except for (11), an allegation that has not been proved. (8) is on the basis that mother was in the house when Charlie was assaulted. He was certainly hit on several occasions to produce the bruises he had. The evidence does not allow me to decide she was present when he was hit but it does allow me to decide she knew immediately afterwards that he had been hit by Luke and injured and that she tried to cover up what had happened to him. Miss Probert was correct to point out in relation to (5) that there was no evidence Luke had been violent and aggressive when intoxicated in front of the subject children – that finding should be limited to "Luke drinks alcohol to excess and can be violent and aggressive when intoxicated."

The Welfare Stage

118. Next, I must move on to consider what the future holds for the three children with whom I am concerned. I must consider what, if any, statutory orders are needed for the children, starting with the presumption that I must make the least interventionist order consistent with their welfare needs. Any decision about an order regulating the life of a child requires me to put that child's welfare as my paramount consideration. I must consider the welfare checklist under the Children Act. I must give separate consideration to the welfare of each child although their relationship with each other is an important aspect of their welfare. Any interference with the family life of the children whether as a sibling group or with their parents and their parents with them must be both necessary and proportionate to the problems that have led to that interference.
119. In this case, as I have already noted, there is unanimity of professional opinion that the children cannot be returned to the care of their mother and Luke. Mother has maintained her relationship with Luke throughout these proceedings and, in the opinion of Miss Byatt and Miss Culshaw, has prioritised that relationship ahead of her children. I agree. The question is whether the children can be returned to their mother's care safely on the basis that she separates from Luke, and parents the children alone.
120. Miss Culshaw was clear that mother and Luke love one another. They have a relationship of co-dependency. They each look to the other for support. They are each prepared to lie as a way of supporting the other. Mother has been prepared to condone Luke's drinking, and has given him no effective encouragement to try to cut down. She has tolerated his behaviour, for example absenting himself when her mother visited, and doing all the work around the home and for the children, as described to her father. It was suggested to me in evidence that it is as if she needs somebody to look after.

121. There would need to be a significant period of time during which she could demonstrate she had effectively separated from Luke before any return of the children could be contemplated.
122. Miss Byatt was also concerned about any future relationship mother entered into. She has had two significant relationships, firstly with Charlie and Cathryn's father, who was entirely unsuited to be a parent; secondly with Luke, who has shown that he is entirely unsuited to be a parent. There can be no confidence that she can make better choices in the future. If it is right that she needs to have someone to care for, the likelihood is she will choose unwisely for any future partner.
123. Have the professionals in their unanimous view got it wrong? I do not think so. In my judgment there is no prospect in the foreseeable future of these children being rehabilitated with their mother. They are fortunate in that they have placements within their family available to them. On the downside of that conclusion is the likelihood that they will remain in two households, Charlie and Cathryn together, Rebekah separate. That I am afraid reflects the fact that no outcome for these children is ideal, but in my judgment the care that they are getting from their relatives, which is exemplary, and the ability of the adults to arrange time for the children together, and with their mother, mitigates as best as can be the disadvantages of the children being separated.
124. I have no reason to think despite my criticisms of the mother in this judgment, and CD's criticisms of her daughter in evidence, that the good working relationship between mother and CD and her aunt, looking after Rebekah, will not continue in the future. The mother knows that her children are well looked after. That will give her a powerful incentive to cooperate, and to play the important part in the lives of her children that they need her to play. They will require proper explanations as to why they are not being brought up by their mother and their fathers. I am satisfied that that will happen.
125. The children clearly have an established family life with their mother and Luke. The overwhelming evidence leads me to conclude that interference with that relationship is necessary for the children's welfare. What though is the proportionate interference? A child arrangements order providing that the children live with their current carers would give those carers parental responsibility so that they would share parental responsibility with mother and in Rebekah's case with Luke as well. Those with parental responsibility would be required to make joint decisions about the children. I see that as problematic in the circumstances I have set out above where mother and Luke have demonstrated that they cannot be trusted to make decisions in the best interests of the children but have put their own relationship first.
126. To ensure that the best decisions are made for the children in the future I agree that Special Guardianship orders are required, giving enhanced parental responsibility to those caring for the children to decide questions of education and health treatment and so on. I have no doubt that the mother will be fully involved in that decision making. The relationship between Rebekah's Special Guardian and Luke will require some work to build trust and to allow him to be fully involved. Rebekah is entitled to have her father involved in decisions about her life and of course he retains parental responsibility. She is entitled to have a relationship with him through family time. Rebekah's Special Guardian will ultimately have to decide what is best for her and how

that will work. From what I have read I have every confidence she will be able to exercise that responsibility properly.

127. Given how things have evolved over the course of these proceedings there is no other realistic outcome for the children. I am clear that such orders are in each of their best interests.
128. I am not satisfied that all the evidence is in place for me to make those orders now. The proposed Special Guardians should have legal advice on the proposed orders and on the Special Guardianship Support Plan and the issue of Luke's family time with Rebekah requires further consideration. I will list the case for a short hearing to deal with these matters and anything else that arises out of this judgment.

Post Script

129. I have set out in this judgment how deficits in the social work investigation and in the presentation of the case to the court have made the task of all involved much more difficult than it should have been. The Children's Guardian has said she will raise this through channels open to her. I direct that a copy of this judgment is sent to Denise Park, Chief Executive of Blackburn with Darwen Borough Council and Jayne Ivory, Director of Children's Services and Education and I invite them to respond to me and explain how the difficulties I have identified can be avoided in the future and how they propose to assess whether other cases brought to the court have had some of the same or similar difficulties where the process may not have identified what information may not have been before the court when it should have been.

(This Judgment has been approved by the Judge.)