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IN THE FAMILY COURT

Neutral Citation Number: [2024] EWFC 19 (B)
UDTQ (No Adequate Care Planning), Re

Case Number: 1675848284632795

31 January 2024

Before His Honour Judge Middleton-Roy

Between:

A Local Authority

Applicant

- and -

The Mother

1st Respondent

The Father

2nd Respondent

**The Children ‘U’ ‘D’ ‘T’ and ‘Q’
through their Children’s Guardian**

3rd 4th 5th and 6th
Respondents

Miss Kakonge, Counsel, instructed by the Local Authority

Mr Turner, Counsel for the First Respondent, instructed by Bastian Lloyd Morris LLP

Miss Redford, Counsel for the Second Respondent, instructed by Crane and Staples Solicitors

Mr Neaves, Counsel for the Third, Fourth, Fifth and Sixth Respondents, instructed by Reeds Solicitors

Hearing dates: 20, 21, 22 and 23 November 2023 and 17 and 18 January 2024

APPROVED JUDGMENT

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His Honour Judge Middleton-Roy:

Anonymity

1. In line with the Practice Guidance of the President of the Family Division issued in December 2018, the names of the children and the adult parties in this judgment have been anonymised, having regard to the implications for the children of placing personal details and information in the public domain. 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 and may result in a sentence of imprisonment.

Summary of Conclusions

2. The Court makes the following Orders:
 - (a) Threshold findings are made in accordance with the Local Authority's pleaded threshold statement;
 - (b) The Court makes findings of domestic abuse perpetrated by the father;
 - (c) The Court extends the terms of the Non-Molestation Order;
 - (d) The Court grants the father's applications for Declaration of Parentage and Parental Responsibility Orders for the youngest three children;
 - (e) The Court finds that none of the children can return safely to the care of their mother;
 - (f) The Court finds that none of the children can return safely to the care of their father, either as sole carer or with the support of his wife;
 - (g) The Local Authority's Placement Order applications in respect of the youngest three children are each dismissed;
 - (h) The Local Authority's applications for Care Orders in respect of each child are adjourned;
 - (i) The Local Authority is directed to file and serve an updated care plan for each child.

The Parties and Application

3. The Court is concerned with four children. They will be referred to in this judgment as 'U' 'D', 'T' and 'Q' to protect their identity. They are 7, 6, 3 and 2 years old respectively at the date of this judgment. The children are all parties to these proceedings through their Children's Guardian.
4. Their mother is the First Respondent. Their father is the Second Respondent. I will refer in this judgment to the parents as "the mother" and the "father".
5. The Local Authority began these proceedings on 8 February 2023 with concerns that each of the children was suffering or was at risk of suffering significant harm in the form of emotional harm, physical harm and neglect, attributable to the care given to them by their parents, not being what it would be reasonable to expect a parent to give a child.
6. The Local Authority applies to the Court for a Care Order for each of the four children. The Local Authority's care plan for the eldest child, 'U', is one of long term foster care. Presently, however, 'U' is living in a residential unit under an Interim Care Order. The Interim Care Order was made on 19 April 2023 when the Court endorsed the Local Authority's interim care plan for 'U' to be placed in interim foster care. The Local Authority seeks Placement Orders for the youngest three children, 'D', 'T' and 'Q', with the care plan that the children are adopted. Presently, the youngest three children are placed together in interim foster care under Interim Care Orders made on 10 February 2023.
7. The mother informs the Court at this Final Hearing that she is not able to care for her children presently. She tells the Court that she has experienced a decline in her mental health, including increased panic attacks and has found it hard to leave the home for weeks at a time. She attended this Final Hearing remotely by video at her request. She told the Court that she has not been able to attend contact with the children consistently due to the decline in her mental health. She told the Court that she loves each of the children. She wants the Court to make decisions which

are in their best interests as individuals and as a sibling group. She seeks professional support in respect of domestic abuse, substance misuse and improving her mental health. She wants to work towards being able to resume caring for the children. She wishes to remain involved in their lives and to be there to support them in their placements. She agrees with the professional recommendation that it is not in the best interests of any of the children to move to their father's care. She considers that the only realistic option for all the children is for the Court to make Care Orders to enable each of them to receive attuned, properly supported parenting in long term foster care, with the youngest three children remaining placed together as a sibling group and the eldest child receiving specialist therapeutic care to meet his needs. The mother opposes the Local Authority's applications for Placement Orders for the youngest three children.

8. The father opposes the Local Authority's applications for each child. He seeks to care for all the children. He recognised, however, during the Final Hearing that, due to the competing needs of the children, it may be unrealistic for all the children to be placed in his care. In the alternative, he would seek to care for the eldest child, 'U'. He opposes the Local Authority's applications for Placement Orders for the youngest three children. He proposes that he is supported in his care of 'U' by his wife, who is not the mother of the children. She and the father are separated, though not divorced. They live in the same household, notwithstanding their separation. The father is a person with communication difficulties, including difficulties with attention and concentration, understanding low frequency vocabulary, understanding court-specific terminology, understanding grammatically complex sentence structures, processing verbal information and understanding written information. He is unable to read independently. An intermediary assessment was completed during the proceedings. Throughout the Final Hearing, the father had the support of a specialist communication intermediary by way of necessary adjustment to ensure a fair hearing, having regard to his vulnerability as a party arising from his cognitive and communication difficulties.
9. The Children's Guardian, in her final analysis dated July 2023, supported the Local Authority's applications for Care Orders for each child and for Placement Orders for the youngest three children. At the start of the Final Hearing, however, the Guardian revised her recommendation by recommending a time-limited search for an adoptive placement for the youngest three children. Having the benefit of hearing all the evidence, at the conclusion of the Final Hearing, the Guardian further revised her recommendation, informing the Court that she no longer supports the Local Authority's applications for Placement Orders for any of the children. Further, the Guardian told the Court of her professional view that there were gaps in the evidence in respect of the care plan for each child, such that she recommends an adjournment of all final welfare decisions for each of the children.
10. Parallel proceedings were brought by the mother under the Family Law Act 1996 in which she seeks a Non-Molestation Order against the father. A Non-Molestation Order was made against the father on 21 September 2023, pending determination by this Court at Final Hearing of the disputed allegations of domestic abuse.
11. During the Final Hearing, the father made a formal application for a Parental Responsibility Order for the youngest three children and for Declarations of Parentage. The father holds Parental Responsibility for the oldest child and a Declaration of Parentage was made in respect of that child in previous proceedings. The mother does not oppose the Declarations of Parentage sought by the father nor does she oppose the making of Parental Responsibility Orders for each child.
12. All parties were represented throughout the Final Hearing by highly experienced, specialist counsel, who each provided the Court with invaluable assistance throughout the Final Hearing and in their detailed, focussed written submissions that followed, for which the Court is immensely grateful.

Background Summary

13. The family has a long, troubling history of Local Authority involvement over 19 years, dating back to 2005. Previous Court proceedings began in 2015 in respect of the parents' five older children, who are not the subject of these current proceedings. In the 2015 proceedings, the Local Authority was concerned that those children were exposed to parental domestic abuse, parental substance misuse, poor home conditions and physical abuse from their father. Those proceedings concluded with the Court making Care Orders for each child. I will refer to those children as 'O', 'S', 'N', 'F' and 'L': The youngest three children ('N', 'F' and 'L') were made the subject of Placement Orders and were subsequently adopted.

14. In those 2015 proceedings, HHJ Wright made a series of factual findings. This Court has the benefit of a transcript of HHJ Wright's judgment. HHJ Wright found that, "*the case raises serious allegations*" made by the four oldest children, "*of physical and emotional abuse*". The children who were the subject of the proceedings were then aged 10, 9, 6, 4 and 3 years. HHJ Wright noted the background as follows:

"The Local Authority has been involved with the family since 2005 and has used various procedures to try to safeguard the children. The procedures have included child protection plans, child in need plans, and despite these actions there have continued to be referrals to the authority from concerned professionals and those concerns have escalated...there were concerns about the children being locked in their bedrooms...about physical abuse...the Local Authority's concerns that [the father] appeared to dominate [the mother] are evident although she sought to protect [the father] from the allegations against him...there were further allegations the children made that the parents removed the handles to their bedroom at night so they were effectively locked in and could not get to the bathroom...the elder...children described [being] made to stand facing a wall for long periods of time as punishment...if the girls turned around they were hit and kicked....the Social Worker...found that the home smelled strongly of urine...['N'] made allegations...that [the father] also assaulted their mother...[the parents] denied there were any problems in the home. The mother was threatening towards the Social Worker...the police took the children into police protection...['F'] said that [the father] had hit ['S'] on the back of her head and her face and hit the wall."

15. HHJ Wright went on to observe in his judgment:

"Both parents acknowledge difficulties to some extent in their capacity to provide appropriate boundaries and supervision around the children...the mother...recognised that she would like to learn to deal more effectively with their challenging behaviour. [The father] denied any allegations against him of physically chastising the children or physically abusing them."

16. In respect of the mother, HHJ Wright recorded in his judgment:

"Her evidence gives rise to particular concern with regard to the inconsistency of a fundamental kind that arises...she said for example that [the father] has broken her wrist when he assaulted her...there was evidence to confirm that she had been subject to an assault...however...[she] changed her evidence...fundamentally. She said she felt under enormous pressure 'to say what they clearly wanted me to say'...I form the view that she has been the subject of a controlling relationship with [the father]...I form the view that in giving her evidence she was fragile and vulnerable in herself...and torn between her feelings of loyalty to the children...and her conflicted feelings to [the father]...her evidence should be regarded with particular caution although in my judgment there is good reason to believe that when she said she was trapped...there was much truth in her expression of that view."

17. In respect of the father, HHJ Wright recorded:

"He maintained that he had never hurt, slapped or sworn at the children. While he accepted that there had been heated arguments with the mother, that there had been pushing by the

mother, it was not in the presence of the children...he maintained his belief that the Local Authority have their own agenda and the Social Workers have simply misconstrued his explanations and marginalised him....[the father] presented in evidence as confident, even cocksure in his assertions and dismissal of the Local Authority's concerns. It did not seem to me that he was able to provide any satisfactory explanation for any of the Local Authority's concerns and at times presented himself as appearing perhaps as the victim of misunderstanding or poor thinking. The evidence does, as I see it, point to a very real imbalance in the relationship that he has with [the mother] ...my conclusion is...that [the father] is a man who seeks to control the members of his family and particularly [the mother]. I gained the impression that the truth for [the father] is what he wants it to be and I was far from satisfied that he was being full and frank with his answers. There may even be an element of denial about himself...I found his self-justification unconvincing and his manner while plausible devoid of any real understanding of the potential causes of his children's behaviour and distress. I formed the impression that [the father] was the one in the family and in his relationship with the mother who called the shots, who took the decisions and who would not brook disagreement easily...[the father] is a man who in my judgment held the mother in fear not least because at times he gave vent to his feelings of anger or annoyance by a violent reaction...I regard his evidence also...to be treated with real caution and where his evidence differs from [the mother's]...I would have preferred her original evidence...I have reviewed all the evidence and set down the summaries of the particular aspects of the evidence in short form. I have undertaken what the President Dame Butler-Sloss described as the overview of the totality of the evidence in order to come to the conclusion whether the Local Authority's case has been made out the required standard of proof."

18. HHJ Wright acknowledged that the father cannot read or write: *"I am aware that potentially there is this disadvantage for him."* It does not seem that father had the assistance of a communication specialist in those 2015 proceedings in the form of an intermediary.
19. The following factual findings can be ascertained from HHJ Wright's judgment:
 - (a) Between 5 January 2012 and 11 October 2021, the father punched the child 'S';
 - (b) On 24 March 2015 the father made the children 'O' and 'S' stand facing the wall for long periods of time causing the children real discomfort and was excessive. When the children turned round, the father hurt them by hitting them with a hand by a smack or a blow to the face, body or bottom and on one occasion by a blow to the back of the head causing 'S' to hit her face against the wall. The younger children were aware of this chastisement. The mother felt unable to override the father when he imposed the punishment. The mother played no part in any of the violence;
 - (c) The father punched 'S' in the face in April 2015 resulting in a nose bleed;
 - (d) On 27 March 2015 the father and the mother took the door handles off the bedroom doors such that 'O' and 'S' were locked in the room resulting in the children being forced to urinate and/or defecate in the room;
 - (e) The father transported the children in his van without seatbelts;
 - (f) On 18 June 2013 the father kicked the mother and pushed the mother to the stairs by her throat, witnessed by the children;
 - (g) On 18 December 2014 the father "dragged the mother around and kicked her."
20. Further Court proceedings began in 2016 following 'U's birth. Those proceedings concluded on 12 September 2016 with an Order that 'U' lives with his mother (it is presumed under a Child Arrangements Order, although not expressed as such) together with a Supervision Order of 12 months.
21. Each of the four subject children in these proceedings, all of whom were born after the 2015 proceedings concluded, have variously been the subject of child protection plans and child in need plans throughout their lives.
22. On 25 November 2021, 'O' and 'S', the oldest children in the 2015 proceedings, who in 2021 were then aged 17 and 16 years old, refused to return to their foster care placements. Both

children returned to their mother's care. A referral was received on 29 March 2022 from their support workers raising concerns about a chaotic home environment. There were reports that 'O' and 'S' had been seen to physically chastise and swear at their younger siblings. There were concerns that their mother was unable to protect the younger children. The younger children were made the subject of a child protection plan in May 2022.

23. On 17 May 2022 'O' informed the social worker that the father had hit her, hit the mother, hit the other children and had threatened to drag her out of the house by her hair.
24. On 20 May 2022 'U' went to live with his father as the mother indicated she was not able to manage his behaviour and prevent him from harming his siblings.
25. On 12 July 2022 it is reported that the police visited the mother's home and found piles of rubbish inside and outside the property, attracting flies. It is reported that dirty cutlery with mould, broken furniture and dirty bedsheets were observed. It is reported that, whilst speaking to the mother, 'T' punched and kicked police officers.
26. The Local Authority initiated pre-proceedings procedures ("Public Law Outline") on 25 July 2022 due to concerns regarding the chaotic home conditions. 'D' reported to her school that 'S' was harming her. There were concerns that the mother was not able to manage the behaviour of 'O' and 'S'. There were concerns also regarding the mother's unmet mental health needs. 'S' alleged that she had witnessed the father abuse the mother. 'S' also accused the father of abusing the younger children. There were concerns about 'S's mental health with reports of self-harming. There were also reports of 'O' and 'S's boyfriends sleeping over at the family home.
27. On 2 November 2022 'D' told her Social Worker that she had been left to look after the children. Further, it is said that a curtain pole had fallen on 'T's head. The home conditions were reported to have declined further. The mother took two dogs into the family home. One of the dogs killed one of the family's pet rabbits. During a home visit, the social worker reported observing dog urine, dog faeces and cigarette butts covering the floors in the children's bedrooms.
28. On 14 November 2022 'S' asserted that the mother buys cocaine. She also asserted that the mother buys cannabis for herself, 'O' and 'S' from a drug dealer and that the mother was in trouble for giving the drug dealer 'fake' money.
29. On 7 February 2023, at 19:35, 'D', 'T' and 'Q' were removed from the family home, the police exercising powers of police protection, due to dangerous and hazardous home conditions. The police attended the home address to speak to 'O' who had reported being raped at the address while the mother and the other children were present. The house was reported to be in a state of disarray. The children were reported to be in dirty clothes. It was further reported that the floor was littered with animal faeces and urine. One of the children is reported to have sworn at the police officer and tried to run out of the house. Another child was observed by the police to be eating food off the floor. 'T' and 'Q' were placed in the same interim foster care placement. 'D' was placed on her own in a separate interim foster care placement.
30. The mother has made significant allegations against the father of domestic violence, physical abuse and coercive and controlling behaviour, including an allegation that in September 2022 he put his hands around her throat and attempted to strangle her. The mother asserts that in March 2023, following contact with the younger children at a contact centre, the father pulled over the car while driving on the motorway and attacked her physically. 'U' is reported to have been present in the car and witnessed this incident of physical violence from his father towards his mother. Further, the mother asserts that on 3 April 2023, when the father was driving the parents from the contact centre, she hit the father, "*before he was going to hit her*", because she had, "*had enough of the domestic abuse.*" She asserts that the father hit her in response. 'U' is again reported to have been in the car and witnessed this incident.

31. These current Court proceedings began on 8 February 2023. At the outset, an Interim Care Order was made in respect of the youngest three children. They were placed in Local Authority interim foster care, initially in two separate placements, with 'D' on her own and 'T' and 'Q' placed together from 8 February to 20 March 2023. The three children were then reunified as siblings and placed in an interim foster care placement together on 20 March 2023, where they remain.
32. The oldest child 'U' was made the subject of an Interim Supervision Order at the outset. He remained in the care of his father, until the father was arrested on 14 April 2023. The Local Authority sought to return the matter to Court on an urgent basis due to increased concerns about 'U's safety in his father's care. It was asserted by the mother that on 14 April 2023, the father attended her home address and tried to force his way into the property whilst shouting and making threats to kill. 'O' contacted the police. It is asserted that 'U' witnessed the incident whilst sitting in his father's car.
33. The father was arrested on 14 April 2023 on charges of Grievous Bodily Harm, Actual Bodily Harm, threats to kill, rape, coercive and controlling behaviour and attempting to choke or suffocate. He was released on police bail with conditions not to enter or go within the location of mother's address for any reason and not to contact or interfere with her, either directly or indirectly. Ultimately, a decision was taken by the police not to take any criminal action against him.
34. The mother gave her consent to 'U' being placed in interim foster care, under section 20, Children Act 1989. At the relevant time, the Local Authority did not obtain consent from the father to 'U' being accommodated, which, the Local Authority tells the Court is, "*clearly regretful.*" The father agreed retrospectively to the continued placement of 'U' in foster care.
35. The Local Authority reported that initially, 'U' presented upset that he was going to be placed in foster care, however he went happily with the foster carer. When he arrived at his placement he stated, "*I will be safe now and probably have fun*".
36. On 19 April 2023, the allocated Judge made an Interim Care Order in respect of 'U'. Regrettably, 'U's foster care placement broke down. He was then placed in a solo interim foster care placement on 5 July 2023. The foster carer reported that 'U' could become emotionally dysregulated prior to contact with his mother, presenting as unsettled and anxious that she would not attend contact. The foster carer further reported that 'U' could become angry, bunching up his fists and squaring up to the respite carer. 'U' described how his father told him that 'he needs to be put in a box with the lid locked.' 'U's applications to join mainstream schools were rejected by the local education authority. It is said that 'U' has been receiving virtual schooling during his time in Local Authority interim foster care.
37. The mother was arrested on 9 August 2023 for Common Assault following an incident in respect of her daughter, 'O'. It is asserted that the mother had a verbal altercation with 'O' regarding bills, which is said to have escalated and led to the mother hitting a hammer through 'O's bedroom door.
38. On 11 August 2023 the mother reported to the police that 'O' had stolen an oven, a cat carrier and a cat from the family home.
39. On 15 August 2023, the mother is reported to have told the Social Worker during a telephone call that, since the children were removed from her care on 7 February 2023, she has been smoking cannabis every day, except for contact days. The mother reported using cocaine, "*on Fridays.*" Further, the mother reported struggling with her mental health and described self-harming by cutting her arms, legs and stomach with a razor blade.
40. On 11 September 2023, 'U's foster carer gave notice to the Local Authority of an intention to terminate 'U's placement due to his behaviour becoming increasingly more difficult to manage. The foster carer reported being concerned about their own safety, due to 'U's dysregulated

behaviour, which included an incident of him raising his fists at the foster carer, screaming in their face and kicking and punching a door. ‘U’ subsequently moved to a residential children’s home, where he continues to reside. It does not appear that the Local Authority’s proposed change of interim care plan for ‘U’ was ever brought to the attention of the allocated Judge.

41. The action was listed for Final Hearing in September 2024 before the trial Judge, over five days. That Final Hearing was not effective. It was adjourned on 21 September 2023 as the father reported feeling unwell. Again, it does not appear that the Local Authority sought approval from the trial Judge for its proposed change of interim care plan for ‘U’. It is not clear whether the trial Judge was made aware of the termination of ‘U’s interim foster care placement and of the proposed move to a residential children’s home.
42. On adjourning the Final Hearing, the trial Judge then listed the matter before me for Final Hearing beginning on 26 November 2023, with a reduced time estimate of only four days. In the event, the time estimate was inadequate to conclude what was a fully contested hearing involving four children with different Local Authority care plans, one child who was placed, wholly exceptionally for his age, in an interim residential unit, contested Placement Order applications, disputed threshold allegations, separate disputed allegations of domestic abuse between the parents in parallel Family Law Act proceedings and a bundle of documents comprising almost 2,500 pages. Although permission had been given by the Court in an earlier Order for the page limit of the bundle to exceed 350 pages, regrettably no upper page limit was imposed by the Court. Furthermore, the father is a person who, by reason of cognitive impairment, necessitated the use of an intermediary, with repeated breaks required throughout the Final Hearing. Inevitably, it was necessary to adjourn the Final Hearing, part-heard and identify additional days when all trial Counsel and the Court could convene, causing further delay. Two additional days were identified on 18 and 19 January 2024, counsel then providing written submissions to the Court on Friday, 26 January 2024. This reserved written judgment was circulated on 31 January 2024 in advance of formal handing down on 2 February 2024.
43. Between the date of the ineffective Final Hearing in September 2023 and the listing of the Final Hearing before me in November, ‘U’ moved to a residential unit on 18 October 2023, out of county. It is not clear whether that the significant change to the Local Authority’s interim care plan for ‘U’ to move from a foster care placement to a residential placement was ever endorsed by the Court. The change in the nature of the placement was contrary to both interim care plans filed by the Local Authority, which recorded the need for ‘U’ to have a stable, secure, long term foster care placement with a nurturing, safe home environment. It is noted that, erroneously, the updated final care plan for ‘U’ records that his needs would be met within an ‘adoptive family’. It has never been the Local Authority’s stated care plan that ‘U’ be adopted. It is not clear that a revised interim care plan was ever produced by the Local Authority nor is it clear that any details of the residential unit were provided to the Court, including details of whether the placement was registered, the qualifications of the staff, whether the staff were trained in neurodivergence, the staff-to-child ratio nor details of the profiles and ages of the other children in placement. That is particularly concerning having regard to ‘U’s age (he is 7 years old) and his diagnoses of autism and ADHD.
44. ‘U’ was reported in the Social Worker’s final statement of 26 October 2023 to have settled well into his residential placement, engaging well with his peers and key workers and that he was engaging with routines and activities in the placement. However, it transpires that within eleven days of the Social Worker reporting in her statement that ‘U’ had settled well, ‘U’ was subjected to an act of ‘restraint’ by staff members in the residential unit. In her oral evidence on 20 November 2023, the Social Worker told the Court that ‘U’, *“had to be restrained for one minute because he was kicking and biting. There were no injuries. He has now settled. This is the first time restraint has been used.”* When the adjourned, part-heard Final Hearing resumed in January 2024, it transpired that ‘U’ had been the subject of further, repeated acts of physical restraint whilst in the residential unit. Written reports of physical intervention record the following:

- (a) 6 November 2023 at 15:20: ‘U’ was watching TV in the lounge and asked staff if he could go out for an activity. Staff explain that this is not possible...[‘U’] cries and says he wants to go out...[he] throws the...TV remote and it smashes against the wall...[he] jumps up and throws a DVD. This hits staff...in the face. [‘U’] says he is going to smash the TV and shouts at staff to f**k off...[‘U’] kicks staff in the face. [‘U’] is held on the sofa in a seating position in a straight arm immobilisation...[two staff members] hold his legs down to prevent him from being able to kick. [U] screams that he is going to smash the TV and kill everybody...[he] is held for approximately five minutes before he calms and the hold is released. [He] shouts f**k off and runs...to his bedroom...where he proceeds to kick the walls on the landing...[‘U’] states that he hates everybody. [He] runs down the stairs and kicks the office door. Staff stand in front of the door to prevent him from leaving...”;
- (b) 13 November 2023 at 17:30: ‘U’ “picked up a bottle of water from by the sofa and threw this at the TV causing the TV to break. [He] then started throwing objects in the lounge at staff...he started to kick staff, swearing at them and saying he was going to kill them...he continued punching and kicking staff...[Two staff members] held him in a straight arm immobiliser. [He] continued to back kick and kick at staff...[His legs were restrained]...[He] went to his bedroom. [He] kicked his door numerous times. Staff opened the door and [he] threw objects and DVD’s out of his bedroom at staff...[He] came out of his bedroom attempting to kick staff;”
- (c) 18 November 2023 at 14:00: ‘U’ “ran upstairs continuing to shout and swear at adults. [He] has a small metal object in his hand and was scraping it up and down the wall in an aggressive manner...[He] swore whilst attempting to hit and kick adults...adults removed the object from [his] hand to prevent possible injuries to himself and adults and further damage to property...[He] started hitting, punching and kicking [staff]...[He] continued to hit and kick adults. [Two staff] held [‘U’] in physical restraint in straight arm immobilisation] for 1 minute;”
- (d) 20 November 2023 at 07:15: ‘U’ was eating breakfast and threw a plate and hairbrush. He “ran across the sofas hitting and kicking out at adults, swearing calling them f**king c*nts. [He] said he was going to kill housemate and tried to push past adult to get to her. [He] kicked adult in the face and broke her glasses and hit and punched [second adult] and kicked her heard and both...arm twice...[staff] took hold of [‘U’s] arms in straight arm immobilisation. [He] was still kicking adults and [two] adults placed their legs across [his]...[U’] again became angry and started to hit and kick out at staff and running over the sofas saying he was going to kill everyone and where is a knife. He ran to go out of lounge...he returned sofas and started jumping and running over them shouting and swearing. [He] tried to hit and kick staff and punched them to the face and he was placed in hold for approx. 3 minutes...in straight arm immobilisations, he kicked out at adults kicking [one adult] in the head. Again, adults placed their legs across [his];”
- (e) 2 December 2023 at 16:45: ‘U’ picked up objects and started to throw these at adults...[he] continued to throw objects and threw a shoe that hit adult...in the face...[he] went into the kitchen and through the utility room shouting he was going to find something to hurt adults with...[he] then picked up objects from the utility room and run towards [staff] and hit her...[he] started to kick adults...throughout swore at adults. [He] grabbed the cables from the TV...shouting he was going to pull the TV off the wall and break it...[he] began to kick and hit adults...[two adults] intervened...in a straight arm immobiliser [and]...placing [legs across his]...he continued using abusive language and trying to bite both adults throughout. [He] then proceeded to head butt the wall with the back of his head...[he] proceeded to scream and dig his nails into [adult’s] arms.”

45. This Court and the parents first became aware of the use of restraint of ‘U’ in his residential placement on the first day of the Final Hearing on 20 November 2023. The Court was informed by the Local Authority Social Worker that there had been only one incident of restraint. The Court expressed its concern at Final Hearing that the child had been the subject of any restraint,

having regard to his age and vulnerabilities. The Court directed the Local Authority to provide reports of any restraints. The reports provided at the adjourned part-heard Final Hearing in January 2024 demonstrate three prior incidents when restraint was used by staff at the unit against 'U' and one subsequent incident. The Court was told at the January 2024 hearing that there have been no other incidents of restraint since 2 December 2023 and that the staff at the residential placement had been instructed by the Local Authority not to use physical restraint against 'U'. This Court expressed disquiet at the use of restraint on a child so young, without any lawful authority to do so. The Local Authority was directed to file an application for a Deprivation of Liberty Order with the High Court Deprivation of Liberty Unit, with the request that such application be transferred for hearing before me, exercising a s9 High Court jurisdiction. Such application was issued by the Local Authority on 25 January 2024. The High Court in turn transferred the application, now listed before me on 2 February 2024.

46. During the Final Hearing, the Court heard from the Allocated Social Worker, a Family Finding Social Worker, the mother, the father, the father's wife and the Children's Guardian. As noted, the father was assisted throughout the Final Hearing by a communication specialist in the form of an accredited intermediary. A Ground Rules hearing took place at the start of the Final Hearing and those ground rules were revisited prior to the father giving his evidence. This Court is confident that the father's ability to engage with and understand the Court process was enhanced by the skilled work of the intermediary.
47. The Court has considered all the evidence, whether or not referred to specifically in this judgment, including a bundle of documents exceeding 2,430 pages and additional documentary evidence and audio evidence filed during the Final Hearing. It is not possible nor necessary to address every piece of evidence nor every submission made on behalf of each party. Nevertheless, the Court has given all the evidence careful consideration and anxious scrutiny.

The issues that must be decided

48. The issues for the Court to adjudicate upon are:
 - a. The disputed threshold facts;
 - b. The disputed allegations of domestic abuse between the parents;
 - c. The father's applications for a Declaration of Parentage and Parental Responsibility Orders for the youngest three children;
 - d. Whether the existing Non-Molestation Order against the father should continue;
 - e. Whether all the children can return safely to their father's care, whether or not the father is supported in the care of the children by his wife;
 - f. Whether the child 'U' alone can return safely to his father's care whether or not the father is supported in the care of the children by his wife;
 - g. Whether a Care Order should be made in respect of any or all of the children;
 - h. Whether the Court should make a Placement Order in respect the youngest three children or any one of them individually;
 - i. Whether there should be an adjournment of the Final Hearing for amendments to the Local Authority's care plans to be made.

The Relevant Law

49. Local Authorities owe a duty in law to safeguard and promote the welfare of all children within their area who are in need. In carrying out that duty in law, the Local Authority must promote the upbringing of children by their families and must provide services appropriate to the needs of children who are children in need.
50. In any application for a Care Order the Court must apply section 31 of the Children Act 1989 to each relevant child. Section 31(2) of the Children Act 1989 provides that a Court may only make a Care Order if it is satisfied that the child concerned is suffering or is likely to suffer significant harm and that the harm or likelihood of harm is attributable to the care given to the child or likely to be given to the child if the order were not made, not being what it would be reasonable to expect a parent to give. These provisions are commonly called the threshold criteria.

51. Section 31(9) and section 105 of the Children Act 1989 define "harm" as meaning ill-treatment or the impairment of health and development including, for example, impairment suffered from seeing or hearing the ill-treatment of another. "Development" is defined as meaning physical, intellectual, emotional, social or behavioural development. "Health" is defined as meaning physical or mental health.
52. Practice Direction 12J at paragraph 3 defines domestic abuse as, "*any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 years or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, psychological, physical, sexual, financial or emotional abuse.*"
53. In *JH v MH (Rev 2)* [2020] EWHC 86 Russell J set out further guidance on the Court's approach to addressing domestic abuse by reference to PD12J: "*Domestic abuse can inflict lasting trauma on victims and their extended families, especially children and young people who either witness the abuse or are aware of it having occurred. Domestic abuse is rarely a one-off incident and it is the cumulative and interlinked physical, psychological, sexual, emotional or financial abuse that has a particularly damaging effect on the victims and those around them.*" This Court is fully cognisant of the relevant guidance and this Court explicitly bears that guidance in mind.
54. The purpose of the Family Court in proceedings of this nature is not to establish guilt or innocence or to punish or criticise parents but to establish the facts as far as they are relevant to inform welfare decisions about the child. To prove the fact asserted, that fact must be established on the civil standard, that is, on the simple balance of probabilities. (*Re B* [2008] UKHL 35). There is only one civil standard of proof, namely that the occurrence of the fact in issue must be proved to have been more probable than not. The burden of proof lies upon the person or body that makes the allegations.
55. It is common for witnesses in cases to tell lies during the investigation and the hearing. The Court must be careful to always bear in mind that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear, and distress. The fact that a witness has lied about some matters does not mean that he or she has lied about everything (*R v Lucas* [1981] QB 720). It is essential that the Court weighs any lies told by a person against any evidence that points away from them having been responsible for harm to a child (*H v City and Council of Swansea and Others* [2011] EWCA Civ 195). The Family Court should also take care to ensure that it does not rely upon the conclusion that an individual has lied on a material issue as direct proof of guilt. A lie is capable of amounting to corroboration if it is deliberate, relates to a material issue, and is motivated by a realisation of guilt and a fear of the truth (*Re H-C (Children)* [2016] EWCA Civ 136 at paragraphs 97-100). The more pertinent matter for the purpose of this Court concerns lies in the context of welfare. Lies, however disgraceful and dispiriting, must be strictly assessed for their likely effect on the child, and the same can be said for disobedience to authority. In some cases, the conclusion will simply be that the child unfortunately has dishonest or disobedient parents. In others, parental dishonesty and inability to co-operate with authority may decisively affect the welfare assessment. In all cases, the link between lies and welfare must be spelled out. Lies are significant only to the extent that they affect the welfare of the child, and in particular to the extent that they undermine systems of protection designed to keep the child safe. As noted by Macur LJ in *Re Y (A Child)* [2013] EWCA Civ 1337, lies cannot be allowed to hijack the case.
56. If satisfied that the threshold criteria are made out, the Court must proceed to consider section 1 of the Children Act 1989. At this second stage, the welfare of the child is the Court's paramount consideration.
57. The Court must always bear in mind that, in general, any delay in coming to the decision is likely to prejudice the child's welfare.
58. When considering whether to make a Care Order, the Court shall have regard to the checklist of factors under s1(3) Children Act 1989.

59. When considering whether to make a Placement Order, the Court's paramount consideration under section 1(2) of the Adoption and Children Act 2002 is the welfare of the child throughout their life. The Court must take into account all the matters set out in the welfare checklist at section 1(4) of the 2002 Act and consider the whole range of powers under that Act and the Children Act 1989. Section 1(4) of the 2002 Act provides that the Court must have regard to the following matters (among others):
- (a) the child's ascertainable wishes and feelings regarding the decision (considered in the light of the child's age and understanding);
 - (b) the child's particular needs;
 - (c) the likely effect on the child (throughout their life) of having ceased to be a member of the original family and become an adopted person;
 - (d) the child's age, sex, background and any of the child's characteristics which the Court or agency considers relevant;
 - (e) any harm (within the meaning of the Children Act 1989 (c. 41)) which the child has suffered or is at risk of suffering;
 - (f) the relationship which the child has with relatives, with any person who is a prospective adopter with whom the child is placed, and with any other person in relation to whom the court or agency considers the relationship to be relevant, including:
 - (i) the likelihood of any such relationship continuing and the value to the child of it doing so;
 - (ii) the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the child can develop, and otherwise to meet the child's needs;
 - (iii) the wishes and feelings of any of the child's relatives, or of any such person, regarding the child.
60. In cases where a Placement Order is sought, the following sequence of questions must be addressed:
- (1) Are the threshold conditions under s.31(2) Children Act 1989 satisfied, and if so, in what specific respects?
 - (2) What are the realistic options for the child's future?
 - (3) Evaluating the whole of the evidence by reference to the checklist under s.1(4) ACA 2002, what are the advantages and disadvantages of each realistic option?
 - (4) Treating the child's welfare as paramount and comparing each option against the other, is the Court driven to the conclusion that a Placement Order is the only order that can meet the child's immediate and lifelong welfare needs?
61. Where there is an application for a Placement Order for a child, that application becomes the primary application. It is unnecessary to consider the care application on its own before then turning to the Placement Order application. It is right, however, when a Court concludes that a child should be placed for adoption, to make a Care Order as well as the Placement Order, albeit the Care Order will be 'dormant' unless the Placement Order is subsequently revoked.
62. The proper approach to a decision involving adoption is well established. The decision of the Supreme Court in *H-W (Children)* [2022] UKSC 17 underlines that a decision leading to adoption, or to an Order with similarly profound effects, requires the rigorous evaluation and comparison of all the realistic possibilities for a child's future in the light of the Court's factual findings. The Court must therefore evaluate the family placement and assess the nature and likelihood of the harm that the child would be likely to suffer in it, the consequences of the harm arising, and the possibilities for reducing the risk of harm or for mitigating its effects. It must then compare the advantages and disadvantages for the child of that family placement with the advantages and disadvantages of a placement in long term foster care. The comparison will inevitably include a consideration of any harm that the child would suffer in the family placement and any harm arising

from separation from their parents, siblings and other relatives. It is only through this process of evaluation and comparison that the Court can validly conclude what is the outcome that can provide for the child's lifelong welfare, in other words, that it is necessary and proportionate.

63. In Re F (A Child: Placement Order: Proportionality) [2018] EWCA Civ 2761 the Court of Appeal set out the questions that the Court should ask itself when assessing risk of future harm and setting it in context:
- (1) What is the type of harm that might arise?
 - (2) What is the likelihood of it arising?
 - (3) What consequences would there be for the child if it arose?
 - (4) What steps could be taken to reduce the likelihood of harm arising or to mitigate the effects on the child if it did?
 - (5) The answers are then placed alongside other factors in the welfare equation so that the court can ask itself, how do the overall welfare advantages and disadvantages of the realistic options compare, one with another?
 - (6) Ultimately, is the welfare option necessary and proportionate – are the risks bad enough to justify the remedy?
46. These principles in H-W (Children) and Re F (A Child: Placement Order: Proportionality) were restated by the Court of Appeal in June 2023 in Re ADA (Children: Care and Placement Orders) [2023] EWCA Civ 743.
64. A care plan for the adoption of a child must be an option of last resort and will not be ordered unless it is demonstrated that nothing else will do, when having regard to the overriding requirements of a child's welfare. There is a need to ensure that this is a proportionate response to the harm identified. The Court must be satisfied that there is no practical way of the authorities providing requisite assistance and support (Re B [2013] UKSC 33; [2013] 2 FLR 1075).
65. The Court must grapple with all the realistic competing options and give them proper, focussed attention (Re B-S (Children) (Adoption Order: Leave to Oppose) [2013] EWCA Civ 1146. Family ties may only be severed in very exceptional circumstances and everything must be done to preserve personal relations and, where appropriate, to 'rebuild' the family (YC v United Kingdom 92120 55 EHRR 967).
66. A core principle of the Children Act 1989 is the 'no Order' principle. This means that the Court must only make an Order for a child if this is better than not making an Order. The principle is predicated upon the view that children are best brought up by their families, unless they are at risk of significant harm. When drafting the Children Act 1989, the legislators specifically rejected the prospect of removing children from their family just because it would be better for them than not doing so.
67. Section 52(1)(b) of the 2002 Act makes clear that the Court cannot dispense with the consent of any parent of a child to the child being placed for adoption or to the making of an Adoption Order in respect of the child unless the Court is satisfied that the welfare of the child requires the consent to be dispensed with.
68. The Human Rights Act 1998 applies to these proceedings. Under Article 8, everyone has the right to respect for private and family life, home and correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society. Each individual family member in this case has that right, including the child, the mother, the father and the wider family. These rights must be balanced. Any interference with the right to private and family life must be a necessary interference and must be proportionate, having regard to the risks.

Threshold

69. The relevant date for determining the threshold criteria for the children is 8 February 2023, which is the date these Court proceedings began. The Local Authority's final threshold statement,

revised on 26 October 2023, asserts that, at the relevant date, the threshold criteria pursuant to s.31 Children Act 1989 were met, namely that the children were suffering, or likely to suffer, significant harm in the form of physical harm, emotional harm and neglect, attributable to the care given to them or likely to be given by their parents if the Order was not made, not being what it would be reasonable to expect a parent to give a child.

70. The Local Authority asserts the factual basis for such a finding as follows:

Physical Harm

1. *The children have suffered and are at risk of suffering significant physical harm whilst in the care of their mother. In particular:*
 - a. *On 20/05/2022, the social worker witnessed 'U' displaying very challenging behaviours, physically harming the children in the home and physically harming the social worker: The mother accepts this happened but asserts that the incident took place before 'U' was diagnosed with ADHD. The Social Worker's evidence is clear that during her visit on the date pleaded, the Social Worker observed 'U' displaying very aggressive behaviours and that 'U', "hurt everyone in the house, including the Social Worker."* On all the evidence, the Court finds the Local Authority assertion proved;
 - b. *The social worker has observed 'U' at his mother's address with his siblings. It was observed that 'U' was unable to manage his behaviours and harmed all his younger siblings: The mother accepts this happened but asserts that this was prior to 'U's ADHD diagnosis. On all the evidence, the Court finds the Local Authority assertion proved;*
 - c. *On 17/05/2022, 'O' informed the social worker that she believes that the father that morning hit her and her mother and had hit the other children. She also stated that the father threatened to drag her out of the house by her hair and called her a slag and a monger: The mother accepts that she and the children were assaulted by the father. The father denies the allegation.*
 - d. ...[no finding is sought];
 - e. *On 23/12/2022, a large breed dog was observed tied up in the kitchen wearing a muzzle and was barking and the other three dogs were in the garden: The mother accepts the assertions. The Court finds the assertion proved;*
 - f. *On 01/07/2022 a referral was received from the school to Children's Services that the father reported to the school that 'D' had a bruise on her head: Both parents accept the assertion. The Court finds the assertion proved;*
 - g. *The mother was observed by the support workers covered in bruises from 'U' who has possible ADHD and autism: The mother accepts this happened. The Court finds the assertion proved;*
 - h. *The children have witnessed their parents arguing and have seen their father attack their mother. There is a risk of the children being caught in the crossfire: This assertion is accepted by the mother. The father denies the assertion.*

Emotional Harm

2. *The children have suffered and are at risk of suffering significant harm in the form of emotional harm. In particular*
 - a. *On 08/11/2022 in a school visit to 'D', she was able to describe her feelings around the older girls leaving, her experiences with 'S' being unkind to her, she also spoke about being sad that 'O' was leaving: This is accepted by the mother. The Court finds the Local Authority assertion proved;*

- b. *On 23/12/2022, 'D' was observed in the family home to struggle with regulating her emotions and 'O' was observed to scream and swear at 'D' on 3 occasions alleging that 'D' had hurt 'T' and making too much noise. At the time the mother was not seen to guide and advise 'O' not to shout and swear at 'D': The mother accepts that this happened, save that she denies that she did not guide and advise 'O' not to shout and swear at 'D';*
- c. *A referral received on 29/03/2022 reported that 'O' and 'S' had been seen physically chastising the younger siblings, swearing at them and giving inconsistent and inappropriate messages. 'S' was observed by the support workers slapping 'T' on the back of the head (unprovoked) and swearing at 'U' stating 'you f**kin wait' to the support workers, 'I will f**king bury you', 'you are f**king handicap'. 'Q' was seen being passed around the older siblings with no consistent or nurturing care: This is accepted by the mother. The Court finds the Local Authority assertion proved;*
- d. *On 20 November 2021 the father argued with the mother and smacked her in the face in front of the children. On 13 January 2022 the father punched mother in the face: This is accepted by the mother but denied by the father;*
- e. *On 22 June 2022 the father attacked the mother in the car. The mother was forced to return into the car after the attack with 'Q' and T' there: This is accepted by the mother but denied by the father;*
- f. *In September 2022 on a caravan holiday the father put his hands around the mother's throat and attempted to strangle her. The children witnessed this: This is accepted by the mother but denied by the father;*
- g. *On 6 March 2023 the father pulled over on the A1 motorway and attacked mother in the car. This was witnessed by 'U': This is accepted by the mother but denied by the father;*
- h. *On 14 April 2023 the police were called as the father turned up at the mother's address shouting abuse and was attempting to force entry. The children were present at the address: This is accepted by the mother but denied by the father;*
- i. *The father was arrested on 14 April 2023 and there are currently bail conditions to stay away from the mother's address and to stay away from the mother. He is next appearing before the police on the 14.07.2023: This is accepted by both parents. The Court finds the Local Authority assertion proved. The police have subsequently decided to take no further action.*

Neglect

3. *The children have suffered and are at risk of suffering significant harm in the form of neglect due to the mother's inability to prioritise their needs:*
 - a. *On the 07/02/2023, 'D', 'T' and 'Q' were Police Protected at approximately 7pm following imminent significant concerns being raised by the police about the home environment being incredibly risky and hazardous for the children: This is accepted by both parents. The Court finds the Local Authority assertion proved.*
 - b. *On 07/02/2023, it was observed that there was dog urine all over the home, clothes soiled with dog urine and faeces in the kitchen, piles of soiled clothes up the stairs, rubbish bins overflowing with animal chippings. There was an overpowering smell of dog urine in the home: The mother does not accept that there was dog urine all over the home. The mother does not accept that the clothes were soiled with dog urine. The mother does not accept that the bins were overflowing with animal chippings and she does not accept that there was an overpowering smell of dog urine in the home. The mother accepts that there were dog faeces in the kitchen at the time she returned home*

from the police station at 3:30pm. The mother accepts that there was a pile of clothes up the stairs which she was going to wash.

- c. *On 30/5/2022, the children became subject to a Child Protection Plan under the category of neglect. The children have remained subject to a Child Protection Plan: This is accepted by both parents. The Court finds the Local Authority assertion proved.*
- d. *The mother tested positive for cannabis (Hair Strand Test results for the period from mid-September 2022 to mid-February 2023 showed lower levels) and the level of cannabis increased from mid-February 2023 to mid-March 2023: The Court finds the Local Authority assertion proved.*
- e. *During Children's Services current intervention, there have been serious concerns for the state of the family home. Including:*
 - i. *The social worker observed in the garden there is approximately 6 metres full of rubbish and old broken furniture and toys. The garden was full of stinging nettles and broken glass: This is accepted by the mother. She asserts that this was a long time ago and the condition of the garden improved subsequently. The Court finds the Local Authority assertion proved, with the observation that the allegation is not date specific.*
 - ii. *On 02/11/2022 it was observed in the hallway downstairs, clothes strewn over the floor, some appeared dirty, there were wire leads across the floor and going up the stairs. The kitchen floor presented with dog urine and dog faeces on one of 'D's shoes. Bedrooms presented in chronic poor conditions, the floor could not be seen due to clothes and mess, cigarette butts and their belongings. There was an unpleasant smell of dog faeces and urine in the whole home and stale cigarettes: The mother does not accept that there was dog urine on the floor. The mother does accept that there were dog faeces on 'D's shoes but this was not from one of her own dogs but from outside. She asserts it was only 'S' bedroom that was in a poor condition. The mother does not accept that there was an unpleasant smell of dog faeces and urine in the whole home and stale cigarettes.*
- f. *The police visited the home on 12/7/2022 and reported concerns for the living conditions of the children at the address. The mother's address was found to be in a very unkept condition. There were piles of rubbish both outside the property and inside which had been attracting flies. Damp clothes were piled around the room and some of the furniture was broken. Inspecting the rest of the house, officers found dirty cutlery with mould building and the house being a general mess: The mother does not accept that the whole house was unkempt when the police visited, only 'S's bedroom. She does not accept that there were piles of rubbish inside the house. She asserts the rubbish outside the house was removed the next day. The mother accepts that some of the furniture was broken in 'S's room. The mother does not accept that the house was in a general mess and dirty cutlery with mould building.*

...

Beyond Parental Control

5. *The children have suffered and are at risk of suffering significant harm as a result of being beyond parental control:*
 - a. *On 12/07/2022, whilst speaking to the mother, police officers on occasion were punched and kicked by 'T' which indicated some inappropriate behaviour that was not being controlled by the mother: The mother does not accept that 'T' kicked the police officer.*
 - b. *On 20/05/2022, the social worker witnessed 'U' displaying very challenging behaviours and physically harming the children in the home and the social worker: This is accepted by the mother, the Local Authority's factual assertion being a repeat of allegation 1 (a) and (b). The Court finds the Local Authority's assertion proved.*

71. The parents both accept that the section 31 criteria are satisfied.
72. The mother has made substantial concessions. She accepts that the multiple incidents of domestic abuse relied upon by the Local Authority placed the children at risk of emotional and physical harm. The father has largely denied any acts of domestic abuse.
73. The Local Authority continues to seek factual findings on the threshold allegations disputed by the mother. In respect of those disputed allegations, the Court has considered the evidence of the Social Worker, the mother and the father, in addition to the extensive documentary evidence available.
74. Having regard to threshold paragraph 2(b), the Social Worker's evidence was clear that on 23 December 2022, she directly observed 'D' in the family home to struggle with regulating her emotions and 'O' was observed to scream and swear at 'D' on three occasions, alleging that 'D' had hurt 'T'. At the time the mother was not seen to guide and advise 'O' not to shout and swear at 'D'. The mother's oral evidence was that 'O' was, "*getting really angry and shouting. I told her to go to her room and calm down. When she is heightened, you can't get into a conversation. I reprimanded her and said she can't swear at the children like that again.*" In this Court's judgment, the evidence of the Social Worker was reliable and compelling. The Court accepts the evidence of the Social Worker to be a true, objective account of the facts. The Court finds paragraph 2(b) of the threshold statement to be proved.
75. In respect of paragraph 3(b) of the threshold statement, the Court again prefers the evidence of the Social Worker. Her evidence was given in a direct manner, without evasion. Further, her evidence was supported by the documentary evidence available, including contemporaneous police reports. The mother, by contrast, in this Court's judgement, provided a less reliable account of factual events. The mother at times was frank when telling the Court, "*I'm partly to blame for what they [the children] have suffered.*" Further, the mother was at times frank about the struggles she had with her mental health. Whilst the mother made some concessions about the condition of the family home, telling the Court, "*I admit my house was not show home perfect,*" it appears to this Court that the mother's evidence was contradicted by the cogent, well documented evidence of the Social Worker and the police as to the dire home conditions. The mother told the Court in her oral evidence, "*It's not how they made out.*" She asserted that the allegations were, "*false,*" that the police, "*have a lot of reasons to lie against me,*" and that police reports were, "*a set up.*" She asserted that the Social Worker, "*has a vendetta against me.*" Further, she told the Court, "*I can't trust authorities. They've failed me so many times. How can I trust them to be able to open up to my experience.*" The mother accepted that she had lied about several core matters, including about her relationship with the father, maintaining an elaborate lie about the paternity of the youngest three children, which she said was due to her, "*being in a controlled relationship, getting threatened daily that if I said anything I would lose my kids, like a gun to the head.*" In this Court's judgement, the Court prefers the evidence of the Social Worker in respect of matters where there is a factual dispute.
76. The evidence from the police in the form of a report completed by a Police Inspector detailing events of 07 February 2023 when powers of police protection were exercised, was illuminating. The report records:
"Detectives attended the address today...and were concerned with the state of the address. The house was in a general state of disarray, the children were in dirty clothes and there was animal faeces and urine on the floor. One of the children swore at an officer and ran out into the road through the open front door and out into the road where he was stopped by the officer who was also forced to go into the road to stop him but the parent made no attempt to stop the child...Intervention officers attended the address and saw the same living conditions as listed above....When I went inside the address, the house was very dirty, especially the toilet and the kitchen, there was clutter everywhere, bedding was dirty as were the children and their clothes were filthy. There was old food present and one child was eating off the floor. There were several animals present including at least 3 dogs and a bird inside the address and faeces and urine

present...The children were friendly but I would consider over-familiar with the police officers and very inquisitive towards our equipment and apart from a few tears did not object to being taken from the address. The mother was upset, understandably but clearly cannot cope with the children or keeping a well-managed home and I am concerned for her mental state.”

77. That evidence of the description of the property, including the underlying smell and animal faeces and urine was entirely consistent with the first-hand observations of the Social Worker. The evidence of the home smelling of urine was notably also a feature of HHJ Wright’s findings in 2015. The Court finds allegations 3(b) and 3(e)(ii) to be proved.
78. In respect of threshold paragraph 3(f) and 5(a) relating to the events of 12 July 2022, the Local Authority is unable to point to any direct evidence in support of the assertions set out therein. There is no primary evidence from the police. The evidence contained in the Social Worker’s statement, parenting assessment and elsewhere in the Local Authority’s written documents appears to have no source attributed to it. It does not appear that the events were directly witnessed by the Social Worker. The Court is not satisfied that the Local Authority has discharged the burden of proving this allegation, beyond the mother’s concession that there were piles of rubbish outside the property and ‘S’s bedroom was in an unkempt condition including broken furniture.
79. The Local Authority seeks factual findings on the threshold allegations disputed by the father. In respect of paragraph 1(c) of the threshold statement, relating to 17 May 2022, the documentary evidence including the evidence of the Social Worker, records the allegations made by the child. The Court is satisfied on all the evidence that the Local Authority evidence is reliable in respect of that report. The Local Authority does not invite the Court to make any finding beyond the fact that a report was made. The Court finds to the requisite standard of proof that the allegation was made, as pleaded. On all the evidence, the Court finds the Local Authority assertion proved.
80. The Local Authority asserts in threshold paragraph 1(h) that the children have witnessed their parents arguing and have seen their father attack their mother, there being a risk of the children being caught in the crossfire. The Court heard evidence from the mother and considered her statement of 26 April 2024. The mother’s evidence regarding physical abuse perpetrated against her by the father was not without difficulty. In this Court’s judgement, however, her evidence on this issue was largely reliable. The mother told the Court she is, *“absolutely terrified of him.”* She told the Court, *“I was only ever going to get out of the situation by either killing myself or killing him.”* She told the Court that the father was physically violent: *“He attacked me countless times, even when pregnant with his kids.”* She told the Court, *“He got rid of everyone out of my life.”* She told the Court, *“He will come after me. He always said if I spoke out, he would kill me.”* Having regard to the father’s wish to care for the children, the mother told the Court, *“It makes me feel absolutely sick, knowing what he’s done. They won’t be safe in his care.”* She told the Court in respect of her older daughter, *“I’d kicked my daughter out because [the father] threatened to kill her daily, if I didn’t shut her up. At the time, I was still under his control. I kicked her out after she told Children’s Services about this. She was trying to protect me.”*
81. Having denied allegations of domestic abuse in the previous Court proceedings, the mother told the Court that her engagement with a domestic abuse practitioner in 2022, *“started opening my eyes properly. I started understanding domestic abuse on the children and how it impacted them emotionally and mentally. They are picking up learned behaviours. That’s why [‘U’] is starting to get so violent. I could see him turning into his father and I didn’t want that. The little one started showing signs as well of aggressiveness and not managing their tempers.”* She told the Court that she delayed making allegations against the father as she was, *“scared.”* She told the Court, *“I suffered a lot. I hated the thought of being lonely and abandoned. Now I am making sense of what I went through, trying to get better.”*
82. The Court treats the mother’s evidence with some caution. The Court takes into consideration her admitted propensity to lie. The Court also takes into consideration the mother’s inclination to be threatening in her words and behaviour, including towards the Social Worker. Moreover, the

mother has been violent towards the father, on her own admission, hitting the father on one occasion, *“before he hit me.”*

83. The Court also takes into consideration the compelling audio evidence provided by the mother recording the father’s aggressive, threatening tone when she says she was assaulted by him after a contact session with the children on 6 March 2023 in the car, in the presence of ‘U’. Further, the mother relied on supporting photographic evidence of several injuries to her person, including a black eye, bruising and reddening to her face, arm and chest. The photographs are dated November 2021, January, May, June and September and December 2022. The mother also relies on WhatsApp messages in which the father records variously, *“I hate myself for what I said to you today. I wish I could go back in time.”*
84. The mother delayed in raising allegations of domestic abuse until around January 2023 at the time of the Local Authority’s updated parenting assessment, notwithstanding earlier opportunities to do so, when she met with a psychologist in October 2022. She met with a domestic abuse practitioner between November 2022 and February 2023. The mother also attended contact with the children, jointly with the father during this period. I accept, however, the mother’s cogent explanation for that delay, based on fear of the father and fear of being abandoned. The mother asserts that the father has been abusive, controlling and coercive towards her and the children. She asserts that, although in the previous proceedings in 2015 she consistently denied the abuse she experienced from the father, she was, *“very much controlled”* by him, *“and didn’t feel that I was able to speak up against him until recently.”* The mother told the Court, *“I fully accept the findings made in 2015.”* The mother told the Court, *“He has controlled every aspect of my life.”* It is compelling that, having been supported by a domestic abuse practitioner and having obtained legal advice, she then took proactive, protective steps to issue court proceedings under Family Law Act 1996 in June 2023, seeking a Non-Molestation Order.
85. The Local Authority’s updated parenting assessment in January 2023 noted, *“On the onset of this assessment Children Services were struck with [the mother’s] disclosures about the level of abusive behaviour that the children have been exposed to and [‘U’] continued to be exposed to from [the father]. Children’s Services were very concerned about the information received by [the mother] and this raised significant concerns about [‘U’] and his sibling’s safety and emotional wellbeing in the care of their father due to the exposure to domestic abuse. It also raised concerns in relation to the significant harm that [‘D’, ‘T’ and ‘Q’] had been exposed to prior to going into foster care. It is acknowledged that [the father] is strongly denying these allegations and that this is a current police investigation.”*
86. Whilst the mother’s evidence as to domestic abuse was, on the whole, reliable, the father’s evidence by contrast was particularly problematic. He accepted, based on the audio recording, that he was, *“angry and unpleasant...it did make a bit of anger in me with my temper at the time, it was very raw,”* adding, *“not to the stage of threatening or striking out.”* The father continued, *“I started raising my voice, giving my point over...Travellers’ ways and gypsy ways can be different.”* In respect of the findings made against him by HHJ Wright in the 2015 proceedings that the father had punched the mother, dragged her around and kicked her, the father told this Court, *“That didn’t happen...no, no, no, I did not at all. I could not accept the findings were true.”* Having regard to HHJ Wright’s findings about the father’s abusive behaviour towards the children, the father rejected the Court’s findings and denied them outright: *“He [HHJ Wright] said that, but it wasn’t true...I accept his judgment. I accept he made the findings, but it would be a lie if I said in court I’d done something I had not.”* Notwithstanding HHJ Wright’s findings, the father denied he had ever physically or verbally abused the mother. He denied being a violent and controlling man or verbally abusing her, repeating that HHJ Wright, *“said that, but it wasn’t true.”* The father told the Court, *“Those were the findings of the Judge but they were not the facts. He only put it was ‘probability’ that I done this. He found it to be true, I understand that. I could not accept it because I never done it.”*
87. He denied calling the children *“poxy little c*nts,”* adding, *“Did I say that? I thought I called them bastards and mongrels.”* He accepted being angry, shouting and swearing at the child ‘U’, *“in the*

heat of the moment” but denied being insulting or abusive, telling the Court, “*I was shouting around him, not shouting at him.*”

88. In respect of the photographs of the mother’s injuries, the father told the Court that those injuries were caused by the child ‘U’. In the alternative he asserted that the photographs did not evidence injuries but claimed that the mother had, “*skin problems*” and “*women’s stuff*”. He denied he assaulted the mother causing her nose to bleed, blaming the nosebleed on her use of cocaine.
89. This Court has taken into consideration the father’s own vulnerabilities in terms of his communication difficulties, set out in more detail later in this judgment, which are noted to be masked by his ability to engage in superficial conversation. In particular, the Court takes into consideration the father’s difficulty retaining explanations over time and understanding written information. The father was supported, necessarily, throughout the Final Hearing by an experienced communications intermediary to assist his understanding. Taking into consideration the impact of his communication difficulties when assessing his evidence and making appropriate allowances, in this Court’s judgment, the evidence of the father was wholly unreliable and lacked any credibility. This Court reaches the same conclusions as those reached by HHJ Wright in the 2015 that the evidence clearly leads to findings that the father has dominated the mother, that she has been the subject of a controlling relationship and that the father held the mother in fear, at time venting his feelings of anger and annoyance by violent reactions.
90. Having regard to all the evidence, the Court finds the pleaded threshold allegations at paragraphs 2(d), (e) (f) (g) (h) each proved.
91. There are three elements to threshold. The harm must be actual or likely, it must be significant and it must be due to parenting that is not reasonable. The totality of the evidence in the case leads the Court to the firm conclusion that all three of these elements are satisfied. On all the evidence before the Court, the facts undoubtedly disclose a real risk of significant harm that cannot sensibly be ignored. Asking the question, whether the threshold was satisfied at the date proceedings were issued, there can only be one answer. In this case the threshold under section 31(2) of the Children Act 1989 is plainly met.

The Family Law Act 1996 application

92. In her statement of 26 April 2023 the mother made the following, additional specific allegations against the father: He refused to let her have a key to her own house; he monitors and controls her every move; she was not allowed to speak to friends or family; he does not allow her to go out on her own; if she does not answer the telephone when he calls daily, he would get angry and turn up at the door; he calls her names such as “slag,” and “c*nt” all the time; he tells her that she lied about being raped; in April/May 2009 he dragged her around the house and hit her in the presence of the children; he accused her of being ‘crazy’; he grabbed her hands when she was trying to protect the children from being physically abused by him; he pulled her to the floor and stamped on her hands; he smacked her face in the presence of the children; he punched her on the face following an argument; he punched her on the face and pulled her hair while in the car waiting to collect ‘U’, when the children ‘D’ and ‘T’ were present; he attacked her in the car again when ‘D’ and ‘T’ were present, then chased her down the road and forced her to get back in the car; he grabbed her arm, leaving nail marks; during a caravan holiday, he put his hands around her throat and attempted to strangle her; on another occasion when in the car, he became angry and ‘bashed’ her face on the gear stick; on another occasions in the car, he attacked her and ‘bashed’ her head on the hand break, witnessed by ‘U’.
93. For the reasons given earlier in this judgment, whilst treating the mother’s evidence with caution, the Court prefers her evidence to that of the father. The Court is satisfied on the totality of the evidence that the mother has proved on the balance of probabilities each of the allegations made. The Court is satisfied that the mother requires the continued protection of the Court in the form of a Non-Molestation Order under s42 Family Law Act 1996 in the same terms as the existing Order made on 21 September 2023. The Non-Molestation Order will continue until 21 September 2024.

The Application for Parental Responsibility / Declaration of Parentage

94. The father has Parental Responsibility for the eldest child 'U'. Until recently, paternity had been consistently denied by both parents in respect of the youngest three children. There is now no dispute between the parents in respect of the issue of paternity. Expert DNA evidence leaves no doubt that, in respect of this father, in relation to each of the children, there is a probability of paternity of 99.99%. The mother consents to the father's application for Parental Responsibility for the youngest three children. She supports his application for a Declaration of Parentage. The applications are not opposed by the Local Authority or the Children's Guardian. The Court is satisfied on all the evidence that it is in the best interests of the children to make the Declarations of Parentage sought in respect of 'D', 'T' and 'Q'. Further, the Court makes Parental Responsibility Orders for each of those children, by consent.

Welfare

95. The Court turns to consider the issue of welfare, having regard to the questions of whether all the children can return safely to their father's care, whether or not the father is supported in the care of the children by his wife; whether the child 'U' alone can return safely to his father's care whether or not supported by his wife; whether a Care Order should be made in respect of any or all of the children; whether the Court should make a Placement Order in respect the youngest three children or any one of them individually; and whether there should be an adjournment of the Final Hearing for amendments to the Local Authority's care plans to be made.
96. 'U' is a 7-year-old boy. He is described by his parents as mixed heritage: his mother is described as 'white British' and his father's heritage is described as 'white British and Gypsy Roma.' He has expressed that his siblings, 'D', 'T' and 'Q' and his parents are important to him. 'U' has additional needs. He was diagnosed with autism and attention deficit hyperactivity disorder (ADHD). He is prescribed medication to help manage his diagnosis of ADHD. It is reported that he struggles with social interaction and finds it difficult to form relationships with peers, which has previously resulted in very violent outbursts, including hitting and throwing objects at people. 'U' had previously been on a reduced timetable at school. He is under the care of a speech and language therapist. He was placed in an emergency foster care placement on 14 April 2023. 'U' was asked where he would want to live. He stated that he wants to live with his mother and if he could not live with his mother, he would like to live with his foster carers. Regrettably, his foster care placement broke down. 'U' was then moved by the Local Authority to a residential unit in October 2023, where he remains. 'U' is reported to struggle with his behaviour and emotions due to trauma. He has been referred to the Local Authority's in-house child psychologist for an assessment of therapy.
97. 'D' is a 6-year-old girl, who identifies as 'white British/Gypsy-Roma.' She has a diagnosis of Inferior Oblique Reaction, an eye disorder. She is reported to present as older than her age in terms of her mannerism and attitude to life. She appears to enjoy being the older sister to her younger siblings. She expresses love towards her little brothers and her mother. 'D' expressed her wish live with her mother, and if she could not, she would like to live with her father's wife ('W'). She expressed her wish to remain living with her brothers, 'T', and 'Q'.
98. 'T' is a 3-year-old boy. He shares the same heritage as his siblings. His speech is delayed and he has been referred to Speech and Language Therapist. He was unable to express his wishes and feelings due to his age. He is reported to be thriving in his current interim foster care placement. He enjoys contact with his parents and has built good attachments with his current foster carers.
99. 'Q' is 2 years old. He shares the same heritage as his siblings. He is reported to enjoy playing with other children of similar ages, which encourages his development. Due to his age, he has not been able to share his wishes and feelings. He has been observed to have a good bond with his parents and carers and is described as a happy boy.
100. The mother was the subject of a psychological assessment, pre-proceedings, in November 2022, undertaken by Dr Liverton. She was noted to have cooperated well with the assessment process and presented as amenable, open, and easy to engage in conversation, albeit reluctant to talk about

the past. Dr Liverton noted the mother to have experienced emotional and behavioural difficulties since childhood, related to significant adversity and abuse in her early life. She was reported to experience difficulties with low mood and anxiety and enduring low self-esteem. Her main difficulty was noted to be emotional dysregulation with intense mood changes which can rapidly oscillate between hopelessness and tearfulness to anger and aggression, exhibiting traits which are problematic and pervasive across many areas of her life. Such traits were considered by Dr Liverton to impact negatively on her life and likely to impact on her parenting capacity, including shouting and swearing as her way of coping with her intense feelings. This, Dr Liverton concluded, would leave the children at risk of being on the receiving end of verbal aggression. Dr Liverton considered that the mother will be less able to respond appropriately and sensitively to her children's needs when feeling overwhelmed by her emotions. Dr Liverton observed that many of the mother's children have additional developmental needs or mental health needs, requiring an "even more attuned, consistent and sensitive parent." Dr Liverton concluded that the mother's difficulties with emotional regulation, relationship volatility and impulsivity will negatively affect her ability to provide a safe, attuned, predictable response to her children.

101. Dr Liverton went on to conclude, "*overall [the mother] displayed a lack of adaptive strategies for coping with her mental health problems, reporting that her main way of coping is through looking after animals, which Children's Services have deemed to be a risk to the children in terms of unhygienic home conditions. [The mother]...talked of avoidance and not going out alone as ways of coping with the abuse she suffered in childhood. It is clear that she has unresolved issues relating to these past traumas which continue to affect her mental health, and which may make it more difficult to keep her children safe from harm.*"
102. Dr Liverton observed that the mother did not share the professionals' concerns that the home conditions were unsuitable or unsafe for the children. In Dr Liverton's expert opinion, "*this potential limited insight could stem from her own childhood, which she acknowledged was characterised by an extremely cluttered and dirty home, thereby normalising these conditions and creating a discrepancy in expectations. Her mental health difficulties, often with extremes of mood and periods of feeling low and demotivated, also likely impact on her capacity to maintain the home environment.*"
103. Further, Dr Liverton observed, "*Overall [the mother] voiced her disagreement with most areas of concern held by Children's Services regarding her children's safety and wellbeing, including the appropriateness of the number of animals, cleanliness and clutter and being a victim of domestic abuse. Given there was little acknowledgement of any difficulties which have been identified by professionals, this would impact upon [the mother's] ability to recognise and take action to protect her children from these risk factors.*"
104. In respect of therapeutic intervention, Dr Liverton reported that the mother, "*described longstanding difficulties with low mood, anxiety and emotion regulation. She said she finds it hard to notice triggers for her extremes of mood, and that she struggles to know what to do when she is experiencing them. She showed a lack of adaptive coping strategies for her mental health in general. She also talked of having unresolved traumas from her past which she has not felt ready to talk about in a trauma-focused psychological intervention. I would suggest that, given the instability in her current life including the ongoing Children's Services involvement, the older girls' living situation, and parenting many young children, [the mother] would still be unlikely to be able to engage meaningfully in a trauma-focused intervention. For this reason, I would advise that [the mother] would initially benefit from an intervention which helps her to manage her overwhelming emotions, providing her with skills and strategies so that she is more equipped to regulate her feelings and ensure her children are not exposed to this. Without treatment, I am of the opinion that [the mother] will continue to struggle to regulate her emotions and to prioritise her children's needs during times of emotional distress. An evidence-based intervention, such as dialectical behavioural therapy (DBT) or cognitive behavioural therapy is recommended to support her in this area. This can be provided by the [Local Authority]in-house psychologists within the Family Safeguarding Service. This treatment is skills-focused and delivered via a small online group, which should improve her capacity to engage in the treatment as she is not required*

to travel nor to discuss her past traumas... This treatment lasts 12 weeks, and this time scale should be sufficient to experience a positive change and noticeable improvement in symptoms, provided [she] is committed to the group and attends consistently. Her ability to benefit from the treatment will also be affected by her motivation to put into practice the strategies and skills learned as well as any logistical childcare issues. Any changes would need to be maintained in the medium to long term to reduce the impact of her mental health difficulties on her parenting capacity... would recommend that she review her needs at the end of the DBT programme – she may require longer term individual psychotherapy to help her address her past life events and enduring maladaptive patterns of thinking, feeling, behaving, and coping – affecting all aspects of her life including parenting and relationship volatility. This could include schema therapy, mentalisation-based therapy, or cognitive analytic therapy. This work would be intensive with enduring change occurring more slowly (generally a minimum of six to 12 months of weekly sessions), and again this is not something she may be able to engage in at present due to ongoing instability and surrounding stressors in her life which may interfere with therapy.”

105. There was no challenge to Dr Liverton’s expert evidence. I find no reason to depart from the conclusions reached.
106. A comprehensive community-based parenting assessment of the mother was completed by the Local Authority in January 2023 with an updated assessment in May 2023. The mother’s position then was that she sought to care for the children as a sole parent, without the father. The assessment concluded negatively, in that it did not recommend that any of the children should be placed in her care. The Local Authority recognised the mother’s significant personal vulnerabilities, however, the combination of the chaotic and hazardous home environment, the impact of the mother’s mental health on her parenting capacity and substance misuse led the Local Authority to the conclusion that the mother lacks the ability to meet the children’s basic care needs, including their emotional needs, their need for guidance and boundaries and provide them consistent parenting, such that and each of the children is at risk of experiencing significant harm if returned to her care.
107. To her very real credit, acknowledging the Local Authority’s concerns, which are shared by the Children’s Guardian, the mother does not at this stage seek the return of any of the children to her care. In this regard, the mother has demonstrated insight. Her love for her children was patently evident. Her difficult decision to support the children receiving attuned care outside the family is both brave and child focussed.
108. The father is a person with communication difficulties masked by his ability to engage in superficial conversation. He was assessed by a specialist, independent communication intermediary as having difficulties with attention and concentration, understanding low frequency vocabulary, understanding court specific terminology, difficulty retaining explanations over time without the support of strategies such as visual aids, understanding grammatically complex sentence structures, processing verbal information, with difficulty recalling details over time, and understanding written information, the father reporting that he is unable to read independently.
109. A Local Authority community-based parenting assessment of the father was completed in January 2023. The father then informed the Social Worker that he is the father to ‘U’ but he is not the father to ‘D’, ‘T’ and ‘Q’, a position that was also maintained by the mother at that stage. The parents declined further paternity testing at that time. Both parents have subsequently acknowledged that their position was an elaborate lie, intended to avoid the youngest three children being removed from their care.
110. The father lives with his wife (‘W’), from whom he says he has been separated for several years, albeit they have not divorced and they continue to cohabit. He also lives with two other sons, who are non-subject children. At the time of the Local Authority’s assessment, ‘U’ had been placed in the father’s care. The home environment was noted to be warm, clean and tidy. The father proudly identifies as being from the traveller community. The assessment concluded at that stage that the father was able to meet ‘U’s basic care needs including managing ‘U’s health needs and ADHD

treatment management. The father was noted to have routines in place and to provide a nurtured safe environment. He was reported not to have a good understanding of why Children's Services were involved with the family. Nevertheless, he was assessed then as being able to manage 'U's behaviour well and to provide "good basic care." The Social Worker concluded in that assessment dated 13 January 2023 that it was in 'U's best interests to remain in the care of his father.

111. The updating parenting assessment noted, however, *"it is the view of Children's Services that [the father and mother] did not share the truth about the children's paternity with Children's Services due to their concerns that this would heighten concerns for Children's Services and raise suggestions that they were in a relationship. It is a concern that [the father and mother] had been given a number of opportunities to be honest with Children's Services about this but chose not to do so...In the previous Parenting Assessment...[the father] denied being the biological father to ['D', 'T' and 'Q']. [He] was also asked to undertake a DNA test during the Public Law Outline however he was not willing to do this. However, ['D', 'T' and 'Q'] were Police Protected on 07/02/2023. [The father] then said that he was the father and has always known this. A DNA test provided for the courts confirmed this. [He] was asked that, knowing that he was the father to ['D', 'T' and 'Q'], why he did not step in to protect them from these concerns. [He] then gave conflicting views from the above that contradicted his awareness of the concerns saying that he was not aware what was happening in [the mother's] household. This was despite [him] being involved with the children's Child Protection Plans and Core Group Meetings where the concerns had been discussed throughout Children's Services involvement. It is a concern that [he] presented as wanting to deflect the concerns away from his parenting to the children and was not completely honest about his knowledge of what the children were experiencing at home despite being involved in the child protection meetings. There is a concern that [he] did not step up to protect his children and continued to suggest that ['D', 'T' and 'Q'] were not his biological children despite knowing that they were. It is the view of Children's Services that [he] deflected the concerns and struggled to take responsibility for his actions, putting the ownership on, and directing the concerns to [the mother]. At some stage in the discussions, [he] was able to say, "Okay, I did wrong" which positively shows a glimmer of acknowledgement. However, he went on explain that ['O' and 'S'] have no respect and have abused the respect from him and blamed them for the reasons why the children were removed from [the mother's] care. It is the view of Children's Services that [the father's] inability to protect the children and not being honest about his role as their father contributed to the emotional harm and neglect experienced by the children in the care of their mother."*
112. The assessment went on to record, *"In terms of family support, ['W'], the father's ex-wife, continues to be the main support network for [the father]. Whilst they are not in a relationship, they continue to live together, and ["W] supports [him] with reading documents. She would also offer support and care for ['U'] when he was in the home. Children's Services have completed a viability assessment of ['W'] with the outcome being that she would not be a viable option to care for the children."*
113. The assessment identified further concerns relating to domestic abuse and the impact on the children noting, *"During [the mother's] initial parenting session...on 05/04/2023...she disclosed that she was being consistently physically abused and controlled by [the father]. She disclosed a number of incidents raising concerns about the level of abusive behaviour that the children have been witnessed and been exposed to and that ['U'] continues to be exposed to within [the father's] care....On the 14/04/2023, [the mother] contacted the social worker and reported that [the father] turned up at her home address and he had tried to get into her home whilst she has tried to force the door closed. She stated that her older daughter...contacted the police and the police attended. [The mother] reported that [the father] was shouting with threats to kill her. She stated that while this incident was going on, ['U'] was witnessing this sitting in [the father's] car. On 14/04/2023, [the father] was arrested for GBH, ABH, threats to kill, rape, coercive and controlling behaviour and attempt to choke or suffocate towards [the mother]...[the father] denied the...allegations....The Local Authority were very concerned about this updated information received...on 05/04/2023 and 14/04/2023 which raised significant concerns about ['U'] and his sibling's safety and emotional wellbeing in the care of his father due to the exposure to domestic*

abuse. Domestic abuse had previously been denied throughout [the parents'] involvement with Children's Services since 2015 despite several concerns informed to Children's Services from ['O' and 'S']...on 23/04/2023 it was noted in ['D's'] foster carer logs the following:

"...Daddy hurts Mummy...She said that once Daddy had Mummy up against the wall by her throat and Mummy was crying. She said that he then hit her on the hand and then in the face, I asked if she had seen this happen and she said yes and ['T' and 'Q']. She said that another time Mummy and Daddy were fighting, and Daddy said that he would chop Mummy's hand off and went to get his sword but then changed this to a kitchen knife and pretended to cut her Mum's hand off. She then went onto tell me that...Daddy would hurt Mummy because she had all the dogs. Daddy once hurt Mummy when they were driving. Her and ['U'] were in the back. Daddy kicked Mummy out of the car and smashed her phone. ['D'] got out of the car and tried to get her Mum's phone and told Daddy off for hurting her, then her Mummy was running after the car. ['U'] jumped out of the window while it was moving. She said another time Daddy shut her and ['T'] out of the house when it was snowing. She was very cold."

114. The parenting assessment went on to record that although 'D' could not say the dates and time when she witnessed the domestic abuse between her parents, *"her account gives clear indications that she has observed and been exposed to harmful and violent behaviours perpetrated by [her father] towards [her mother]. She makes similar comments to [those given by the mother] ...that [the father] held [the mother] by the throat and that domestic abuse has taken place in the car observed by the children. ['D'] also mentions specific details that a child of 5 years old, if not exposed, would unlikely be able to give such a detailed account...Whilst this remains a police investigation, it is the view of Children's Services that there is sufficient information to suggest that there were harmful and abusive behaviours within the home that the children were exposed to. There are significant concerns that the children are likely to have been exposed to high levels of violence within the home, however [the father] appears to struggle to acknowledge any of these behaviours that may have been harmful for the children. This makes it difficult to start the process of evoking change with [the father] which includes referring him for any perpetrator work, as [he] needs to be in a place where he is able to acknowledge the concerns and the need for change to happen."*
115. The updated parenting assessment acknowledged fairly that the father has been observed to show emotional warmth and that the father's love for the children is evident. However, the updating assessment identified concerns that the father, *"is not always honest with professionals, wanting to deflect the concerns away from his parenting and focus on other factors including [the mother's] behaviours as well as the behaviours of ['O' and 'S']. He was asked what needed to change and he was only able to explain what [the mother] needed to change rather than thinking what he needed to change. It appears that [the father] remains in at the pre-contemplation stage when considering the cycle of change and is not yet in a place where he is able to take responsibility for his own behaviours and consider what could have been done differently. As a result of this, the children have suffered significant harm and Children's Services would worry that this harm is likely to continue...he denied being ['D', 'T' and 'Q's] biological father up until when the children were Police Protected on 07/02/2023. A DNA test...confirmed that [he is]...their biological father. The Local Authority question and would be concerned about [the father's] openness and honesty if the children were to be in his care. This would be a concern as the Local Authority would be heavily reliant on [the father] being open and honest with and co-operating with Children's Services and other professionals involved in order to make things safer for the children and ensure their needs are consistently met. The evidence suggests that [he] may struggle to do this and therefore Children's Services and other professionals may not consistently know what is going on for the children and how safe things are. Historically, the children have struggled to share some of their experiences at home and therefore if [he] is not open and honest about this, there is a risk that their voices will not be heard. The Local Authority were very concerned about the updated information received by [the mother] on 05/04/2023 and 14/04/2023 which raised significant concerns about ['U's] and his sibling's safety and emotional wellbeing in the care of his father due to the exposure to domestic abuse. This, alongside ['D's] comments to her foster carer, raises significant concerns that all the children were exposed to significant domestic abuse within the family home. Children's Services note that in the previous care*

proceedings with [both parents'] older children, there were also significant concerns that arose around domestic abuse between the parents."

116. Having regard to his support network, the updating assessment records that the father, *"currently lives with [W] and their two older sons. A negative viability assessment of [W] was completed on 12/04/2023. The assessment highlighted a number of potential risks that would be posed to the children which included overcrowding and clutter of the home, minimising or not acknowledging Children's Services concerns to maintain her relationship with the parents and past allegations that [O] and [S] made...of sexual abuse from [the father's] son [R]...[W] is also [the father's] full-time carer due to his back problems."*
117. The updated parenting assessment concluded, *"it is the Local Authority's views that [the father] lacks the parenting capacity to be able to safely parent [U, D, T, or Q]. This includes him caring for them together as a sibling group or separately."*
118. In her oral evidence to the Court, the Social Worker confirmed that the Local Authority was aware of the father's learning needs and adjusted the parenting assessment to meet those needs, including the use of visual aids, pictures and discussions throughout the assessment. The Social Worker told the Court, *"Working with [the father] is very difficult because of his lack of honesty throughout my involvement. It is difficult to see a true picture of the children's lived experiences. [The father] lacks insights and struggles to look at his weakness. The professional support offered has been declined. It is difficult to see him as protective factor for children."*
119. The Social Worker acknowledged in her oral evidence, that when 'U' was living with his mother, he was physically aggressive to his mother and siblings. The Local Authority had supported 'U' moving to his father's care, with the father in turn being supported in his care of 'U' by 'W'. The Social Worker acknowledged observations that the father could be patient and calm with 'U' and to guide him around behaviour. The Social Worker acknowledged also that the father's contact with his older children has been positive. Further, the Social Worker acknowledged that 'U' is very fond of 'W' and they have a close relationship. The Social Worker told the Court that 'D's reports of domestic abuse by her father against her mother were *"striking"* in their similarity to the mother's descriptions of the domestic abuse she experienced, including her account of the father's attempts to strangle the mother. Further, the Social Worker acknowledged in her oral evidence that 'U's behaviour has deteriorated since he moved from his father's care to a residential unit. The Social Worker told the Court, *"due to the father's continued dishonesty, it was really difficult to get a sense of [U's] true, lived experience...my view is that [U's] needs are very different from his siblings. He requires 1:1 care with a lot of adult attention. He requires a lot of adult supervision and attention."* The Social Worker noted the findings made by HHJ Wright in the 2015 proceedings that the mother was so controlled and in fear of the father that she was unable to intervene on behalf of the children when he abused the children. The Social Worker noted the father's abusive behaviour towards three of the five children in the household, in addition to domestic abuse perpetrated by the father against the mother. Furthermore, the Social Worker highlighted the father's denial of domestic abuse in 2015 and that he has maintained that denial ever since, notwithstanding the findings made by the Court in 2015.
120. On day three of the Final Hearing on 23 November 2023, the mother was given permission to adduce fresh evidence in the form of an audio recording, taken by her, of an exchange between the father, 'W' and 'U' on 12 April 2023. The recording was taken in unusual circumstances. The mother was situated in her home. The father, 'W' and 'U' were in their own home. The mother had a telephone link open with the father's home, with the father's knowledge and consent. Occasional conversation took place over 15 minutes, while both homes were going about their business watching television. 'U' can be heard crying, telling 'W' and his father that he was hungry. 'W' can be heard saying, *"I don't care. Tell Social Services."* The father can be heard saying in a raised voice, *"I'm gonna tell social services to take him away. I don't care."* 'U' can be heard becoming more distressed. The father continues, *"Oi! I'll tell Social Services tomorrow that you've been hitting [W]."* 'U' is heard to cry more.

121. The Social Worker told the Court, having heard the audio recording, *“it was very distressing to hear [‘U’s] voice so deeply upset. To hear my name used as a threat for [‘U’], to put fear into him about his Social Worker is very distressing for him. He would expect his father to be a protective factor. He needs to be able to express himself and to tell his Social Worker, who can protect him. Using fear of a Social Worker as discipline may mean he is not able to speak openly about what is happening to him. He is only 7years old. He has autism and ADHD. His lived experiences mean he has not been able to regulate his emotions. He has had abuse from his elder siblings where they also shout and swear at him. He has gone to live with his father and, from what I hear in the recording, he experienced similar abuse...his father told me he sits down with [‘U’] and speaks with him calmly. The recording leads me to believe the father is not being honest with Children’s Services...it appears that the recordings are consistent with the findings made by HHJ Wright in 2015...this is emotional abuse that will impact on [‘U’s] wellbeing, how he regulates his emotions, copying behaviours and impacting on building friendships. It is hard for [‘U’] to understand what is happening and why...the concern is how the father managed that situation. Shouting at [‘U’] and using my name as a discipline...[‘U’] has really complex needs. He requires explanations he would understand. He finds shouting really distressing. He has experienced trauma from the past...I have been trying to get [‘U’s] trust, to build a relationship. Hearing the recording, would make us go backwards...[‘U’] will not see me in a positive light.”*
122. Permission was given by the Court for ‘W’ to file a statement. The Court had the benefit of hearing her evidence in response to the audio recording. She told the Court, *“I accept [the father] raised his voice on a number of occasions. It did not happen regularly.”* She told the Court that she accepts telling ‘U’, *“I don’t care,”* in response to him stating that he was hungry. She explained he had already eaten a full dinner and he was due to start his bedtime routine. She accepts that her words would have upset ‘U’ telling the Court she apologised to him. She denied that this was her usual style of parenting, telling the Court, *“It had been a long day, I’m not like that all the time.”* ‘W’ told the Court that she remains married to the father but they are not in a relationship. She stated that they share a home as a *“temporary arrangement,”* and they have *“not got round to getting a divorce.”*
123. In her oral evidence, the Children's Guardian told the Court that, without question, it is very clear that both parents love and care deeply for their children. The Guardian told the Court, however, in the clearest possible terms that she does not support reunification of any of the children back to the primary care of either parent at this stage, *“due to the history of significant harm in their parenting, domestic abuse witnessed by the children, excessive chastisement, failing to protect the children from physical harm, neglectful home conditions and a lack of insight into the concerns of the Local Authority.”*
124. With regard to the child ‘U’, the Guardian told the Court that his interim residential placement is not an appropriate placement for such a young child. The placement, the Guardian said, was based on availability rather than matching as there was no therapeutic foster care placement at the time.
125. The Guardian told the Court, *“In my entire experience as a Social Worker and Guardian, this is the youngest child I have experienced in such a setting.”*
126. Furthermore, the Children's Guardian told the Court there was not enough information about the staff in the placement and their experience dealing with children with autism, ADHD and emotional and behavioural outbursts. This information, the Children's Guardian said, is crucial to ensure the placement is able to meet his complex needs.
127. It is essential, the Guardian said, that an education package is put in place alongside a therapeutic package as ‘U’ has been out of education for such a long period: *“It does not appear that [‘U’] is any closer to being reengaged in his education.”* Further, *“It does not seem that any therapeutic service has been provided.”*
128. With regard to the use of restraint, the Children's Guardian noted that during the Final Hearing in November 2023, the Court was told that ‘U’ has been restrained for one minute but now there

evidence is of other incidents of restraint. The Children's Guardian noted that 'U' has a history of, *“displaying extremely aggressive and worrying behaviours. I would have expected the placement and Local Authority, given [‘U’s] young age, the level of restraint, his complex needs and the background of challenges he experienced in the home environment, to have made an urgent ‘DoLs’ [Deprivation of Liberty] application. The placement should have requested to lawfully utilise deprivations. That makes me question their level of specialism dealing with neurodivergence in a child so young. I do not know this placement’s regime or training or experience of its staff. I’m unclear about the influence of other older residents, and the impact on [‘U’s] behaviour. There are lots of unknowns about the placement at this stage.”* The Children's Guardian added, *“I would always promote all other options to de-escalate the situation before resorting to physical restraint....it is very concerning that these deprivations were not authorised.”*

129. The Children's Guardian observed that the unsuitability of this residential placement for 'U' was, *“not simply in terms of restraint but also the planning for the individual child. His holistic needs, educational needs, placement needs, therapeutic intervention and how to reduce negative behaviour. We do not have that information available currently. There is no expert evidence on what [‘U’s] placement needs look like, what type of placement he requires going forward, what educational package is suitable for him, whether he requires a specialist education provision moving forward. If he continues on this trajectory at such a young age, he will experience extreme challenges in the future.”*
130. The Children's Guardian told the Court that in her professional opinion, in respect of 'U', *“the care plan before the Court is extremely outdated. It does not offer the level of clarity to provide confidence there is a clear and comprehensive plan moving forward for him. His Care Plan needs amending and careful consideration, planning and reconsideration required given his young age, needs, diagnoses and support with learning.”*
131. In the Children's Guardian's professional opinion, *“expert evidence is necessary, absolutely, to understand [‘U’s] complex needs, identifying a therapeutic placement and, if he needs containment for the time being, consideration of a solo placement, so he is not influenced by older residents’ challenging behaviours. The staff also need to be experienced in dealing with neurodiverse children. [His] needs are urgent. This is crucial to his future wellbeing and to ensure his behaviours don’t escalate further. We have seen an escalation in his behaviour. This placement seems to be offering little more than containment. [‘U’] needs and deserves more.”*
132. The Children's Guardian was clear in her professional opinion that 'U' needs more specialist care than his father and 'W' can provide.
133. Having regard to her professional recommendation to adjourn final welfare decisions for 'U', the Children's Guardian told the Court, *“It is difficult to recommend delay in children achieving finality. We need to have clear and comprehensive plans moving forward because its crucial to their futures. I struggle to ask the Court to endorse the existing Local Authority Care Plan with the level of uncertainty there is. A child psychologist is necessary with expertise in terms of neurodiverse children, trauma and attachment needs. Those are the three priorities for identifying an expert. The time to conclude the proceedings should be extended to inform [‘U’s] placement needs and educational needs. A more comprehensive Care Plan is needed that shows a clear pathway to achieving those needs, so that more informed plans could be achieved. We don’t have a road map of what [‘U’s] future will look like. Things have been changing quite rapidly on the ground. At least, having a therapeutic package in place could provide some resolution to [‘U’s] escalating behaviours. That has not been achieved yet. I did not know how much his behaviours had escalated within the placement, the level of restraint he was subjected to nor the increase in aggression. It has been a constantly evolving picture for [‘U’] in terms of his needs. I would have hoped therapeutic support, due to his life experiences, combined with his additional needs, could have been put in place earlier. He has always had difficulties with his behaviour. His Behaviours have escalated, likely affected by the changes of placement and changes of his primary carer. It has got increasingly challenging throughout these proceedings. He is being offered containment*

at present, that's probably about it. His behaviours have escalated. This is a very worrying situation, being so young, with his additional needs, in a residential unit with lots of different staff, rather than a core group of consistent adults and being physically restrained. It is a worrying situation for ['U'] currently."

134. In respect of the three younger children, the Children's Guardian told the Court, *"I no longer consider Placement Orders to be in their best interests. Initially I recommended a time-limited family finding search for six months. That was in July 2023. This was largely down to challenges in successfully identifying a forever family for an older sibling group with the two youngest children showing emerging behavioural difficulties. ['D'] has now past key milestones in respect of her age, additional needs, existing attachments to her parents and extended family members, her siblings and her influence on the younger children, which would made adoption less successful. She will be 7 years old in April 2024. For older children, after the age of 5, it becomes very, very difficult to integrate into a new family setting."*
135. The Children's Guardian accepted that 'T' and 'Q' are, *"of an age where there would be likely more interest in them in terms of family finding. ['D's] age, her existing memories, attachments to her birth family and the complex needs of the entire sibling group of three are complicating factors. Also, there is a high risk of placement breakdown if ['D'] does not integrate or her behaviour impacts on the younger boys being able to integrate and settle into a new family structure."*
136. The Children's Guardian told the Court, having heard the oral evidence of the Family Finding Social Worker, *"the pool is very, very narrow when speaking of adoption of children with ['D's] age. Preparatory work could be particularly harmful for her, if an adoptive family is not found, given her emerging difficulties. An adoptive placement stands a really high risk of breakdown and that would be devastating for these children. Identifying a forever family with their ages and complex needs will be a struggle. The priority is to keep them together as a sibling group and to remain in a stable placement with longevity. They will need an extremely high level of support over and above what these foster carers are receiving. I don't see an adoptive placement being provided with the same level of support as professional foster carers would provide for such highly traumatised children displaying really challenging behaviours. That could put a real strain on an adoptive placement, increasing the likelihood of a breakdown of placement. I listened to the Family Finding evidence. The statistics were not optimistic in placing an older sibling group of three with complex needs. Each failed placement chips away at children and impacts their ability to form trusting relationships in the future. It fills them with a sense of rejection and impacts on their ability to invest and settle in future placements. Each failed placement has a profound impact."*
137. The Children's Guardian told the Court, *"From the Local Authority evidence, sibling assessment and Care Plan, the common thread is that the three younger children should remain placed together as a sibling group. The three children are placed currently with joint, experienced, therapeutic carers and are being provided with exemplary care in the year since they've been reunited as siblings. Their individual needs remain high and their collective needs as a sibling group remain high. Despite being provided with reparative care, it's slow progress and demanding. The family finding process will not, I believe, be successful. The children need the continuation of therapeutic nurturing care of two experienced joint carers. This sibling group should be the only children in that placement."*
138. With regard to the existing foster care placement for the youngest three children, the Children's Guardian told the Court, *"I know they would want to do whatever they could to help and assist these children as they have done in last year of caring for them. Having regard to their existing commitments and responsibilities and the high level of nurturing care this sibling group require, these foster carers are not convinced they are what these children need in the long term. The carers have a lot of conditions regarding providing long term care for these children. Those are largely based around these children's needs, to enable them to progress and resolve the challenges they present with at the moment. The carers recognise the children would flourish and*

thrive being the only children in placement without having to compete with other children. The children need experienced, therapeutic, hands-on carers to have the best environment for them to thrive in.”

139. The Children's Guardian was very clear it is necessary to keep the youngest three children together: *“it would cause more emotional harm to separate the three children as a sibling group. Another change of placement needs to be sooner rather than later.”* Further the Children's Guardian was very clear in recommending that the three youngest children require intense therapy: *“that won't commence if there is an adoption search. For children to engage in a therapeutic journey, they need a level of stability in other areas of their life for that to be successful.”*
140. In summary, the Children's Guardian recommended that:
- (a) the Court concludes the issue of threshold;
 - (b) the Court concludes that none of the children can be reunified into their father's care;
 - (c) the Court dismisses the Local Authority's Placement Order applications in respect of 'D', 'T' and 'Q';
 - (d) there be a short adjournment of a few short weeks for the Local Authority to file amended Care Plans for 'D', 'T' and 'Q', identifying a proper package of support including intense therapeutic support;
 - (e) the Guardian attends a professionals' meeting with the Local Authority to assist in formulating a Care Plan;
 - (f) the Local Authority amends its Care Plan to make clear that long term therapeutic foster carers need to be found for 'D', 'T' and 'Q' as a sibling group together, where they are the only children in placement;
 - (g) proceedings in respect of 'U' be adjourned for the Local Authority to complete an amended Care Plan for him identifying a proper package of support;
 - (h) assessment of 'U's' placement needs and educational needs be carried out by the Local Authority's inhouse experts and, if the Local Authority does not have such expertise in-house, to obtain independent expert evidence;
 - (i) the Local Authority issues an urgent Deprivation of Liberty application, setting out evidence in support of the need for a Deprivation of Liberty Order, including the suitability of the current placement in the short term and long term;
 - (j) supervised contact is maintained at the rate of once each month for 'U' with each parent separately (meaning in practical terms the children see one parent every two weeks);
 - (k) sibling contact is maintained between 'U' and 'D', 'T' and 'Q' once each month.
141. In this Court's judgement, the evidence of this highly experienced Children's Guardian was considered, balanced, fair and wholly compelling. In this Court's judgement, the Guardian's analysis given to the Court orally at the conclusion of all the evidence was impressive, took into consideration the quickly evolving situation for each of the children, all the emerging evidence and had full regard to the highly complex dynamic between the children and each of the family members. In this Court's judgement, the Guardian's conclusions and the method by which she reached those conclusions were unimpeachable.
142. It is plain from the father's oral evidence that he continues to lack insight into the issue of domestic violence and the impact of his behaviour on each of the children. He continues not to accept the factual findings made by HHJ Wright in 2015. The Court has made further findings in these proceedings. Plainly the father continues to have a troubling propensity towards domestic violence. Further, the father has consistently not been open or honest with professionals, maintaining a level of dishonesty that directly impacts on the ability of the professionals to safeguard the children. The extent of his fundamental dishonesty was even to deny paternity of all the children until the police exercised powers of protection in February 2023. This Court reaches the same inescapable conclusion to that of each of the professionals that each of the children would be at risk of significant harm if placed in his care, either as a sole carer or as joint carer with his estranged wife. The combination of concerns leads the professionals to the unanimous conclusion that no amount of professional support could adequately safeguard any of the children in his care or mitigate the risks sufficiently for the benefit of the children. Furthermore, the father's

vulnerability in respect of his physical health needs mean that he is largely dependent on a carer, his estranged wife, in respect of his own needs, including dealing with medication and taking him to medical appointments. He has depended on his estranged wife further in respect of his care of 'U', in terms of preparation of meals, laundry and homework. The father and 'W' both told the Court of an intention to divorce and for the father to move out of their current shared property. As the Local Authority properly noted, there remains a high degree of uncertainty about how the father could manage the day-to-day basic care of 'U' or any of the children, without the support of 'W'. To his credit, the father recognised it would be unrealistic for him to care for all four children. He has no established record of managing their care as a sibling unit and meeting their competing needs. Moreover, there is unanimity of professional opinion that 'U' has a high level of need requiring specialist, therapeutic carers, having regard to his diagnoses of autism and ADHD, with increasingly challenging behaviour. Each of the professionals was rightly concerned about the father's and 'W's inability to adequately manage 'U's behaviour, as evidenced by the audio recording of 12 April 2023. The professionals are united in their opinion that the father is not able to meet 'U's needs consistently nor provide the reparative parenting 'U' desperately needs. The additional factors of the father's lack of insight into domestic violence and the impact of his behaviour on the children leads the Court to the same conclusion reached by the professionals that the father cannot meet the needs of any of the children to a good enough standard, with or without support. Further, there is no solid evidenced-based reason to conclude that he could make the necessary changes in respect of his parenting, within the timescales of the children.

The Inadequacy of Local Authority Care Planning for 'U'

143. At the resumption of the part-heard final hearing 17 January 2024, the Court and the parties received updating documents from the Local Authority, which included the records of physical intervention in respect of 'U' in his current residential unit, set out in paragraph 44 of this judgment. Those records identified repeated, troubling incidents of restraint being used against 'U' by members of staff in his placement, following dysregulated behaviour. No Deprivation of Liberty application had been made by the Local Authority. There is currently little or no educational provision for him. He is receiving no targeted therapeutic support beyond 'animal therapy'. Although it was said that the Local Authority's in-house psychologist was a resource open to 'U', it does not appear that the deteriorating situation for 'U' including his repeated dysregulated behaviour and the consequences of it, were of such significance to the Local Authority that urgent psychological support or assessment was considered to be a priority.
144. The Local Authority had not then, and still has not, identified an alternative placement for 'U'. Given his young age, diagnoses and his deteriorating behaviour in November and December 2023, it is, in this Court's judgement, essential that the Local Authority takes urgent steps to reassess its care planning. There is considerable weight to the submission on behalf of the Guardian that such care planning should be informed by expert evidence from a psychologist, with expertise in children with neurodevelopmental disorders who have a history of trauma and who exhibit dysregulated behaviour, to advise the professionals and inform the Court about care planning for 'U'.
145. There is further, considerable weight in the submission made by the Children's Guardian that the major parameters of care planning for 'U', being his appropriate placement, education and therapy, were wholly inadequate.
146. Information about 'U's current placement, its ethos and regime and staff qualifications are also lacking.
147. Having regard to the constellation of deficiencies, this Court agrees entirely with the recommendation of the Guardian that there is no alternative than a short adjournment of 'U's case, such that the significant gaps in his care planning can be resolved.
148. The Children's Guardian recommends that, in the first instance, the Local Authority's in-house psychologist may be sufficiently qualified to provide the necessary expertise to inform the Local

Authority's care planning. Further, it is imperative that the Local Authority urgently continues its search for a more appropriate placement for 'U'. Moreover, it is imperative that the Local Authority puts into effect a suitable therapeutic package of support for 'U' in his current placement and a return to education, until such time as a suitable placement is found for him. This Court entirely agrees with the sentiment expressed by the Guardian and by the mother, that in reality, 'U' has over recent months, and continues to be, little more than 'contained'. For a child of his young age, vulnerabilities and profile, it is unconscionable for this situation to continue.

149. In all the circumstances, whilst the Court must conclude that placement of 'U' with either his mother or father is not a realistic option, the Court is not in a position presently to make final welfare determinations for 'U'. A short delay consequent upon an adjournment of 'U's case, in order for the gaps in the evidence to be filled, is an unfortunate necessity.

The Local Authority's Applications for Placement Orders for 'D', 'T' and 'Q'

150. The Local Authority applies for Placement Orders for the three youngest children with the care plan of adoption. The applications are opposed by both parents and are not supported by the Children's Guardian. At Final Hearing, the Local Authority continues to pursue those applications.
151. The children are each placed together with highly experienced foster carers, where they are thriving. Their current foster carers have three older children of their own and are currently also caring for a baby. All the professional evidence, including a sibling assessment, concludes that the three subject children should remain together as a sibling group. The Guardian, who has the utmost respect for the work of these foster carers and their ability to provide reparative care, nevertheless concluded that the children's existing placement with these foster carers is unlikely to be a long-term option for the children. The foster carers have expressed their current view to the Guardian that they need significantly more psychological and other support from the Local Authority for the children, and to see positive results therefrom, before they would be prepared to commit long-term to their care. 'D' continues to display challenging behaviours. 'T' and 'Q' are also showing signs of emerging behavioural difficulties, such that the foster carers are not confident they would be able to meet the needs of this sibling group in the long term.
152. The Children's Guardian observed that in-placement behavioural issues from any of the children are likely to adversely influence the other children, making the task of caring for them more difficult. The Children's Guardian further points to the fact that this is the third set of care proceedings involving these parents and the second set of proceedings concerning 'U'. The younger children were made the subject of police protection in February 2023. Having regard to their ages and the length of time they have already spent in foster care, it is urgent, the Guardian concludes, that a permanent placement is found for them. This Court fully agrees.
153. The Guardian recommends that the children should be placed together as a sibling group in a foster placement with two carers and with no other children in that placement. The Guardian does not support the making of Placement Order in respect of any of the three younger children.
154. Public law cases involving children rarely stand still. The welfare needs of these children have changed and developed quickly. The Guardian's recommendation at Final Hearing reflects the evolving nature of the case, taking into consideration the children's current circumstances and needs. By contrast, it appears to this Court that the Local Authority's approach has been static.
155. The Guardian points to the fact that 'D' will celebrate her seventh birthday in just over two months. Whilst the Local Authority plans to undertake a placement search for an appropriate adoptive placement, if a Placement Order is made, for twelve months, 'D' would then be approaching her eighth birthday. Whilst the Local Authority told the Court in its evidence that it proposes to carry out a parallel search for both a foster care placement and an adoptive placement over 12 months, the Social Worker's evidence suggested that a search for a foster placement would only begin after a 12-month search for an adoptive placement. That appears to suggest a consecutive, rather than a concurrent or parallel search.

156. The Guardian's reasons for not supporting the making of Placement Orders for any of the children were wholly compelling. The Guardian concludes that, on all the up-to-date evidence, including the evidence of the Local Authority's family finding Social Worker, it is highly unlikely that any adopters could be found who were willing to adopt this sibling group. Further, it is unlikely that adopters could be found who have the skills required to meet the needs of these siblings. Furthermore, it is unlikely that adopters would be given the level of support they are likely to need in the long term to meet the needs of each of these siblings. Yet further, it is likely that the Local Authority search for an adoptive placement would be protracted and futile and thus compromise the children's urgent need for a permanent placement to be found for them. Moreover, it is likely that any essential work with 'D' by way of preparation for adoption would be emotionally damaging if no such placement emerged. Additionally, save in the unlikely event the Local Authority finds exceptional adoptive carers, the task is liable to be beyond the capacity of most prospective adopters and the risk of breakdown of an adoptive placement is significant. Any placement breakdown in adoption would have profoundly emotionally damaging consequences for each of the children.
157. The Guardian recommends, accordingly, that the Court dismiss the Local Authority's applications for Placement Order for the youngest three children.
158. In this Court's judgement, the Guardian's reasoning is, once again, unimpeachable.
159. The Guardian had the benefit of hearing all the evidence before updating her welfare recommendation. The Social Worker did not have that benefit. The Social Worker's 'final statement, containing her welfare analysis was dated 6 June 2023. By the time of the ineffective Final Hearing in September 2023, that analysis was already three months out of date. By the time the Final Hearing concluded before me January 2024, the proceedings were in their eleventh month and the Social Worker's written analysis was seven months out of date. In the Social Worker's updated statement of October 2023, the Local Authority maintained the same position as it had in July 2023.
160. At Final Hearing, the Allocated Social Worker did have the benefit of hearing the evidence of the Family Finding Social Worker, who acknowledged the increased likelihood of an adoptive placement breakdown with older children, having regard also the children's frequency of placement moves. However, the Local Authority continued to advocate for a Placement Order for each of the three youngest children. In her oral evidence, the Social Worker made repeated, generic statements regarding the Local Authority's decision to pursue its care plan of adoption for each of the three children, without reflecting upon the specific profiles of these children and the circumstances as they presented at Final Hearing. The Social Worker told the Court her view, "*I do not want to deny ['D'] having a forever family and having that opportunity,*" "*the children should have the opportunity to be adopted and have a forever family,*" and "*the Local Authority does not want to deny the children the opportunity of being matched with potential adopters.*" It appeared to this Court that the Local Authority's approach was to consider adoption as a starting point. That is the wrong approach.
161. Regrettably, in this Court's experience, it appears there is a regular misunderstanding or misapplication of the words of Lady Hale in *Re B* [2013] UKSC 33; [2013] 2 FLR 1075. At paragraph 198 of the judgment of the Supreme Court, Lady Hale held:
- "...it is quite clear that the test for severing the relationship between parent and child is very strict: only in exceptional circumstances and where motivated by overriding requirements pertaining to the child's welfare, in short, where nothing else will do."*
162. It appears to this Court that the shorthand phrase '*nothing else will do*' regularly becomes detached from the rest of Lady Hale's words and misinterpreted out of context by many to mean, 'adoption is the gold standard and anything less is not good enough.'

163. In this case, had the Local Authority taken into consideration the current situation of each of the children as the case evolved, applying the correct legal test to the facts, it is difficult to conclude that the Local Authority could have reached any outcome different to that of the Children's Guardian. The pertinent guidance from the Court of Appeal in *F (A Child : Placement Order: Proportionality)* [2018] EWCA Civ 2761 has been in place now for over five years, yet, in this Court's experience, it is rarely, if ever, applied by a Local Authority advancing a final care plan envisaging adoption.
164. Whilst the Social Worker and Children's Guardian were ad item in their analysis of the type of harm that might arise if the children returned to the care of either parent, the likelihood of harm arising, the severity of the consequences if it did and whether any steps could be taken to reduce or mitigate the harm, the Local Authority's comparison of the overall welfare advantages and disadvantages for the children of long-term foster care compared with adoption did not reflect the children's situation as presenting at Final Hearing. Had the Local Authority then asked itself whether adoption is ultimately necessary and proportionate, the Local Authority ought not properly to have answered in the affirmative.
165. Having regard to section 1(4) Adoption and Children Act 2002, this Court prefers the careful, nuanced analysis of the Children's Guardian, whose initial written analysis was given thoughtful revision, reflective of the current circumstances. Comparing the advantages and disadvantages to the children of adoption with long term foster care, putting into the balance the factors identified by the Guardian in her oral evidence, the balance tips firmly away from adoption as being in the best interests of each of the three youngest children. This Court respectfully endorses the Guardian's updated analysis. This Court must conclude that adoption is not in the best interests of the three youngest children for the reasons expressed by the Guardian. Further, this Court must conclude that adoption is neither necessary in this case nor is it the proportionate response. For those reasons, the Local Authority's applications for Placement Orders for 'D', 'T' and 'Q' must be dismissed.

Care planning for 'D', 'T' and 'Q'

166. Having reached those conclusions in respect of the Local Authority's Placement Order applications, this Court agrees with the submissions made on behalf of the Guardian that, as matters stand, it is far from clear what placements the children 'D', 'T' and 'Q' will be in, following the making of final Care Orders. Further, the Court agrees with the Guardian that careful care planning is necessary to ensure that the needs of these children to have contact with their parents and with 'U' are properly considered.
167. The Court was informed by the Local Authority that 'D' is 'open to' the Local Authority in-house psychology team. Further detail is required regarding what that means. Further detail is required about the psychological support available to 'D' to assist in managing her challenging behaviour. Having regard to the request from the current foster carers for additional support, including psychological support, this Court agrees with the submission made on behalf of the Guardian that the Local Authority must provide information from its in-house psychology team about the placement and therapeutic needs of this sibling group and the timescales within which those needs should be met.
168. The Guardian's professional view is that the younger children should be with foster carers where they are the only children in placement. There is merit in the Guardian's recommendation that it is of importance that the children are not left in their current placement for a lengthy period, while the Local Authority decides whether the existing carers can meet the children's needs.
169. For those reasons, final determinations in respect of the youngest three children would be premature. Regrettably, but unavoidably, that will necessitate a brief further delay for updated Care Plans to be filed by the Local Authority.
170. The action is listed for further hearing on 2 February 2024 when the Court will give further directions consequent upon this judgment. Further, at that hearing, this Court will consider the

Local Authority's application for a Deprivation of Liberty Order, exercising a section 9(1) jurisdiction acting as a Judge of the High Court Family Division.

HHJ Middleton-Roy
31 January 2024