

Neutral Citation Number: [2024] EWFC 257 (B)

CASE NO: ZC23C50110

IN THE CENTRAL FAMILY COURT

First Avenue House

42-49 High Holborn

London

Date: 13 September 2024

Before HER HONOUR JUDGE ROBERTSON

IN THE MATTER OF

The London Borough of Lambeth (applicant)

-v-

RF (First Respondent mother)

SW (Second Respondent father)

K1 and K2 (Third and Fourth Respondents, by their children's Guardian)

Matthew Stott of counsel appeared on behalf of the Applicant

Elizabeth Nartey of counsel appeared on behalf of the First Respondent

Oliver Wraight of counsel appeared on behalf of the Second Respondent

Hannah Wyatt of counsel appeared on behalf of the Third and Fourth Respondents

JUDGMENT

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

Parties and applications

1. The children at the centre of this case are K1 who is 11 and K2 who is 8. Both are boys. The Local Authority who bring this application are the London Borough of Lambeth and they have been represented by Matthew Stott of counsel. The Mother is RF, and she has been represented by Elizabeth Nartey of counsel. Before this final hearing started she made the brave and child-focussed decision not to contest the Local Authority's care plans. Having done so she has preferred not to attend this hearing. No party wished to cross-examine her. In those circumstances I made it clear I did not require her to attend and I do not take her lack of attendance as indicating any lack of care or interest on her part. I can well understand why the hearing would have been difficult for her. The father is SW and he attended on the first three days, only staying away on the fourth day when he had a housing appointment, and on the fifth day when he had a job centre appointment. He was represented by Oliver Wraight of counsel throughout. The children's guardian is G, and she has been represented by Hannah Wyatt of Counsel.

Background

2. Before proceedings began the boys were living with their mother. In the 15 months before proceedings were issued the boys were on Child Protection Plans because they were not going to school regularly, they had missed dental checks and paediatric assessments, there were concerns about the boys being left at home alone, the family

home was said to be in disrepair, there were rent arrears putting the family at risk of eviction and it was said that the mother was not engaging with agencies who would have helped her. There were further concerns about the mother's mental health and drug use, her conviction in 2022 for assault by beating of an emergency worker for which she received a 12-month suspended sentence, and concerns about conflict in the parents' relationship.

3. Matters came to a head in 2023 when, according to the Local Authority's evidence, the mother said she was "done with" communicating with children's services and participating in meetings and social work visits, and said she wished the Local Authority to issue proceedings. They did so and proceedings began in March 2023. By that stage K1 was receiving home education having been excluded from his primary school due to behavioural difficulties. He has been out of mainstream education since July 2018. He has a diagnosis of ADHD.
4. The children's father was not able to be a stable and consistent part of their lives in their early years because, until 2018, he was a serial criminal offender, spending time in prison due to 23 convictions for 47 offences including robbery, theft, assault, burglary, kidnapping and wounding. He has not offended since 2018. At the time when proceedings were issued he was not seeing the boys because the mother would not allow it. At that stage the boys wanted to see their dad and said they missed him.
5. In April 2023 interim supervision orders were made for both children and Child Arrangements Orders were put in place for the boys to live with their father and have contact with their mother. The social work evidence is that the mother sought to undermine the placement on a consistent basis, attending his home address and speaking negatively about the father. She also attended the school to try to remove the children from school. Prohibited Steps Orders were made against her as a result.
6. K1 did not settle into his father's care and quickly began absconding. Attempts were made to return him, including the court making a Specific Issue Order for him to return, but he was adamant he would not stay and continued to go to his grandmother's house. By July 2023 he was with her full-time and in August 2023 he was placed there under an ICO. At the same time an exclusion order was made against

the mother preventing her from attending the property. K1 made a number of allegations against his father, including having a gun, burning him with a cigarette, and hitting him. Those allegations have not been determined and I do not determine them here.

7. K2 meanwhile was reporting that living with his father was “okay” although he said he would rather live with his mother. There is some measure of agreement that that may have been influenced by there being less discipline at his mother’s house. He said he could go out when he liked and eat what he liked. His father ran a tighter ship. It is agreed that during his time with his father K2’s punctuality and attendance at school improved.
8. The mother during this period did not agree with the placement of the boys with the father nor the maternal grandmother and there was increasing conflict in the adult relationships. On 4 November 2023 it is alleged that she assaulted K1, the maternal grandmother and the maternal great grandfather.
9. In December 2023 the Local Authority filed their final evidence. A number of assessments had been completed. In very short summary:
 - a. The mother had tested positive for cannabis use
 - b. Dr Musters, psychiatrist, found no evidence of the mother having a mental health disorder but thought she may have ADHD and could not rule out some form of personality disorder
 - c. Kristen Thomas, ISW, provided a negative parenting assessment of the mother
 - d. She provided a positive parenting assessment of the father in relation to K2. The father had accepted he was unable to meet the needs of K1. In a later assessment she was somewhat more guarded but said if the court decided that the children should be separated, then in those circumstances K2 should be cared for by the father.
 - e. Dr Parsons, psychologist, found no evidence of mental health difficulties in the father and no current personality difficulties but found that he did have a moderately insecure adult attachment style of the anxious ambivalent type.

- f. Dr Maggs, psychologist, assessed the boys and concluded that their needs were such that placement together might place too much of a burden on the carers and would increase the possibility of placement breakdown.
 - g. David Wilson, Social Worker, provided a positive SGO assessment of the maternal grandmother in relation to K1.
10. Taking all that into account, the Local Authority's position at that stage was for K2 to remain with his father and for K1 to remain with the maternal grandmother. They did, however, record that they had some concerns about the father's treatment of K1 as he had said some hurtful things in his presence which had led to K1 feeling dejected, angry and frustrated. They proposed a 12-month supervision order in relation to K1. Final hearing was listed for a date after the new year.
11. On 31 January 2024 the Guardian visited K2 at school. Her account of that visit is contained in a statement by the Local Authority team manager. In oral evidence the Guardian confirmed it was an accurate record. It says that K2 told her his father had thrown him in a room, and demonstrated hands round his neck and said "couldn't breathe". According to the Guardian's account, he was very anxious about his father knowing he had said this and said "my dad's going to be so cross that I have told you this, actually, wait, maybe he just pulled me by the clothes". He was asked which it was and he put his hands round his neck again. He said he did not feel safe. He asked if he could live with his grandmother as he felt safe there. He said "I have to get out of dad's house" and said he'd rather go with the police than go to his Dad.
12. The Guardian called the Local Authority and the police. The father was already on his way to collect K2 from school and he got a phone call telling him not to come, but he, of course, was very worried about what was happening and so he did go. The Guardian gave oral evidence that when he arrived he was shouting, putting his camera in her face, he jumped over a wall to get to her and that school PE teachers came to stand between her and the father until the father left. She said it was very, very scary. K2 was present for some of this, and had then been taken away so as not to witness it. The Guardian's evidence was that she saw him shaking when his father was shouting at him.

13. The social worker at the time was a different social worker from the current one. She was called, and came, and spoke to K2. There is a record of a visit she had made a week before to talk to K2 and in that record it states that K2 told her he did not want to live with his father because he had been shouting at him. He said K1 was not lying when he said the father hit him. When she got to the school on 31 January 2024 according to her oral evidence she found K2 sobbing. She said that he told her his preference would be to go with strangers rather than go back to his father's care.
14. The father denies any physical abuse of the boys. His case is that K2 was coached or set up to make the allegations by the maternal grandmother and/or the mother. In oral evidence he suggested that it had all gone wrong when the social worker spoke to K2 on 24th, and that after that there was a strategy meeting at which someone said "we can't do anything unless K2 says the father hit him". The father believes that that message was relayed to the maternal grandmother, who then coached him to make the allegations on 31 January. The father also denies shouting at the school during the incident save for shouting twice "did I hit you?" to K2. He relies on a letter from the school headteacher which says that upon arrival he displayed signs of anxiety and emotion but he did not exhibit any aggressive or violent behaviour towards staff members, and in fact complied with all requests from staff and maintained a calm demeanour while engaging with them. The Guardian in oral evidence was clear that the headteacher was not there until around 4pm by which time the incident was over. At the time of the incident only the Guardian and the deputy head were present.
15. I have set this out in detail because it marked a turning point in this case. No findings have ever been sought or indeed made as to the truth or otherwise of K2's allegations nor as to the father's behaviour on that day, and whether it was frightening. But whatever the answer is to those questions, K2 went off with the police exhibiting what the Guardian described as relief to be going with strangers rather than going back to his father's care. He did not present as distressed at going to a stranger's home. I remind myself that he was 7 at the time.
16. K2 was placed in local authority foster care, initially under police protection and then, from 2 February 2024 onwards under an ICO, and he lived with foster carers. The final hearing was vacated and further assessments directed. Both boys were refusing

to see their father and in March 2024 an order was made under s34(4) of the Children Act 1989 authorising the Local Authority not to arrange contact between the boys and their father. They have continued to refuse to see him or have any contact with him till this day.

17. The further assessments were:

- a. An addendum assessment by Dr Maggs, who concluded that the boys would respond well to being placed together with the grandmother, providing the right support was provided.
- b. A further parenting assessment of the father, this time by ISW Sarah Cockley, which was negative.
- c. A sibling assessment of the boys which concluded that it was a finely balanced decision but placement together was unlikely to meet the needs of both boys.

18. The Local Authority filed a new final statement this time recommending placement of both boys with the maternal grandmother. At the IRH on 25 July 2024 the court approved a transition plan, and on 27 July 2024 K2 moved to his grandmother's care. He has been there with her and with K1 since then.

19. At the start of this hearing, therefore, K1 had been with the maternal grandmother for over a year, and K2 had been with her for about 6 weeks. The current social worker gave evidence that it was going extremely well. He was absolutely astonished that both boys appeared to be going to school. K2 had done around 4 days of the new term and there had not been a single incident of poor behaviour. That was in stark contrast to the position before the summer break, where both the school and the foster carer were talking to the social worker about incidents happening three or four times every day. He said it was all that the foster carer wanted to talk about, how difficult K2's behaviour was to manage, and now there was not a single incident. He seemed as if he could hardly believe it. Likewise, K1 had gone to school for the first day of term the day before the social worker gave evidence, and he went again on day two. That was the first time he had gone to school since 2018. That then, was the position at the start of the hearing.

Positions of the parties

20. The Local Authority, supported by the Guardian, sought Special Guardianship Orders for both boys in favour of the maternal grandmother, supported by Supervision Orders for 12 months. In addition they sought Prohibited Steps Orders against both parents preventing them from going to the home or the school without permission. I have already set out the mother's brave decision not to contest this plan. She has recognised that she is not in a position to care for the boys at this time, but has told me through her counsel that she was able to make that decision because of the work she had done on herself. She had done some counselling, she was going to university twice a week and she was working part time and addressing her cannabis use. She agreed the boys had settled well, and was as a result able to support the plan. She accepted the plan for her contact to be once per week, and she submitted to the Prohibited Steps Order. The father agreed that K1 should stay with the grandmother although he thought it should be under care orders rather than SGOs with supervision orders. He agreed that K2 would need to stay with the maternal grandmother in the short to medium term while work was done to re-establish their relationship but he sought orders which would allow K2 to return to his full-time care once that relationship was re-established. He did not submit to the Prohibited Steps Order.

This hearing

21. I have conducted a 5-day final hearing. I have had the benefit of a 2,678 page bundle from which I have read the relevant documents. I have heard oral evidence from the current social worker, Kristen Thomas (ISW), David Wilson (SGO assessor), Sarah Cockley (ISW), the previous social worker, the father and the Guardian and I have heard submissions from all parties. The maternal grandmother also attended Court on day 2 of this hearing and updated the Court as to her position.

The Law

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

23. The burden of proof is on the Local Authority who assert the threshold matters and who seek the orders. In each case the standard of proof is the simple balance of probabilities, not more, not less.
24. In any decision that I make involving the upbringing of a child, their welfare must be my paramount consideration, and I must consider all the elements of the welfare checklist from s1(3) of the Children Act 1989.
25. In considering whether to make final orders I must undertake a global holistic assessment of all the realistic options as set out in *Re B-S (Children)* [2013] EWCA Civ 1146.
26. I must also consider Article 6 and Article 8 of the ECHR. Any order that I make must be necessary and proportionate, and I must not make any order unless I consider that doing so is better for the child than making no order at all.
27. I have also in mind the well-known passage from *Re L (Care: Threshold criteria)* [2007] 1 FLR 2050 at paragraph 50 which says

“society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent”.
28. I have in mind also the Best Practice Guidance on Special Guardianship Orders dated June 2020, paragraph 5.137 which states that

“the purpose of an SGO is to provide a firm foundation on which to build a lifelong permanent relationship between the child and the carer. A supervision order should not need to be used as a vehicle by which support and services are provided by the local authority. All support and services to be provided to the SG and to the child by the local authority or other organisations should be set out in the SGSP (Special Guardianship Support Plan) which should be attached as an appendix to the order. The cases where it would be appropriate or necessary to make a supervision order alongside an SGO will be very small in number.”
29. I have this guidance and the statutes and authorities set out in mind as I consider the issues in this case.

Threshold

30. Threshold is largely agreed in this case. The mother agrees, and indeed I agree that threshold is crossed on the basis of her admissions in relation to the home being in disrepair (albeit she said that was the Local Authority's fault), K1 being left at home alone, K2 having poor school attendance, the mother being in rent arrears, the mother's poor mental health, her conviction for assault by beating of an emergency worker in 2022 and her being charged with assault of the grandmother in November 2023.

31. The only paragraph which remains in dispute is this one:

“The Father, has a significant criminal history both proceeding the children's births and subsequently, including Robbery, Theft, Possessing Cannabis, Common Assault, Burglary, Kidnapping, Wounding with Intent to do Grievous Bodily Harm, Assisting Child to run away or stay away from responsible person, Being Concerned in supplying and Possession of Heroin and Crack Cocaine, resulting from some convictions with custodial sentences.
“

32. The father accepts the truth of the paragraph, but says it has no place in the threshold document. He says the last offence was committed four and a half years before the relevant date for threshold and that there is no evidence his offending history creates a current risk. On behalf of the Local Authority it is said that the father accepted in oral evidence (which he did) that his offending history meant that he had not been available to the children in their early years and that had had a direct impact on them. The choices the father had made had an impact on his reasonable care of the children.

33. I accept that they did. However I agree with Mr Wraight that there is no evidence they were having an impact or creating a risk at the relevant date. It is relevant background, and it is right that this court has regard to in when, for example, evaluating the nature of the relationship between the father and the children now. But in my view it is not relevant to threshold. That paragraph should be removed, and with that amendment I am satisfied that threshold is crossed on the basis of the remaining paragraphs, which are agreed as facts.

Realistic placements

34. I turn then to the realistic placements. It is argued by the father at least that there are two: option one is placement of both boys with the maternal grandmother; option two is placement of K1 with her in the long term and placement of K2 with her in the short to medium term while work is done on the relationship between the boys and their father, and for K2 then to be rehabilitated to his care in due course.

35. I start with consideration of whether option 2 is in fact a realistic option. There are a number of problems with it. The first is that the proposal is short on detail. There is no identified timescale, no transition plan, no identified legal framework such as a Child Arrangements Order, a Supervision order or even a Care Order at home. The second is that the father has no relationship with either boy at present. Both are refusing to have any contact with him at all, and have consistently refused it for many months. There is a proposed programme of work to be done with the children to help re-establish that relationship but as was evidenced from the cross-examination on behalf of the father, even he is anxious about whether this will be effective. It may not be. It is very hard to see how a plan for rehabilitation can be realistic when the child concerned refuses all contact with the parent.
36. A further problem is that the professionals are unanimously and vehemently against it. The current social worker said it would unsettle K2, and when he was unsettled he was a child who was completely lost. He couldn't trust anyone, he could not stand the family of his foster carer, he could not stand school. If he was placed with the father against his wishes he would do what his brother did and start running away. Sarah Cockley who assessed the boys themselves said things had moved on since her reports. The fact that they were now settled and at school was progress. If K2 were to know that there was a plan for him to return to his father in due course it might prevent him from putting down roots and settling. She said she'd be really worried about a potential move looming over him. She said he needed permanency and the opportunity to have stability for the rest of their childhood. She was concerned that the father was not listening to the children's voices. She said there were two children refusing to see their father and he was not hearing that because he was overwhelmed with the idea that there was a conspiracy against him. She said that was a hurdle for any reunification or contact. For her, the children needed reassurance about permanency before they would be able to address the issue of their relationship with the father.
37. The guardian said that Option 2, if approved by the court, would be really unsettling for both boys. When I asked her what she meant by that she said it would be a disaster. K2 would be quite distressed. He had had a really unsettled 17 months in different placements and it was really important that he knew this was it: the final decision. In relation to the work to be done to re-establish the relationship, she

thought that if K2 knew the agenda was for an eventual return to his father's care, he would simply refuse to do any of the work. He would feel unheard. He would start acting out as he had done previously, and I have alluded to the social worker's evidence about that. There would also be an adverse impact on K1. K1 would be really angry, she thought. It would unsettle him at school and would be more than likely to mean K1 would not engage with his father at all. She described K1 as quite protective of K2. He would want to know his brother was safe and would not want him going back to his father's. She reminded the court that K1 has previously shown extremely dysregulated behaviour, for example running up and down the school hallway and screaming when he heard K2's allegations. He could be dramatic and intense. Given that he had only just settled into education for the first time since 2018 it would be a disaster for him to be unsettled in this way now.

38. Witnesses also had concerns about the father's ability to work with professionals in the event K2 was placed with him. I heard evidence that he needed anger management work and to work on his ability to manage disagreement without conflict. It seems to be a matter of record that he does not have a good relationship with the current social worker nor the previous one. When he was asked in evidence whether he would be able to engage with the programme of work proposed by the Guardian he said certainly he was, but, he said "all of those recommendations need supervision from the people I've witnessed sit here and tell nothing but lies. So how do we move forward with that? There is proven documentation showing their lies. The social worker swore on the Koran and told nothing but lies. How am I going to work with him" He returned to the theme several times. It seems to me that out of the father's own mouth there is evidence that he will not find it easy to work with professionals in the event that K2 is returned to his care, and working with professionals would clearly be essential given the background history and K2's needs. I pause to note that I did not form the same opinion of the social worker's evidence as the father did. It did not seem to me that he was lying, nor that there was documentary proof showing it.

39. I return to the question then, of whether this is a realistic option. It seems to me abundantly clear that it is not. It is against the children's wishes and feelings, no professional thinks it will meet their needs, the likely effect on the boys is to unsettle

them with possibly disastrous consequences, they are likely to suffer harm as a result of being told the plan by virtue of refusing to engage with the re-establishment of the relationship and by acting out (and I remind myself that these are boys who take acting out to extremes such as running away, being excluded from school and causing extreme disruption at school 3-4 times a day). There is evidence to suggest that the father is able to meet K2's needs to some extent. I acknowledge that he has in the past had a warm relationship with him, that the father was described as responsive, warm and thoughtful towards him, that he was able to improve K2's school attendance and that he met some of K2's needs when he lived with him at the end of 2023 and the start of 2024. However there is ample evidence that he is not able to meet his needs now. For a start he has no relationship with the child. And he has not been able to meet K2's need to know that his father has heard his voice and is listening to him. There is also the lack of detail or clarity of thought around the father's plan which I have mentioned. I suspect that lack is precisely because the plan is not a realistic option. There is no legal framework or timescale or transition plan which could make it work, and that is why none has been specified. Taking all these factors into account, the evidence is overwhelming that this is not a realistic option for these boys and I therefore reject it.

40. In coming to that view I have had in my mind the argument made by the father that there was a great difference between the time before 31 January 2024, when K2 was living with him, was doing better at school and was seen to have a warm relationship with him, as compared with the time after 31 January when K2 made his allegations and appeared desperate not to go home with his father. The father says this is because there was a conspiracy against him, that social workers asked the grandmother to coach him, that she then did so, and that that was why the allegations were made. He relies on the good relationship prior to the allegations as a reason to believe that the conspiracy must be real, and that there is and was nothing wrong with his parenting. He feels that K2's view of him must include a memory of the good parenting, and the father considers the fact that his view now appears to be wholly negative is further evidence of coaching.

41. I did not find that a helpful argument. Although the father's case is one possibility, another possibility is that the allegations are true. That could equally explain (or

arguably better explain) the boys' actions in running away and refusing to see him. The father's case in this regard is nothing more than one possibility and I do not find that it takes me further forward. I note also that his case is not, in any event, supported by the previous social worker who was working with K2 while he was in his father's care. That social worker said that K2 was guarded and would not say much during home visits when the father was in the other room in a very small flat. He would only say "everything's going well". She also, of course, had the conversation with K2 on 24 January 2024 which I have outlined above.

42. I am left then with only one realistic option and that is continued placement with the maternal grandmother. I note the following features of that placement:

- a. It is in accordance with the boy's expressed wishes and feelings. They have been very clear about it.
- b. K1 has had a disrupted childhood thus far and has recently been diagnosed with ADHD. The evidence is that he desperately needs a primary carer to ensure that he attends appointments, who advocates for him for support and who is fully engaged with services. His carer needs to have the skills and motivation to provide a high level of intensive support in these areas. K2 also has a high level of need given the fact that he has been in 4 placements in the last 17 months with a high degree of uncertainty about where he would end up, and disruption to his relationship with K1. The evidence suggests that the placement is meeting the boys' needs in a way that they have never been met before. They are not showing behavioural problems. They are reported to be happy and easy to manage. Tellingly, they are going to school and doing so willingly and without negative reports coming from the school. Their need for a sibling relationship appears to be being met, notwithstanding the concerns that were identified in earlier assessments of the sibling relationship. Their need for contact with both parents can be met by the contact regime proposed for the mother and the work proposed to be done to re-establish the relationship with the father. That work is only likely to be successful if they are secure in their placement, and so their need for a relationship with their father is only likely to be met in that placement.

- c. In the event that they stay where they are there will be no change in their circumstances other than to let them know that their placement is now permanent and secure. That is likely to be a positive change for them, and to grant them relief and peace and to enable them to settle even further.
- d. They are not at risk of harm in their current placement.
- e. Their current carer, the maternal grandmother, has been positively assessed as being able to care for them and all the evidence is that she is doing so well. The social worker and the guardian have no concerns about that. Some concerns were raised in relation to her medical report but David Wilson was able to say that they were explored during the assessment. He said that from February to May professionals had been visiting her once or twice a week and had seen no evidence of any health issue affecting her care of the children. He was satisfied on that count.

43. All in all, I am in no doubt on the basis of the evidence that it is in their welfare interests that their current placement become their permanent placement. What remains to be considered is the legal framework to support it.

44. The father suggests there should be a care order. That was also proposed by David Wilson the SGO assessor, who in his assessment considered a higher level of local authority engagement should be available until the issues of housing and education were resolved. However in oral evidence he accepted that education was now resolved, and said the housing issue did not have to be resolved before the SGO could be made, although he still felt it would be prudent to do so. He still felt it would be prudent for there to be a Care Order but also said if an SGO were to be made, he would want to see assurances from the Local Authority that they could follow up the housing issue satisfactorily.

45. The housing issue is that the maternal grandmother lives in a three-bedroom house. She has two children of her own living at home and with K1 and K2, they have a need for a four bedroom house. The Local Authority have looked into this and there are two possible ways forward. One is to find her alternative accommodation, but that is difficult because she wants to stay in her borough, and four bedroomed properties are scarce. The other option is to do work on her property to convert it to a four

bedroomed house. There is, I am told, space to do that but it would cost between £35,000 - £50,000. There is not agreement from the Local Authority to do that at this stage.

46. On behalf of the Guardian the point was made that there is little that children's services can do about housing whether there is a care order or not. The most they can do is liaise with the housing department and they can do that just as well under a supervision order as under a care order. I accept that argument. It seems then that Mr Wilson's reasons for suggesting a short-term care order until an SGO can be made are not persuasive.
47. Sarah Cockley in her assessment also came to the view that if the boys were to be placed together that placement should be underpinned by a Care Order. In oral evidence she softened her stance. She said that progress had been made, with both boys now being settled and being in education. That being so she felt that a Supervision Order for 12 months could work, provided enough support was given. I take that into account.
48. Looking at the wider picture, a Care Order will allow the Local Authority to retain parental responsibility. That is not needed in this case where the grandmother can exercise it effectively. A Care Order will require there to be statutory visits and LAC medicals. That can be important and helpful: but in this case it is not necessary as the grandmother can provide the care that is needed. In any event, there will still be visits under a Supervision Order. Support and guidance can be provided under a Care Order. But it can also be provided under a Supervision Order, provided the Support Plan is adequate.
49. On the negative side, a Care Order brings with it institutional interference in the life of the child. A child will be subjected to medicals whether he likes it or not. He will not be able to go to a sleep-over at a friend's house unless that friend and his family have been vetted by the Local Authority. He will need the Local Authority's permission to go on school trips. These intrusions are very much what the boys in this case do not want. They have expressed their desire to be free of social workers and to live what they call a "normal" life. I have sympathy with that, and I can not see that there are any arguments which justify imposing these intrusions on the boys. A care

order in this case may even do more harm than good, if the constant intrusions prevent the boys settling into the normal family life which they crave. I come to the conclusion that a Care Order is not necessary in this case.

50. The most appropriate order therefore is a Special Guardianship Order. A lives with order would not be appropriate because there will be a need for the grandmother to have enhanced parental responsibility, given that the parents are still very much engaged and wish to be involved in the children's lives.
51. I must, however, think about whether a Supervision Order is also required in this case. I have in mind the guidance set out at paragraph 28 above. I would not ordinarily make a Supervision Order to underpin a Special Guardianship Order. However it does seem to me that this is an exceptional case. The need for the order does not arise out of any weakness or uncertainty about the ability of the maternal grandmother to cope with the placement. It rather arises out of the very special needs of the boys, the need for the re-establishment of the paternal relationship, and the need for a very hands-on approach from the Local Authority to get contact up and running again for the father. The Guardian in her evidence described a scenario in which the social worker might write to the father every fortnight with an update and explain to the boys that it was the father's right to receive information about how they are doing, and to ask if there was anything they wanted to add to the letter. That seems to me an excellent suggestion and a good example of why a Supervision Order is needed in this case. There is nobody else who can do this task other than the social worker, and he needs to stay involved. Likewise there is a need for extensive direct work with the boys to try to re-establish the relationship. Again that needs to be done by the Local Authority. I am mindful that I must not make any order unless I consider it is better for the children to make it than not to make it, but I am clear that in this case it is right for a Supervision Order to support the Special Guardianship Order. I therefore make Supervision Orders for 12 months, with the Local Authority to review them after 9 months to see whether they need to be renewed.
52. The Guardian has submitted a programme of work in bullet point form. That should be added to the support plan and an updated plan submitted to the court and the parties within 14 days.

53. The last matter which I need to consider is the Local Authority's application for prohibited steps orders. The orders sought are identical for the mother and the father, and would prohibit each respective parent from going to the grandmother's house or the school, or removing the children from the school without permission granted in some cases by the grandmother, in other cases by the school. It is proposed they last for a year - the same length as the Supervision Order.
54. In the case of the mother there is a track record of her having turned up and causing disturbances at the father's home, the grandmother's home and the school. I know that the mother would say she is in the process of turning her life around and she would not do those things now, and that may be right. I hope so. In any event she submits to these orders. I agree in principle (subject to some drafting amendments) that these orders are justified on the evidence and are necessary for the protection of the children and their placement. I have heard evidence that after all they have been through they need now to know that both school and home are safe.
55. The situation is different for the father. Although there are allegations against him of abuse and challenging behaviour, no facts have been found against him and in broad terms he denies the allegations. He has no track record of turning up at the grandmother's home or the school uninvited. On the one occasion he attended the school and the police were called, he was there because K2 was living with him at the time and it was school pick-up time. When he heard what had happened, he naturally pressed on and went to the school to find out what on earth was happening. I consider that was a normal response which many parents would have had. There is cogent evidence that he caused a disturbance when he got there, but no facts about that have been found. It was, in any event, a one-off.
56. In view of that it does not seem to me that I have the evidence to make a prohibited steps order against the father and I therefore decline to make the order. However, I do make it clear that he must not go uninvited to the school or the grandmother's home. If he does so it is likely to unsettle the children, and he may well find that an application for a prohibited steps order is made. If that were to happen it is likely the court would consider that there was enough evidence to make the order given how

important it is for the children to know that school and home are safe and secure and predictable. This indication from the court should be embodied in a preamble to the order.

57. The wording of the Prohibited Steps Order against the mother needs an amendment. Sub-paragraph (c) needs to begin with the words “other than when collecting the children from school in accordance with paragraph (b) above” and then continue as drafted. That will ensure that the mother is able to collect the children under paragraph (b) if she has the grandmother’s written consent, but will prevent her from attending at other times without the express written invitation or consent of both the school and the grandmother. I invite the father voluntarily to agree to a similar regime so that there are no misunderstandings.
58. The plan for the mother’s contact as set out in the social worker’s final statement was for a minimum of once a week contact in the community supervised by the grandmother. The grandmother and mother were content with this. In his oral evidence, the allocated social worker confirmed a revised plan for the Local Authority to supervise the mother’s contact in the community for the large majority of the duration of the supervision order. The grandmother was content with this revised plan and the mother did not oppose it but hopes contact may develop more quickly. It will be subject to review. I approve that plan. The boys both say they enjoy seeing their mother and it seems likely that these will be happy occasions. Both the mother and grandmother say that their relationship is much more stable now than it was, and there have been no incidents between them since November last year.
59. For the father the plan of work is set out in the Guardian’s bullet point list, which is to be included in the support plan. There will be direct work done with the boys, the father will share photos and letters with them, the father is to write letters to the boys, the social worker is to write letters to the father, or support the boys to do so. It is hoped this will lead to video contact, and eventually direct contact. The only dispute between professionals is that the social worker considers the letters should be sent at an initial frequency of once per month instead of once per fortnight, but both he and the Guardian agree that is only a starting point, and in reality the pace will have to be child-led. I agree with the Guardian that it is worth trying an initial frequency of

fortnightly. The boys are at an age where a month between contacts is a long time, and there would then only be 12 contacts within the validity of the Supervision Order. That may not be enough to move matters along. If fortnightly is causing them stress or indeed distress the frequency could be lowered.

60. The only other substantive matter I wish to mention is housing. The support plan is silent on it. I have not canvassed this with the Local Authority but I would like them to add a paragraph saying that this is something they will assist with – whether by writing letters or providing advice or securing funding for the renovation works. I do not anticipate that they will object to adding such a paragraph. It seems to me important that it be in the document to highlight that this is an issue which does need to be resolved, and which should not be allowed to go on to the back burner.
61. The very last matter is that I would ask the Local Authority to re-draft the table at the back of the support plans in the active rather than the passive voice. At present they say things like “Referral to local CAMHS would need to be made” but they do not say who is going to do it or when. I have no doubt the Local Authority mean that they will do it, but the plans need to say so clearly for example saying “The Local Authority will make the necessary referral to CAMHS within 28 days” or whatever timescale is appropriate. This applies to all the items in the tables at the end of both support plans. I would ask for the Local Authority to make those amendments also before submitting the amended versions.