

**IN THE FAMILY COURT AT WEST LONDON**

Gloucester House  
4 Dukes Green Avenue  
Feltham  
TW14 0LR

Date: 24 January 2024

**Before :**

**His Honour Judge Willans**

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**Between :**

**THE LONDON BOROUGH OF [ ]**

**Applicant**

**- and -**

**(1) Sarah**  
**(2) Peter**  
**(3) Oliver (through his Children's Guardian)**

**Respondent's**

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**Harry Simons** (instructed by **Children Services Legal Department**) for the **Applicant**  
**Finola Moore** (instructed by **Duncan Lewis Solicitors**) for the **First Respondent**  
**Katharine Marks** (instructed by **All Family Matters Solicitors Ltd**) for the **Second Respondent**  
**Pashi Rayat** (instructed by **Rayat and Co Solicitors**) for the **Third Respondent**

Hearing dates: 3-5 and 8 January 2024

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**JUDGMENT**

**His Honour Judge Willans:**

**The names of the individuals (other than professionals)  
in this judgment have been changed to preserve confidentiality**

**Introduction**

1. Oliver who was born on [ ] 2023. His parents are Peter and Sarah. I use their first names consistent with the manner in which they were addressed during the hearing. Each have been assessed as learning disabled and have been assisted by an intermediary with appropriate participation rules being applied during the hearing. This reserved judgment follows a four-day final hearing. I heard evidence from a residential unit assessor (Ms Massen); the allocated social worker (Ms Williams); from Sarah, Peter, and John (Peter's father) and from Oliver's guardian (Mr Taylor). I keep all of this in mind together with the documents in the final hearing bundle and the statement from the local authority's family finder (Ms Connelly) which was provided during the hearing.

**Background**

2. Oliver is Peter's first child but Sarah has three older children, each of whom have been previously placed for adoption (2012; 2013 and 2022). In the 2022 proceedings concerns related to Sarah's inability to parent her older children; a diagnosed personality disorder with reluctance to engage in work to address this; mental health challenges and vulnerability to relapse when under stress; self-harming and panic attacks, and; entering into volatile and abusive relationships.
3. The parents met online shortly after the conclusion of the 2022 proceedings with Oliver being conceived early in the relationship. Following his birth, the proceedings commenced and it was agreed there should be an assessment of the parents caring together within a residential unit ("the unit"). The parents moved into the unit on 10 March 2023. The unit's final report (July 2023) reached a cautiously positive conclusion recommending the parents transition into the community subject to continuing support and monitoring. However, matters then deteriorated and on 22 July 2023 Sarah informed the unit that she had chosen to separate from Peter. The parents separated and Sarah left the unit. On her own case she suffered a significant deterioration in her mental health and sought support from a longstanding friend, Chris, to help her through this period. Later they formed an intimate relationship and at the start of my hearing she was proposing to care for Oliver whilst living with Chris.
4. Oliver and Peter remained in the unit until 10 August 2023 when they moved into a new placement intended to act as a step-down for Peter towards more independent living ("the step-down placement"). Whilst this retained a general overview and monitoring role it was not intended to provide an assessment and did not have the levels of structure or rigidity found within the unit. On 29 August 2023 Sarah applied for an ISW assessment however the Court refused this. The Court made clear the applicant's final evidence should provide updating evidence as to Sarah with regard to her proposed role as long term carer for Oliver. An updating parenting assessment of Peter was directed to evaluate his progress in the community.
5. Concerns then arose in respect of Peter's care of Oliver and on 9 October 2023 the applicant applied for Oliver to be separated from Peter due to the level of concerns expressed by the

step-down placement. I refused this application however at the IRH on 17 November 2023 I was informed notice had been given to terminate the placement and Peter no longer sought to contest the applicant's plan for final orders. Oliver was placed into foster care pending this final hearing.

### **The parties' positions at the hearing**

6. The applicant's plan is for Oliver to be adopted. The guardian agrees with the applicant and supports the making of final orders. Sarah seeks an adjournment and residential unit assessment with Oliver in her care. At the conclusion of the hearing the details of this were not known. Since then, a C2 has been issued in support of this proposal. Peter opposes the application and opposes Oliver being placed into the care of Sarah or an adjournment for further assessment. He argues for a final order in his favour supported by a supervision order and underpinned by a plan of family and professional support.

### **The key legal principles**

7. My legal duty is to determine whether the legal threshold for making orders has been crossed; to consider the permanence provisions set out in the care plan; to investigate the related contact proposals, and; whilst affording paramount consideration to Oliver's welfare determine what final orders, if any, should be made.
8. It is agreed the legal threshold has been crossed although I am asked to consider aspects of it. It is agreed Oliver was at the date of commencement of these proceedings likely to suffer significant harm and that the harm likely to be suffered was attributable to the care likely to be given to him if an order were not made, not being that which it would be reasonable to expect the parents to give to him. Whilst this means I can make a public law order (care or supervision) it does not require me to do so. The order I make, if any, turns on a welfare analysis with Oliver's welfare being paramount. I will be required to conduct a proportionality exercise given the fact that any order made would impinge on the family members right to respect for their private family life. Any order must be proportionate in that it must be a proper and balanced response to the circumstances faced and should not go beyond that required. It must also be necessary and should not just be made because it is convenient or has some perceived benefits. It must be reasonable and lawful.
9. In this case there are some modest factual disputes. It will be for the party making an allegation to prove it and they will do so if it establishes the event is more likely than not to have happened. All the evidence is relevant however, at the heart of the evidence and requiring particular scrutiny will be the evidence given by the parents.
10. The decision as to the appropriate order to be made (if at all) will turn on what is best for Oliver, with his welfare being my paramount consideration throughout and will have regard to an evaluation of the proportionality of the outcomes being sought. An order made in respect of Oliver against the wishes of the parents is by its very nature an invasion of their private family life and requires justification. It must be proportionate in that it must be a proper and balanced response to the circumstances faced and should not go beyond that required. It must also be necessary and should not just be made because it is convenient or has some perceived benefits. It must be reasonable and lawful. The applicant seeks a placement order. I therefore assess Oliver's welfare throughout his life. I bear in mind the profound impact on family life that an adoption outcome would bring and consequently should subject the plan to the closest scrutiny. In doing so I should consider all realistic options placed before me and apply a holistic approach to my analysis. I will not be able to

sanction a plan for adoption unless I determine there is no other option that would properly meet Oliver's welfare interest. I bear in mind that in evaluating this question I am looking to options that will provide Oliver with good enough parenting, not perfection. A Court can only make a placement order in opposition to the parents' wishes if the child's welfare requires this to be done.

11. In carrying out my analysis I will be assisted by posing the following questions; (i) What is the type of harm that might arise on the facts of the case; (b) What is the likelihood of that harm arising; (c) what would be the consequences for Oliver if it arose; (d) what steps can be taken to reduce the risk of the harm arising or to mitigate the effects on the child if it does arise; (e) how do the overall welfare advantages and disadvantages of the realistic options compare one with another; (f) ultimately is adoption necessary and proportionate, are the risks bad enough to justify the remedy?<sup>1</sup>
12. Point (d) has particular relevance when considering parents with a learning difficulty<sup>2</sup>. It is clear there is an obligation to provide support to parents to enable a child to remain in their care and that in the case of a child with disabled parents it is likely a broader range and higher level of such services and support will be required to meet this positive obligation. Further it must be accepted that parents with learning difficulties can provide 'good enough' parenting when provided with the emotional and practical support they need. 'Parenting with support' must underpin the way in which the courts and professionals approach parents with learning difficulties and so the court will be expected to enquire as to the support needed by the parent to enable them to show whether they can or cannot provide good enough parenting rather than assuming they are destined to fail. If it is suggested the support required amounts to 'substituted parenting' by the applicant and that the same would be adverse to the welfare of the child then the Court should carefully consider the evidence that the level of support required would be adverse to the child's welfare and look to see if there are options for ameliorating the risk of harm resulting from the high level of support.

### Analysis of Key Evidence

13. The evidence in this case focused on a limited number of topics. I intend to conduct an analysis of these topics within this section providing findings where appropriate. It will be convenient to focus on points relating to Sarah first before turning to Peter, although there is some overlap with respect to particular topics.

#### Sarah

14. I have regard to the following points in particular
  - (1) I accept the suggestion that Sarah experienced stable mental health within the unit. This was a positive feature given her past difficulties. However, her mental health took a significant negative departure when she separated from Peter and she required an emergency appointment. This simply underscores her continuing vulnerability and fragility to outside stressors. It also validates the continuing benefit of her engaging with work as previously advised (DBT/MBT). It is unfortunate no steps were taken in this regard between the last and these proceedings but I consider this work remains relevant for Sarah and particularly so in circumstances in which she might be an effective sole carer. I appreciate the work will bring

<sup>1</sup> Per Peter Jackson LJ in F (A Child: Placement Order: Proportionality) [2018]EWCA Civ 2761 and Re K (Children: Placement Orders) [2020] EWCA Civ 1503

<sup>2</sup> H (Parents with Learning Difficulties: Risk of Harm) [2023] EWCA Civ 59

challenges given the deep-seated nature of Sarah's difficulties and it may be challenging to complete this work whilst being otherwise assessed.

- (2) Sarah continues to receive medication for anxiety and has recently received increase in her epilepsy medication as a result of increased seizure activity. It is hoped this will stabilise but it does raise a level of concern as to the safety of a child in her care were she alone and to have a seizure.
- (3) Sarah contends there is a gap in the evidence as she has not been assessed alone in contrast to Peter. This will likely take 12-weeks. Such an assessment must meet the test of necessity. I am bound to reflect on the unit assessment when considering this request. Within the unit Sarah made clear she accepted she could not care for Oliver alone and so the focus was on the parents caring as a team around the child. The unit provided a final report and made final recommendations which did not support Sarah as a sole carer. It would be wrong to suggest Sarah has not received a full assessment of her parenting capacity and it would be misconceived to suggest she would be further assessed simply because Peter received further assessment on leaving the unit. The need for a further assessment should be assessed in the light of the evidence available since the time of separation.
- (4) The parents received a good opportunity to show what they could do at the unit. They each speak positively of the support offered at that placement. It reached cautiously positive recommendations and I accept there is within the reports good evidence of Sarah progressing in her role as a supportive parent to Peter. The reports suggest a good level of motivation and commitment by both parents. In my assessment this progress reflects the fact that Sarah was caring with the support of Peter in contrast to her previous experiences. This was a signal change to what had come before; was understood to be a change which demanded full consideration, and; appeared to be bearing some positive fruit. I appreciate Sarah is critical of Peter being overbearing whilst in the unit but the improvements can be seen to have arisen notwithstanding this feeling on her part.
- (5) I was asked to consider the circumstances in which Sarah came to leave the unit. With hindsight she wishes she had not left and challenges the contention that she chose to leave believing she was told she had no choice. I appreciate this has meaning for Sarah but I struggle to see how this materially impacts on my decision making given that Sarah accepted she could not continue to co-parent with Peter; she had previously expressed an inability to care alone, and; the final report did not support the same. Had the Court been asked to resolve the interim future for Oliver at that point then it would likely have favoured continued placement with Peter. In that sense her leaving has a feeling of inevitability about it. Professional witnesses were questioned as to whether they were suggesting she should have stayed in an unhappy relationship with Peter. They confirmed Sarah retained the freedom to both leave the relationship with Peter and commence a new relationship with Chris. I agree with this reasoning. My role is not to challenge the entitlement to free decision making but to consider what if anything it says about their ability to provide ongoing focused care for the child. With the freedom to choose comes the recognition that decision making will be open to evaluation by professionals and the Court.
- (6) The parents were able to spend time out of the unit with Oliver unaccompanied. They met up with Chris and now agree they should not have done so without

informing the unit. Whilst Sarah said there were two meetings, I prefer the evidence of Peter that there was a further meeting when they attended the property they planned to move back into after the unit. Sarah told me Chris was not a stranger to her but someone she had previously relied on for support and who was godfather to one of her children. They had been out of contact for about two years and she contacted him online. Sarah told me their relationship did not become intimate and beyond friendship until after leaving the unit. Peter does not agree with this and says Sarah had changed her profile on Facebook in June 2023 indicating she was in a relationship with Chris. Importantly both accept there are markers in Chris's life which raise some concerns. Both knew he had recently been alleged to have raped his ex-partner. Sarah at least knew he had some history of having his own children taken into care. Sarah appears to have balanced these concerns against her own positive view of Chris. Peter told me he had Oliver in his sight at all times and so he was safe. For my part I accept the account given by Peter as to the number and timing of the meetings. I struggle to see how everything could have been compressed into the last week of the unit as suggested by Sarah. On balance I consider Peter's account is the more plausible of the two. I agree with the parents that they were wrong to meet up in this manner without notice to the unit and particularly so in the light of the issues known to them. Peter told me he permitted the same in part because Sarah told him she would leave him if he told the unit. I accept this evidence which is an indication of his vulnerability and speaks to his prioritisation of his own needs over those of Oliver's. I also accept that this was a relationship which had been developing over weeks rather than days. I accept Peter's evidence with respect to Sarah changing her profile and indicating she was in a relationship in June 2023. It is noteworthy the manner in which Sarah resumed her relationship with Chris and the timing of the same when considered against the parental separation. It is clear Sarah had been told quite a lot by Chris by way of update about his life. For instance, the issues with his former partner came from him not from her own personal knowledge. I doubt very much that this would have been shared in the course of the limited period suggested by Sarah and I consider it is the sort of personal information which is much more likely to be shared within a close personal relationship. I also bear in mind the evidence of Sarah becoming disillusioned in her relationship with Peter and the relative speed with which she formed a relationship and came to later live with Chris. Taking all the evidence together I prefer the account given by Chris. My sense is that by June 2023 Sarah was seeking an exit route out of the relationship with Peter and came to see Chris as that route. Sarah has a history of poor decision making with respect to relationships and my assessment of the evidence is that Chris is a continuation of this pattern with Sarah overly quick to form relationships without proper reflection. This is likely to be a function of her emotional vulnerability and her need for a relationship due to poor self-esteem. In reaching these conclusions I do note the contradiction of Peter claiming to have been surprised by the separation whilst at the same time knowing about the change of profile in June 2023. I also have regard to the somewhat peculiar decision to meet with Chris notwithstanding this information. The sense I have is that Peter was seeking to cling onto the relationship despite the contradictory signs. This does explain why he came to accept the ultimatum given by Sarah as noted above.

- (7) Sarah was asked to reflect on the concerns surrounding Chris. She had planned to care for Oliver supported by Chris. When gently probed she said she would care for Oliver on her own. By the end of the case her position appeared to continue to have

a role for Chris if he undertook work provided by the applicant. I was struck by the fluidity of her thinking and there seemed to be a real lack of reflection. A marker of this was her evidence of seeking information about Chris pursuant to 'Clare's Law' disclosure<sup>3</sup>. The purpose is to inform the likely victim and to arm them with relevant information so that they can safeguard themselves against the risks. Sarah told me she was awaiting an appointment for information to be shared. I asked her to think about the fact that we already have a significant amount of information about Chris yet she has chosen to accept Chris' protestations of innocence over the information known. I questioned on what basis her approach would likely change were the police to simply confirm the same reports. I did not receive an answer that suggested her approach would be any different. I share the concern that Sarah is a very vulnerable individual open to exploitation. Whilst I am not in a position to make findings in favour or against Chris it is not lost on me that the circumstances of their relationship, the speed at which it has developed and the issues concerning Chris fit very much into the pattern of previous relationship misjudgements made by Sarah. I gain no comfort from surrounding information that Chris is now the sole recipient of both his and Sarah's Universal Credit claim; that he is now effectively dependent on her for housing, or; the information as to his poor mood regulation around his own children. I note the evidence of the Guardian that whilst visiting and speaking with Sarah, Chris was heard to speak to Sarah in disparaging terms. Sarah told me that Chris had not been referring to her but I prefer the evidence of the guardian. In the context of the conversation, it is difficult to see how the reference was not to her. This does not help dispel my worries.

- (8) Sarah suggested the applicant should provide a work programme for Chris to improve himself. The applicant pointed out that he was already involved with a different local authority concerning his own children and had refused to engage with work within those proceedings. I found the suggestion of any obligation or responsibility on the applicant to provide resources for Chris a surprising, novel and I consider misconceived suggestion. He has entered these proceedings in about week 26; has his own challenging history and is involved in proceedings in which work appears to have been offered but refused. I can only guess as to the future stability of his relationship with Sarah or its likely endurance. I cannot see why on the facts the applicant should be taken to assume a responsibility to provide resources to improve Chris.

Peter

15. I have regard to the following points in particular:

- (1) The parents were advised not to have contact post separation. I can understand this advice given the emotional vulnerability of each and the need to focus on Oliver. Still, one has to be careful not to elevate such advice to the point where non-compliance justifies a meaningful criticism of the parent. If they chose to communicate and this led to conflict then this would be a matter of concern. But it is not the role of the unit or applicant to prohibit appropriate separated parent communication. With this in mind I have drawn little from this aspect of the evidence. It does seem as if the parents engaged in a limited amount of communication post-separation but this was far below the levels found in cases in which the communications are felt to be particularly troubling. I accept there is

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<sup>3</sup> The Domestic Violence Disclosure Scheme

some evidence of the communications being potentially problematic but I do not judge these communications to be material to my decision making.

- (2) Sarah feels Peter was controlling with respect to care of Oliver and there is some recognition of this in the first report although the latter reports point to Sarah increasingly coming forward to share in care duties. I am not asked to make findings of fact and it is not said this is controlling or coercive behaviour but rather illustrative of Peter being overbearing in his role as primary carer. I suspect there is some truth in Sarah's complaint in that I accept Peter may have been possessive of his role in caring for Oliver. But I do not consider this merits criticism. It is more likely to reflect the parents' personal characteristics and the roles they were being asked to play by the unit in caring for Oliver.
- (3) I have noted above Peter's willingness to meet with Chris notwithstanding his concerns about him and to do so because Sarah threatened to leave him if he told anyone about this. I have noted both the personal vulnerability this shows and the prioritisation of his own needs.
- (4) There was a consistent concern as to Peter's preoccupation with his phone and his accessing of pornography and sexually related communication on social media. It is not for the Court to apply a particular set of moral standards and within lawful boundaries adults retain the freedom to exercise their sexual interests and freedoms without interference. The situation may change if this causes a loss of focus on the child's needs; or alternatively where the usage arises in circumstances blurring the boundary between Peter's private space and the public space in which he is expected to engage with Oliver and others. Peter accepts the concerns raised as to his preoccupation with his mobile phone and the related issues although he does not agree with all the detail.
- (5) The unit considered Peter was overly dependent on his mobile phone and was distracted from engaging with Oliver. He would seek to have Oliver cared for by professionals so he could focus on his phone. I heard evidence of Peter engaging with his phone whilst it was held out of the unit window so that he could not be seen on it and pretending to go to the bathroom so that he could use his phone. There is agreed evidence of Peter being preoccupied with pornography and engaging with the same whilst in the presence of other unit users whilst in communal areas. Peter had to be cautioned as to appropriate boundaries. The professionals were concerned as to his vulnerability and the risks of exploitation from other online users who Peter did not know personally. In October 2023, the Metropolitan Police attended the unit and viewed the contents of Peter's phone noting a range of indecent images. He was warned about requesting images from women online without knowing their age or who they are. Texts were found to and from foreign numbers which further supported the worry around Peter being open to exploitation given evidence of him sharing financial information. He was encouraged to hand his phone in or replace it with a simpler model but refused. Professionals expressed concerns that Peter was not being transparent until confronted with evidence of the same. Peter fundamentally accepts this criticism but I was asked to reflect on the challenging and extended nature of the assessment process which included an elevated level of monitoring with consequential impact on Peter's autonomy. I am also asked to reflect on the impact upon Peter of his separation from Sarah and other circumstances in his life which left him vulnerable and may have impacted on his decision making.



- (6) A further aspect of this perceived distraction relates to new relationships after separating from Sarah. I have commented above about Peter messaging with women online. In addition, I heard about three identified women, Mary, Joanna, and Sarah. The evidence in respect of these relationships was somewhat contradictory. Peter accepts he was in a relationship with Mary between October and November 2023. He accepts he spoke to the guardian telling him that 'he would not move in with this person until they had met a couple of times'. When asked about this Peter said he had not been thinking straight but accepted he was not putting Oliver first at this time. Peter agreed he had also been speaking with a woman named Joanna but denied they were in a relationship. This conflicts with the report from the unit from 13 September 2023 (prior to Mary) of Peter being preoccupied with a female known as 'Joanna' who was constantly calling him during that week, causing concern among staff and other residents. He told staff that Joanna would be safe for him and Oliver as she has had a 'DBS' (police check). In a separate reference Peter spoke of Joanna being 'an old school friend...they like each other but are not looking to be together until [he] has completed his assessment with [Oliver].' The unit expressed concern that Peter was heard to be asking 'to see her chest' whilst in the communal space of the unit. Peter also agreed he had been speaking to Sarah but was not in a relationship with her. He told me he is not currently seeing anyone and will not jump straight in but will give it a couple of months to see how the relationship works.
- (7) Having left the residential unit with a positive report within a matter of days Peter was felt to be struggling to keep focus on Oliver and to be unable to meet his needs without significant support and intervention. The unit could only safeguard the situation by operating a 1-to-1 monitoring together with 24/7 camera monitoring. I will need to consider why matters deteriorated in this manner and what this suggests with respect to Peter's future care of Oliver? I bear in mind Peter does not seek to challenge the underlying premise that his care of Oliver was faltering and that there had been a marked deterioration in his focus on Oliver and that significant additional support was thus required. A measure of this can be found in the evidence of the unit that whereas parents would normally be expected to require 5-6 key work sessions and interventions at this point in their care, Peter had required 120 sessions and interventions in the course of one week alone. As of 27 September 2023, the unit were expressing the view that:

*The placement would not be able to be sustained without a continual presence or high level of support as baby's needs will increase and baby will continue to be more challenging. In the time that [Peter] has been receiving 1:1 support, there have not been any incidents, however baby's day to day care is not maintained consistently without staff intervention and prompting. [Peter] has shown very little progress in taking parenting advice and actioning this himself, with prompts, key-work and advice given often being repeated on a daily basis or several times a day. When instructed or guided to do something, [Peter] in general follows this advice but has little understanding or awareness as to why he is doing so. In terms of imminent risk as to where this has been most evident, this is mainly in feeding and attending to baby on time, having an awareness of safety in the home and when taking baby offsite, showing a lack of understanding of healthy relationships and the risks presented by other people and finally in [Peter]'s ability to manage his money. Overall, he presents himself as being a very vulnerable adult who will continue to need guidance and support as he appears to be at risk of exploitation.'*

I pause to reflect on why it was that Peter entered the step-down placement. The recommendations from the unit offered potential for Peter to return with Sarah into the community (i.e., return home). However, the parents then separated leaving Peter as sole carer. It was therefore unsurprising that a half-way solution was agreed under which Peter would move into a supported setting. The key feature of this

placement was that Peter would be the sole carer for Oliver with some limited external support with an ultimate transition back into a home environment. Following the unit's recommendations, it was not anticipated that Peter would be unable to meet Oliver's basic daily needs or that learning difficulties would call for a particularly enhanced level of additional support. What transpired was that Peter's broad capacity to care for Oliver was seen to be inadequate unless provided with a much higher level of support beyond that required at the unit with this being a consequence not of learning difficulties but personal decision making and poorly determined priorities.

- (8) I heard evidence that Peter 'put on a performance' when visited by the social worker during the step-down placement and that his care otherwise fell away. Peter agreed this was the case. To an extent this is not surprising. I would expect all parents in cases of this sort to be performing when assessed and I do not consider this is of itself a matter for criticism. This point does though raise three concerns. First, it will impact on the capacity of the assessor to provide a robust assessment of the parent's capacity to meet the child's needs. Second, it will raise concern as to why it is that a carer can meet the level of care given when directly assessed but does not do so once the spotlight is removed. Linked to this and thirdly, it leaves open the prospect of erratic and inconsistent care. In my judgment basic good care which is seen to be enhanced during an assessment is one thing. Good enough care which falls below this standard outside of direct assessment is another. What is clear is that Peter's care deteriorated within the assessment to a significant extent to the point where he required a high level of parenting support from the unit to ensure Oliver's needs were met. This was concerning in that only recently when caring with Sarah he had been able to meet his needs. Yet when on his own and when under additional stress he became unfocused, distracted, and began to neglect Oliver's obvious needs.
- (9) Having confirmed, at the IRH, his intention not to challenge the care planning Peter then changed his position in the run up to the final hearing. He explains this change in positioning as reflecting the stresses he was under at that time. He felt overwhelmed and not in a 'place' where he could meet Oliver's needs. He referenced both Oliver and him being unwell at about this time. In his evidence he explained how with time to reflect and in circumstances of being separated from Oliver he had come to regret this decision and now felt he could meet Oliver's needs. The Court can sympathise with these feelings but this decision making is part of the evidence before the Court. It is a significant indicator of how Peter responds when under stress. One might reasonably conclude that retaining care of Oliver was Peter's number one focus as of November 2023. It is for me to evaluate the nature of the stresses and the extent to which it might be felt similar stresses may arise in the future. I will need to reflect on the potential at least for future placement to be vulnerable to break down. It is also relevant when I turn to the question of support that Peter accepts, he made this decision without seeking any support or guidance from any of the individuals upon who he now relies as being a source of guidance and support in future. I will need to reflect on what this suggests as to the strength of this network and Peter's willingness to rely upon or accept support from the same.
- (10) As has been noted above there is a marked difference between the views of the unit and those of the step-down placement as to what Peter needed to safely care for Oliver. I heard and read evidence from Peter and John about the support that could

be provided for Peter and Oliver in the community. This support comprised a network of supporters in the community who would be on hand to help. The support comprised; (a) John; (b) John's neighbours: Jill and Natalie; (c) a further neighbour Jane, and; (d) Audrey and Tracey. Whilst there was no agreed rota as to the timings for such support it was contended that they would be available at the end of a phone or in person to step in or offer help and assistance if needed. Additionally, CCTV would be fitted and each of the individuals would be given access to the video stream from the CCTV with an opportunity to view the care being provided to Oliver by his father in the home. John would retain ultimate control over the CCTV and would be able to consider any recordings made. As I understand the case put by Peter this would adequately meet the concerns in the case although he was open to any additional safeguards or support deemed necessary.

(11) Turning to the individuals I note (a) John works in security and has a 4-day on / off rota. When at work he gets up at 4.30am and leaves early, returning home at around 6.30pm. He would normally go to bed by 9.30pm; (b) Jill works full time in school term time and is out of the house between 7.30am and 3.30pm; (c) Natalie is Jill's 17-year old daughter, lives with her and is currently at college two days a week; (d) Jane lives close to John, has some responsibility for her own parents and for an adult son in her care who has autism; (e) Audrey is related to John by marriage. Her daughter is Tracey. They live together with Audrey's 2-adopted teenage children; Tracey's two pre-school age children and their own partner's - i.e., 8 people.

(12) It was suggested the CCTV would cover all the rooms in the flat barring John's bedroom and the bathroom. It was suggested its presence would encourage Peter to appropriately meet Oliver's needs and whilst it would not be constantly monitored if something happened it could then be reviewed to see what had happened. John seemed to feel this might be done by the applicant. The named individuals would have access to the system stream but there was no expectation they would have the stream open and running but rather it would be available for them should they choose to access it. In addition to this was the suggested potential for any of the individuals to drop in on Peter or respond to any request for assistance sought by him. I understood there would be availability to provide some respite for Peter. It is clear that some of the individuals are experienced parents but there was no suggestion any had any training or expertise in matters of child protection.

(13) John is Peter's primary source of support. The intention is for them to live together and Peter states his father is flexible as to this arrangement continuing into the medium term. However, the relationship between Peter and John has not been without difficulties. At the outset of these proceedings John expressed reservations about Peter's ability to care for his son which led to a level of estrangement between the two. Within the assessment process, when together, the parents expressed reservation about John being involved. Since they separated John attended the step-down placement to offer support to Peter. On 4 October 2023, the pair had a significant recorded disagreement when Peter was unwilling to accept advice given by John. The note of the event details a disagreement extending through the evening with tension between the two and at points Peter acting in a manner which was felt to be threatening. John told me that this is simply his son acting out and that he would not follow through. He spoke about occasions when things do not go as Peter expects and he has what was described as a melt-down (for instance when waiting for a bus that does not turn up as expected). Peter explained that this should be seen in the context of having received the negative

parenting assessment earlier that day and being upset. The applicant has raised with John whether or not he would be willing to put himself forward to care for Oliver. John has made clear he is not willing to care for Oliver having regard to his age and commitments.

### **Threshold**

16. The parties accept the threshold is crossed and I agree on the basis of the evidence before me. As to matters not agreed allegations 1-4 relate to Sarah. I find these allegations established on the evidence. I accept her diagnosis of EUPD does impact on her ability to provide consistent care as alleged. She did delay in seeking therapy between the last and current proceedings although I understand her recent request for a referral has come to nothing. Whilst I accept she has shown some recent stability in her mental health, I have also noted the continued fragility which was seen when she separated from Peter. This covers allegation 3 as well. Finally, I find she has a history of entering and remaining in volatile relationships. She continues to make ill-considered decisions in this regard as seen in the case of Chris. I do find paragraph 4 and (b) and (c) proven. I find (a) proven as a matter of fact but it adds nothing to my understanding. Allegations 5 and 6 relate to Peter. I find he has shown an inability to prioritise Oliver's needs over his own as alleged in 5. He has within the proceedings focused on new relationships at a time when his focus should have been on Oliver and in doing so has been distracted and lost appropriate focus on Oliver. I am not satisfied as to allegation 5(d). I do not accept 5(a) establishes a threshold finding but I find the balance of the allegation established. The evidence clearly establishes allegation 6.

### **Welfare Analysis**

#### **Welfare Checklist**

17. Oliver is too young to be able to express wishes and feelings as to his future care.
18. He has needs shared with all children. For his basic care needs to be met at a good enough level and for this care to be consistent and predictable. He needs his care giver to be focused on his needs and to prioritise the same over other factors; to be able to grow with him adjusting as his developmental needs change whether or not this requires ongoing support and guidance. He is entirely dependent on the care given to him by his carer and will remain in this position for the medium term. He will require consistent warm stimulation to enable him to develop a good and continuing bond with his care givers and a sound attachment style to take with him into his future relationships.
19. Oliver is at a crucial intersection point in his life with the Court considering his future placement. It is imperative the next move for Oliver is his last move. During his short life he has experienced significant change moving from the care of both parents, into the sole care of Peter before now being in foster care. Further disruption is to be avoided where possible. His welfare demands a placement with a sense of permanence around it. He cannot afford a future life under which his placement is surrounded by crisis and breakdown. He needs to be central to a family (whatever its form) and have confidence that his place is secure and enduring. This will give him the confidence to place trust in the placement.
20. Reflecting on the impact on Oliver of being placed for adoption and the likely severance of family life that this brings, I reflect on the legal and identity implications of ceasing to be a member of his birth family. Whilst this might be ameliorated through ongoing contact there is a real possibility that this would not be the case. In such circumstances Oliver may

develop, and potentially a significant level, of emotional baggage as he tried to make sense of circumstances under which he no longer had his biological parents in his life. This might include elements of upset and distress as to what he had lost; worry for his parents and doubt as to whether he was to blame and whether he was wanted or not. I appreciate these risks can be mitigated by a good level of care as one might expect from sensitive and prepared carers but it remains a real risk which cannot be ignored.

21. Risk of harm in this case has been addressed through the threshold. The risk is of inconsistent inadequate care. Considering Sarah, the risk is of care being compromised by her personal challenges including her fragile mental health when subject to stress. Additionally, Oliver risks suffering as a result of Sarah's prioritisation of her own needs and her poor relationship choices which leave her vulnerable and a child in her care at risk. The unit recommendations suggest she is unable to provide good enough care for Oliver whilst caring on her own and the evidence of the professionals was that she would not be able to make changes which addressed this inadequacy within Oliver's timescales. Peter has been assessed to be able to provide good enough care for Oliver. However, the risk is of losing focus and care not being sustained falling below the levels required. As with Sarah there is the risk of him being distracted by his own needs, losing focus on Oliver, and neglecting his basic care needs. The consequent risk is that he will not be able to maintain an appropriate level of care for Oliver other than for short periods of time and will ultimately have to relinquish care of Oliver placing him back into the care of the applicant.
22. Oliver has an important relationship with Sarah, Peter, and John. They each wish for him to remain within his family although they make different arguments as to how this might be achieved. The evidence tells me that they have a strong and genuine love and attachment to Oliver. They have kept to contact and this is a positive and meaningful experience for Oliver. John has shown a commitment to supporting Peter and I have no doubt this also reflects his feelings for his grandson. The question is their ability to provide Oliver with a secure environment in which he can develop and have his needs met. I have little doubt they have a willingness to do this but ultimately the question for me will be as to whether they have the ability to do so.

### **Holistic Assessment**

23. The realistic options for these purposes is placement with Peter or placement for adoption. I do not consider long term fostering is a realistic option given Oliver's age and the implications for him of remaining in care throughout his minority. At this time Sarah is seeking a further assessment and so it is premature to consider her as a realistic option for a final order.
24. The central positive of placement with Peter relates to the continuation of family life within his family of origin. This would give Oliver the chance to grow up with his family members and would best safeguard his identity giving him a sense and knowledge of his family members, their personalities and history. It would facilitate a relationship with Sarah and broader family life with John. I have commented on the baggage that might arise on severance of family life and this would be avoided. The disadvantage relates to the potential for such a placement to fail as a result of Peter's difficulty in providing sustained good enough care. Were this to occur then the impact on Oliver would be very serious. There are no alternative family carers and this would inevitably be followed by further proceedings. There are no guarantees that permanence could then be offered and there is the risk of Oliver then finding himself within the care system throughout his minority.

25. Adoption would likely give Oliver permanence and a placement in which daily care is provided at a consistent good enough level. It will likely guard against the concerns arising if Oliver remains in his father's care. The disadvantages of such an outcome relate to the severance of family life considered earlier within this judgment. Whilst the applicant is open to supporting and promoting direct contact with the parents post adoption there can be no guarantees that this will be the reality for Oliver given it would be substantially dependent on the views of the adoptive family. As a result, there is the disadvantage linked to loss of identity and the baggage referenced above. I should bear in mind that adoptive placements come with no guarantees and can fail.

### **My conclusions**

26. I refuse Sarah's application for a residential assessment. The evidence does not justify such a step which is not necessary, is outside Oliver's timescales and has only the most modest prospects of success. I reach this conclusion with regret as Sarah is well motivated and loves her son very much. However, I have good evidence from both her history and from the unit that she is not well placed to meet Oliver's needs within his timescales. I accept she has demonstrated periods of stability within these proceedings and shown an ability to be a supportive carer but this falls short of an ability to be a primary carer on her own and by her own admission accepted this was beyond her ability. I consider she continues to demonstrate poor decision making around her relationships, remaining vulnerable and open to exploitation, and continuing to show insufficient care prior to entering relationships whilst prioritising her own needs. I find there is a real likelihood that were Oliver to be placed into her care then within the short-term circumstances would arise with Sarah losing focus on his needs in favour of her own. This would not be an intentional wish but flows from her own needs and her unmet emotional difficulties. This would leave Oliver at risk of significant harm and there is far too high a chance of placement breakdown.
27. I cannot support a placement with Peter. In my assessment the likely harm will be of Oliver's needs not being met on a sustained and satisfactory basis due to Peter being distracted and preoccupied with extraneous issues. Whilst Peter has demonstrated that he can meet Oliver's needs whilst in a relationship with Sarah, when this ended he could not prioritise Oliver's needs over his own needs for a relationship and for his own needs to be fulfilled. This was notwithstanding the concern being clearly brought to his attention and the consequences of the same with respect to Oliver being clear. The impact on Oliver was that he was neglected with his need for stimulation being secondary to Peter's other needs. As a result, Oliver required professionals to intervene on a full-time basis to safeguard his needs. But for this he would have suffered significant emotional harm. In my assessment on the available evidence there is a real likelihood of harm arising in Peter's care. I sadly, have been given no confidence that Peter will likely change his patterns of behaviour. I consider these behaviours are a part of Peter's character and unlikely to be modified. As with Sarah it is striking that each chose to be distracted in pursuit of new relationships at the very time that they were subject to scrutiny and whilst knowing they had a central obligation to keep focus on Oliver. That they could not do this in the context of proceedings when knowing these issues would come to be reported offers me little confidence as to how the same issues will be managed outside of proceedings. For the avoidance of doubt these are not deficits in an ability to provide good enough care as a result of a learning difficulty. The evidence tells me that notwithstanding his learning difficulties Peter has shown an ability to meet care to a good enough standard. The problem is that his innate character is such that he cannot sustain this level of care when other factors distract him. I consider these factors are likely to continue to present instability in Peter's life with the inevitable consequence that Oliver will suffer. If, as I find, this is likely to happen then Oliver will suffer significant harm. His needs

will be neglected leaving him unstimulated and undermining the crucial attachments he requires. On the evidence I have heard this can only be avoided by a high level of daily intervention in Peter's life akin to that in the step-down placement. In this case I have considerable evidence comparing and contrasting the support Peter needed in the unit and in the step-down placement. In my assessment he is currently positioned in a place similar to that when within the step-down placement. I accept that whilst there will be periods when he can remain focused these periods will be relatively short lived and susceptible to distraction and once distracted Peter will lose any focus on Oliver. At such points Oliver will need others to step in and take care of him. It will not be possible to predict the points at which this will be required as Peter's tendency to distraction cannot itself be predicted. It will only be by a high level of support and monitoring that one will have the necessary confidence that Oliver's needs are being met. In my assessment it would be a risk too far to assume that Peter would remain focused if left to his own devices for significant periods of time.

28. I have considered the proposed support offered by the network around Peter. In my assessment this falls short of meeting the concerns and risks identified above. On a fair analysis the identified individuals simply cannot offer the structure and support required by Peter to keep Oliver emotionally safe. Audrey and Tracey have their own significant commitments whilst Natalie is a child herself. Jill cannot possibly provide the necessary care given she is out of the house for significant parts of the day. Jane also has commitments. The same applies in the case of John who is essentially unavailable for half the week. I am in no doubt each of these individuals are well intentioned but what they can realistically offer falls significantly short of what is needed. I dare say they will be available from time to time but I do not see this providing confidence that Oliver's care needs will be consistently met to the level they require. There is a real danger of them becoming less attentive over time if they perceive nothing is going wrong.
29. I do not consider the CCTV option fills the gap created by the absence of an on-site support. It runs the risk of appearing to provide security whilst doing nothing of the sort. It is most unlikely it would be sufficiently reviewed to enable appropriate safeguarding and would be dependent on a concern being noted on an occasional and relatively short assessment. It certainly will not provide a likelihood of instant intervention when needed. I struggle to see how the named individuals would have the skills to assess rather nuanced deficits in care whilst occasionally viewing a video stream. I do not believe the presence of the CCTV would cause Peter to modify his behaviour. After all this was effectively the position in the step-down placement and it did not modify Peter's lack of engagement. I am troubled by the adverse impact on Oliver of being brought up under the constant scrutiny of CCTV viewed by a whole host of unrelated individuals.
30. These conclusions must be seen in the light of the assessment that Peter does not lack an ability to provide good enough care. His learning difficulties do not obstruct the same. Rather his character and personality and the needs which flow from the same intervene to obstruct good enough care. I do not see this changing within the foreseeable future or within Oliver's timescales. When this issue was in direct focus Peter decided he could no longer maintain care for Oliver. I do not consider the proposed support will meet this challenge. I consider this will only be resolved by a continuation of the support which was made available within the step-down placement. That would be equivalent to substituted parenting and would have an adverse impact on Oliver and would importantly leave a concern as to constant conflict between Peter and the professional support with the risk of breakdown as occurred within the step-down placement.

31. In my assessment it is not in Oliver's welfare interests to be brought up in such a setting. This is particularly so as on the evidence it should not be required and flows from Peter's choices rather than his limitations. Ultimately, it leaves me concluding that any placement with Peter will be fragile and likely to fail. There will be no-one to step in and replace Peter and Oliver will likely return to care. The holistic analysis fortifies the need for an outcome which is robust and likely to offer permanence. In my assessment of the realistic options only the placement route offers this likelihood. Anything less than this will leave Oliver's welfare needs unmet with long term implications for him. I have reached the conclusion the only option which will meet Oliver's welfare needs is the making of a care and placement order. It is a proportionate response to the risks I have identified as anything short of this will leave Oliver likely to suffer continuing significant harm. It is reasonable and necessary. I understand the parents cannot consent to this outcome but I dispense with their consent as Oliver's welfare requires it.

### Contact

32. I accept the broad evidence presented to me in the event I reached this conclusion. I consider there should be an opportunity for the parents to meet with the proposed adopters and I consider the proposed adopters be given an understanding of the benefits that may accrue to Oliver and the placement by occasional direct contact with the parents. I would suggest this would likely be set at 1-2 times per year. It would permit Oliver to have a better understanding of his life story and if managed well would fortify his placement. These are not parents who present as oppositional or likely to seek to undermine any placement. I can see many positives of permitting contact although I ultimately must leave this to the prospective adopters. Whilst I would encourage the applicant to favour carers who are open to continuing direct contact, I would not agree that any placement selection should be contingent upon the same. I agree there should be room for John to be involved with Peter in respect of both direct and indirect contact. He is also an important part of Oliver's life story. I do not intend to make a contact order at this point as I have faith in the good intentions of the applicant in its stated intention to promote the benefits of contact.
33. I have listed this judgment to be handed down on Wednesday 24 January 2024. I give permission for this judgment to be shared with the professionals and the parents prior to handing down. I would ask for any corrections or requests for clarification and a draft order to be sent to me by 4pm on 22 January 2024. I will also send a proposed anonymised copy of the judgment and would ask for any further proposed anonymising amendments to be provided at the same time.

His Honour Judge Willans