This judgment was delivered in private. The Judge has given permission for this judgment to be published. The anonymity of the children and members of their family must be strictly preserved. All persons must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

IN THE FAMILY COURT

TCY (Children of Deaf Adults), Re

Neutral Citation number [2025] EWFC 22 (B)

3 February 2025

Before His Honour Judge Middleton-Roy

Between:

The Local Authority

Applicant

- and -

The Mother

First Respondent

'Father TCY'

Second Respondent

'Father HD'

Third Respondent

'H, D, T, C and Y'
(The Children through their Guardian)

Fourth, Fifth, Sixth, Seventh and Eighth Respondents

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Mr Harris, Counsel for the Applicant
Mr Lafazanides, Counsel for the First Respondent
Ms Okine, Counsel for the Second Respondent
Mr Michaels, Solicitor for the Third Respondent
Mr Sheridan, Counsel for the Fourth to Eight Respondents

Hearing dates: 14 to 21 October 2024 and 9 to 10 January 2025

JUDGMENT

This judgment was handed down remotely by circulation to the parties' representatives by email. The date and time for hand-down is deemed to be at 09:00am on 3 February 2025.

His Honour Judge Middleton-Roy:

The Parties and Applications

1. There are five children at the heart of this case. Their welfare is this Court's paramount consideration. This is a troubling and complex case. The fundamental issue in this case is whether all five children should be removed permanently from the care of their vulnerable Deaf parents and, contrary to their parents' wishes, the two youngest children placed for adoption. The issue has great significance for the children and their parents. For the children who face adoption, the decision has profound life-long personal, emotional, psychological, social and cultural consequences.

2. The parents' ability to meet the welfare needs of the children must be considered in the context of the children being hearing children of Deaf parents. All three parents in this case are Deaf. They have experienced a lifetime of feeling discriminated against, left out and misunderstood. Further, the mother has learning difficulties. Whilst many Deaf parents successfully parent hearing children, it can be challenging at an age when the hearing children become older, more 'streetwise' and seem 'cleverer' than their Deaf parents. They may use their hearing to communicate secretly or even sneak out of the house without their parents' knowledge. Their knowledge and use of the internet and social media is likely to outstrip that of their parents, as is their literacy. As hearing children of Deaf parents get older, there is a danger that parents use them to negotiate the hearing world and they begin to parent their parents or their younger siblings.

3. The oldest two children will be referred to in this judgment as 'H' and 'D' respectively. They are both teenagers.

4. The middle child will be referred to as 'T'. She is less than 10 years old.

5. The second youngest child will be referred to as 'C'. She is a child who has diabetes. She is less than 5 years old.

6. The youngest child will be referred to as 'Y'. He is under 3 years old.

7. The mother of all five children will be referred to in this judgment as 'The mother.' The father of the youngest three children will be referred to in this judgment as 'Father TCY.' The father of the oldest two children will be referred to in this judgment as 'Father HD.' He lives outside the jurisdiction of England and Wales, in The Republic of Ireland.

8. The children are all parties to the case through her Children's Guardian. The names of the children, the names of their family members and the identity of the Local Authority have not been used in this judgment so as to protect the identity of the children. The Court recognises that behind each of those anonymous initials is a child with individual needs and characteristics. It is the welfare of each of the five children individually that is the paramount consideration of this Court.

9. It is not in dispute that the older children, 'H' and 'D', were known to Tusla, Child and Family Agency between 2009 and 2017 when the mother and 'Father HD' lived in The Republic of Ireland. Concerns at that time centred around the mother and 'Father HD's parenting capacity. There were concerns regarding a failure to respond to the children's needs, poor home conditions and a lack of boundaries. There were concerns in respect of the mother's use of cannabis and concerns about the mother's inability to manage risk in relation to 'H' and his increasingly aggressive behaviour. Further concerns were noted in respect of 'Father HD's inappropriate aggressive responses to 'H's behaviour.

10. After the mother and ‘Father HD’ ended their relationship, the mother and ‘Father TCY’ began a relationship and the family moved to England. The Applicant English Local Authority became involved with the family in June 2022.

11. ‘C’ was diagnosed with Type 1 Diabetes in August 2022. It is not in dispute that training was provided to the mother and ‘Father TCY’ from the diabetes team on how to monitor, respond to and medicate ‘C’.

12. It is not in dispute that in early September 2022, when ‘D’ was 12 years old, she was found in the early hours of the morning in a local town centre with a friend who had been reported missing. When police returned ‘D’ home at 1:45am, it is reported that each of the children was awake, while the mother and ‘Father TCY’ were asleep in bed. ‘D’ had not been reported missing by the parents. A Child and Family Assessment was completed, leading to the oldest four children being made the subject of Child in Need Plans in September 2022. Following ‘Y’s birth, all five children were made the subject of Child Protection Plans in April 2023. The Local Authority was concerned that ‘H’ and ‘D were at risk of sexual exploitation. Both ‘H’ and ‘D had several missing episodes, some of which had been reported to the police and others had not. ‘H’ and ‘D’s school attendance was low. ‘H’ has a diagnosis of ADHD. He also has autism. It is reported that he took public transport without paying for his journeys, he stole from shops and sometimes misused alcohol. In January 2023, ‘H’ was stopped by police at a train station. He reported having been at a party all night and that he was on his way to school. The police observed ‘H’ to have headlice, ripped footwear and holes in his trousers. ‘D’ was reported missing by her aunt in February 2023. Her aunt was concerned that ‘D’ and her friend were being groomed by older men. ‘D’ was located at a shopping centre at 4am with an adult male. She was still 12 years old. The school attendance of the older four children was noted to be poor. The children were each reported to be wearing dirty clothes, with concerns about hygiene and problems with headlice infections. Further, the Local Authority was concerned that ‘D’ and ‘T’ took on inappropriate carer roles for their younger siblings.

13. The Local Authority was further concerned that domestic abuse was a feature of the relationship between the mother and ‘Father TCY’. There were reports that he could become angry quickly, causing emotional harm to the children who witnessed his behaviour. In July 2022, it was reported that ‘Father TCY’ asked ‘D’ to hit the younger children, as he was aware he should not be doing this.

14. On 24 March 2023, ‘C’ was admitted to hospital by ambulance due to her diabetes not being managed by her parents. ‘C’ is said to have experienced two episodes of diabetic hypoglycaemia, when her blood sugar levels dropped too low, which, the Local Authority asserts, could have resulted in her death. The Local Authority was concerned that, despite previous diabetes management training, the hospital reported in April 2023 it would likely take the mother 6 to 24 months to learn to care for ‘C’ safely. It was considered at that time that ‘C’s father was not reliable enough to manage ‘C’s care independently. Further, the youngest child, ‘Y’ was observed at hospital to be under-stimulated and ignored by his parents.

15. The Applicant English Local Authority began these proceedings in May 2023 seeking a Care Order for each child, with concerns that the children were each suffering significant harm in the form of physical harm, emotional harm and neglect attributable to the care given to them by their parents. In particular, the Local Authority was concerned that the parents were not able to meet the basic needs of the children, they were not able to manage ‘C’s health needs, the educational needs of the children were not being met, the older children were absconding regularly, the youngest child was under-stimulated, the home conditions were poor and the children were exposed to domestic abuse within the home.

16. At the outset of the proceedings, the Court made an Interim Care Order in respect of the child, 'C'. The application was supported by the mother and by the Guardian. The application was not opposed by 'C's father. 'C' was placed in interim Local Authority foster care, where she remains. The other four children remained living at home with their mother and with 'Father TCY'.

17. At the time of issuing its application to the Court, the Local Authority had not identified the whereabouts of 'Father HD' nor whether he held Parental Responsibility for 'H' and 'D'. At the adjourned Case Management Hearing, 'Father HD' having been located and served, was physically present in Court and legally represented. He was joined as a party to the proceedings. The Local Authority sought an Interim Supervision Order in respect of the oldest two children, with the interim plan that the oldest two children be permitted to leave the jurisdiction of England and Wales to live with their father and their Paternal Grandmother in the Republic of Ireland. The mother did not oppose Interim Supervision Order Orders being made nor did she oppose the Local Authority's interim plan for the oldest two children. The mother accepted that 'H' and 'D' were beyond her parental control. The application for an Interim Supervision Order and the Local Authority's interim care plan were supported by 'Father HD' and by the Guardian. The Court made an Interim Supervision Order in respect of 'H' and 'D', permitting their temporary removal from the jurisdiction to The Republic of Ireland and endorsing the Local Authority's interim plan. A Child Arrangements Order was made in respect of 'H' and 'D' in favour of their father.

18. The relevant statutory authorities in The Republic of Ireland were notified appropriately by the Applicant Local Authority at the outset. Timely requests for cooperation arising out of the proceedings brought by the Applicant English Local Authority were made to the International Child Abduction and Contact Unit ("ICACU").

19. The Applicant Local Authority sought Interim Care Orders in respect 'T' and 'Y' with the interim care plan that they be removed from their parents' care. Those Interim Care Order applications were opposed by the mother and by their father. The Interim Care Order applications and interim care plans were supported by the Guardian. The Local Authority's Interim Care Order applications were refused by the Court. Interim Supervision Orders were made in respect of 'T' and 'Y'. These two children have remained living in their parents' care throughout these proceedings.

20. Directions were given by the Court for expert evidence in the form of psychological assessments of the mother and of 'Father TCY', for a specialist parenting assessment of the First and Second Respondents, assessment of the Paternal Grandmother and for specialist advice to be obtained by the Local Authority in respect of recognition and enforcement of Orders in the Republic of Ireland.

21. Following the completion of a positive full assessment of the Paternal Grandmother, the Local Authority recommended that a final Special Guardianship Order be made in respect of the oldest two children, 'H' and 'D', in favour of their Paternal Grandmother, with the plan that both children remain living outside the jurisdiction of England and Wales, in The Republic of Ireland. The making of a Special Guardianship Order was not opposed by the mother. The proposed Order was supported by 'Father HD' and by the Guardian.

22. Regrettably, it was not possible to obtain the necessary information and consent from the relevant authorities in The Republic of Ireland sufficiently quickly to enable the Court to determine the case within the statutory 26-week timetable for the children. This resulted in the Final Hearing being adjourned on two occasions and the timetable for the proceedings being extended as a necessary measure to resolve the proceedings justly.

23. The mother identifies as a Deaf person who is English and Irish. She was born profoundly deaf. She communicates in British Sign Language ("BSL") as her First language with a mixture of Irish Sign Language ("ISL") and some lip reading. She is a vulnerable woman with limited cognitive ability, additional deficits in learning and is often overwhelmed due to stress. In addition to her vulnerability through being profoundly deaf, the mother was assessed by a Consultant Clinical Psychologist as having a learning difficulty, with borderline intellectual ability.

24. Each parent was assisted throughout these proceedings by sign language interpreters. The Court acknowledges the general principle identified by the independent psychologist that not all sign language interpreters are the same. They have different levels of skill. A particular interpreter may not be a good match for someone. Frequent changes of interpreter are unhelpful, both from the point of view of building up trust and rapport and also in relation to language. The way in which a particular concept is signed can vary significantly from interpreter to interpreter, which can create confusion, unbeknownst to the hearing professionals.

25. Further, the Court acknowledges that lip reading is not an effective means of communication, even for Deaf people who are intelligent, with good English skills and who are good at it. Some 40% of English words are homophonous on the lips (for example, comparing 'mail', 'pail' and 'bail'). Lip reading can therefore be unreliable and requires a large amount of guesswork from the context. To lip read a word, the person needs to know that word already in English. Therefore, it is impossible to lip read new or complex vocabulary which is likely to be used in legal or medical settings.

26. A Deaf child growing up in a hearing world may have limited access to information, both in terms of formal education and incidental learning. This means that a Deaf adult may have significant gaps in knowledge and understanding, which has the effect of deprivation of information rather than lack of ability. This can often be most striking in social and emotional functioning. A poor fund of information can mean that new information has nothing to 'hang on'. For example, medical information given by a doctor to an adult assumes basic knowledge of how the body works, which may not be present in a Deaf adult who has missed information which could be taken for granted in their hearing peers.

27. The difficulty in a legal setting and particularly in court may often lie in the complexity of language and unfamiliarity of concepts. It is not only the parents who need support. The Court also requires assistance to highlight this, moderate its approach and ensure accessibility. This can be achieved by a Deaf Intermediary in Court to assist the Deaf parent and to act as a safeguard for the Court, to ensure proceedings are accessible.

28. The Court determined that the mother's ability to participate in and give evidence in the proceedings was diminished by reason of her vulnerabilities. The Court determined that the mother needed an intermediary throughout the Final Hearing. Each of the professional witnesses was critical of her parenting capacity. The parents are facing the prospect of having their children permanently removed from their care. Without understanding the evidence she faced and having it communicated to her and explained to her in real time through the use of interpreters and a Deaf Intermediary, the Court determined that the mother could not participate in the proceedings fairly. Accordingly, a specialist registered Deaf intermediary was directed by the Court as necessary to enable the mother's communication and participation in the proceedings fairly, throughout the Final Hearing, consistent with the requirements of the Family Procedure Rules 2010 Part 3A: 'Vulnerable Persons: Participation in Proceedings and Giving Evidence.'

29. The intermediary observed in his assessment that the mother could become confused when a number of individuals participated in a discussion and it was unclear who the main point of

communication was for her. The mother has limited knowledge of the world around her. A low fund of knowledge can prevent an individual assimilating new information quickly, particularly in complex environments such as court hearings. The intermediary concluded that the mother's fund of knowledge limited her understanding of the court experience. Further, the intermediary informed the Court that the mother did not appear to be aware of her fatigue and how it was affecting her performance or her communication. She struggled to focus on the topic at hand when there were many contributors to discussions. The mother was noted sometimes to sign at a fast pace. She used a mixture of BSL and ISL. She struggled sometimes to explain information in a way that would be clear to another person and she struggled to remember information. Further, the mother was noted to be suggestible and was quite likely to agree with whoever was talking to her at the time.

30. The Court was assisted further by the general principles highlighted by the specialist Deaf Intermediary:
    (a) Identity is an important value for Deaf people. Many Deaf people consider themselves to be part of a cultural linguistic minority rather than disabled. Other Deaf people consider that they are both a linguistic minority and disabled. Deaf people often find more in common with other Deaf people than the cultural community into which they have been born;
    (b) Where the Deaf person is relying on their own lip-reading skills, extra breaks are necessary, as these activities are intense and tiring. Lip reading by the Deaf person is very tiring and much of it is guesswork;
    (c) It should not be assumed the Deaf person is following what is being said because they smile and nod. They may be being polite. Understanding should be checked by asking the person to repeat back what has been said;
    (d) It will make it easier for the Deaf person to lip read if the Deaf person's attention is attracted before starting to speak;
    (e) The subject of the sentence should be made as clear as possible;
    (f) Full sentences rather than short phrases should be used as they are easier to understand;
    (g) The speaker should face the Deaf person and keep the mouth clear;
    (h) Good eye contact should be maintained;
    (i) One to two metres is the optimum distance for lip reading;
    (j) The person speaking should speak at a steady rhythm, as speaking too fast or slow distorts lip movements;
    (k) Shouting should be avoided as this may distort the face and may look angry;
    (l) Sentences should be rephrased where necessary;
    (m) Time should be allowed by the Deaf person to process what is being said;
    (n) Exaggerated hand gestures can be distracting and should be avoided;
    (o) The Deaf person's English vocabulary may be less than it would otherwise be;
    (p) When communicating through a sign language interpreter, the Deaf person should always be looked at when speaking or listening to the reply through the interpreter. The Deaf person should be spoken to (using "you"), not speaking to the interpreter about the deaf person (using "he" or "she");
    (q) Although BSL and ISL interpretation is almost simultaneous, the interpreter needs to wait for the end of the spoken sentence, so there is some time lag. A steady pace should be used when speaking: a very slow sentence is difficult to interpret and speaking very fast is difficult to keep up with. A slight pause should be used every one or two sentences, otherwise, the slight delay caused by the interpretation can mean the Deaf person loses opportunities to interject and ask questions;
    (r) Pre-lingually Deaf people may have very limited ability to understand written English, especially if it is complex;
    (s) In a court session longer than a few hours, it is likely two interpreters will be needed to alternate, as interpreting is very tiring;
    (t) BSL, like ISL, is an entirely different language with a different structure. Many ordinary words and concepts will have no direct translation;

(u) Jargon should be avoided and spoken sentences should be kept simple.

31. 'Father TCY' communicates in BSL. He is the only Deaf member of his family. He was noted be prone to anxiety and panic attacks. He was observed to have difficulties in sustaining concentration and difficulty in responding to questions containing more than four key words. He had difficulty in understanding complex questions. Further, he had difficulty in independently reading documents with understanding. The independent Consultant Clinical Psychologist noted that, in addition to communicating in BSL, he used his voice with some useful speech sounds but which was unusually loud. He was noted to function well in day-to-day life and is independent with regard to activities of daily living. However, when faced with novel and complex information he may struggle due to a limited fund of information, linked to lack of access to information and incidental learning associated with deafness. This was noted to be very common for Deaf people who find themselves in legal proceedings or interacting with professionals.

32. An intermediary assessment completed in the proceedings in respect of 'Father TCY' did not recommend that he be assisted by an intermediary in Court. The specialist Consultant Clinical Psychologist, however, observed that the intermediary assessment was completed by an intermediary without a background in deafness and although the intermediary assessment made "some reasonable generic points around how to manage proceedings, it is not appropriate that ['Father TCY'] is assessed by a non-specialist. In particular, the [intermediary] report reveals a lack of understanding of BSL and interpretation and suggestion such as 'speak slowly' make no sense at all. A hearing intermediary relies on the interpreter present (in this case remotely) and therefore the report is partly dependent on the quality of interpreting. In this case I note some unhelpful interjections by the interpreter, suggesting that certain words and concepts cannot be explained in BSL. In fact, they are perfectly well explained in BSL as the unit of translation is meaning and not a word for sign equivalence. I note also the interpreter having to explain to the [intermediary] assessor that 'BSL is a totally different language'. In summary, aspects of the assessment are inappropriate and based on what would be done with a hearing client." This Court endorsed the suggestion made by the specialist Clinical Psychologist that the same recommendations for an intermediary set out in the intermediary report pertaining to the mother be adopted in respect of 'Father TCY' as necessary to enable 'Father TCY's communication and participation in the proceedings fairly.

33. In addition to the intermediaries assisting the mother and 'Father TCY', two BSL interpreters experienced in working in the legal domain were present in the Court room at each Court session. Comprehensive Ground Rules were identified at the Issues Resolution Hearing and implemented throughout the Final Hearing as necessary adjustments to facilitate the parents' fair participation in the proceedings. Further, the mother was supported by her Care Community Officer in Court by way of emotional support. Judicial continuity was maintained throughout the proceedings for consistency of communication, as a necessary measure having regard to the parents' vulnerabilities.

34. 'Father HD' communicates in ISL. He was permitted to attended hearings remotely. He was supported by an ISL interpreter and a BSL/ISL relay interpreter at each hearing. Specific Ground Rules were identified having regard to the remote nature of his attendance and that of his interpreters, with consideration given in advance to the appropriate video platform (CVP), noting that the Deaf person and signer needed to be able to see each other in a large enough on-screen window to view the signing. On most occasions, HMCTS was able to set up a second video room where the Deaf person and signer could permanently see each other full size.

35. The Court is enormously grateful to each of the highly specialist interpreters and intermediaries who were present at each hearing and to the advocates who adhered

meticulously to the comprehensive ground rules, to ensure the parents' full and fair participation in these proceedings.

36. At Final Hearing in October 2024, the Court had the wholly unique benefit of receiving and assessing oral evidence from eight witnesses, namely a Consultant Paediatrician, the previously allocated Social Worker, an Independent Social Worker, a specialist parenting trainer, the current allocated Social Worker and the mother. There was insufficient time available to conclude the hearing in October 2024. The Final Hearing was adjourned part-heard to November 2024 with the aim of 'Father TCY' and the Guardian giving oral evidence. Regrettably, although BSL interpreters were facilitated by HMCTS, 'Father TCY' was unable to understand the interpreter, to the extent that all parties and the Court agreed he could not give evidence fairly. No alternative interpreter could be identified for the remaining day. The Court made a final Special Guardianship Order on 5 November 2024 in respect of the children 'H' and 'D'. The Final Hearing was further adjourned part-heard until 9 and 10 January 2025, when the Court received 'Father TCY's oral evidence and thereafter the evidence of the Guardian.

37. To have seen and assessed the witnesses puts me, as the Judge determining the case, in a permanent position of significant advantage. Only this Court has had that advantage of seeing and assessing the witnesses when giving evidence and being the subject of cross-examination. To this end, oral evidence has been of great importance in the unique environment of the court room. The oral evidence of the witnesses has been considered together with all the documentary evidence in the case, including an extensive bundle of documents comprising 2,593 pages, two supplementary bundles comprising 139 and 444 pages, together with photographs, video evidence and comprehensive closing written submissions from Counsel for each party received on 20 January 2025.

38. The parents in this case conceded that the threshold criteria under s.31 are satisfied. The issue for the Court is therefore what welfare Order to make in the light of that concession, consistent with the children's best interests. It is neither possible nor necessary for the Court to address in this judgment each piece of evidence read or heard nor to address each submission or argument made, in the time available. Nevertheless, the Court has considered the same and given it anxious scrutiny. This reserved, written judgment is handed down on 3 February 2025.

39. The Local Authority asserts at Final Hearing that, despite intervention and support, the parents are unable to meet, manage and prioritise the children's basic care needs and 'C's health needs and that the mother and 'Father TCY' have limited insight into the risks.

40. In respect of the middle child, 'T', the Local Authority seeks a Care Order with the care plan that she is removed from the care of her parents and placed in long-term foster care. 'T' remains living with her parents. She is the subject of an Interim Supervision Order. 'T's parents oppose the making of a Care Order. They seek for 'T' to remain in their care, where she has lived throughout her life. The Guardian supports the Local Authority's application for a Care Order and the care plan of removal to foster care.

41. In respect of the child 'C', the Local Authority applies for a final Care Order and Placement Order, with the care plan of adoption. The application for a Placement Order is opposed by 'C's parents. 'C' is the subject of an Interim Care Order. She has remained in interim Local Authority foster care since June 2023. The mother and father do not oppose a Care Order being made for 'C'. They seek that 'C' remains in foster care. 'C's parents accept that they are not confident in managing 'C' diabetes at this stage. They feel they would benefit from further learning, with the aim of 'C' returning to their care in the future.

42. In respect of the youngest child, 'Y', the Local Authority applies for a final Care Order and Placement Order with the plan of adoption. The applications for a Care Order and Placement Order are opposed by 'Y's parents. 'Y' is the subject of an Interim Supervision Order. 'Y's parents seek for him to remain in their care, where he has lived throughout his life.

43. In her final written analysis of 1 October 2024, the Guardian recommended that Care Orders be made in respect of the children 'T', 'C' and 'Y' and that a long term foster care placement is found for each child. The Guardian did not support the Local Authority's care plan of adoption for 'C' and 'Y', observing, "it is paramount that the sibling relationship is very important [sic]." However, having made the recommendation in her written analysis for long-term foster care placements for the three youngest children, the Court was informed during the Final Hearing that the Guardian, having considered the oral evidence presented only by the Local Authority but prior to the parents giving their evidence, had changed her recommendation. The Court was informed of the Guardian's revised recommendation to support the Local Authority's application for a Placement Order for 'Y. The Guardian supported 'Y' being adopted. The Guardian's untimely change of recommendation, coming as it did immediately prior to the mother giving evidence, caused the mother and 'Father TCY' considerable distress, to the extent that it was necessary for the mother's evidence to be postponed. That in turn directly impacted the Court's ability to conclude the hearing in October 2024.

44. Subsequent to the mother giving oral evidence but prior to 'Father TCY' giving his evidence, the Court was informed of the Guardian's position that she continues to recommend 'C' being placed in long-term foster care. The Guardian does not support the Local Authority's application for a Placement Order for 'C'. The Guardian recommends a Placement Order for 'Y' with the care plan that he is adopted.

45. The making of a Special Guardianship Order in November 2024 for the oldest two children resolved the proceedings in relation to them. The making of a Care Order for 'C' is not disputed by the parties. The contested issues for the Court to determine at Final Hearing are:
    (a) Whether to make a Care Order for 'T';
    (b) Whether to make a Care Order for 'Y';
    (c) Whether to make a Placement Order for 'C';
    (d) Whether to make a Placement Order for 'Y';
    (e) If a Placement Order is made for 'C', 'Y' or both children, what the contact arrangements should be between the children and their parents;
    (f) If a Placement Order is made for 'C', 'Y' or both children, what the contact arrangements should be between the children and their siblings;
    (g) If the children 'T' or 'Y' or both of them remain in their parents' care, what the appropriate Order should be.

The Relevant Law

46. The following established legal principles have each been taken into consideration and applied by this Court.

47. In any application for a Care Order the Court must apply section 31, Children Act 1989. Section 31(2) provides that a Court may only make a Care Order if it is satisfied that the child concerned is suffering or is likely to suffer significant harm and that the harm or likelihood of harm is attributable to the care given to the child or likely to be given to the child if the order were not made, not being what it would be reasonable to expect a parent to give. These provisions are commonly called the threshold criteria.

48. The burden of proving allegations rests with the Local Authority. To prove a fact asserted, that fact must be established on the civil standard, that is, on the simple balance of probabilities. There is only one civil standard of proof, namely that the occurrence of the

fact in issue must be proved to have been more probable than not. Neither the seriousness of the allegation nor the seriousness of the consequences makes any difference to the standard of proof to be applied in determining the facts.

49. If satisfied that the threshold criteria are made out, the Court must proceed to consider section 1, Children Act 1989. At this second stage, the welfare of the child is the Court's paramount consideration.

50. Where there is an application for a Placement Order for a child, that application becomes the primary application. It is unnecessary to consider the Care Order application on its own before then turning to the Placement Order application. It is right, however, when a Court concludes that a child should be placed for adoption, to make a Care Order as well as the Placement Order, albeit the Care Order will be 'dormant' unless the Placement Order is subsequently revoked.

51. The fundamental principles are set out in s.1 of the Adoption and Children Act 2002. Under s.1(2), the paramount consideration of the court must be the child's welfare, "throughout his life." Importantly, the principle in the 2002 Act is qualified by the words "throughout his life" which are not included in s.1(1) of the 1989 Act. The Court must take into account all the matters set out in the welfare checklist at section 1(4) of the 2002 Act and consider the whole range of powers under that Act and the Children Act 1989. Section 1(4) of the 2002 Act provides that the Court must have regard to the following matters (among others):
    (a) the child's ascertainable wishes and feelings regarding the decision (considered in the light of the child's age and understanding);
    (b) the child's particular needs;
    (c) the likely effect on the child (throughout his life) of having ceased to be a member of the original family and become an adopted person;
    (d) the child's age, sex, background and any of the child's characteristics which the Court or agency considers relevant;
    (e) any harm (within the meaning of the Children Act 1989 (c. 41)) which the child has suffered or is at risk of suffering;
    (f) the relationship which the child has with relatives, with any person who is a prospective adopter with whom the child is placed, and with any other person in relation to whom the court or agency considers the relationship to be relevant, including:
        (i) the likelihood of any such relationship continuing and the value to the child of its doing so,
        (ii) the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the child can develop, and otherwise to meet the child's needs,
        (iii) the wishes and feelings of any of the child's relatives, or of any such person, regarding the child.

52. The focus of the Court should be on the identification and full welfare analysis of the realistic options for the child required by the 2002 Act (*Re B (Care Proceedings: Appeal)* [2013] UKSC 33 [2013] 2 FLR 1075).

53. In *Re D-S (A Child: Adoption or Fostering*) [2024] EWCA Civ 948, Peter Jackson LJ concluded that the child's relationships with her birth family were "not of such importance that they can outweigh the predominant need for her to have a family of her own". His Lordship described this as a factor which spoke "in favour of contact taking place, if it can be arranged, after the child is placed for adoption and later adopted." The value to a child's welfare of the permanence which only adoption can provide has been recognised in many cases, including the judgments of Pauffley J in *Re LRP (A Child) (Care Proceedings – Placement Order)* [2013] EWHC 3974 (Fam) at paragraph 39 and Black LJ in *Re V*

(Children) [2013] EWCA Civ 913 at paragraphs 95 - 96. Every Court considering whether to endorse a plan for adoption must take into account the fact that, in Black LJ's words, "adoption makes the child a permanent part of the adoptive family to which he or she fully belongs."

54. In *Re F (A Child: Placement Order: Proportionality)* [2018] EWCA Civ 2761 the Court of Appeal set out the questions that the Court should ask itself when assessing risk of future harm and setting it in context:
    (1) What is the type of harm that might arise?
    (2) What is the likelihood of it arising?
    (3) What consequences would there be for the child if it arose?
    (4) What steps could be taken to reduce the likelihood of harm arising or to mitigate the effects on the child if it did?
    (5) The answers are then placed alongside other factors in the welfare equation so that the court can ask itself, how do the overall welfare advantages and disadvantages of the realistic options compare, one with another?
    (6) Ultimately, is the welfare option necessary and proportionate – are the risks bad enough to justify the remedy?

55. Section 52(1)(b) of the 2002 Act makes clear that the Court cannot dispense with the consent of any parent of a child to the child being placed for adoption or to the making of an Adoption Order in respect of the child unless the Court is satisfied that the welfare of the child requires the consent to be dispensed with.

56. The Human Rights Act 1998 applies to these proceedings. Under Article 8, everyone has the right to respect for private and family life, home and correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society. Each individual family member in this case has that right, including the children, the mother and the father. These rights must be balanced. Any interference with the right to private and family life must be a necessary interference and must be proportionate, having regard to the risks.

Threshold

57. The Local Authority asserts that on the relevant date, being 17 May 2023, the children were each suffering and were at risk of suffering significant harm in the form of physical harm, emotional harm and neglect attributable to the care given by their parents, not being what it would be reasonable to expect a parent to give a child.

58. The parents do not dispute that the threshold criteria for the making of public law Orders are met. The parents concede that the threshold criteria under s.31 are satisfied. There is a dispute between the Local Authority, the mother and 'Father TCY' in respect of the detail set out in the specific assertions in the Local Authority's pleaded threshold statement. Having regard to the parents' s31 concession, it is not necessary for the Court to resolve the dispute as to the detail of the contested threshold assertions.

59. The Local Authority makes the following specific assertions in its pleaded threshold statement:

Physical Harm

1. The parents are not able to safely manage 'C's diabetes which could result in chronic illness/death:
    a. *'C' has passed out twice due to low glucose and the parents failed to call medical help/ambulance in the days leading up to 'C's admission to hospital on 24.03.2023, following the mismanagement of her diabetes and 'C' suffering two 'hypo' episodes which could have resulted in her death*: The mother accepts she should have called for medical assistance sooner. She asserts that, prior to 'C's admission to hospital, guidance regarding management of 'C's diabetes was limited, was not 'deaf aware' and the mother's learning needs were not

considered. 'C's father accepts the Local Authority's threshold assertion. On all the evidence, the Court finds the Local Authority's threshold assertion to be proved.

b. *The hospital reported that the monitoring device on the mother's phone was being missed as it had a sound alert. Despite this alert, as well as 'C' turning grey and pale when becoming ill, the mother does not respond appropriately to 'C's diabetic needs*: The mother asserts that she was unaware the monitoring device was set to 'vibrate'. She asserts that advice and guidance was limited, was not 'deaf aware' and her learning needs were not considered. 'C's father accepts that the monitoring device was missed. He asserts that the monitoring device has a 'sound' alerts, not a vibrating alert. He accepts that both he and the mother need training to be completed with regard to managing 'C' diabetes. On all the evidence, the Court finds the Local Authority's threshold assertion to be proved.

c. *The hospital reported that the mother was unable to consistently achieve the diabetic requirements to manage 'C's diabetes despite over a month of tuition and using visual aids to help explain the process and emergency response guidelines*: The mother asserts that training was not 'deaf aware' and did not take into account her learning needs. 'C's father accepts the Local Authority's threshold assertion. He accepts that more training is needed. On all the evidence, the Court finds the Local Authority's threshold assertion to be proved.

d. *'C' was medically fit for discharge for over two weeks but the hospital was unable to discharge 'C' to the care of her parents due to their inability to safely manage her diabetes*: The mother and 'C's father accept the Local Authority threshold assertion. The mother asserts that she had not received appropriate guidance and support at the relevant time. On all the evidence, the Court finds the Local Authority's threshold assertion to be proved.

Neglect

2. The parents are not able to meet, manage and prioritise the children's basic care needs which is likely to impact on their development, self-esteem and emotional wellbeing:

a. *The children's school/nursery attendance is extremely poor. The children have not been provided with breakfast*: The mother does not dispute the Local Authority's assertion. She accepts that when Court proceedings were issued, she was struggling to meet the needs of all five children. She asserts she was also in hospital with 'C'. She asserts that she sought help from the Social Worker but none was provided. 'Father TCY' accepts there 'may have been issues' with school attendance leading up to June 2023 and when he was not in the family home. He asserts that by June 2024, 'T's school attendance was at 93.9%. He asserts that the children have always been provided with breakfast." On all the evidence, the Court finds the Local Authority's threshold assertion to be proved.

b. *The older children act as carers for their younger siblings and are expected to take on tasks which are not age appropriate*: The mother accepts that the older children would 'help out' with the younger children and that 'T' has asked to help the mother with 'Y'. The mother asserts that the children were not expected to take on tasks. The Local Authority assertion is not accepted by 'Father TCY'. The Social Work evidence records that professionals believe that 'D' and 'T' in particular are expected to take on age-inappropriate caring roles in respect of their younger siblings. The Social Work evidence also records that 'H' reported that he had been asked to wait up for 'D' when she has been out late at night, while their parents have gone to bed. The Independent Social Worker observed that 'T' very much takes on the role of parenting responsibilities with 'Y'. On all the evidence, the Court finds that the older children, 'D' and 'T' and to some extent 'H' have at times performed a parental role towards their younger siblings. The Court does not find reliable evidence that the parents expected the older children to take on this role nor that the parents expected the older children to take on age-inappropriate tasks.

c. *'Y' was observed by hospital staff to present as under stimulated and ignored, which is likely to adversely impact his development*: The Local Authority assertion is not accepted by the mother or by 'Y's father. The Local Authority Social Work evidence records, "Although 'Y' is reported by his Health Visitor to be meeting his developmental milestones, the hospital where 'C' is a patient have persistently observed that he is under stimulated and ignored." The Court does not have the benefit of evidence from the hospital in this regard. There is evidence before the Court of observations by the Social Workers of 'Y' appearing to be under stimulated and ignored. The Court finds on all the evidence that 'Y' was observed to present as under stimulated and ignored. In the Court's welfare analysis, the Court addresses the whole evidence in respect of 'Y's development, which includes positive evidence from the Health Visitor that he is meeting all his developmental milestones.

d. *The children present as dirty and unkempt; they wear dirty clothes, have poor hygiene and suffer from untreated and re-occurring head lice infestations which impacts on the children's self-esteem, identity, ability to form friends and be accepted in social groups such as school*: The mother accepts that she struggled with some of the children having head lice. She does not accept the children were dirty, unkempt or had poor hygiene. She accepts that standards slipped when 'C' was in hospital. The Local Authority assertion is not accepted by 'Father TCY'. On all the evidence from a variety of sources, the Court finds the Local Authority threshold assertion to be proved.

e. *The home conditions are poor which places the children at risk of physical harm if the home is unsafe/unclean*: The mother accepts that the home conditions deteriorated when 'C' was in hospital. 'Father TCY' accepts there were "issues with dogs in a small flat and mess". He asserts that the dogs were rehomes swiftly on advice from professionals. On all the evidence, the Court finds the Local Authority's threshold assertion to be proved.

f. *The parents have not been able to provide appropriate boundaries to the children*: The mother accepts she struggled to put boundaries in place with all five children. 'Father TCY' does not accept the Local Authority assertion in respect of the children 'T', 'C' and 'Y'. On all the evidence, the Court finds the Local Authority's threshold assertion to be proved, at the date when proceedings began, in respect of the three older children 'H', 'D' and 'T'.

Emotional Harm

3. The children are exposed to their mother's poor mental health which is likely to have caused them emotional harm:

   a. *The children have experienced inconsistent and poor parenting, poor routines and a lack of boundaries, owing to their mother's struggle to manage her emotions of anxiety, low mood, distress, self-neglect, her feelings of being unsupported and/or overwhelmed, which has impacted her mental health and affected her ability to parent and is likely to have caused them emotional harm:* The Local Authority assertion is accepted by the mother. She accepts she struggled to care for all five children and this impacted her mental health. She asserts that she sought help from the community mental health team. 'Father TCY' does not accept the Local Authority's assertion. On all the evidence and having regard to the mother's concession, the Court finds the Local Authority's threshold assertion to be proved.

   b. *The children have experienced their father's [Father 'TCY'] low mood, irritability, verbal aggression and deterioration in his mental health which affected his ability to look after the children and put their needs first and is likely to have caused them emotional harm*: For reasons that are not clear the mother does not provide a response to the Local Authority's pleaded threshold statement, suggesting that the assertion is for 'Father TCY' to respond to. 'Father TCY' does not accept the Local Authority's assertion. There is clear evidence before the Court, accepted by the father, that he has experienced low mood, irritability

and that his mental health deteriorated for a period. The Court finds that this is likely to have affected his ability to look after the children and is likely to have caused them some emotional harm.

Domestic Abuse

4. The children are exposed to volatile relationships within the home environment which are likely to be distressing for them and places them at risk of physical and emotional harm:

   a. *Due to the failure of the parents to appropriately manage and contain the behaviour of the children's older sibling, 'H', the children have on occasion been subjected to his aggressive and self-harming behaviours within the home and police attendance at the home. This is likely to be distressing for the children, as well as placing them directly at risk of physical harm or by being caught in the crossfire:* The Local Authority assertion is accepted by the mother and by 'Father TCY'. On all the evidence, the Court finds the Local Authority's threshold assertion to be proved.

   b. *The children are exposed to domestic abuse within the home environment which makes the children scared and impacts on the parents' availability to them:*

      i. *'Father TCY' has thrown items across the house, which has frightened the children. On 23.05.2023, this included a can of drink which accidently struck 'T'*: The mother accepts that 'Father TCY' struggled with his anger when they were caring for five children and 'C' was in hospital. 'Father TCY' does not accept the Local Authority assertion. He asserts that an incident took place on 18 March 2022 as recorded in a police report, not on 23 May 2023 as pleaded by the Local Authority. He asserts that he tripped over and accidentally spilled a can of drink on 'T', whereafter he immediately apologised to 'T', comforted her, bathed her and changed her clothing. He asserts that the police attended the family home without a BSL interpreter.

      ii. *On 24.05.2024, the mother informed the police that she wanted to check on the children's safety, after leaving them in the sole care of 'Father TCY' who gets angry, shouts a lot and has made threats towards them*: The mother asserts that she struggled to communicate with police as they often did not have a BSL interpreter. She asserts that she was concerned at the time that 'Father TCY' was struggling to care for four children while she was in hospital with 'C'. 'Father TCY' denies that he becomes angry, shouts or makes threats towards the children.

      iii. *'Father TCY' accepts that he has struggled in the past to remain calm and is loud when he loses his temper:* The mother does not respond to the Local Authority threshold pleading, 'Father TCY' accepts there have been times when he has not been calm dealing with the oldest two children. He asserts he is naturally loud "due to his disability."

      iv. '*Father TCY' has been unable to regulate his mood and has exhibited verbal abuse and controlling behaviour towards the mother:* For reasons that are not clear, the mother does not respond to the Local Authority threshold assertion. 'Father TCY' accepts there has been times when he and the mother argued. He accepts he has shouted at times. He asserts he has not shown controlling behaviour towards the mother or abused her in any way.

   Taking the Local Authority's assertion 4(b) as a whole, there is a relevant police report for 18 March 2022, which records that police officers attended the home following 'H' calling the police to report that his stepfather had been arguing with his little sister 'T'. When spoken to be officers, 'T' stated that her father had become angry that evening and poured beer on her. The report records that, after speaking with the children further, it appeared that the father would often get angry and reference was made to them hitting the children when they misbehave. There is a further police report of 24 May 2023 which records police officers

attending the family home and conversing with the mother through her oldest son who acted as an interpreter. The police report also records the use of a translator app. The report records, "Her partner whom she has kicked out of the house has been found throwing things across the house and frightening the children...he shouts a lot and scares the children and [the mother] which is why she has kicked him out." The Court finds on all the evidence that the mother informed the police that the father shouts a lot. On all the evidence, the Court finds the Local Authority threshold assertion proved.

60. There are three elements to the threshold conditions in s.31(2). The harm must be actual or likely; it must be significant; and it must be due to parenting that is not reasonable. Threshold allegations are separated out by Local Authorities for forensic purposes but there is only one threshold and the Court measures the effect of all its findings against it. Facts, which are minor or even trivial if considered in isolation, when taken together may suffice to satisfy the Court of the likelihood of future harm. The Court attaches to all the relevant facts the appropriate weight when coming to an overall conclusion on the crucial issue. Each piece of information affects the calculation of risk. There is no dispute that the threshold for protective intervention is crossed. The Court makes findings in accordance with the concessions made by the parents to the Local Authority's amended threshold statement. Against that background, the Court turns to consider the question of welfare.

Welfare

61. The mother and 'Father HD' agreed that the threshold for making public law Orders in respect of 'H' and 'D' was met on the basis that the children were at the relevant date beyond parental control.

62. 'H' is known to have autism. He is described by the Guardian as a polite, confident and lively young person. He described life in The Republic of Ireland with his Paternal Grandmother to be 'grand'. He expressed a wish to see his younger siblings as much as possible.

63. 'D' is noted to have a history of anxiety and depression. Her physical health was noted to be good and she is making progress in full time education. She is described as having settled well in the care of her Paternal Grandmother. 'D' made clear the importance of her birth family to her, including her relationship with her mother and younger siblings. She has regular indirect video contact with 'T' and 'C'.

64. The mother accepts she is unable to manage 'H' due to his complex needs and his behaviour. As noted by the independent psychologist Dr O'Rourke, 'H' has not acquired BSL and therefore any communication with his mother is limited and basic. Further the mother acknowledged understanding little about autism.

65. During the proceedings, their father maintained a relationship with both 'H' and 'D, travelling to see them up to twice each month. This was reported to work well, with no concerns being raised.

66. A positive viability assessment was followed by a comprehensive Special Guardianship assessment of the Paternal Grandmother completed by the Applicant Local Authority. The full Special Guardianship assessment also concluded positively in that the assessment recommended that 'H' and 'D' should continue to live with their Paternal Grandmother in The Republic of Ireland for the remainder of their minorities. Further, the Applicant Local Authority completed a full financial assessment of the Paternal Grandmother. Relevant international criminal checks were completed, with no concerns identified. The Paternal Grandmother obtained independent legal advice.

67. The Applicant Local Authority invited the Court to make a Special Guardianship Order in favour of the Paternal Grandmother, with whom the children have lived since June 2023.

The making of a Special Guardianship Order for both children in favour of the Paternal Grandmother was supported by 'Father HD', supported by the Paternal Grandmother and was not opposed by the mother. 'Father TCY' adopted a neutral position.

68. Suitable advice was obtained by the Applicant Local Authority regarding the making of final Orders for placement of the children 'H' and 'D' in The Republic of Ireland. The Applicant Local Authority in England made an appropriate request for information and consent under Article 13 Hague Convention 1996 from Tusla Child and Family Agency as the competent authority, via ICACU. Written consent was finally obtained from Tusla via ICACU by letter dated 11 October 2024.

69. On 5 November 2024, the Court was in a position to make a final Special Guardianship Order in respect of the children 'H' and 'D' in favour of their Paternal Grandmother. The Court made an Order permitting their permanent removal from the jurisdiction of England and Wales. The Court determined in an extempore oral judgment on 5 November 2024 that, by reference to s.1 Children Act 1989, the best interests of 'H' and 'D' demanded the making of a Special Guardianship Order as a necessary and proportionate response to the Local Authority' application. The Court was informed, happily, that both children have settled well in the care of their Paternal Grandmother and have been engaging in education.

70. It is to the credit of the mother that she has the insight to acknowledge that she is not able to provide the children 'H' and 'D' with the care they need.

71. Having regard to the fact that final Orders were made by the Court in November 2024 relating to 'H' and 'D', the focus of this judgment has necessarily been on the youngest three children and their parents.

72. 'C's health needs are complex. She has type 1 diabetes. Her parents accepted at the outset of the Final Hearing that they are not able currently to meet those needs. They accept they require more training in respect of managing her diabetes. They do not oppose a final Care Order being made for 'C. The Local Authority application for a Placement Order is opposed.

73. Intensive education was provided by the multidisciplinary team to 'C's parents prior to her admission to hospital. The Court concludes that the level of education provided to 'C's parents was extensive and greater than that which is provided for the majority of families. The extent of such training was necessary in light of the parents' vulnerabilities. A sign language interpreter was available at all times, either face-to-face or via video link. The parents report being dissatisfied with the quality of the sign language interpreting at times. However, at the end of the educational sessions the parents reported good understanding. Plainly, the education provided was not fully understood, retained or implemented by the parents in their management of 'C' health needs.

74. Dr Jones, Paediatric Consultant, told the Court, "Type 1 diabetes occurs when the pancreas stops producing the hormone insulin, which is required for glucose to be used as energy around the body. Without insulin, blood glucose levels remain very high, causing water loss via the kidneys, thirst and dehydration. The body looks for alternative fuel sources and breaks down fat, which causes weight loss and the build-up of ketones, which can lead to the serious condition of Diabetic Keto Acidosis, which if left untreated can ultimately lead to death."

75. Dr Jones explained that treatment is with insulin, which can be delivered either with injections or an insulin pump. 'C's current treatment is with insulin injections, consisting of two types of insulin: a fast acting insulin which is given at times that food is eaten containing carbohydrates and if the blood glucose levels are becoming high and require a

'correction', the dose required at each injection varying depending on the amount of carbohydrate she is eating and her blood glucose level; and a longer lasting insulin given twice daily at the same dose to provide insulin required for background energy needs.

76. 'C's diabetes care plan was comprehensive. 'In summary, 'C' required administration of Levemir insulin twice a day correctly, administration of Novorapid insulin correctly when eating carbohydrate or at times when blood glucose is high, carbohydrate counting to an acceptable level, following a healthy diet, following Novorapid doses, advice from 'MySugr', recognising and treating "hypos" quickly and following the personalised hypo plan, checking blood glucose levels on the Dexcom regularly (at least 6 times per day) and taking appropriate action, checking blood glucose levels when appropriate, responding to Dexcom high and low alarms, changing Dexcom sensor every 10 days, knowing when to check blood ketones and what they mean, sharing Dexcom data, sending MySugr reports to the team to make regular adjustments to 'C's management plan, attending clinic appointments (minimum four per year), completing annual blood and urine tests, contacting the team between appointments for support as needed, including advice on illness management, exercise, frequent high/low blood glucose levels or any other and recognising when 'C' is unwell.

77. Personalised treatment plans were provided by the medical team to 'C's parents, including training on how to administer intramuscular glucagon in the case of a hypoglycaemic coma. A Continuous Glucose Monitor was attached to 'C's skin measuring glucose levels every five minutes, sending the results to an app on 'C's phone and alerting her to when her blood glucose levels are low or high so that action can be taken.

78. Dr Jones informed the Court, that despite education provided to 'C's parents, "The parents' understanding of ['C's] diabetes and management was low. Much of what we discussed appeared to be new information to them, despite it being covered within the education that had been delivered. In particular, they did not understand the difference between the two insulins and had been using them for the incorrect purpose. Intensive education has continued to be provided to the parents prior to her admission [to hospital]."

79. 'C' was admitted to hospital on 24 March 2023 following telephone contact from her aunt who had come to care for her that day. The parents are reported to have had told the aunt that 'C' had been "hypo" all night and that they had given skittles and glucose tablet in the morning. The aunt was advised by the Diabetes Team what treatment to provide. 'C' was noted to be presenting as sleepy and difficult to rouse and remained lethargic after her blood glucose normalised. No glucagon was available in the house. The aunt was advised to call for an ambulance and the team kept in close contact until she arrived at the Emergency Department. 'C' had further "hypos" and was refusing the hypo treatment available within the hospital. It was noted that 'C' had a bruise on her face that was reported by the mother to have resulted from a fall. 'C' was reported to have been "falling often" and unsteady in the days preceding her admission. During 'C's admission to hospital her diabetes management was optimised. It was noted by the medical team that the mother continued to require supervision and intensive support to meet 'C's diabetes needs whilst on the hospital ward.

80. The Court was informed by Dr Jones in oral evidence that 'C's Type 1 diabetes will be a life-long illness that she will not recover from. Dr Jones told the Court that managing diabetes can be challenging for anyone because of the number of interventions required by the parents and the young person on a daily basis: "Particularly in very young children this can be even more challenging. The patterns can be less predictable because the child is active all the time, eating patterns change, likes and dislikes change." Noting that 'C' has been cared for by a Local Authority foster carer since the Interim Care Order was made, Dr Jones noted, "it has been challenging to achieve the level of control we aim for, for ['C']. She is not at the level we are aiming for at the moment."

81. Dr Jones told the Court, the education given to the parents, "has always been done in the presence of an interpreter face-to-face or by video link...The nursing staff have had numerous contacts with the family for education, both post admission and after our first clinic appointment. The care plan had been amended and changed into different forms, including simplified and pictorial forms…we then arranged for the education…to go through this again from the beginning, at a slower pace with interpreters, and the number of contacts with the family was high to ensure that we did all that we can to rectify this shortfall in education and information that the family understood at that appointment…"

82. Significantly, Dr Jones informed the Court in oral evidence, "We were not aware that ['C's] mother had any formal learning needs diagnosed." Dr Jones went on to tell the Court, "as with any family, if you do not feel that they are understanding or retaining that information, adaptions are made to make that information more accessible and that I would say that was the case and ahead of her admission, her personalised care plan had been adapted into a way that at the time of the education, the team felt was being understood and being able to use."

83. Dr Jones acknowledged that the parents demonstrated insight by recognising they are not able to manage 'C's diabetes. Further, having identified that the diabetes team was not aware of the mother's learning needs, Dr Jones further acknowledged that an assessment would inform the diabetes team's understanding to provide training in a way that could be understood by the parents.

84. The independent Consultant Clinical Psychologist, Dr O'Rourke, told the Court of her expert opinion that, "It is clear that the parents have not understood these [instructions] properly, putting ['C'] at considerable risk. This is a matter of learning. Information about diabetes is likely to presuppose basic information about body function, such as the role of sugar in the body, what is a hormone etc. It is highly likely that [the mother] does not have the requisite background knowledge on which to hang new medical information. Sessions will need to take this into account and therefore take much longer."

85. Dr O'Rourke further told the Court that the mother, "talked about finding different professionals, changes in interpreter and just the number of people involved, confusing and overwhelming. Given her cognitive abilities and her mental health, she is likely to become overwhelmed and therefore less likely to take in new information, if there are multiple people providing information and/or interpreting all with their own styles." The mother accepted that, as parents, they need to learn more and understand. She told Dr O'Rourke, that at first, in the hospital, the staff would talk to her with no interpreter which meant she could not understand anything. They then booked interpreters but there were various different ones and different members of staff. She found this confusing. Eventually there was a particular member of staff who used visual information and demonstrated what was required, with 'C' present. She agrees that she needs to learn more about diabetes. She added that this is one of the reasons it is so important for 'C's BSL to be maintained, so she can communicate with her parents about how she is feeling. Dr O'Rourke further noted that when 'C' was in hospital, the mother, "felt overwhelmed, anxious and low in mood. Her five children were gone and her head was 'full of information', much of which she did not properly understand…since she has had support, she has felt less overwhelmed and less low in mood and anxious."

86. Dr O'Rourke told the Court, "I have seen the visual aids provided in relation to diabetes management. These are more accessible than the written version, which [the father] would not be able to understand at all. However, they still contain a lot of words, sentences and medical terminology. Further intervention should be with a deaf professional in order to break down and explain information further and provide clearer visual aids."

87. Dr O'Rourke noted, in respect of the father, that again information about diabetes was likely to presuppose basic information about body function: "It is possible that [the father] does not have the requisite background knowledge on which to hang new medical information. Sessions will need to take this into account and therefore take much longer. Deaf people become adept at feigning understanding and trying to adapt to meet the needs of hearing people and not offend them. It is important that, where possible, deaf professionals or specialists in deafness work with the family, in order to avoid making common assumptions or failing to adapt their approach sufficiently. Where this is not possible, co-working with deaf professionals will go a long way to ensuring accessibility and improving rapport with hearing professionals. All information needs to be given in BSL. However, simply having an interpreter does not suffice, due to the issues of gaps in background knowledge as described. I would recommend co-working with a deaf professional in order to design and deliver information in a way that takes account of both parents' needs. Working with a deaf professional is likely to give both parents confidence to say when they do not understand, rather than pretending that they do, in order to avoid looking stupid. The use of visual aids is helpful and can assist also as an aide memoire. In combination with visual aids, [the father] will learn better by being shown and practising, rather than simply being told. Key information can be recorded in BSL in order that [the father] can refer back to it. Most interpreters would be happy to do this, either recording a teaching session or translating a bullet-point list of information to remember. I would recommend all professionals consider some basic training in deafness to increase their knowledge and communication skills with deaf people."

88. 'C' was noted to be very settled in her interim foster care placement and is responding well to the boundaries and structure put in place. Nevertheless, in foster care, 'C's diabetes remains unstable and she continues to need close monitoring. It was reported that this has been difficult as her blood sugars are very unstable, the monitor beeps frequently and she needs "constant, round the clock" monitoring and responsiveness.

89. 'C's parents do not oppose the Local Authority's care plan that 'C' remains in Local Authority foster care. The mother accepted that she should have called for medical assistance sooner in respect of the incident in March 2023 when 'C' required hospital treatment. The father accepted during his interview with Dr O'Rourke that 'C's needs were not given as much a priority as they should, as there was so much focus by the parents on 'H' and 'D'. 'C's father was concerned, nevertheless, that information from the diabetic team appeared to him to be conflicting when the staff in the team changed. Further, he expressed the concern that the Diabetes Team favoured remote appointments and there were difficulties with the interpreter 'freezing' on the screen.

90. There is universal recognition that 'C' is loved dearly by her parents. The Court commends 'C's parents for making the difficult, child-focussed decision not to oppose a Care Order for 'C'. In this Court's judgement, that decision demonstrates insight on the part of 'C's parents in acknowledging that they are not able to meet 'C's complex health needs.

91. On all the evidence, the Court concludes that a Care Order is the only Order that meets 'C's welfare needs. In this Court's judgement, a Care Order is necessary, is in C's best interests and is the proportionate response to the risks. The Court makes a Care Order. The contested Placement Order application will be considered later in this judgment.

92. 'T' was described by the Guardian as presenting as a "happy, friendly and chatty child." She described her father as a "good man" who is able to build things, comfort her if she falls, helps her with her homework and loves helping her with reading. She described doing "everything together" with her father and they "hang out a lot". She told the Guardian, "There is nothing she does not like about her dad. She said, 'I love him so, so much, life's good.'"

93. ‘T’ described her mother as a “good woman” and that her mother, “loves playing with me, loves being happy.” She told the Guardian her mother helps her with her homework and “helps look after me.” She told the Guardian there is “nothing she does not like about mum.”

94. ‘T’ told the guardian that she loves to help her parents out and spoke of “teamwork.” She said that she helps her parents “with paperwork and explained that dome deaf people cannot read.” She described giving ‘Y’ milk when her mother was in hospital and her father was in bed. She described having “no worries at home.”

95. ‘Y’ is the youngest child. He was noted to have been born “with a hole in his heart.” In her initial analysis, the Guardian observed the mother to respond to ‘Y’ in a “warm and nurturing way…and responded to him appropriately.” ‘Y’ was described by the Guardian as appearing “comfortable and content whether he was being touched and held by his mother, sitting next to her or laying down.” The Guardian considered him as a “content baby who was comfortable in any situation.” Significantly, the Guardian observed that the mother was not able to hold ‘Y’ whilst talking, “as she needed to use her arms and hands to communicate in sign language.”

96. A psychological assessment of the mother was prepared by Dr O’Rourke, Consultant Clinical Psychologist. Dr O’Rourke observed, “As typically the case for many deaf people, [the mother’s] attainment of skills and knowledge about the world around her will have been adversely affected by lack of access to information associated with deafness. As a deaf child growing up in a hearing family with little access to communication, she is likely to have felt isolated and frustrated, leading to behavioural difficulties. At school she learnt to sign and is reported to have been happy there, but despite this will have missed out on the day-to-day opportunities within a family of chatting and overhearing in order to build an understanding of the world and its complexities. This poor fund of information is a result of difficulties in accessing both formal education and incidental learning and is often most striking when faced with novel and complex information. A poor fund of information can mean that new information has nothing to ‘hang on’; for example medical information given by a doctor to an adult assumes basic knowledge of how the body works, which may not be present in a deaf adult who simply has missed information which could be taken for granted in their hearing peers…Many deaf people reach adulthood with gaps in their understanding and knowledge. This is often striking in more nuanced aspects of life which are picked up incidentally, such as problem-solving or conflict resolution.”

97. Dr O’Rourke noted the mother to have a history of anxiety and low mood, presenting with distress and self-neglect at times that she feels unsupported and/or overwhelmed: “In my opinion this relates to difficulties in understanding complexity and poor coping strategies, meaning that she struggles to manage her emotions in certain situations. It is likely that much of [the mother’s] presentation is due to difficulties in acquiring information as a result of deafness and her developmental experiences. Her intellectual ability is in the borderline range which would mean that she struggles with complexity anyway. In addition she grew up without access to effective communication and learning within the family which would have further limited her learning, particularly about social and emotional matters…[the mother] presents as someone with limited intellectual ability and poor coping strategies. She evidently functions much better when she has support and is ‘scaffolded’ to some extent by others, who give day to day advice and/or problem solve for her.”

98. The mother was noted by Dr O’Rourke to not cope well with stress: “In the face of difficult life events or relationship issues, she has often presented as dysregulated and needed referral to mental health services. This type of support is likely to be required intermittently, depending on her circumstances and level of support. At times when her mental health deteriorates, her ability to parent the children is clearly affected, as she recognised in our

discussion of neglect. There is also a risk that, without robust long-term support, the children take on the role of her carers. I would be concerned about her ability to understand and manage the complex needs of her children, particular ['C's] diabetes, if she were a lone parent. [The mother] is at risk of anxiety and depression when she is not properly and robustly supported. This is due to her limited intellectual ability, poor stress management and life experiences as a deaf person. In my opinion her main need is for support rather than therapy, as well as direct teaching about various aspects of parenting her children." Any parenting advice, Dr O'Rourke told the Court, needs to be accessible both in terms of the mother's deafness and her limited cognitive ability: "She is likely to not understand or misunderstand complex information, which requires repetition and 'testing' to make sure she has understood. Given her cognitive abilities and her mental health, she is likely to become overwhelmed and therefore less likely to take in new information, if there are multiple people providing information and/or interpreting all with their own styles." Dr O'Rourke reiterated, "It is important that, where possible, deaf professionals or specialists in deafness work with the family, in order to avoid making common assumptions or failing to adapt their approach sufficiently. Where this is not possible, co-working with deaf professionals will go a long way to ensuring accessibility and improving rapport with hearing professionals."

99. In respect of the concerns regarding 'T' adopting a parenting role in the family as the oldest of the three younger siblings, Dr O'Rourke warned, "It is important that professionals do not collude with this by failing to interact via an interpreter, putting the children in the position of having to interpreter for their parents.

100. An Independent Social Worker assessment of mother was completed by Susan Robinson in March 2024. Ms Robinson informed the Court that her assessment was "difficult…for a number of reasons. Firstly, gleaning information from the parents was a slow process and their ability to summarise points, be succinct and give timelines (particularly the mother) was limited. It was frequently necessary to adapt questions and break down concepts to aid their understanding. Furthermore, the mother said felt she felt overwhelmed so did not want frequent sessions or long sessions. This was the case even when the session was only 1.5 hours in duration. An intermediary was used for all sessions due to the parents' communication needs and gaps in learning (due to their deafness)."

101. The Independent Social Worker reported, "['T'] has told her that she sleeps in ['Y's] cot and that her mother does not respond to the alarm when he is crying. ['T'] arrived at school and said that she had not had any breakfast. When this was raised with the mother, she said that ['T'] had been given food but had chosen not to have any breakfast because she did not want to come off her iPad. ['T'] said that she looks after ['Y'] through the night." The Independent Social Worker further noted that 'T's previous school reported that 'T', "struggled to regulate her emotions. They said that she had been known to hit and spit at her mother and that she sometimes used inappropriate language. ['T'] was described by her previous school as domineering. The school did not believe that the parents had control over her and said that they wanted to label her as having ADHD rather than looking at what they needed to do differently. She added that they look to others to 'fix' the problem, rather than themselves… the main concern in relation to ['T'] was the lack of boundaries and supervision when she was not in school. She stated that she received several reports from other parents that ['T'] had been out in the community unsupervised, that she had been chasing other children in the park, using highly offensive language, being rude to adults and children and calling them names such as 'fat pig'." The previous school was also noted to report concerns about some of the basic care that was afforded 'T', "when she lived in her parent's care." The Court notes that 'T' has always lived in her parents' care. The Independent Social Worker continued, "She would often arrive at school looking unkempt and grubby and sometimes she had come to school in the car with her father and been seen to have crisps for her breakfast."

102. ‘T’s school attendance was noted to be good at the date of the assessment: “She arrives on time and the parents are responsive to text messages and emails.”

103. The Independent Social Worker provided her own description of ‘T’ as being “difficult to engage and abrasive and this made interviewing her difficult.” The Independent Social Worker described ‘T’ as, “socially immature and can try to ‘bribe’ her peers into being friends with her. At the same time…[‘T’] can be overfamiliar with people and lacks social boundaries.”

104. ‘T’ was noted to have experienced a number of changes in her life: “She has moved from Ireland to England and experienced a change in school and living environment and then more recently has moved [to another town], again experiencing a change in school and home. Over the last 12 months she has also seen her family change from a sibling group of five children.”

105. The Independent Social Worker told the Court, “My own observations are that [‘T’] very much takes on the role of parenting responsibilities with [‘Y’]. I am particularly concerned that [‘T’] appears to have much of the control within the family. This is likely to get worse over time as she gets older, particularly if she is brighter than her parents. It is not unusual for the eldest girl (usually) to be the one that helps their deaf parents to communicate and ‘negotiate’ their way in a hearing society. This can range from interpreting in shops, restaurants, with professionals (when they have not booked interpreters), to translating information that the parents do not understand such as medical information, correspondence, leaflets and sometimes what is being said on the television.”

106. The Independent Social Worker opined that ‘T’ “has experienced a number of adverse childhood experiences and this has affected her emotional well-being. I would also argue that the parents do not have the skills to be in tune with this and to aid her in her understanding. She now needs ‘better than good enough parenting’ to overcome her early life experiences including that of poor, neglectful parenting and loss of her siblings.”

107. In respect of ‘Y’ the Independent Social Worker observed him to be a “very placid child.” The Independent Social Worker reported, “My own observations of [‘Y’] are that he presents as rather flat and disengaged. For example, he had plenty of toys when I visited the home but was not seen to play with them or pick them up. He just wandered around the room aimlessly with a bottle of juice with the teat hanging from his mouth. He did not approach me or show an interest in exploring.” The Independent Social Worker continued, “According to the health visitor, [‘Y’] is meeting all his developmental milestones and she has no concerns about the care that he is afforded during her visits.”

108. The Independent Social Worker noted that ‘Y’, “is given toys but then expected to play with them independently.” She described the mother’s interactions with ‘Y’ as being in ‘short bursts,’ opining that, “the parents have also not afforded [‘Y’] the opportunity to mix with other children of his own age by taking him to toddler groups. It is my view that they are depriving [‘Y’] of vital opportunities to enhance his social and cognitive development.” The Independent Social Worker continued, “The parents do not pre-empt risk or supervise [‘Y’] effectively.”

109. The Independent Social Worker acknowledged the support being provided to the parents by community care officers from the Local Authority sensory services department. In respect of the father, the Independent Social Worker noted, “care officers reported [he] can often come across as challenging and verbally aggressive and that he has a tendency to blame others rather than self-reflect or consider what he needs to do differently. [The father’s care officer] has advised [the father] not to become agitated with professionals but said that he often

refuses to listen until [the care officer] says that he supports [the father's] point of view. He then calms down and sometimes apologises…when [the father] gets agitated, this has an effect on [the mother's] emotional wellbeing."

110. The mother was noted to have a poor working memory. Nevertheless, the mother's Community Care Officer shared with the Independent Social Worker her view that the mother, "does have capacity to carry out things independently. [The mother] has gaps in her learning due to her deafness. On a day-to-day basis [the mother] is able to manage some tasks independently, for example she is able to manage her diary and is reliable at attending Appointments." The mother was noted to, "struggle to understand in meetings with professionals, particularly when there is a large number of people involved." The Community Care Officer noted that the father, "is controlling of [the mother] but said that in some senses he takes over as he understands more then she does. They added that [the father] is overprotective but this results in him telling [the mother] what to do."

111. The Independent Social Worker expressed the view that this has been, "a complex case to assess given the parents deafness, their complex communication needs and the number of children involved, each of whom have their own individual needs. Furthermore, there are numerous professionals involved, all of whom hold pieces of the complex jigsaw that make up this family."

112. The Independent Social Worker considered there was, "no doubt that there have been some positive improvements since the initial court hearing…The family have now moved and this has resulted in better home conditions…the home conditions were acceptable…the parents are doing their utmost to make sure that they have a positive environment for both themselves and the children. The father has been sorting out the garden, installing cupboards to the lounge and decorating the property. They have also purchased new furniture…I also have no doubt that the parents are finding it more manageable to care for two children in comparison to previously when they were caring for five, two of whom, ['H' and 'D'] were not ['Father TCY's] own children. ['T'] has settled well in school and is starting to develop new friendships. The school reports no concerns in terms of school attendance and no safeguarding concerns save for one morning ['T'] saying she had no breakfast. The Health Visitor highlights that she has no concerns around ['Y's] gross motor skills, his presentation or his overall growth and development. She also reports that the parents have been receptive to the advice and guidance that she has offered. [The mother] seeks out her advice and support around minor illnesses, for example, and has put her advice into practise. It is also positive that the parents have engaged with professionals and to their credit they have needed to navigate their way around working with new people and attending various appointments and meetings. They engaged with this assessment well. The parents, [mother] in particular, appear to be genuinely motivated. They manage their appointments well and have developed strategies such as keeping a diary to ensure that they are reliable and are seen to cooperate with the local authority… The mother works well with professionals. She takes on board advice although does struggle to translate this advice into new and unique situations."

113. The considerable positives in the parents' progress, commitment to change, receptiveness to advice, working relationships with professionals, engagement with assessments and appointments and developing strategies in response to advice are all highly significant advances highlighted by the Independent Social Worker. Those positives are noted by the Independent Social Worker to be in the context of a situational change, the parents having two, not five children to care for and a change of home. Moreover, the significant changes evidenced by the parents must be seen in the context of the parents' reports that they have "struggled with services not being accessible, for example when sign language interpreters are not booked and even when they are, the mother struggles to understand some of the interpreters if they are not able to adapt language to its simplest, most visual format. This

causes her to feel anxious and upset which in turn also affects the father as he feels responsible for [the mother's] mental well-being."

114. Having identified the significant positives, the Independent Social Worker maintained concerns about the parents' "overall ability to parent. I have concerns that the parents lack an understanding of how to meet their children's emotional needs, they lack emotional attunement to the children. An indicator of the mother's inability to form secure attachment with her children is that they are not all able to sign fluently ['D and 'T'] can as they were given the responsibility to interpret and care for the younger ones)." This observation by the Independent Social Worker is not an easy one to reconcile. Whilst the oldest child, 'H's, sign language ability is underdeveloped, there is no criticism of the sign language ability of the children 'D' and 'T'. The youngest child, 'Y' is of an age where his language skills could not reasonably be expected to be greatly more advanced than they are, particularly in the context of the Health Visitor reporting no concerns regarding his overall development and attunement. Moreover, the child 'C' has been in an interim foster care placement with a non-deaf carer, where 'C' does not use BSL or any other sign language to communicate as her first language. It is difficult to identify the basis for the Independent Social Worker's conclusion that a lack of fluency of sign-language in some of the children, having regard to their age, development and situational circumstances, is evidence of a lack of emotional attunement with their parents.

115. The Independent Social Worker was further critical of the parents regarding the parents' reports of the father's "temper" being "much better controlled: "Mother told me that she has seen improvements in his ability to control his temper and that he is now calmer than he was previously. However, this was not my experience." The Independent Social Worker reported, "During my visit to the family home, he completely lost his temper when I suggested that it is a parent's responsibility to manage their children's behaviour rather than extended family members. He became extremely agitated and loud and then left the kitchen stating that I had caused him to become stressed and frustrated and that he needed some time out to calm down. Most concerning was during this entire episode ['Y'] was sat in the highchair next to his father and did not flinch, despite the fact that [the father] was shouting very loudly, and his body language was also demonstrating that he was highly agitated." The Independent Social Worker's observation was directly addressed by the parents in their evidence. Both parents reported the father to be "loud" in the context of being a Deaf person who does not have recognition of the volume of speech. Dr O'Rourke described him as "unusually loud." This was evident also to the Court when the father, in the witness box, whilst being otherwise entirely placid and cooperative, could raise his voice whilst simultaneously signing. The Court also observed the father to have an intensity to his demeanour. However, he remained at all times calm and obliging, even during challenging cross-examination. The parents also told the Court of the father's high blood pressure and his need to leave the room during the incident described by the Independent Social Worker in order to take medication. The father's management of the situation by leaving the room, rather than directly confronting the Independent Social Worker, appears to this Court to be an appropriate technique for managing a stressful situation. It is consistent with the parents' evidence generally that at times of stress, the father would remove himself from the room or even the house, rather than engage in direct confrontation. Further, the Independent Social Worker's observation that 'Y' "did not flinch" in response to his father's loud tone and body language is not difficult to understand in the context of 'Y' being the child of Deaf parents, both of whom acknowledge that they can be loud without themselves being aware of it. 'Y's reaction may, on the contrary, be evidence that he is entirely comfortable in the presence of his parents.

116. The Independent Social Worker was critical of the parents in respect of historic concerns regarding boundary setting, telling the Court, "One only has to look at the parents' history of being able to parent ['H' and 'D'] to see that they struggle to put in place boundaries and

manage discipline." There is clear evidence of concern around boundary setting for the oldest two children, which the parents largely accept, the mother having conceded at an early stage that the older children were beyond her control. 'C' is living in interim foster care. There is little reliable evidence of any inability on the part of the parents to set appropriate boundaries for 'T' and 'Y' while they have been living at home in their current environment of a two-sibling group in a suitable property. The evidence of boundary setting by the parents' during contact sessions with 'C' when all three siblings are present, does not identify any significant concern and in any event must be seen in the context of the mother, in particular, struggling with group situations.

117. The Independent Social Worker expressed an opinion that "the deficiencies in their parenting are too deep rooted and profound for this to improve their skills, even if it was offered over a longer period of time than would be the norm." The Independent Social Worker's conclusion that, "it would not be reasonable to expect the Local Authority to provide ongoing intensive support for the whole of the children's minority as this would not only be intrusive into family life but would also not provide the children with a natural environment in which to grow and thrive," does not take account of the fact that the family has not, over a significant period of time, required intensive or intrusive support while caring for 'T' and 'Y' as a sibling group of two. Indeed, the Local Authority evidence is that social work visits have reduced over recent months, without any significant concerns being identified.

118. Parenting work was undertaken with the parents by Claire Fogg, a parenting practitioner, experienced in working with children and families "linked to deafness." The mother and 'Father TCY' attended all sessions. Both parents were responsive to communication and both parents contributed to all the sessions. They were noted to be focussed, open and engaging throughout. Their home was noted to be clean and tidy. The parents were "very proactive" and were noted to act on advice with the practical elements of training, including purchasing resources, installing safety features and visiting the library. The parents were focussed and tried hard to accomplish the tasks set for them. They were noted to have made some positive progress with 'Y' in terms of his learning development, language and social skills. Further, they were reported to have succeeded "in some circumstances when working on behavioural management strategies."

119. The parenting practitioner highlighted concerns regarding the mother presenting as lacking knowledge about toilet training and lacking basic knowledge about managing childhood illnesses. In this regard, the Court notes that no concerns had been raised regarding the older four children in respect of toilet training. Save for 'C's complex health needs arising from diabetes, there are no significant concerns regarding the other four children pertaining to childhood illnesses. An isolated incident regarding 'Y's ear infection is addressed later in this judgment.

120. The parenting practitioner expressed a personal view that it is, "important that deaf parents take responsibility for their own deafness as would be expected prior to having children." Moreover, the parenting practitioner expressed the personal view that, "it is not appropriate for children to be used as interpreters, as using children as an interpreter exposes the child to adult conversations, creates anxiety and infringes on the safety of the child…I observed ['T'] being brought into conversations to interpret." The parenting practitioner's evidence must be considered in the context of the evidence of the Independent Social Worker that it is "not unusual for the eldest girl (usually) to be the one that helps their deaf parents to communicate and 'negotiate' their way in a hearing society." Moreover, Ms Fogg accepted in her oral evidence that 'T', "likes to involve herself and know what is going on." The practitioner's oral evidence that 'T' likes to involve herself in helping her parents does not sit well with the concerns expressed by the practitioner of 'T' being "brought into conversations" by the parents.

121. The parenting practitioner identified concerns that the mother's electronic device was not set with parental controls, routines depended largely on how the mother was feeling, 'Y's stimulation revolved around technology, "which is not uncommon in today's households" and 'Y's box of toys were "not particularly stimulating." In contrast, it was noted that 'T' had plenty of colouring resources and toys for playing outdoors. Further the practitioner was of the opinion that the parents struggled to manage three children and their different needs at the same time and they struggled to prioritise the children's needs. Having given advice about contact being "fraught," the parenting practitioner noted that the second observed contact in the contact centre was "calmer and the parents seemed to communicate better and prioritise the children."

122. In oral evidence, Ms Fogg told the Court that these parents are very loving towards the children, "That can be seen very clearly. The concern is for the future." Ms Fogg accepted that the parents had attended all sessions with her and engaged very well. She described the father as being "very hands on practically", noting that he attended to problems "straight away".

123. Miss Fogg told the Court of her opinion that the mother and 'Father TCY' struggled with theoretical concerns and decision-making strategies in a range of aspects in different environments, in particular, dealing with new and novel situations: "The father is more capable than mother. However, his knowledge is quite limited. Mother was very proactive and tried her best in everything. My concern is, is she able to retain what she has learned? It's very new to her. She needs reminding regularly. Father will rely quite a lot on his sister and ask support from her. Independently, I do not believe he could do it by himself." The Court notes that it has never been the parents' case that the father should parent the children alone.

124. Ms Fogg accepted in her evidence that the parents had repeatedly raised concerns about inadequate sign language interpretation at contact and during core group meetings. Further Ms Fogg accepted that, "the fewer the children, the easier it is to deal with practical aspects."

125. Ms Fogg told the Court of her opinion that the mother presented as stable in her mental health and that the mother was very happy and positive with the children. The mother was noted to be able to confide in Ms Fogg regarding issues she was concerned about and Ms Fogg accepted that it was positive that the mother was able to do so. Ms Fogg accepted that the mother was able to soothe 'Y' and would "cuddle him a lot". Further, Ms Fogg accepted from her observations that mother and 'Y' have a loving, "very close relationship together." In this regard, Ms Fogg's oral evidence appeared to be in contrast to her written evidence where she expressed a view that the mother struggled to prioritise the needs of the children and that 'Y' was under-stimulated. Moreover, the oral evidence of the parenting practitioner appeared to undermine the evidence of the Independent Social Worker who alluded to 'Y' being deprived of attention. Ms Fogg's oral evidence was more consistent with the unchallenged evidence of the Health Visitor that 'Y' was meeting all his developmental milestones.

126. Ms Fogg expressed her view in oral evidence that she was "not 100% confident" that the parents would be able to manage any childhood health problem. Further, she expressed the opinion that the parents struggled with "theoretical concerns and decision-making strategies in a range of aspects in different environments, in particular, dealing with new and novel situations." Ms Fogg accepted that the parents had a family support network. She accepted that the parents can manage with their support network in place, indicating a concern if the support network was not available. Again, the oral evidence of the parenting practitioner appeared to contradict her written evidence where she was critical of the father for relying,

"quite a lot on his sister" and asking support from her. There is no concern highlighted in the evidence about the paternal aunt being a suitable resource for providing support to these parents.

127. Ms Fogg accepted that she had no contact with the family since June 2024. She was not able to point to any significant issues raised in the parents care of 'T' or 'Y' since then. Ms Fogg accepted it was "good news" that the Local Authority had stepped down its social work visits to the family to fortnightly visits. When asked about appropriate, targeted support, it was surprising that during cross-examination, this experienced parenting practitioner had never heard of Video Interaction Guidance ("VIG"), an established intervention with a strong evidence base, recommended by NICE, where parents are guided to reflect on video clips of interactions with their child, with the aim of helping to enhance a parent's relationship with their child and focusing on tuning in, empathising and considering overall wellbeing. The benefits of VIG work were highlighted by this Court as long ago as 2020 in the case of *D and E (Parent with Autism) [2020] EWFC B18*. Having had the nature of VIG work explained to her in questions from Counsel, Miss Fogg accepted that these parents would benefit more from working practically with the children using BSL.

128. An addendum report from the Independent Social Worker Miss Robinson was prepared in July 2024, after completion by Miss Fogg of her parenting intervention. Miss Robison acknowledged positive changes made by the parents since her initial report: "The home was well presented and clean. There were more age-appropriate toys observed than had previously been the case and ['Y'] did play with them intermittently." The Independent Social Worker considered that it was, "commendable that the parents have engaged with the support that has been offered by Claire Fogg and that they have implemented the recommendations that she has made whenever they can." Further, Miss Robison acknowledged that the parents, "have started to do more activities out of the family home with ['T' and 'Y'] and have trips planned. They have also acted upon some of the suggestions to improve safety in the home such as ensuring that the windows have locks on them and securing the TV so that ['Y'] cannot reach it and cause it to topple on him. Additionally, they have also cut out fizzy drinks on the advice of Claire Fogg. There is no doubt that the home environment is less chaotic and calmer than when the parents had five children to care for. Home conditions also appear to have been improved and are now of an acceptable standard. Clearly, caring for two children is far easier than caring for five and this has led to a home that is more structured for ['T' and 'Y']. Additionally, the father self-reports that he feels calmer at home and that his mental health has improved sufficiently well for him to cease needing medication for depression. The parents stated that their relationship is much improved since ['H' and 'D'] moved to Ireland."

129. Having highlighted those significant improvements, the Independent Social Worker proceeded to express her opinion that "the deficiencies in the parents' ability are deep rooted and profound…the parents lack insight into their own deficiencies in parenting. At no point have they been able to reflect themselves on what they need to do differently and instead rely on professionals to tell them what they need to change." It appears to this Court that such criticism is unreasonable. It is not easy to understand how the Independent Social Worker was able to reconcile an improvement in the parents' care following targeted parenting work, with her conclusion that the deficiencies are deep rooted and the parents lack insight.

130. The Independent Social Worker reported, "One of my main concerns is the level of control that ['T'] has in the home. She is able to manipulate her parents without them realising. I was struck by how she manipulated the game of snakes and ladders and her mother seemed powerless to do anything about it, not even realising that it was a problem." Miss Robison appeared to place an extraordinary amount of weight in her written and oral evidence as to her observation about 'T' playing snakes and ladders. Miss Robinson told the Court in her

oral evidence, ['T'] very quickly made the rules up as she went along. So, she was going backwards, and she said, "Oh I'm allowed to do that" and then she came up the snake instead of down the snake, she was just basically, I mean know children do cheat, but this was another level. She was basically making all the rules up herself and her mum never tried to question, she didn't try to teach her, she didn't say to her no, you go one, two, three, four, five like on the game of snakes and ladders, at no point did she do that and at no point did she say, "You're not allowed to go up a snake, you've got to go down the snake". She just didn't teach her anything and I just, it was one of those moments that I just thought, do you know what, I think this is what their life is like because ['T'] rules the roost in the house." In the context of the parents being observed and assessed over an extended period of time, it is difficult to understand the reliance of the Independent Social Worker on this snapshot event as being of such significance in her assessment of the ability of these parents to implement appropriate boundaries in the family home. It is of note that the parents were observed during supervised contact sessions to play the same board game with the children on a number of occasions without the contact supervisor recording any concerns. This Court cannot properly accept the Independent Social Worker's example of a child of 'T's age not sticking to the rules of a board game as evidence of the child's "propensity to assume power and control over her parents or of her parents' inability to impose boundaries and discipline."

131. The Independent Social Worker expressed concern that the parents have not been able to demonstrate that they can pre-empt risks, that they did not interact with 'Y' and he did not approach them with his toys, that the parents lack emotional attunement with their children, that they find it difficult to see things from their children's perspective rather than their own, that they are very literal in their thinking and they struggle to transfer knowledge from one situation to new and unique situations. The Independent Social Worker acknowledged that the parents had made improvements, however, expressed the view that, "the parents are currently complying because the spotlight is on them." The Independent Social Worker told the Court, "They could be offered further courses but there is no guarantee of success."

132. The Independent Social Worker told the Court in oral evidence that it is seen quite typically in children of Deaf parents that they take on responsibilities "and can be quite bossy…that does not mean the parents do not have ultimate responsibility." The Independent Social Worker acknowledged in oral evidence that there is, "certainly more stability in the home. The parents are more able to manage two than five children." The Independent Social Worker further acknowledged that 'T's school attendance is now more than 90%, there have been no concerns about 'T's emotional wellbeing or physical wellbeing for some time, the home environment is clean and the Local Authority has stepped down visits to a frequency of fortnightly with no concerns. Moreover, the Independent Social Worker acknowledged that the parents had resumed living together for the past ten months with no identifiable concerns.

133. Against the background of those significant improvements, the Independent Social Worker maintained her opinion that, "a lot of statutory support can be put in place but it would not mitigate against the problems they have in their parenting. If you spoon-feed them, they will do it but they can't think for themselves about the things they need to do and they don't recognise the problems. That is not likely to change…it's about their lack of knowledge and insight rather than motivation. They are willing to work with professionals and take on board advice. They do not have the capacity to problem solve…they do not have the ability recognise what they are doing is wrong until a professional points it out to them, then they act on it."

134. The Independent Social Worker's conclusion that support is needed for the parents "virtually every day," is entirely inconsistent with the evidence of Local Authority support being stepped down to fortnightly with no identifiable concerns. Furthermore, the

Independent Social Worker's conclusion that the parents require "real time teaching" and "don't have the skills" is inconsistent with the parents having demonstrated over more than six months improvement in their parenting with no significant difficulties identified. Where improvements have been identified as necessary, the parents have acted on advice and have made satisfactory improvements. Regarding the perception of the father as being loud and agitated at times, the Independent Social Worker was unwilling to accept the submission that such presentation is not uncommon in the Deaf community, asserting "it is no different to the hearing community." It was again surprising to this Court that the Independent Social Worker, like the parenting practitioner, was unfamiliar with VIG work and did not know how such work could be undertaken with BSL interpreting. When explained to her, the Independent Social Worker told the Court, "That sounds excellent."

135. The Allocated Social Worker noted that 'Y' was due to begin nursery in January 2025. The Allocated Social Worker described 'Y' as, "a calm child, relatively undemanding…he is able to communicate his needs." The Allocated Social Worker accepted the opinion of the Independent Social Worker and Miss Fogg that there is an appropriate attachment between the mother and 'Y'. Further, the Allocated Social Worker accepted the professional conclusion of the Health Visitor has no concerns about 'Y's development. The Allocated Social Worker acknowledged the Health Visitor's professional view that there is emotional warmth between the mother and 'Y', acknowledging also that the Health Visitor is very experienced: "she has no concerns about ['Y']."

136. The Court was told that the parents attended every Child In Need meeting, Core Group Conference, PEP and CLA review meeting and were available for all Social Work visits. The Allocated Social Worker described the mother as personable and engaged. She told the Court that the parents "accept advice. They might implement it for a short period of time… things start not to get carried through." Further, the Allocated Social Worker told the Court that the father has presented as being polite and has never presented to her as aggressive or confrontational: "Some people have thought he has been aggressive by his manner. I have not." The Allocated Social Worker accepted there have been no reports of discord in the relationship between the parents since 24 January 2024 when the father moved back into the family home: "They needed no more support. They are getting on fine."

137. The Allocated Social Worker told the Court, in respect of the Local Authority's care plan of adoption that, "The Local Authority rarely supports long term foster care for children as young as 'C' while there is an opportunity to place them for adoption. They deserve an opportunity." The Social Worker accepted that 'C' is very secure in her current interim foster care placement and that if she were to remain there in the long term, that would offer 'C' continuity and stability. The Court was told that 'C's foster carer indicated she would be prepared to look after 'C' long term and she would put herself forward as a long-term care, if that was the plan.

138. The Allocated Social Worker accepted that 'T' has a strong sense of identity in the family and a close relationship with her siblings. The Allocated Social Worker further accepted that 'T' has had to navigate a crisis period, with the loss of her older siblings when they moved to The Republic of Ireland, the loss of 'C' to interim foster care, her parents' physical separation and a move of home and school. The Allocated Social Worker accepted that 'T' has settled well into her new school. It was accepted that the school has raised no concerns: "She is going to school most days and, when she is not at school, there is good reason. She is engaging with her lessons and making progress."

139. Furthermore, the Allocated Social Worker accepted that positive changes have been made, including the presentation of the home. The mother has a positive working relationship with her adult support workers, who are available to provide long term support. Moreover, the number of social work visits have stepped down to fortnightly visits. The Court was told that

the Local Authority would want to further step down intervention under a Child In Need plan with monthly visits.

140. The Allocated Social Worker told the Court that the overriding concern of the Local Authority in respect of 'T' and 'Y' is the parents' ability to manage boundaries when the children reach adolescence, to avoid the serious concerns presented in relation to 'H' and 'D'. The Allocated Social Worker accepted that, since interventions have been put into effect from June 2024 onwards, 'T' and 'Y' have not suffered any physical harm. School attendance has been good. They have not presented as unkempt and the home conditions are good. The mother's mental health is stable. There have been no reports of domestic abuse. Routines seemed to have improved vastly. 'Y' is reported by the experienced, trained Health Visitor to be meeting his milestones, making age-appropriate progression with no concerns about his presentation. He is reported by the Health Visitor to be happy and smiley and responds to his parents' and siblings' interactions positively. He was observed now to have plenty of age-appropriate toys with no reported concerns about stimulation, guidance or boundaries. Since the intervention work was completed by professionals in June 2024, Social Work visits have reduced. The children have not come to any harm. Whilst the Allocated Social Worker told the Court that she had not observed 'Y' engage in play with his mother, the Allocated Social Worker told the Court that she had not asked or encouraged the mother to do so, as, "I was not the parenting assessor."

141. The Allocated Social Worker acknowledged that in her written analysis, she had not addressed the likely effect on the children throughout their lives of ceasing to be a member of their birth family by reference to the welfare checklist under s1(4) Adoption and Children Act 2002. Further, in respect of the relationship the children have with relatives, no mention was made in the Allocated Social Worker's analysis of the relationship with their sibling, 'H'. The Allocated Social Worker described this as "an oversight". The analysis did not consider the severing of the relationship between the younger siblings and their older siblings 'H' and 'D' as a weakness of the plan of adoption. Further, the Allocated Social Worker acknowledged that her analysis did not consider the proportionality of adoption, telling the Court, "We did consider it. It may not be reflected here."

142. The mother was frank in her evidence that she could not manage the behaviour of the older children 'H' and 'D', telling the Court, "I wasn't well enough to manage them…I was having mental health issues. Things were going up and down...at that time, I was not taking any medication for my mental health. I had been waiting for mental health to contact me. I also had a problem finding an interpreter to meet with the CMHT…I wasn't getting much support…I don't think the communication was adequate between me and the Social Worker…I was having physical problems with my balance. In the place we were living I had to walk up many stairs. I fell a couple of times. It made me reluctant to leave the house. We tried really hard to make things better for the kids. ['D'] was easier to communicate with because her sign language developed. ['H'] was using more basic sign language. He would sometimes ask his sister to interpret for me…my mental health was really at its worst in 2023. I had no access to mental health services. The interpreters could not understand me. The documents sent to me were so complex it was impossible for me to read. ['C'] was in hospital for three months. I had problems with the children and with Children's Services. I was under an awful amount of pressure at the time. I was very low in mood and depressed. I would forget things. I had a lot of worries going on in my head. I was not well. I know that. I did my best to hide it and keep it to myself. I ended up in hospital I was so upset."

143. In respect of the allegations of domestic abuse, the mother told the Court that 'Father TCY' was also experiencing poor mental health at the time as his father had passed away, leading to him being "moody, tearful and emotional. He was feeling low and irritable…the flat was too small. We were all cramped up in a small space…He was not aggressive. He had a voice that belongs to Deaf people. Sometimes that might have become louder…shouting…He

would not scream at me. He was not in any way aggressive. We are deaf. We don't hear our own voices. We do not understand the volume...he never physically hurt me." The mother told the Court that during the visit by the Independent Social Worker the father left the room at one point, telling the Court, "He has a spray that assists with his heart condition, to reduce his blood pressure. He left the room to soothe himself."

144. The mother told the Court of difficulties in communicating with the police when they came to the family home: "We had a police app. It was no good. I am 100% convinced that the policeman was missing most of what was going on. I asked for an interpreter. The police refused. We had no interpreter when the police were present in the house. The communication breakdown was evident. They used my son to interpret. I don't accept that was right. I was in a vulnerable state."

145. In respect of 'C's diabetes, the mother told the Court, "I did not really have a lot of information…I knew I needed guidance…I recognise I should have done things differently." Having regard to the parenting work completed with Miss Fogg, the mother told the Court that the work has helped. The mother stated that she was now able to talk about emotional issues more. She learned about having a variety of toys, having a balanced diet, washing clothes, sitting at the table to have a meal, hygiene, limiting time on electronic devices, setting boundaries, tidying up, potty training and childhood illnesses. The mother told the Court, "I wish I had that advice earlier. It was the same in Ireland. I repeatedly asked for assistance and advice earlier. There was nothing available to me." The mother accepted she would need more advice as the children grow older. The mother further told the Court that the father has made "big changes. He is more calm, more manageable, more sharing. We both share the finances and bill paying. Our relationship is well. We have learned to understand each other better.

146. The father accepted he needs parenting support. He denied the assertion that the older children have ever acted as carers for the younger three children. He denied losing his temper with 'T'. In respect of the concerns that he held a knife during a video call with the mother, the father told the Court he was making a sandwich for 'T' when the mother called him from hospital. He picked up the phone to ask her to hold but the mother kept communicating: "I had to tell her to 'hold, hold'. I was trying to sign. I accept I should have put the knife down to sign. It makes me look aggressive. It was a mistake." He told the Court that the police came and considered him to be calm and reasonable. They had no welfare concerns. The father accepted that in 2023, a decline in his mental health affected his mood. He told the Court, "Signing would become exaggerated and there would be lots of gesturing. I didn't realise my voice was loud. As a Deaf person I would not know." He accepted he lost his temper with the mother and that he was verbally aggressive when arguing. They separated for some months before returning to live with the mother in January 2024. He denied being verbally aggressive in the presence of the children. He denied slamming doors or kicking things in the home. He denied placing the children at risk of physical or emotional harm. He told the Court that, at times when he became upset, he would leave the house briefly to let out his frustrations, "never in front of the children." He told the Court that his temper is much better controlled now. Since the parents have resumed living together for "about a year," relations between them have been "very good…things are much better, much improved. The family is back to being a nice unit together." He expressed an absolute willingness to continue to work with professionals to take advice and implement it.

147. In respect of the professionals' concerns about the parents identifying and responding to 'Y's health needs, the father told the Court that he took 'Y' to the GP for advice about an ear infection. 'Y' was prescribed medication and he was advised that the treatment would take 4-6 weeks. Following concerns raised by the Allocated Social Worker during a core group meeting shortly thereafter, when 'Y' was noted to be distressed, the father told the Court that

he took 'Y' back to the GP on the advice of the Local Authority but was criticised by the GP for having done so, so soon after his last appointment.

148. The Guardian told the Court in her oral evidence of her opinion that, if the children remain in the care of their parents, they will experience harm "in different forms." The Guardian referred to concerns that 'Y' "may be under-stimulated," with the concern that he "won't be able to develop or reach milestones through all his life if he does not receive the necessary stimulation." The Guardian told the Court of concerns about harm that might arise through the parents' "ability to put appropriate boundaries in place and maintain those."

149. With regard to concerns about 'Y's stimulation, the Guardian told the Court of her own two observations, one in the contact centre and one in the family home: "In the contact centre, there were moments he was interacted with initially by mother. She was proud of him and happy and smiling and telling others he was interacting with the toys. That was not a sustained interaction. He also engaged in activities on his own. The father was on the floor playing with ['Y'], both moving toy trains alone. There was no talking about the activity and engaging…['Y'] was more vocal during my home visits. That could be because he feels safe in his home environment where he spends most of his time. He was able to say words and when he did speak, his parents picked up on that and the mother was happy and proud and encouraging…he does have an attachment with his parents."

150. Regarding the Guardian's rationale for recommending adoption for 'Y' and not for his siblings, the Guardian told the Court, "His age and understanding is where the difference is."

151. The Guardian accepted that when 'H' and 'D' arrived with the family in the United Kingdom, it was a big move for the whole family, they were moving to a new country, with a new stepfather, their sister was diagnosed with diabetes and then removed from the family on an interim basis, the step-paternal grandfather was terminally ill, the property was overcrowded, the mother was parenting alone for a significant period of time and "all things together, this was extremely stressful for the children and the parents."

152. In respect of 'T', the Guardian told the Court of her opinion that 'T' has, "a level of control in the home." The Guardian accepted there are areas where the parents are able to put boundaries in place, noting that 'T' attends school now and her attendance is "really good." The Guardian told the Court of her opinion, "*potentially*, there could be harmful behaviour from ['T'] towards ['Y']. It is not happening now and has not been raised by anybody. This could *potentially* happen in the future. This could be a concern in the future…If she remained at home, the worry is she would become beyond parental control. If she was in foster care, she would be cared for in a safe environment with appropriate boundaries where the strong bond with her family would be maintained." The Guardian accepted that since the summer of 2024, no concerns have been raised around 'T' behaving in a physical way towards the parents: "It could be her behaviour has changed and the work completed by the parents with Miss Fogg has been positive and helped with that change. I worry, *and this is speculation*, there is a *potential* that the parents have not been open about all the issues because they worry about the professionals' view." The Guardian accepted that the mother put boundaries in place during contact in the contact centre and reinforced those boundaries with 'T'. The Guardian told the Court, "The worry is, can that happen all the time?"

153. In respect of 'C', the Guardian noted her close relationship with her parents: "She is the child of Deaf Adults. She has spoken positively about her parents and she enjoys contact. It is important to maintain time with her family."

154. Regarding the likelihood of harm, the Guardian told the Court, "['Y'] *could* experience physical harm. He *could* experience emotional harm. Maybe he *could* mirror ['T's] behaviour. That would mean two children displaying the same behaviour…the worry is

about the *potential* harm ['Y'] would be exposed to in adolescent years." The Guardian told the Court further that, if 'Y' was adopted, 'T' would experience trauma as she has a close relationship with 'Y' and 'C': "All the children will suffer trauma and the impact of separation, if ['Y'] is adopted." Further, the Guardian told the Court, 'T' has clearly and consistently shared with all professionals that she does not want to be in foster care.

155. The Guardian told the Court, "The parents are able to work with professionals, clearly. It is not a concern. They are able to follow through advice practically. The worry is consistently following advice. The parents are not able to be intuitive about the children's emotional needs. At times the parents can follow through advice. It needs to be repeated." Further, the Guardian accepted in her oral evidence that the parents love their children, they are motivated to do well, there have been no reports of any discord in the parents' relationship since January 2024, there are diminishing concerns about the father's emotional dysregulation, there are no concerns about the basic care needs of 'T' and 'Y' being met by their parents, the home conditions are no longer a concern, the parents have put in place routines, the work completed with Miss Fogg has helped to improve the situation with all the practical changes being made very quickly and, in respect of 'Y', the Health Visitor and newly allocated Social Worker have no concerns about his development and meeting his milestones. Notwithstanding that evidence, the Guardian concluded her oral evidence by telling the Court, "The level of harm for the children is so significant, the children are not safe to remain with their parents."

156. In this Court's judgement, there was an uncomfortable dogmatism about the evidence of the Independent Social Worker, the Allocated Social Worker and the Guardian. Whilst able to articulate positives in the parents' care, the professional witnesses each struggled to ascribe any or any sufficient weight to the evident changes made by the parents over the course of the proceedings attributing much weight to past events. In this Court's judgement, the strong, reliable indicators of change were not adequately taken into consideration by the Independent Social Worker, Allocated Social Worker or the Guardian. Many of the conclusions reached by the professionals were undermined by the solid, compelling evidence of the parents' ability to acknowledge, take on board and implement recommendations. The speculation about future risks had no solid foundation. The parents have demonstrated that the professionals' lack of confidence in them is misplaced. The parents have demonstrated positively that, without multiple stressors and with attuned, targeted support, they are capable of meeting the needs of 'T' and 'Y' to a good enough standard. The parents have been able to acknowledge their deficiencies. They are building a knowledge base. They acknowledge when they are in need of support and they actively engage with it, when given a fair opportunity to do so.

157. The Local Authority identified the type of harm that might arise to the children, 'T' and 'Y' if they remain in their parents' care, as arising from a risk pertaining to domestic abuse from their father. There is some evidence of the father reacting with anger and frustration in the past. The parents separated briefly at the outset of these proceedings. The father moved back into the family home in January 2024. In the 12 months that followed, there have been no reports of any domestic abuse within the household. In November 2023, a domestic abuse officer received information from the police highlighting one domestic abuse incident in May 2023 which related to the father shouting and frightening the children. Children's Services' records noted a history of the father pouring beer on 'T', being verbally aggressive and scaring the children. The father is reported to have lost his temper and chased 'H' up the stairs. The mother is reported to have intervened. There is a report of 'H' having pushed the father following a verbal argument. There is a report of the father having thrown things across the house and frightening the children. The mother told Dr O'Rourke about concerns in her relationship with the father, stating that they separated, "because everything was too much and she needed her own space, to sort herself out, get some proper help and feel better." The mother reported that the father would lose his temper. She reported that the

father would control her and not let her go out with friends, leaving him with the children. She reported feeling scared of him. The mother was clear that the father was never physically aggressive: "He would shout and be verbally aggressive." With regard to the risk of future domestic abuse, Dr O'Rourke considered this, "less likely whilst ['H' and 'D'] are not living with them."

158. Dr O'Rourke noted that the father reported having no issue with anger and aggression outside the current situation. He found himself with five children without any experience and found the situation extremely stressful. He accepted losing his temper when the older two children ignored him. He left the family home when asked to do so. He acknowledged that neither he nor the mother could control 'H' or 'D' and that it was safer for the younger children now the older children have returned to The Republic of Ireland. He expressed being at a loss about how to handle 'H' and 'D'. He acknowledged to the psychologist that when he was stressed, he would get angry, shout and then leave to go for a walk and calm down. He accepted that his voice is loud, telling Dr O'Rourke that his parents told him to speak more quietly but he finds it difficult.

159. There is a photographic image of the father, taken by the mother during a video call when she was in hospital caring for 'C', which shows the father holding a knife. The mother reported being concerned at the time that the father was intending to hurt himself. The father has at all times been consistent in his account of holding a knife while preparing food for the children, at the time the mother called him by video and that he asked her to hold. He accepts appearing to have an intense look on his face. He denies any attempt to hurt himself or anyone else. The police attended the home and identified no welfare concerns.

160. The father has no underlying mental health history or diagnosis, beyond feeling depressed as a consequence of the circumstances leading to the Local Authority beginning these Court proceedings. He reported managing well in life and being able to deal with life's stressors until finding himself attempting to manage two stepchildren whom he regarded as having behaviour problems and three of his own children, one with diabetes. Dr O'Rourke considered that these events also came at a time when the father was struggling to come to terms with the death of his own father. Dr O'Rourke further observed, "under these circumstances he appears to have felt overwhelmed, anxious and low in mood. A symptom of depression is irritability. In the face of interpersonal stress, he responded by being verbally aggressive. He denies physical aggression."

161. Dr O'Rourke expressly considered that the risk of future violence in a relationship is low, with the caveat that if certain situational factors which affect his mental health are repeated, this would increase the risk. Dr O'Rourke observed, "although it could be argued that anyone in these set of circumstances would have found it stressful and may have struggled to cope, his background as a deaf person is likely to be relevant to his difficulties in dealing with stress. Many deaf people reach adulthood with gaps in their understanding and knowledge. This is often striking in more nuanced aspects of life which are picked up incidentally, such as problem-solving or conflict resolution. In addition, access to low level support and intervention is often not available to a deaf person due to issues of access and communication. This might include informal support via friends and family, access to voluntary organisations, online resources or simply booking an appointment at the GP. There is no indication of prior pathology. It is likely that in these particular circumstances, [the father] felt overwhelmed and unable to cope, perhaps with limited coping skills and a lack of confidence or knowledge of how to access appropriate support."

162. A comprehensive Spousal Assault Risk Assessment, being a specialist domestic abuse assessment and management of risk for intimate partner violence, similarly suggests that the likelihood of future harm to known adults, children and members of the public is low. The father did not rate 'high' on predictors of future violence and his behaviour can be seen as

situational, a result of extreme stress, against a background of lack of learning and poor coping, which led to an episode of depression/anxiety and his resultant behaviour. Factors indicating a low risk of future harm include no past assault on family members, strangers or acquaintances, no past violation of a conditional release or community supervision, no recent employment problems, no history of witnessing family violence as a child or adolescent, no substance abuse or dependence, no suicidal or homicidal intent, no psychotic or manic symptoms, no personality disorder, no violation of court orders, no reports of sexual assault and no convictions or cautions. The father engaged in all assessments. He has worked with his GP to manage his emotional wellbeing. He engaged with Children's Services. Further, he acknowledges the concerns of Children's Services about him losing his temper and being unable to regulate his mood. He is willing to undertake further courses.

163. Dr O'Rourke considered that the issue of the loudness of the father's voice and the impact on the children, "is tricky. He may be better able to sign 'voice off' rather than trying to modulate his volume, although if annoyed this is likely to slip…As the children get older he can explain to them that, because he is deaf, it is difficult for him to know how loud he is being and he can 'give them permission' to ask him to speak in a quieter voice." The Court takes note further of the opinion expressed that Deaf people may appear to be more blunt or more demonstrative than hearing people and demonstrative gestures should not be misinterpreted as over-theatrical or as signs of rudeness.

164. In this Court's judgement, Dr O'Rourke's conclusion that the risk of harm arising from domestic abuse is low, was based on a full and careful assessment, which this Court finds to be reliable. That assessment is consistent with the conclusions of the specialist domestic abuse practitioner. Further, the evidence of there being no incidents of domestic abuse for over one year is consistent with that assessment. In this Court's judgement, the risk of harm that might arise to the children from exposure to domestic abuse from the father must properly be considered to be low.

165. Having regard to the risk of harm to 'T' arising from a lack of boundaries in the home and concerns around parentification, Dr O'Rourke's observation that many deaf parents can find parenting hearing children to be challenging at an age when the hearing children become more 'streetwise', is an important one: "They may use their hearing to communicate secretly or even sneak out of the house without their parents' knowledge. Their use of the internet and social media is likely to outstrip that of their parents, as is their literacy. As hearing children of deaf parents get older, there is a danger that parents use them to negotiate the hearing world and they begin to parent their parents or their younger siblings." Dr O'Rourke considered that the parents could benefit from support and information regarding parenting hearing children on an ongoing basis, as the children develop, to further reduce the risks. In this regard, Dr O'Rourke considered the father to have the intellectual ability to learn about the complex needs of his children and to problem solve in relation to these, "However, this will take time and considerable 'deaf-centred' intervention. If he feels overwhelmed, his mental health is likely to deteriorate and his ability to look after the children and put their needs first, will suffer. His engagement with SignHealth is therefore important in developing his own self-awareness about this issue and enhancing his coping skills. He requires ongoing support regarding parenting generally, being a deaf parent of hearing children, and specialist intervention to fully understand the complex needs of his children…All this needs to be delivered in a way that meets his deaf needs…Any intervention by a hearing professional without an interpreter will have been completely ineffective. This includes information given to the mother whilst ['C'] was in hospital, by well-meaning staff trying to 'get by' with lipreading and/or writing. Intervention by hearing professionals with an interpreter only will have been of limited value…this is because it will not have taken account of the gaps in background knowledge and will have not been approached from a 'deaf perspective'."

166. ‘T’ was able to articulate very clearly in her most recent discussion with the Guardian about the rules in her home. She described the rules as including eating dinner, breakfast, and lunch at the table, to only have two hours of screen time, be kind and no hitting or swearing. She said that if she does not follow the rules then she has ‘time out’, where she will need to stay in her room and reflect and that she is also not allowed screen time. She said that if she does follow the rules then she will get to pick a treat such as going to the cinema. There is no reliable evidence before the Court of any significant incidents pertaining to the parents not setting boundaries for ‘T’ or ‘Y’ for many months, largely from the summer of 2024. The ‘snakes and ladders’ evidence relied upon is risible. Further, the Guardian’s concern about a *potential* that the parents have not been open about all the issues because they worry about the professionals’ view, is pure speculation and is not based upon any evidence. Against a background of the parents caring for two children at home, not having the responsibility of caring for five children, having moved to a property that is not overcrowded and ‘T’ and ‘Y’ not having the influence of their oldest two siblings in the family home, it is clear that the parents have been able to implement boundaries adequately, evidenced by ‘T’s school attendance improving significantly to “really good” levels, with no recent reported incidents of defiant or challenging behaviour at school. She is reported to come to school punctually with a healthy snack.

167. Having regard to the concerns about parentification, it is clear from all the evidence that ‘T’ has a strong personality and seeks to involve herself in taking on a role in caring for her younger brother, ‘Y’. The parents have been consistent at all times that they have not required her to do so. The parents strongly deny relying on ‘T’ to soothe ‘Y’ if he woke at night when a baby. The concerns about ‘T’ becoming involved in adult issues pertaining to this litigation must be considered in the context of ‘T’, like her siblings, being a Child of Deaf Adults (“CODA”). Dr O’Rourke observed that CODAs grow up bilingual, as many children do in a family where English is the second language. They are considered to be bicultural and bilingual, which in common with many families who speak another language, can usually be seen as a positive factor in the child’s life. They are able to move between two languages (English and signed language) and two cultures (Deaf and hearing cultures). It is a cultural norm that deaf parents may rely on their children to assist with communication, for example, at the shops and in answering the door or the telephone. Whilst some deaf parents try to avoid this for the emotional wellbeing of their child, this is a relatively new concept and traditionally CODAs have been used as ‘interpreters’ by their parents. Professionals, whilst often criticising parents for using their children as interpreters, often slip into this themselves, do not consistently avoid this and may use the children inappropriately, particularly in medical settings or in the event of an emergency.

168. In this Court’s judgement, ‘T’s actions are entirely consistent with her culture as a Child of Deaf Adults. The parents, through the learning experience of this litigation, have acknowledged the advice from professionals not to place an over-reliance on ‘T’ for their interpreting needs. In this Court’s judgement, the risk to ‘T’ of significant harm arising from parentification cannot be considered to be high.

169. The risks pertaining to ‘Y’ about stimulation and future boundary setting can be dealt with succinctly. The Health Visitor’s unchallenged evidence is that ‘Y’ is meeting all his developmental milestones. There is no proper basis for the Court to conclude otherwise. The parents have implemented advice regarding providing a variety of toys and engaging him in play. The Local Authority’s concerns about ‘Y’ presenting as ‘placid’ and ‘flat’ is no sound basis for this Court to conclude that ‘Y’ is under-stimulated, let alone that there is a risk of future emotional harm to ‘Y’ through a lack of stimulation. This has not been a concern in respect of any of the older children. Further, the Guardian’s concern that ‘Y’ *could* experience physical harm is not founded on any evidence. At the highest, the Guardian considered that ‘Y’ “*could* experience emotional harm. Maybe he could mirror ‘T’s behaviour.” In this Court’s judgement, the risk of significant emotional harm to ‘Y’ through

care provided by his parents is low. Moreover, the likelihood of harm arising to the children of the type identified must also be considered, on a proper evaluation of all the evidence, as being low.

170. In the event that the type of harm identified did arise, the consequences for each child could be significant. However, in this Court's judgement, having regard to the evidence of Dr O'Rourke, it is patently possible to put in place further deaf-aware training, on a periodic basis, at each key developmental stage for the children, taking into account also the mother's learning needs, which would likely have the effect of further reducing the likelihood of harm arising or to mitigate the effects on the children. The mother now has the benefit of mental health support and adult support workers. There is no suggestion that this support, which is not provided through Local Authority Children's Services, will not continue for as long as it is required. Further, the parents have wider family support, in particular from the paternal aunt. The scaffolding around the family is more secure than it ever has been. Moreover, the family now have a period of stability in a new home, with fewer stressors, which is likely to make their ongoing learning more effective.

171. The Court asks itself, how do the overall welfare advantages and disadvantages of the realistic options compare, one with another? In respect of the child 'T', where there is no Placement Order application, the Court applies the welfare checklist under s1(3) Children Act 1989. In respect of the children 'C' and 'Y', Placement Order applications have been made by the Local Authority and the Court applies the checklist set out in s.1(4) of the 2002 Act. In respect of 'C' and 'Y', it is the child's welfare throughout their lives that is this Court's paramount consideration.

172. The realistic options for 'T' are to remain at home with her parents, where she has lived throughout her life, or, as the Local Authority's plans, long-term foster care. For 'C' the realistic options are long-term foster care or adoption. For 'Y', the realistic options are to remain at home with his parents, where he has lived throughout his life, or as the Local Authority plans, adoption.

173. In considering those options, the Court has considered the ascertainable wishes and feelings of each child. 'T' has clearly and consistently expressed her wish to remain living with her parents. She described them as, "the best parents." She said that she feels, "mad and sad" that her siblings are gone. Further she expressed that she would feel, "mad" if she was placed in foster care and would feel bad if she could not spend time with her siblings and parents.

174. 'C' informed the Guardian that she feels safe in foster care and feels safe with her mother. 'C' told the Guardian, "I would like to go back home with mummy and daddy, I love them." In response, the Guardian asked 'C' how she would feel if she stayed in foster care. 'C' replied, "good" but was not able to explain why.

175. 'Y' is too young to understand his situation or to articulate his wishes and feelings. The Guardian considered it is likely 'Y' would wish to remain in the care of his parents and with his siblings. It is reasonable to conclude that each of the siblings, 'T', 'C' and 'Y' would want to live in a home where they are loved, well cared for and feel secure. They would want to live with their parents and siblings, to whom they are attached or, if not, have regular contact with them.

176. 'C' has considerable physical health needs, which, despite close monitoring and specialist medical care, remain unstable, notwithstanding 'C' spending twelve months in interim foster care. The children have no particular educational needs. Like all children, they need the security of a stable and loving home. They need to have the opportunity to form attachments with primary care givers. They each have a close relationship with their siblings which must

be maintained. If they are in long-term foster care or an adoptive placement, they will need help and emotional support coming to terms with the fact that they are not living with their birth family and the sense of loss that this may bring. They will need assistance growing up with an understanding of their background and identity. In the case of 'T' and 'Y', if they remain in the care of their parents, they will patently not experience the same considerable loss they would otherwise experience consequent upon separation from their parents as would be experienced if placed in foster care or in an adoptive placement. The loss they would experience consequent upon separation from their birth parents would be profound, particularly in the case of 'T' where such separation would be contrary to her consistently expressed wishes and feelings.

177. The relationship between the children 'T' and 'Y' and their parents is evidently of good quality, with no reliable evidence of any significant complaints over the last 12 months of oversight by the professionals. In these circumstances, close attention needs to be paid to the nature and extent of the future risks of harm. The social worker's analysis leaves a number of key questions unanswered. The likely effect on the children, 'C' and 'Y', throughout their lives of ceasing to be a member of their birth family and to become adopted persons was not addressed at all in the written analysis of the Social Worker. Further, in recommending adoption, the relationship the children have with their older sibling 'H' was not addressed in the Social Worker's written analysis. The detrimental impact on the children's relationship with their older siblings was not considered to be a weakness, put into the balance, when the Social Worker concluded that, "adoption is thought to be in 'C' and 'Y's best interests." Moreover, the question of the proportionality of adoption was not addressed at all in any of the Local Authority's written evidence. Lacking these components, the Social Worker's analysis did not, in this Court's judgement, provide an adequate foundation for adoption. Had the Social Worker approached her analysis by addressing each of the questions posed by the Court of Appeal in *F (A Child : Placement Order: Proportionality)* it is respectfully suggested that her conclusion would likely have been different.

178. If 'C' and 'Y' were placed for adoption, the likely effect on them throughout their lives will be that they may prosper as members of an adoptive family. They may achieve a sense of belonging to their new adoptive family, which most, though not all, adoptive children experience. The stability of an adoptive placement for 'C' may benefit her in the long-term in respect of management of her diabetes. She has already experienced harm through the disruptions and inadequate parenting arising from her parents' inability to manage her health needs effectively and through being removed from her family. Her experiences have made her more vulnerable and in need of the stability of a secure placement. The children are likely to experience feelings of loss following separation from their birth family, including separation from their parents, siblings and wider family. The impact of such loss will likely affect them in different ways at different stages of their development, across the whole of their lives. In respect of 'C', in the increasingly familiar care of her foster carer, it is likely she may also experience the loss of that relationship. If adopted, the Local Authority care plan envisages some direct contact with their parents and siblings, which may go towards mitigating the harm they will suffer. As they grow older and become more aware of their adoption, their observations about families may trigger a sense of being different and an awareness of their loss. Some children feel the loss most keenly in adolescence when they are striking out for independence and trying to determine an identity which is in some way different and separate to that of their parents. Placing 'C' and 'Y' in an adoptive family will mean that they are denied the opportunity of being cared for by their mother and father and enjoying a range of birth family relationships. This is a very significant loss indeed, the extent of which will only be realised and felt as they each become aware of and understand the enormity of their adoption. 'C' and 'Y' may each develop an adoptive identity, which may become their primary identity. This can be ameliorated by careful and sensitive support, including life story work and through maintaining their relationships with their siblings. In the case of 'C' and 'Y' they would additionally suffer a loss of identity as Children of Deaf

Adults by being subsumed into a new family with a new culture. That will also inevitably result in a deterioration in their sign language skills, as can already been seen in the case of 'C' whilst in foster care, notwithstanding efforts by the non-deaf foster carer for 'C' to maintain her skills. The children each have a close relationship with their siblings, including their siblings in The Republic of Ireland and it is strongly in their interests for those relationship to continue. The children also have a strong relationship with their mother and father. 'T' and 'Y' have enjoyed and benefited from that relationship without interruption since birth. In this Court's judgement, it would be of undoubted benefit to 'T' and 'Y' for those irreplaceable relationships to continue.

179. The parents are able to continue to offer 'T' and 'Y' a home and provide for their welfare needs. The parents have evidenced this since moving out of crisis in 2023. Their need for support has decreased.

180. In this Court's judgement, this is not a case where the balance is a fine one. The welfare reasons for the children 'T' and 'Y' to remain in their parents' care are overwhelming.

181. A care plan for the adoption of a child must be an option of last resort and will not be ordered unless it is demonstrated that nothing else will do, when having regard to the overriding requirements of a child's welfare (*Re B (A Child) [2013] UKSC 33*, per Baroness Hale). There is a need to ensure that this is a proportionate response to the harm identified. The Court must be satisfied that there is no practical way of the authorities providing requisite assistance and support. 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.

182. The decision of the Supreme Court in *H-W (Children)* [2022] UKSC 17 underlines that a decision leading to adoption can only be approved where it is in the child's lifelong best interests and where the severe interference with the right to respect for family life is necessary and proportionate.

183. This Court has evaluated the family placement and assessed the nature and likelihood of the harm that the children would be likely to suffer in it and the consequences of the harm arising to be at the lower end of the spectrum of harm. The Court cannot validly conclude on all the evidence that adoption is the only outcome that can provide for the lifelong welfare of 'Y' nor that foster care is the only outcome that can provide for the welfare of 'C' throughout her minority.

184. In *Re D (A Child)(No.3) [2016] EWFC 1, [2017] 1 FLR 237*, the obligation on the State to provide such support as will enable a child to remain with their parents was identified as an aspect of the State's positive obligation under Article 8 of the European Convention on Human Rights. In addition, there is a statutory duty under domestic law. Section 17(1) Children Act 1989 sets out the general duty of every local authority to safeguard and promote the welfare of children within their area who are in need and, so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to their needs. A child of disabled parents is likely to need a range and level of services of a broader range and higher level to ensure that they can continue to be brought up by their family. The concept of "parenting with support" is crucial. Parents must, in principle, be supported and provided with the assistance that, because of their particular deficits, they need in order to be able to care for their child. The *positive* obligation on the State under Article 8 imposes a broad obligation on the Local Authority in a case such as this to provide such support as will enable the child to remain with their parents.

185. The educative parenting work provided by Miss Fogg has resulted in these parents developing their learning and their parenting skills. The benefits of that work are evident from the sustained improvements made in the family home, the enhanced ability of the parents to set and enforcement boundaries for 'T' and resulting in 'Y' meeting all his health and development milestones. The parents are likely to require further support and learning as the children reach significant stages in their development, to enable these Deaf parents and this mother who has learning difficulties, to continue to be good enough parents. A Local Authority cannot press for a plan for adoption in the case of 'Y' or a plan of foster care in the case of 'T' simply because the Local Authority is unable or unwilling to support the child remaining at home. Support for these parents may have to be long-term and may have to extend throughout the minority of the children, in part because the mother, who has cognitive difficulties, even if she understands the information given, may not find it difficult to retain it or to apply it as the child gets older. Further, as the children get older, their needs will evolve and the range and level of support and guidance required by the parents must evolve alongside. Those principles were reiterated by Baker LJ in *H (Parents with learning difficulties: risk of harm)* [2023] EWCA Civ 59.

186. *Re L (Care: Threshold Criteria) [2007] 1 FLR 2050* sets out the well-known observation of Hedley J that society must be willing to tolerate very diverse standards of parenting, including the barely adequate and the inconsistent. Children will inevitably have very different experiences of parenting and very unequal consequences flowing from it. Some children will experience disadvantage and harm, while others flourish in atmospheres of loving security and emotional stability: "These are the consequences of our fallible humanity and it is not the provenance of the State to spare children all the consequences of defective parenting."

187. That passage was cited by Lord Neuberger in *Re B (A Child) [2013] UKSC 33* who observed, "The assessment of [the parents'] ability to discharge their responsibilities must, of course, take into account the assistance and support which the authorities would offer…It means that, before making an adoption order in such a case, the court must be satisfied that there is no practical way of the authorities (or others) providing the requisite assistance and support."

188. Subsequently in *Re B-S (Children) (Adoption: Leave to Oppose) [2013] EWCA Civ 1146* Sir James Munby P. observed, "It is the obligation of the Local Authority to make the Order, which the Court has determined is proportionate, work. The Local Authority cannot press for a more drastic form of Order, least of all press for adoption, because it is unable or unwilling to support a less interventionist form of Order. Judges must be alert to the point and must be rigorous in exploring and probing Local Authority thinking in cases where there is any reason to suspect that resource issues may be affecting the Local Authority's thinking."

189. Taking a child away from their family is a momentous step, not only for the child but for their whole family, and for the Local Authority which does so: "In a totalitarian society, uniformity and conformity are valued. Hence the totalitarian State tries to separate the child from her family and mould her to its own design. Families in all their subversive variety are the breeding ground of diversity and individuality. In a free and democratic society, we value diversity and individuality. Hence the family is given special protection in all the modern human rights instruments including the European Convention on Human Rights (Article 8), the International Covenant on Civil and Political Rights (Article 23) and throughout the United Nations Convention on the Rights of the Child" (per Baroness Hale, *B (Children) [2008[UKHL 35)*.

190. In *Re X and Y (Children: Adoption Order: Setting Aside) [2025] EWCA Civ 2*, the Court of appeal highlighted that adoption Orders are transformative, have a peculiar finality and are

intended to be irreversible, lasting throughout life, as if the child had been born to the adopter. That high degree of permanence, from which the benefits to the child of long-term security and stability should flow, is the unique feature that marks adoption out from all other Orders made for children. The unique attribute of an adoption Order, in contrast to any other Order that may be made for the welfare of a child, is that it is 'for life' and, in common with the legal relationship established at birth, can only be extinguished by the making of a subsequent Adoption Order. The status conferred by an Adoption Order, established by Adoption and Children Act 2002, s 67, is that an adopted person is to be treated in law as if born as the child of the adopters or adopter: "Adoption is to be reserved for cases where the welfare of the child requires intervention so as to remove the child from their birth family, but that, where such intervention is necessary then the removal, as a matter of law, is intended to be life-long and intended to extinguish, in legal terms, natural family relationships so that it is as if the adopted child had been born to their adopter."

191. Whereas the parents may apply for the discharge of a Care Order with a view to getting the child back to live with them, once an adoption Order is made, it is made for all time: "It would 'gravely damage the lifelong commitment of adopters to their adoptive children' if there were a possibility of the finality of a validly made adoption order being challenged."

192. Moreover, family ties may only be severed in very exceptional circumstances. Everything must be done to preserve personal relations and, where appropriate, to 'rebuild' the family. It is not enough to show that a child could be placed in a more beneficial environment for their upbringing": *YC v United Kingdom* [2012] 55 EHRR 967, para 134, cited with approval by Munby P in *Re B-S (Children)* [2013] EWCA Civ 1146, para 18.

193. In this Court's judgement, the protective measures and educative work in place during the proceedings have been effective. The risks have reduced. The trajectory is positive in terms of ongoing learning. There is no reliable evidence that these parents can't be trusted. 'T' and 'Y' have been living with their parents without the need for further intervention by the Local Authority for an extensive period of time. That must form part of the risk assessment. The level of support required by this family is neither as onerous nor as intensive as suggested by the Local Authority. There is no evidential basis to support Miss Robinson's assertion that the parents would require daily intervention. Intervention from Family Support Workers fell away in July 2023. The Local Authority reduced its social work visits to a fortnightly frequency.

194. Placing 'Y' for adoption or placing 'T' in foster care, when there have been no significant harmful events at all over an extensive period of time, some twelve months, where there are no other reasons to be fearful for the children and they have not come to any harm in the family home for an extensive period, cannot properly be justified. That is the stage scenery in which this Court must assess the risk. In this Court's judgement, the Local Authority and Guardian in pursuing a plan of adoption for 'Y and foster care for 'T' have lost sight of the big picture.

195. There are significant positives pertaining to the parents, which have not sufficiently formed part of the balancing exercise of the Local Authority or the Guardian in their analyses of the strengths and weaknesses in the family system. The evidence of the fact that the children have not come to any harm in Children Act terms for more than six months has not been adequately weighed in the balance. The big picture here is, these children, whatever their experiences in the past, are in good shape. A reflection of the history is an important element of the overall picture that should feed into an analysis of the nature, level and degree of risk. The presence or absence of those factors is also important. Although the risk assessment may be difficult, the facts are not. There have been months of good enough parenting, which is not reflected in the analyses of Guardian or Local Authority to any adequate degree.

196. In respect of 'C', the Local Authority evidence is of the current interim foster carer being willing to care on a long-term basis. The management of 'C's complex health needs has been challenging for the foster carer. The parents, whilst accepting they are not able to meet 'C's needs now, expressed a clear desire to continue their learning. There is, in this Court's judgement, solid, evidence-based reason to believe that the parents are committed to making the necessary changes. There is solid, evidence-based reason to believe that the parents will be able to maintain that commitment. The parents recognise they are not able to make the necessary changes in terms of their learning within 'C's timescale. However, in this Court's judgement, there is reason to believe that the parents could realistically attain and implement that knowledge, with the measures being put into effect as recommended by Dr O'Rourke, to maximise their learning and retention of the complex information necessary to manage 'C's diabetes, within a relatively short period of time. The Court has the benefit of unchallenged evidence from the mother's adult support workers and personal assistants which provides an important perspective of the professionals that work very closely with the mother and can attest to her engagement and capacity to learn and change, with a realistic level of support. Both parents have evidenced that, with the right conditions in place, they can take on board advice and make positive changes. The father's suggestion of needing two years of training to be confident of managing 'C's health needs is not unreasonable. At this stage there is more than a mere speculative prospect of the parents making the necessary changes to equip them to resume caring for 'C' in the medium term.

197. Drawing the threads together, the advantages of long-term fostering for 'C' would mean that she would be able to remain a member of her birth family whilst receiving good quality foster care from a carer to whom she has become attached, without being exposed to the risk of significant harm of returning to her parents' care prematurely. It would allow 'C' to continue having regular contact with her parents and siblings more frequently than the Local Authority is proposing under its adoption plan, enabling her to maintain a meaningful connection with her birth family and promoting her identity as a Child of Deaf Adults. In due course, if the parents were able to improve their learning in respect of their management of 'C's diabetes, it might be possible for them to play a greater role in 'C's life and conceivably for 'C' to return to their care. This may be no more than speculation at this stage and cannot carry any significant weight in the balancing exercise. The disadvantages of long-term fostering for 'C' include the fact that it would not provide the same degree of permanence and security for her, nor would it enable her to experience the sense of belonging which adoption might afford. 'C' would legally remain in the care of the Local Authority indefinitely throughout her minority unless and until the care orders were discharged. She would continue to have social workers involved in her life and be subject to regular "looked after" reviews. Many children thrive in foster care, and some stay with the same carers throughout their childhood. Unfortunately, however, many children in care experience disruptive moves of placement. Having regard to her welfare throughout her life, although many children establish close relationships with their foster carers which continue into adulthood, they are not lifelong members of the family in the same way as adopted children are normally lifelong members of their adoptive families. Despite increased resources devoted to care leavers, it is recognised that they remain more vulnerable to social problems than the rest of the young adult population. The advantages of adoption in accordance with the Local Authority's plan include that it would provide 'C' with a permanent home and a higher degree of stability and security than long-term fostering can ever bestow. As a permanent member of the adoptive family, she would maintain this sense of belonging through into adulthood. There is a high likelihood that her physical, emotional and educational needs would be met. In the event that 'C' was the only child of these parents to be adopted, were 'T' and 'Y' to remain living at home with their parents, 'C' may struggle to understand why she was the only one of the sibling group to be adopted. She may require additional emotional support not to blame herself and her health needs as being the reason for her adoption. Continued contact would help 'C' to some extent grow up with a

clearer understanding of her background and identity. This is not a case in which the plan is for a complete severance of 'C's ties with her birth family.

198. Having considered the relevant factors in the relevant statutory welfare checklists and analysed the advantages and disadvantages of the realistic options, this Court reaches the clear and firm conclusion that 'T' and 'Y' remaining in the care of their parents is the plan that very plainly best meets their needs, in the case of 'T' throughout her minority and in the case of 'Y', throughout his lifetime. Further, having considered the relevant factors in the statutory welfare checklist and analysed the advantages and disadvantages of the realistic options so far as they relate to 'C', this Court reaches the firm conclusion that long-term foster care is the option that best meets her needs throughout her lifetime. This Court has reached its own conclusions on the evidence. The Court is not bound by the professional recommendation. For the reasons articulated in this judgment and for the reasons articulated by Mr Lafazanides on behalf of the mother and Ms Okine on behalf of the father, there is solid ground in this case for the Court to depart from the recommendations of the Local Authority and, in the case of 'T' and 'Y' from the recommendation of the Guardian.

199. In this Court's judgement, a Care Order for 'C' with the plan of long term foster care is necessary and in 'C's best interests.

200. Further, in this Court's judgement, a Supervision Order would best meet the needs of 'T' and 'Y' whilst remaining with their parents. A Supervision Order relies on parents' full co-operation and full engagement. These parents have demonstrated consistently throughout these proceedings that they have engaged with all assessments asked of them, attended all meetings and conferences with professionals and experts, attended every contact session and all Court hearings. Their engagement and cooperation has been exemplary. The family has been used to weekly, then fortnightly, social work visits for more than one year. Mr Lafazanides for the mother proposes a further step down to monthly or bi-monthly visits, together with a parenting session with a social worker as to the next developmental stage in 3-6 months' time. This, it is submitted on behalf of the parents, is not a significant intrusion. This Court finds weight in that submission. In this Court's judgement, the support proposed is neither onerous nor unreasonable. A Supervision Order of 12 months' duration, balancing the length of intervention to date and the proposed future work, is necessary, in the best interests of 'T' and 'Y' and is the proportionate response to the risks.

201. The Court invites the Local Authority to accept a Supervision Order of 12 months in respect of 'T' and 'Y'. Further, the Court invites the Local Authority to prepare and serve a Supervision Order support plan. The Supervision Order support plan should make provision for future parenting course and, if necessary, VIG work to further assist the parents with managing the developing behaviours of children and teenagers. Updated diabetes training should form part of the support. The plan should also make provision for practical support using suitable BSL interpreters, deaf professionals and visual aids, taking into consider the communication recommendations of the intermediary and noting the observation of Dr O'Rourke that any intervention by a hearing professional without an interpreter will be completely ineffective.

202. This Court must give effect to Article 8 of the Convention on Human Rights by asking itself whether the welfare outcome for each child is a necessary and proportionate interference with their right to respect for their private and family life. On the Local Authority's plan, the high degree of justification necessary under Article 8 is not established. Such interference is not necessary and is not a proportionate response, having regard to the risks and having regard to the welfare evaluation. Moreover, this is not a case where the Court on the facts could properly dispense with the consent of the mother and the father to the making of a Placement Order for 'C' or 'Y' pursuant to section 52(1)(b) of the 2002 Act, the words of section 52(1)(b) carrying the connotation of the imperative.

203. The Local Authority's applications for Placement Orders for 'C' and 'Y' are dismissed. It is not necessary, accordingly, for the Court to consider post-adoption contact arrangements.

204. In closing submissions, the Court was invited by the parents to make a Child Arrangements Order ("live with") Order in respect of 'T' and 'Y'. Although that would reflect the reality of the situation on the ground, in this Court's judgement, such Order is not necessary, having regard to the principle in s1(5) Children Act 1989, which provides that the Court shall not make the Order unless it considers that doing so would be better for the child than making no order at all.

205. There is no reason why contact between 'T', 'Y' and their older siblings, 'H' and 'D' in The Republic of Ireland, and contact between 'H' and 'D' and their mother, should not continue on the same basis as it is proceeding currently. The Paternal Grandmother and the parents each promote direct and indirect contact and all the adults are cooperating well. Contact between 'C' and her parents and siblings will be an important feature of her identity. Regular contact must be provided for in the Local Authority's care plan. Such contact between 'C' and her parents will also form an important part of the parents' understanding of 'C's health needs and their ongoing training as to the management of her diabetes. The Court invites the Local Authority to provide an updated care plan setting out its proposals in respect of contact.

Conclusion

206. The Court invites the Local Authority to accept a Supervision Order for 'T'. The Court directs the Local Authority to file and serve a Supervision Order support plan for 'T'.

207. The Court makes a Care Order for 'C'. The Court directs the Local Authority to produce an updated care plan for long-term foster care. The Local Authority's application for a Placement Order for 'C' is dismissed.

208. The Court invites the Local Authority to accept a Supervision Order for 'Y'. The Court directs the Local Authority to file and serve a Supervision Order support plan for 'Y'. The Local Authority's application for a Placement Order for 'Y' is dismissed.

209. The action is listed on 13 February 2025 for further hearing when the Court will give consideration to the Local Authority's amended care plan and Supervision Order support plans.

HHJ Middleton-Roy
3 February 2025