



Neutral citation number: [2023] EWFC 178 (B)

Case Number: **ZC22C50136**

**IN THE FAMILY COURT**

Sitting at the Central Family Court  
First Avenue House  
42-49 High Holborn  
London WC1V 6NP

**A LOCAL AUTHORITY V EF and Ors**

**Heard on 11-21 September 2023  
Judgment given on 13 October 2023**

**Before**

**HER HONOUR JUDGE ROBERTSON**

**Between**

**A LOCAL AUTHORITY**

**Applicant**

**and**

**EF**

**First Respondent**

**and**

**GH**

**Second Respondent**

**and**

**AB and CD**

**Third and Fourth Respondents,  
through their Children's Guardian**

**Representation:**

For the Applicant, Savannah Laurent of counsel instructed by the Legal Services Department of the Royal Borough of Kensington and Chelsea.

For the First Respondent, Elpha LeCointe and Victoria Haberfield of counsel instructed by Goodman Ray Solicitors LLP.

For the Second Respondent, Victoria Green of counsel instructed by SBG Solicitors.

For the Third and Fourth Respondents, Laura Hibberd of counsel instructed by Miles and Partners LLP appeared on behalf of the third and fourth respondents.

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

### **Parties and applications**

1. This case concerns two children, AB, a girl who is nearly 13, and her brother CD who is 10.
2. The local authority who bring the case have been represented at this hearing by Savannah Laurent of counsel. The mother EF has been represented by Elpha LeCointe and Victoria Haberfield of counsel. The father GH has been represented by Victoria Green of counsel. The children's Guardian has been represented by Laura Hibberd of counsel.
3. The application is the local authority's application dated 6 May 2022 for a supervision order and an interim supervision order and subsequent application for an interim care order made on 17 February 2023.

### **Background**

4. The background to the case is that prior to the issue of proceedings the children lived with their mother, the parents having separated in 2014. CD has a diagnosis of autistic spectrum disorder (or "ASD") and has an education health and care plan. AB is diagnosed with hypermobility but has no other diagnoses. The mother was diagnosed by an educational psychologist, in November 2021 with having ADHD, ASD, dyslexia and dyspraxia but within these proceedings Dr Lyall, consultant psychiatrist, has cast doubt on the first two of those diagnoses. He takes the view that a formal diagnosis of ASD has not yet been made because the complete diagnostic process, including the use of validated diagnostic instruments such as the autism diagnostic observation schedule, is required. He agrees that the mother manifests a number of possible symptoms of ASD. He does not come to a view that the mother has ADHD but says it is possible she manifests some symptoms of it although he does not think these are particularly severe.

5. The family have been known to the local authority since 2019 in relation to CD's education health and care plan. In 2019 the children were also placed on a child in need plan, which was ended in April 2021 and resumed in May 2021. The child in need plan was stepped up to a child protection plan in September 2021.
6. In 2021 the father applied to the court for a child arrangements order to see the children, whom he had not seen for around three years. Within the private law application both parties made allegations against each other including allegations from the mother of coercive control, physical and emotional abuse and rape. The father's allegations related to harassment by phone calls, making bogus allegations to the police and posting revenge porn online.
7. Care proceedings were initiated in 2022 as a result of the local authority's view that the mother was overly controlling of her children and that she believed and treated them as though they both suffered from disabilities and difficulties which no professional had corroborated. They allege that the mother's behaviour towards the children had led them to being isolated from their friends and family, having their school changed many times, not engaging in school trips and physical activities and coaching the children to be wary of social workers and other professionals. The private law proceedings were consolidated with the public law proceedings.
8. Interim Supervision Orders were initially made in relation to the children but these were found to be insufficient, and on 2 March 2023 the court approved Interim Care Orders and approved a plan of removal to foster care. The mother sought permission to appeal that order and permission to appeal was refused. The mother made complaints against the foster carers and the Local Authority, and as a result the foster carers gave notice on the placement and the children had to move which, for AB, included a change of schools. The mother felt that this had happened because her concerns were validated. The Local Authority are clear that although one part of her complaint was upheld that did not require the termination of the placement. They say the placement ended because the foster carers felt inundated by the mother's complaints and allegations, which resulted on occasion in police visits. They felt vulnerable, and gave notice.

9. It is the local authority's case that the mother then tried to disrupt the second foster placement. The mother does not agree with that but on 31 March 2023 the court suspended the mother's supervised contact. By the middle of June the second foster carers had also given notice on the placement. The local authority attribute that to the high level of complaints which the mother had made to social services, the police, the ombudsman, the local authority designated officer (the LADO), the children's Commissioner, the NSPCC and others. On 27 June 2023 the court made a number of orders including a non-molestation order against the mother preventing her from contacting the children or going within 500 m of any address which she knew or believed they were at. At the same time an application to suspend the children's contact with their mother for a period of up to 8 weeks was granted.
10. CD moved to a separate placement on 13 July 2023. Although they had given notice for both children the foster carers allowed AB to stay for the time being. The children are thus now in separate placements. For various reasons, including placement moves, the children have had periods out of school. This continues to be a concern for CD who is not currently receiving regular tuition, although before the summer holidays he had been receiving 1.5 hours online tuition each weekday.
11. Contact between the children and their father was reintroduced by the court in the autumn of 2022. Despite a promising start, contact did not thrive whilst the children lived with their mother. Since the children have been in foster care they have seen their father regularly, and it has progressed extremely well.

### **Positions of the parties**

12. The positions of the parties now are as follows. The local authority considers that the mother is not able to provide safe care of the children. They have nothing negative to say about the father except that his reintroduction to the children has been relatively recent and it is too soon for the children to move to his care. Accordingly they seek full care orders for both children with a plan of long term foster care. They suggest weekly contact with the father which might be increased, and they suggest contact four times a year, supervised, for the mother.
13. The mother disputes the local authority's case that she provided a harmful environment for the children by presenting them as more disabled than they really

were. She seeks the return of the children to her care. She also seeks a number of findings against the father as I have set out above. She denies the findings that he seeks against her.

14. The father initially had some slight disagreements with the Local Authority about the final care plan but over the course of the hearing his position was clarified to the point where he, the Local Authority and the Guardian were able to present an agreed care plan, of foster care in the first instance with work to be done towards moving the children to the father's care in due course. He agrees with there being a care order, even if and when the children are in his own care. He denies the allegations made against him by the mother and seeks findings of his own against her.
15. The Guardian supports the local authority's position and also recommends that the current non-molestation order protecting the children is continued for a period of four years and that the court make a section 91(14) order preventing the mother from making any further applications to the court without the permission of the court for a period of four years.
16. On threshold, the local authority has an extensive schedule of findings sought against the mother, the majority of which the mother disputes. These are matters to be determined at this hearing. The local authority also incorporates in the schedule the findings sought by each parent against the other. The local authority does not adopt these as findings sought but places them before the court in a convenient form for determination. It is for each parent to take forward their case against the other. Again, I must determine these allegations at this hearing.

### **This hearing**

17. I have conducted a 10 day fact-finding and welfare hearing in this case. I have had the benefit of over 4,000 pages of written evidence, and in addition skeleton arguments and position statements from the parties. I have heard evidence from
  - a. The current social worker
  - b. A former social worker
  - c. Sarah Cockley, the ISW who conducted the mother's and the father's parenting assessments
  - d. LM, head of B Primary school,

- e. NO, manager of the contact centre
- f. the father
- g. the mother and
- h. the Guardian

18. I have not heard evidence from Dr Phibbs who carried out the psychological assessment of the mother. Dr Phibbs, for reasons I have accepted, was unable to give evidence at this hearing and there was no guarantee of when she might be able to give evidence. I have had to consider whether it was possible to conduct a fair trial without her. In her closing submissions the mother has confirmed that she no longer seeks an adjournment on the basis of Dr Phibbs not being available providing I do not rely on her evidence. There is a wealth of other evidence in this case and in fact I have had no difficulty in putting her evidence to one side and reaching my conclusions on other evidence. I have been alive to the question of whether other witnesses had relied on her to come to their conclusions. If they had, that would have made it difficult to rely on their evidence.

19. A number of witnesses were asked directly whether they had relied on Dr Phibbs. Dr Lyall (the psychiatrist), the ISW and others replied that they had taken it into account but had relied on their own observations. In each case, that was obviously right from reading their reports. I therefore have concluded that it is possible to extract Dr Phibbs' evidence from the case and to lay it to one side. I have given it no weight, as will become apparent.

20. At the start of the hearing I refused the mother permission to be given notice of the cross-examination questions for her in advance, and to be cross-examined by her own counsel only. Those applications were not justified by the evidence of Dr Lyall. On the other hand, in view of her diagnoses and in view of the sensitive nature of some of the allegations she was making, I treated her as a vulnerable witness and considered that FPR 3A and PD3AA were engaged. I ensured that a separate waiting room and screens in court were available to help reduce the stimuli which might make things harder for her in view of her possible diagnosis of ASD, and I agreed that I would take breaks where necessary. I said she could come and go from the court room as necessary when not giving evidence and arranged the screens to make that possible. I

also made clear that I would not allow questions which went beyond the scope of what was strictly necessary, and that I would do all I could to minimise any distress, whilst still allowing the other parties to put their cases. In fact, the mother coped very well with the proceedings. I offered her regular breaks but she declined them all and was well able to answer questions and concentrate for substantial periods. I was left wondering why she had asked for further adjustments. They were not, in my view, necessary.

21. I also refused an application from the mother to call Dr Lyall, psychiatrist, as a witness. He had already answered written questions and it did not seem to me necessary for him to answer further questions along the lines outlined for me by the mother's counsel.

### **My impression of the witnesses**

22. I found the current allocated social worker to be a diligent, balanced and helpful witness with an impressive grasp of the detail of the case and an obvious knowledge of the children.
23. I found the former social worker also to be thoughtful, to know the children, and to provide clear and helpful evidence and to be professional and diligent in her approach.
24. I found the parenting assessor Sarah Cockley to provide careful, evidence-based analysis, and to have founded her opinions and conclusions on a variety of sources, relying heavily on her own observations of the parents and the children. Her evidence was also clear, and to the point. She was an impressive professional witness and very child-focussed.
25. LM, the head teacher of B Primary school gave cogent and well- thought out evidence in a straightforward and balanced manner. He too was an impressive professional witness who was clearly competent and child-focussed.
26. NO, who is a contact centre manager, suffered somewhat from a poor- quality video link – she was the only witness not to give evidence in the court room. Nevertheless her evidence appeared to me to be consistent and straightforward and I had no reason to think she was anything other than professional and competent.

27. The father presented as a slightly nervous witness. His evidence was notable for a lack of exaggeration. For example he said that the mother's treatment of her older daughter JK was "forceful". He later amended that to "mean" but was obviously reluctant to use such a harsh word. When asked whether he was worried the mother would treat AB and CD like that he admitted he was worried, but was at pains to make it clear he had never seen her behave like that to them. He was not articulate. He was easily confused but he was very clear about the matters he was clear about. He displayed some emotional intelligence, talking about the need, for example, to build children up rather than pull them down and had clear empathy not just for the plight of his own children but also of their older half-sibling, JK.
28. The mother gave evidence over the course of two and a half days. She engaged well and answered many of the questions put although she was at times evasive and confusing. I was conscious of her possible diagnosis of ASD, and I form no conclusions from her demeanour or other matters such as a lack of eye contact with me, which might well be a result of autistic traits. Her evidence did trouble me in a number of ways, which I will set out in this judgment.
29. I also had the great privilege and pleasure of meeting AB by videolink one afternoon after school. She had asked to meet the judge. She was absolutely charming, and it helped me greatly to be able to put a face and a personality to the name I had heard so much about.

### **The law**

30. The burden of proof is on the party making the allegations. Findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence, and not on suspicion or speculation (*A (A Child) (No. 2)* [2011] EWCA Civ 12.)
31. The Court must decide disputed issues of fact by applying the civil standard of proof which is the balance of probabilities. Thus a disputed allegation only becomes a proven fact if it is more probable than not that the disputed event occurred.
32. The Court must find either that a disputed event did occur or that it did not. The Court



cannot sit on the fence.

33. There is a need for a marriage of all evidence before a court reaches a conclusion on a disputed issue of fact. Dame Elizabeth Butler-Sloss DBE said in *Re T (children)* [2004] 2 FLR 838 said,

*“...evidence cannot be evaluated and assessed in separate compartments. A judge in these difficult cases has to have regard to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward by the local authority has been made out to the appropriate standard of proof.*

34. In principle the approach to fact finding in private family proceedings between parents, such as we see in this case in sections C and D of the Threshold document, should be the same as the approach in care proceedings. However, as Baroness Hale cautioned in *Re B* at [29]:

*"...there are specific risks to which the court must be alive. Allegations of abuse are not being made by a neutral and expert Local Authority which has nothing to gain by making them, but by a parent who is seeking to gain an advantage in the battle against the other parent. This does not mean that they are false but it does increase the risk of misinterpretation, exaggeration or downright fabrication."*

35. The court must bear in mind that a witness may lie for many reasons, such as shame, humiliation, misplaced loyalty, panic, fear and distress, confusion and emotional pressure and the fact that a witness has lied about one matter does not mean that he or she has lied about everything (*R v Lucas* [1981] QB 720, Baker J in *Re JS* [2012] EWHC 1370).

36. This has most recently been considered in *Re A and others (children)* [2021] EWCA Civ 451:

a. This is a judicial self-direction in fact-finding hearings and concerns the

significance which 'may or may not attach to the lies told by a party in relation to the injury/behaviour in question'.

- b. '[23] The fact of a parent's non-disclosure or deceit is not necessarily determinative of parenting capacity or, depending on the circumstances, an ability to co-operate with the authorities.'
- c. At [56] Citing *Re H-C (Children)* [2016] EWCA Civ 136 at [99], McFarlane LJ said:

*“99 In the Family Court in an appropriate case a judge will not infrequently directly refer to the authority of Lucas in giving a judicial self-direction as to the approach to be taken to an apparent lie. Where the “lie” has a prominent or central relevance to the case such a self-direction is plainly sensible and good practice.*

*100 ... In my view there should be no distinction between the approach taken by the criminal court on the issue of lies to that adopted in the family court. Judges should therefore take care to ensure that they do not rely upon a conclusion that an individual has lied on a material issue as direct proof of guilt.”*

- d. At [57] not every case in which there are lies told require a court to give itself the Lucas direction. It is only where the lie is adduced to prove consciousness of guilt that Lucas needs to be applied.
- e. At [58] I venture to suggest that it would be good practice when the tribunal is invited to proceed on the basis, or itself determines, that such a direction is called for, to seek Counsel's submissions to identify: (i) the deliberate lie(s) upon which they seek to rely; (ii) the significant issue to which it/they relate(s), and (iii) on what basis it can be determined that the only explanation for the lie(s) is guilt. The principles of the direction will remain the same, but they must be tailored to the facts and circumstances of the witness before the court.

37. Before I can make any public law order I must first consider whether the Threshold for making such an order under s 31(2) of the Children Act 1989 is crossed.

38. In any decision that I make involving the upbringing of a child, their welfare must be my paramount consideration, and I must consider all the elements of the Children Act Welfare Checklist.
39. In considering whether to make a final care order I must undertake a global holistic assessment of all the realistic options as set out in *Re B-S (Children)* [2013] EWCA Civ 1146.
40. I must also consider Article 6 and Article 8 of the ECHR. Any order that I make must be necessary and proportionate, and I must not make any order unless I consider that doing so is better for the child than making no order at all.
41. I have also in mind the well-known passage from *Re L (Care: Threshold criteria)* [2007] 1 FLR 2050 at paragraph 50 which says
- “society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent”.
42. That flows from an earlier judgment in the case of *Re KD (A Minor Ward) (Termination of Access)* [1988] 1 AC 806 2 FLR 139 which said this:
- “The best person to bring up a child is the natural parent. It matters not whether the parent is wise or foolish, rich or poor, educated or illiterate, provided the child’s moral and physical health are not in danger. Public authorities cannot improve on nature.”
43. I have all of these authorities in mind as I consider the issues in this case.

### **Threshold**

44. There is a very extensive threshold document in this case. Section A contains 7 itemised matters put forward by the Local Authority as the factual background prior to the issue of proceedings. Section B contains a further three complex and multi-part assertions by the Local Authority of matters following the issue of proceedings which the Local Authority say also go to Threshold and fall to be taken into account under *Re G*. Section C contains five allegations, some of them multi-part, by the mother against the father of domestic abuse including an allegation of coercive control.

Section D contains four allegations by the father against the mother. Almost all of the matters in the threshold document are denied by the person against whom the allegation is made. I take the allegations one by one, conscious that I am only required to determine such of them as are necessary in order to enable me to make the welfare decisions I need to make. I am not required to determine all the allegations unless I find I cannot make the welfare decisions without determining them all. The welfare decisions in this care are:

- a. Whether the children should be made subject to care orders and live separately or together in foster care
- b. Whether the children should be made subject to care orders and live with their father
- c. Whether the children should live with their mother
- d. What contact there should be with any parent with whom the children are not living

45. These decisions will require me to have an understanding of the risks (if any) posed by the parents to the children, and to each other, and their ability to meet the children's needs.

#### **Section D: allegations by the father against the mother**

##### *Caution for harassment of the father by the mother*

46. Turning to the schedule of allegations, I shall begin at the end, with the private law allegations as in many cases they pre-date the Local Authority's Threshold allegations, and therefore any findings I make will form the backdrop for the public law case. Starting with the father's allegations against the mother, the most straightforward of his allegations is that on 14 March 2016 the mother was cautioned for harassing him. That, it seems to me, is a matter of record. The PNC record for the mother shows two cautions for harassment, one on 4 October 2005 and one on 12 of March 2016. The 2016 caution states "pursued a course of conduct which amounted to harassment between the 1 January 2016 to 6 March 2016". A number of aggressive and threatening text messages are attached to the father's police statement and on 28 February 2016, when the father reported the matter again, the police report states that whilst the father was in the police front office mother sent a text saying "the more you don't listen to me the more I'm gonna fuck you over you won't have a penny left

when I'm finished". The police note that there are lots of other text messages mother has sent the father including claiming to have a private investigator following him and watching all his moves and who he's with. On 1 March 2016 the police record that they received 10 screenshots from the father including messages saying "Ur not seeing ur kids again because of ur bad behaviour. Its all ur fault!", "wotless nigga shit father" and "If you don't unblock me U won't know if Ur address is on my Whatsapp LOOOL!".

47. In the bundle I have seen screenshots of the messages sent by the mother to the father. They include the following messages:

"You see bastard you was out driving the hag's. YOUR NEVER SEEING MY KIDS AGAIN"

"I will get the evidence from my private investigator you fucking lying cunt I know you lie but this time you're paying for it cunt"

"WOTLESS NIGGA SHIT FATHER" sent at least 5 times in three minutes.

"IF U DON'T UNBLOCK ME U WONT KNOW IF UR ADDRESS IS ON MY WHATSAPP LOOOL" sent at least 5 times in 9 minutes.

In evidence it emerged that this last message referred to the mother putting the father's home address on her WhatsApp status, thus making it public. There is a text in which the father asks her to take it down.

48. The mother does not deny sending these messages. In evidence she tried to persuade me that the texts saying "Wotless nigga shit father" would not be seen as insulting in her south London community of people of colour. She said concerning the "N" word that because she was of colour she could use that word although a white person could not. She said a white person could never understand that it was not offensive in her community. I have asked myself, as a white person, whether that might be right. I do accept that the "N" word has a different resonance when used by a person of colour. But the "N" word is only one element of the text message. I take "wotless" to mean worthless and that is plainly an insult. "Shit father" likewise. Sending the message repeatedly is angry and aggressive. The other messages have the same characteristics. I am satisfied that the mother's caution received in 2016 was entirely merited and I make the following finding: **that in early March 2016 the mother sent the father**

**many text messages which were extremely abusive, insulting and threatening, and that as a result she quite rightly received on 12 March 2016 a caution for harassment.**

*Further harassment of the father and the paternal grandmother by the mother*

49. The father alleges that between 2014 and 2016 the mother continually harassed him with unwanted phone calls and messages. It is further alleged that the mother would call the father's mother on a private number to try to get the father's attention. In the police record there are a number of entries recording that both the father and his mother, reported to the police many times between 2011 and 2016 that the mother had been harassing them by texts and phone calls. On 15 January 2015 it is recorded that paternal grandmother's phone contained a number of messages from the mother including the following:

“I JUST WANT TO CONFIRM THAT YOU AND YOUR SON WILL NOT BE SEEING MY KIDS AGAIN EVER. YOUR SON KEEPS RUNNING TO THE POLICE WITH HIS PATHETIC COMPLAINTS WHICH GET HIM NOWHERE” and

“DON'T WORRY MY PI (private investigator) WILL FIND OUT TOMORROW IF HE'S BREAKING BAIL CONDITIONS. GOOD NIGHT”

50. The police record shows that on 14 December 2014 the father reported the mother for sending malicious communications. He alleged that since he had moved out from the mother's house on 2 December 2014 the mother had made numerous phone calls to him as well as text messages and that the mother was ringing his own mother at least six times an hour and sending numerous messages threatening that if the father did not move back in with her she would stop him from seeing the children, that she would ruin his life by getting her solicitor to put him in prison and by telling his employers that he has a criminal record with the intention to have him sacked from his job.

51. Whilst at the police station the father showed the police officer a text in which the mother accused him of being a “WEAK ARSE \*\*\*\*\*”. He had texted her back

asking what the five asterisks meant and there was a text in reply from her saying “N\*\*\*A figure it out”. The police officer believed this to be a racist word making reference to the fact that he is black. The report specifically says “I have seen these messages and therefore include the aspect of racially aggravated harassment in the report”. The officer records that the malicious communications have been continuing since 2 December 2014 up to the time of reporting and that the father was clearly upset. Whilst the father was reporting this, the police officer recorded that the father received a phone call from his mother stating that she had been receiving repeated phone calls and text messages. The officer spoke to the paternal grandmother who told him that she had received a message from the mother saying that if the father did not move home with her soon she would stop the grandmother from seeing the children. The police officer noted that this threat correlated with the texts the father had claimed to receive. At that point a five year check on the police computer showed that the father had been a victim of malicious communications from the mother on four occasions since 2012 and that the grandmother had been a victim of malicious communications from the mother on two occasions since 2011. It is recorded that the mother received a warning from the police in connection with these communications in 2011.

52. On 4 January 2015 the father attended the police station to report harassment from the mother. Whilst he was at the police station the mother kept ringing him on a private number. It is recorded that the father refused to answer but the suspect, that is to say the mother, did not stop. The father at that time stated that since the day before he had received over 150 text messages from mother.
53. On 2 February 2015, paternal grandmother reported to the police that since 16 January 2015 she had been receiving numerous phone calls, day and night, from an unknown number. The police record contains what is described as a “direct copy” of 11 messages received between 17 January 2015 and 6 February 2016. The messages refer repeatedly to “your rapist son”, contain threats such as “When the department of education hears you have a sex offender in your house you’ll be disqualified from teaching forever. Please advise your son to pay his child support on time”, and unpleasant messages such as “I hope your rapist son had the worst birthday of his life. Fingers crossed next year he spends it in prison. You know what they do to rapists in prison don’t ya!”. The texts may have come from a private number but in view of the

reference to paying child support on time I have no doubt they came from the mother. The other texts are similar in tone and content.

54. The mother was asked in oral evidence about these historic allegations. She said that she did not remember the police warning her about her conduct in 2011, she did not remember receiving a caution in 2005. She did not admit making numerous calls or sending numerous text messages to the father and the grandmother but nor did she deny it. She simply didn't remember.
55. I consider it most unlikely that she did not remember receiving a caution in 2005. A police caution is a serious matter. It is based on the acceptance of guilt for the offence alleged and it goes on a person's criminal record. In the mother's case this would have been a first offence and the first time she had had a criminal record. For most people that would be a watershed moment and something they would remember. I consider it more likely than not that the mother did engage in the conduct which is alleged for the following reasons. First, her responses were unconvincing; I did not believe her when she said she did not remember being cautioned. Second, two independent police officers witnessed some of the texts and some of the calls. I accept the calls were from a private number but given that the mother was sending offensive texts at the time (as seen by the police officer) it is more likely than not that it was the mother who was making the phone calls and sending the texts. Third, it is conduct similar in nature to the conduct for which the mother received a caution in 2005 and a warning in 2011. Fourth, the allegations made by the father and the paternal grandmother were made consistently and persistently over many years despite the police failing to manage to make the mother stop. It is hard to see why in those circumstances the father and grandmother would continue to make those allegations unless they were true since the reporting did not seem to get them anywhere. And fifth I have already made a finding of similar conduct by the mother in 2016. It seems to me that the facts are so similar that I am entitled to take that into account. I therefore make the following finding: that **from 2011 to 2016 mother from time to time harassed the father and the paternal grandmother with numerous unwanted phone calls and messages.**



56. The next allegation is that on 24 and 25 July 2014 the mother committed revenge porn against the father and that she created a fake profile on Facebook where she posted Half-naked pictures of the father with details of the father's private life. The police record shows the father giving a report to the police on 26 July 2014 saying that two days before, on 24 July 2014, he had been contacted by friends and family saying they had been sent naked photos of him on WhatsApp by the mother. The father also reported at the same time that on 25 July 2014 the mother had phoned him and told him she had put naked photos of him on Facebook, Twitter and gay websites.

57. The mother in oral evidence denied these allegations, and asked why she would phone him on the second day to admit it if she had done it. She said there was no evidence she had done it. On the father's behalf, my attention was drawn to the record of the police investigation into the father's complaint, which says this: "I have downloaded the suspect's handset which was seized from her while she was in custody. There is evidence on the handset which would support a charge of harassment/malicious comms". On behalf of the father it is said, that in the context of an investigation into the publication of naked photos of the father, this line in the police evidence substantiates the allegation of revenge porn. I do not agree. I accept that at the time the offence of revenge porn did not exist so the officer could not have said the evidence would support that charge. It is unfortunate that the police record does not describe the content of the evidence which would, in the view of the police, substantiate the charge but the charge in question is harassment/malicious comms. It is quite right that the evidence may have been evidence that the mother had been sharing naked photos of the father, but the police evidence simply does not make this clear. It seems to me that on the basis of this evidence I would be entitled to make a further finding in relation to harassment or malicious communications, but I do not think that would add anything to the findings I have already made. In the absence of police evidence to the effect that the content of the handset contained evidence of naked photos, I find the allegation of revenge porn unproven. I cannot therefore make a finding on it.

### **Section C: Allegations by the mother against the father**

## *Coercive control*

58. I turn then to the allegations made by the mother against the father. The first allegation I wish to consider is the allegation that between 2009 and 2015 the father behaved in a controlling and coercive way towards the mother, that he controlled what she wore, her social media engagement and would manipulate her by saying the children would be removed if she reported him. Aside from the mother's assertion that this was the nature of the relationship, I have not seen any evidence to support the contention. I have not seen any text messages to support the allegation, no evidence of social media reports being shut down, no evidence of threats being made by the father.

59. Conversely, there is evidence to support the contention that the power balance in the relationship was, if anything, the other way round. The evidence is:

- a. The campaign of harassment over many years by the mother against the father, which I have already made findings about
- b. The fact, which came out in oral evidence, that despite being in a relationship for a number of years and having two children together, the father was never given a key to the mother's house. In passing in his evidence he referred to going to ask the mother for the key so that he could get out. The mother said he knew where the key was and could have got it himself, but by her own evidence it was kept in her handbag. That is, in my view, inconsistent with the allegation that the father was coercing or controlling the mother
- c. I have seen many examples of the mother threatening the father that he would not see the children again. I have referred to them above. It appears to be that way round, not the father threatening the mother with the removal of the children
- d. Text messages which the father sent the mother in between her tirade of abuse are not abusive, but are polite and mild in tone. For example he says "EF are you gonna unblock me on WhatsApp so I can see if you still have my home address on your WhatsApp status?". That strikes me as a mild and moderate response to the mother's actions.
- e. Solicitors' correspondence between the parties contain no evidence of a berating or unreasonable tone from the father or any attempt at control of the

mother

60. Taking the evidence as a whole, I do not find this allegation proven. It seems to me so very far from the truth that the mother must have known it was not true when she made it. In my view **the mother's allegation of coercive control is a bogus allegation, made knowingly by the mother, to try to lead the court into a false view of the nature of the relationship and I make that finding.**

*Allegation of father's verbal abuse and physical threats*

61. The next allegation is an allegation that between 2009 and 2015 the father was verbally abusive and made threats of physical violence against the mother. It is said that the father called the mother offensive names. I have not seen evidence of that and make no finding on it. It is said that the applicant threatened to "rough up" the applicant and hit her in the face. The evidence for that is in the police record for 28 July 2014 when the mother told the police that "on a few occasions" since January 2014 the father had said to her "I will punch you in the face". She said that he had said it again on 23 July 2014 during an argument after which he left the property, taking his belongings. There is evidence that this allegation (together with an allegation that the father threatened to punch her in the stomach) was made again to the police some 8 months later, because the police record for 6 March 2015 records the father denying that he had made those threats during a telephone call when he was asking to speak to AB.

62. It appears that the police did follow up that initial allegation made in July 2014, because on 2 December 2014 the father pleaded guilty to causing harassment, alarm and distress when he threatened to punch the mother, and he received a conditional discharge for 12 months plus costs of £85 and a victim surcharge of £15. In oral evidence the father said that he had attended court unrepresented and did not

understand what it was he was being charged with. He did plead guilty but did not understand the charge although he did accept he understood what he was pleading guilty to. On the face of it, and having heard and seen the father give evidence for around four hours, I can believe that he did not understand the charge. He was, in evidence, very easily bamboozled and counsel had to ask simple questions, and sometimes repeat questions. When asked in oral evidence whether he had threatened to punch the mother in the face he said he did not remember threatening that because it was long ago, but he said that sometimes, in an argument, people say hurtful things. On that basis he said that he might have said it. He couldn't remember.

63. The father struck me as being honest in his reply to that last question. I cannot, and I do not, look behind his conviction. The conviction stands. It seems to me I do not need to make a further substantive finding about that, but I can, and I do, add to the schedule of findings that **the father accepts that he might have threatened to punch the mother in the face in the heat of an argument when both sides were saying hurtful things**. In view of the conviction it does not seem to me that I need to go any further than that. It seems to me that the subsequent finding sought, namely that the father said "I don't care about the kids and if you don't shut your mouth I'm gonna hit your face" is subsumed within the allegation I have just dealt with and I therefore consider it dealt with.

#### *Allegation of rape*

64. Taking next the allegation of rape, the evidence is as follows. On 6 January 2015 the mother reported to the police that the father had raped her anally and vaginally on 1 December 2014, a month previously. The detailed account given by the mother is in the bundle and I have read it. Neither party was cross-examined on the detail of the alleged rape at this hearing. The father was simply asked whether he had raped the mother the day before he went to court and he said he had not. He denied having sex with her at all that day, saying that the relationship had ended long before.
65. It is right to say that the father has been inconsistent in his account of when his relationship with the mother came to an end. In January 2014 the father told the police that an incident took place because he and the mother had just split up. In July 2014 when reporting the mother's harassment by text and phone call the father told

the police that he ended the relationship on 23 July 2014, and in response the mother scratched his car with a key and started sending texts and phoning. And in January 2015, in his interview following the rape allegation, the father said that the relationship finished on 1 December 2014 due to the court proceedings the next day.

66. The father was asked about this in oral evidence. He was clear that the relationship finished in July and that the reference to it ending in December is a misunderstanding. However I note that in the police record for 14 December 2014 in relation to the report by the father of harassment by the mother it is stated that “On 2<sup>nd</sup> December 2014 VIW1 (the father) moved back to his mother’s having decided to end his relationship with the mother. Since that time VIW1 has received numerous phone calls to his mobile phone as well as text messages”. The messages are said to be threats that if he does not move back she will stop him seeing the children and ruin his life. It seems to me clear from that that there is no misunderstanding here. Plainly the father attempted to leave the relationship in January, July and December 2014, with the only successful attempt being in December 2014. It seems to me that the relationship throughout 2014 was on-off, but never conclusively ended until December 2014.
67. The chronology of the events surrounding the rape allegation is as follows. The alleged rape was on 1 December 2014. It was put to the father that he had gone to the mother’s house on 1 December 2014 to try to get the mother to drop the charges and that when she refused, he raped her. The father denied that, and said that he had gone to the house on 1 December 2014 purely to see the children. In view of the fact that the parties never lived full -time together, and that the relationship was on-off, it seems to me that either of these are plausible explanations for the father’s visit.
68. On 2 December 2014 the father was convicted of threatening to punch the mother in the face on a guilty plea. Also on 2 December 2014 the father moved back to his mother’s house, the relationship finally having ended.
69. On 14 December 2015 the father and grandmother reported to the police that the mother had been harassing them with texts. The texts are said to include messages

that if the father does not move back in with the mother she will stop him seeing the children. The father provided his telephones for the police to interrogate. On 3 January 2015 the police interviewed the mother. She told them she was quite upset that he had made this allegation.

70. On 6 January 2015 the mother contacted the police and made the rape allegation. On 18 January 2015 she asked to withdraw the allegation. On 7 February 2015 the mother said she would not be upset if the CPS dropped the charge. The father continued to complain of harassment by text and phoning by the mother during the months of February – May 2015. In June 2015 the police reviewed the rape case and noted that the mother had provided her phone but then requested its return prior to the download being completed. The police summary provided to children’s services records that in the end the matter was not proceeded with due to the mother wishing to withdraw and, from reading the CRIS report, it was noticed that the mother was contacting the father and his family via text messages.
71. I must weigh up the evidence on each side of this allegation and decide on the balance of probabilities whether it is more likely than not that the rape occurred. The mother says it did occur. The father says it did not. I do not find I am assisted by their demeanour, or the details of the account. It is simply her word against his, and I therefore look to other evidence.
72. There is no forensic or photographic evidence in support of the mother’s allegation of rape due to the lapse of time between the alleged incident and the mother reporting it. That in itself is not determinative. Rape victims often take time to report a rape, and there is often no physical evidence, but it does make it harder for the mother to substantiate her allegation.
73. I accept, on the balance of the evidence, that the mother was continuing to contact the father and his family in the weeks and months following the alleged incident, demanding among other things that the father should resume the relationship. It is in my view unlikely that the mother would do this if the father had just raped her.

74. I am troubled that the mother refused to allow her phone to be interrogated. The father, it seems to me, was the more open with the police, providing 3 phones for them to go through. The mother it seems was unwilling to let them see everything on her phone, and that causes me to be concerned that she may have felt she had something to hide. I cannot take that too far because I do not know what she might have been hiding, but the lack of frankness and openness on the part of the mother makes it harder to take her account at face value.
75. There is the question of motive. Why would the mother make this allegation? The father says that it was reaction and retribution for his allegation of harassment for which she was interviewed a mere three days before making her allegation. I accept that that is a possible motivation for the mother to make a false allegation.
76. Most crucially, I am troubled by the fact that the mother came into this final hearing with a secondary position that the children should be placed with the father if they were not placed with her. She changed this position on the fourth day of the hearing to say that her secondary position was now foster care. Nevertheless, it is hard to see why, in the run-up to the hearing, or indeed at any stage, she would suggest that the father would be a second option as a carer for the children if, as she alleges, the father is a rapist.
77. I remind myself that the burden of proof is on the mother. I know that rape can be very difficult to prove because of a lack of evidence and I am conscious of that. I take into account the suggestion that the father raped the mother in retribution for her refusal to drop the charges in relation to his threat to punch her. However it seems to me that in this case the balance of the evidence falls firmly on the other side. Not only has the mother, in my view, not managed to discharge the burden of proof, but there are cogent reasons to doubt her version of events. I therefore come to the conclusion that on the balance of probabilities **I do not find that the father raped her on 1 December 2014, and that allegation falls.**

*Allegation of physical assault on 2 January 2014*

78. The next allegation by the mother is that on 2 January 2014 the father physically assaulted her by choking her, dragging her down the stairs by her arms and leaving bruising on her body. It is common ground that an incident occurred that day and that the mother's older daughter JK called the police. The father then made an allegation of criminal damage to a vehicle and the mother was arrested. The mother first mentioned being pushed to the floor and throttled when she spoke to the police on the day of the assault. She said she wanted the father arrested to "teach him a lesson". She repeated the allegation when the police interviewed her on 13 January 2014, but did not pursue the matter at that stage. She raised it again with the police on 28 July 2014 when she said that the father dragged her to the floor and up the stairs where he attempted to strangle her.
79. The father told the police on the day of the incident that he had, that day, told the mother he wanted to separate and she had gone into the kitchen and removed a black handled metal hammer from beneath the sink and swung it at him. He grabbed the hammer to avoid being struck and pushed the mother away. She fell backwards and scraped her knee. He told her to go and get the front door key so he could unlock the door and leave. She went upstairs. The father put the hammer back into the kitchen and followed the mother upstairs. She eventually found the key and let the father out of the house. He got into his car and saw that she again had the hammer in her hand. She swung it at the car. He got out of the car, grabbed the hammer from her and threw it into the garden. The police note records that the hammer was later recovered from the back garden. The father's report to the police continues to say that he got back into the car. The mother ran around to the passenger side and pulled the wing mirror, breaking it. She did the same to the driver's side mirror. Both mirrors were held onto the car by wire cord. She then went to the back of the car and bent the aerial in half. The father then drove away.
80. In oral evidence the father's answers were consistent with this account. He maintained that was what had happened. The mother was also asked about the incident. In her original account she had not been asked about a hammer. She was asked in oral evidence and said there was no hammer in the kitchen as tools were kept in the back



garden. She was asked where in the back garden. She refused to say. She was asked several times and would only say they were “in the garden”. When pressed she said they were in a box which might have been in the open and might have needed to be tidied away, but was evasive about where they would be tidied away to. It was apparent that the mother was being evasive in her answers to all these questions and I formed the view that she had some reason for not wanting to give a clear answer as to where the hammer was kept.

81. In the mother’s statement dated 15 March 2016 in support of her application for a non-molestation order against the father she said, in response to the father’s allegation that she had damaged his car with a hammer, that her son had toy tools in the garden. She was asked in oral evidence whether she was suggesting that what the police found was a toy tool. She said no. She then said that whoever wrote her statement got it wrong and mixed it up. It should have said there were toys in the garden, and that was not connected to the hammer. I pause to note that this is the mother’s statement, which was prepared on her instructions, and which she read and signed and which she confirmed at the start of her evidence to be true. She was now saying it was a mistake by the person who drafted the statement. In any event, the mother was quite unable to answer the question of why she mentioned her son’s garden toys at that point in her statement if they were not connected to the hammer and she provided no coherent answer. CD was only a few months old at the time of this incident. She said he had a swing in the garden and that is what she had been referring to. I can see no reason why she would suddenly refer to CD’s swing in the middle of a paragraph about hammer damage to a car. It is entirely irrelevant. I do not accept that “toy tools” was a typo, and it seems to me that the mother *was* seeking in her statement to introduce some confusion by suggesting that it might have been a toy hammer. It is clear that a toy hammer has nothing to do with this incident as the police record at a later point refers to them recovering a clawhammer from the garden. Counsel on behalf of the father in her submissions invited me to consider the mother’s evidence about the hammer to be “absolute nonsense”. It was absolute nonsense. It was evasive and made no sense and I prefer the father’s evidence about the hammer, not least because it accords with the hammer that the police then found in the garden.

82. Returning then to the middle section of the incident when the parties went upstairs, the mother has given three different accounts of the assault. In the first, which I have already set out, she says the father dragged her up the stairs where he attempted to throttle her. In her statement for the non-molestation proceedings she says that the father got in front of her on the stairs and pulled her up the stairs. That is slightly different but not very different. In the third account (in her statement dated 25 April 2022 for the private law proceedings) she says that the father followed her up the stairs shouting and swearing at her for being too slow letting him out of the property. (I pause to note that this, the mother's own evidence, confirms the position that the father couldn't leave till she let him out, which further strengthens my decision to make no finding of coercive control against the father). Returning to the mother's third account, she says that when they both got upstairs the father threw her on the bed and throttled her, then grabbed her by her arms and dragged her *down* the stairs to make her open the door for him. This is clearly different from her earlier account in which she says he dragged her up the stairs and then throttled her. She also said he dragged her down the stairs in her first statement in the care proceedings: thus she has twice said it was up the stairs, and twice said it was down the stairs. The mother was not able satisfactorily to reconcile these accounts in her oral evidence. She said she didn't remember. In my view, her accounts were inconsistent on a significant matter, and the inconsistency was not explained.

83. I go back to the police evidence. They record that they saw the injury to the mother's left knee by way of a scrape and that there were no injuries to the father. They took 3 photographs of damage to the car and one photograph of the claw hammer. It is the mother's case that she sustained injuries by way of cuts and bruises and that she has photographs to prove it. I have not seen photographs of any sufficient quality to be able to tell anything at all from them, even what they are of. I consider that if the mother had sustained cuts and bruises the police would have seen them – they were clearly vigilant to record any cuts and bruises, as evidenced by their recording them carefully in the log. I consider it unlikely that if the mother had been dragged either up or down the stairs and throttled that she would be the one to be arrested. Police made a decision on the ground at the time as to which party to arrest and they plainly felt, at the time, that it was the mother who needed to be removed. That is perhaps unsurprising given that they could see the damage to the car and had found the

clawhammer. Taking those matters together with the mother's evasiveness and nonsensical answers about the hammer, the inconsistencies in her account and the fact that the police evidence of finding the claw hammer, photographing the damage to the car and not seeing cuts and bruises on the mother all backs up the father's account and not the mother's, I conclude that the balance of the evidence falls on the side of the father's account, which I therefore prefer. **I therefore make no finding that the father was physically abusive to the mother, nor that he choked her, nor that he dragged her up or down the stairs on 2 December 2014.**

*Threat to kill and chop up the mother and children and throw them in the Thames*

84. I turn to the allegation by the mother against the father, namely that he threatened to kill the mother and the children saying he felt like killing them all and chopping them into tiny pieces and throwing them into the Thames. The mother makes the allegation in a police statement given on 8 March 2016. She said he made the threat during a telephone call when he had rung her to complain about having to pay child maintenance, saying having the kids had ruined his life. She said she had recently alerted the CSA to the fact that the father's income was higher than he had declared, and so he had just been told he had back-payments to make and was not happy. The father was arrested for making the threat, but the mother then refused to provide a further statement and no further action was taken. The police record states that the victim (that is the mother) did support police action but there was insufficient evidence.

85. The father in evidence simply denied ever making the threat. He said he had always paid his child maintenance even when he was not seeing the children and he simply paid whatever they told him to pay. He did not remember being told that he had been paying the wrong amount and his payments would increase. He said if it had increased the CMS would just take it anyway whether he liked it or not but he did not remember them taking more. He did remember there being a backlog of payments because of a period when he wasn't working, and that there had been an outstanding payment at one time. But he did not remember an increase.

86. I have not seen documentary evidence of the father's child maintenance payments but he has said in a statement that he always paid it, even when the mother and children moved house to an undisclosed location without telling him where they were going and he did not see the children for years. That does not seem to be seriously challenged by the mother. This is not a man who tries to get out of paying maintenance for his children. Nor is there any other evidence of him being resentful of it. In his oral evidence he says he would never make threats against his children. There is no suggestion elsewhere in the evidence that he has ever done so, other than this one allegation by the mother. What there is, in the evidence, is a great deal of information about the father's love and commitment to his children. I shall deal in more detail with that in the welfare section of the judgment but in short, the evidence is that since being reintroduced to the children the father has bonded with them in an extraordinarily quick way which has surprised the professionals (in a good way), and that he has never missed a session of contact despite travelling three and a half hours each way once a week. He has never been late, never turned up unprepared. His commitment and dedication to his children is shown not only in that, but in paying child maintenance for 4 years when he did not see them or even know where they were. Furthermore it is clear that he is a mild mannered man, not generally prone to fits of anger. When he has been angry he admits it, as for example when he admitted that he might have threatened to punch the mother in the face during an argument. It seems to me that if he had made this threat to kill and chop up his children and the mother he would have admitted that too. All in all, I consider it most unlikely that the father said this thing, and **I make no finding that he did so.**

#### *Bogus allegations*

87. To conclude this consideration of the private law allegations, I must turn to one last allegation made by the father, namely that the mother has between 2013 and 2016 made bogus allegations against him. I take that to mean false allegations, knowingly and maliciously made. I have found the following allegations not proved: the allegation of rape, the allegation of physical abuse in January 2014, the allegation of threats to kill and chop up the mother and children, allegations of verbal abuse and threats of physical violence between 2009 and 2015 and the allegation of coercive control. In relation to all of these except coercive control, they are prima facie allegations which the mother must have known were untrue at the time when she

made them, because of the nature of the allegation in each case. For example, the mother must have known that she was not raped when she made the allegation of rape. Coercive control is more nuanced, because it depends on a judgement about the nature of a relationship and people may see that relationship differently. However in this case I have found that if anything the power balance was the other way round. In circumstances where the mother sent extraordinarily abusive messages to the father to the point where she was cautioned for it, and where she did not give him a house key, and (as I shall come on to) did not allow him to see the children it must have been obvious that this was not a relationship of coercive control even to the mother. I therefore conclude that that allegation too was made in the knowledge that it was not true.

88. There is another aspect of the mother's allegations which supports this analysis and that is the chronology of events. The alleged incident of throttling (which I have found not proven) was said to have occurred on 2 January 2014, and yet the mother did not report it to the police until the end of July, just a few days after she was arrested and interviewed in relation to the father's complaint against her for harassment. The mother's allegation of rape was made three days after she was interviewed about another complaint by the father of harassment. The nature and timing of her harassing messages is also testament to her tendency to have an angry reaction when things do not go her way. An example is her text to the grandmother saying "I just want to confirm that you and you son will not be seeing my kids ever again. Your son keeps running to the police with his pathetic complaints which get him nowhere". In that text the mother, by her own hand, links the father reporting matters to the police to an angry response on her part – namely not allowing him to see his children. It is clear that the mother does respond angrily when things do not go her way, and I agree with the analysis of the father's counsel that some of the mother's allegations in this case appear to be direct, malicious responses to complaints made by the father. That, together with the inherent improbability of making these allegations without knowing them to be untrue lead me to the conclusion that **the mother's allegations in this case, including the allegations of rape, physical abuse and coercive control, were bogus allegations, that is to say false allegations maliciously made and so I find.** That concludes my findings on the private law matters.

## **Section A: Threshold matters up to and including February 2023**

### *Exaggeration of disabilities*

89. I turn then to the Threshold matters sought by the Local Authority, starting with the period before proceedings, dealt with in Section A of the Local Authority's schedule. The first finding sought in Schedule A is an overarching finding that Mother has led each of the children to believe that they are less capable than they are, causing harm to the children's emotional and social development. It is also said that the Mother seeks to protect the children to an excessive degree, rather than encouraging the children to reach their full physical, social and educational potential.
90. Perhaps the strongest evidence in support of this allegation came from LM, the head teacher of B Primary School which the children attended in 2019 and until the February half term of 2020 when they were removed by their mother. LM provided a statement in which he flagged up his concerns, and he also gave oral evidence. In his oral evidence he explained that the school had a significant specialist provision for children with autism. About 30 children attended it, many of whom had significantly higher levels of disability than CD. Some were non-verbal, having major emotional dysregulation incidents several times a day. CD was placed in Orchard but had some time out of that class in the mainstream provision each week. LM described CD as a chatty, verbal, lovely little boy. He said he needed to be around peers who could interact, play and speak with him. He said CD needed to interact and play using language. He said CD loved being in the mainstream class and when it was on his schedule he looked forward to it. LM, and indeed the school, was clear his educational needs would have been better met in the mainstream. His academic level was on track for maths and only a little behind in writing and reading.
91. He said he wanted to begin to transition CD to the mainstream class and started the transition but the mother was very much opposed to that. He was concerned about that opposition. He has referred to the mother exaggerating the needs of both children. To his mind, the mother's opposition to CD moving to the benefits of the mainstream was an example of that.
92. Another example that he gave of the mother exaggerating the children's needs was the

wearing by both children of large badges, three or four inches across, saying “I have a hidden disability” when they arrived at school. Whilst he accepted that they only wore them on arrival and did not wear them during the day, he still felt that wearing them had a negative impact on the children. He said there were children with greater levels of need who did not wear such badges. The school wanted to work on raising the children’s self-esteem, and the badges did not support that goal.

93. Another example given was the use of reins and a special-needs buggy to assist with transporting the children to school. It is common ground that towards the end of their time at B school the children were travelling to school by taxi. LM said that the taxi was able to draw up about 3 metres from the school gate. The children would emerge from the taxi either both on reins, or with AB on reins and CD being put in the special needs buggy to travel the 3 metres to the school. He said this happened frequently – he saw it himself as he stood at the school gate most mornings.
94. It was put to him on the mother’s behalf that the mother had two children to manage at least one of whom had special needs and had some emotional dysregulation, and that this may have been the mother’s way of managing the road safety risk. He said he had been on school trips with both children. The school had not seen any evidence of a flight risk or the inability to follow instructions. On a trip with AB she had managed well in a group of 45 children, wearing her high-viz vest and behaving well. He had also been on local trips, walking with CD and there had been no difficulties with CD failing to meet behavioural expectations or not being able to walk. He said that both he and the school thought the mother’s use of reins and a special needs buggy was excessive and that there was a misalignment between the school’s view of the children’s needs, and the mother’s view.
95. A further example was that the mother had asked for equipment to meet what she saw as AB’s sensory needs: a fidget spinner, ear defenders and putty. The school had made these available but AB simply hadn’t wanted them.
96. A final example relates to the mother’s perception of AB’s educational needs. When AB was new to the school LM had written a letter to support the mother looking for housing nearer the school and in it had described AB as having special educational

needs. In oral evidence he said he had written that based on a conversation with the mother. He could not recall seeing any paperwork saying she had special educational needs. But as he got to know AB he came to the view that she did not have any special educational needs, and indeed was one of the brightest in her cohort, meeting expectations. The school had no concerns about AB having autism or autistic traits, and I remind myself that it is a school with a sizeable autism resource, with all staff trained every year in managing children with autism and dealing with autism regularly in their mainstream classes. It was against that background that LM gave evidence that the mother had informed the school she was applying for an EHCP for AB. The school did not think that was necessary.

97. The outcome of all these observations was that LM, and, he said, the school, believed that the mother was overly protective, exaggerated the children's needs, and that that impacted on their social skills and independence. Examples of that impact were CD asking to be accompanied by an adult to cross the dinner hall to collect his water, or saying he couldn't use children's scissors because they were too dangerous.
98. In February 2020 the mother removed the children from B school primarily because of LM's plan to place CD in a mainstream class, although also because an occupational therapy resource specified in CD's EHCP was not available at B school. There followed a period of home schooling after which the mother enrolled the children in F Primary school. I have not heard evidence from staff at that school but they have provided a statement. Their experience and their concerns echo the concerns of LM to a remarkable extent. The statement from the Deputy Headteacher and the Deputy Designated Safeguarding Lead contain the following paragraphs:
- a. AB is not currently on the school's SEN register. EF has requested an EHCP assessment, which has been refused by [the Local Authority], assessments for ASD and an OT referral. EF often reports that AB has needs which staff do not see at school. For example, she has referred to AB having "meltdowns, which school has not witnessed".
  - b. EF believes the children require resources to support their needs which the school believes are not needed, such as a wheelchair to transport CD.
  - c. There is a paragraph explaining that the mother refused to allow AB to attend the Year 6 residential trip because she was not allowed to take a phone. The



mother said AB needed her phone to call her mother because she has meltdowns and would need to see her mum to calm down. AB was the only child in her year not to go on the trip and she had to spend the week in a different year group instead.

99. I am of course conscious that the evidence of F Primary School has not been challenged, and so I cannot give it great weight on its own. However it is notable that the picture painted in this second, unrelated school is so similar to the picture painted by LM, and I do take that into account. I must also take into account the statement from W School, the school which AB attended before B Primary School. They said that the mother's views were different from those of the school in terms of their needs and capabilities, in that the mother perceived the needs of both children to be greater than they were assessed to be by school and other professionals. Taken together I must give the evidence of these three schools, corroborating each other as they do, considerable weight.

100. The mother does not accept that she has caused the children harm by encouraging them to believe that they are less capable than they are. She accepted that she had indeed disagreed with LM about moving CD to the mainstream class. She maintained that he was academically behind, and not ready to move, citing his level at the beginning of the year as being pre-national curriculum. LM gave evidence that children were expected to be at that sort of level at the start of the year, when their level would often be described as "emerging", moving to "developing" by the middle of the year, and then "securing" by the end of the year. It was put to the mother that CD was not really behind, he was just where he would be expected to be at the start of the year. The mother did not engage with this point directly, instead asking to know what CD's levels were by the end of the year. It was pointed out to her that by then she had removed him from the school, so that could not be known. At no point did the mother engage with the wider points made by LM, about CD's need to be with children who were verbal, and who could play with him at his own level and stimulate him socially. The mother said she did not object to CD spending some limited time in the mainstream class, but what she had objected to was LM's plan to move him into the mainstream completely. I am satisfied that LM had made it clear that what he proposed was a gradual transition. The mother did not find that

acceptable.

101. What is curious is that the mother then removed CD from B school because of the lack of specialist provision and then had him at home and then in a mainstream class at F Primary School, neither of which had any specialist provision either. The mother was concerned that CD's EHCP was not being fully implemented at B Primary School. But nor was it fully implemented during his period of home schooling and nor was it at F School. The main thing which she wished to prevent, namely mainstream schooling, was not prevented, and a school with a specialist autism unit was lost. It is difficult to see what she achieved by moving CD at that time other than a shorter walk to school, which is what she said in her oral evidence was the advantage. In neither her oral nor her written evidence did she discuss the loss to the children of experiencing another school move, of losing friends, of having to start all over again, of being unsettled.

102. The mother did not agree with LM's analysis of her use of the "I have a hidden disability" badges. She said they were only worn when the family were travelling to the school from another London Borough, which was a long journey involving 3 buses. She thought of the badges as supportive, because if, on that journey, they needed a little more time or space than would ordinarily be expected, people would be able to see that there was a reason to be patient. If the mother is right about that then I can see that there might be some merit in the badges. She said that she never used the badges, or indeed the special needs buggy, once the family moved nearer to the school and were provided with a taxi. She said she did not know how to fold the buggy and could not have got it into the taxi, and said it made no sense to take the buggy when the taxi was transporting them.

103. Her evidence is starkly at odds with that of LM. He was quite clear that he stood outside the gates most days and that frequently the children would emerge from a taxi, 3 meters from the gate, wearing the badges. When this was put to the mother she said that she did think about how it would make the children feel to have to wear these badges and because of that she took the badges off when they got to school. It was her routine, which she did unthinkingly, to clip the badges on and off each day. I find that rather extraordinary, in the context of a three metre journey. They clearly

were not needed on such a short journey and the children would have been seen by staff and pupils in those three metres just as much as within school. It makes no sense to me that she would pin the badges on and off for that short journey, nor that she would not worry about the impact on the children for the first three meters and worry about the impact on them after that. Nevertheless, that was the mother's evidence.

104. In relation to the buggy, LM was specific that he had seen the buggy for himself frequently, that it was a large buggy for a large toddler and that the buggy was in the taxi. Either CD would get into it and be pushed into school, or the mother would put him on reins. Clearly the mother and LM cannot both be right. I find it unlikely that a head teacher would mis-remember something so graphic, something which he had seen frequently and something which troubled him so much that he wrote about it in his statement. I note that there is a wider concern that the mother was using a buggy which was not needed. It is not in dispute that the mother brought CD in a buggy when coming from another London Borough. LM's evidence is that the school did not believe he needed a buggy at all. He was around 6 years old at this time. He was able to access local school trips on foot with all the other children with no difficulty. He ran around the playground quite happily. The Deputy Head and the Deputy Designated Safeguarding Lead from F school say in their statement "EF believes the children require resources to support their needs which the school believes are not needed, such as a wheelchair to support CD". There has been confusion about the terminology of wheelchair and buggy. No witness has said they saw the mother using a wheelchair. The mother clarified that the McLaren Major buggy has a full name of "wheelchair buggy". I take the F school reference to the wheelchair in the paragraph I have just quoted to be a reference to the wheelchair buggy. Again, their evidence resonates with that of LM.

105. In oral evidence the mother was asked about CD's current needs. She said that CD had previously told her that he had pains in his legs. She said the hospital had given him the buggy and later swapped it for the actual wheelchair, and she said they would not have done that if they had not thought he needed it. She referred to an Occupational Therapy report from July 2022 which she said gave him a low score for mobility which she said was a red flag for pain. I have read the report. It gave CD a

low score for balance and aiming and catching. He was found to have motor difficulties, fatigue and significantly reduced balance and a referral to a paediatrician was recommended. In the meantime he was given an updated exercise programme. There is no mention of pain or of the need to use a wheelchair. When it was put to the mother that the current foster carer describes CD as enjoying running and jumping and going on his scooter and playing ballgames, and not mentioning any pain, the mother said that did not mean CD was not getting pain. She said the same about AB. It seemed impossible for her to contemplate that they might not have any pain.

106. The mother's perception of CD's need of a wheelchair is evidenced again and again in the court bundle. On 5 July 2021 she requested that his support package be reassessed and said he was still using his wheelchair. She reported to her own adult social care worker that she used the wheelchair to manage CD's meltdowns. At the Child Protection Conference Review meeting on 10 September 2021 she refused to allow CD's wheelchair usage to be reviewed because she felt it was not for the social workers to review it, that being the hospital's job. On 11 November 2021 at another Child Protection Conference review she declined all support in getting Occupational Therapy to review the wheelchair. On 7 December 2021 the mother reported CD to be using the wheelchair in the community sometimes, and declined for this to be reviewed. At the Child Protection Conference review meeting on 3 December 2021 the mother said it was not the Local Authority's business how the wheelchair was used and that the hospital had not said it should not be used. During her assessment by Dr Phibbs in 2022 the mother reported that CD had hypermobility and dyspraxia and still needed the wheelchair because of his mobility problems. At the Child Protection Conference review on 6 September 2022 the mother still insisted that CD required a wheelchair and did not allow him to be reassessed.

107. Taken all together, it seems to me that there are multiple sources of evidence which show the mother being anxious about CD's mobility, using a buggy which more than one set of professionals thought was unnecessary, construing an Occupational Therapy report to be supportive of the general theory that CD must be in pain when it says no such thing, and exhibiting rigid thinking about this putative "pain" in both children when confronted with evidence to the contrary. In my view, if children are in pain, it will show when they run, jump, scoot and play ball games.

They will either mention it, or simply be unwilling to engage in the painful activity. Information from the foster carers suggests the opposite of that: they say the children are keen to go to the park, and to play in the ways I have described. It seems to me that a much more natural explanation is that they are not in pain, but are enjoying themselves. I am mindful of the mother's point that the buggy was allocated to CD by a hospital who must have thought he needed it. But it is striking that the mother gives such weight to that, and so little weight to the evidence of multiple other professionals who spend 30 hours a week with CD and the evidence of her own eyes.

108. Looking at this picture overall, I conclude that the mother does indeed have an overdeveloped sense of CD's mobility problems. I think it more likely than not that the wheelchair buggy was not necessary from the point of view of mobility issues on the journey from the other London Borough (I note that in other evidence the mother has said that she used the buggy to help her keep control of both children rather than for mobility reasons). It may well be that at some stage CD did tell the mother that he had pains in his legs: but even if he did, it is equally clear that the mother has allowed that idea to take root in her mind, to the exclusion of the other evidence around her of CD running around in the playground, going on school trips without difficulty and playing energetically in foster care.

109. Against that background I come back to the question of whether she placed CD in the buggy for the 3 metres from the taxi to the school gate. I have already said I think it unlikely LM was mistaken about that. Given the mother's preoccupation with what she perceived as CD's needs, I think it is not unlikely that she would put him in his buggy for that last short leg of his journey. I therefore prefer LM's evidence to the mother's evidence and I find that she did put CD either into his wheelchair buggy, or on reins, when she emerged from the taxi outside school. It is the mother's evidence that the taxi was always further than 3 metres from the school gate. If that is so then it is even more likely that she put him in his buggy. I find, in view of the school's evidence about his physical abilities, that it was unnecessary for her to do so. In those circumstances it cannot *but* have had an impact on CD, either making him embarrassed or making him feel that he was less able than he was. To that extent it was detrimental to his well-being.

110. Likewise with the badges, I can see that the mother may have had a rationale for using them on the journey from another London Borough. She has told me, and I accept, that she has only ever done what she thought was in her children's best interests. LM was very clear that the badges were worn when the children got out of the taxi. Again I prefer his evidence. It seems likely to me that the mother, having got into the habit of the badges on the journey from the other London Borough, saw no reason to discontinue their use. Whilst they may, possibly, have been helpful on the longer journey, their continued use was not necessary once the family were travelling by taxi. The badges were big enough for staff to see and read. Other children would have seen them too. The impact of the badges would have been to focus the children on what CD and AB couldn't do, rather than on all the things they could do. At that point, I agree with the Local Authority that the badges had become negative things, which were unhelpful to the children. LM described their use as "excessive". I agree.
111. I turn then to the mother's overall view of AB's needs. I have heard a lot of evidence about the mother's persistent requests to have a full autism assessment for AB. I am invited to criticise the mother for asking again and again for an assessment even when she knew CAMHS had said they would not assess her until proceedings were concluded. In fact, I do not criticise the mother for this. I can see that to the Local Authority this must have appeared as part of a wider problem, but in each case the mother was following up recommendations from professionals saying an assessment should or could be done. This was against a background of her, her son and her older daughter all having ASD.
112. What the mother can perhaps be criticised for is overstating AB's difficulties - for example in causing her to wear the "I have a hidden disability badge" when she had no diagnosed disability. Likewise it is common ground that she asked the school for a lift pass for AB to help with the pains in her legs at a time when AB was not complaining to anybody else that she had pains in her legs and was seen to be mobile and comfortable by staff. Likewise she seemed determined to apply for an EHCP for AB when the school felt she did not need one. Likewise she told LM that AB had special educational needs when AB first started at his school, and it later became clear to him that she did not. Likewise she prevented AB going on the school trip because of alleged "meltdowns" which nobody else has ever seen, including the two

sets of foster carers with whom AB has lived since being taken into foster care. Likewise she sought ear defenders, fidget toys and putty for AB which AB did not want or need. It is noted in the statement of the initial social worker, that in 2022 the mother listed AB as having memory issues, a lack of focus and motivation and social communication issues. She said the whole family had been diagnosed with some form of disability and so she was going back to CAMHS to request a reassessment for AB. The social worker records that whilst the mother was reporting all of this she observed AB in the background first rolling her eyes then becoming visibly tearful and shrinking within herself until she was lying down on the sofa. The social worker felt that her appearance seems to be one of a child with possible anxiety or low mood. That conversation was followed swiftly by the mother requesting that AB have an EHCP. At that time AB was performing at school at the expected level

113. In February 2023 the mother took AB to the GP, where AB told the GP (with the mother in attendance) that she was finding school challenging, that she felt anxious about school, found it tiring and struggled to concentrate on tasks. She also said she got pains in her legs which she thought was a result of her hypermobility. This is contrasted against the evidence of the current social worker that AB is excelling at school, is in the top set for all subjects, has raised no concerns to her foster carers about joint pain, and now in her current placement goes bike riding, goes trampolining, walks in the park, goes swimming and goes to the beach. It was put to the mother that she had coached AB to say what she said to the GP. The mother denied this saying that although she was in the room at the time she was at the back and AB was talking to the GP on her own. I see this in a much more concerning light. It is notable that AB has only made these complaints when she is in her mother's presence. It seems to me more likely than not that AB knows very well what her mother thinks and feels and wants her to say, and feels obliged to say it. She does not say it when her mother is not there.

114. Looking at all the evidence in the round I come to the conclusion that although the mother may only ever have done what she thought was best for her children, the outcome has been that she has overstated their disabilities and their special needs. The impact on the children is in some cases obvious, for example when AB was denied the opportunity to go on the school trip or when she shrank down onto the sofa. The

impact in some other cases can be inferred, as for example the impact of being required to use a buggy which was not needed or to wear a disability badge in front of the other children. The social workers and the Guardian consider that that would have caused the children to have lower self-esteem than they would otherwise have had and to believe themselves less capable than they really were. I agree with that inference. I therefore make the following finding, that **the mother has led each of the children to believe that they are less capable than they are, causing harm to the children's emotional and social development. The mother seeks to protect the children to an excessive degree rather than encouraging them to reach their full physical, social and educational potential.** There are a number of specific findings sought by the local authority under this heading but in view of the findings I have made I do not consider it necessary to look at those individually.

#### *Changes to the children's schooling*

115. The next finding sought by the local authority is that the mother has changed AB's primary school five times including an episode of home schooling and has changed CD's school five times including two episodes of home schooling and that this is due to disagreements with the schools about the children's abilities and need for support. It is common ground that AB has attended at least five schools and CD at least four schools and that both have had two periods of home schooling. The mother asserts that any changes in the children's schools were in the main brought about due to living in temporary accommodation and having to move to different areas. However the mother's first statement in the care proceedings confirmed that the mother chose to remove the children from W primary school because she did not like the way the staff treated the children, and it is clear from both the mother's and LM's oral evidence that the move from B Primary school to F Primary School was in large part to do with a disagreement about the children's abilities. I do not accept from the mother that the moves were due "in the main" to house moves.

116. I have not seen evidence from the mother that she has been able to imagine what these moves must have been like for the children. As I have already mentioned she has not spoken about their loss of friends, familiar surroundings and stability. The Guardian gave evidence about this saying that the mother had not weighed up the



impact on the children of constant school moves and that she had never seen any discussion about the negatives of school moves from the mother. The Guardian said that the mother would say why she thought the children needed to move school but would not acknowledge the losses, the change of friends, and routine. It was the Guardian's view that the mother did not think about the children's experience. The school moves were what suited the mother best, not what was best for the children. I agree, and I make the following finding, **that the mother has not been able to provide stable education for the children and that some of the instability at least has been caused by her preoccupation with and overstatement of their disabilities and insistence on obtaining support for them which they do not need. The children have moved school four or five times and when they have done so the mother has not considered the impact on the children in terms of the loss of friends, routine and stability and the sheer anxiety of having to start again in a new place. This has been emotionally and educationally harmful to the children.**

#### *Removal of CD from school*

117. The next finding sought by the local authority is that in November 2022 the Mother removed CD from F school citing CD's 'meltdowns' and poor mental health, although no teacher or other professional has witnessed CD having the sort of 'meltdown' that the Mother describes. It is said that the Mother approached two NHS GPs who refused to certify that CD was unable to attend school due to poor mental health, before obtaining an 'unfit for work' certificate in CD's name from a private doctor.
118. Most of this allegation appears to be accepted. What is not accepted is that no professional saw a meltdown. The mother says meltdowns happened regularly and relies on an exchange of text messages between the mother and the teaching assistant, in which the teaching assistant on 12 September 2022 describes CD shouting, screaming, stamping, crying and being very upset. I have some concerns about the evidence of this teaching assistant. The tone of the text messages indicates a close friendship between her and the mother, much more than a professional relationship. That is borne out by the fact that the same teaching assistant was put forward at one stage as a possible carer for the children, and a connected persons assessment was at

one stage contemplated. Nevertheless, her text messages on 12 September 2022 are evidence that she saw something which might be described as a meltdown and I have no reason to think she would make that up.

119. On the other hand, I am conscious of the evidence of the Deputy Head Teacher of F school who described CD's engagement at the school in broadly positive terms, saying that despite his EHCP under which he should receive 1:1 support at all times, the school believed there were times when he did not need 1:1 support, for example at breakfast club or when he was working in a small group supported by an adult. She says that the school was trying to build CD's independence and resilience as he was very reliant on adults and he believed he needed 1:1 support at all times. There is no mention from the Deputy Head Teacher of any meltdowns or any other behavioural issues from CD. The school attendance record does not support the mother's claim that she had to come and collect him regularly because of meltdowns, nor that at times he could not be got into the building. It seems likely therefore that the incident witnessed by the teaching assistant was unusual, and not an everyday occurrence.

120. In relation to the GP letter, the mother accepts that the GP told her a medical note was not available on the NHS and says that is why she went to a private GP. She feels justified in having taken that course of action because the GP letter resulted in CD being given 15 hours per week of home tuition. I find myself unpersuaded by this justification. The mother's medical notes record the mother as saying to the GP that she would go to a private GP to get the sick note, and it is recorded that the GP explained to her that this would not be appropriate as they do not have the full background information. I agree with the GP's advice. The private GP would not have had any previous knowledge of CD or the mother, nor did they have his medical notes. There is no mention in the private GP's letter that they have any knowledge of the Local Authority's involvement or concerns. They would have been entirely reliant on the mother's and CD's self-reporting. The mother, I have already found, persistently over-stated CD's needs. I note that the private GP's summary of the history includes "Teachers have noted him not to be engaging". That is contradicted by the school's own evidence. CD himself would have known very well what his mother wanted him to say and would have said it. I note that he said of his father that

“he did not feel comfortable seeing a stranger who he has not seen for a long time”. Those do not seem to me to be the natural words of a 10-year old and I am concerned about the level of influence of the mother in that response. I therefore make the finding in the following terms: **in November 2022 the Mother removed CD from school citing CD’s ‘meltdowns’ and poor mental health, although there is only one record of one professional witnessing on one occasion the sort of ‘meltdown’ that the Mother describes. The Mother approached two NHS GPs who refused to certify that CD was unable to attend school due to poor mental health. She then obtained an ‘unfit for work’ certificate in CD’s name from a private doctor despite her own GP telling her that would be inappropriate. The private doctor did not have CD’s medical notes, and was reliant on the mother’s and CD’s self-reporting and his letter, as a result, should not have carried the influence which it did.**

*Isolation from peers, father and wider family*

121. The next finding sought is that the Mother has isolated the children from their peers, and from their extended family, including their Father and their older sister. Further, that the Mother did not allow AB to access communication devices other than a mobile phone, including age-appropriate sites and applications.

122. In terms of isolation from their peers, it is not in issue that AB was home schooled in January and February 2019 and from February 2020 until September 2020, a total of approximately 10 months (including summer holidays) without a school. It is not in issue that CD was home schooled from January 2019 until September 2019 and from February 2020 until September 2020, a total of just under a year and a half (including summer holidays) without a school. There is evidence by way of photographs to show that the mother took the children out on activities from time to time, but I am not clear how the mother provided regular, ongoing peer relationships for the children. In that regard the children may well have felt somewhat isolated during their periods of home schooling. The concern about isolation was shared by the Local Authority who noted at a child protection plan review meeting in early 2021 that the children did not have many long term relationships with adults

except their mother and older sister and the changes to their school placements had reduced this further. There was thus a limited number of adults in their life who they might be able to speak to if they had worries. Although I consider there is some evidence to support the assertion that the children were isolated from their peers, I do not consider it contains enough details or specific examples to enable me to make a separate finding on it.

123. In terms of isolation from the father, the mother squarely blames the father for this. She says she did not hear from him for 7 years and that when he eventually sought contact through solicitors, he just gave up. She relies on solicitor correspondence to support that, and says it shows a lack of commitment from the father. I do not see it that way. The solicitor's correspondence shows the mother throwing repeated obstacles in the way of contact. It is no wonder the father gave up via that route. His commitment is evidenced by his continuing CMS payments throughout the time he was not seeing the children. Initially, when contact was offered to him he took it up. The contact stopped, it appears, because the mother moved house and did not tell him where she had moved to. The father took time to save enough money to go to a solicitor to seek contact, but he did then go. When negotiations through solicitors failed he issued private law proceedings. When contact was re-started through the care proceedings he was committed and reliable. It is plain from his course of conduct that he would have wished contact with the children if he could have made it happen.

124. The mother says she is not against contact between the children and the father and would support it. But historically she has made no secret of the fact that she has been very against contact. In both her first and second statements in the public law proceedings she says she does not agree with any direct contact taking place at all. She says the children have expressed that they do not want to have contact with the father and that AB has been especially vocal about this matter. She says that the father has been sexually, emotionally and verbally abusive towards her throughout their entire relationship and that he had also been emotionally and verbally abusive towards the children as he had made threats to kill them. I have already found those allegations to be not only untrue but to be malicious.

125. On 3 August 2022 the court made a child arrangements order for contact to commence between the children and their father. The children were living with their mother at this time. In the ensuing weeks the mother gave a number of reasons why the children could not come – they did not want to, it was too far, they were too tired, the mother has college, the children will be hungry and so on. On 5 October 2022 DJ Barrie noted that the mother had breached the order and said further breaches would result in a penal notice. On 25 November 2022 DJ Cassidy noted that the mother had failed to take the children to contact on a sequence of 5 dates in September, October and November 2022. The mother’s attention was drawn to the standard penal notice which appears on Child Arrangements Orders.

126. Some few sessions of contact did take place. For the first two sessions, the social worker brought the children. They were initially shy, but the father won them round and they had good contact – described in the notes as “delightful”. Between the second and third sessions of contact a Child Protection Conference review took place at which it was stated that AB was becoming more comfortable with her father. At the third session of contact, the children were brought to the contact centre by their mother. The children had given the father a list of foods they wanted him to bring and he brought them all. He had also prepared a quiz, with prizes in a bag, the children being invited to dip their hand in for a prize when they answered a quiz question correctly. The children simply did not want to engage and the contact was difficult, in a way that the first two had not been. The father felt that the children had been coached by their mother to behave in this way. The former social worker who attended the contacts described the difference between the second and third contacts as being stark. Social workers were of the opinion that the mother had disliked hearing that AB was becoming more comfortable with her father and had made it plain to the children how they must behave. The mother denied this, and said that AB had wanted to go out with school friends and missing out on that had caused her to be disengaged. When AB was asked about her behaviour at the third contact, she said that her father had not been there for her and he did not care about her or her brother.

127. I am unpersuaded by the mother’s explanation for the children’s behaviour at the third contact for a number of reasons. First, missing out on seeing friends is

annoying but can be remedied by seeing them on another date. It does not seem a sufficient reason for this stark change in behaviour. Secondly, the mother's explanation was not supported by AB, who gave a different reason. Third, AB's reason is itself troubling. The criticisms she makes about her father not being there for her and not caring about her are long-term matters. They would have troubled her at the first two sessions of contact if they were concerns genuinely held by her. She had been enjoying her time with her father without worrying about him having been absent or not caring about her. It is, to my mind, inescapable that the only reason she would suddenly be put out about these matters at the third session when she had not been put out about them at the first two is if somebody put them in her mind. The only person with a reason to do so was the mother. Fourth, since the children have been in foster care and have been having contact regularly their relationship with their father has taken off in a way that surprised and delighted professionals, the father and the children alike. The Guardian says that CD speaks about his dad with joy and pride, and AB says seeing him is the best part of her week. She described AB as rising out of her chair in happiness when talking recently about her time with her father. These are the emotions which the children exhibit when they are free. The implication seems to be that at that third session of contact, they were not free. Looking at the evidence in its totality I am in no doubt that the children behaved as they did at that third session of contact because of things said to them, or pressure brought to bear on them, by the mother. I make the following finding: **the children did not have contact with their father for a period of approximately four years following the separation of the parents. The blame for this lies with the mother, who was opposed to contact taking place and placed obstacles in the way of it. The father always wanted contact. When contact re-started the mother breached contact orders and put pressure on the children not to engage with their father, in an effort to make the contact go badly. The children suffered emotional harm by losing the relationship with their father for so many years and by the mother making them feel that, against their natural inclination, they had to refuse to engage with him when contact re-started.**

128. In terms of wider family, the mother says that she is not in contact with her mother, her brother and her older child JK. In JK's case the mother says it is JK's

fault. The mother has reached out to her but JK has responded with abuse. The mother puts this down to JK's diagnoses of personality disorder and autism. Be that as it may, it is striking that the mother has no relationship with any of her close family except her younger children. I make this finding which is based on agreed facts: **the mother has not been able to sustain relationships with close family members which has resulted in the children being isolated from the wider family.**

129. The remainder of this allegation deals with the mother not allowing AB to access communication devices. It does not seem to me that that goes to the threshold criteria and I propose to make no finding on it.

*Influencing children to think negatively of the father*

130. The next allegation is that the Mother has inappropriately influenced the children to think negatively of their Father, resulting in the children not wishing to have a relationship with him. The mother denies this allegation. She says she did not speak to the children about their father as he had chosen not to make contact with them. I have already found that that is not true. She says she was supportive in rebuilding the relationship between the children and their father. I have already found that not to be true. She refers to a letter from her psychotherapist to substantiate her claim that she has been supportive of the re-introduction of contact. The letter says that the mother has used therapy to help her positively encourage her children to engage with contact, and that she did this by scheduling her therapy sessions to be at the same time as contact, to ensure that the children do not overhear. I do not consider that that was at all a helpful step. The outcome of it was that the mother undertook her telephone therapy in the contact centre, the centre having provided her with a private room for it. On 5 October 2022 DJ Barrie had stated in a recital to her order that "The court expects the mother to comply with all contact arrangements including that she leave the contact centre during the children's contact". The arrangement the mother made with her psychotherapist contravened that expectation. The mother said she had no memory of that expectation, but she was at court and represented when the order was made.

131. Furthermore, the letter from the psychotherapist talks about the mother having anxiety, emotional distress and a re-surfacing of trauma brought about by the re-

introduction of contact. She records that the mother was concerned for her children's safety in spending time with a man with a history of violence. The mother had also told her the father had been accused of rape, sexual abuse of minors and sharing indecent images of minors, and that she was terrified of exposing her children to this and was deeply concerned for their safety and welfare should they continue to have contact with them. It strikes me that this is a curious document for the mother to rely on in support of her contention that she was supportive of contact when in fact, it focuses much more on all the reasons why she would be obstructive to it. Be that as it may, the letter is concerning for other reasons. The mother has clearly told her therapist that the father has a history of violence. He does not. It is true that he was accused of rape, but the accusation came from the mother and I have found that to be an untrue and malicious accusation. He was accused of sexual abuse of minors and sharing indecent images, but those matters were not taken forward by the police and there is a concern on the part of professionals that those allegations too might have been malicious allegations made by the mother. What is clear from this letter is not that the mother was supportive of contact but that she was ferociously continuing her campaign against the father and acting in breach of a court expectation. The court clearly felt the mother's presence in the contact centre would destabilise contact. She chose to remain in the building despite that, and that, to my mind, is further evidence of the mother's attempts to frustrate contact.

132. As to whether she spoke negatively to the children about their father, I have already found it likely that it was the mother who told AB that her father had not been there for them and did not care about them. The former social worker in her statement describes the children's reluctance to see a video of their father prior to being reintroduced, and quotes AB as saying her mother had not informed them of it, and CD as saying that his father had been out of his life for a long time and he did not want to speak about it. When, three days later, they were shown the video they expressed joy at seeing their father. The former social worker relies on this to support her view that the mother has been alienating the children from their father. I tend to agree. There is a clear sense of a narrative that they have had to follow which breaks down when confronted with the reality of their father. It is difficult to see where their negativity could come from, if not the mother. And given the strength of the mother's negative feelings about the father, as seen in the psychotherapist's letter, it



is difficult to imagine that she would be able to hide that negativity from the children. I have already made findings about her negative influence in relation to the children's third contact. Taking the evidence as a whole, I make the following finding: that **the mother has inappropriately influenced the children to think negatively about their father.** I do not make the remainder of the finding which would have been that it resulted in the children not wishing to have a relationship with him. Thankfully, that has not been the result. For the avoidance of doubt I have taken into account the work the mother did with the social worker to help her talk to the children about the father. That the work took place is a further indication that a problem existed. There does not seem to me to be any evidence that the work achieved the desired result.

*Physical and verbal abuse of the children by the mother*

133. The next allegation is that the Mother shouted at, and used physical chastisement with, the children, and called AB unpleasant names. On 15 January 2021 the Disabled Children's Team received a referral from a source who gave their name but wished to remain anonymous that the mother was calling the children names including "bitch" and "cunt" and was being emotionally and verbally abusive to them. The children were spoken to individually and alone at school, and they raised no concerns, and spoke positively about their relationships and experiences. Neighbours were spoken to and did not report any shouting. No further action was taken. A further anonymous referral was made in February 2021. Information from the housing management team raised no concerns about noise complaints.

134. On 14 May 2021 AB told her teacher at school that she was scared of her mum, her mum shouted and swore at her and called her names such as "pea brain", that she shouts a lot and sometimes slaps her when she is angry, that she is treated differently from her brother and has been having suicidal thoughts. She made a number of other similar allegations. The school spoke to the mother who denied the allegations, and an agreement was signed with the mother that she would not hit the children. AB was given a weekly check-in slot to be able to be able to come and talk to staff. However on 17 May 2021 after the first check-in the mother sent a letter to the school saying that AB did not want the check-ins any more. AB had written a letter, a copy of which I have seen, saying "I don't need weekly meetings because I

can talk to me mum if I'm upset. The stuff I said I over-saied (sic) everything". As far as I can see no further action was taken.

135. The mother says that AB was put up to make the allegations by her older sister JK. There is a statement from JK given via her key worker and the children's current social worker, and in it she makes wide-ranging and serious allegations of abuse against the mother, saying that she verbally, physically and emotionally abused her, AB and CD over a long period. There are marked similarities between AB's allegations and JK's allegations. The mother says JK has made these allegations because of her personality disorder and her autism.

136. I have not heard evidence from AB or JK, and as a result I have not heard their allegations being tested. I am mindful that AB appears to have withdrawn her allegations (albeit there must be some concern about the influence of the mother in that withdrawal). She has not repeated the allegations either whilst in her mother's care or whilst away from her mother in foster care. In those circumstances it does not seem to me that the burden of proof has been discharged in relation to this allegation, and I make **no findings** on it.

*Coaching and refusing to allow the children to be seen alone*

137. The next allegation is that the Mother has pressured and coached AB and CD to refuse professional intervention, including sometimes refusing to allow the children to be seen alone by a social worker. The evidence for this is found in social work statements. It is said the mother refused to allow the social worker to visit the children alone on 19 July 2021, 21 August 2021, 31 August 2021 and 25 November 2022. There may be other dates. The mother says that was when the social worker was new, and trust had not yet been built up (although that cannot be relevant for the date in November 2022). On 22 September 2021 when AB was seen at school it is recorded by the Local Authority that she expressed suspicion that the mother did not know about the visit and would be likely to be unhappy about it.

138. The mother says it was the children who did not want to see the social

workers, and not her preventing them meeting. She says AB does not enjoy the presence of social workers because they are invasive and she does not want to interact with them. That is flatly contradicted by the sessions which AB had with the social workers, for example on 20 July 2021 at school, when AB had a good talk with the social worker and said it was difficult to talk openly in the garden at home because “Mum watches her so closely”, and AB said she felt school visits were easier. She spoke to the social worker about some of her worries and there is no appearance of reluctance. Even more striking is the session on 22 September 2021 when AB became tearful talking about her mother’s treatment of her and how she feels less well treated than CD. She expressed her frustrations about having to keep watch over CD and her worry that she would never have a good relationship with her mum. She said she had looked into moving out and had considered calling ChildLine but she did not have her own mobile phone. She expressed concern about being socially restricted, and at the end expressed gratitude to the social worker for the opportunity to “open up”. That is not a conversation with a girl who finds social workers invasive and does not want to interact with them. I reject the mother’s evidence that AB does not want to see the social workers. It is clear to me that it was the mother who was objecting and not the children. I accept, however, that there are many other instances of the mother allowing the children to be seen alone. I come to the following conclusion, that **the mother has, on occasion, refused to allow the children to see the social workers alone but at other times she has allowed it, and I make that finding.**

139. The other element of this allegation relates to coaching. I take this to mean coaching in its widest sense: not just explicitly giving a child a script to learn and repeat, but planting seeds in the child’s mind, causing them to distrust others and pressurising them, whether by words or actions, to think, feel and behave in a particular way. I have already found that the mother inappropriately influenced the children to think negatively about the father. The question is whether she did the same in relation to social workers. The former social worker thought that she did. She said that when the children attended their solicitor’s office with the mother in August 2022 the mother said that AB wished to instruct her own solicitor. AB stated that she had been studying the law in the holidays and had read about Child Arrangements Orders

and Barring Orders. She was asking to instruct a solicitor that the Child Arrangements Order allowing contact with her father be overturned and a barring order put in place to prevent the father applying for a further order. In view of what I have found the children's true view of contact to be, and indeed the mother's true view of contact, I consider this far more likely than not to have been the mother's wish rather than AB's and in my view this is clear evidence of coaching.

140. In her case analysis dated 28 February 2023, only a few days before the children were taken into foster care, the Guardian said that in her fifteen years in social work AB and CD were among the most coached children she had worked with. She gives the following examples: that both children say they don't want to see their older sister JK (with whom they previously had a good relationship) but cannot give adequate reasons for this. AB has stated that JK has said bad things about her mum and she is the one who started everything. The Guardian says, and I agree, that that is a narrative that could only have come from the mother. In oral evidence the Guardian continued to express in strong terms the difficulty she had had in obtaining any information from the children which she felt was true and reliable. She said that AB had an ability to express her views clearly but there was a lack of energy or urgency about it. It did not feel like the many conversations she has had with children who are desperate to get back to a parent. It felt like the request to go home and live with the mother or failing that another family member was something AB felt she had to say but she couldn't explain why she said it. When she talked about her mother being a good mother she spoke about her mother buying her things and cooking her meals, but never spoke about emotion, care or love. In early visits to her in foster care she was "incredibly coached", but even on the most recent visit she was still influenced, but to a lesser extent. She was still talking about sending letters to the judge, or meeting the judge to "make sure" nothing was left out or misinterpreted. That, to the Guardian, felt like earlier conversations in which AB had expressed disbelief that her views were being properly conveyed. AB had not spoken to the Guardian with any passion or energy. It was lacklustre. The Guardian felt AB was not really trying to convince her. She contrasted that with the moment when she rose out of her chair in happiness talking about her father. That had felt like a real honest moment when she was speaking from her heart and she could see AB was experiencing happiness.

141. For CD the Guardian's observations were similar. He couldn't explain why he wanted to live with his mother. His secondary plan was to live with the paternal grandmother. That was the mother's position at the time, but it made no sense for it to be CD's secondary position, rather than living with his father. CD showed no emotion on having this conversation. He also had expressed emotional warmth only when talking about his father. The Guardian said that was a genuine moment, and she was unused to it as she usually had to interpret what the children said. These observations appear to me to be evidence-based, and are made by an extremely experienced and competent professional working within her area of expertise. I give them a great deal of weight.

142. The mother denies coaching the children. She insists that the views of the children are their own views and she has not sought to put any pressure on them. I would perhaps be able to place more weight on these assertions if the mother had not also asserted that she supported contact, that she did not influence the children against their father and that she did not prevent the children seeing social workers alone. I cannot say whether she gave the children scripts, or told them off if they said the wrong thing or simply made it plain by her own behaviour what it was they must say, but the balance of the evidence comes clearly down on the side of the mother having coached the children. It is clear from the evidence of the Guardian that they are only now, some six months on from living in the mother's care, beginning to be able to find their own voices. There is also evidence in the contact notes of the mother whispering to the children in contact despite being told not to and saying to them. "They are trying to isolate you and stop me from gathering evidence against them". The mother denies doing this but the contact note is clear. The current social worker gave oral evidence that when she had supervised the mother's contact with the children the contacts had been very hard to manage. She said that there were times the mother would run out of the contact room and huddle at the back of the garden with the children and there would be a lot of whispering. There were clearly things the mother wanted to say to the children that she did not want social workers to hear.

**I find that the mother has coached and pressured the children to put forward her views as their own. She has done so to an extent and a degree which has been emotionally harmful to them, resulting in the Guardian describing them as being among the most coached children she has come across in her 15 years of**

**social work.** Having made that finding it is not necessary for me to make findings on the individual examples set out in the schedule.

### **Section B: Matters from March 2023**

143. I turn finally to section B in the Schedule, matters which have arisen since the children were taken into foster care in March 2023. The first finding sought is this: If the mother disagrees with a professional's opinion or recommendation or finds her views challenged, she pursues a course of conduct which includes making complaints, allegations and referrals to professional bodies or outside agencies. These complaints are unfounded and hinder the ability of the professionals to work with the mother and the children. I propose to consider this overarching allegation by looking at the examples cited by the Local Authority.

144. The first example, on the Local Authority's case, is that on 15 March 2023, the mother sent a message to the then-social work team manager, threatening to make false allegations regarding the manager's child and grandchild. The message says this: "How would you feel if this happened to your daughter [named] and grandchild??" So far it is not threatening, in my view. But it goes on to say "Mind no one don't lie to social services about your daughter, you wouldn't want all of this happening to her!" The mother denies that this message was intended to be threatening. She says the question was simply how she would feel if she was in the same position as the mother, and says she was trying to appeal to the manager's sympathy. That argument in my view holds some weight as far as the first part of the message is concerned but it does not adequately address the injunction "Mind no one don't lie to social services about your daughter". It is hard to read this as anything other than a threat to make false allegations. Making false allegations is something the mother has done numerous times and it was not, in my view, an empty threat. I am not satisfied by the mother's explanation on this point and I find that **on 15 March 2023 the mother sent a message to the social work team manager, threatening to make false allegations about the team manager's daughter and grandchild.**

145. The second example is that the mother made formal complaints against the foster carers to the social work team, the police, F Primary School, the Executive Director for Bi-Borough Children's Services, and the Local Authority's emergency duty line. The children moved into foster care on 2 March 2023. On the same day the police were called out to conduct a wellbeing check. The police were satisfied and took no further action. The mother says the phone call to the police was not made by her and suspects AB made the phone call. I consider this most unlikely – that a child who had been taken from her home and moved to another part of the country would phone the police to conduct a welfare check in circumstances where they would inevitably find no welfare concerns stretches credulity. The child would have other things to think about rather than making vexatious calls to the police. In view of the mother's general course of conduct, which I shall set out below, I consider it more likely than not that the mother made that phone call and called the police to the foster carer's home on the first day the children were there.

146. The mother accepts that she did complain to F Primary school on 13 March 2023 that the foster placement had maggots and there were spiders in the bathroom. That complaint was not substantiated.

147. The mother accepts she emailed the Bi-Borough Executive alleging that the foster carer had committed fraud and illegally applied for benefits for the children. She says she had received notification from the benefits agency that someone was claiming the benefits, and she had been advised this was not legitimate. The complaint was not substantiated.

148. The mother admits emailing the then social work team manager, on 16 March 2023 with complaints about maggots and spiders, leaving the children home alone, not providing packed lunches, leaving the children in the car alone, forcing the children to go to school, forcing them to eat school dinners, forcing them to sit in a particular way, and claiming benefits illegally. The mother says this is not a complaint but a concern. I think that is a distinction without a difference. The complaints were investigated and it was found that the foster carer had left CD in the car while she ran across the road to take AB to the bus stop, with CD in sight the whole time. She had also once left CD at home alone whilst taking AB to the bus

stop. The matter was addressed with the foster carer and was described as a “learning point” for her, but was not a reason to terminate the placement. There is no suggestion that it ever happened again. The other complaints were not substantiated.

149. On 20 March 2023 the first foster carer gave notice. It is said on behalf of the Local Authority that the mother’s complaints put them under such stress that they felt unable to continue the placement, and I accept that that is very likely. It would have been very onerous for foster carers, trying to provide care to two unsettled children, to have to deal with police call outs and constant investigations into their care and living conditions.

150. On 25 March 2023 the police received a complaint that the children were living in squalor and being ill-treated. They considered it a malicious complaint. The mother denies phoning the police. I consider it was more likely than not that she made the phone call based on her pattern of behaviour of making complaints and the similarity of the complaints to the ones she was making to other agencies. There is no other person who would know enough about the placement to make the complaint.

151. On 28 March 2023 the Local Authority received a complaint from Women’s Aid Consultancy who had received a complaint which purported to be written by AB. The Local Authority asserts that it was the mother who sent that complaint. She denies it, saying “AB may have seen the details of this organisation when using my laptop”. That seems to me exceptionally unlikely. AB had been separated from her mother, and her mother’s laptop, for nearly four weeks by the time the email was sent. It is absurd to think that she may have written down the name of the website while still living at home in case she was ever removed and ever needed to complain, and then waited four weeks before doing so. Based on the mother’s pattern of behaviour and the similarity of the complaint to the mother’s other complaints I consider it more likely than not that the mother made this complaint in AB’s name.

152. 29 March 2023 was the day the children moved to their second foster placement. On that day the mother complained to the Local Authority Duty Line that the children were being forced to attend church, being forced to work and informing social services that they were Muslim. The mother contends she was right to raise these cultural concerns. But when the matter was put to the children they seemed



bewildered at the idea they were Muslim. It appeared to be the first they knew about it.

153. Also on 29 March 2023 a complaint was sent to the Ombudsman ostensibly from AB making allegations about the first foster placement, stating the children had not been listened to and requesting the care order to be discharged. The mother denies that this email had anything to do with her. However there are other emails purporting to be from AB, for example an email sent on 18 May 2023 to Helping Hand in which the author gives “my mum’s phone number”; and then in a follow-up email the next day said “my number is still the same”. It was put to the mother by counsel for the children that she had written both emails and had slipped up by referring in the second email to the phone number as “my number”. The mother denied it, saying that was hearsay and there was no evidence. But it seems to me that those two emails are themselves evidence. I agree with the case put on behalf of the children that by far the most likely explanation is that the mother wrote those emails and did indeed “slip up”. It seems to me that writing emails in the name of AB was something the mother did on a number of occasions. Going back to the complaint to the Ombudsman, it seems unlikely that a child would know that such a person existed, nor that she would reach out to such a person, nor that she would ask for the “discharge of the care order”. These are actions much more indicative of an adult mentality. In view of the mother’s propensity to impersonate AB by email I am satisfied it is more likely than not that the mother wrote to the Ombudsman on 29 March 2023 in AB’s name, and I do not accept her denial.

154. On 30 March 2023 the police were called out to the new foster carer’s address, the caller having indicated that the children were not being cared for and there were safeguarding concerns. The police were satisfied there were no safeguarding concerns. The mother denies making this call, saying that according to AB the call originated from the NSPCC. There is no evidence that the NSPCC were involved in this case at that time. I do not believe the mother. I consider it more likely than not that she called out the police.

155. On 6 April 2023 the police were called out again to the foster carer’s address. It is recorded that they were called “not by children”. They spoke to both children

who had no concerns. The police took no further action. The mother says she knew nothing of this call out. I do not believe her.

156. On 7 April 2023 the NSPCC received an email as if from AB. The allegations were that the children were put into care for no reason, that social workers were not listening, and that CD was being yelled at. The mother says she did not encourage AB to do this but it may have been on the advice of her Childline Counsellor.

157. On 4 May 2023 a complaint was raised with the Local Authority's customer service. The mother does not deny making that complaint.

158. On 19 May 2023 an email was sent as if from AB to Ofsted local to her foster placement raising concerns of mistreatment. I consider it unlikely that a child would think of contacting Ofsted to complain about mistreatment – particularly when no such mistreatment is ever found to have been substantiated. There is just no reason why AB would continue to write to these organisations about mistreatment when repeated investigations showed that none was occurring. Again, I consider it more likely than not that the mother sent that email since it deals with her preoccupations.

159. The chronology of complaints continues. The mother accepts she complained to AB's new school on 22 May 2023. The LA chronology says that on 23 May 2023 the mother threatened to call the police. The mother's response to that assertion is unclear.

160. On 4 June 2023 the mother disclosed that she was in the area of the children's foster placement 25 minutes' walk from the foster carer's home. She accepts that she called the police at this time, having, as she says, been told by AB that the foster carer had slapped CD's face. The allegation was investigated by both the police and the emergency duty team in the local area, and not substantiated.

161. By the time the current social worker wrote her statement on 19 June 2023 the second foster placement had given notice. They had not been able to cope with the police call outs, the mother being nearby and the constant stream of complaints and investigations.

162. It is the Local Authority's contention that this litany of complaints, all but two of which were unsubstantiated, and those two easily dealt with, were excessive, destabilising and caused the breakdown of both foster placements, necessitating disruption and placement moves for the children. It is their case that the mother was unable to see that the effect of her actions was detrimental to the children, causing them to be questioned over and over by professionals, and causing the distress and anxiety of having to start again with new foster carers. It is the mother's case that either she did not make the calls or send the emails or, in the cases where she did, it was justified.

163. I do not agree with the mother. First of all I consider that **she did make the calls and the complaints as set out in the Local Authority's schedule, including sending the emails which purported to be from AB and so I find.** Secondly, I note that other than two misjudgments by the first foster carer (leaving CD alone at home once and in the car once) none of her complaints were substantiated. In cases where she says she was reacting to information, for example when she says AB told her CD had been slapped, her reaction was unreasonable. That could have been dealt with by phoning the social worker rather than ringing the police. In other cases, her complaints seem to me to have no foundation and it is unclear to me why she made the calls. My findings then are these:

- a. **During the time that the children were in foster care the mother made an unreasonable and excessive number of complaints about both sets of foster carers. With two minor exceptions, none was substantiated. With those two minor exceptions, the complaints were all either vexatious or handled by her in an excessive way, for example calling the police where a telephone call to the social worker would be more appropriate.**
- b. **As a result, both sets of foster carers were not able to cope with the intrusion of police call-outs and repeated investigations of their care and living conditions. Both foster placements gave notice causing placement breakdown twice for CD and once for AB. This was as a direct result of the mother's campaign of complaints.**

- c. **The mother does not appear to have any insight into the effect of her actions on her children, that effect being repeated questioning by professionals, placement breakdown, the need to move to strangers again, the loss of the relationships they had begun to build up and a feeling of instability and insecurity.**

*Phones, trackers and remaining in contact*

164. The Local Authority seek a finding that despite an order of the court on 31 March 2023 that the mother would not have contact with the children save for “within supervised direct contact sessions organised by the local authority” the mother remained in contact with the children. They say she had contact on at least 4 June 2023, 11 June 2023 and 14 June 2023.
165. It is right that on 31 March 2023 DJ Jenkins made the order I have just cited. A further order was made prohibiting her from answering in the event that the children tried to contact her by telephone, text message, social media or any other means. Despite that, the mother accepts that she had contact with AB on 4 June, 11 June and 14 June 2023 outside the Local Authority’s arrangements. She says AB made contact with her and it would have been very difficult to ignore her messages.
166. There is in fact an account of the contact between AB and her mother on 14 June. The social work statement says this:

*On the 14<sup>th</sup> of June further discussions were held with AB about her mobile phone. She was asked to hand in her phone due to concerns about the indirect contact her mother has continued to have and the concerns about how this is impacting her and her brother being able to settle and enjoy their time with their foster carers. During this time AB was in communication with her mother via text and declined to hand in her mobile. AB was visibly distressed and cried and her hands began to shake. She then began to request legal documents stating she should hand in her mobile. I was highly concerned by*

*AB's presentation; I feel the requests were directly from the conversation she had with her mother and was another demonstration of coaching and the impact this is having on AB's emotional wellbeing. AB appeared highly worried and anxious.*

In a later statement the allocated social worker again refers to this incident, saying

*It later transpired that AB had provided an update of the conversation whereby she was asked to hand in her mobile phone. The mother responded by instructing AB to request the police be called to the school. It has been observed that the mother's influence on AB means that her daughter will indeed carry out her demands despite the trauma this causes.*

The mother herself responded to the contacts from her children by calling the police (on 4 June 2023), calling the Emergency Duty Team (on 11 June 2023) and encouraging AB to demand legal documents before handing over her phone (on 14 June). The mother may dispute this last response, but the social work evidence is clear.

167. Two other matters are relevant to consider here. The first is the evidence of the social worker in her statement that during a social work visit to the children on 29 March 2023 AB shared that she wanted to return the secret phone but could not. The second matter is the oral evidence of both the social worker and the Guardian that the demeanour of the children has changed since all the secret phones have been removed and there has been no unauthorised and unsupervised contact. They both say that the children have changed, they have relaxed, they have become for the first time able to articulate views which appear to be their own rather than the views of their mother. I have already set out the Guardian's views about her final visit, and having the unusual experience at last of hearing wishes and feelings which appeared genuine. She is quite clear that that had been brought about by the cessation of the unauthorised contact, and she is equally clear that the unauthorised contact was very harmful to the children.

168. It seems to me there is ample evidence to support the finding the Local Authority seek and so I find that **that despite an order of the court of 31 March**

**2023 that the mother would not have contact with the children save for “within supervised direct contact sessions organised by the local authority” the mother remained in contact with the children. She had contact on at least 4 June 2023, 11 June 2023 and 14 June 2023.** I add this further finding: **The mother used that contact to continue to coach the children, and to instruct AB in particular to take actions which she found traumatic. AB was unhappy about the contact, and the contact was harmful to her.**

169. The Local Authority seek a further finding that phones and tracking devices which were found in AB’s possession were in her possession on the instruction, or with the encouragement, of the mother. There appears to be no dispute that on 29 June 2023, the supervising social worker for AB’s foster carers found a tracking device in her school blazer and that on 19 July 2023, staff at AB’s school found four mobile phones and a tracking device inside the lining of AB’s school blazer.

170. On behalf of the Local Authority it is accepted that nobody saw the mother give any of these devices to AB, and there is no eye-witness or documentary evidence to prove that the mother gave her, or encouraged her to have, the phones. Such evidence as there is, is circumstantial. It is as follows:

- a. The current allocated social worker gave oral evidence that when they came into care both children had phones. The Local Authority removed those phones and gave them back to the mother. When the children arrived at their new foster placement in a new area they had those phones back again. These as I understand it are not any of the four phones found in AB’s blazer but arguably they provide similar fact evidence of the mother placing phones in the children’s possession without the permission of the Local Authority.
- b. The mother has always been insistent on being able to stay in touch with AB by phone. For example, on 10 September 2021 at a meeting to progress to a child protection plan the mother stated that she had given AB a phone to hide in her bag at holiday club, because phones were not allowed and she wanted AB to be able to ring her in case of any problems. On another occasion she refused to let AB attend the school week-long camp because the school would

not allow AB to have a phone to contact her mother. These examples may also be seen as similar fact evidence.

- c. The mother had the opportunity to hand over items such as phones and trackers, as explained in the oral evidence of the current allocated social worker who said contacts were very hard to manage, with the mother huddling at the back of the garden with the children. She was clear there were opportunities for a phone to be passed over during supervised contact.
- d. The mother had a clear motive in handing over the phones. The facts of the case show that she kept, and clearly wanted to keep, in touch with the children and would even breach court orders to do so. She used the contact to obtain information from the children which fuelled her campaign of complaint against the foster carers.
- e. There is no other obvious person who might have supplied the phones
- f. The children themselves did not have the means to obtain them, unless they obtained them using a bank card which the mother provided to AB and which no professional had access to. It was not known how much money was in that account or what AB might have used it for. That was another matter which the Local Authority was concerned about. They say that if AB purchased phones and trackers she can only have done it using the money provided by the mother and would have done it with the mother's encouragement.

171. The mother absolutely denies the allegation. She says she was never given back the original phones so she can not have supplied them back to the children when they moved to their new foster placement in a new area . She says it is not proved that those phones were the same as the original phones in any event. She says she did not have the opportunity to pass the phones to the children because all her contacts were supervised.

172. I must decide whether the totality of the circumstantial evidence is sufficient to create an inference, properly based, and rising above mere suspicion. The mother's denials, it seems to me, are weak in the face of her past insistence on the children

having phones and the use she made of the phones when the children had them in foster care. I consider it was very much in her interests for the children to have those phones. Taking the evidence all together it seems to me that it does amount to more than mere suspicion. There are just too many pieces of evidence, all pointing at the mother and none of them pointing in any other way. I cannot say whether she purchased the phones and trackers or instructed AB to do so, but I am satisfied that circumstantial evidence as set out above is enough to take me over balance of probability. I make the following finding: **that the mother either gave to AB, or encouraged, instructed and enabled AB to obtain, four mobile telephones and two tracking devices which AB then had to conceal from the Local Authority because they were not permitted. AB knew they were not permitted and it was harmful to her to have to take part in this deception. The mother has been dishonest in her denials of her role in this.**

*Mother intimidating and threatening professionals*

173. The last matter I am going to consider in this fact-finding section of the judgment is the allegation that the mother has behaved in an unreasonable and intimidating manner towards professionals and family members which has impacted on the children's relationships and security of placement.
174. I have already found that the mother harassed the father and grandmother and sent a threat to DS. There are further examples of the mother using threatening or abusive words.
175. Within child protection review meeting minutes an email from the mother, dated 6 December 2021 is set out in full. In that email the mother says:
- a. "I've also got an open complaint with Social Work England that I can add to at any time"
  - b. "I intend to get the support that my family has missed out on due to corrupt, lying social workers"
  - c. "I feel it is defamatory for [blacked out name] to speculate and she should be careful what she says"
  - d. "If anyone wishes to challenge [CD's one-to-one support] then do so in



court”

- e. “I don’t want X as my children’s social worker any more and I am considering a complaint to Social Work England”
- f. In relation to the actions of a police officer “If this happens again I shall be sending a formal complaint to A12 and the IOPCC”.

And many other remarks of a similar nature.

176. On 30 June 2021 the mother sent F Primary School an email saying that she had received a decision from the Governors which she disagreed with and saying “I will be making a complaint to the Special Educational Needs and Disability tribunal”. She then talks about a remark made by a teacher about not wanting CD to go into the school office. The mother says “Everything has been recorded for court. I don’t appreciate what the aforementioned teacher said because it is discrimination. I have already won once at court and obtained a court order to get CD his school place without the help of a solicitor all by myself. Law is what I do. I will be dragging this out at court. I have time on my hands this summer”.

177. In an email dated 21 February 2023 the mother copied the Local Authority into an email in which she says “I’m about to contact a few journalists who have responded to my email who are interested in my story. ...I do have recordings of the same social worker telling me that if I go back to college I will lose custody of my children. If my son refuses school I should punish him. She’s attempted to manipulate my children by telling them to give their dad a chance, their dad who’s house was searched for children and he was accused with sharing explicit images of children and sexually abusing children. The journalists are very interested in my recordings”. In an earlier email, dated 17 February 2023 to an MP and various councillors at the Local Authority she says “I have many recordings of them [social workers] saying untruths and trying to manipulate the case to go their way. Yes I have recorded them. I have also contacted several journalists...my recordings could blow the lid on corruption from social services in the Local Authority ”.

178. In the contact notes for 8 June 2023 it is recorded that the mother became angry after the children left, when she was told it was inappropriate to bring up the courts and police throughout contact. It is recorded that she began to call the foster

carers “mother fuckers” and “bastards” and then said “I’ve got their fucking address” and “they won’t be fucking foster carers again”.

179. In the social worker’s statement dated 19 June 2023 the mother is recorded as attempting to prevent AB being enrolled in a new school, including threatening legal action and including her solicitors in every email.

180. In an email sent to F school dated 7 January 2022 the mother says “If I don’t receive AB’s support plan within the next 2 weeks I will go back to the local authority and request an EHCP citing that you did not follow the next steps instructions to create a support plan for AB. I will also make a formal complaint about you and if allowed I’ll use the evidence from the tribunal minutes where you lied in court.” She accuses the safeguarding lead of lying many times in this letter, and concludes “I have cc’d in my solicitors because of their involvement with my CP plan and to let them know about these current events that have taken place”. In her statement the mother does not deny sending this email but says she does not believe she was being threatening in an abusive way.

181. I consider all of the communications I have set out above to be threatening.

182. The mother has also made formal complaints against two of the experts in these proceedings, Dr Phibbs and Dr Lyall, and has requested documents from this case in order to pursue those complaints. I found the reports of Dr Lyall and Dr Phibbs to be professional, balanced, competent and fair.

183. Finally, I heard oral evidence from the Guardian about what it has been like to be on the receiving end of the mother’s complaints. In her oral evidence she said she had never worked on a case with the number of complaints there were in this case. She had found it completely overwhelming and made her work absolutely impossible from the time the children moved into foster care up to the time when the phones were finally removed from the children. She said she did not believe there was a single visit made either by her or by the social worker to the children where they had not had to explore complaints with the children. The bulk of their work with the children had been on investigating allegations rather than focussing on work to help them

understand why they were in foster care, exploring their feelings, taking them on positive activities. None of that direct work could be pursued meaningfully. The Guardian said it was really concerning that we were so far into proceedings and so little work had been done with the children. They had had no narrative about their father, and having been left without a proper understanding that was likely to be distressing for them. She pointed out that children need guidance otherwise they create their own narratives which are harmful to them. She said the children had been put in a position where they felt it necessary to be angry or hostile to her and the social worker because of the complaints, and that must have been really uncomfortable for two such sweet, nice, kind-natured children.

184. It was the Guardian's view that the mother used these complaints to try to control and manipulate professionals. She said it had taken a lot for her to try to ensure she practised in the way she normally would, and not to practice differently because of concerns about herself or her family. The mother had accused the Guardian of being racist and ableist, and that had created a huge amount of extra work. She said that for some periods social workers had felt they needed to work in pairs in order to protect themselves. She said that she had a caseload of 17 cases on average but had spent a quarter of the last year working on this case.

185. It is the mother's case that her complaints were justified. She says that if she has concerns about her children she must be allowed to raise them. She relies heavily on the two complaints that were upheld – the first foster carer leaving CD on his own at home and in a car. The mother says that whilst complaints may make life uncomfortable for the adults being complained about, that does not translate to risk of harm to the children.

186. I disagree with the mother. She is of course entitled to raise genuine concerns. But the sheer range, nature and quantity of her complaints and threats are beyond reasonable. The complaints and threats listed in this judgment are only a fraction of the overall total. In many cases they are extremely heavy handed, telephoning the police or escalating matters to an MP or journalists when a simple phone call to the social worker would have sufficed. It is clear that the mother uses complaints, and threats of complaints, as a weapon to try to bring professionals to heel. She uses them

to try to frighten and browbeat professionals into doing what she wants. The evidence I have cited above speaks for itself. The harm to the children is eloquently expressed in the Guardian's evidence which I have quoted. I therefore make the following findings, based on that evidence:

- a. **Any complaint which the mother makes may be justified and may well need to be investigated. However she has a history of making numerous unjustified complaints against professionals.**
- b. **She does so in order to manipulate, frighten and browbeat professionals to try to get them to do what she wants**
- c. **The range, nature and quantity of the complaints is beyond reason**
- d. **The result has been that the children have been subjected to repeated questioning which has not been in their best interests.**
- e. **This finding of the court must be seen in the context of other findings I have made that the mother has threatened and harassed professionals and family members.**

### *Dishonesty*

187. It is alleged that on 2nd August 2022 the mother falsified a Covid 19 test result in order to avoid attending court on 3rd August 2022 following her application to attend remotely having been refused by the court.

188. The relevant recital to the order made by DJ Barrie on 3 August 2022 is as follows:

*AND UPON the court determining that the hearing would proceed in the mother's absence on the basis that the court is satisfied that the mother was aware of this hearing, the mother submitted an image of a lateral flow test which the court considered did not appear to be genuine/appeared to have been tampered with, having made several failed applications to seek to attend the hearing remotely which were refused by the court, and having failed to provide any medical evidence to suggest she is unwell or unable to attend the hearing.*

189. There is no dispute that the mother did submit an image of a covid test as evidence of why she could not attend that day. I have seen the image. It is of a test, familiar to us all, showing two red lines, a control line and a positive test line. The positive test line is in a different colour, is at a slant, has rough instead of smooth edges and appears to have smudged on to the white plastic on either side. None of those things would be true if it were a genuine test. I conclude that **the mother forged this covid test on 2 August 2022 and submitted it to the court to excuse her absence. In so doing the mother lied to the court and was dishonest.**

190. There is further dishonesty from the mother. I have set out above emails she sent in February 2023 stating clearly that she had approached journalists about the case. In her statement dated 28 February 2023 she says in terms “I have not approached any journalists about court proceedings. I have been given the names of journalists who specialise in investigating social services however have not formally approached any regarding these proceedings. I am aware of the confidential nature of these proceedings and would not seek to disrespect the court in this manner”. Either that is not true, or the mother was lying in her earlier emails. The email assertion that she had contacted journalists was made less than a week earlier than this statement. The mother has either been dishonest to the MP and councillors she emailed or dishonest to the court. She has been dishonest either way.

191. There are other allegations of dishonesty on the part of the mother contained within the Local Authority’s threshold document. However it seems to me the findings I have made about the covid test and talking to journalists, taken together with the finding that the mother’s allegations against the father were false allegations maliciously made, are enough to justify the following overarching finding: **I find that the mother has routinely lied to this court, and others, and that she is a dishonest person.**

192. Insofar as there are any matters in the Local Authority’s threshold which I have not specifically addressed, I do not consider them necessary to address in view of the findings I have made. The harm to the children which arises from those findings is obvious. They have suffered educational harm from disrupted schooling, emotional harm from missing out on school trips and other opportunities, being made

to feel more disabled than they were, and from having to adhere to their mother's views about everything rather than being allowed to have their own views, feeling that they had to be non-cooperative with social workers and being isolated from their father and wider family. On the basis of the findings I have made I am satisfied that Threshold is crossed.

### **Welfare checklist**

193. I turn then to the welfare checklist. AB has most recently expressed her views as being that she would like to live with her mother, preferably, or if not, with another family member. She said she did not mind living separately from CD as she was seeing him regularly. She said she wanted to see him and each parent weekly although would not mind alternating weekly contact with her parents. She wanted to see JK once and then review it. CD said he wanted to go back to his mother and if that could not happen he wanted to go to his grandma and father. If he had to stay in foster care he wanted to be placed with AB. Because of the findings I have made above about the mother and her coaching of the children, and the pressure she put on them to follow her narrative, I am not able to give these wishes and feelings as much weight as I otherwise would.

194. CD has autism and AB has hypermobility. CD has some special needs as a result of his autism and he has an EHCP. He will need carers who can understand the implications of having autism and help him with any difficulties he has arising from it. He does not appear to have any special needs in relation to his mobility. AB has been diagnosed with hypermobility but it does not appear that she has any special needs arising from that. She has in the past been found to have some autistic traits and it may be that she will have a full assessment for autism when this case is concluded. She will need carers that can manage any problems that arise from her autistic traits, or indeed from an autism diagnosis if that is at some stage given. The children will also need carers who can give them time and space to come to terms with what has happened to them as they go forward on their journeys of discovering who they really are, and what their own views are. They have had a very disrupted childhood so far, and they have a real need now for stability, to remain at the same school for a long period, and to know that these proceedings are over.

195. There are two possible changes of circumstances which are envisaged now at this end stage of the case. The first is that the children will be made the subjects of full care orders with a care plan to stay in foster care. If that were to happen it is my view they would accept it, not least because the plan envisages a move to the father's care in due course if all goes well. The children are both happy in their current placements. I did not have the sense, reading the Guardian's final analysis that they would be devastated if they were told they were not going home to their mother. The other change of circumstance which is envisaged is the children going back to their mother's care. If that were to happen they would be back in her sphere of influence, back to being told they were more disabled than they are, back to having to espouse their mother's view of the world rather than their own and back to disrupted schooling and isolation. Their relationship with their father would, almost certainly, be lost.
196. In terms of their age, sex and background, CD is a nearly 10-year-old boy and AB is an almost 13-year-old girl. I have set out their background in more detail already and I will not repeat it here.
197. I have set out at length the harm they have suffered and would be at risk of suffering in their mother's care. I have not set out the harm they would suffer or be at risk of suffering if they remain in foster care. I will do so in my global holistic analysis of the realistic placement options.
198. As to how capable their parents are of meeting their needs, there is unanimity among the professional witnesses that the mother is not able to meet their emotional needs. The mother underwent a PAMS parenting assessment by ISW Sarah Cockley, who did not recommend return to the mother's care. She said she had significant concerns about her ability to provide safe parenting and considered her struggles to reflect or take any ownership of the choices she had made and the harm she had caused to be a serious and unmanageable risk. Sarah Cockley was cross-examined at this hearing but that cross-examination did not give me any cause to doubt the competence, professionalism or accuracy of her report. Her concerns were broadly in line with the findings I have made on the public law matters. The social worker and the Guardian agreed with her views, having arrived at their conclusions separately.

199. Having heard the evidence in this case and having made the findings I have made, I agree with the professional view. The question for me now is whether the mother would be able to meet the children's emotional needs if she had the right training, therapy and support.
200. Dr Lyall, the psychiatrist, took the view that the mother did not, in fact have a diagnosis of ASD because the educational psychologist who had assessed her previously had not administered the full assessment. I accept Dr Lyall's evidence on that point. However Dr Lyall said that the mother manifested a number of possible symptoms of ASD, for example being preoccupied with certain ideas, her interpersonal style and her poor eye contact. He felt that if she had ADHD the symptoms were not particularly severe. He also found that she demonstrated traits of schizoid, avoidant and paranoid personality disorders. These traits made it challenging for the mother to work with others and to accept the opinions of others, and as a result there was an ongoing risk of her making complaints. He said her belief that she is neurodivergent and in her children being disabled in the ways she described were important aspects of her identity. He considered that even if the court were to reach the view that her understanding of her children's difficulty was inaccurate (which the court has now done) it would still be unlikely that the mother's views on this issue would significantly change, given how central those beliefs were to her sense of self and to her relationship with her children.
201. In terms of treatment, Dr Lyall said that neurodiversity was not something one would wish to treat, but for the aspects of her personality which he had described in theory antipsychotic medication might reduce the mother's level of sensitivity, suspiciousness and combativeness. He said this would be reliant on the mother taking such medicine regularly for at least two months to see whether it had a positive effect. He said he thought it was unlikely.
202. He said that specialist and relatively long-term psychotherapy over some months might help the mother more readily understand the mental state of others. He thought that in her current mental state where she is distrustful of others the mother would find it challenging successfully to engage and complete such psychotherapy. He described the personality aspects of the mother's mental state as chronic



conditions. Positive change would be indicated by the mother accepting that the concerns of social care professionals are being driven by fears for the welfare of her children rather than by a desire to discriminate against her and possibly by financial gain.

203. I did not give permission for Dr Lyall to be called to be cross examined but I did give permission for the mother to put written questions to him. She did so, and I have seen the answers to those questions. There is nothing in those questions to cause me to doubt the accuracy of Dr Lyall's assessment. I accept his view that the mother's personality difficulties are chronic. The evidence is that she has acted in combative manipulative and dishonest ways for many years. I further accept the evidence of Dr Lyall that any treatment would be long-term and unlikely to be successful. And I have not seen any sign that the mother has begun to accept that social care professionals are driven by a wish to help and protect her children rather than a wish to discriminate against the mother, or obtain a financial benefit. In fact, in the week before the trial the mother wrote to the court again re-stating her view that she was being discriminated against. There is no sign of any change. Taking that into account, along with Dr Lyall's advice, I conclude that there is no support or therapy which could be put in place which would bring about significant change in the mother within the children's timescales.

204. As for the father's ability to meet the children's needs, that is untested. From all that can be seen at contact it appears that, in due course, he may be able to meet their needs. However the social worker and the Guardian are in agreement that the children need a period of stability before they could safely move into the care of the father, to allow them to come to terms with what has happened and to allow professionals to work with them. It is also said, and the father accepts this, that the father needs further training in parenting and in autism before he would be ready to have them. However the signs are good that he is willing to do the work and is willing to wait so that the children are placed with him at the right time to ensure that the placement is most likely to be strong and successful. The very fact that the father understands this and agrees with it is in my view a good sign.

*Global holistic assessment of the realistic options*

205. I turn then to my global holistic assessment of the realistic options. The first

option is placement with the mother. This could be done under a care order, a supervision order, a child arrangements order or no order. The advantages of that placement are that the children would be with their birth mother. The disadvantages are that the children would be at risk of the mother continuing to exaggerate their disabilities, bringing them up to believe themselves less able than they are. This brings with it a risk of missing opportunities and not fulfilling their potential. It also brings a risk of emotional harm from having to espouse the mother's views in public, bringing the children into confrontation with professionals, which is something the children have clearly found traumatic in the past. There would be the risk of a continued fracturing of their education as the mother continued to complain about the schools and move them from school to school. There would be the risk of AB's needs not being met as she has to help look out for her brother, the social work view being that it is better for the children to be apart at present to give AB a little space. There is a risk they would have no relationship with their father.

206. The second realistic option is to make full care orders for the children with the care plan for them to remain separately in long term foster care, with the intention of working towards a situation where they may eventually be able to move together to their father's care. Without putting any time limit on this, the figure of a year has been mentioned as one possible timescale. The advantages of this are that the children would remain separate to begin with to give AB in particular the space to consider her own needs and have those needs met. The children's daily physical, emotional and educational needs are being met in foster care. The foster carers are able to meet CD's needs arising from his autism. The children are thriving and learning new activities such as trampolining and swimming. The children are permitted to live normal lives, not being placed in wheelchairs or having special arrangements made for hypermobility problems which do not exist. There would be the potential for placement with the father in due course which would reunite the children, when they are ready, in a safe family placement. In the meantime, they will be supported to have contact with both parents and with each other and will be able to maintain connections with their family in this way.

207. The negatives of long term foster care are long-term state intervention by way of social work visits and statutory processes, the stigma of being a child in care, the

possibility of placement break-down, with foster carers able to give notice at any time and for any reason, and all the emotional and educational disruption which this would entail, the fact that the children would not be being brought up within their own family and the loss of family and cultural identity which that entails, and the fact that foster care is against the children's most recent expressed wishes.

208. No party is seeking immediate placement with the father, so that is not something I need to deal with as a realistic option. The father is content with the current care plan. Placement with the grandmother is no longer a realistic option and no party seeks it, even as a secondary option. Her SGO assessment was negative.

209. It is my view that the children are simply not safe in their mother's care. The mother has shown no insight into the difficulties she has caused and remains rigidly of the view that she has been right to press for the help and support she says they need. In each case she can rely on a document or a recommendation from a professional to say or suggest that the support is necessary and she uses these professional views to justify her actions. But those professional views are often based on her own self-reporting (for example the letter from LM describing AB as having special educational needs, or the letter from the Private GP written without any background knowledge). The result is a confusion of what is really professional opinion and what is professionals reporting what the mother has said. A more and more confused picture results. The only way to get at the truth is to go back to the children themselves, and see how they are presenting, and to respond to the needs they are displaying rather than needs which are written down on a piece of paper. That, the mother is not able to do. If I were to return the children to the mother I have not the slightest doubt she would continue her campaign of seeking an EHCP for AB, asking for her hypermobility problems to be accommodated, telling CD he has mobility problems, refusing to allow the children to participate in activities which she considers beyond them, moving their school when the schools do not do what she wants, coaching the children to follow her line no matter what trauma it causes them, frightening social workers and others with her threats and causing harm to the children by each and every one of these behaviours, and the other behaviours I have detailed in this judgment.

210. Although there are downsides to long term foster care for these children they are to my mind less harmful to them than the harm they would suffer with their mother. And the harm of long term foster care is mitigated in this case by the fact that their needs are currently being met, they are currently being enabled to start to heal, and there is the hope of family reunification with their father in the not too distant future. There is no help or support which would enable the mother to care safely for the children within their timescales. It is my decision therefore that the Local Authority's plan for the children is the best one, and **I approve their care plan and I make the care orders for each child as asked.** Given that foster placements are the right placements for these children, there is no other order which will do. I am satisfied that the making of the care orders is both necessary and proportionate to the risks in this case.

211. I have considered whether the care plan should be amended to say that the children should be placed together, but it does not seem to me that that is in the children's best interests. The together and apart assessment recommends against it. It was written by the social worker and she told me in evidence that it was written based on how the children presented generally and in therapeutic sessions, what the relationship between the children was like (she said it was not a normal sibling relationship) and her concerns about AB being somewhat parentified. She had taken the report of Dr Phibbs into account but the report was based on her own observations of the children. The ISW Sarah Cockley supported that view, saying that AB had a lot going on and needed to be able to focus on herself and her needs. Supporting her brother was an extra pressure which she didn't need. The Guardian also agreed. She told me in evidence that her view was based upon her own enquiries. The foster carer had told her that CD lent on AB to express his feelings and views, which was something the Guardian had also observed. He would ask her to answer on his behalf or he'd get her to whisper the answer to him. The foster carer was also concerned about AB's feelings always coming second when they were together, even in matters as mundane as choosing a film to watch, with AB getting CD to choose even when it was her turn. The mother's unsupervised contact with AB had an impact on CD because the children were living together and AB passed the messages on. Being separate ensured that CD was away from that influence. Furthermore, the children had quite different needs. CD was warm and affectionate and cuddly and liked 1:1

attention, all of which his current carers provided for him. AB's foster carers were nurturing but not as physically affectionate which suited AB better, but would not suit CD so well. AB was not ready for the sort of affectionate care CD's foster carers gave. All in all, because of the current needs of each child the Guardian felt they would thrive better in separate placements at present. The idea, though, was for work to be done in the coming months so that their needs aligned to the point where they would be able to be placed together, preferably, if all went well, with their father.

212. The mother took a different view. She told me in evidence that the children had a normal sibling relationship, with normal bickering but then five minutes later being best friends. She said they joke a lot and laugh a lot, and hardly ever fight. She said they get on well and know each other really well. She said it was extremely important for them to be together because they had grown up together. She said splitting them up was a real loss for them, and must be affecting them mentally and emotionally. She wanted them to be together because then at least they would have each other.

213. I have thought about this carefully. The mother, after all, knows the children well and has spent more time with them than anybody. However on balance, I prefer the evidence of the professionals. Firstly, I have reason to doubt the mother's analysis because her ability to understand the needs of the children is limited, as evidenced by the findings I have made today. Secondly, there is the sheer weight of the unanimity of the professionals. And thirdly there is the evidence of the children themselves, who were asked by the Guardian about each other. Both were coping well without the other and although they looked forward to seeing each other each week, they did not seek more contact. The current arrangement is plainly working well. For all those reasons I accept the professional opinion that for the time being **separate placements are meeting their needs and I propose no amendment to the care plan.**

### *Contact*

214. The Local Authority care plan is for the mother to have contact four times a year, supervised. The Guardian in her evidence came to a position of agreeing with that, having originally suggested three times a year. But both are adamant that the

contact is only safe and can only go ahead if there is no unauthorised contact going on between the mother and the children by way of secret phones or in any other way. The mother says this is insufficient for a mother who has raised her children to the ages of 12 and 9 and who has a strong bond with her children. She says she wants weekly contact, maybe twice weekly, for 2-4 hours, reviewed regularly with a view to increasing it, and with the Local Authority regularly reviewing unification. I note this view, but I consider it further evidence of the mother's lack of insight into the harm she has done to her children. It bears no relation to the facts of this case as I have found them to be. **I approve the Local Authority's contact plan for the mother, and I approve also the condition that it will only go ahead if there is no clandestine unsupervised contact between the mother and the children.** It will be obvious from the demeanour of the children whether such contact is happening.

215. For the father, the Local Authority propose weekly contact, unsupervised for 2 hours each weekend, to be gradually extended to overnight stays over time. It shall be regularly reviewed at LAC reviews and between meetings. The father is in agreement with this. I am too. I approve the Local Authority's contact plan for the father. The contact plan is, in fact, only one part of the plan for the father. The other parts include the children undertaking therapeutic work which the father will, in due course join in with, and for him to receive guidance and training on parenting and autism to enable him to be able to take on the care of the children when they are ready to be placed with him. His contact plan has to be seen in that context.

#### *Section 91(14) order*

216. I am asked by the Guardian and the Local Authority to consider making a s91(14) order to prevent the mother making further applications to the court without the leave of the court. Such orders are, and remain, the exception not the rule, but in recent years they have no longer been seen as a "weapon of last resort" and the courts have been more willing to use them. Practice Direction 12Q now provides that the circumstances in which such orders can be used are many and varied and include circumstances where an application would put the child concerned at risk of harm. The welfare of the child is paramount. The circumstances are stated to include circumstances where a person's conduct overall is such that an order is merited to

protect the welfare of the child directly. Such conduct may include harassment or other oppressive or distressing behaviour beyond or within proceedings. The practice direction reminds me that a section 91(14) order is a protective filter, not a bar on proceedings, and says there is considerable scope for their use in appropriate cases.

217. The mother opposes the making of the orders. I am conscious that this is not a case in which there is a history of repeated applications to the court by the mother. However this is a case where the mother has repeatedly made formal complaints and threats as a means to obtain her desired outcomes. She has used court action (such as taking CD's EHCP to a Tribunal) and has used the threat of court action to attempt to frighten or coerce professionals, as I have outlined above.

218. Although she has not so far brought court actions in relation to the children, I consider it quite likely that she might consider doing so now that I have made a care order, based on her past pattern of behaviour. She has sought to appeal previous court orders, unsuccessfully. She has used the law and the threat of law before. Bringing proceedings would be a similar strategy for her to the strategy of making complaints. Her rigid thinking means that she is unlikely to be able to accept this decision of the court and her combativeness suggests she is likely to take all actions she can to undo and disrupt the decisions I have today made.

219. I ask myself what the impact would be on the children if the mother now made an application in relation to them. The effect on the children of her previous complaints and threats has been that they have been interviewed and re-interviewed, they have had the police coming to ask them questions, they have had to spend their time with the social worker and Guardian on dealing with these issues rather than on their own welfare. It has been harmful for them. If the mother were to make an unmeritorious application now, the children's carers would shield them from the worst of it, but they would again have a Guardian appointed, they would have to talk to her, they would know about the court proceedings, they would have to be asked questions. They would be plunged once more back into a world of uncertainty, not knowing whether the stability they had only just achieved was about to be plucked from them. I consider that that would be very harmful for them, just when they are at the point of starting to recover from their trauma and when they are starting to build

their relationship with their father. Because I consider it likely that the mother may want to bring such applications, and because I believe that would be harmful for the children, and because I remind myself that a s91(14) order is only a filter and not a bar, I do consider it appropriate to make such an order in this case. If the mother has good reason to make an application, she will be given leave, so she is not excluded from the court by the making of this order. But the children will be protected from vexatious and unjustified applications.

220. I am asked to make the order for four years, which it is said will be until AB finishes secondary education. What the Guardian means by that is that she will have finished her GCSEs. I can see the merit in that, but I wonder why CD should not be afforded the same or similar protection. By that time each child is 16 they will be more robust, and have a clearer understanding of their life story, and be better able to withstand any applications the mother may make. I consider a s91(14) order is necessary and proportionate to protect the children's emotional and developmental safety, and **I therefore make a s91(14) order against the mother preventing her from making any applications in respect of either or both of AB and CD without the leave of the court until 4pm on AB's 18th birthday, and extending that, in the case of applications in respect of CD until 4pm on CD's 16th birthday.** The reason for those time periods is as follows. Ideally I would protect both children until they are 16, when they will be more robust and have a more adult understanding of any applications which are made. However if I extend the order in relation to AB until she is 16, CD will be 13 when it expires. If an application is then made in relation to AB it has the potential to affect and disrupt CD when he is still 13, particularly if he is still living in the same household. In order to protect him from that, I must extend AB's order as long as possible, which will be until her 18th birthday. Thus CD will be protected from the knock-on effect of any application in relation to AB until he is 15, which is the best I can do. As for applications in relation to himself, I can, and I do, protect him until he is 16.

#### *Non-molestation order*

221. The final matter I must consider is whether to make non-molestation orders against the mother. There is already an order in place made on 27 June 2023 by DDJ



Kumar preventing the mother from telephoning, texting, emailing or otherwise contacting or attempting to contact the children, or replying to them if they contact her, or encouraging or instructing any other person to do so, save as arranged or agreed by the Local Authority. It also prohibits her from posting any information about them on social media or going to within 500 metres of where they are living or visiting. The order continues until conclusion of final hearing. I must consider whether to continue or amend it, or allow it to expire.

222. In order to continue the order I must be satisfied that there is evidence of molestation, that the person to be protected needs protecting and that judicial intervention is required to control the behaviour complained of. I must consider all the circumstances including the need to secure the health, safety and well-being of the applicant or of any relevant child. I am satisfied that the mother has been in contact with AB in breach of court orders, and that that has been severely to AB's detriment. It has also been to CD's detriment as AB has passed messages on to him. It is the utmost importance that this does not happen again. The existing order has clearly been necessary to stop this harm being caused to the children, and in my view it continues to be necessary. **I therefore do continue the existing non-molestation order in relation to the children, extending it in the case of AB until her 18th birthday and in the case of CD until his 16th birthday, those timescales being chosen for the reasons given above. I amend paragraph 4(d) of the existing non-molestation order to make clear that it does not prohibit the mother from attending contact. I further amend the order to include a prohibition on the mother talking to the press or journalists about this case or about the children or publishing any material about the children or this case in any way whatsoever.** That is in view of her emails saying she had already spoken to journalists and threatening further revelations to the press, sent in February this year. By the time of the expiry of the order the children may have their own views about contact with their mother. If the children genuinely wish to contact their mother outside official contact times and the Local Authority consider that matters have moved to a point where that is no longer harmful, they will be able to facilitate such communication within the terms of this order, or, if necessary, apply to amend the order.

223. There is also an existing non-molestation order in place against the mother protecting the paternal grandmother. It is the mother's case that this order should never have been made. Having looked closely at the statutory regime it seems to me that that might be right. The paternal grandmother did not, herself, make an application. The court can make the order of its own motion against one party but only for the benefit of another party or the children. The grandmother falls into neither of these categories. I do not, therefore consider that I have jurisdiction to continue this order, and it will expire therefore at the end of this hearing. If the mother begins to harass the grandmother again the grandmother may wish to consider her own application under the Family Law Act 1996 or, if she is not an associated person, under the Protection from Harassment Act 1997. I give permission for the findings from these proceedings to be disclosed into any such application made by the paternal grandmother, and direct that any such application is to be listed before me if possible.

224. I am also asked to make a non-molestation order to protect the father. There is no doubt that the mother has harassed him in the past. However there is as far as I am aware no evidence of her doing so recently. On that basis I cannot see that I have grounds to make an order against her protecting the father at this point, but if, in the future, he finds it necessary to make an application for a non-molestation order, I direct that it is to be listed before me if possible. There is permission to the father to disclose this judgment and the schedule of findings into any application he makes for a non-molestation order against the mother.

#### *Disclosure of documents*

225. I must consider the mother's application to disclose documents to the HCPC and the GMC. The mother has made formal complaints against Dr Phibbs and Dr Lyall and wishes to be permitted to disclose documents from these proceedings in support of her complaints. The documents in question are the reports of Dr Phibbs and Dr Lyall and the transcript of the professionals' meeting. It seems to me that the mother is entitled to disclose these documents to the GMC and HCPC under FPR 12.75(1)(c) which permits a party to communicate information relating to the proceedings to any person where necessary to enable that party to make and pursue a complaint against a person or body concerned in the proceedings. However Rule

12.75(1)(c) is subject to any direction by virtue of PD12G para 1.2. It therefore seems to me that I am able to make a direction under PD12G para 1.2. I direct that the mother is permitted to disclose the reports of Dr Phibbs and Dr Lyall and the professionals' meeting transcript to the HCPC (in the case of Dr Phibbs) and the GMC (in the case of Dr Lyall) but she is not permitted to disclose them to anybody else, and any such disclosure must be accompanied by the finding I have made about the mother's history of making complaints. For clarity, I direct that any disclosure the mother makes to these bodies, or any other body to whom she discloses information from these proceedings for the purposes of pursuing a complaint must be accompanied by the following text:

"I am required, by order of the court, to inform you that on 13 October 2023 HHJ Robertson sitting at the Central Family Court made the following findings after a full hearing, including evidence and cross-examination:

- a. **Any complaint which EF makes may be justified and may well need to be investigated. However, it is important for investigating bodies to know that the court has found that EF has a history of making numerous unjustified complaints against professionals.**
- b. **She does so in order to manipulate, frighten and browbeat professionals to try to get them to do what she wants**
- c. **The range, nature and quantity of the complaints is beyond reason**
- d. **The result has been that the children have been subjected to repeated questioning which has not been in their best interests.**
- e. **This finding of the court must be seen in the context of other findings I have made that the mother has threatened and harassed professionals and family members."**

*Disclosure of these findings*

226. I also direct that the Local Authority has permission to disclose the findings at paragraph 225 (a) – (e) above in this case to any organisation to whom the mother has made, or in the future makes, a complaint.

227. There is also permission to the Local Authority to disclose paragraphs 22-26

of this judgment to any professional body investigating any complaint against any of the persons named in those paragraphs. The Local Authority may also disclose to the HPCP and the GMC my view that the reports of Dr Lyall and Dr Phibbs were professional, balanced, competent and fair.

228. That concludes my judgment.