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Case No: BH23C50001

IN THE BOURNEMOUTH AND POOLE FAMILY COURT

Deansleigh Road
Bournemouth
Dorset
BH7
7DS

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Before:

RECORDER HOWARD

-

Between:

BOURNEMOUTH CHRISTCHURCH & POOLE COUNCIL

Applicant

- and

- M

Respondents

F1

F2

**X & Y (BY THEIR GUARDIAN)
W (A COMPETENT CHILD)**

MS. KELLIE SALTER (instructed by **BCP Council Legal Services**) appeared for the **Applicant** **MS. GEMMA CHAPMAN** (instructed by **Preston Redman Solicitors**) appeared for **M**

MR. DAVID BEATSON (instructed by **Laceys Solicitors**) appeared for **F1** **MS. HAYLEY MANSER** (instructed by **Battens Solicitors**) appeared for **F2**

MS. ELIZABETH PRITCHARD (of the **Child Law Partnership**) appeared for the

Guardian ad Litem

MR. ADAM LANGRISH (instructed by **Larcomes Legal Limited**) appeared for **W**

Approved Judgment

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RECORDER HOWARD:

THE PARTIES

1. I am dealing today with a final hearing in an application made by BCP Council on 3rd January 2023 for supervision orders in respect of four children. This final hearing commenced on 17th July 2023 and was due to be heard over three days. This case now concerns three children: W, born on 20th May 2010, aged 13; X, born on 8th August 2021, aged two; and Y, born on 4th July 2022, aged one. Their mother is M. W's father is F1. X and Y's father is F2. I am told that both fathers have parental responsibility for their children. W is a competent child who is represented separately from her Children's Guardian and the Children's Guardian is Joanna Macaulay. The case previously also involved the children's half sibling, Z. A final order was made in respect of Z on 26th May 2023 when she was ordered to live with her father and she and he were discharged as parties to the proceedings.
2. The parties were represented at this hearing as follows: Ms. Salter appeared for the Local Authority; Ms. Chapman appeared for M; Mr. Beatson appeared for F1; Ms. Manser appeared for F2; Ms. Pritchard appeared for the Guardian; and Mr. Langrish appeared for W. I am grateful to all of the advocates for the work that they have put into this case and am particularly grateful to Ms. Salter who has discharged her difficult task in this case with skill and ability.

BACKGROUND

3. The history of this matter can be stated shortly for the purposes of this judgment. M has been known to the Local Authority since 2010 due to concerns about neglect, substance misuse, domestic abuse, mental health issues and the impact of that combination of issues on her ability to give her children good enough care. The children have been subject to a number of child protection plans but, according to the Local Authority, changes that were made had not been sustained despite the mother's engagement with those child protection plans.
4. On 6th November 2022 an incident occurred between M and F2 in which it is alleged that she threw a hammer at him. The police were called and M was arrested. The police reported M to be intoxicated on that occasion. W and Z went to live with their fathers after this incident. The Local Authority say that their fathers took protective action at that stage but raised concerns about whether they had been too slow to do so. On 9th November 2022 M took X and Y to a maternal aunt's address and they stayed there with her and that other family until 18th November 2022 when M moved to the maternal grandmother's address with X and Y.
5. M makes a considerable number of concessions in her statements in these proceedings recognising that she had misused cocaine, cannabis and alcohol and accepting that X had cocaine in his system at birth. She also accepts using cannabis during her pregnancy with Y. The Local Authority say that M also tested positive for cocaine use whilst pregnant with Y. M accepted that she had exposed the children to domestic abuse and had said unkind things to X. M accepted there were limited socialisation opportunities for X and that on an occasion the family was without gas and electricity. She denied being a perpetrator of domestic abuse.

6. By the time the proceedings had commenced M had separated from F2. W and Z had raised concerns about him during the time he lived in the family home with Z saying F2 was mean to everybody. F2 accepted at the hearing on 16th January 2023 that he uses alcohol daily and occasionally used cocaine.
7. F1 cared for W until 20th December 2022 when she returned to M's care apparently against F1's wishes. No allegations are made by the Local Authority against him in respect of his care of W save for questioning whether he had been sufficiently protective of her.
8. As I said above, the Local Authority issued their application on 3rd January 2023. They did not seek to remove the children from the care of any of the parents and sought interim supervision orders which were ultimately granted. During the proceedings M and F2 did not engage properly with the Parental Substance Misuse Court into which this case had been placed and they were discharged from that provision.
9. By 16th May 2023 the Local Authority were seeking care orders in respect of X and Y with a care plan for adoption. They had not, and never did, issue an application for a placement order in respect of either child. In respect of W, the Local Authority sought for her to live with F1 and for a six-month supervision order to be granted. W went to live with F1 pursuant to an interim Child Arrangements Order granted on 26th May 2020 by His Honour Judge Williams. Sadly, W started to self harm and the family were left with no support from the Local Authority to manage those behaviours. F1, understandably, felt between a rock and a hard place enforcing the Local Authority's care plan without any support from them against a teenager who strongly objected to it.

THE APPLICATIONS

10. The Local Authority applied for supervision orders on 3rd January 2023. During the first day of this hearing the Local Authority sought permission to withdraw their application.

THE POSITION OF THE PARTIES

11. The parties' positions at the start of this hearing were as follows:
 - (1) By application dated 4th July 2023 the Guardian had sought an adjournment for further assessment of M and F2. That application noted that a new social worker had been appointed by the Local Authority for the children who, by that date, had not met the mother or the children according to the Guardian. It was asserted the previous social worker did not keep the Guardian up to date and the Guardian did not know what professional oversight there had been to inform the Local Authority's evidence or care plans.
 - (2) The Local Authority supported adjournment. I will consider the position and actions of the Local Authority below.
 - (3) The parents and W raised their significant concerns about the actions of the Local Authority.

12. I gave the parties time on the first day of this hearing to consider their positions and for the Local Authority to give instructions to Ms. Salter who was in an invidious position, as she informed the court, of having no witnesses whom she was able to call in support of the Local Authority's case. I had not granted the application to adjourn the proceedings having not determined it when I was informed by the Local Authority that their position had changed, in that they wished to have permission to withdraw their application. Further time was given for the parties to consider where that left the children.
13. By the end of the first day, the position of the parties had become as follows: (1) The Local Authority sought permission to withdraw its application; (2) the parents had reached agreement between them for the care arrangements of their children and those arrangements were supported by the Local Authority and the Guardian.
14. In respect of other issues raised during this hearing the position of the parties were:
 - (1) The Local Authority opposed a copy of this judgment being disclosed to Ofsted, instead preferring to use their internal processes to decide what information is shared with Ofsted. I was not provided with a copy of that process.
 - (2) All respondents seek an order for a copy of this judgment to be disclosed to Ofsted.
 - (3) Nobody, save for F2, sought for any Local Authority professional involved with the family to be named by me in this judgment.

SHOULD I NAME PROFESSIONALS INVOLVED WITH THE FAMILY IN THIS JUDGMENT

15. I have given this issue anxious consideration. I have not heard oral evidence from any of the persons concerned having dealt with this matter on the basis of submissions from the parties. None of the individuals against whom adverse findings might be made have had advance notice that they might be named in this judgment. Consequently, despite the entreaties on behalf of F2, I will not identify any social work individual in this judgment against whom criticism is made. I will deal, first, in this judgment with the issues caused by the Local Authority in this case.

THE ACTIONS OF THE LOCAL AUTHORITY

The bundle

16. I was not provided with an up-to-date and functioning electronic bundle for this hearing until I was told, after 10.00 a.m. on the first day of this hearing, that a new version had been uploaded to the bundle sharing system used by BCP Council. The time for delivery of bundles is governed by paragraph 6 of Practice Direction 27A of the Family Procedure Rules 2010. That requires: a paginated index to be sent to all parties not less than four working days in advance of the hearing; for bundles to be sent to counsel not less than three working days before the hearing; and for bundles to be lodged at court by not less than two working days before the hearing unless the court has otherwise specified a time. None of that happened in this case.

17. What did happen was that the Local Authority did not provide me with access to the bundle until Sunday morning. They did not upload it to the Family Public Law portal at any time. I alerted counsel in this case by email on Sunday that the bundle that had been provided did not contain the evidence and contained documents that were illegible. I indicated in that email that I did not expect any response or any person to be working over the weekend on this case. Nevertheless, I am told that Ms. Andrews, a paralegal at BCP Council, has in fact been working diligently over the weekend and from the early hours of Monday morning to try and arrange a bundle for the court. I am most grateful to her. I note in passing that no witness bundle was provided by the Local Authority. That would have caused significant problems were evidence to have been heard. I do not know why the Local Authority did not provide a witness bundle for a hearing that was due to take three days and be fully contested. The Local Authority also failed to produce a witness template.
18. When enquiring of the Local Authority about this failure to comply with the rules, I was told that their IT Department had been working since Monday 10th July 2023 to help the solicitors at the Local Authority resolve problems with a corrupted version of the bundle. That IT team, I am told, spent days trying to fix the issue before telling the solicitors on Friday, 14th July 2023 to rebuild the bundle. That is after the time for lodging the bundle had passed. No communications were sent to the court by the Local Authority to alert the court to the problem. The person tasked with rebuilding left on Friday lunchtime, I am told, to go on leave and without having completed the task. That left Ms. Andrews to sort it all out. She, as I have mentioned, diligently worked through the weekend to try and produce a bundle for the court.
19. Whilst I am sympathetic to the Local Authority for their technological problems, it is not acceptable for an applicant in care proceedings to fail to comply with the rules on bundle delivery and to fail to inform the court in advance of the deadline for compliance that there were problems preventing them from complying with those rules.

The social worker

20. The Local Authority position at this hearing, as expressed through their counsel, was that the previous parenting assessment is defective and the Local Authority queried whether the court could rely on the evidence from the previous social worker. I was informed in the hearing that the social worker who attended court and who, as I have previously said, I shall not identify in this judgment, had been allocated to this case on 3rd July 2023. Whilst I did not hear evidence from the social worker or her team manager, the information with which I was provided on behalf of the Local Authority was that this new social worker was allocated to the case after there were performance difficulties with the previous social worker who no longer works for the Local Authority. That, I was told, had led to drift in cases like this one not being prioritised.
21. The social worker who attended court did not know this case. She had to get in telephone communication with people at the Local Authority who did. She was unable to access Wi-Fi at court to provide information and instructions to her counsel. The social worker's team manager was unavoidably unable to attend the morning of the first day of this hearing having found out on Friday, 14th July 2023 of a medical appointment which she had to attend. The Local Authority chose not to send any person with knowledge of this case in her place to court. The social worker did not even know when the next Child Protection Conference Review was due to take place until she became

aware of that after lunchtime on the first day of this hearing. That speaks to the lack of knowledge that this social worker had about these children and these proceedings.

22. I was told that the social worker, with her manager's approval, chose to prioritise other cases over the social work required in this case. I struggle to understand how the Local Authority could reach a reasonable conclusion that a case of this nature, in respect of which their position was that the previous work undertaken by social workers was defective and with a final hearing looming, was not a priority. I go no further than that having heard no evidence on the issue but do express my concern at the decision-making leading to that conclusion.
23. I wanted to understand what visits this social workers had undertaken since they were allocated. There had been no social work undertaken with the mother or the children living with her. The social worker had visited the mother once last week. That was the first visit she had with the current social worker. The social worker had cancelled their visits with the two fathers in this case which were due to occur last Thursday. I was told she cancelled those visits because her laptop was broken. Why a broken laptop would prevent a social worker undertaking a visit, particularly when cancelling the visit would mean she had not met two of the three parents in this case before the final hearing commencing, is something I simply do not understand. Having heard no evidence about it, I go no further than to express that lack of understanding and my concern at that decision-making.

Previous social workers

24. I tried to understand from the papers the extent of the Local Authority's engagement with the family. That proved difficult. I was assisted by a list of visits prepared by the Local Authority since January 2023 as follows: 10th January 2023, a visit to see W at the maternal grandmother's home by RG, a social worker in the Children and Families Team 4; 11th January 2023, a visit to see Z by RG; 31st January 2023, a visit to see W, X and Y. I am told the mother and children were not available. That was a visit by a different social worker, WB, who was in the PLO and Court Team; 24th March 2023, a joint visit by WB and a different social worker, SM, who I am told is an assessing social worker. That visit was to see W, X and Y; 12th April 2023, WB visited W, X and Y; 1st June 2023, WB visited X and Y; 9th June 2023, WB visited W; 7th July 2023 the current social worker visited X and Y.
25. On any reading, those limited number of visits are inadequate in number when a Local Authority says that children living at home should be made subject to care and placement orders. They speak of either a lack of interest in offering social work and support to the family or a lack of concern about what was happening on the ground in the lives of the children. By that I mean that the Local Authority may have reached the conclusion that things were sufficiently good on the ground that they simply did not need to visit. That, however, would be at odds with their asserted care plan in May that they wanted these children adopted.
26. During the course of submissions I was told on behalf of the Local Authority that the Line Manager had not flagged the issues in this case during supervision sessions because they were lied to about the progress of the case, presumably by somebody in the Local Authority, again, presumably by either the previously allocated social worker or somebody else working in the Social Work Department. I did not enquire who had

lied to the Team Manager. That is a matter for the Local Authority to deal with. The Guardian, however, is surprised that the issues were not apparent to the Line Manager because the Line Manager was, according to the Guardian, copied in on emails that the Guardian sent to the Local Authority during these proceedings raising concerns about this case.

Failure to bring witnesses to court

27. The Local Authority had failed to arrange any witnesses to attend court for the first day of trial who could speak to the evidence in the case. The current social worker had filed no evidence at all and, unless I had given them permission pursuant to Rule 22.10 of the Family Procedure Rules 2010, that social worker could not have given oral evidence. The Local Authority had not arranged for the previous social worker to attend to give evidence on the first day of the hearing having said that social worker was only available to attend on Day 2. The Parenting Assessor was not at court. The Local Authority had no explanation for where the Parenting Assessor was.

Failure to comply with directions

28. By order of 26th May 2023 His Honour Judge Williams had directed the Local Authority to do the following: (1) To file and serve an updated parenting assessment on F2 by 4.00 p.m. on 28th June 2023 which had to consider whether he could provide sole care for the children and what support he could give to the mother; (2) To file and serve its updated final evidence and care plans by 4.00 p.m. on 5th July 2023; and (3) To file and serve an updated assessment of an alternative carer by 4.00 p.m. on 30th June 2023. There was a previous outstanding direction for the Local Authority to file and serve information about M's housing situation.
29. The parenting assessment of F2 was filed and served but was said by all parties not to consider the issue of co-parenting. The Local Authority did not comply with the remaining directions which I have set out above and did not make any application until the oral application intended to be made at this hearing, and prefaced in their case summary, for relief from sanctions.
30. In *Re W (A Child: Adoption Order, Leave to Oppose)* [2013] EWCA Civ 1177 reported at [2014] 1 FLR 1266 the then President at paragraphs 51 and 53 dealt with failure to comply with orders saying:

“51. I refer to the slapdash, lackadaisical and on occasions almost contumelious attitude which still far too frequently characterises the response to orders made by family courts. There is simply no excuse for this. Orders, including interlocutory orders, must be obeyed and complied with **to the letter** and **on time**. Too often they are not. They are not preferences, requests or mere indications; they are orders: see *Re W (A Child)* [2013] EWCA Civ 1227, para 74.”

31. Paragraph 53:

“Let me spell it out. An order that something is to be done by 4 pm on Friday, is an order to do that thing by 4 pm on Friday, not

by 4.21 pm on Friday let alone by 3.01 pm the following Monday or sometime later the following week. A person who finds himself unable to comply timeously with his obligations under an order should apply for an extension of time **before the time for compliance has expired**. It is simply not acceptable to put forward as an explanation for non-compliance with an order the burden of other work. If the time allowed for compliance with an order turns out to be inadequate the remedy is either to apply to the court for an extension of time or to pass the task to someone else who has available the time in which to do it.”

32. As Keehan J helpfully summarised in *Re HU and SU* [2015] EWFC 18 at paragraph 48:

“It must now be clear and plain to any competent family practitioners that:

- (i) court orders must be obeyed;
- (ii) a timetable or deadline set by the court cannot be amended by agreement between the parties; it must be sanctioned by the court; and
- (iii) any application to extend the time for compliance must be made before the time for compliance has expired.”

33. I tried to understand during submissions why the Local Authority had not only failed to comply with the directions of the court but had also failed to make any applications for extensions of time before the time for compliance had expired. I was told through their counsel that the Local Authority “have no reason for the non-compliance”. That is simply unacceptable. It is unacceptable for the Local Authority to approach this case in such a “slapdash, lackadaisical” manner which had no regard to the orders of the court or for the Local Authority’s obvious failings in case preparation.
34. I have reminded myself that this is not the first time that this Local Authority has been told of the need to comply with orders of this court. In *BCP v M (Failure to Comply with Direction, Family Placement)* [2021] EWFC B26 His Honour Judge Simmonds had cause to raise the very same issues with this Local Authority and to find their conduct unacceptable.
35. I require a copy of this judgment to be transcribed at the expense of the Local Authority and sent to their Head of Service for the Children's Services Department. I hope that the Local Authority may reflect on their conduct and remedy matters in other cases.
36. I have given anxious consideration to whether I should direct a copy of this judgment also be sent by the Local Authority to Ofsted. I do not accept the submission on behalf of the Local Authority that their internal procedure, whatever that may be, should be used to decide what is shared with Ofsted. I am reinforced in that view by being told that Ofsted are currently undertaking a narrowed inspection on a closed group of cases and I am concerned to ensure that the focus of their investigations or inspections include knowledge of the very significant Local Authority failings in this case. It may be that

this case is indicative of systemic issues at the Local Authority or it may simply be an outlier. That is not a matter for me to determine.

37. This is a Local Authority that was rated “inadequate” in December 2021 and is subject to regular monitoring visits, the most recent being 21st and 22nd March 2023 according to the monitoring letter posted on the Ofsted website dated 9th May 2023.
38. Having reviewed what has happened in this case against the letter of 9th May 2023, I have reached the conclusion, given the significant failings in this case, that it is necessary and proportionate for a copy of this judgment to be sent in anonymised form to Ofsted so that the statutory agency can properly exercise their functions.
39. I order that a copy of this judgment, anonymised so as not to identify the parents or the children must be sent by the Local Authority to Ofsted within seven days of receipt of the same from the court.
40. Having dealt with the Local Authority failings in this case, I move on to consider what orders, if any, to make in respect of the children.

THE LAW

41. I have dealt above with the law in summary on compliance with directions. The welfare of each child is my paramount consideration. I must only make orders about the children if to do so would be better for them than making no order at all. I must remember that delay in resolving proceedings about the children is usually not in their best interests. In respect of the Local Authority's application to withdraw their application for a supervision order, they may only do so if I give permission pursuant to Family Procedure Rules 2010, Rule 29.4. Because all the parties were present, the Local Authority are permitted under the Rules to make an oral application at this hearing. When considering the application to withdraw, the welfare of the children is my paramount consideration and I must consider whether there is some solid advantage to the child to be derived from continuing the proceedings.
42. In this case I remind myself of the wise and powerful words of Hedley J in *Re L (Care Threshold Criteria)* [2007] 1 FLR 2050 at paragraph 50:

“... 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.”
43. That approach was endorsed by the Supreme Court in *Re B (a Child)* [2013] UKSC 33 where Lord Wilson of Culworth said at paragraph 28:

“... [counsel] seeks to develop Hedley J's point. He submits that:

‘Many parents are hypochondriacs, many parents are criminals or benefit cheats, many parents discriminate against ethnic or sexual minorities, many parents support vile political parties or belong to unusual or militant religions. All of these follies are visited upon their children, who may well adopt or “model” them in their own lives but those children could not be removed for those reasons.’

I agree with [counsel's] submission ...”

44. The other is the observation of Baroness Hale of Richmond at paragraph 143:

“... We are all frail human beings, with our fair share of unattractive character traits, which sometimes manifest themselves in bad behaviours which may be copied by our children. But the State does not and cannot take away the children of all the people who commit crimes, who abuse alcohol or drugs, who suffer from physical or mental illnesses or disabilities, or who espouse anti-social political or religious beliefs.”

45. There is a presumption that unless the contrary is shown, the involvement of each parent in each child's life will further the child's welfare. That presumption can be rebutted by evidence that shows the contrary to be the case. I make it clear that this does not mean there is a presumption that relates to any particular division of each child's time and that involvement means involvement of some kind either direct or indirect. I must have regard, in particular, to the welfare checklist set out in section 1(3) of the Children Act 1989 and I will consider the welfare checklist later in this judgment. I must also have regard to the Article 6 rights of the parties, and the Article 8 rights of the parents and the children.

THRESHOLD

46. Given the Local Authority's position I do not need to consider whether threshold is crossed because no party is seeking a care order or supervision order. In this matter I am now faced with a Local Authority who seeks to withdraw their applications and parents who have managed to reach agreement between themselves which the Local Authority and the Guardian support as being safe and in the children's best interests. The parents propose a series of Child Arrangements Orders to manage where the children live and the time they spend with their other parent. Those orders are by consent save in respect of W who does not oppose the order in respect of her being made.

WELFARE CHECKLIST

The ascertainable wishes and feelings of the children concerned

47. It is common ground that W wants to live with M and stay overnight with her. She wants to live with X and Y. W has filed evidence in which she says she found the move to live with her father extremely difficult and feels that it has damaged her relationship with him. She wants to live with her mother but understands that until housing issues

are resolved that is not possible. W has had the proposed arrangements for her explained to her and is not against them. Despite it not being possible to directly ascertain their wishes, what I am told of their interactions with their parents supports the conclusion that X and Y would wish to remain in the care of their mother and continue seeing their father.

Their emotional physical and educational needs

48. W's school attendance is poor being 77.9%. She needs support in attending school more regularly. To date that support from the Local Authority has been missing as can be seen from the lack of engagement by social workers with her. W has an emotional need to feel safe in her home and at 13 years old an emotional need to have her wishes and feelings about where she lives taken into account. In this case I am told that there are no safety or safeguarding reasons that her wishes and feelings should not carry significant weight. X and Y have no particular needs in this category different to other children in their circumstances.

The likely effect of any change in their circumstances

49. Under the proposals advanced by the parents and supported by the Local Authority and Guardian, the circumstances of X and Y will not change. They will continue to live with their mother and have regular contact in a safe manner with their father. The circumstances for W will, I am told, change in a positive manner in that she will return to live with her mother which is in line with her wishes and supported by her parents. That will not happen now because of the housing issues, but the order that is proposed by her parents sets out how she spends significant amounts of time with her mother. W will also return to live with her siblings in due course which is something she dearly wants. In the meantime, she will be spending extended periods of time with them.

Their age, sex and other characteristics that are relevant

50. W's age and the fact that she is a child who is considered competent to directly instruct her own solicitor are important characteristics to consider about her. W is a vulnerable child due to her life experiences to date. X and Y are particularly vulnerable children due to their age and due to their life experiences to date.

Any harm the children have suffered or been at risk of suffering

51. The children have lived in a home in which they have been exposed to domestic abuse. The parents cannot agree who perpetrated the domestic abuse but for the purposes of this judgment and this factor, the important point is that the children have seen things happening between adults in their home that they should not have been exposed to. X and Y also live in a home with a mother who, as of May 2023, continued to use alcohol to excess and tested positive for cocaine use. Against that, and importantly, the social worker now allocated to the children confirmed to all parties at an Advocates Meeting prior to this hearing that they had no concerns about the care of X and Y provided to those children by M. It was shared that the Health Visitor for those children also had no concerns.
52. When I have considered this factor I have reflected on the need to tolerate diverse standards of parenting and that whilst M has these difficulties the reports from the social

worker, with her limited knowledge, and perhaps more importantly in this case, from the Health Visitor, is that the children are thriving in her care.

How capable are each of the parents of meeting their needs

53. The mother's parenting assessment was negative due to her substance misuse and relationship difficulties. The Local Authority, however, do not rely on that assessment having told me it is defective. I consequently do not place any weight on it and no party invites me to do so. The information that I have, as set out above, is that X and Y are doing well in M's care and the Health Visitor has no concerns. In light of that information I am satisfied that M is capable of meeting their needs, if necessary with support from the Local Authority. The Local Authority propose that support will be provided under a Child in Need Plan rather than a Child Protection Plan which indicates to me the level of risk they consider exists in the family is at a relatively low level; sufficient for intervention but not sufficient for the children to need to be subject to Child Protection Plans.
54. F1 is, on all of the evidence before me, entirely capable of meeting W's needs and F2 is, I am told in the evidence, capable of meeting his children's needs during periods of contact. He has had a parenting assessment that, whilst overall negative for being the sole carer for the children, identified areas of positive parenting where good parenting was observed.

The range of powers available to the court

55. I could allow or refuse the Local Authority's application to withdraw their application for a supervision order. I could make a care order, a supervision order, a child arrangements order, or no orders at all for the children.

ANALYSIS

56. When I have considered the arrangements that the parents propose, it is important for me to reflect that those are arrangements the parents have managed to agree between them. They are endorsed as safe and appropriate by both the Local Authority and the Guardian who say the arrangements are in the children's best interests. Those proposed orders are effectively by consent albeit that W does not feel able to formally consent to the order in respect of her being made and instead does not oppose that order.
57. In respect of the application by the Local Authority to withdraw their application, when I have considered the effective absence of any meaningful social work with this family since January 2023, the lack of support received by the family throughout the proceedings from the Local Authority and the reports I have been given about how the children are, nevertheless, doing in the care of their respective parents, I am satisfied that I should give the Local Authority permission to withdraw their application.
58. The Local Authority concedes that there are no concerns about the care M is giving the children despite her substance misuse results and say that if threshold were being considered at today's date as opposed to the relevant date in these proceedings (which is when I would have to consider it) there would be no evidence to support an assertion that threshold for making public law orders was crossed. As I have set out above, I

have not needed to decide whether threshold was crossed at the relevant date for these proceedings for the reasons that I have explained.

59. I am clear that there is no solid advantage to any of the children to these dispiriting proceedings continuing. I commend the parents for the care with which they have engaged with this final hearing and for having managed to put aside their disputes to formulate plans that they all say are in their children's best interests. I place significant weight on the Guardian's support of those arrangements, she being a diligent Guardian who has worked very hard indeed for the children throughout these proceedings. I commend the Guardian for having clearly carefully balanced the risks to the children of the proposed arrangements and the need to tolerate diverse standards of parenting and for having carefully assessed the actual risk to each child before supporting the arrangements that the parents proposed.
60. Having considered with care the detailed arrangements for the care of each child proposed by the parents in the draft orders they have presented to me, I am satisfied, having considered the welfare checklist factors above, that those proposed orders are in the children's best interests and, consequently, grant them.
61. I have also considered the other draft orders presented to me providing for the withdrawal of the Local Authority's application and the consequential directions. And, subject to the additional orders that I have required by this judgment being inserted into them, I also grant those orders.
62. I make no order as to costs save for public funding assessment for those who are legally aided.
63. That is my judgment.

(This Judgment has been approved by the Judge.)