

IN THE FAMILY COURT AT WEST LONDON

West London Family Court,  
Gloucester House, 4 Dukes Green Avenue  
Feltham, TW14 0LR

Date: 3 May 2024

**Before :**

**HIS HONOUR JUDGE WILLANS**

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**Between :**

**The London Borough of Hounslow**

**Applicant**

**- and -**

**(1) Fiona**

**Respondents**

**(2) James**

**(3) Billie (by her Children's Guardian)**

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**Sharan Bhachu** (instructed by **HBB Law**) for the **Applicant**  
**Paul Murray** (instructed by **Beris Law**) for the **First Respondent**  
**Sylvester McIlwain** (instructed by **Owen White and Catlin LLP**) for the **Second Respondent**  
**Sandra Villani** of **National Legal Services** for the **Third Respondent**

Hearing dates: 29 April – 3 May 2024

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**JUDGMENT**

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

## The names of the lay individuals have been changed to preserve anonymity

His Honour Judge Willans:

### Summary of judgment

- A. I have had to decide whether Billie should live with her mum and dad or have a new adoptive family. I would only pick an adoptive family if I felt there was no other option that would make sure Billie received good enough care.
- B. I have carefully considered the care offered by her mum and dad. I have been told about their love for Billie and their commitment to her. They attend contact and make it very special for her. They love her very much and want the best for her. They truly believe this would be in their care.
- C. I am also very impressed by the way they have been willing to work with the social workers and other professionals. This will have been hard but they have tried hard and been respectful.
- D. I have decided that Billie was at risk of suffering significant harm at the time she was born. This is because of the challenges the parents face which were added to by continuing to use drink and drugs. The parents had enough to deal with and this did not help them make sure everything was focused on doing the best for Billie.
- E. But this was at the start of the case. This was nearly a year ago and there has been a chance for the parents to show what they can offer Billie if she lives with them. They have had a chance to prove to the Court that it does not need to worry about Billie in their care.
- F. So I have carefully listened to all the evidence and read all the assessments and statements.
- G. I have decided James is drinking too much and Fiona is using too much cannabis. This won't help if they are to look after Billie as it would stop them being the best parents they can, it will distract them and they may lose focus on what she needs. It also gets in the way of them dealing with their other challenges and making things the best they can be for Billie. It worries me that in the future with the stress of caring for Billie and also thinking about Fiona's needs and Peter and James's mum that Billie will not get the care she needs. I am more worried that they will at the same time be drinking and taking drugs.
- H. I have thought carefully about what is best for Billie and looked at all her needs. I have looked at the good bits and the bad bits of being with her parents and the good and bad bits of adoption. Neither is perfect and it is for me to make the decision.
- I. I have decided that Billie will not get the care she should if she is with James and Fiona. This is not because they do not love her or because they are not committed to her. It is because there are too many other things for them to deal with and this is complicated by the drinking and drugs. I do not think it would be right for her to be in foster care for her whole childhood.
- J. I have sadly decided I should make the order which plans an adoption of Billie. I am sad to have reached this decision.
- K. I have explained that I think it would still help Billie to be able to see her parents after any adoption and I have tried to explain why this is the case. However, this will be something that any adopters have to think about and it may be they disagree.
- L. So I have disagreed with the parents and I have made order that plans for adoption. I want the parents to know they have told me everything they could to persuade me to place Billie with them and that their lawyers have tried very hard to persuade me. Sadly I have not agreed.

## Introduction

1. I am handing down this judgment at the end of a 5-day hearing during which I have been considering the future living arrangements for Billie [ ] (“Billie”). She is a young child who will turn one year of next month. Her mother is Fiona [ ] (“Fiona”) and her father is James [ ] (“James”). I will use forenames within this judgment as this was the parties preferred usage during the hearing. I intend no discourtesy to anyone in doing so.
2. This decision is as serious as any decision that can be made by the Family Court. The applicant, supported by Billie’s guardian argue for the making of care and placement orders with a plan for Billie to be adopted. Her parents oppose this plan and ask me to place her into their care. In making this decision I have had full regard to the papers contained within both the final hearing and contact bundles. I also take into account the written opening notes and final submissions made by the representatives for each party. Finally, I pay close regard to the live evidence placed before me.<sup>1</sup> I will not reference all the evidence within this judgment but will instead focus upon the key information that has helped me form my conclusions. I have though kept it all in mind. Participation directions applied in this case. Fiona was supported throughout the final hearing by her intermediary and regular breaks were taken. It was agreed Fiona would not give evidence.
3. I am very grateful to all representatives for the manner in which they conducted this final hearing. They did so in a respectful and professional manner and with due regard to the sensitive nature of the case. I decided to provide a written decision: (a) In the hope it would be easier for the parents to digest my conclusions. I did not want them to have to listen to an oral decision with the possibility that they might not entirely follow what was being explained, and (b) So that there would be available a clear and robust explanation of my reasoning that could be used to inform all future individuals with responsibility for the care of Billie.
4. I have attached a short summary of my reasoning which might be shared with Fiona to guide her through my decision. However, that should be read subject to what follows and if there is any conflict what follows should take precedence.

## Legal Principles

5. Throughout this judgment I have Billie’s welfare as my paramount consideration. I approach this concept through section 1(4) Adoption and Children Act 2002 given there is an application for a placement order. Importantly this means I am considering her welfare throughout her life.
6. I am asked to make a care order. I can only do this if the legal threshold for such an order is found to have been crossed. This threshold is based upon a finding of significant harm and on the facts of this case this is of a risk of significant harm to Billie (which can be physical, emotional or otherwise) attributable to the care likely to be given to Billie by her parents if an order is not made, and this level of care falling below that which a Court can expect of a parent. The crossing of the threshold has not been in dispute in this case. However, the applicant has to do more than prove this risk of significant harm to get the order it seeks. It must also establish that the orders it seeks are the right and appropriate order to make. This requires the Court to analyse all of the evidence with care and to assess the realistic options

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<sup>1</sup> I heard evidence from Wendy Morgan (Consultant Forensic Psychologist); Anna Heywood (Advanced Clinical Practitioner: Parenting Assessor); Nick O’Connor (Allocated social worker); James, and; Daniela Ferrario (children’s guardian)

against each other. In this case the options placed before the Court are as to care and placement or placement with Fiona and James (whether or not with a supporting Supervision Order). A further option might be long term foster care but this was not seriously argued before me.

7. It may be obvious but it is important to reiterate that a plan for adoption is at the most extreme end of the line of interference in family life that can be taken by the State. As such it is viewed as a draconian order which requires a very high level of justification. The Court approaches this assessment through a holistic analysis in which it ensures each option is balanced against the other having regard to the respective positives and negatives of each. But in any event, it should not be thought that the Court will simply adopt the outcome which provides the better outcome for the child. This is because the essential question for the Court is as to whether the parents (or one of them) can provide good enough care for the child. They are not expected to provide a level of exceptional care and they are not required to provide a better level of care that might be available in an alternative adoptive placement. Instead, the good enough standard should be seen as a threshold which constrains the right of the State to intervene. The Court is asked to consider whether nothing else will do before sanctioning a plan of adoption. The meaning of this phrase has been explained through a number of cases but in essence it reflects the rigorous care a Court should give before sanctioning potential lifelong separation. This process will engage consideration of Article 8 ECHR and the right to respect for private family life. The outcome will need to be subjected to a test of proportionality, reasonableness, and necessity.
8. To the extent there are disputes of fact these will need to be resolved reflecting well understood principles of fact finding. It will be for the applicant to prove any allegation and neither parent will have a burden to disprove what is alleged. The allegation will be proven and will be treated as a fact if it is established as being more likely than not. If this standard is not met then the allegation will be disregarded. The evidence of the parents will be a central part of any assessment but the Court should give appropriate regard to all the facts of the case. In the case of allegations of substance misuse, I am naturally asked to have regard to forensic evidence. This is important evidence but is not determinative of the question if the issue is in dispute. In such a case the court must have regard to all the evidence in determining whether it can rely on the results of any testing.
9. If the Court determines a placement order should be made and if this is not consented to by either parent then the Court must determine whether or not it can dispense with the parent's consent to the same. The Court is entitled to do this if Billie's welfare requires it to do so.
10. In this case I have a parent with a significant cognitive needs and a learning difficulty. In such cases there is an obligation to work with the parents and to consider what steps could be taken to enable the parent(s) to care for the child with support. It must not be assumed that such a learning challenge prevents a parent from being a successful parent to any child. I have been referred specifically to the following authorities: Re D (A Child) (No3) [2016] EWFC 1 and Re H (Parents with learning difficulties: Risk of harm) [2023] EWCA Civ 59.

## Background

11. Fiona is aged 37. Her parents separated when she was young and there was a significant period of time when she did not see her mother. She was brought up by her father. Her

mother formed a new partnership which had significant domestic abuse within it. Fiona makes reference to her mother smoking cannabis and consuming alcohol at a relatively high level. Fiona has learning difficulties and was schooled in a special educational setting. She is reported to be dyslexic and illiterate. Within these proceedings she has been assessed as suffering with learning difficulties and is on the borderline of learning disability. In her early teens she was diagnosed with rheumatoid arthritis and this led to her being hospitalised in her middle teens. This is a continuing condition and has left Fiona with relatively significant mobility and related issues. She has painful joints and her hands are particularly impacted. Within the evidence there is a suggestion she may be a candidate for future surgery in respect of her knee. It seems clear this is a lifelong condition which has the potential to deteriorate but may be subject to some surgical alleviation. The papers suggests that either her learning difficulties or her lifestyle or a combination of both have at times impeded her engagement with the medical care needed to best help her with these needs. She suffers with anxiety relating to a significant assault she suffered around 20 years ago. She reports being depressed and not wanting to leave the home. She started drinking at 18 at a relatively high level (8 cans on a night) and this increased over time to a more worrying level. On the evidence it would appear drinking continued throughout her adulthood at a problematic level. I heard evidence from James of Fiona drinking at least 8 litres of alcohol a day during lockdown (24 bottles with 4.5% alcohol level a day). Fiona has not been employed since leaving school as a result of her health and learning needs. When she was around 24, she was living with her father but he was evicted and she had to move out. She formed a relationship for 7 years but this had issues with alcohol and drug abuse. During this relationship Fiona's drinking deteriorated and she started using cannabis. After this she moved into a relationship with James and has been with him now for around 12 years. She knew him when she was younger as he was a friend of her father's. At first, she moved into the house James shared with his mother but they later moved out and were homeless living in an allotment shed for a number of years

12. James is aged 56 years. He reported an ordinary upbringing without any incidents of particular note. He completed his schooling. In these proceedings he has been assessed and it is agreed he has no learning challenges or other cognitive issues. He has two adult children from different relationships. He maintains a relationship with both although there have been times of estrangement in the past. James has a criminal history including periods of imprisonment for acts of violence. I understood him to accept these events were within a domestic relationship setting. I note the last relevant matter was in 2006. It is unclear whether these relate to his children's mothers but this would seem to be likely, at least in part, given the relationship history provided by James; his daughter's age and the dating of the criminal sentences. He records spending 5 years in prison although my reading of his police record would not support such a lengthy period. It seems James did hold down work but has more recently suffered ill health including heart attacks (one whilst in prison). My understanding of the evidence is that he has not been employed since his last period of imprisonment some 18 years ago. He agrees the relationship history recorded with respect to Fiona above. After a lengthy period living in a shed, they moved into the home of a single man, Peter. In moving in they were joining (or were joined) by Fiona's mother and her partner (as detailed above). At some point Fiona's brother also moved in. It seems quite clear this living environment was far from satisfactory with drink related arguments and disputes. From the evidence it appears all of these adults were to some extent drinking at a problematic level.
13. Fiona and James agree they have never had any issue of domestic abuse within their relationship. They agree situations did arise in the period before and into Covid as a result of alcohol. The police were called on a number of occasions in relation to incidents involving

some or all of the adults. Eventually Peter told the other adults they would have to leave. James told me this was before Covid. It seems agreed James, Fiona and Peter were drinking to a worrying level into the Covid period (8 litres+ each per day). It seems friends experienced poor health related to drinking and this led to Peter stopping and the other's moderating their drinking. Both James and Fiona were continuing to use cannabis. It is claimed that with her pregnancy Fiona stopped consuming either alcohol and/or cannabis. James claims to have now stopped cannabis and reduced his alcohol intake. It is agreed Fiona seeks significant practical support from James given her physical and learning needs. Suggestions of any coercive or controlling or exploitative behaviour on the part of James are firmly rejected. At the same time James has had his own physical health needs and appears at times to have neglected the same. I heard evidence of him providing real support to Fiona, Peter and to his mother.

14. Concerns were raised when the parents presented to hospital with Fiona pregnant with Billie. A referral to social care was made and significant pre-term work was undertaken with SISP (Specialist Intensive Support Programme) and Ms Heywood. This team used an approach known as Parent Assess which is geared towards assessing parents with cognitive needs. In addition, a cognitive assessment was undertaken in the case of Fiona and substance testing also undertaken. These assessments left the applicant concerned as to Billie's wellbeing on birth in the care of her parents. As a result, proceedings were issued on her birth. It is nearing the first anniversary of these proceedings. At an initial stage consideration was given as to a residential assessment. However, the parents expressed an unwillingness to be separated or to enter such a unit. At the same time, it is suggested the only option would have been an assessment of the mother alone due to the father's offending history. I heard the interim care hearing and made an order which has continued through these proceedings. Billie has remained in foster care and there has been significant contact sessions throughout the proceedings (set at 4 times per week). The parents have shown an absolute commitment to this contact and it is agreed by all that it has been a positive experience both for Billie and the parents. No safeguarding issues have arisen out of the contact. In due course SISP were directed to complete their parenting assessment (which had stopped due to Billie's birth). Fiona was assessed to have capacity within the proceedings and I have also received a forensic psychological assessment of James and various substance abuse tests. The case management orders in this case are found in section B of the bundle and I will not set them out in detail. The delay in conclusion of proceedings appears to be linked to (a) initial delay around assessing capacity; (b) some delay in completing the parenting assessment due to the parents' non-availability, and; (c) finding diary space for this final hearing. There has been consideration as to whether there are any alternative carers in the event the parent's case is not approved. Unfortunately, there are no other options.

<b>Parties Positions</b>
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15. The applicant and guardian argue that there are a constellation of factors which taken together mean the Court cannot be satisfied Billie will receive good enough care in the care of her parents whether or not appropriate support is offered. The focus of their argument highlights the challenges faced by the parents (cognitive, physical, and practical) and their inability to demonstrate an ability to make change in their lives to a sufficient level so far. That they have continued to abuse drink and drugs and this would not be an environment into which Billie could be safely placed. Although some changes have been shown it remains early days and it is too speculative to assess a likely significant change within Billie's

timescales. Any proposed adjournment now would be outside Billie's timescales and would not be justified. Whilst it is accepted aspects of support have not been offered or investigated it is said this would in any event not fundamentally change the Court's understanding of the case or the challenges the parents face. Both argue nothing else will do and that a final order should be made. The parents draw attention to the importance to them of Billie and their undoubted love and commitment to her. James, whilst candidly acknowledging failures to make progress in a number of regards argues that Billie would change this if she was placed with them. If this happened change would be made and meeting her needs would be within the parents' ability. He claims his drinking is at a level which would be objectively judged healthy and he has stopped using cannabis. Fiona argues their relationship is mutually supportive and she has capacity beyond that agreed by the applicant. Together they can care for Billie but in any event any remaining deficits would be capable of being met by expected support from the applicant. Fiona argues that the applicant has failed to engage with this issue and has not set out what could be provided thus preventing the Court from being able to reach a conclusion that nothing else will do. She claims to have ceased usage of cannabis and alcohol. The parents seek for Billie to be placed with them and ask for a support plan to buttress the same. If the Court remained in doubt as to this then the case should be adjourned for a support plan to be constructed whereafter the Court could resume its assessment of the future options for Billie.

#### Disputed matters

16. In my assessment there are three matters which require consideration within this section. These are (i) James's consumption of alcohol; (ii) Fiona's consumption of cannabis; (iii) The rationale behind failures to progress a variety of practical matters. I note the third of these is less a matter of fact finding but I consider a clear conclusion at this early stage is important.

#### James's substance use

17. I have a number of tests including hair strand and PETH (blood drop test) through the proceedings relating to James's consumption of alcohol and cannabis. The first is from April 2023 and appears to cover the period March/April 2023. It is a PETH test and records a result of 535 where a result over 210 is indicative of excess consumption in the last month. Whilst these figures cannot be viewed in a linear sense it seems clear this is a significant reading given the extent to which it exceeds the boundary set for excessive consumption. At the same time hair testing was also undertaken. The tests showed cannabis use between September 2022 and March 2023 at a monthly high level before reducing to medium in the last two months. The two alcohol tests were each significantly above the relevant cut-off point and supportive of chronic excessive consumption. For the purposes of this section this is taken to equate to at least 7.5 units of alcohol per day over several months (i.e., the equivalent of about 52 units per week). A follow up fingernail test was provided in November 2023. This technique was used because, contrary to Court direction, James shaved his hair. He explains this was as a result of needing to 'tidy himself up' for Fiona's mother's funeral. A PETH test was also undertaken. In general terms fingernail tests are thought to cover a preceding period of about 6 months. Cannabis was detected but it was not possible to determine when this would have been although THC levels were felt to be high when compared to positive head hair testing. The nail results were contradictory in so far as alcohol was concerned however the blood test confirmed a result in the excessive range in the month prior to the sample. A final test was undertaken in April 2024 for a period of 4-months prior to the test. This indicated cannabis use for the earlier three months but not the most recent month. It is understood this fits with James's case as to his usage. The PETH test supported a conclusion of excessive alcohol use in the last month. The hair

results were mixed and contradictory, the EtG suggested excess consumption in months 1 and 4 and the EtPa in months 1-3. The latter was considered to be strongly suggestive of excess alcohol usage.

18. James was questioned about this. His case is that he consumed around 2 litres of cider each weekend. The cider is at 5% alcohol and equates to 10 units per week. This is below the adult recommended level each week. He talked about drinking in the garden or his greenhouse. If correct this should not be producing the results obtained. His case is that this has been his drinking throughout the proceedings save on some very limited occasions (a birthday for instance when he would have drunk a bit more). He contrasts this with his drinking during and before Covid which appears to have reached a point where he was consuming around 200-250 units per week. He talked about reducing this 10-fold since. I was reminded that I should have regard to all the circumstances in assessing the truth of the allegation that James was drinking at a chronic and excessive level. I was asked to reflect on James's engagement with professionals and contact and there being no reports consistent with drunkenness (erratic behaviour or the smell of alcohol). I was also asked to consider the absence of report, such as from the police of consequential problematic behaviour. Incidentally, James was recommended to engage with ARCH around his use of alcohol. It seems he did this but was told they could not help him. He felt this might be due to their strained resources. However, it is clear this simply reflects his reported consumption falling below the level that would justify their intervention. This can be seen from their letter.
19. I have considered all the evidence and I find the allegation established and the forensic results to be a reliable indicator of James's drinking behaviour. I have reached this conclusion having regard to the points above but also having regard to the following:
  - i) There is a significant history of admitted alcohol abuse which provides the contextual background to these results;
  - ii) The initiating result is set at a very high level and fits with a continuation of problematic drinking;
  - iii) I have a range of different forms of testing, PETH, fingernail and hair which all point in the same direction;
  - iv) The PETH testing is understood to be sensitive and a reliable form of testing;
  - v) The results (such as are available) are not borderline in form;
  - vi) I consider the decision to shave his head was undertaken in part as a result of the testing process. Whilst James may have wished to 'tidy himself up' this does not explain a decision to entirely shave his head;
  - vii) I also reflect on the related issue of Fiona's cannabis use in reaching my conclusions;
  - viii) I also reflect on the third issue below (seeking practical assistance). The depression of emotions and activity as a result of ongoing alcohol consumption does go some way to explain why there has been the failure to take practical steps. Absent a reason for the same the failure becomes hard to understand.
20. I have reached the conclusion James has continued to consume alcohol at an excess level. I do not doubt the level of alcohol has dropped significantly from the heights it reached during Covid. However, it remains concerningly high and I judge is having an impact on



James's ability to address significant issues in his and Fiona's life. I appreciate he has been able to keep appointments and has maintained positive contact. This is in my judgment not inconsistent with daily consumption to an excess level. The concerning unknown is as to his presentation and availability at other times surrounded by alcohol use. My findings suggests at such time he likely presents in a far less emotionally available / active and engaged state. As to cannabis use, I accept the findings which I understand fit with James's declared usage. It can be seen James has been able to reduce his usage to the point where the last month shows a negative result. This is an obvious positive however it is difficult to take this too far in the presence of the alcohol results. It is well understood that for individuals using a range of stimulants or depressive drugs that reduction in one may be compensated by an increase in usage of the other. I simply cannot know whether there has been an 'uptick' in alcohol consumption as cannabis has fallen.

### **Fiona's substance use**

21. On her case Fiona stopped or reduced using alcohol and cannabis when she fell pregnant. Prior to this she had also experienced a lengthy relationship with both at a concerning level – through to at least 2020. Fiona also produced a sample for testing in April 2023 which covered a 6-month period back to September 2022. This produced a positive result for cannabis at a high level reducing to medium in the last month. Alcohol testing did not suggest excessive consumption. In the case of the cannabis a metabolite was not present. As such it cannot be said whether Fiona consumed cannabis or was passively exposed to it. Her follow up test in November 2023 covered the period from May to November 2023. The results were similar to those previously obtained. The alcohol test was negative. Finally, one has the April 2024 result. This once again supported a negative result for alcohol but once again was positive for cannabis with the observation that compared to other hair samples this was in the high range for the first three months of the four-month period (November to March 2024) and medium for the last period. Overall, these suggest Fiona has not been drinking at an excessive level during this period but that she has continued to consume cannabis (and at times at a high level). This conflicts with her case as to abstinence. When questioned James denied any knowledge of her consuming cannabis despite the fact they live together and largely live their lives at home. As with James I was asked to reflect on the points which might support Fiona including her engagement with contact and professionals without a report of the smell of cannabis or the effects of the same being noted.
22. I have taken this into account but have reached the conclusion the results are reliable and correctly account for Fiona's usage of cannabis. I have reached this conclusion having regard:
  - i) To the essential history of longstanding usage and the unlikelihood of this simply stopping without any support being taken;
  - ii) To the results which are consistent over an extended period;
  - iii) Having regard to the fact the first result was taken at a time when Fiona disclosed some limited usage of cannabis;
  - iv) I reflect on James's alcohol usage in reaching my conclusions;
  - v) I reflect on the next issue set out below which is explained by Fiona having depressed levels of likely engagement at times as a result of such consumption. Her

cannabis use partly explains the ongoing inability to seek and obtain obvious practical support.

23. I find it difficult to accept the proposition that Fiona would not know James was drinking or that James would not know Fiona was still smoking cannabis. I accept it is possible the couple spend significant parts of their day enjoying these respective habits in isolation from the other, e.g., with James retreating to the garden to drink as he suggested and Fiona staying in the home and smoking. Yet I do not believe they would each be entirely unaware of the others continued usage. I consider in this regard each has chosen to hide from the Court what they know on the basis they understand / believe that to be open and frank would be unhelpful to their case.

### **Seeking practical assistance**

24. The above is shorthand for a range of issues which appear to have been unaddressed or neglected during the last number of years. As an example, one is Fiona's important claim for Personal Independence Payment (PIP). This was initiated in 2018 but remarkably not progressed until very recently. There is the issue of benefits in general with it appearing Universal Credit was only finally resolved during the course of these proceedings. There is the issue of a housing application and initial delay between around March 2023 and January 2024. Elsewhere there are potted examples of each failing to be active in promoting their own health needs. Whilst one could isolate for a period each of these items and seek to explain inactivity away, taken together they present a picture of the couple being significantly disengaged from promoting important matters in their personal and joint lives. For some of this period they were sharing a somewhat chaotic home with the range of individuals identified above. At other times, their own use of drink was highly problematic. I do not overlook the preceding history of homelessness and a period living in the shed. I am in little doubt that this situation has been exacerbated by the continued use of drink and cannabis to excess. Both have the tendency to depress engagement and this is consistent with what is found in the form of non-engagement. In considering this point I have reflected on alternative explanations for such non-engagement but consider none supply a more probable explanation. My conclusions were fortified when listening to James's candid evidence. When asked about much of this he was simply at a loss to explain why more had not been done. It appears this is a blank to him. My assessment is that this reflects periods which have been blanked out to an extent by the substance use.
25. I bear in mind that for much of this period the adults have only had themselves to care for and I of course respect their personal autonomy to make decisions that work for them. The concerning point is that there has been only very limited, and even then, very late, evidence of any change in this regard notwithstanding the growing understanding of a responsibility to meet the needs of a child. I am not persuaded one can simply say things will change when they need to on the event of Billie being placed into the parent's care. The Court is entitled to and justified in basing a forecast of the future on past behaviour and particularly so where that behaviour has been acted out in the full light of the Court arena knowing what is done will be subjected to assessment and analysis by both professionals and the Court.

<b>Summary of evidence received</b>
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### **Psychologist**

26. The forensic psychologist assessed James. In her written evidence she expressed the view that James showed signs of problematic personality traits relating to behavioural and

cognitive impulsivity. He was likely to behave impulsively when feeling frustrated or agitated or when affected by substances. She considered there was a likelihood of future intimate partner violence based on this. She felt he might struggle to recognise and meet Billie's needs without intervention. In general terms he struggled in seeing the perspectives of others. She accepted he had shown progress and viewed him as an articulate and capable man who has the capacity to change should he feel able to engage in recommended assessments but his focus on other issues along with his cognitive style makes it difficult for him to accept the needs for interventions addressing a focus different to that he was focused upon. She formed the view he was likely to have previously met the criteria for a substance use disorder but no longer did based on his own reporting (but see above). She was of the view that substance use would increase the risk of maltreatment of Billie. She had significant concern as to James's ability to safely parent Billie should he return to the levels of consumption assessed in the earlier hair strand tests. She considered an intensive intervention was required following which the impact and effectiveness of the work could be reviewed. She felt a piece of work which also included Fiona would be helpful. She pointed to a need for a residential assessment and for some form of domestic abuse programme. If substance use increased then there would be a need for referral back to a drug support agency.

27. In live evidence she told me the programme James had commenced indicated a shift in attitude but she could not comment further as to whether it would meet his need for intensive intervention without first speaking to him. In terms of risk of domestic abuse, she was including non-violent behaviour and had placed weight on the police reports from 2018/19. She understood Fiona disputed any abuse but noted she had poor insight into these issues. Generally, when interviewed James passed blame to others as he could not tolerate uncertainty, guilt, or doubt about his own behaviour. She felt CBT would assist with understanding his role in events. She now understood substance abuse was back in question but couldn't say whether this met criteria for a formal diagnosis. When cross examined she was clear there was no evidence of coercive control on the part of James. She felt the risks would arise situationally when either or both were emotionally aroused and was likely to be linked to substance use and stressors. She did not consider James has demonstrated an ability to resolve situations in an amicable manner. She accepted the absence of police reports within the proceedings was a ground for hope. She confirmed her conclusions relating to James were based on a combination of the tests undertaken, her observations and the case papers. She agreed that with maturity behavioural impulsivity would likely reduce. She disagreed as to whether James's management of the incident in 2019 was appropriate or was such as to leave a vulnerable Fiona in a more vulnerable position. She confirmed her view as to entrenched behaviour patterns related to a propensity to blame others and difficulty in accepting feedback; using substances to self-medicate and his lack of understanding as to a need to change. For change to be embedded she felt there was a need for a reduction in frequency and amount of substance consumption. She was worried that whereas he might be able to change his routines (including for Billie) if he made the decision to do so this would be more of an issue if he was required to adapt his routines by circumstances or the demands of others. In her opinion from a risk perspective, she could not countenance Billie being placed with the parents for at least 3 months (being completion of the current programme and a further 3-months of post programme assessment of change).

#### **SISP**

28. In their written evidence SISP expressed concern as to Fiona's ability to undertake and meet everyday tasks. She was heavily reliant on James and had a simplistic response to issues

without a sense of any depth of understanding. They did not feel she would be able to meet Billie's needs without a high level of guidance which was not sustainable in the long-term. They felt a large responsibility would be placed on James to manage both Fiona's and Billie's needs and this would require him to be stable, well focused, and supportive. However, his ongoing substance misuse presented a serious risk alongside his impulsive personality traits and history of poor conflict resolution. They felt Fiona lacked insight into the impact her poor mental health had upon her and led to her poor coping strategies including substance misuse. They felt she minimised the impact of these issues. As to her physical disability SISP were clear they did not see this as on its own impacting significantly on her caring ability but felt instead it was a further issue of vulnerability which increased the requirement for James to be an available and competent support. SISP were concerned Fiona was able to articulate the negatives of alcohol and substance use but demonstrated limited insight into why this was the case and how this had impacted on her relationship issues or how this had become a coping strategy. With respect to the relationship between the parents SISP noted the concerns as to risk of intimate partner violence and the association with substance misuse. Yet they agreed there was no evidence of coercive behaviour and recognised positives in the relationship. Their concerns were as risk associated with future stressors in concert with continuing substance abuse. They considered the evidence of ongoing usage by both parents was a serious vulnerability, they recognised that alone this might not justify their conclusion but there were multiple interlocking issues in this case. SISP noted the limited community support available to the parents. SISP agreed that observed contact demonstrated the parents managing Billie's needs well within a structured and short session. SISP were concerned as to the ability of the parents to prioritise Billie's needs above their own.

29. In live evidence Ms Heywood (for SISP) accepted the positives in the case but felt they were outweighed by the concerns. These were not enough to establish the requisite stability. Fiona has limited insight and understanding as a foundation for real change and whilst it was positive James showed greater understanding of the impact of substance misuse in the past, he had been unable to make the changes required to address this concern. She agreed the parents had fully co-operated with the assessment process and noted the positives of contact but this was for comparatively short periods. She had recommended an occupational therapy assessment and accepted one had not been undertaken but felt this did not undermine the conclusions reached as the risks are not linked to her physical disability. She accepted it was wrong to say Fiona could not be left alone with Billie at all due to her mobility issues but felt this issue did raise risk concerns. These concerns could not be addressed through a written agreement or supervision order as the issue was substance misuse and the ability to function as a result. Whilst contact was positive this was different from full time daily care and the stresses this would bring. She accepted a number of recommendations have not been progressed but felt the biggest barrier was ongoing drug use and this would likely impact on the success of any intervention. Whilst noting the parents' supportive relationship she felt it was when under the influence that her likelihood of conflict arose. The police reports are two examples of the same. She questioned the real stability of the relationship given the ongoing substance usage.

#### **Allocated social worker**

30. The ASW synthesised the professional evidence and set out the applicant's conclusion that sadly only an adoptive outcome will meet Billie's needs. He highlighted the parent's unwillingness to enter a residential unit (even if one was available) due to commitments to a family pet and to Peter. He noted no family options were available. He summarised the expert reports and forensic tests and indicated the applicant relied upon this evidence. He

identified difficulties in getting James to engage with substance abuse schemes or with domestic abuse programmes until late into the proceedings.

31. In live evidence he acknowledged the positives in the parents' case. He set out the applicant's future care planning and timetable and agreed there was a benefit in modifying the care plan to stress the potential benefit to Billie of post-adoption direct contact. He agreed it would be necessary to allow any adopter to have a fair understanding of the positive manner in which the parents had approached the case and their interactions with professionals and others. The ultimate balance was in favour of adoption notwithstanding the positives given the range of vulnerabilities with particular focus on substance use. This sat on top of a situation in which Fiona was both mentally and physically vulnerable; in which there were stresses and James has a history of problematic behaviour and in which there were practical difficulties in the parents managing their own needs. He was challenged as to the timing of the revelation that Billie had moved foster homes in recent times and the failure to invite the parents to a recent LAC meeting. He was questioned as to a failure to make referrals for the mother and commented that adult social work had been consulted at the outset of proceedings but had informed the applicant that Fiona did not meet the criteria for support. Certain aspects of recommended work would have been difficult to arrange without Billie in Fiona's care. Overall though he felt these would not have impacted on the ultimate conclusion reached on the evidence. The ASW noted the evidence as to benefits now being claimed and confirmed he had made a further referral with respect to a domestic abuse programme in December 2023 when James confirmed he was willing to be assessed. He was concerned as to the failure to progress a housing application as this left the parents in entirely insecure accommodation. He pointed to the very significant difference in responsibility arising out of full-time care of Billie commenting that Fiona had never experienced this responsibility in her life and James's resources were stretched between Fiona and Peter before introducing Billie. He doubted whether James has simply shaved his head for the funeral. He was concerned why there had been a delay in seeking benefits and felt this was likely impacted by the continuing substance misuse. He felt the father's issues engaging were related to a generalised issue with engagement in principle and did not reflect a learning issue.

### **James**

32. In his written evidence James expressed the view that Fiona could care for Billie with a little bit of support. He had supported her for a number of years and could continue to do this whilst also caring for Billie. There was no reason why Fiona could not meet Billie's needs alone for periods of time. He accepted his criminal history but denied criminal misbehaviour in his relationship with Fiona. He set out his drinking habits as detailed above. He set out his housing circumstances and the position with regard to benefits. He made clear Billie was his priority and detailed his history as a parent.
33. In his live evidence he explained how a drinking crisis led to change during Covid. He no longer had a problem with drinking. He set out his position with regard to attendance at Ark. He was candid about his conviction history and explained he had undertaken some work in prison but this had been interrupted by a heart attack. He explained he was 5 sessions into the current course. He explained what had happened in the incident within the police reports. He explained the benefit and housing claims. He told me he also offers support to his elderly mother. When questioned about the delays in claims he appeared at times, unable to explain why there had been significant periods of delay. He was taken to documents which appeared to highlight the impact on Fiona of her disability with this appearing more substantial than was being now accepted. He acknowledged the significant

challenge that would be placed upon him if he was also to take the lead in caring for Billie but felt Peter would have to be more responsible for himself – whilst noting Peter’s health appeared to be deteriorating. He agreed the evidence suggested Fiona’s position would likely worsen although he hoped this would be limited. When asked about his support system he told me he ‘was at a bit of a loss.’ He was mystified as to his own alcohol test results and could not explain how it was that Fiona had produced the results she had based on his own observations. He explained his drinking past but could not really explain why he had been drinking in this manner. He didn’t think he had a problem with alcohol. Questioned on behalf of the guardian he commented that Billie was one of the reasons he would stop drinking and that with her in his care things would rapidly change. He could not explain why this had not already happened. Previous issues had arisen around concerns around money and the dynamics in the house with the wider family. He detailed a further incident between himself and Fiona’s brother that was not found in the police reports. He explained the role he had taken on supporting Peter and helping him with his financial difficulties. He explained how the finances in the home are organised.

### **Fiona**

34. In her written evidence whilst accepting she received support from James, she stated she could function independently without support from him. She denied any coercive behaviour. She stated she had completely stopped consuming cannabis and alcohol. She felt the evidence around her mental health was not accurate and did not consider this had bearing on her ability to care for Billie. She denied any abuse from James but stated that the police reports were from a time when they were both grappling with alcohol and cannabis. She claimed a strong family support network. She felt the applicant had asked professionals to conduct tests on her to show she was incapable of caring for Billie. But she had received no support. She believed she should be given the chance to parent Billie and would engage with any support or assistance made available to her.

### **The guardian**

35. In her written evidence she highlighted the concerns around neglect and physical and emotional harm linked to Fiona’s additional needs and physical disabilities, drug and alcohol misuse and concerns around domestic abuse. Further there was only limited family support. Whilst acknowledging the parents could provide Billie love and affection, she questioned whether they could provide predictable, safe, and consistent parenting. She felt the gaps in their ability to provide a stable and foreseeably safe home were too many for additional support to address the gaps. She was concerned as to their ability to adapt to meet Billie’s changing needs given their own competing needs. It was not a single element of their difficulties but a compound of the difficulties which presented the obstacle to their caring for Billie. She did not agree there was a package of support that could safely address these issues, the parents did not believe they needed support and further work was outside Billie’s timescales. She supported an open approach to post adoption contact.
36. In live evidence she noted the discrepancy between what the parents were claiming with regard to substance use and the test results. This creates a significant gap in understanding. She noted the challenges the parents had faced in promoting various claims and commented as to Billie’s need for proactive carers who were attuned to and could promote her needs. In contrast the parents have struggled to promote their own needs. She felt the offer of a residential assessment had been a missed opportunity. She felt Fiona had fluctuated in the reporting of her own needs. In relation to occupational therapy, she had understood the parents were saying there was no need for training as they were managing. She agreed it

was important for adopters to understand the positives in the case. She acknowledged there had been a reduction in concerning reports and noted issues had arisen when others were in the house. However, she also noted there was evidence that Fiona did not appreciate what domestic abuse was unless it was in a classic physical sense. As such an absence of reports was not particularly informative. This was one of the vulnerabilities. She did not share James's confidence that he could do this. There have remained difficulties around substances and none of this had been tested. The prognosis cannot be said to be one in which the risks will change and this is a complicating factor.

### Threshold

37. This was agreed as being crossed. There were some minor challenges to words applied in the case of Fiona and James raised certain points. These points were not particularly made in the evidence. I am satisfied the threshold is crossed as pleaded. However, whilst I consider there is a risk of future disputes within the home I am not satisfied it is likely there will be intimate partner violence. I appreciate this is an assessment of risk rather than a factual finding. I think such a finding would unfairly colour any understanding of this case. I do not perceive such a risk is more likely than not on the evidence I have heard and read.

### Analysis

38. I would wish to make clear my assessment of what this case is about and what it is not about. This case is not about the parents being unable to care for Billie solely due to Fiona's physical disability. It would be wholly wrong to separate a child from a parent and to consider adoption simply because a parent had a debilitating condition. It is difficult to countenance circumstances in which a Court could approve such a plan in particular where there was a supportive (and non-impacted) co-parent.
39. This case is not about housing on its own. The Court, and this Court operating in the London area, is more than familiar with the very real challenges on parents in obtaining secure accommodation. It is more usual than not for there to be some level of instability in housing where parents are housed in rented accommodation in the private sector. In many cases parents are confronted by the need to accept long waiting lists and barely adequate temporary accommodation. Yet again it is no role of the State to remove children from their parents in circumstances where the same State may be said to have failed in its own duty to provide an adequate housing stock. The Court does, and must, accept outcomes in which children continue to live in challenging accommodation.
40. This case is not about the use of cannabis or drinking per se. Cannabis is not a legal substance but it is not the role of the Court to remove children simply because their parent uses cannabis or drink alcohol, even on occasion to excess. It is not the role of the Court to socially engineer family life.
41. This case is not about a situation in which the Court is confronted by parents with learning difficulties who together require support. The position is more nuanced. Fiona does have real challenges and plainly requires some level of support to provide a home in which Billie receives good enough care. But James has no such challenges and impresses as a competent individual. There is no fundamental reason why James could not in principle care for Billie alone were this the suggestion. In this case the Court is confronted by a couple who plan to care together. It is common place for relationships to be based on mutual support and contrasting skills and strengths. In many relationships one of a couple have a particular ability to meet certain needs whilst the other deals with other needs. Traditional family life

operated on a classic division of labour around child rearing and income earning. The point is each family is different but it is their global qualities and abilities that are assessed in respect of good enough care.

42. This case is not about active domestic abuse in the relationship between the parents. Whilst I agree the environment existing in the home in 2020 (and around that time) was not conducive to the care of a young child, I have not received evidence to support a finding of domestic abuse between the parents. That does not mean there is not a vulnerability that needs to be considered.
43. In this case James can be seen to be a potential compensating or supportive co-parent. Taken together in this way it is less clear to me that this is a case as to the supports that can be offered to Fiona (although support is always welcome) but whether any perceived deficits in the case of Fiona are met by James. For my part I do not see this as a case which in principle identifies issues with the care Fiona can provide (whether due to physical or other vulnerability) which should not be within James's capacity to compensate for by his own supporting co-parenting. On the basis that James is putting himself forward as a full-time supporting co-parent I have struggled to see why this case turns on the support or lack of support said to have been offered to Fiona. I accept such support might further enhance the care offered but the question for me is the threshold of good enough care and I have not understood anyone to suggest that James has an innate vulnerability which means he could not do this.
44. In my judgment this case turns on that very question: what is it in the facts that causes the applicant to conclude that with the help of James, Fiona with all her vulnerabilities cannot together provide good enough care for Billie? Do these concerns taken together amount to a case which justifies the outcome sought by the applicant?
45. I will now turn to the welfare checklist. I first have regard to Billie's **wishes and feelings**. These are taken in the light of her age and understanding. As a child aged under 1, she cannot express any wishes and would not have an understanding to base a view upon. Still, I should reflect on the good quality contact that has endured throughout these proceedings and the commitment shown by her parents. I heard and accepted evidence of this being a joyful experience full of warmth and affection. I heard and accepted a submission that Billie's face lights up when she sees her mother. This must be borne in mind as an expression of her feelings albeit limited by her age. I have no reason to believe she would not want this to continue (if she was able to express a view). But I must also apply a more adult understanding to the situation and one must question to what extent she would also want a future of stability and normality within a settled home environment. I reach no conclusion in this regard but if I am inferring wishes it seems only reasonable to infer the wishes would extend to avoidance of chaos or the like in her daily life.
46. Billie shares her **needs** with all children. I accept the evidence of her need for stable and predictable care from her care givers and I accept the evidence of the importance of attuned care to establish good attachments. As with other children she has a need for housing, food, and warmth and all the basics of daily life. Importantly she does have a need for her future permanency to be identified and established. She is now 1 year of age and has not yet found or entered her permanent home. For reasons given above the parents could not contemplate either one of them caring for her alone in a residential unit and also expressed reluctance to enter a unit together in any event. The reasons given for the latter were short sighted and were not child focused. It is troubling that the parents expressed a prioritisation of Peter's needs over those of their daughter at that stage in the proceedings. I appreciate



that a placement may not have become available in any event but I cannot overlook the position they took. As a result, Billie has been in foster care (and recently moved home). She needs her next move to be her final move into a permanent home. She needs to now be establishing attachment and bonds to her future carers. I appreciate if I favour the parent's case then this transition will be assisted by the very valuable contact. But if I do not agree there is a real urgency in moving forward with a long term permanent alternative placement.

47. I struggle to see how her needs will be met by a long-term continuation of the current arrangements under which she is cared for by the state and has the opportunity to spend time with her parents. This is short of the permanency she requires and cannot provide the real bonds and attachments arising out of a home in which she is a full member. She needs a permanent family home and the life that comes with it. She would not benefit from the applicant being ever present in her daily life with the stigma that would likely come with such involvement. I cannot countenance such an outcome at this stage given her very young age.
48. Her needs suggest a resolution of the dispute before me. I accept this could be organised in concert with an adjournment where that timetable had a clear plan of transition and a timetable towards final resolution. I am less confident it is consistent with an open-ended adjournment which is premised on simply gathering more information to see where the answer then lies. I bear in mind we are almost at the anniversary of these proceedings and there was significant pre-birth work undertaken to avoid later delay. An adjournment to gather further evidence requires real justification and must be necessary.
49. At the heart of her needs lies Billie's emotional needs. I have referenced her need for predictable care. This is about her environment being one in which she can build an expectation of how her parents will respond to her demand for care and love. Whilst all households will at times involve a level of crisis and disagreement it is important that this is not set at a level which impedes her emotional needs. Plainly significant domestic abuse would drive a wedge through these needs. But unavailability due to sustained poor mental health or substance abuse might equally lead to a scenario in which her needs are neglected with significant effect.
50. Billie's need is not for Fiona to be physically well or for James never to enjoy a drink. She would, as do many children, thrive within a household with such characteristics. However, this would be very different if the challenges associated with physical and other vulnerabilities were overlaid by her parents being for significant periods of time emotionally unavailable due to substance abuse. In a case in which one parent might be unavailable or less available due to other challenges there is a heightened requirement for the unaffected parent to be on hand to meet her needs.
51. She does have a need for her day to day needs to be met and to have parents who have both the ability and commitment to advocate on her behalf. This may be in navigating through the school or medical system as issues arise from time to time. But it is a broad requirement to have parents who are capable and effective in ensuring she can be successfully embedded into her society. She needs her parents to be proactive and to prioritise her needs and not to be lost in their own needs. She cannot afford her own needs to take a back seat for a sustained passage of time.
52. I have regard to the impact on Billie of **ceasing to be a member of her original family and becoming an adopted person**. I have regard to the loss she would experience of her regular

life with her parents. This is currently found in the warm and loving contact. This would be substantially if not entirely removed. In being lost she would also suffer the loss of the identity aspects that come with seeing her parents. By this contact her sense of herself and identity is firmly pegged to the ground. As she grows and becomes naturally curious as to her wider family and background so her parents are best placed to inform her. With respect to the life story work that could be undertaken this is a poor substitute for direct conversation with those best placed to answer questions. In addition, with cessation comes potential confusion, worry and doubt. Billie will at some point have to understand and address the fact that she is not being brought up by her birth parents. There is the potential for this to be a deeply challenging state of affairs. She may worry about her parents and have concerns as to whether they wanted her or whether she was to blame for not living with them. I appreciate that many of these points are capable of being addressed by competent adopters and I bear in mind that such adopters would be well prepared for this eventuality. However, how this plays out for the individual child is both uncertain and potentially harmful at an emotional level. In this day and age with modern social media anonymity is a very challenging concept and there is the potential for Billie to experience very unsettled emotions as she comes to a full understanding of her early childhood.

53. I have regard to all her **personal characteristics**. I have already reflected on her very young age and the need for conclusion to proceedings. I have referred to her identity needs.
54. This is a case premised on a risk of significant harm. I have made threshold findings as set out above and whilst these are dated to the commencement of proceedings there remain in my judgment real risks which must be considered when making final decisions for Billie. These risks have been highlighted in the professional evidence as a range of vulnerabilities including physical and mental vulnerabilities; substance misuse and concerns around behavioural and cognitive traits relating to impulsivity and other characteristics. There is a concern that despite lengthy proceedings there has been limited progress in relation to these concerns; relatively late engagement where there has been engagement, and; limited grounds for optimism that fundamental change will occur within Billie's timescales. If these concerns are addressed then the balance of welfare considerations will likely fall into place in a positive manner. If they are not the balance of considerations rest on shaky ground.
55. The **relationships Billie has and the ability of these persons to offer an environment which her needs are met**. This judgment has a focus on whether or not the parents can provide a home in which Billie can develop and have her needs met. It is accepted there are no other family options. It is plain the parents have both a willingness and wish to provide this case and their wishes and feelings in such regard are clearly before the Court. I will return to this question in my conclusion below.
56. I have already identified the need for a holistic approach. I next turn to this.
57. There are two realistic outcomes in this case in my assessment. Under the first Billie would be placed with her parents (whether immediately or as part of a staged process including the provision of a support plan to underpin the same). In the case of the latter this might require an adjournment but I distinguish this from an adjournment with an uncertain outcome whilst evidence is gathered. This adjournment would be premised on a conclusion that the parents are capable of providing good enough care but require some supports and there is a need for the applicant to provide a plan in respect of the same. This would be a relatively short adjournment with a clear route and end destination.
58. The alternative outcome is the care and placement proposed by the applicant.

59. I do not consider long term foster care is a realistic option for Billie. I have set out my concerns in this regard already. This would not be the right outcome for such a young child who would then face a full childhood in the care system. This would be damaging for her even though it would be associated with ongoing contact. It would not give her any sense of permanence and I consider this to be a fundamental requirement of any outcome.
60. I also reject the notion of adjournment to gather more evidence and for there to be a return to a later final hearing assessment of the same. In my judgment whilst there a level of evidential uncertainty (this is far from unusual) this does not impact on my ability to assess the competing options placed before me. As an example, whilst Fiona could be subject to an occupational therapy assessment, I am unclear how this would meaningfully impact on my resolution in a case in which James is put forward to meet any deficit. My understanding of the evidence is that James does not have his own innate deficits which have to also be met.
61. We are nearly a year into proceedings and more than a year since assessments began with this family. In my judgment I have the necessary information to reach a conclusion in this case. It is not necessary to adjourn the case. In reality this amounts to saying I have all the evidence I need to evaluate the merits of the case put forward on behalf of the parents. If I reject their case, it is not because of a gap in the evidence but based on my assessment of the evidence.
62. When I contrast adoption and placement with the parents, I bear in mind that the positive of one option will also be the negative associated with the other. I have borne in mind the written evidence of the ASW in his realistic options analysis and the permanence analysis of the guardian.
63. The positives of the placement with the parents has been referred to above but I repeat as follows. It would preserve biological family life and the existing meaningful relationship between Billie and her parents. If successful it would reinforce these emotions in an entirely positive manner. It would enable Billie to grow up with her birth parents and would meet her identity needs in the best manner. Her parents would be on hand to meet any questions she would have and there would be no impending future risk laden date on which she came to understand her home was not her original home. Such a placement would preserve this valuable relationship but would also enable wider family relationships. It would by its very nature be the outcome which was least interventionist in character and best respected the obligation to have respect for private family life.
64. The positives of adoption relate to what it offers and what it might avoid. In relation to what it offers it has the advantage of being a lifelong family placement with permanence. Billie would be central to the home and would be valued and loved for herself within it. This would be a placement free from state intervention. In short it would equate to replacement family life. In terms of the positive of what it avoids this turns on the likelihood that the placement would not be surrounded with the vulnerabilities found in this case in a compounded form. Of course, such a household might come to have issues of physical ill health but it would be expected to avoid the range of issues raised in respect of the parents and some of the more troubling features such as substance misuse. As such it would not have inbuilt a concern for future instability. It can be assumed the carers would enter the process with open eyes and with an understanding of the challenges and would be alive and prepared for the same. Given Billie's age and despite her strong relationship with her parents there is no reason to believe she would not settle into such a home within a relatively short timeframe.

65. The negatives of this option relate to the loss of family life that this cause. Whilst contact might be considered and offered it would fall far short of that now occurring or which would occur if Billie returned to her parents. In reality I must bear in mind the potential for there to be no contact other than in an indirect form. If this were the case then each of the positives noted above would be lost to Billie and this has plain implications for her. Her identity would be understood third hand, broader family would be lost to her and there would be a need at some point to engage with this history and deal with the fallout from the same. This is why the Court has regard to the fact that adoption is not a panacea and that adoptive placements can fail. When they fail, they normally do so as they cannot contain the emotional fallout that derives from birth family separation. Where this happens the impact for the child is often devastating.
66. The negatives of family placement relate to the suggested risks identified within this judgment. A range of concerns have been identified leading all the professionals to reach a shared view that Billie would not receive consistent good enough care from her parents. In real terms this would mean she would suffer likely neglect in one form or another such as to be significantly harmful. Were the placement to breakdown then the damage to Billie would be as devastating as set out above. In such a scenario her future options might be limited with the only option being long term foster care. Moreover, such a breakdown would not be in a vacuum but would be associated with behaviours or conduct which would in their own right have potentially life long implications.
67. All of the professional witnesses spoke of this case as being balanced given the positives that have been identified but also in light of the negatives which they reference. It should not be thought that the mere fact this is a balanced case means there can only be one option. In reality the same professionals have reached a clear albeit sad conclusion that only adoption will meet Billie's needs throughout her life. But it is this very balance which is found within the holistic analysis. In all cases a speculative or principled argument as to the benefits of family placement can be made. In all cases it can be said that a child will benefit from ongoing biological family life. Sometimes this is said in the most troubling circumstances. However, here it is said in the knowledge that the parents are genuine and loving parents who would welcome the opportunity to provide a home for their daughter given the chance.

## Conclusions

68. I return to the central question raised in §44 above. I have reached the conclusion that substance use is a continuing feature of the parents' lives. I am troubled by their evidence in this regard which underplays or denies this fact. This means they either lack insight into the same or are in denial or are simply being evasive on the question (or a combination of some of the above). As a result, it is difficult to safely envisage a situation in which this will likely change or reduce to a level at which it is no longer material. I make these observations in the knowledge that these have been long proceedings and there has been a good chance to make and show change. As a result, I must proceed on the basis that Billie would be cared for by her parents in such a setting. I am not persuaded the simple fact of her placement would itself cause a material change. The substance issues for both parents are deeply embedded and unlikely to change without the support that has so far not been sought.
69. I am also persuaded that a range of the challenges faced by the parents as to pursuing assistance for themselves (whether benefits, medical support, or housing) result from this substance usage and the impact it has on their daily emotional availability. These are parents who aside from these proceedings have had no other commitments to meet for many years. Some of the points in question are very significant for the relationship's financial health. The

PIP claim and the delay in the same is difficult to understand given its significance. I am in little doubt the parents' substance use tends to depress their motivation to progress significant matters such as this. Given my conclusion in the preceding paragraph there is a likelihood of this continuing. For the avoidance of doubt this is not a natural deficit that requires the applicant to intercede and provide support. This is a need borne out of the parents' choices which would be materially addressed by a change in their behaviour. Again, I note there has now been over a year to address the concern and only a little has latterly changed. I do not have confidence that left to care for Billie this would materially change. The parents might say this would stimulate a change but I should have seen the seeds of real change within the proceedings.

70. The above point sits on an existing set of vulnerabilities. For this option to work I consider James does need to be fully available at all times (I do not mean in a 24/7 sense but as a full-time support). In this way the challenges which confront Fiona and which are cognitive and physical could be compensated for. Yet I have reservations whether given the above I can place reliance on him. In this case as a result of the lack of a residential assessment and as a result of a lack of clarity given the denial of substance usage, I have no real sense of what it would mean for Billie to be in the care of her parents whilst they continued to drink and use drugs. But it is clear it would likely reduce their emotional availability, would constrain resources, and would undermine the stability of her home life. For James to be consistently drinking at the levels he has been found to be drinking at and with Fiona at the same time-consuming cannabis as has been found there is a real doubt as to their availability to also provide good enough care. James needs to be there to provide a role to meet any challenges faced by Fiona yet in maintaining his drinking habits he is prioritising his own needs to the detriment of Billie.
71. Whilst I have heard about James's role in providing support to other adults there is no objective evaluation of the quality of the same support or what this would offer for Billie. It is untested and is not a reliable foundation on which to simply base a plan of care for a child of her age.
72. I also bear in mind that James's resource is shared between supporting Fiona, Peter, and his own mother. This is a real challenge when seen to exist at the same time as his drinking habits. The position early in the proceedings not to enter a unit because of a need to look after Peter suggests he will continue to drain the available resources available for Billie. At that time his role interfered in a focus on Billie and it is unclear to me why this will now change given his needs if anything have grown. I fully accept there is room for James to care for Fiona and Billie but I am concerned as to his ability to manage all of this whilst still drinking. The evidence from the psychologist suggests that notwithstanding his emotional wish to care for Billie this will be a real challenge to his personality.
73. Moreover, whilst I do not make findings of domestic abuse, I do accept the broad characterisation of a vulnerability to the same in certain stressed circumstances and particularly so where substance abuse is present. The proposed option would place on James a significant responsibility to care for Billie whilst addressing a range of other challenges and his own personality issues. Taken together these elevate the real risk that substance misuse will become more problematic and a source of tension and breakdown in the relationship.
74. Sadly, on the information I have very real concern as to the maintainability and stability of any placement of Billie with her parents. It will be into a situation of intense vulnerability and in circumstances of ongoing substance misuse. Whilst I consider there will be periods of good enough care, I am not persuaded the evidence shows this will be stable or sufficiently

consistent to amount to good enough care. I consider the prospects of breakdown and ultimate neglect are such that this cannot be supported as a way forward. I have reached the conclusion that James and Fiona will not be able to provide Billie with good enough care on a sustained basis and that I should not endorse a plan for her to be placed into their care. I consider the only option that will meet her needs is that proposed by the applicant and supported by the guardian. I have decided I should make both care and placement order. I do so on the basis that nothing else will do and I dispense with the parents' consent as Billie's welfare demands me to do so.

75. I agree with all the professionals that this is a case in which future post-adoption direct contact should be under active consideration. I very much endorse a modification to the care plan that will promote a meeting with prospective adopters and which will positively promote the benefits to Billie of direct contact. I would wish to make the following points which I would address to any adopters (they will likely see this judgment in any event):
- i) Both James and Fiona love their daughter very much. They have shown this consistently through contact and their engagement in these difficult proceedings. They have done so with care and affection. It is clear to me they want the very best for her. Their opposition to the applicant's care plan was entirely child focused from their perspective.
  - ii) They have been co-operative and polite to professionals. They are not challenging individuals and they present as courteous and respectful.
  - iii) They have much they can offer Billie even after adoption. As I have noted adoption is emotionally challenging for any child and the reality of modern adoption practice is that children know they have a different biological family. I consider it is likely that having an understanding of her parents whilst adopted may well fortify any placement and guard it against future instability.
  - iv) My assessment is that neither James nor Fiona would take active steps to undermine such a placement.
  - v) Whilst the papers reference criminality these issues have not been of real substance before me. The more troubling history is not nearly two decades old and James has matured and moved on substantially. This is not a case in which I have been asked to find actual domestic violence or abuse in the family relationship.
76. These are my conclusions. I make threshold findings and approve the care plan. I make care and placement orders and dispense with parental consent.

His Honour Judge Willans