

Neutral Citation Number: [2024] EWFC 298 (B)

Case No: SE24C50023

IN THE FAMILY COURT AT SHEFFIELD

Sheffield Designated Family Court
48 West Bar,
SHEFFIELD
S3 8PH

Date: 22nd October 2024

Before :

H.H. Judge Marson

Between :

SHEFFIELD CITY COUNCIL

Applicant

- and -

(1) THE MOTHER

(2) THE CHILD

Respondents

Mr Andrew Lord (instructed by **Sheffield City Council**) for the Applicant
Mrs Louise Stanbury (instructed by **Taylor Emmet**) for the First Respondent Mother
Ms Elizabeth Maltas (instructed by **Howard & Co LLP**) instructed by the children's
guardian Helen Fish, for the child

Hearing dates: 15th, 16th and 17th October 2024
Judgment handed down on the 22nd October 2024

Approved Judgment

This judgment was handed down remotely at 10am on the 22nd October 2024 by circulation to the parties or their representatives by e-mail and by subsequent release to the National Archives

IMPORTANT NOTICE

This judgment was given in private. The court permits publication of this judgment on condition that (irrespective of what is contained in the judgment) in any published version of this judgment the anonymity of the child/ren and members of their family must be strictly preserved. All persons, including the parents, their legal representatives, legal bloggers and representatives of the media, must ensure that this condition is strictly complied with.

Failure to do so may be a contempt of court.

H.H. Judge Marson:

- 1) The original version of this judgment included the names of the child, parents, other family members and all professionals involved with the family, and specific dates were identified. In this published version the names of the children have been randomly altered to preserve the privacy and anonymity of the family concerned.
- 2) The court is concerned with the welfare of a baby girl called Annie born in August 2023, she is 14 months old. Annie has been represented at this hearing by counsel, Ms Maltas who in turn takes her instructions from the Children's Guardian, Ms Helen Fish. Ms Fish has also been the guardian for Annie's siblings in previous proceedings.
- 3) Annie's mother is M. M is represented by Mrs Stanbury and I may refer to M hereafter as 'the mother' for ease of reference.
- 4) Annie's father is F. He has been served with notice of the proceedings but has chosen not to participate in them or to be represented. He does not share parental responsibility for Annie and has chosen to have no contact with her.
- 5) The local authority in this case is Sheffield City Council and it is represented in these proceedings by Mr Lord. I may refer to it hereafter as 'the local authority'. At this final hearing it seeks a final care order in respect of Annie with a care plan of adoption. For this reason, the care order application is coupled with an application for a placement order.
- 6) If care and placement orders are made it is proposed any contact Annie has with her mother will gradually reduce, and once she is to be placed in an adoptive family a farewell contact will take place with her mother and future contact will be indirect only

via the local authority's letter box system on an annual basis. Annie has two older full siblings who have recently been adopted and the local authority hopes to facilitate direct contact between Annie and her two adopted siblings once long-term plans are known. Annie also has an older sister who is cared for by the local authority due to her complex health needs. It is hoped Annie may be able to have contact with this sister as well.

- 7) At this final hearing the mother does not agree with the local authority's applications. The mother accepts Annie cannot be returned to her care immediately because she requires further therapeutic interventions before she is likely to be in a position to care for any child. The mother invites the court to adjourn these proceedings for an initial period of 12 weeks to enable her to complete the initial stages of the therapeutic interventions recommended by the court appointed psychologist and to complete an assertiveness course.
- 8) The Children's Guardian now supports the local authority's applications and the proposed plan for permanency for Annie by way of adoption. Ms Fish wished to hear the evidence of the psychologist before formulating her final recommendation. Ms Fish is opposed to any further adjournment of these proceedings which she notes are now in week 38, the 26 week statutory timescale having expired on the 19th July, the proceedings having already been extended to accommodate the listing of this final hearing and the obtaining of the psychological assessment.
- 9) I have heard oral evidence from the court appointed psychologist, **Dr Ian Brown**; from the allocated social worker, **Emily Main**; from **the mother**; and from the **children's guardian**. No party sought to challenge any of the other evidence filed. I have read and considered all of the written evidence and reports filed in these proceedings as well as the relevant parts of the evidence from previous proceedings. I have received and read written submissions from all parties. Although this judgment is being written in sections, consideration of the evidence and the realistic options for Annie have been undertaken holistically.
- 10) It should also be noted that where reported speech is given in italics in this judgment it is taken from the written and/or oral evidence and in the latter case it is taken from my own contemporary notes of the oral evidence. This means whilst it is materially and factually accurate it is possible some quotations may not be verbatim due to the speed at which the note was written during live evidence. In accordance with recent guidance

from the Court of Appeal, I have addressed only those issues which I consider are relevant, proportionate and necessary to determine the applications before the court.

- 11) Where care and placement orders are applied for, the task for the court is to conduct a holistic evaluation of the child's welfare throughout their life and to determine whether their welfare requires them to be made the subject of a final care order and placement order which would have the effect of removing them permanently from their birth family, or whether there is a more proportionate and realistic option namely in this case, placing Annie in the care of her mother either immediately or within a timescale which is meaningful for her welfare.
- 12) The key issues in these proceedings concerning Annie include whether the mother is likely to make the changes she needs to make; whether there is sufficient evidence to be optimistic those changes may be made by her in a meaningful timescale for Annie; and what are the likely risks facing Annie in the care of her mother if she does not.

The Law

- 13) I have been helpfully assisted by the advocates as to the law I must apply in their written submissions and I have directed myself in accordance with the principles in the following cases.
- 14) In describing the background and in the narrative parts of this judgment, I may address matters upon which the parties do not agree. I may give my findings on these disputed matters as they arise and when doing so, I apply the following principles derived from the judgment of **Baker J** (as he then was) in the case of **A Local Authority v (1) A Mother (2) A Father (3) L & M (Children by their Children's Guardian) [2013] EWHC 1569 (Fam):-**
 - i) The burden of proving an allegation lies with the party who is making it, in this case that is the local authority;
 - ii) The standard to which it must prove it is the usual civil standard namely the balance of probabilities.
 - iii) Findings must be based on evidence and on inferences which can be properly drawn from the evidence but cannot be based on mere suspicion or speculation.

- iv) Evidence cannot be evaluated and assessed in separate compartments. A Judge in these cases must have regard to the relevance of each piece of evidence to other evidence and exercise an overview of the totality of the evidence in order to come to a conclusion whether the case put forward by the local authority has been made out to the appropriate standard of proof.
- v) Whilst appropriate attention must be paid to the opinion of medical experts, those opinions need to be considered in the context of all the other evidence. It is important to remember that the roles of the court and the expert are distinct and it is the court that is in the position to weigh up the expert evidence against its findings on the other evidence. It is the judge who makes the final decision.
- vi) In assessing the expert evidence..... the court must be careful to ensure that each expert keeps within the bounds of their own expertise and defers, where appropriate, to the expertise of others.
- vii) The evidence of the parents and any other carers is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability.
- viii) It is common for witnesses in these cases to tell lies in the course of the investigation and the hearing. The court must be careful to bear in mind that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear and distress, and the fact that a witness has lied about some matters does not mean that he or she has lied about everything (see **R v Lucas [1981] QB 720**)
- ix) As observed by Dame Elizabeth Butler-Sloss P in an earlier case:
 - *The judge in care proceedings must never forget that today's medical certainty may be discarded by the next generation of experts or that scientific research would throw a light into corners that are at present dark".*

And the importance of the court taking into account, to the extent that it is appropriate in any case, the possibility of the unknown cause.

- 15) Care proceedings involve two principal questions, firstly are the threshold criteria for making a care order under section 31 of the Children Act 1989 satisfied? Secondly, if so, what order should the court make, if any?

- 16) In this case the issue of whether the section 31 threshold criteria are satisfied is not fully agreed by the mother. There is a schedule of facts and findings submitted by the local authority some of which requires determination by the court.
- 17) If the statutory threshold for intervention is crossed, the court must go on to apply well-established legal principles and decide what order, if any, should the court make in order to safeguard Annie's welfare. In doing so, I must bear in mind any Article 8 rights Annie has with her birth family for the right to respect for family life. Any interference with the rights of parents and a child under Article 8 must be necessary and proportionate. I also bear in mind that adoption is an option of last resort requiring a high degree of justification, it should be made only in exceptional circumstances where nothing else will do to meet the welfare of the child in question.
- 18) The court must undertake a global, holistic evaluation and analysis of the child's welfare and keep in mind the child's welfare is my paramount consideration. Under section 1(2) of the Children Act 1989 any delay in making decisions concerning Annie's future is likely to prejudice her welfare. Section 1(3) provides a checklist of factors to be taken into account when determining where her welfare lies and what order should be made. In addition, section 1(3)(g) of the 1989 Act requires this court to have regard to the range of orders available.
- 19) On the application for a Placement Order, the court applies section 1 of the Adoption and Children Act 2002 (ACA 2002). On such an application, my paramount consideration is Annie's welfare throughout her life. Once again, I take into account the fact that delay in coming to a decision is likely to prejudice her welfare, and there is a checklist of factors to be taken into account in assessing her welfare set out in section 1(4) of the 2002 Act.
- 20) Under section 21(3) ACA 2002 a court may not make a placement order unless satisfied either that each parent with parental responsibility has consented to their child being placed for adoption or that his or her consent should be dispensed with. In this case the mother is the only parent with parental responsibility and she has not consented to the making of a placement order. Under section 52(1)(b) the court may dispense with

the mother's consent if the welfare of the child requires her consent to be dispensed with.

- 21) I have reminded myself of the 'first principles' of adoption as enunciated by the former President, Sir James Munby in **Re B-S [2013] EWCA Civ 1146** :

*21. Just how stringent and demanding has been spelt out very recently by the Supreme Court in in re **B (A Child) (Care Proceedings: Threshold Criteria) [2013] UKSC 33, [2013] 1 WLR 1911**. The significance of Re B was rightly emphasised in two judgments of this court handed down on 30 July 2013: **Re P (A Child) [2013] EWCA Civ 963, para 102 (Black LJ)**, and **Re G (A Child) [2013] EWCA Civ 965, paras 29-31 (McFarlane LJ)**. As Black LJ put it in Re P, Re B is a forceful reminder of just what is required.*

22. The language used in Re B is striking. Different words and phrases are used, but the message is clear. Orders contemplating non-consensual adoption – care orders with a plan for adoption, placement orders and adoption orders – are "a very extreme thing, a last resort", only to be made where "nothing else will do", where "no other course [is] possible in [the child's] interests", they are "the most extreme option", a "last resort – when all else fails", to be made "only in exceptional circumstances and where motivated by overriding requirements pertaining to the child's welfare, in short, where nothing else will do": see Re B paras 74, 76, 77, 82, 104, 130, 135, 145, 198, 215.

*23. Behind all this there lies the well-established principle, derived from s 1(5) of the 1989 Act, read in conjunction with s 1(3)(g), and now similarly embodied in s 1(6) of the 2002 Act, that the court should adopt the 'least interventionist' approach. As Hale J, as she then was, said in **Re O (Care or Supervision Order) [1996] 2 FLR 755, 760**:*

"the court should begin with a preference for the less interventionist rather than the more interventionist approach. This should be considered to be in the better interests of the children ... unless there are cogent reasons to the contrary."

*24. Linked with this is the vitally important point made by Wall LJ in **Re P (Placement Orders: Parental Consent) [2008] EWCA Civ 535, [2008] 2 FLR 625, para 126**:*

"Section 52(1) is concerned with adoption – the making of either a placement order or an adoption order – and what therefore has to be shown is that the child's welfare 'requires' adoption as opposed to something short of adoption. A child's circumstances may 'require' statutory intervention, perhaps may even 'require' the indefinite or long-term removal of the child from the family and his or her placement with strangers, but that is not to say that the same circumstances will necessarily 'require' that the child

be adopted. They may or they may not. The question, at the end of the day, is whether what is 'required' is adoption."

- 22) With respect to the issues of adjournment and any need for further assessment I have had regard to the cases of **Re S (A Child)[2014] EWCC B44 (Fam)** Munby P; **Re P (A Child) [2018] EWCA Civ 1483** and the judgment of Lady Justice King in which she cites the case of *Re S Child* [2014] EWHC 2 FLR 575 above, and **S-L (Children: Adjournment)[2019] EWCA Civ 1571** and the judgment of Peter Jackson LJ.
- 23) In **Re S** the former President gives guidance on the test of necessity which must be satisfied before proceedings may be extended, and guidance as to evaluating the capacity to change. In its essence it requires:
- (i) Is there some solid evidence-based reason to believe the parent is committed to making the necessary change?
 - (ii) Is there some solid evidence-based reason to believe the parent will be able to maintain commitment?
 - (iii) Is there some solid evidence-based reason to believe that the parent will be able to make the necessary changes within the child's timetable?

In paragraph 18 of his judgment in **Re S** Munby P. cites the case of **Re J (Residential Assessment: Rights of Audience)[2009] EWCA Civ 1210, [2010] 1 FLR 1290**, para 10, Wall LJ, as he then was said:

"I think it important to remember when one is looking either at the independent assessments by social workers or at applications under section 38(6) of the Act that one needs to be child focused. It is not a question of the mother's right to have further assessment, it is: would the assessment assist the judge in reaching a conclusion or the right conclusion in relation to the child in question?"

Referring to this in **Re T (Residential Assessment) [2011] EWCA Civ 812 2 FLR 308**, para [93], Black LJ rejected the proposition that 'a parent facing the permanent removal of their child has *a right in all cases* to an assessment of their choice rather than one carried out or commissioned by the local authority'. She continued:

Still less is there a principle such as that for which [counsel] contends, namely that parents must be given then chance to put forward a positive case to the judge determining the issue of whether a care order should be made'

Sir Nicholas Wall, P, para 53, identified the “critical questions” as being:

“(1) does this child’s welfare warrant an assessment under section 38(6) of the Act? And (2) in looking at the timetable for the child, is there evidence that this mother will be able to care adequately for the child within the child’s timetable?”

- 24) In the case of **Re P** the mother, who was a longstanding alcoholic and who had told significant lies in previous proceedings, persuaded the court to grant an adjournment for a period of 6 months. At para 38 of her judgment, King LJ cites the following paragraph from Re S above:

“There must be a robust and realistic appraisal at the outset of what is possible within the child’s timescales and an equally robust and realistic ongoing appraisal throughout of whether what is needed is, indeed, being achieved or not within the child’s timescale. These appraisals must be evidence based, with solid foundation, not driven by sentiment or a hope that ‘something may turn up’.

- 25) In the case of **S-L** Peter Jackson LJ gives guidance on the ‘trade-off between the need for information and the presumptive prejudice to the child of delay, enshrined in section 1(2) Children Act 1989. Judges in the family court are well used to finding where the balance lies in the particular case before them and are acutely aware that for babies and young children the passage of weeks and months is a matter of real significance”. “Adjourning a decision should never be seen as pressing the pause button: it is a positive purposeful choice that requires a proper weighing-up of the advantages and disadvantages and a lively awareness that the passage of time has consequences.”

- 26) In **Re F (A Child) (Placement Order: Proportionality) [2018] EWCA Civ 2761** Jackson LJ set out the following matters to which I must have regard when considering the type of harm which might arise to Annie and the likelihood of it arising in particular:

- a. the consequences: what would be the likely severity of the harm to the child if it did come to pass;

- b. Risk reduction/mitigation: would the chances of harm happening be reduced or mitigated by the support services that are or could be made available?
- c. The comparative evaluation: in light of the above, how do the welfare advantages and disadvantages of the child growing up with his mother compare with those of adoption?
- d. Proportionality: ultimately, is adoption necessary and proportionate in this case?

27) In respect of the interpretation of the hair strand drug test results I have considered the case of **Re H (A Child: Hair Strand Testing) [2018] 1 FLR 762** and more recently, the guidance of Mr Justice Cobb in the case of **Re D (Children: Interim Care Order: Hair Strand Testing)[2024] EWCA Civ 498** and considered the results holistically in the context of all of the other evidence in this case.

The Background

28) The following facts are agreed except where stated otherwise.

29) The mother is in her mid-20's and the father is 4 years older. It is agreed the father was the mother's first significant relationship who she met when she was around 17 years old. The mother's case is that she has now separated from the father, the local authority concedes it has no direct evidence to suggest their relationship is ongoing at present.

30) Annie is the mother's fourth child all of whom have been fathered by F. The parents' eldest three children, a boy called Oliver (now aged 5) and two girls called Poppy (now aged 4) and Maisie (now aged 3) were the subject of care proceedings between 2021/23 which resulted in Oliver and Poppy being placed for adoption, and Maisie being made the subject of a care order with a care plan of foster care due to her complex health needs arising from her extreme premature birth at 23 weeks gestation. Those orders were made by this court on the 17th January 2023 after lengthy court proceedings and I am therefore, well acquainted with the history of this mother and her children.

- 31) In the proceedings which took place between 2021/23, the statutory threshold was crossed due to the risks the parents presented to their three older children. The findings made by the court were about their relationship which was characterised by domestic abuse and violence perpetrated by the father towards the mother. In order to give an illustration of it the court made findings identifying four specific dates when assaults took place: November 2019, August 2020, and two after proceedings had been issued, in March 2021 and July 2022 to demonstrate the duration of the violence with no reduction in its severity or likelihood of occurring. The parents were both using illegal drugs whilst caring for the children, the mother tested positive for cannabis use and the father for both cannabis and amphetamine use. The local authority attempted to manage the risks to the children in the care of their mother by putting in place safety plans which the parents breached. In January 2021 social care staff found the father hiding in the loft at the family home when he should not have been present. On the 11th July 2022, the father was arrested at the mother's home following an incident of violence perpetrated by him towards her. This was a new confidential address where the mother had been placed for her own safety but the court found she had invited him to her property with no regard for the impact the nature of their relationship would be likely to have on their children.
- 32) Annie was born prematurely at 28 weeks. Annie spent the first 5 months of her life being cared for in hospital and when she was ready for discharge the local authority issued these proceedings on the 19th January 2024 seeking an interim care order and her removal into foster care. An interim care order was made by this court on the 22nd January 2024 without any opposition from the mother, and Annie has resided in foster care since her discharge from hospital at the end of January 2024.
- 33) The reason the local authority made this application is due to its concern it had evidence to demonstrate the mother had not made sufficient or sustained change since the previous proceedings concluded a year before, and Annie's safety was likely to be compromised if she was cared for by her mother.
- 34) At this final hearing it relies upon the findings made by this court in the previous proceedings, which the mother concedes, and in addition, it asserts the mother has continued in her use of illegal drugs namely cannabis both during pregnancy and subsequently up until at least March 2024. It alleges the mother has also used

amphetamine after the proceedings were issued. It asserts the mother is being dishonest when she asserts she has not used cannabis since October 2023 and it relies upon the drugs tests carried out during proceedings by the company, Lextox.

35) The local authority seeks further findings about the mother's dishonesty and it identifies the mother's attempts to conceal her pregnancy with Annie from social care when questioned about this in August 2023; her denial that F was the father of Annie, a lie which she accepts she maintained up until the morning of the first court hearing in January 2024 when DNA testing was discussed; the mother's lack of openness and honesty about a further pregnancy and subsequent miscarriage she suffered in January 2024 and who the father of that child was; the mother's reluctance and unwillingness to adhere to safety plans during the period of PLO planning prior to proceedings being issued when social care were unable to gain access to her home. The concern which arises from this is that the agreed plan was for the mother to be contactable in the event of an unannounced visit to her property if she was not at home. The mother was not contactable and noise was heard within the mother's property suggesting someone was present but not permitting access.

36) Additional findings sought relate to the mother's failure to access ante-natal care promptly during her pregnancy despite being aware of her pregnancy being high risk due to the premature births of each of her previous three children, all of whom were born before 32 weeks gestation. The local authority asserts the mother remains vulnerable and socially isolated without a reliable support network, the emergency contact number given by the mother to the midwifery service in August 2023 is F's mother's number suggesting she has, by extension, remained in some form of contact with the father. The local authority asserts this increases the likelihood of Annie being brought into contact with the father and the risks he poses to both mother and child. The mother denies F was the father of the pregnancy which she miscarried in January 2024 but the person she names as the father is also an individual known to the local authority to be a person who poses a risk to her safety, and it asserts this highlights her vulnerability to abusive relationships.

37) During these proceedings for Annie, the court directed hair strand testing of the mother to ascertain any drug use, and a parenting assessment of the mother and of any friends or family members who wished to be assessed to care for Annie. At the initial

IRH listed on the 4th July 2024 the mother applied, very belatedly, for a psychological assessment to update the assessment she had undertaken in the previous proceedings. It was an application opposed by the local authority and the children's guardian but granted by this court because it was necessary to evaluate the progress the mother had made in the therapy she had been undertaking since the previous proceedings concluded. This led to the instruction of Dr Ian Brown whose report and evidence is before the court.

Analysis and Findings re Threshold

The Mother's Use of Illegal Drugs

- 38) In her final written response to the facts pleaded to satisfy the statutory threshold and in her oral evidence, the mother denies using cannabis after October 2023. In her initial response filed at the outset of these proceedings dated 9th February 2024, the mother accepts she used cannabis during her pregnancy but asserts she stopped using cannabis in August 2023. She denies ever using amphetamines or being in contact with anyone who has done so during these proceedings.
- 39) The mother invites the court to reject the expert test results and instead, to prefer the wider picture namely that she has visited Annie extensively during her stay in hospital and in the care of the local authority but no one has noted her to be under the influence of any substances; she has undertaken some random urine drug tests conducted by the local authority and these have been negative; and no drug paraphernalia has been found at the mother's home on any social care visit. The mother cannot explain the positive result for amphetamine but denies using it.
- 40) Having considered all of the evidence on this issue I find the mother did use cannabis before and after Annie was born and I prefer the Lextox results for the following reasons.
- 41) Firstly, the unchallenged midwifery evidence demonstrates a positive urine test result for cannabis on the 9th August 2023 and the mother informing the midwife she was smoking '3-4 joints a day' at that point in the chronology. The mother accepts this to be correct.

- 42) Secondly, the drug testing of the mother during proceedings covers the period, end of December 2023 to the end of March 2024. The results demonstrate a positive result for a constituent of cannabis throughout this period. Further questions have been directed to Lextox in light of the mother's denial she has used cannabis since August 2023, and even further questions when the mother suggested the positive result may have been caused by passive exposure but the opinion of the expert testing company remains the same.
- 43) I am persuaded to accept the mother has used cannabis beyond the period she admits to and this is not attributable to passive exposure or a single episode of use in October 2023 because her results are positive and above the cut-off level for delta-9-THC which indicates and is consistent with chronic (repeated) use of cannabis. Even if the mother were to have much slower than average hair growth, the period of usage would be from the middle of October to the middle of March 2024 which is still beyond the period the mother is prepared to admit to.
- 44) This conclusion is consistent with the mother being dishonest with the court in the documents she has submitted when she initially asserted she had not used cannabis since August 2023, a lie which she perpetuated by repeatedly giving the same account to Ms Main, who she knew and trusted, when Ms Main asked her the same question. I do not accept the mother's explanation for the shift in the dates she put forward when she said, *"I got mixed up at the time, I was going through a lot with my older children"* because the mother did not file her initial response until February 2024 which gave her ample time to reflect, recall and be truthful. In the context of this case I find it is more likely the mother shifted the dates to fit the evidence. The mother's ongoing use is also consistent with her cannabis use in the previous proceedings and her ongoing use of smoking it several times a day which she admitted to the midwife in August. It is consistent with the smell of cannabis in her home when the social worker visited in February 2024. She did not engage with any substance misuse work thereafter to support any reduction and there is no reasons for her to suddenly just stop as she asserts when she has been using cannabis since she was 17. It is implausible she stopped in August apart from a 'one-off' episode in October when she indicated in her evidence she uses cannabis to manage her stress levels and these proceedings have been very stressful for her.

- 45) I have considered the fact that no professional has noticed the mother to be under the influence of substances is not inconsistent with this conclusion because the mother accepts she did use cannabis in October 2023 which covered the period she was visiting Annie daily in hospital, and this simply demonstrates the mother is adept at concealing it from health professionals and social care. I am persuaded the mother continues to be dishonest about the extent of her cannabis use when she denied it in her oral evidence.
- 46) I have also considered that many parents do use cannabis and care for their children to a good enough standard and this court does not and must not have unrealistic expectations about standards of parenting. However, I have also taken into account that illicit drug use impaired her parenting of the older children and contributed to the neglect of their welfare causing Oliver and Poppy to require a therapeutic level of re-parenting once they were accommodated by the local authority. I am therefore persuaded in this case this is a risk which is likely to lead to the neglect of Annie's welfare whilst ever the mother is under the influence of illicit drugs, not least due to her complete lack of support network who could step in and take over the care of the child until she recovered. I find the mother is not being truthful about her cannabis use and I make finding number 2 on the schedule accordingly.
- 47) Having been persuaded the mother is being dishonest about her use of cannabis I find it to be equally likely she is being dishonest about using amphetamine. This is supported by the hair strand drug testing for the period start of April – start of July 2024, and the mother actively denied being in contact with any person who would use it to be able to conclude it was due to passive exposure. The Lextox results do not, in any event, support a conclusion of passive exposure as this would be the less likely explanation for the positive test result.
- 48) I find the mother has been dishonest with social care when she attempted to conceal her pregnancy with Annie from professionals. The mother told Dr Brown she knew she was pregnant by the 9th May 2023 but when asked directly by social workers who visited her at home on the 2nd August 2023, she denied it. In her oral evidence the mother accepted this to be correct but deflected and denied responsibility for concealing it by alleging the social worker '*was very rude*' to her and that is why she didn't tell them. I find this defensive deflection to be consistent with the psychological assessment of her

personality which has been carried out in these proceedings. For three months between the 9th May and the 9th August 2023 the mother did not make any attempt at all to inform the local authority of her pregnancy even though social care were involved in her life with the provision of contact to the older children in this period. This was a sustained failure to work openly and honestly with social care.

- 49) I am persuaded that up until the first court hearing on the 22nd January 2024, the mother had not been open and honest about Annie's paternity. The significance of this is demonstrated in the mother's ability to maintain her lies and repeated denial to Ms Main who she accepts she had a positive relationship with, who was supportive of her, and who had given her repeated reassurances the local authority may not remove Annie from her care if she was truthful with them. When asked in cross examination why she did not tell the truth to Ms Main who she liked and trusted, the mother said "*I don't know, there isn't an explanation*". It gave me little confidence the mother understands why she feels the need to be dishonest and I consider she still has a worrying lack of insight into her behaviour in this respect.
- 50) There has been no dispute the mother did not tell social care she was pregnant again at the end of 2023/early 2024 or the fact the local authority discovered this news when they were told the mother had suffered a miscarriage by the midwifery team. When asked about this on the 18th January 2024, the mother's position was that it is "*confidential to her and no one else's business*" demonstrating a lack of insight into the impact another pregnancy may have had upon the care planning for Annie.
- 51) I am persuaded and so find the mother failed to adhere fully to the safety plans in place, not during the PLO process as pleaded but from the start of 2024 once the safety plan had been communicated to her. As part of the safety plan the mother agreed she would permit unannounced visits to her home by social care staff and if she was not at home, she would answer her phone to enable the social worker to know where she was. This was important for the local authority to gain an understanding of the mother's lifestyle and routines. The mother agreed the safety plan was necessary "*to make sure Annie would be looked after and to make sure I wasn't with [F]*". I am persuaded the mother breached the safety plan by not permitting access when it was likely she was at home and by not answering her phone following failed visits. I am not persuaded the mother had any reasonable excuse for breaching it.

- 52) The reasons I find this proved are because I do not accept the mother's explanation the reason the social worker was unable to speak to her was because she kept her phone on silent and didn't hear it ring. The mother agreed she was keen to demonstrate she was not with F and I find if this is correct, it is implausible the mother would keep her phone on silent repeatedly unless she had something to hide. I do not accept the mother's initial assertion, which she subsequently resiled from, that her phone was on silent because she was "*always in the hospital*" because this was incorrect.
- 53) I am persuaded there have been occasions when the mother refused to permit social care to have access to her home and it is likely she was there when the social worker heard someone moving around inside even though the mother did not answer the door. I find it significant that the mother has, more recently, made herself available to answer her phone and to permit social care to visit but that change of position by the mother has only been achieved in the last few months. I prefer the evidence of Ms Main on this issue regarding what she heard and find her to be the more reliable witness in light of the mother's evasiveness with answering the phone to confirm her whereabouts.
- 54) It is accepted the mother failed to access any ante-natal care for Annie between 9th May 2023 and the 9th August 2023 despite being aware of her high risk previous pregnancies and the likelihood of a premature birth. I acknowledge some of the delay may be attributable to the mother contemplating terminating her pregnancy which is never an easy decision to make but a delay of 3 months placed the health of Annie in utero at risk.
- 55) At the time of Annie's birth, the mother was, and still is, socially isolated with limited support networks. She did not dispute she gave the midwife F's mother's phone number as an emergency contact number in August 2023 which persuades me she was, at that stage at least, in some form of communication and reliance upon Annie's paternal family which was likely to lead her into contact with F.
- 56) The mother accepts she became pregnant to an individual who may pose a risk to her safety at the end of 2023 even though I accept she did not know of his character or the risks he posed until afterwards. It does, however, highlight her vulnerability and lack of healthy relationships and the likelihood of Annie suffering significant harm by being brought into contact with persons who pose a risk to her safety. I am not persuaded the

evidence is sufficient to justify the use of the adjective 'chaotic' to describe the mother's life. Her lifestyle is a very vulnerable and isolated one but not chaotic.

- 57) Accordingly, I am persuaded the local authority is entitled to each of the findings set out above in its schedule and at the time it took measures to protect Annie she was likely to suffer significant emotional harm and neglect of her welfare attributable to the mother's parenting. This arises from the mother's drug use and her vulnerabilities due to her lack of support network, her relationship/s with persons who posed a risk to her, and her inability to work openly and honestly with professionals to ameliorate those risks.

The Parenting Assessment

- 58) The parenting assessment of the mother concluded negatively, the initial one dated October 2023 was updated and filed in May 2024. The mother attended all of her assessment sessions but unfortunately, the social worker's evidence is that whilst the mother has made some positive changes these are not sufficient to be confident she could care for Annie. Ms Main's concerns include the mother being able to cite information she has learned whilst attending courses but she has not yet reached the stage of being able to apply this in practice. In her oral evidence, Ms Main explained the mother's lack of openness and honesty continues to be an issue with her ongoing denial of illicit drugs, and the likelihood of her forming relationships in the future which are abusive.
- 59) Ms Main agreed the mother requires further therapeutic interventions but is concerned that the time the mother now needs to achieve further change is outside the timescale Annie requires for permanency, and to delay for a further period is likely to prejudice her welfare. Ms Main submitted an application to the local authority's Resource Allocation Panel (RAP) to try and obtain funding for further therapy for the mother but this application has been refused. Accordingly, unless the mother funds this herself, it is not going to be available.
- 60) The local authority has explored potential alternative kinship carers but no other persons who were put forward were positively assessed. As no other suitable carers have been identified, the local authority considers the only realistic and safe care plan it can

devise is one of adoption outside of Annie's birth family and it is for this reason it seeks care and placement orders.

The Psychological Assessment

- 61) Dr Brown's report is dated 23 August 2024 and he has provided responses to some additional questions posed to him in September 2024 as well as giving oral evidence.
- 62) The mother portrayed a benign childhood to Dr Brown but he does not consider it was as positive as she would have him believe. The reason he concludes this is because she has a vulnerable attachment style which is characterised by being both fearful/insecure and enmeshed in relationships which makes it difficult for her to leave them. He considers this difficulty is exacerbated by the mother's social isolation, which means if she leaves the important relationships in her life, she is left with no one else.
- 63) From an intellectual perspective, he considers the mother is perfectly able to learn new information and she has benefitted to a limited extent from the therapy and courses she has completed. His concern, however, is that he did not observe the mother's life to be fundamentally changed through the therapy she had completed to date, she remains socially isolated and in her adult life has swung from being reliant on F, to being isolated, to being aligned with her own mother who cannot provide the balance of interaction which the mother needs. Dr Brown's opinion is that the therapy does not appear to have taught the mother the skills to communicate and assert her own wishes and desires.
- 64) Dr Brown's opinion in his written report is that the therapy the mother has undertaken to date has been of value but insufficient because it has not addressed the underlying vulnerable attachments she has. The therapeutic intervention which the mother still requires would not be available on the NHS because she does not have any mental illness diagnosis and in any event, the time it would take to complete is six to nine months which are out-with the timescales for the child.
- 65) He states, without the successful completion of therapeutic interventions, it is likely the mother will continue to swing between pleasing her mother, being isolated, or returning to F or an equally violent and controlling relationship.

- 66) Dr Brown is concerned that whilst the mother ostensibly accepted the concerns of the professionals, she made a number of statements which undermined any confidence he held she could follow through on her ability to keep herself and Annie safe. One example being when questioned about the violence in her relationship with the father. The mother said she let F move back in with her *“because I am an idiot, I made a mistake. He wanted to see his son and I didn’t want to deprive a child of his dad”*. Dr Brown explored the mother’s understanding of what she had said, particularly the impact on Oliver but she could see nothing wrong with it despite completing courses on domestic violence.
- 67) The mother told Dr Brown that after the previous proceedings ended, F came round to her home and blamed her for losing the children and assaulted her again and took her phone. The mother said as a result, F was given a two year retraining order and a fine. Despite this, the mother still contacted the father to apologise over losing the children and met up with him again. She said she told the father she could not be with him any longer but she still had sex with him *“because I was upset”* and this led to Annie’s conception. The mother asserted she discovered she was pregnant with Annie on the 9th May 2023 when she was 12 weeks pregnant. At the time she didn’t tell anyone about the pregnancy as she was spending a lot of time on her own and gave birth at 28 weeks. The mother accepted she had *“made out”* it was a one night stand because of the history of domestic violence with F, adding, *“which made me look an idiot”*.
- 68) The mother agrees she has moved home since the previous proceedings concluded but was adamant she did not know her new property was closer to where F’s family is living.
- 69) From the psychological testing carried out by Dr Brown there were two scores which were of clinical significance. One related to the mother’s score on the ‘disclosure index’ which signifies possible problematic response behaviour where the person is inclined to be reticent and secretive, and a tendency towards defensiveness. The other was a dominant *schizoid* personality trait. In his oral evidence he explained her disclosure score indicated she was not being deliberately misleading but was not being open and honest with the scale. The schizoid personality trait is to be considered alongside the psychological testing which the mother undertook in the previous proceedings. His opinion is that, *“Looking at the two reports side by side, the mother has moved towards being more open and honest but is still not being open and honest at the point she took the test with me.... The*

criticism she has experienced makes it very difficult for her to be open and honest because she perceives further criticism will follow. She doesn't feel a strong connection to people and doesn't expect people to be helpful, kind and respectful especially social workers, or psychologists?

70) Dr Brown's opinion is that it is the mother's vulnerable attachment style which is the underlying cause of her isolation and which makes her vulnerable to domestic abuse. Unless she develops wider life aspirations, she will remain vulnerable to returning to unsafe and controlling relationships. Dr Brown highlights the key challenge, which is the timescales for the child and draws upon the NSPCC Evidence Based Framework for Return Home Practice (2015) which cautions that reunification with a very young child is also a risk because the parent must make rapid changes within the timescale of the child.

71) In his written report, Dr Brown has considered the interventions the mother has completed to date, namely cognitive behavioural therapy (CBT) but goes on to state: *"From a psychotherapeutic perspective, pure CBT does not generally work with this issue, but tends to focus on reducing symptoms associated with mental illness, such as anxiety, depression and sometimes trauma. CBT tends to work on the here and now rather than aiming to understand the aetiology of symptoms. In my experience addressing a vulnerable attachment style generally requires either long term therapy, though research does indicate that if a person is able to enter a safe and supportive relationship this alone can positively change a person's attachment style"*. He goes on to recommend cognitive analytic therapy (CAT) of one-to-one psychotherapy usually occurring over 8-36 sessions but notes it is extremely unlikely the mother will be able to access any of the therapies through the NHS.

72) In his oral evidence Dr Brown maintained his opinion that the mother's relationships with her parents and with the father have been equally controlling and she has suffered emotional abuse as a result, as well as physical abuse from F. His concern is that *"control can be just as powerful and harmful, how control is exercised is done by some intimidation or threat, and physical control leads to a risk of harm"*. Dr Brown's expectations of therapy for the mother is to enable her, *"not to be controlled by them and able to make choices for herself and her daughter, to assert her own needs and not be reliant or dependent on her parents"*. Dr Brown highlighted the negative influence of the maternal grandparents upon the mother when the mother described *"going back to F because she couldn't go home to get the care she needed or the respect as an adult"*.

- 73) Dr Brown explained his concern how the mother described a '*non-existent circle of friends*' which continues to make her vulnerable to abusive relationships, and the history of her relationship with the father because she has nowhere else to go and it causes her to '*put up with his behaviour*'
- 74) Dr Brown was made aware of the mother having made some recent changes to widen her social circle, notably her volunteering with a charity and securing employment, and he agreed this was all very positive because it will give her opportunities to learn how to say 'no' to people and to express her own needs. The mother "*doing things like employment and getting out of her relationship with her parents and starting to meet and make relationships with different people, so if one relationship becomes problematic there are other relationships she can turn to and she isn't dependent on one relationship to complete all of her needs*".
- 75) Dr Brown does not recommend Annie returning to the care of her mother currently. He recommended assertiveness training for the mother as well as CAT/schema based therapeutic interventions. The timescales for this therapy would be an initial period of 6- 8 weeks (or 8-10 weeks taking into account there would be a period of delay in funding, sourcing and starting it), during which the local authority could assess the mother's engagement and what gains are being made, e.g. is the mother growing in confidence, how does she relate to people and whether changes are being made in her interactions with professionals and becoming more open and honest.
- 76) If the court were to find the mother has used illicit drugs, Dr Brown recommended further hair strand drug testing and the timescales would be longer and progress slower as he would wish to see negative drug test results for at least 3 months.
- 77) Following the initial period of therapy, assuming it was successfully completed, Dr Brown recommended a further period of 6-8 weeks of increasing contact and a progression towards unsupervised contact, in total a minimum of 14-18 weeks and thereafter the formulation of a care plan with a delay in the permanency planning for Annie in the region of 22-24 weeks. Dr Brown agreed in cross-examination with the timescales he had included in his written report of in the region of 6-9 months before Annie could be fully rehabilitated in the care of her mother if all went well.

The Mother's Case

- 78) The mother's case may be summarised as follows, she accepts Annie cannot return home immediately due to the necessity of further therapeutic interventions and for this reason the proceedings should be adjourned to enable her to complete the same.
- 79) Since the previous proceedings concluded the mother has participated in 12 weekly sessions of CBT with Sheffield Mind which ended in early July 2024. The aim of which was to speak about the violence she experienced with the father and how it had affected the children.
- 80) The mother has completed two courses with IDAS: a six-week Building Bridges course in May 2024 and the 'Power to Change' course between January - February 2024. During the previous proceedings she completed the 'Escape the Trap' course which is a domestic violence programme. I pause to note it is usually an 8 week programme but it took the mother 9 months to complete between February – November 2022 due to her sporadic engagement. The facilitator of that programme, 'LG' gave evidence in the previous proceedings and explained her concern was about the mother's inconsistent engagement rather than her ability to understand or engage in any individual session.
- 81) In her oral evidence the mother confirmed she has in the past week obtained employment and now completed several of the CHIME framework courses. She states she is keen to start the assertiveness training course. She said she was also keen to complete the CAT/schema based therapy Dr Brown recommended and would do everything she could to have Annie returned to her care who she described as "*my whole world*". Given time, the mother wishes to save up the money from her employment to fund the therapy herself if it is not to be funded by the NHS or the local authority.
- 82) The mother concedes the threshold is crossed for the purposes of making a public law order but invites the court not to make one at this hearing and to extend the proceedings further before concluding 'nothing else will do' but adoption to meet Annie's long term welfare.

The Children's Guardian's Evidence

- 83) In her final analysis, filed in June 2024, the guardian was supporting the local authority's applications. Following receipt of Dr Brown's assessment Ms Fish was less

sure of her recommendation that ‘nothing else would do’ for Annie and requested further information and clarity from Dr Brown about time scales. It led to Dr Brown giving oral evidence. At the conclusion of his oral evidence, Ms Fish again supported the local authority’s applications. A summary of her reasons for doing so are set out below. I commend Ms Fish for taking time to pause, reflect and to seek further information when the recommendation she is being asked to make has life-long consequences for a child. By doing so, Ms Fish has fulfilled her independent role to Annie and ensured all avenues have been explored by seeking clarity and not slavishly following the local authority’s recommendations.

- 84) Firstly, the timescales for the mother to undertake and successfully complete the therapy Dr Brown recommended are now outside Annie’s timescales for permanency.
- 85) Secondly, a lack of optimism the mother could make the changes she needs to make. Ms Fish said: *“It is very difficult to say with confidence M could make the recommended changes. It is positive she’s made some and I commend her for that. In Dr Brown’s evidence, he couldn’t be confident after 10 weeks we could look at rehabilitation for Annie to her mother and we would need to look at further assessment and then a more lengthy rehabilitation. That all causes me concern. We could have 10-12 weeks for initial therapy and M may still not be in a position for Annie to be rehabilitated and the delay for her would be significant and not meaningful”.*
- 86) Thirdly, the mother’s dishonesty about her drug use and the impact this is likely to have upon her parenting and engagement with any safety plan.
- 87) Finally, the impact of the delay upon Annie’s welfare: *“I feel there is a significant detriment to Annie to the case ‘going off’ for the period discussed in Dr Brown’s evidence. Annie has been with the same carers since she became a ‘looked after child’ and her bond and attachment to those carers is growing. She is also having a high level of contact to M and growing an attachment to her. Annie is getting older and starting to walk and talk and she is not with her main care giver who is going to look after her throughout her minority, she has also already had one change in primary care giver from her mother when she left the hospital. If the change in care happens soon, she will have longer to bond with new carers and they will have longer to bond with her from a much younger age. That benefits her throughout her life, for them to be able to tell her things from when she was under 2 years old.”*

The Welfare Considerations

Annie's Wishes and Feelings and Needs

- 88) Ms Fish stated Annie is too young to express her wishes and feelings but if they were vocalised by her it is likely she would choose to live with and be cared for by her mother if it was safe for her to do so. It is agreed the mother has been committed to visiting Annie in hospital throughout her lengthy stay, and to attending a high level of contact four times per week. The guardian agreed, the mother has been dedicated to her visits and shown Annie love and affection. The quality of the time they spend together within the confines of supervised contact is positive. The children's guardian has included her observations of the contact case notes she has read in her addendum report which reflect a high quality experience for Annie with her mother.
- 89) In the child's permanence report, Annie is described as being white British and is a generally healthy little girl with lovely big blue eyes. She is the expected size and weight for her corrected age allowing for her prematurity and is described as a very smiley and happy baby. Annie is slightly behind in her development due to her prematurity, mainly in her gross motor skills, and when the report was prepared she was unable, at 11 months of age, to sit up independently or crawl. There is also some delay in her personal social skills but she is meeting age-related expectations for her fine motor skills and problem solving. Annie has required a nasogastric feeding tube due to her poor weight gain and reflux and is now gaining weight as expected with no vomiting. She requires feeding by this method for 16-18 hours per day with a six-eight hour break. Annie has begun trying small amounts of food and is tolerating this well. It is not known how long she will require the feeding tube for.
- 90) The report does not identify Annie to have significant physical, educational, social or health needs which would prevent an adoptive family being found for her provided they were trained in the use of her feeding tube. The mother is already able to meet all of Annie's basic care needs in contact. Annie has established a good emotional attachment to her foster carers and to other members of her foster family but this is not an early permanence placement and Annie cannot remain where she is, therefore there is going to be a need for Annie to change her care arrangements again at some point whatever this court's decision is.

The Parents' Ability to Meet Annie's Needs and the Risk of Harm

- 91) Annie's father has played no role in her life to date, he has not made any enquiry into her welfare or participated in these proceedings. The social worker endeavoured to engage him in the proceedings but when she visited he refused to speak with her. His lack of engagement with any assessment process in these proceedings to demonstrate he has changed since the previous proceedings ended, persuades me it is highly unlikely he is in a position to care for his daughter who he has effectively relinquished to the care of the local authority.
- 92) In the previous proceedings the mother was assessed as being unable to meet the needs of her older three children and what changes needed to be made by her were unlikely to be made within any meaningful timescales for them. This court was correct about that because at this final hearing which is taking place some 21 months later, the mother concedes she is still not in a position to care for Annie and asks for more time.
- 93) Sadly, the assessments conducted in these proceedings and the evidence before the court have evidenced insufficient change in the mother's parenting capacity since the previous proceedings ended, and when I turn to consider the necessity of adjourning these proceedings for further change to be achieved, I am persuaded there is insufficient cause for optimism the nature and degree of change that is required will happen in a meaningful timescale for Annie. This is for the following reasons.
- 94) The mother has, very recently, begun to demonstrate a commitment to change by her engagement with relevant courses, obtaining employment, and by working more collaboratively with the local authority. This is all very positive and she is to be commended for it and actively encouraged to continue with it but I have serious reservations she will be capable of maintaining her commitment which has only ever been achieved during the externally imposed framework of proceedings.
- 95) In the previous proceedings the mother took 9 months to complete an 8 week course, her engagement was sporadic and only increased under the pressure imposed by the timing of the final hearing. In the current proceedings, a similar pattern is evident, the mother's engagement with the local authority is recent, her obtaining of employment is recent, her completion of the CHIME courses is recent. This does not give time to

assess their efficacy or sustainability. What I do know is that the completion of the domestic abuse course the mother 'successfully' completed with 'LG' in the previous proceedings was not put into practice as the mother almost immediately returned to her relationship with F, despite being able to give all of the correct answers the professionals wanted and expected to hear following her attendance on the course. It persuades me Ms Main is likely to be correct when she expressed her concern that putting it into practice is the issue for this mother, and the only reliable indicator of the mother being able to maintain her commitment to change will be by lengthy observation and assessment of her actions. Simple attendance on courses is not going to be enough in this case.

96) When I turn to consider whether there are some solid evidence based reasons to believe the mother will be able to make the changes she needs to make and to maintain and sustain them within a time frame which is meaningful for Annie, my robust and realistic appraisal of the evidence is that she will not.

97) I reach this conclusion because she is still not being open and honest about her drug use which persuades me of the ongoing likelihood of repetition. It has been a habit she has returned to at times of stress since she was 17 years old and she continues to deny it rather than seeking professional help with it.

98) When I consider the totality of the evidence in this case circumstantially, I do not accept it to be likely the last time the mother had any contact with F was the night Annie was conceived. Whilst it is not possible to pinpoint any date, I find it to be more likely she has been in contact with him in some format after that date by drawing inferences from the following: her unwillingness to permit the social worker into her home at the start of the year; her unwillingness to answer her phone to enable the social worker to ascertain her whereabouts, effectively 'hiding' from the local authority; her positive test results for the use of cannabis and amphetamine which are the two drugs the father is known to use; the mother's provision of the paternal grandmother's phone number to the midwifery service; the lager cans found in the mother's dustbins when she doesn't drink alcohol; and the covering of all of the mother's windows internally by curtains or blankets which prevented the social worker peering through the window to see who was home. One or two of these features may have given rise to a suspicion but the totality of

it tips the balance into finding on the balance of probabilities the mother is not telling the court the truth when she states she has had no contact at all with the father since the night Annie was conceived.

99) I consider it likely the mother would be willing to attend for any session connected with the assertiveness training or CAT/Schema based therapy but I not persuaded the long-term change it needs to bring about in the mother's vulnerable attachment style, which is the underlying cause of her social isolation, is capable of being achieved in a period as short as 6-8 weeks. The emotional abuse and trauma which has led the mother to this point in her life has been experienced by her since she was a child, and I agree with the social worker and children's guardian that where relationship difficulties have arisen over years of trauma, the initial period of therapy may provide her with a greater understanding of why she needs to be there but it is not going to be sufficient to bring about long term change. A person really has to understand the need for change and to want to achieve it before it is likely to happen. I am not persuaded the mother is yet at that point.

100) I agree with Dr Brown that a further period of assessment thereafter is likely to be necessary to see whether she is growing in confidence or how she responds to professional advice without perceiving it as criticism or by responding defensively and with dishonesty. In my judgment, the mother will need a lengthy period of assessment to see if she can apply any insight gained in therapy to the creation of healthy relationships. She will need a period of assessment to see if she can achieve and then sustain long term abstinence from any drug use. I consider all of this additional assessment would be essential because currently it is difficult to identify any internal psychological process for this mother to bring about change, it is all being led by external pressure e.g. the court process.

101) The timeframe given of 22-24 weeks before any permanency plan for Annie could be formulated and 6-9 months before she could be fully rehabilitated to the care of her mother is wholly foreseeable and likely to lead to Annie celebrating her second birthday in the care of foster carers not 'parents'.

102) I have been persuaded that this is not a mother who has achieved the necessary change and now requires further time to demonstrate she can sustain it, this is a mother

who is at the very beginning of making the changes which are essential to her parenting of any child. I sincerely hope she continues to make those changes but I doubt she will make those of the nature and degree required in the short to medium term foreseeable future.

- 103) When I turn to consider what support could be put in place to ameliorate any of the risks which exist, and all of the orders which are at the court's disposal, I am persuaded it is not going to be possible to devise a safety plan until such time as the mother has addressed her ability to work openly and honestly with the local authority on a consistent basis. A risk to a child's safety is only capable of being managed if the local authority is aware of it and can safely monitor it for any escalation. Having listened to the mother's oral evidence I am persuaded the mother is yet to reach that point and it is not possible to predict when she will be.

The Ability of any Other Person to Care for the Child

- 104) There are no other family members who have come forward and been positively assessed. The local authority assessed the maternal grandparents but their assessment was negative in its outcome and they do not seek to challenge it.

The Impact of any Change in Circumstances on the Child Now and Throughout Her Life

- 105) If Annie becomes an adopted person it is likely she will lose the potential to be rehabilitated to the care of her mother if she goes on to make any changes in the long term future, and she will lose part of her identity as she will no longer be a member of her birth family but will join her own 'forever family'. Annie has an emotional connection with her mother and enjoys spending time in contact with her and this will be a loss to her when it comes to an end. The disruption to Annie's emotional and psychological attachments to her mother and to her foster carers is going to be a challenge and cause short-term confusion and anxiety for her. It serves to emphasise the prejudice being caused to her welfare by further delay.

- 106) I also take into account that adoption outside of a child's birth family is not always successful and can break down in later years and cause further harm to a child. Fortunately, Annie is sufficiently young to make this outcome unlikely and the positive attachments she has formed to her foster carers are likely to be transferable to adoptive

carers to make it a successful adoption. It may take longer to find an adoptive placement for Annie due to her higher than average care needs and there is no guarantee what time-frame that may be achieved within, but I am persuaded it will be achievable. Any adoptive placement which is found for her will only be progressed after a robust and comprehensive assessment of the prospective adopter/s ability to meet her needs and this will minimise the likelihood of any adoptive family placement breaking down. An adoptive placement will keep Annie safe, it will meet her needs, it will provide her with life-long security and be free of the risks she is likely to face in the care of her mother or indeed her father. It may also provide her with a relationship with her older full siblings which will benefit her understanding of her identity.

Conclusion

107) I am persuaded that without the successful completion of all therapeutic interventions followed by a lengthy period of assessment and observation of the mother in the community to assess her ability to sustain any changes, it is unlikely she will be able to keep her daughter safe from harm. If she does not make these changes, the risks which Annie is likely to encounter are the same as those which Oliver and Poppy encountered in their mother's care. This was not low level harm and neglect but significant emotional harm to their welfare. Their welfare was harmed to the extent one foster placement broke down due to the siblings' behaviour towards each other and they required therapeutic re-parenting to repair their relationship. The impact upon Oliver and Poppy of the care they received is set out in the judgment from the previous proceedings filed in the court bundle, and Annie must be protected from this harm occurring to her.

108) Without therapy, the likelihood of the mother entering or resuming an abusive relationship remains ever present. This was my conclusion in January 2023 at paragraph 92 of the previous judgment: *"Neither parent has sourced or completed the therapeutic interventions recommended by [the previous psychologist] and it is likely this would take a minimum of three months if it started immediately. There is no evidence it is going to start immediately. I am persuaded the likelihood of the mother resuming a relationship with the father or with another person who may pose a similar risk to the safety of herself or any child in care is likely to continue until she does and/or there is cogent evidence her level of insight has increased."* Given this is exactly what happened after

those proceedings concluded leading to the mother being assaulted yet again by the father, it serves to highlight the risks Annie will face in the care of her mother.

109) When considering the impact of the delay upon Annie caused by any adjournment of these proceedings, I accept the evidence of the children's guardian and the ways in which any further delay is going to prejudice her welfare. This mother requires much more time than Annie can afford to give her to re-frame her internal template of what a healthy relationship looks like free of emotional and physical abuse, control and intimidation or bullying.

110) I have considered this court could invite the local authority to reconsider its refusal to fund further therapy for the mother, and it may or may not do so, I have also considered the mother's ambition to fund any therapy privately herself, but my decision is not based solely upon a lack of funding whether from the local authority, the mother or the NHS, it is based upon insufficient optimism that what needs to change is possible within Annie's timescales.

111) Having conducted the holistic balancing exercise and having considered everything I have read and listened to, I have been persuaded that making the care order and placement order sought by the local authority is necessary to protect and safeguard Annie's welfare and is a proportionate response to her situation, it is what her welfare requires. Accordingly, I make a final care order and placement order and I approve her care plan of adoption.

112) I am well aware this is going to be a very distressing decision for this mother and for that I am sorry, but my duty is to Annie. I have to have her welfare throughout her life as my paramount consideration and to make decisions based upon the evidence not upon where my sympathy lies. I have to set out my reasons, however difficult they may be to read, because this is an important decision for Annie and those reasons have to be recorded.

The Placement Order Application

113) I can confirm that in making the Placement Order I have read and considered the relevant documents in respect of that application. I am satisfied that adoption is in the best interests of Annie and is achievable for her. The mother has not given her

unconditional consent and I must formally consider dispensing with her consent on the basis the welfare of Annie requires it. Having reached the conclusion that adoption is in her best interests in the care proceedings, it follows I must dispense with the mother's agreement to Annie being placed for adoption in accordance with section 52 of the Adoption and Children Act 2002 in order to implement that plan. Accordingly, I dispense with the mother's consent to placing Annie for adoption and I make a placement order which authorises the local authority to place her for adoption with prospective adopters of its choice.

114) I direct the advocates to draft the orders arising from this judgment and to incorporate the final threshold within it.

115) In the event any party requires any further clarification or reasons in respect of any issue I reserve the right to provide the same once it has been brought to my attention. I remind the parties that any application for leave to appeal must be made within 21 days of the date of this judgment. In accordance with the judgment of **McFarlane LJ in Re H (Children) [2015] EWCA Civ 583**, the care and placement orders drawn by the court will have this reminder recorded on the face of the order.

116) Pursuant to Rule 25.19 of the Family Procedure Rules 2010, the party who instructed Dr Brown is to provide a copy of this judgment to that court appointed expert.

H.H. JUDGE MARSON

Dated: 22nd October 2024