

IN THE FAMILY COURT AT WEST LONDON

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

Date: 24 May 2024

Before :

HIS HONOUR JUDGE WILLANS

Between :

The London Borough of Brent

Applicant

- and -

(1) M

Respondents

(2) PF

(3) AF

(4) James & Alison (by their Children's Guardian)

Hazel Samuriwo (instructed by **Applicant Legal Department**) for the **Applicant**
Marcia Persaud (instructed by **Duncan Lewis Solicitors**) for the **First Respondent**
The Second respondent was neither represented nor attended the hearing
Bianca Jackson (instructed by **Hameed & Co**) for the **Third Respondent**
Sandra Fisher (instructed by **Beu Solicitors**) for the **Fourth and Fifth Respondents**

Hearing dates: 20-24 May 2024

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.

His Honour Judge Willans:

**The names of the children have been replaced with the names used in this judgment.
The parents are identified by labels to preserve anonymity.**

Summary of Judgment

- A. I approve the plan for James. There will be a supervision order for 12 months. It seems likely there will need to be some modest adaptations to the supervision plan.**
- B. I dismiss the application for a care order for Alison but make a 12-month supervision order. The applicant will need to provide an appropriate supervision plan. The hallmarks of the plan are set out in the evidence of the professional witnesses.**

Introduction

1. The focus of this judgment is on the fifth respondent child, Alison. There is broad consensus as to the outcome in the case of her older half sibling, the fourth respondent, James, with it being agreed he will remain at home with his mother, the first respondent ("M"). The issue for me to decide is as to whether Alison will also stay at home or be subject to a final care order placing her into the care of the London Borough of Brent ("the applicant"). Alison's guardian agrees with the applicant and supports the care plan for removal and final care order.
2. In considering what is best for Alison I have had regard to the papers in the extensive final hearing bundle; to the live evidence heard over the course of the week¹ and to the focused submissions of counsel for the parties. Alison's father, the third respondent, ("AF") was present through the hearing. He supported M but took a very secondary role within the hearing before me. James's father, the second respondent, ("JF") was not present and is currently a serving prisoner. In pre-hearing planning, I had understood he would be produced by video link for the hearing but that this would not be on all days. Ultimately he was not produced and I determined to proceed in his absence without objection in the light of the fact that (1) he has disengaged from the proceedings; (2) he did not engage with his assessment or his solicitors (who came off the record) and filed no final evidence; (3) there is no reason to believe he has any objection to the care planning for his son, and; (4) to have acted otherwise would have likely derailed this final hearing with harmful consequences for the children.
3. Within this judgment I reference the key information which guides my conclusions. I do keep all the information in mind. I will refer to the participants as titled above.
4. I am very grateful for the civil and professional manner in which this final hearing was conducted. As with all cases of this sort the issues are highly emotive and cut to the heart of family life. Despite this there was an appropriate level of courtesy,

¹ Dr Ana Reis (Clinical Psychologist) ("psychologist"); Michael Bonello (independent social worker) ("ISW"); Rossalie De Alwis (previous social worker) ("PSW"); Richard Gaskill (allocated social worker) ("SW"); M; AF; and; Maureen Badu (children's guardian) ("CG").

respect and empathy shown during the hearing. I am very grateful to the advocates for contributing to this.

Issues in the case

5. I have noted the key dispute being as to whether there should be a care order with Alison being placed in foster care. It seems clear the alternative would likely be continued placement at home under a supervision order (as with James). I have noted the applicant and CG support a care order and this flows from the final evidence of the ISW, SW and CG. M and AF support Alison remaining at home in the care of M (they are separated and do not live together but appear to have a good working relationship) and this is supported by Dr Reis.
6. On day 2 of the hearing, I met with Alison with the agreement of the parties. A note of my meeting was taken and has been circulated. Alison is clear she wishes to remain at home. The CG has formed the view that she does not have sufficient maturity to cause this difference in view to require her to have separate representation. Nonetheless the CG has appropriately informed me as to Alison's strong views on the subject.
7. This case is about neglectful parenting at home with a particular focus having been placed on home hygiene levels, school attendance, and general parenting. Whilst these issues have oscillated over the course of the applicant's involvement with the family, it would be fair to say they are not all in particular focus at this final hearing. Instead, further issues have arisen in the course of the proceedings, and as I will detail below have taken centre stage in relation to the logic and rationale for the planning placed before me. In summary Alison is considered to have come to be at increasing risk of child sexual exploitation and poor social behaviour. The applicant is quite clear that it is these issues which have tipped the balance, in what is a finely balanced case, from a position of supporting Alison at home to requiring her removal to safeguard her. This can be seen in the evidence of the ISW who explicitly references his change in position to these features of the case. As a consequence, and while I do not lose sight of the broader picture, this judgment places a particular focus on these issues and how they might inform my decision making. However, this is not a case in which the Court is asked to conduct fact-finding per se. But, this does not mean there are not issues on which the parties disagree and some of these have a factual nature, and I will address them as appropriate.

Legal Principles

8. I must keep at the heart of my analysis and decision-making Alison's welfare interests. This is my paramount consideration. In doing so I will have regard to the welfare checklist found at **section 1(3) Children Act 1989**. The welfare checklist identifies a number of factors to be considered in the light of all the circumstances of the case. Stepping back, it seems to me the key factors raised within this case are as to risk of harm and safety and as to Alison's broad needs encompassing her emotional, physical, and educational needs. I will though have regard to all of the factors.

9. I am asked to make a public law order in this case. I can only do so if the legal threshold found in **section 31 Children Act 1989** is crossed. Whilst this is not in dispute I remind myself that this amounts to a conclusion that Alison (and I will focus on her although it is agreed in the case of James and indeed required for the outcome supported by all) has suffered significant harm arising out of the care given to her and with such care being below the level to be expected by the Court of a reasonable parent **or** that she is likely to suffer significant harm if an order is not made and that this arises out of the care likely to be given to her if an order is not made and the same is attributable to a care giver. Aspects of this case might suggest an allegation of Alison being beyond parental control, although this is not how the case is put by the applicant.
10. However, it is well understood that a finding of the threshold being crossed is not sufficient to determine the outcome for the case. The crossing of the threshold empowers the Court but does not determine how the power of the Court should be exercised. Once crossed the Court must then apply the welfare checklist and reflect upon the proportionality of the proposed outcome in the light of all the circumstances. In doing this the Court reflects on the interference such an order would have on the rights of the family for respect for their private family life: see **Article 8 European Convention on Human Rights**. A care order with a plan for removal is a very significant interference in family life and requires a high level of justification. In considering whether it is justified the Court has regard to the welfare of the child and will consider whether the proposal is reasonable and necessary. In doing so the Court is bound to weigh up the positives and negatives of the removal and must ensure that it properly balances these features. Ultimately if the Court is satisfied there is a lesser form of intervention that will adequately meet the child's welfare needs then it will be disproportionate to interfere as suggested. This case is very much a synthesis of the concerns in the case and a respective weighing up of the upsides and downsides of each option. Some of these matters will be based on experience and events that have occurred. But others will require an evaluation of likelihood of what the future holds if decision A or B is selected. This is challenging but is the ultimate duty of the Court based on both experience in general and its conclusions based on the evidence placed before the Court.

Background

11. Whilst there are some disputes over detail none are such as to impact on my assessment of the case. I take this background largely from the account found within the parenting assessment process, but I have also had regard to all the statement evidence to the extent it sets out the background.
12. Alison's cultural background from her parents is largely of an Afro-Caribbean character (although her father has mixed heritage). On my reading her parents had very different childhood experiences. M's childhood was plainly impacted by her parents' divorce when she was around 12/13. Whilst this has impacted upon her at an emotional level it is clear she had a relatively stable upbringing and this foundation led to her obtaining good school results and a University degree. M's cultural identity is noted as being highly significant to her. I consider it important to

record that there are said to be no issues with mental health, drink, drugs², domestic violence, or behavioural issues during her childhood.

13. M's first relationship was with PF. She has two children out of this relationship, James, and an older brother, X (aged 19). X continues to live with M. It is difficult to gain a clear understanding of the relationship between M and JF and this is not assisted by the substantial non-engagement of JF with the proceedings. From what I can see the relationship was not as supportive as it should have been and there was sufficient disharmony to arouse the involvement of the police. On any view there were elements of domestic abuse in the relationship and it seems a lack of consistent support of M and the children. In substantial regard M was left to care as a single parent to the boys.
14. The relationship with AF commenced in 2009 at which point M would have had two children under 5. By his own account AF had a markedly less stable upbringing than M. He accepts behavioural issues on his part (potentially associated with ADHD) which led to him being excluded from school at around the age of 11, with no meaningful engagement in education thereafter. He entered the care system at age 13 and was placed into a series of residential homes. He returned to his mother's care at age 15 but his life continued to be somewhat chaotic and isolated with some engagement in low level criminality. AF has seven children (Alison being the fourth). I do not consider it necessary to detail the other relationships given there is no suggestion AF has anything other than a warm and positive relationship with Alison.
15. The relationship between M and AF was relatively short and ended around the time Alison turned 1 year of age. However, they retain a positive parent-based relationship and there are no reported issues of concern arising between them. AF has maintained a relationship with Alison and the assessment of the ISW confirms there is a warm and loving bond between the two of them.
16. M final relationship was with Mr M. This appears to have been a problematic relationship. Mr M abused alcohol and there is accepted verbal abuse of M, if nothing else. The relationship lasted between 2017-20. With the Covid lockdown stresses increased and these were added to by the maternal grandfather being diagnosed with cancer and subsequently dying. It is noteworthy that towards the end of this period Mr M came to be stabbed and there was some investigation as to whether M or X had been involved in the incident. Whilst this case does not proceed on the basis that either were involved, it is a matter of note that the surrounding situation was one in which he was stabbed.
17. Stepping back, I have had regard to the chronology filed by the applicant. I appreciate there are some disputes as to detail, but the central picture is that this is a family who have raised concerns from time to time since at least 2013 in respect of neglect (in the form of poor home conditions and personal hygiene, school attendance and boundaries/behaviour). In 2013 care proceedings were brought and the children were subject to removal under an interim care order for a period of

² Although there is mention of drug testing in the directions this has not featured in the case put before me. I was informed after the hearing that the hair strand test had not been included in the bundle as a result of an oversight. It was circulated on day 2 and is negative for cannabis.

time with a final Supervision Order made in late 2013. In late 2020 police raised concerns as to the state of the home and issues of bedwetting. However, by the time the applicant became involved the wider family had intervened and proceedings did not follow. In 2022 it appears the situation around James had escalated with issues of poor school attendance and poor behaviour towards peers. For a time, he spent weekdays with his father but ultimately, he came to be excluded from school due to violence against another pupil. In the same year, the concerns that underlie this application came into focus. These issues concerned school attendance for both James and Alison; Alison's consistent wetting³ herself and related hygiene issues; and issues with boundaries around the children and the state of the household. The expressed concern of the applicant was that notwithstanding a sustained period of support and the episodic intervention of the local authority there had been no sustained improved changes with concern as to what further deterioration would mean for the children.

18. I note that whilst there are plainly concerns around James using cannabis this is not a case in which there is any current concern personally directed at M. Whilst I understand the advice in this case is for M to engage in a therapeutic process she is not overwhelmed by mental health issues to the extent that they are said to be directly impacting on the care she gives, there is no suggestion she is using or abusing drugs or alcohol, there is no suggestion of inappropriate chastisement of the children and there is no suggestion of domestic abuse within the household. Instead, the concern is that M has established a parenting style which is permissive of this poor state of affairs, that she has an avoidant approach under which she avoids confronting the children around the issues and as a consequence no boundaries are being set or imposed to change the circumstances faced by the children. This is not so much a criticism of the parenting provided but rather a lack of effective parenting. It is said she has not done enough to implement strategies to improve school attendance or promote a route towards resolving what may or may not be Enuresis in the case of Alison. The criticism is that she presents as being less a mother and more a friend to the children. At the same time, it is recognised that the relationship between the children, and the children and mother is warm, natural, and spontaneous. M provides a loving home which subject to the issues raised is an essentially safe environment for the children.
19. These proceedings were brought in April 2023 following a perceived further failure to make change. The case was initially allocated to the Magistrates before being re-allocated to District Judge level. An initial application for an interim care order was opposed by the CG and an Interim Supervision Order was made. Substantial assessments were directed as are referred to within this judgment. This case has not kept to the 26-week maximum set by the public law outline. My reading suggests this is largely due to the need for a series of addendum reports arising from (1) the balanced nature of the case and (2) some changes occurring in the course of the proceedings.

³ In this judgment I will use the phrase wetting to capture the situation of the child emptying her bladder outside of the toilet environment. I appreciate the situation may also be captured by the concept of Enuresis but no diagnosis has been made

20. In respect of changes in the course of the proceedings I make particular reference to the following matters: (1) In November 2023 reports were made to the police which suggested Alison was a witness to a serious sexual assault on a friend which is reported to have occurred in July 2023 (and may herself have been the victim of a sexual assault although this was not pursued given her lack of support); (2) On a date which is unclear Alison is said to have left home at 5am without her mother's knowledge. There is a suggestion this was on 15 January 2024 but this is in dispute; (3) On about 5 April 2024 Alison and a friend, whilst on a sleepover at Ms' house, were involved in video messaging at about 2am during which threats and possible sexual behaviour occurred towards them from another adolescent; (4) On about 6 April 2024 Alison was barred from a local Tesco store after an event during which it appears food was thrown at staff at the store. I specifically note these points as they are referred to as being the 'straws that broke the camel's back' ultimately leading to the change in opinion as to whether the situation for Alison could be managed at home or required removal into care.

Summary of evidence received

21. This was not a case in which there was a material challenge to either the professionalism or honesty of any witness. Whilst there are a number of disputes these do not go to the essential credibility of the witnesses.
22. I was overall impressed by all the witnesses who appeared before me in this case. I found the professionals to be approaching the case with real care and balance. It was clear to me that each had only reached their conclusions after giving the issue substantial consideration during which they had wrestled with the issues placed before them. Each told me about the challenge the decision on removal raised and spoke in terms of 'agonising' over the decision. In a case like this the SW will naturally draw upon the expert evidence which has been commissioned to form his own views, yet it is clear he has independently found this a very challenging case. It is clear to me each of these professionals have not reached their conclusions without real care and consideration. I take the view there is nothing in the presentation of the evidence to cause me to discount the content of their evidence.
23. I was also impressed by M. She is an articulate individual who did not evade the questions put to her. She gave her evidence in a direct and appropriate fashion and I had no sense of evasion or dishonesty in what she was telling me. This was not a case which largely turns on factual disputes. In many regards she was accepting of the concerns raised and was accepting there was a need for change to still be made. She was not rejecting in principle of the applicant's concerns. In a case in which all agree the outcome is balanced I have found this a case in which all witnesses have expressed a view which is reasonable and evidenced in setting out why they feel the balance falls on the side of the line advanced on their behalf.
24. That being the case I can summarise the evidence received in relatively short order. I will return to some of the key factual points in the section below.

25. The Psychologist: Stood by her conclusion that the children should not be separated from M. She has provided a number of reports including a together and apart report. She felt Alison is very anxious as to the possibility of separation and considers this may be effectively triggering her in respect of her earlier removal in 2013. She wondered whether this might be causing her to push at the boundaries. She was concerned as to the long-term implications for Alison if progress including therapy was not made now. She doubted Alison would be able to engage with schooling if she is removed from home. The effect of removal will be to repeat the previous harm done to her. She could not accept the proposed contact with M on removal in any event, which she felt would be traumatising given the closeness of the family members. Alison is said to have low self-esteem and is already blaming herself. If she is removed whilst her brother remains at home then she will likely blame herself as she does not have the emotional maturity to reason this through. She felt the harm on removal would be much greater than on staying. She accepted there had been a level of escalation of concerns within the proceedings and acknowledged the concerns as to risk of sexual harm. It was important for M to work co-operatively on this. She cautioned against an assessment based on M's initial response as she might not think properly in the moment but has the ability to reflect and can make change with professionals. She felt there was an element of self-defensiveness in her initial response but this dissipates when you work with her. As to the more recent issues, the Psychologist commented that these were a different form of issue and it might be M had given Alison too much freedom but she now understands she needs to exercise more control. The Psychologist told me her views had not changed because with the right support M could provide the care required. She accepted the therapy would be challenging but did not rule out M caring for the children whilst undergoing therapy. It was put to her that the risks would be too high whilst therapy was sought and the results embedded. The Psychologist did not agree and felt M had not been supported as required. M was a good candidate for such work and is not a parent who is difficult to work with. In reality on separation neither child nor mother will be in a place to engage with therapy and as a result it will require much longer than would otherwise be required. She did not feel this was the right balance. Whilst she later went on to suggest 12-months therapy might be sufficient in the home it might take 5 years plus out of the home. She felt M was an ideal candidate for therapy. The timelines for this might involve a 6-month wait whilst work is commissioned with a 12-month period of work. She felt it was important M was not in a toxic relationship and the home conditions had improved. This is a marker of improved mental health. Things would have been difficult around the Covid time but M has done some therapy which has been helpful and she is not in the same place she was. If removal is authorised then it will be important for M to sign up to the plan and support the outcome to assist Alison. She agreed with the concerns of the CG as to child sex exploitation and related risks. She pointed out she has recommended this intervention a number of months ago, things have not got better and this support has not been offered.
26. The ISW: The ISW was clear his opinion had been materially changed by his understanding of the events referenced in §20 above, although this was initially with regard to the July 2023 incident only (the latter events confirming his change of

view). The reason for his change reflected his view of Ms' inability to properly and appropriately discriminate between the information supplied by the police and that supplied by her daughter. He felt removal would not prevent therapy from having an effect and noted that therapy was not required to get Alison to school regularly. He was clear a removal would be a draconian interference with the family and he had not reached his decision lightly but the harm on non-action is greater than the harm on action. He noted the plan was for rehabilitation after progress is made and felt this would require a change on the part of Alison and a robustness in understanding and action on the part of M. When questioned about his change of position he made clear his concern related to M's ability to choose between the conflicting accounts. He noted the proposed changes at home but felt these addressed the symptoms not the cause of the problem. There had been similar issues with James and this suggested the issue was in the parenting of the children. He made clear his previous support for Alison staying at home was reached on balance but the later events had tipped the balance. He disagreed he had misunderstood what M was saying about the July events. He was concerned about the long-term nature of the proposed therapy and questioned whether it would happen or work. He was worried about the recent events and was concerned as to the risk of a future very serious escalation. He did not see there being a window of opportunity.

27. The PSW: She had been requested to deal with perceived lack of support for the family. She told me about family support offered and some direct guidance given by both her and a manager. There had been support with respect to a medical referral re the wetting incidents. When examined she appeared to accept there had been a significant delay in providing the support with cleaning the home and it is noted this did not happen until after the proceedings started. She also appeared to agree there were interruptions in support due to personnel non-availability. There was discussion around Alison turning up at school and reporting being hungry and she confirmed she was booked to attend the breakfast club (although this was impacted by her overall attendance levels). As to psychotherapy the applicant had supported a referral to the GP. This proposed a talking therapies strategy.
28. The SW: He confirmed the proposed care plan and told me this was an extraordinarily difficult decision. The relationship is profoundly warm between Alison and the other family members. He explained the plan of action if the removal was sanctioned and made clear the active plan was for rehabilitation. In due course it was confirmed the essential resource package that would be in effect would be similar whether or not a care order was made. This would comprise family support work in the home⁴; support for the child and mother around child sex exploitation (through the TIGER resource⁵) and therapy for child and mother. If removed there would be additional transition support through the WEST⁶ resource. If removed the TIGER resource would be delayed for a period whilst Alison settled into her placement. The proposed placement was later confirmed to be in the Bedfordshire area and a placement with a couple (who had an Afro-Caribbean / African mix) who have a three-year-old child. He dealt with questions around contact and agreed

⁴ This is part of the support plan for James

⁵ A Barnardo's resource to address issues around child sexual abuse, assault, and exploitation

⁶ Wellbeing and Emotional Support Team (WEST)

there was no essential limitation on contact between Alison and AF and that contact with M could be increased from the suggested level in the care plan to a monthly basis. This would not need to be supervised although there would be a need for some supervision to inform the process of assessment towards rehabilitation. The indicators for rehabilitation would include: (1) full engagement with the provided services; (2) observations of positive contact; (3) demonstration of an ability to assess and act on risk, and; (4) work around school attendance. He told me M had forwarded details of a therapist and this had been passed to management for consideration of funding. The SW agreed M was a willing participant and had welcomed him into her home. He did not feel there was enough present to keep Alison safe in the home whilst progress was pursued and hopefully made. He noted the incidents in §20 above and highlighted the applicant could not guard against these risks whereas he hoped a foster carer would. He felt the risks attendant on these events was worrying when taken in combination with M's avoidant character. He explained why there had been delays in organising support for Alison around these issues. As to the effect on Alison of a change of schooling if removed, he hoped this would establish new positive habits which would be embedded when the time for rehabilitation came. He was asked to consider how Alison might respond to a removal and the risks of her running away. He hoped she would be motivated by the possible reward of returning home so that she would engage and act appropriately. He also felt the support of M would assist with the settling the placement.

29. M: She told me the house was now tidy and clean. She was now responsible for taking Alison to school and her working commitments allowed her to work around this. Alison is a fussy eater but there is food available for her in the home and no need for her to go to school hungry. She explained the difficulties about getting Alison to school and told me this was not about getting her up but getting her out of the house. Her daughter will give her all sorts of reasons for not going and can be defiant. Still there had been a level of improvement although she accepted there was still much progress to make. She had hoped to be able to move Alison to a different mainstream school. In terms of wetting, she told me there was a general improvement in bedwetting over the last months. She had not been informed by the school as to there having been some further incidents of wetting at school although did recall an occasion when Alison came out with different trousers. She explained the efforts to obtain medical support and I was told there is an appointment in October 2024 on a long waiting list. M did not accept the wetting situation had fundamentally improved during periods when Alison was living with her grandmother. She explained the proactive steps she had taken to obtain psychotherapy. She explained the recent steps she had taken to safeguard Alison (including screen time on her phone and a tracker). She denied she had minimised the July incident and told me she accepted the fact of an incident 100% but there was confusion as to the detail and what the truth was. She had heard Alison on the phone with a friend and there was discussion of the children "sticking to the story." She explained she would do her best to be supportive if Alison was placed into care. She denied she had obstructed the police investigation. She told me she felt out of her depth around these allegations. She agreed it had been a mistake to allow Alison to have her phone in April at the sleepover but explained the circumstances and told

me the child who had stayed had been vetted appropriately. Again, there were different accounts given of what happened during this call. She did not dispute the Tesco incident and agreed it was inappropriate behaviour on Alison's behalf. She felt all the issues were related and Alison had been referred to CAMHS for anxiety. She had low self-esteem and had a need to be accepted by her peers. She disputed the level of support given by the applicant but not that there had been support. She accepted she had primary responsibility for resolving the issues in the case. She was willing to engage with therapy and to pay for it if this is what was required. She had the support of her family and agreed the TIGER support was important. She felt a removal would not help as it would appear to place blame onto Alison and this would not assist her to engage with support. She agreed she had struggled to manage Alison's behaviour as she can be defiant and rebellious. Whilst she disagreed with the attendance figures she agreed this was not good enough. She did feel things might be assisted by a third party being involved as Alison would likely be more responsive to the effort to get her to school. She told me the CG had mixed up two incidents in her report and that the event where she left home at 5am (which was accepted) was not the incident where Alison was said to have turned up at school in PJs in January 2024. She had pursued therapy both through her GP and her employment. Her employment might fund therapy and she has received therapy already which is helpful but not in line with that required by the Psychologist.

30. AF: Gave very short evidence in which he set out his continuing willingness to offer support to Alison and M.

31. The CG: The CG explained some proposed amendments that should be made to the plans. She supported the suggested changes to contact. School had reported further incidents of wetting. She did not think she had mixed up two incidents in her report but was concerned there may in fact have been two occasions on which the child was out at 5am, if this was the case. She considered this all related to a suggested incident in January 2024. As to the Enuresis this has been an ongoing issue for several years and whilst the case concerns a 13-year-old child she would have expected the appropriate toilet training to have been actioned by M previously. M had expressed some scepticism about the July incident. She was worried about matters appearing to escalate and drew attention to the issues faced by James and the risk that Alison was on a similar trajectory. Despite being in proceedings for a year there had not been sustained change. She agreed the July event had shifted the balance of harm. It was about M's response to this event. She lacked confidence M would be able to protect Alison from sexual harm given what has happened. She was asked about her view on the home conditions. She had visited at the start, in the middle and at the end of proceedings and had not been unduly concerned by the state of the house. She considered the trauma to Alison of being removed but considered the harm would be greater on remaining in situ. She felt support alone would be insufficient and that the root changes needed to come from M with respect to her parenting. I asked her to consider what the position would be if I sided with M over the incidents at §20. The CG said the case would then be finely balanced but that she would still support removal given that whatever view she reached on those events, there would likely be similar future events and equivalent risk that

would not be guarded against. There is an underpinning vulnerability to such risk which flows from the other issues of neglect in the case.

My Evaluation of the events in §20

32. These events have plainly taken on significant weight in the opinion forming of the professionals. They require a clear judicial evaluation before turning to any broader analysis. In making this observation I want to make clear that I am not relegating all other issues to a secondary level.

July 2023

33. I have the police reports and the various statement accounts relating to M's response to the same. It is important to point out that as far as one is making reference to the police reports these are not to independent corroborative evidence but to what Alison and the other child appear to have reported. If there is confusion it is therefore not between an independent police account of what happened but between what Alison told her mother and what she is reported to have told the police. It needs to be clear that this is not M doubting separate corroborative evidence from the police but to the extent she is in doubt as to which of Alison's reports is more credible. Having reflected on the evidence surrounding this issue I make the following further points: (1) Although this is reported to have happened in July 2023 it did not come to the attention of M or the police until many months later (November 2023); (2) The circumstances of the event are not self-evidently such as to place any blame on M. This appears to have been an event during the day which was essentially incapable of being avoided by any action from M save for keeping Alison supervised at all times. No-one has suggested such a course of action should have been taken; (3) On my understanding on the papers there was no preceding incident which should have alerted M to the risk of this behaviour occurring. As such this was not a predictable event in the sense that there were preceding events which made it likely; (4) It seems clear M was supportive of the police, the police record says as much at [891]. For my part I can see no basis for suggesting she was not supportive on the day the police attended to take Alison to the police station. The fact Alison was not in school on that day is outweighed by M agreeing for her to go to the station; (5) It is clear M informed the police about overhearing her daughter speaking to one of the other children and agreeing to 'stick to their story'. In my assessment this plainly suggests the potential that a false narrative has been given to some degree. M certainly interpreted it as such and the police made clear they would have a frank conversation with Alison. When the police then examined Alison's 'snapchat' they noted a conversation in which Alison spoke to another child 'explaining what to say to the police' and 'giving [the child] a story to say' [931]. Alison said she did not want to support the investigation through a video interview or attending Court. The police told her mother everything that had been said.
34. In the light of the above and the other information received I have reached the conclusion that criticism of M is not warranted in this regard. I struggle to understand why she deserves particular criticism for equating what she had heard with what the police had heard when what she heard appears to be of potentially

probative value. Her expressed view as to confusion is justified on the facts of the case. This does not amount to a wholesale rejection of the event but a more nuanced lack of certainty as to the exact detail of the event. In my assessment anyone hearing Alison's conversation with her friend would be justified in taking a cautious approach. My sense is that the reference to 'a story' does not mean the event did not happen but it might be relevant as to the exact circumstances of the event. The evidence then discovered by the police entirely fits with this point and I have no sense the police had any significant issues with the views expressed by M. A protective parent must also be a careful and curious parent and in my assessment, it is not a matter of criticism for a parent to retain an open mind as to the truth of what is being reported by a child. I cannot read into this evidence a suggestion that M was in fact minimising the seriousness of the issue in principle. She appears to be raising caution as to whether matters are exactly as they appear. This has had a significant impact. The ISW holds this position to be one which is very concerning and has shifted his thinking. The SW understandably adopts this reasoning as part of his synthesis of the evidence⁷. The CG reports equal concern as to this 'uncertainty' on the part of M but in doing so identifies the very feature (the call between the children) which warrants a level of uncertainty.

35. In my assessment the event was a deeply troubling event. There are good grounds for believing Alison did witness sexual activity between the third child and others. This will have been emotionally damaging. The details of the event may not be quite the same as initially reported but this does not change their impact. However, I do not consider it was inappropriate for M to express the potential for confusion around the facts or to address this point when being asked about the same by the professionals. For my part I can find no basis for modifying any settled thinking based on her response to the incident.

The sleepover incident

36. This can be summarised in short order. On the day in question in April 2024 there was a family party and Alison had a friend over for a sleepover. That night Alison retained her phone and in the course of the night at about 2am both her and the friend were awake on the phone. During this period, another child of a similar age made threats to 'egg her house' and used racial slurs. The children reported this to the police and this then came to M attention. It was also reported that the child had acted in a sexual manner but there is question as to whether this was during the call under consideration or an earlier call between the child who came to the sleepover and that child (with Alison not present). M is criticised for allowing Alison to have her phone whether in the light of the July incident or otherwise and there appears to be an implicit criticism in letting the other child stay over.
37. I have struggled to understand why M again deserves the criticism levelled at her on this point. She accepts it was unwise to allow Alison to have her phone and I do not disagree but this is well within the range of permissible actions for a parent in the context of a rare sleepover event. I acknowledge that during the investigation of the July incident on checking Alison's phone the police discovered sexualised material

⁷ I acknowledge that both the SW and CG formed this concern prior to the receipt of the views of the ISW on the same.

being shared within a messaging group but the events on this occasion need to be seen in the light of the fact that this was many months later; the July incident itself did not involve sexual messaging; the sleepover involved a different friend to the friend involved in the July incident and it is far from clear the sleepover event involved any sexualised messaging. Excluding any sexual aspect to the call one is left with two children on a phone late at night and receiving some abuse from a third child. In relation to the sexual element to the call I have received no sound basis for believing it did in fact occur during this call and an explanation has been offered to the contrary which is plausible. Under that explanation the child at the sleepover had herself in a previous call (in which Alison was not involved) been confronted by the third child acting in a sexualised fashion. There is no evidence to suggest M was aware or could have been aware of this earlier call when approving the sleepover. The evidence I heard rather suggested she became aware after the event.

The Tesco incident

38. On 6 April 2024, Alison and the child from the sleepover went to a local Tesco store and acted in a foolish and anti-social manner by throwing food. There is no doubt this was inappropriate behaviour but again sits somewhat outside of the other issues in the case. There is an express criticism that the children (or Alison) should not have been allowed to go to Tesco's. I do not understand this point. There is nothing in the revelation of them being victims of phone abuse on the previous evening which should have led to such a refusal. It is quite clear this was poor behaviour and it supports the case of deterioration but it is difficult to directly link this to M, although I appreciate it is likely reflective of the underlying circumstances in the case.

The 5am event

39. There is no doubt Alison left her home at 5am on a particular day without her mother knowing. On M's case this was in 2023 and when she woke up and found this to be the case, she tracked her down to the house of the child associated with the July incident and took her home. There is no suggestion this was anything other than troubling and a safeguarding issue. The issue for me is that this is reported by the CG as being the same day (15 January 2024) when Alison is said to have attended school in PJs having left home and visited Tesco's to buy croissants on the way to school [see §44 of the Final Analysis]. M tells me these are two events being mixed up and that the PJs were in fact red trousers. This led the CG to worry that there were two separate occasions in which Alison was out at 5am.
40. This needed close consideration and I raised a number of questions with the CG to unpack the detail. It did not seem to me logical to assume there were two 5am incidents as a result of the suggestion of confusion and I remain of this view. I also felt if there had been a mistake then the event involving the PJs and Tesco's was not of particular note on the facts of the case. I understood the CG to broadly accept this point. The issue is whether conflation of two events has occurred. On balance this is the case for the following reasons: (1) I found M's account of the 5am event entirely credible. I had no sense that she was fabricating an account of visiting the other family home and retrieving her daughter, yet this could not have happened unless

the account had been confused; (2) On my findings this is not the first occasion when some level of confusion has crept into interpreting what M has said. Having heard her give her evidence I can see circumstances arising in which whilst giving a detailed general account she might cause different features to appear linked when they are not; (3) If the events are not mixed up then there is no evidential basis for understanding how M knew her daughter had left at 5am given the associated account is of waking later and only realising she was not there when preparing for work. There is no account of when Alison told her she had left home at 5am only that at 8.20am she had been in contact to explain she had gone to Tesco's on route to school. On that basis when was the detail of the much earlier departure provided? On the evidence there is no basis for this whereas there is a clearer timeline if the events have been mixed.

41. Again this (the 5am event) was a concerning issue in its own right. It is explained in the context of this being Alison trying to get around a rule set by her mother not to see the child following the earlier incident. There is no evidence of it being repeated.
42. It can be seen that I have assessed each of these incidents to be significant but not quite for the reasons given by the professionals. I will apply my assessment within this judgment.

Threshold

43. Threshold is not in dispute. I find it crossed in line with the agreed document. I do not regard the document provided in closing by the applicant to raise further threshold allegations, but rather features of the case I am being asked to consider. In any event I have largely addressed these points in the section above.

Welfare Analysis

44. **Wishes and feelings:** It is clear to me Alison does not want to be removed into foster care. These feelings must have some weight in my analysis but they are to be seen in the light of her age and understanding. I bear in mind that she is not a child who has separate representation and this informs me as to her maturity and understanding. I also bear in mind the danger that her wishes may reflect what she might perceive as an easier life at home in which she does not need to attend school. There is the risk that she is as much seeking to avoid a firmer caring role than the move itself. But this perhaps sets her understanding and level of manipulation at a level beyond that put before me. It is on balance more likely that her wishes would reflect the essential care and love she receives at home and the emotional connection she has to her mother and family. For all the criticisms in this case this level of warmth is recognised by all. It is an entirely unsurprising state of affairs that Alison would not wish this to change. I bear in mind her feelings may to an extent reflect the fear of the unknown (if she were removed) and that these feelings could be reshaped were her preconceptions to be shown to be incorrect.
45. It is important to have regard to the fact that Alison is an important player in the work that is to come. Any therapy will need her to fully subscribe to the work and to

be a willing participant. Without this the work would not be effective, or possibly even occur, and the evidence would then tell me that change would be unlikely. I need to bear in mind the potential for Alison to refuse to engage with such a process on the basis that she is not where she wishes to be or on the basis that no-one is listening to her. The suggestion the TIGER work would need to be delayed enabling her to settle in reflects this, at least in part. I will need to factor in the possibility that an enforced move will act to obstruct the very work that the move is enacted to achieve.

46. **Needs:** Alison has important educational needs which are not being met currently. An attendance level set around 30% is very far from acceptable. Whilst I appreciate non-attendance includes being late, even were this accounted for then absolute non-attendance would still be close to 50%. It is clear this has become an enduring issue and the sense is of this issue having become embedded as a behaviour pattern. It is clear to me M does bear considerable responsibility for not shifting this situation. The fact that a similar issue can be seen in the case of James supports the logic that this is related to parenting. Having heard the evidence, it seems the key issue is an ability to challenge Alison effectively when she shows resistance to attending school. It is too her credit that M shows Alison a lot of love and affection and does not resort to force against her but she needs to understand and apply some level of 'tough love' even where to do so challenges their relationship. It will be no comfort to M to have a good relationship with her daughter as an adult in circumstances where Alison has wholly underachieved against her life opportunities. I do accept on balance that there has been some level of improvement in more recent times. This is not particularly referenced in a change in attendance statistics as it seems to be more about getting Alison to school but not on time. As such a state of non-attendance is still continuing. But it is perhaps an early sign of some room for hope. In my assessment the evidence is clear that this will not change without support. In the first instance I gauge this needs to be independent support to back up changes M is seeking to make, or similar support with Alison elsewhere. But the medium term is about work being undertaken to allow mother and child to build their skillset and develop strategies to address the underlying issues. I agree that therapy is required for any sustainable change to be made. In this regard I do not agree that therapy does not have relevance for the attendance issue. I see attendance as a symptom of a larger cause.
47. Alison has a need for physical safety. I will return to this below. But there are other physical needs including for a clean home, to be fed and in relation to her wetting. I immediately accept the evidence of the applicant that there have been enduring difficulties and sustained change has not been embedded. However, I also observe the following points: (1) On the evidence I have received the state of the home is not a factor which justifies the plan of the applicant. There does seem to have been improvement within the proceedings and in large extent this appears to have been sustained; (2) As to Alison complaining of being hungry, I have to assess this against all the evidence. I have considered whether this is simply something said by Alison as a distraction from her need to engage with schooling. I have some reservations as to whether this can be taken as a factual state of affairs any more than when she tells the school she was late because she overslept. I would be highly cautious of treating

such observations as undoubted truth. Alison would not be the first child to give her school a quick explanation which does not fit with the truth. In any event it does not fit with the evidence which tells me there is food at home (SW) and there is absolutely nothing in the evidence to suggest Alison is not being given appropriate levels of food; (3) As to the wetting / Enuresis. This is a difficult point given that Alison is now wholly responsible for her independent toileting but continues to have 'accidents.' She is beyond the age at which her mother is responsible for such intimate care. Given the levels of embarrassment that likely flow from this point it strikes me as unlikely that this does not have some level of physiological or psychological cause which falls outside of the conscious control of the child. I accept the evidence that matters have improved whilst at home based on M continuing to remind Alison to go to the toilet. This is supported by a similar account arising when with the grandmother. It seems to me that pending the appointment in October it would be wise for any carer to take a similar interactive approach. I would suggest her school also adapt a similar strategy. It may be that this creates a change in behaviour patterns but if not, it seems it will be for the clinicians to provide a clearer understanding. I do agree that in the interim any strategy does need to be supported by planning as suggested by the CG (spare clothes at school).

48. Alison has important emotional needs. It seems she has low self-esteem and there is evidence of self-harming. There is evidence that her earlier removal had a significant impact upon her. It is very important that the decisions I take do not, in the search for positive outcomes, have significant negative unintended consequences. I am troubled by the impact on Alison of removal and the message this may send her as to the blame for the same. The reality will be that her brother (who has some similar issues) will stay at home. I agree there is a real risk that she will come to blame herself and I am troubled this will have a material impact on both her availability to engage in therapy and the success of the same. I accept the evidence of the Psychologist that this will likely substantially delay the point at which therapy may be successful. I am not persuaded Alison will be able to reason this through by reference to a plan to return home after 1 year if she engages with work. I consider such a period will seem very long for a child of her age and will not provide the requisite immediacy to create a change in behaviour. I also agree it may likely appear to place responsibility on her shoulders. I agree there may be equal challenges with expecting her to make the changes emotionally from her home environment if she feels the case has gone her way. It is possible she may have no incentive to act positively or engage. However, I have been told that professionals believe Alison may be able to cope with her M's active support and permission. I am unsure why this encouragement would not have equal effect if at home.
49. **Change of circumstances:** The issue to consider is as to the effect on Alison of being removed into care. Understandably the applicant (and CG) sees this as the route, or only route for necessary change. It is hoped with support Alison will settle and will then be able to move onto embed different behaviour patterns and proceed into therapy. I would hope this would be the case but I have natural reservations as expressed above that Alison will not respond to the removal in the open and co-operative manner suggested by those who support this plan. I consider there is a strong likelihood that she will be challenging in placement and that the

improvements will not materialise (or will be much slower than hoped for). I am very concerned she will not be a candidate for a sustained period of time whilst she challenges the placement. Given some of her recent behaviours I am concerned as to what her contesting the placement will look like on the ground. It maybe she is pushed further towards problematic peers and it may be the more alarming recent events are repeated. For my part I consider it would be unwise to assume these risks are likely to be removed if she is removed. The key point is to how they are managed whilst change is sought. I am concerned at least in the short-term that removal will in fact elevate these risks.

50. **Personal characteristics:** Alison is a slight 13-year-old girl of Afro-Caribbean background. She is highly vulnerable due to these characteristics and in the light of her low self-esteem and the issues set out in this judgment. These risks can be seen to be in play in July 2023 and in some of the later events. It is I consider a matter of record that children with her characteristics do not enjoy good life chances following placement within the care system. Whilst I accept a reasonably speedy rehabilitation might be on balance a beneficial outcome, I am concerned that any failure in this plan will leave her stranded in care for her minority. In such circumstances I very much doubt the concerns in this case will not continue to be material to her daily life.
51. **Risk of harm:** The threshold is crossed in this case and I do not diminish the importance of all the points raised by the applicant, whether or not they would have, but for the July incident etc, have led to the proposed outcome. The failure to attend school regularly and the other matters are significant and meaningful for Alison. I have investigated and resolved the additional matters and whilst I have cast these events in a different manner, I am in no doubt that each raise issues of concern. I fundamentally agree with the CG and the other professionals that the underpinning issues have created a position of vulnerability for Alison. This is fertile breeding ground for other issues of concern. When younger issues such as child sexual exploitation could be kept from her, but she now enters adolescence and enters an arena in which this will become an issue from a vulnerable position. As a result, and whilst I do not criticise M for these events, it would be foolish in the extreme not to work on the premise that they will remain issues around Alison that will have potential to impact upon her without warning. As a result, she does need a protective parent who is conscious of this risk and attuned to guarding against it. I accept even with the best of intentions and efforts there will be children who still suffer this harm despite appropriate parental care. But Alison is vulnerable, these risks will surround her and so a clear and competent plan of action is required. I accept the TIGER resource is a valuable support in this regard but it will require follow through within the family to sustain this understanding.
52. **Capability of parent:** In simple terms M has been shown to lack certain key parenting skills. I accept she has other skills which are important. But without change on her part I sense little if anything will change with Alison. I agree the proposed support including therapy is needed in this case. Without it at best the family will sustain the current state of affairs. This will not be good enough for Alison. I accept the evidence of the Psychologist as to M being an ideal candidate for therapy. In

some ways this is an unusual conclusion within proceedings. It is important to note the conclusion that with therapy the view is that M would be likely to provide a good level of parenting. I cannot overlook this evidence which taken together indicates, applying the appropriate legal standard, that M will likely put herself in the position to provide good parenting to Alison. The issue is the quality of parenting whilst she develops this change and what this will mean for Alison.

53. **Range of Orders:** This case is all about an anxious scrutiny of the options of Care or Supervision Order. There is no doubt these orders are the parameters of any outcome I reach. This is not a case in which no order could be made. That is Alison's history and it has not worked. There is a need for support come what may to turn Alison's life chances around.

Conclusions

54. This is not an easy case to resolve. Whilst the outcome for James has factored into my analysis it would be wrong to draw any conclusions from the outcome reached in his case. I am in no doubt his outcome is peculiarly a function of his age. I agree with all the professionals that this is a very balanced decision. I appreciate that a difficult decision does not mean the decision is not a clear one.
55. This case has turned upon the respective impacts upon Alison if she is removed or left in situ. Which outcome will have the best chance for her? Which fits best with her welfare needs? In truth I cannot be entirely confident either option will in fact makes the changes for Alison hoped for within this judgment. She is now of an age where change requires her commitment and this cannot be taken for granted. I fear that in a few years' time whatever decision is taken she will still remain outside of regular school attendance and that her social engagement will have become more not less problematic. The danger is that she is already on the slide rather than sitting at the top with a choice whether to slide down or not. As such I am also considering the respective impact upon her in these less optimistic circumstances.
56. In the ultimate assessment I agree this is a finely balanced case but I have come down nonetheless firmly in favour of a plan for Alison to remain at home at this time. My reasons in summary (but see the analysis above) are:
- i) It is clear my assessment is not calibrated with the negative conclusions relating to §20 taken by other professionals. I have ended up considering the balancing matters do not justify separation (I agree at that point with the ISW) and that the additional matters do not fall in the way suggested by the ISW to justify separation;
 - ii) Importantly, I agree with the Psychologist as to the impact of removal on the proposed support and the likely impact in delaying or defeating the same. Whilst I share the hopes of the professionals, I do not share the optimism that Alison will settle into care as required to engage with this support;
 - iii) In my assessment separation will be highly damaging for Alison and will likely have a wholly counterproductive impact. Among other matters it will make

her less susceptible to therapy and as likely or not more vulnerable to the risks suggested in §20;

- iv) I appreciate this leaves her at home with the ongoing risks. However, I am less critical of M as to her approach to the recent sexual risks and it seems to me important Alison has a close attachment around her to work through these issues. I question whether this aspect of change will be better managed by effective strangers (even if supported by M). I judge the TIGER work will be more effective within a loving home environment than elsewhere;
- v) I also have regard to the clear evidence that M has good prospects of making the changes required. In many cases this would not be an easy conclusion to draw. But it is the case on the evidence before me;
- vi) I bear in mind the clear evidence that the package of support will not be dissimilar in either event. In such circumstances and having regard to the fact that there is no evidence of a failure to engage or manage care and therapy in conjunction, I struggle to see why this should not be commenced with Alison in the environment which is likely to be most productive to her engagement in the same.

57. I therefore agree the plan for James and intend to make a Supervision Order in the case of Alison. There will be a need for a plan as to the modification of the plans for the children. I will hear from the parties as to the appropriate next steps. It may be there is a need for a short adjournment for matters to be addressed. I would be happy to meet with Alison again if this were felt to be helpful.

His Honour Judge Willans