

Neutral Citation Number: [2013] EWHC 4672 (Fam)

Case No: IL13C00216

**IN THE HIGH COURT OF JUSTICE**  
**FAMILY DIVISION**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 05/11/2013

**Before:**

**MRS JUSTICE THEIS DBE**

**Between:**

	<b>LA</b>	<b><u>Applicant</u></b>
	<b>- and -</b>	
	<b>1) FM</b>	<b><u>1st Respondent</u></b>
	<b>2) MA</b>	<b><u>2nd Respondent</u></b>
	<b>- and -</b>	
	<b>3) A &amp; 4) B (Through their Children's Guardian)</b>	<b><u>3rd &amp; 4th Respondents</u></b>

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**Mr Alex Verdan Q.C.** (instructed by **Local Authority**) for the **Applicant**  
**Mr Richard Alomo** (instructed by **Forward Yussuf Solicitors?**) for the **1st Respondent**  
**Ms Jayne Harrill** (instructed by **Mackesys Solicitors?**) for the **2nd Respondent**  
**Ms Alison Burt** (Covent Garden Family Law Solicitors?) for the **3rd & 4th Respondents**

Hearing date: 25th October 2013

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**Judgment**

## MRS JUSTICE THEIS DBE

The judgment is being distributed on the strict understanding that in any report no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by name or location and that in particular the anonymity of the children and the adult members of their family must be strictly preserved.

### **Mrs Justice Theis DBE:**

This hearing follows a ten day fact finding and welfare hearing which concluded on 27 September. At the end of that hearing I gave a detailed judgment which should be read together with this judgment. At the end of that hearing the professional evidence was united that final care and placement orders should be made, together with care plans resulting in permanent separation of these two young children from their birth family. However, I concluded the mother should be given a time limited opportunity to consider my judgment and the findings I had made. This was to see whether she could accept them in a way that could give confidence that she would be able to protect the children from harm in the future.

Following my judgment the mother filed a statement. She was subsequently seen by Ms G the allocated social worker twice and Mr Y, the Children's Guardian, once. These meetings were to discuss her response to the court's findings. Both Ms G and Mr Y filed detailed written records of those meetings together with their assessment of the situation. The mother, Ms G and Mr Y all gave oral evidence at this hearing.

In the light of my judgment given on 27 September I will only give a brief summary of the background.

### **Background**

This matter concerns two children B a boy born in January 2012 and A a

boy born in January 2013, they are now respectively 21 months and 10 months old. They are the children of the First and Second Respondent, F M and M A, who I shall refer to in this judgment as the mother and father. These proceedings are brought by a local authority ('the LA') who state that B has suffered significant emotional harm and both children are at risk of future significant harm.

B and A were removed from the care of their parents following the tragic death of their older brother C on 11 March 2013. He was then nearly 4 years old, having been born in March 2009. He was admitted to Hospital in an unconscious state on 11 March and died at the hospital later that evening. He had been in the sole care of his father prior to his admission to hospital. The father has been charged with his murder and is currently remanded in custody awaiting his criminal trial due to take place in January 2014. At the hearing in September I concluded the father caused the injuries that resulted in C's death.

In the week prior to C's death A had been admitted to hospital on 4<sup>th</sup> March 2013 with a broken left femur. I accepted the parents' explanation that this had been caused when he accidentally slipped out of his mother's arms in the dentist's surgery earlier that day. He was put in traction and stayed in hospital with his mother, where they were at the time of C's death. During that time the father had remained at the family home caring for B and C.

In the September hearing, the LA contended that B and A are at risk of future significant harm due to the history of domestic violence between the parents, the father's responsibility for A's injury, his responsibility for C's death which B is likely to have witnessed, the inability of the mother to acknowledge or accept the history of domestic violence and the father's responsibility for C's death and the serious risk of future harm such a history poses to both the mother and the children.

At the hearing in September the mother, supported by the father, was

adamant in her denials that there has been any domestic violence between them and she could not bring herself to consider the possibility that the father was, or could have been, responsible for C's death. It was, as she repeatedly said, 'the will of [God]' that he died. The father denies any responsibility for C's death.

I found the father had caused the injuries that resulted in C's death and I accepted the evidence in relation to the history of domestic violence between the parents, which included the father assaulting the mother and I found that, as a result, the mother had failed to protect both A and B.

The respective positions of the parties at the September hearing were stark. The LA, supported by the Children's Guardian, submitted that due to the violent history and the continued denial of that by the mother the risk of future harm to these children of being returned to the their mother's care was so great that it was not manageable and, as a result, the children's welfare demands they be permanently placed away from their parents and the wider family. The LA sought a care order and a placement order with a care plan for adoption; in effect permanent separation from the birth family. The mother sought orders that would lead to a further assessment of her to enable her to demonstrate her acceptance of any findings the court makes and, in effect, a further assessment of future risk.

As I described in that judgment at paragraphs 8 and 9

*"8. As has perhaps been clear during this hearing this case has caused me enormous anxiety. One aspect of the case that everyone agrees upon is the strength of the mother's relationship with the children. Prior to the children being removed from her care there is no significant criticism of the mother's day to day care or relationship with the children. One of the witnesses who lived in the family home described her as 'One of the best mothers to her children'. She has had frequent contact with the children, five times a week for 2 hours. Her attendance has been excellent and all accounts of the contact are glowing in what has been observed. In her evidence the allocated social worker described the mother as 'very warm and loving with her children, she is very attentive to their needs and sings to them' a little later she said when asked about the mother's engagement with the children 'It's warm loving, playful, creative and a*

*joy to watch'. Mr Y said from his observations the mothers 'practical, physical, emotional care of the children is excellent'.*

*9. What is so puzzling about this mother is she is someone who on the one hand has such strength of feeling and empathy for her children. On one level she has a strong maternal instinct (as has been demonstrated during this hearing; she becomes emotional at the mention of her children and her sobs for them during her evidence were both powerful and heart wrenching) yet she seems completely unable to acknowledge the history and future risks to her and the children that unite the experienced professionals who have given evidence in this case. In their written and oral evidence the social worker, Dr R and the Children's Guardian have outlined to the mother their concerns, but she has remained resolute in her denial of the history and, they suggest, has become more entrenched in her views as this hearing has progressed. This may be due to loyalty to the husband and/or deep feelings of guilt. Whatever its roots it caused the Children's Guardian, in his oral evidence, to shut the door he had left open in his written report filed at the start of this hearing that he would support a short focussed adjournment if there was any movement in the mother's position. There wasn't and put simply, his position is the children can't wait. It was a conclusion he reached with great sadness but not, in the light of the evidence, with reluctance."*

## **The Law**

No one has suggested the legal framework has changed since my earlier judgment. In paragraphs 10 – 14 I set it out as follows:

*"10.....The burden of proof is on the LA and the standard of proof applicable to all findings is the balance of probabilities in accordance with Re B [2008] UKHL 35 at paras 70 – 73. Any findings must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation Re A (A Child) (Fact finding hearing: Speculation) [2011] EWCA Civ 12.*

*If I conclude that one of the parents has lied I will need to consider their reasons for so doing. A lie is not always indicative of guilt as a person may lie for many*

*reasons. For example out of shame, humiliation, emotional pressure, panic, fear, distress, confusion or misplaced loyalty (R v Lucas QB 720 (1981)).*

*In undertaking the welfare evaluation each child's welfare is my paramount consideration having regard to the matters set out in the welfare checklist in section 1 (3) Children Act 1989.*

*During the course of this hearing the Court of Appeal handed down its decision in Re B-S [2013] EWCA Civ 813. That important case gives guidance which can*

*be summarised as follows:*

*The child's interests in an adoption case are paramount, which include being*

*brought up by their natural family unless their welfare makes that not possible*

*(para 26).*

*The court must consider all the options available before coming to a decision*

*and have proper evidence from the LA and the Children's Guardian addressing*

*all the options and containing an analysis for and against each option with fully*

*reasoned recommendations. (para 27 and 34).*

*The court's assessment of the parents' ability to discharge their responsibilities*

*towards the child must take into account the assistance and support which can be made available to them (para 28)*

*The needs for a global holistic evaluation with the judicial task being to evaluate*

*all the options, taking into account the advantages and disadvantages of each*

*option. (para 44)*

*Re B-S [2013] EWCA Civ 813 at para 22 the CA re-states the clear principle that non consensual adoption is a "a very extreme thing, a last resort", only to be made where "nothing else will do", where "no other course [is] possible in [the child's] interests", they are "the most extreme option, a "last resort – where all else fails", to be made "only in exceptional circumstances and where motivated by overriding requirements pertaining to the child's welfare, in short, where nothing else will do". At para 18 the CA re-emphasises the requirement of the court to consider Art 8 and the overarching principle set out by Hale LJ (as she then was) in Re C and B [2001] 1 FLR 611 para 34."*

The relevant statutory frame work in relation to placement orders is set out in sections 1, 21, 22 and 52 Adoption and Children Act 2002 (ACA 2002). Importantly section 52 (1) provides that:

"The court cannot dispense with the consent of any parent or guardian of a child to the child being placed for adoption or to the making of an adoption order in respect of the child unless it is satisfied that –

(a) the parent or guardian cannot be found or lacks capacity (within the meaning of the Mental Capacity Act 2005) to give consent, or

(b) the welfare of the child requires the consent to be dispensed with."

Where a placement order is made, parental responsibility for the child is given to the adoption agency who may determine that the parental responsibility of the parents is restricted (see section 25 ACA 2002). The placement order continues in force until it is revoked under section 24 ACA 2002 or an adoption order is made in respect of the child

or the child marries, forms a civil partnership or attains the age of 18 (section 21(4)).

If the child is placed for adoption following the making a placement order, the parents cannot oppose the making of an adoption order without leave of the court, which cannot be given unless the court is satisfied that there has been a change of circumstances since the placement order was made (section 47 ACA 2002).

Whenever a court is coming to a decision relating to the adoption of a child, section 1 ACA 2002 applies. Section 1(2) provides that the paramount consideration of the court must be the child's welfare throughout his life. The court must at all times bear in mind that, in general, any delay in coming to the decision is likely to prejudice the child's welfare (section 1(3)). Factors to which the court must have regard, amongst others, are set out in section 1(4). I have very much in mind the observations of McFarlane LJ in *C (A Child) [2013] EWCA Civ 1257* of the judicial task being to evaluate all the options.

### **Events since 27 September**

The mother continued to have contact with the children after the September hearing. That contact has remained of the high quality it has always been.

In her relatively brief statement filed after the hearing the mother said she accepted the findings I made, she has severed all contact with the father and will not allow him to have contact with the children regardless of the outcome of the criminal proceedings. She added she would co-operate with all professionals and any further risk assessment.

Ms G and Mr Y in their meetings with the mother sought to understand the level of her acceptance of the findings. At all the meetings they had a Somali speaking interpreter present. In the meeting with Mr Y the mother was accompanied with the lady she is staying with, together with her 18 year old daughter. The daughter speaks very good English and they had both met Mr Y before, when he visited the mother during the September hearing.

Both Ms G and Mr Y kept contemporaneous notes of their meetings. The



meetings are recorded in their documents by way of questions and answers.

In the meeting with Ms G the mother gave some answers that demonstrated the mother had begun to reflect on the court's findings.

*Q: What changed your mind on him harming the children?*

*A: I never had contact with him, I was thinking a lot what could happen to the child who died. Everyone said he is the one. That is what changed my mind. I was praying I went to the [place of prayer] I was thinking a lot this child didn't have an accident. I was thinking.'*

In her oral evidence the mother displayed some understanding as to how she would protect the children in the future; in particular she would call the police.

However, when pressed about certain matters it was clear there had not been a full acceptance of the court's findings. With Ms G she referred to the assault witnessed by R as being a slap that did not bleed. The finding I made was the father punched her in the mouth and I accepted the description of that assault given by R. In relation to the father's responsibility for C's death, which I made a clear finding was caused by the actions of the father, she responded as follows:

*Q: What did he do to C?*

*A: I don't know I was not at home.*

*Q: The court has found that your husband did kill your son*

*A: [mother asks me] is it because of the doctor?*

*Q: The judge found that your husband killed C*

*A: I understand and agree that it may happen*

*Q: So you think your husband killed C?*

*A: It can happen, he was at home.*

It remained unclear what the wider family and community knew and when asked about Dr R's view that she needed therapeutic support she said *'No I'm fine, I'm healthy and I don't need medical help'*.

In her meeting with Mr Y she minimised the father's violence to her, saying *'he is not a violent man'* in the context of violence towards her and the children. In response to the question

*'Can I ask you about the violence caused to you by your husband?'*

She responded

*'He did not cause me a lot of harm but when I was pregnant with B we had an argument because he came home very late and I was jealous. We were pushing each other, I turned my face and he slapped me across the face. R did not see him assaulting me and she lied. She is not my friend, she was never my friend, we just lived in the same building. Dr A could not speak my language and his understanding was not enough'*.

On any view that answer contradicts the findings I made; I accepted the evidence of both R and Dr A.

He asked the mother, in the context of the father being found not guilty at the

end of the criminal trial, the following question:

*'Yes, but what has changed? You have always known that your husband was violent towards you on at least two occasions and you were not there when C was killed.'*

She responded

*'Because I lost confidence in him, because our son died and he is accused of killing our son. I cannot be with someone who possibly killed our son. All the evidence says he is responsible for C's death. I accept the evidence of the Court but I cannot say he killed C. Professor R did not say he killed C but he was there when C died.'*

In her oral evidence the mother was pressed about some of the answers she gave. It was clear, even making allowance for some difficulties in interpreting different terms, she still continued to minimise the extent of the violence towards her and what happened to C. She referred to what happened to C as being an 'accident', that the father could 'possibly' have caused the death and the father's responsibility for what happened as being because he was there at the time. She did not display any real recognition of the oral evidence, accepted by the court, that the cause of C's death were the actions of the father; the actions required to cause those injuries, included a severe blow by a blunt instrument or stamping.

When pressed about the failure to protect the children she seemed unable to make the connection that the fact that the father had been violent to her could put the children at risk of harm from him. She could only see it in the context of if she had seen him harm the children then she could understand the risk to them; she was not able to understand that what happened to her could be replicated on the children. This was despite her accepting in her oral evidence in September that

children in a situation where there was domestic violence could be at risk of harm.

When asked about why she lied in her previous oral evidence the mother said it was because she was scared, if she told the truth she would be taken back home. She agreed she had never said this before. When pressed about this she said this applied to everyone who interviewed her, including Ms G. She said she never felt Ms G would help her.

Ms G in her oral evidence acknowledged the mother had moved some way in accepting the court's findings, but said as it was from a position of complete denial during the previous proceedings it seemed more than it actually was. She said when pressed the mother regressed and would not accept the level of fear she had described to Dr A. She did not consider the mother's acceptance of the findings were unconditional and unreserved. In order for the children to be placed safely with the mother she said there needs to be a level of trust and understanding that the information being given by the mother is reliable; she said that trust was not present in this case. In answer to questions from Mr Alomo, on behalf of the mother, she said that whilst the mother had made a shift it was small and she minimised the findings. Ms G did not consider enough support could be offered to protect the children; the mother has to be emotionally available for the children and have some understanding as to what they may have seen.

Mr Y in his oral evidence set out what he considered were the barriers to the mother fully accepting the courts findings which included the cultural expectations, loyalty to the father and the extended family and community, the consequences of telling the truth, the guilt about what has happened and her grief. He said that is why there seems to be progress and then a step backwards. That was illustrated by the mother's evidence; at one level she accepted the father caused C's death and then referred to it as an '*accident*' or the father's responsibility being limited to the fact he was there. As he said it showed the mother was still struggling with what had happened. In his view whilst he was encouraged by the mother's change, his assessment is she has '*a long way to go to be in a position to safely care for the children*'. He said the work that she required would take between 4 – 5 months which, in his view, was outside the timescales

for the children particularly when he was pessimistic about the prospects of success. He acknowledged the strengths the mother has in terms of her love for the children, their strong bond and her genuine desire to care for them. But he considered the barriers of her inability to fully accept the court's findings, to hold the father responsible and to understand such violence puts her and the children at future risk were significant. His view was that the mother was only at the beginning of such a journey and in such a high risk situation the protective parent needs to be much further forward in the context of the timescales for these children. He considered there are far too many unknowns at the moment in relation to the mother; the children require a secure and permanent family. He referred to the mother's detachment; at one level she can understand the risks of domestic violence but she cannot relate it to her own situation.

## **Discussion**

I accept the accounts of the answers recorded by Ms G and Mr Y in their discussions with the mother; they had both taken great care to ensure the answers they were recording were correct. For example, Ms G said she used her hands to demonstrate the difference between a punch and a slap and Mr Y had the mother's friend and her daughter present; the latter spoke good English and would have picked up if there were any misunderstandings. An interpreter was present at all the meetings.

In her oral evidence the mother was pressed about some of the answers she gave. It was clear, even making allowance for some difficulties in interpreting different terms, she still continued to minimise the extent of the violence towards her and what happened to C. She is an intelligent woman and whilst she can understand the risks and consequences of domestic violence in the abstract, she seems unable to relate it to her situation.

Mr Y said in his oral evidence said '*..she [was] divorced from that – she can see it one level – my worry not been able to see it applies to her*'. He continued '*...mother is not yet in a position to fully protect her children and the level of protection these children require is not yet within the mother's reach. She needs to*

*fully acknowledge and accept and take consistent action.*’ He believed the mother has developed a degree of emotional detachment as a way of coping, which is why if the court were minded to allow any further assessment (which he did not support) he said it should be done by a forensic psychologist, because Dr R’s report is clear, the mother does not suffer from any mental illness.

The critical issues in this case have centred on the risks of future harm to the children and the mother’s ability to protect them from that harm. The LA, supported by the Children’s Guardian, say those risks are too high and any prospect of change by the mother is outside the timescales for these children. The evidence from the LA, in the form of the joint statement from KM (the deputy team manager of the adoption and permanence team) and CW (team manager) is that the children could be placed in an adoptive placement within 12 months. This is longer than it would usually take due the racial and religious profile of the children. They state at paragraph 15 *‘The prospects of finding adopters for these children within a year seems favourable given that they are still babies under the age of two and given the Local Authority’s past performance in matching children but the match may not be identical’.*

## **Decision**

As has perhaps been clear from the additional time I have given this mother, against the clear recommendations of the professional evidence, this case has caused the court great anxiety. On the one hand there is powerful evidence of the strength of the relationship between this mother and her young children and the other the very real risks of future significant harm to these young children and the mother’s ability to be able to protect them. It was primarily because of the strength of the relationship between the mother and the children I considered the mother should have the opportunity to respond to the courts findings, to enable her to demonstrate that she would be in a position to protect the children from future harm within a timeframe that meets the welfare needs of these young children.

Having carefully considered the evidence in the previous hearing, together with

the additional information before me now I have reached the conclusion that the welfare needs of these children require me to make care orders, in effect, endorsing care plans that will mean they will not be restored to their mother's care. I have reached that conclusion with great sadness, but I am clear it is the only decision that is supported by the evidence and meets the welfare needs of these two young children. I have set out my reasons below.

Whilst there is no issue about the strength of the relationship between this mother and the children the issues have been about her ability to be able to protect the children from the risk of significant harm in the future.

Before she can be in a position to do that there needs to be an acknowledgment by her of the harm that has been suffered in the past. Whilst her statement filed after the judgment gave some hope, it expressed that acceptance in somewhat bold and simplistic terms. When the detail was explored by Ms G and Mr Y it was clear the acceptance was not full and unconditional and did not get anywhere near that. Whilst that alone would not be a barrier if this was due to any kind of lack of understanding or there was some other relevant context given. However, I am satisfied here that it is because, for whatever reason, this mother can't fully acknowledge what has happened to her and the children. Despite her full acceptance of my findings in her statement at a number of stages since she has sought to minimise or deny the findings I made. The language I used could not have been clearer; the father caused the injuries that resulted in C's death. The mother in her discussions with Ms G, Mr Y and in her oral evidence referred to it being an '*accident*', the father's responsibility only arising because he had the care of C or that he could '*possibly*' have caused the death. In my September judgment I accepted the evidence of R that the father had punched her in the mouth; it was not a slap. I accepted the evidence of Dr A about what the mother had said about the history of her relationship with the father; the mother in her evidence at this hearing continued to say that Dr A could not understand her.

I agree with Ms G's evidence, without a working relationship based on trust, the

LA is unable to begin to be in a position to provide the necessary support to protect these children if they returned to their mother's care. That trust is required to underpin those who would be supporting the mother, so they can rely on what she tells them. In the light of the history of the mother's acceptance that she lied throughout the course of the previous hearing and her inability since to give a reliable account of her acceptance of the findings made does not give a secure foundation for such trust; which would be an essential component in protecting the children and the continual assessment of future risk.

I agree with Mr Y that any further assessment of the mother, which would be essential, is outside the timescales for these children. Such assessment of the mother would need to be undertaken by a forensic psychologist, it would take between 4 – 5 months and there is in, my judgment, a real doubt as to whether it would be successful. It is not something the mother seeks with any enthusiasm, she asserts she will co-operate with all professionals and any further risk assessment, but that is in the context that she does not really consider she needs it. In somewhat graphic terms Mr Y described the mother as being at the beginning of her journey of acceptance; he put her at 2 out of 10; his view was, due to high level of risk in the case, she needed to be at 8 out of 10. As he said '*she has a long way to go*'. In any event it remains uncertain that the mother could achieve the level of insight which would make it safe for the children to return to her care. Significantly the mother remains unwilling to see the need for the support offered by Ms G which might over time allow her to move from her current position.

In considering the timescales for the children I have taken into account the difficulties there will be in finding suitable alternative placements for the children. In the statement from KM, the deputy team manager of the adoption and permanence team, the LA expect to find suitable adopters for the children within 12 months. It has to be recognised that the longer that search is delayed the more difficult it will come to find placements for these children, and the more difficult it will be for them to make the transition from their current placement to any long term placement. Any further delay will have an adverse impact on their need for a secure, stable and permanent home.



I am satisfied in this case that both the LA, through Ms G, and Children's Guardian Mr Y have carefully analysed the relevant considerations for and against the placement options for these young children. The LA have at each stage offered support for the mother, including from organisations specialising in supporting people who have been the victims of domestic violence. Both are acutely aware, as is the court, of the draconian nature of the care plan proposed by the LA but at the end of the day any decisions relating to these children has to be as a result of an evaluation of their welfare needs which is the court's paramount consideration. None of the recent cases can be read as justifying unlimited delay based on the uncertain prospect of rehabilitation to the care of a parent. There has to be an evidential foundation to any assessment of the prospects of success; in this case the evidence points to the successful safe rehabilitation of these children with their mother as being very low.

Whilst fully acknowledging the strength of the relationship and bond between this mother and the children and the commitment she has shown to them, those very powerful considerations are outweighed by the clear conclusion I have reached that this mother would be unable to protect these children from future significant harm in the timescales that meets the welfare needs of these children to have a secure, stable and permanent home. They have those welfare needs now and to delay any search for an alternative family for a further assessment of the mother to be undertaken, which in my judgment will take at least 6 months and with a real risk that it would be unsuccessful, would be detrimental to the welfare of each of these children.

I have carefully considered whether to allow a further time limited adjournment, to enable the mother to be further assessed by Dr R. It was something I raised during the hearing and Mr Alomo in his written closing submissions has indicated that Dr R could see the mother at the end of November and report by 7 December. Dr R has the obvious advantage of having seen the mother before and is aware of the background of the case. The purpose of her seeing the mother would be to

assess the significance of the mother's change in position.

Having considered the matter carefully, I do not consider a further assessment by her will assist the court. She has already concluded that the mother does not suffer from any mental illness and her oral evidence at the last hearing was that even if there was a change in the mother's position, as was hoped would have taken place prior to the conclusion of the last hearing, there would need to be 4 – 5 months of therapeutic work undertaken by the mother. As she said, in the context of waiting to see the mother's reaction to any findings by the court, there were a number of stages; the court makes the decision, there needs to be agreement by the mother of the court's decision, then agreement by the mother to take part in the work and then engagement in the work. As she observed it is '*a long piece of intervention*' which she estimates the work that would be required as being between 4 – 5 months. She considered the domestic violence programme would take about 12 weeks and one to one therapeutic work consisting of individual sessions with the mother regarding the father's behaviour would take a further 16 – 20 weeks. Even if the mother did accept the findings of the court she said '*the mother has to accept and then engage in work*'. The mother has not really got to the first stage. Her acceptance of the findings is superficially there in her statement but on further investigation is, at best, guarded and hesitant which does not provide a secure foundation from which to work on within the timescales of these young children. There is no real agreement by the mother to take part in the work, other than the somewhat bland statement that she will co-operate with the professionals and any further assessments. In her oral evidence she did not see the need for her undertake such work. In the light of Dr R's evidence at the September hearing I can see no benefit in seeking a further report from her. I do not consider it necessary for the court to have that information in the circumstances of this case before it reaches a decision as it is unlikely to provide any further information than the court already has. The reality is the prognosis for successful reunification of the children to their mother's care remains very low. Both Ms G and Mr Y formed the opinion that the mother's motivation for change was the external factor of her love for her children and wish to have them back rather than, importantly, the internal factor of her acknowledgment of a need to change. This lack of insight and acceptance and acknowledgement would, in their view, make it much harder

to work with the mother to protect the children. I agree.

Therefore, I will make a care order in relation to each of these children and I approve the care plan and the proposals for the staged reduction in contact with their mother. The safety of these young and vulnerable children, given the risks involved, requires them to be cared for by a different family.

In determining whether to make a placement order I have to consider the lifelong welfare needs of these children in accordance with the provisions of section 1 Adoption and Children Act 2002. In particular, the effect on these children of ceasing to become a member of their birth family and the relationship they have with their mother, in particular. The care plan proposed by the LA, supported by the Children's Guardian, is a staged reduction of contact with direct contact ceasing when the children are matched with prospective adopters. Thereafter there will be indirect letter box contact. The evidence is if they are placed in an adoptive family that family is very unlikely to be of the same national and cultural origin. Whilst these are important factors, in the circumstances of this case it is quite clear the lifelong welfare needs for these young children for secure and stable placements can only be met by an adoptive placement. It is only that type of placement that will give them the long term security their welfare requires.

Neither parent consents to the placement application. It is therefore necessary for me to consider whether I should dispense with their consent pursuant to section 52 ACA 2002. I should only do so if the welfare of the children requires me to do so. I am mindful recent decision of the Supreme Court in *Re B (a child)* [2013] UKSC 33 which emphasised that the making of an order which removed a child from its natural family was a measure of last resort, only to be adopted where it is "*necessary*" and when "*nothing else will do*". I am satisfied that this case does meet that stringent test. As set out above any other type of placement will not provide the long term security and stability they need. Remaining with long term foster carers will have the increased uncertainty of placement breakdown and the risks of further applications being made. Whilst acknowledging the consequences of this will be the loss of their ongoing relationship with their birth family (in particular their mother through direct contact) and their origins, that can be

managed, in part, by effective life story work so they retain their identity and have an understanding of their origins, but their overwhelming need now, due to their young ages, is for a lifelong secure and stable home. For the reasons set out above that cannot be provided for by their mother or father. Their welfare requires the court to dispense with the consent of their parents as provided for in section 52.

I will therefore make placement orders in relation to both children.

The independent reviewing officer in this case is MA-H. He should be sent a copy of this judgment and the one I gave in September to ensure that the plans of the LA for these children are kept under active review.