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Case No. WD13C01214

IN THE FAMILY COURT (sitting at Watford)

IN THE MATTER OF EH (D.O.B. 27.06.07)
AND IN THE MATTER OF THE CHILDREN ACT 1989

Date: 19 March 2014

Before

MS RECORDER LAZARUS

BETWEEN:

Hertfordshire County Council	Applicant
and	
JH	Respondent Mother
and	
RS	Respondent Father
and	
EH (by her Children's Guardian)	

Sam Momtaz instructed by Hertfordshire County Council
Peter Pedder instructed by Arkwrights Solicitors for the Respondent Mother
Dylan Evans instructed by Collins Solicitors for the Respondent Father
Jonquil Houghton, Creighton & Partners, for the Children's Guardian

Hearing dates 10-14 March 2014
Judgment 19 March 2014

JUDGMENT

1. I am concerned with EH born on 27.6.07, now 6y9m, the daughter of JH aged 43 and RS aged 47. RS does not have parental responsibility for EH.
2. EH has lived all her life with her mother and has continued to do so under Interim Supervision Orders that have been in place since 1.7.13 following proceedings under s31 Children Act 1989 being issued by Hertfordshire County Council. EH is represented by her Children's Guardian Anne MacKenzie. EH has a half sister D aged 18 who was removed from JH's care in 2005 and has since lived with the maternal grandmother MH.
3. JH and RS are separated and have been so since 2011. Before that date they lived together and shared the care of EH although their relationship ended some time in 2009. EH has been having regular contact for the past year with her father on Wednesdays after school and overnight at weekends. Prior to that she was seeing her father often but there was a less regular arrangement in place.
4. The Local Authority brought these proceedings last June following a recurrence of difficulties that had led to JH's older daughter D being removed from her care under a care order in 2005. The reasons that led to that removal can be summarised as follows: violent and volatile relationship with D's father Mr G, his mental health issues and drug misuse, JH's depression and alcohol misuse, and neglect of D's needs. D was moved into foster care under a PPO in 2001 due to poor home conditions in combination with these concerns, but was returned and the child protection plan ceased later in 2001 due to improvements. D was again removed in 2003 and returned in 2004 under a supervision order again due to improvements, but further deterioration in 2005 of her home conditions, poor school attendance and JH's difficulty accepting professional support led to D being placed with her maternal grandmother under a care order, where she remains. She has a close and loving relationship with her mother JH.
5. The difficulties leading to these proceedings are neatly covered by the agreed threshold document dated 25.11.13 found at A45a and cover the following strikingly similar issues: misuse of alcohol by JH when stressed, criminal offending to sustain that misuse, EH's awareness of the impact of alcohol misuse on her JH, the longstanding impact of depressive symptoms suffered by JH, poor and neglected home conditions, E's exposure to domestic conflict between her parents, unsatisfactory school attendance, JH's failure to engage fully and co-operatively with professionals. Additionally cited in that document is Fathers confrontational and aggressive attitude to professionals, which the Father claims was due to the Social Worker's approach leading to an unsatisfactory working relationship.
6. JH wants EH to remain in her care, and proposes a shared care arrangement with the Father, and the current contact arrangements with her father to continue. She claims that her situation is vastly improved and that she can adequately meet EH's needs, so that EH's best interests lie in the least intervention in her life and in leaving her with JH. She does not criticise Father's care of EH and promotes him as EH's alternative carer if not placed with her.
7. RS had originally applied for a residence order in late 2012 as he was concerned that JH was not coping and wanted to care for EH if that proved necessary. Those proceedings provoked a direction for a s37 report which was filed in March 2013. That report was positive in its assessment of Father and recommended further assessment of JH. His residence application was consolidated with the care proceedings issued by Hertfordshire County Council, and notwithstanding his earlier application RS repeatedly expressed a preference for EH being cared for by her mother if possible until comparatively recently in these proceedings, in about November 2013 when he sought an Independent Social Worker [ISW] assessment of his potential to care for his daughter; at which point he expressed the acknowledgement that EH's care should shift to him, with similar levels of contact to her mother as he is currently enjoying. His position in regard to contact somewhat modified during the course of the evidence and he acknowledged that there should be some short period of settling in with more limited contact.
8. Hertfordshire County Council's position was initially to decide that EH should be adopted, there being no family member identified save for the maternal uncle and aunt Mr and Mrs B who had been decided against in a viability assessment dated May 2013. An ISW assessment of Mr and Mrs B was sought by the Guardian, and the Local Authority's

- position persisted until the receipt of a positive Special Guardian assessment of Mr and Mrs B. Their current position is that EH should move from the care of her parents to the care of Mr and Mrs B as her Special Guardians. Hertfordshire County Council proposes a greatly reduced programme of contact of only 6 occasions per year for EH with each parent and that it should, at least initially, be supervised. Mr and Mrs B only wish to care for EH if neither of her parents are considered to be suitable and propose more generous monthly supervised contact for JH and fortnightly staying contact for Father. (At the point of hearing the parties' submissions Hertfordshire County Council's position on contact had not been modified to reflect this.) Hertfordshire County Council also seeks a 12 months Supervision Order, and this is agreed to by all the parties as appropriate whatever final order is made.
9. EH's Guardian reported in October 2013 and shortly before this hearing. She sought the further assessment of Mr and Mrs B in November 2013. She has now concluded that EH should move to the care of her father and that a Supervision Order should be made. She recommends an initial settling in period followed by regular weekly contact for Mrs H that should initially be supervised and can then progress, but not overnight contact at this stage. I take this opportunity to thank the Guardian for her helpful efforts and careful insights in this case.
10. I have read the documents filed in the core bundle and seen additional documents referred to me during the course of the hearing. I have heard evidence from Ms Mayet the FAST assessor of RS, Ms McNab the social worker, Ms Bennet the ISW assessor of RS, each of the parents, Mr and Mrs B and the Guardian. I have also read the position statements and read the Guardian's written submissions and I have heard the advocates' oral submissions to me during the course of the hearing.

Summary of the legal framework

11. This case is governed by the Children Act 1989. The welfare of the children is paramount and no order should be made unless it is in the interests of the children. In coming to my decisions in this case I have borne in mind the paramountcy principle, the no order principle and the need to avoid delay set out at s1 Children Act 1989.
12. I have applied the welfare checklist and considered those matters that the court must in particular have regard to:
- (a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
 - (b) his physical, emotional and educational needs;
 - (c) the likely effect on him of any change in his circumstances;
 - (d) his age, sex, background and any characteristics of his which the court considers relevant;
 - (e) any harm which he has suffered or is at risk of suffering;
 - (f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;
 - (g) the range of powers available to the court under this Act in the proceedings in question.
13. Each family member's ECHR Article 8 rights to family life are engaged, and any intervention of the court must be to promote those rights, to balance competing rights, and in doing so to give appropriate precedence to the welfare of the children and ensure that any intervention is necessary and proportionate.
14. I have borne in mind the principle that it is preferable, bearing in mind the children's needs, for them to be brought up within their own family.
15. A further stipulation prior to granting any s31 order to the Local Authority is that I may not make supervision orders unless the threshold criteria are satisfied. These have been conceded and agreed by the Mother (A45a in the bundle, dated 25.11.13), the Father having conceded the facts and the significant harm posed by the Mother's care but not that

he harmed or posed a risk of significant harm to EH. These concessions permit me to go on to consider whether care or supervision orders are in EH's interests.

16. The standard of proof is the civil standard i.e. the simple balance of probabilities; and where I describe events or make findings, I have applied the balance of probabilities, the burden of proof being on the party seeking the finding. In making any findings I have considered all the evidence and submissions, both oral and written, even if every potentially relevant factor may not be specifically cited.

17. I also remind myself of the 'Lucas direction', namely that just because a witness lies about one thing, it does not mean that they are dishonest in all things. Additionally, I bear in mind the recent guidance in Re S 2014, which makes the further point that non-disclosure or lying does not necessarily mean parenting or ability to co-operate is impaired:

"It has become de rigueur for a trial judge expressly to articulate their self direction in accordance with R v Lucas [1981] QB 720 in fact finding hearings. That is, the significance that may or may not attach to the lies told by a party in relation to the injury/behaviour in question. There is none such in this judgment which deals with outcome. A specific reference to the same is unnecessary but I do consider that it was unrealistic for the judge, and the professionals not to have appraised the same exercise in the context of the non disclosure and/or deceit in question. The fact of a parent's non disclosure or deceit is not necessarily determinative of parenting capacity or, depending on the circumstances, an ability to co-operate with the authorities."

18. In light of the recent case law issuing from the Supreme Court and the Court of Appeal, I am reminded by counsel for the Local Authority in particular of the 'global', 'holistic' approach referred to in Re G 2013 and Re BS 2013 should lead me to look at the three realistic options before me equally and consider their pros and cons in terms of EH's welfare interests, the Local Authority's argument being that the Special Guardianship family placement with Mr and Mrs B has none of the problems presented by EH staying with either parent and should be favoured on that basis. He accepted that if I find EH's parents to provide good enough parenting that I must consider retaining her upbringing with such a parent, but urged me to consider Mr and Mrs B as part of the analysis of the options the court must look at.

19. I am urged by the parents and particularly on behalf of the Father to consider the primacy of the role of EH's parents in her life, the Article 8 rights that are engaged, and that if the Father is 'good enough' then that trumps an alternative family placement.

20. The Guardian's advocate rightly reminds of the case of YC v UK (2012) which stated that family relationships should be preserved, families rebuilt and family ties only severed in exceptional circumstances, and that it is not enough to say that a child could have a more beneficial environment for their upbringing elsewhere.

21. I remind myself of the binding authority of the Supreme Court in Re B 2013, and in particular the following passages:

"§67. I understand the concern which Lady Hale expresses in her judgment at paras 208-222, which in many respects reflect the very wise remarks made by Hedley J in Re L (Care: Threshold Criteria) [2007] 1 FLR 2050, 2063. Although they have been referred to by Lady Hale at paras 181-182 and Lord Wilson at para 27 and were set out in full by Black LJ in the Court of Appeal, [2012] EWCA Civ 1475, para 116, those remarks merit repetition, not least because they have resonance in relation to both main issues in this case:

"50. What about the court's approach, in the light of all that, to the issue of significant harm? In order to understand this concept and the range of harm that it's intended to encompass, it is right to begin with issues of policy. Basically it is the tradition of the UK, recognised in law, that children are best brought up within natural families. Lord Templeman, in In re KD (A Minor: Ward) (Termination of Access) [1988] 1 AC 806, 812, said this:

'The best person to bring up a child is the natural parent. It matters not whether the parent is wise or foolish, rich or poor, educated or illiterate, provided the child's moral and physical health are not in danger. Public authorities cannot improve on nature.'

*... It follows inexorably from that, that society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent. It follows too that children will inevitably have both very different experiences of parenting and very unequal consequences flowing from it. It means that 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. In any event, it simply could not be done. 51. That is not, however, to say that the state has no role, as the 1989 Act fully demonstrates. Nevertheless, the 1989 Act, wide ranging though the court's and social services' powers may be, is to be operated in the context of the policy I have sought to describe. Its essence, in Part III of the 1989 Act, is the concept of working in partnership with families who have children in need. Only exceptionally should the state intervene with compulsive powers and then only when a court is satisfied that the significant harm criteria in section 31(2) is made out. It would be unwise to a degree to attempt an all embracing definition of significant harm. One never ceases to be surprised at the extent of complication and difficulty that human beings manage to introduce into family life. Significant harm is fact specific and must retain the breadth of meaning that human fallibility may require of it. Moreover, the court recognises, as Lord Nicholls of Birkenhead pointed out in *In re H* [1996] AC 563 that the threshold may be comparatively low. However, it is clear that it must be something unusual; at least something more than the commonplace human failure or inadequacy.'"*

"§104. We were not addressed on this Article or on those two cases. However, they all give added weight to the importance of emphasising the principle that adoption of a child against her parents' wishes should only be contemplated as a last resort – when all else fails. Although the child's interests in an adoption case are "paramount" (in the UK legislation and under article 21 of UNCRC), a court must never lose sight of the fact that those interests include being brought up by her natural family, ideally her natural parents, or at least one of them."

*"§180. That thought has been followed through in numerous cases since. As Wall LJ pointed out in *Re L (Children) (Care Proceedings: Significant Harm)* [2006] EWCA Civ 1282, [2007] 1 FLR 1068, at 1084, "There are, of course, many statements in the law reports warning of the dangers of social engineering", citing in particular *Butler-Sloss LJ in Re O (A Minor) (Custody: Adoption)* [1992] 1 FLR 77, 79:*

"If it were a choice of balancing the known defects of every parent with some added problems that this father has, against idealised perfect adopters, in a very large number of cases, children would immediately move out of the family circle and towards adopters. That would be social engineering . . ."

*§181. *Re L* is an important case because it concerned parents with learning difficulties, very considerable in the case of the mother. The judge had found significant harm on the basis of the report of a psychologist who had not been asked to assess this. She had acknowledged that there was no obvious harm, no explicit malicious abuse or extreme abuse: "On the contrary my concern in this family relates to the more subtle and ambiguous consequences on the children flowing from parental deficiencies". Wilson LJ commented: "So which was it? 'Significant harm' or 'subtle and ambiguous consequences'? Speaking for myself, I regard the two concepts as mutually exclusive" (para 31). For these and many other concerns about the report, the case was sent back to be re-heard in the High Court. In *Re L (Care: Threshold Criteria)* [2007] 1 FLR 2050, at 2063, Hedley J, having quoted Lord Templeman, continued (para 50):*

"It follows inexorably from that, that society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent. It follows too that children will inevitably have both very different experiences of parenting and very unequal consequences flowing from it. It means that 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 [semble: province] of the state to spare children all the consequences of defective parenting."

22. I also remind myself of Re BS 2013 decided in the Court of Appeal and I am assisted in particular by these key passages from Munby P's judgment:

"§18. We start with Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. There is no need for us to go through the jurisprudence of the Strasbourg court. The relevant passages from three key decisions, K and T v Finland (2001) 36 EHRR 18, R and H v United Kingdom (2012) 54 EHRR 2, [2011] 2 FLR 1236,[1] and YC v United Kingdom (2012) 55 EHRR 967, are set out by the Supreme Court in In re B (A Child) (Care Proceedings: Threshold Criteria) [2013] UKSC 33, [2013] 1 WLR 1911. The overarching principle remains as explained by Hale LJ, as she then was, in Re C and B [2001] 1 FLR 611, para 34: "Intervention in the family may be appropriate, but the aim should be to reunite the family when the circumstances enable that, and the effort should be devoted towards that end. Cutting off all contact and the relationship between the child or children and their family is only justified by the overriding necessity of the interests of the child."

To this we need only add what the Strasbourg court said in YC v United Kingdom (2012) 55 EHRR 33, para 134:

"family ties may only be severed in very exceptional circumstances and ... 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 his upbringing."

"§23. Behind all this there lies the well-established principle, derived from s 1(5) of the 1989 Act, read in conjunction with s 1(3)(g), and now similarly embodied in s 1(6) of the 2002 Act, that the court should adopt the 'least interventionist' approach. As Hale J, as she then was, said in Re O (Care or Supervision Order) [1996] 2 FLR 755, 760: "the court should begin with a preference for the less interventionist rather than the more interventionist approach. This should be considered to be in the better interests of the children ... unless there are cogent reasons to the contrary."

23. I also note from this case, Munby P's firm comments at §28-29 regarding the necessary consideration of what support should be provided to enable a parent to meet their child's needs and that local authorities must then take steps to ensure that they do what is necessary to make the court's orders work.
24. It is in paragraphs 43-44 that Munby P re-emphasises the observations of MacFarlane LJ in Re G 2013 that there should be 'global', 'holistic' evaluations of all the options rather than a linear approach that sequentially rules out parents leaving only alternative permanent placement options. The emphasis of such an approach is to meet the paramount duty by this method of divining which option best meets the child's welfare. Notably in §45 he returns to the emphasis in the Supreme Court's decision in Re B 2013 upon the importance of proportionality.
25. While these cases are concerned with the 'last resort' of permanent removal of a child from a family by adoption, in this case I am being asked by the Local Authority to consider removing a child from both her parents to an alternative permanent placement with low levels of contact, albeit under a Special Guardianship Order and to extended family members. This is a marked intervention in terms of removing a child from the care of both her parents and limiting their relationships with each other. The same principles will therefore apply while taking into account the less drastic features of the latter by comparison with adoption. I derive from these authorities that the child's interests are of

course paramount, and I must look at all the options for EH and how her needs will be met with an holistic rather than a linear approach, bearing in mind that one of her welfare interests is to be brought up within her family, and also considering that if either of her parents are good enough carers for her bearing in mind her particular needs then it is not a question of ignoring that in favour of some "better" placement. That would be a disproportionate intervention amounting to social engineering and would fundamentally undermine her and their Article 8 rights for a child to be brought up within their family by their parents, albeit where they may show imperfections.

HISTORY

26. Most of the salient parts of the history of this case are not contested, and I deal with relevant disputed facts in the course of my analysis.
27. EH's mother suffered an abusive childhood and has additionally been scarred by the death of a former boyfriend as a young adult. She has suffered from both depression and alcohol misuse over many years, leading her to neglect the care of her oldest daughter D and resulting in D being removed from her care at the age of 9 as described above.
28. EH's father has a less troubled background, albeit his father left the family when he was 12 and he was brought up by his mother. He is currently sharing a flat with a friend. He is self-employed as a parking inspector, issuing tickets to improperly parked cars on private parking sites.
29. The parents' relationship began in 2006, EH was born in 2007, and the relationship continued until 2009 although Father remained living with Mother and EH until 2011 when the Father states that he became fed up with the state of the home and his poor relationship at that time with Mother and felt he had to leave, nonetheless leaving EH to continue living in those conditions from the age of 4 to date. He visited regularly, and in particular for a 2 year period after he left he travelled 5 miles either by car or on foot every morning in order to ensure that EH was up, dressed, had breakfast and got to school. This was due to his concerns that otherwise Mother would fail to meet those needs.
30. Referrals were received in 2009 and 2010 that Mother was again drinking too much and an initial assessment was undertaken by Hertfordshire County Council but no concerns were noted. But in 2012 the police referred the case to Hertfordshire County Council due to various incidents when Mother had shoplifted wine and food, and the police had noted the home to be in a poor condition.
31. Hertfordshire County Council issued care proceedings in June 2013 notwithstanding a positive assessment of Father in the s37 report of March 2013, and subsequent to a significant downturn in the relationships between the Social Worker and the parents (and the Father in particular) due to a crisis in March 2013. D was hospitalised with an episode of mental illness leading to an increase in Mother's drinking and a consequent decline in EH's care. Father was contacted at short notice to have EH for a longer visit over a weekend and into the start of the following week. Father was initially resistant due to his existing work commitments, but changed them to fit with the request. However he was not properly informed about the extension into the following week and felt that he was being ordered about rather than being informed and asked in a sensitive and appropriate manner. He was able to comply with the request, but clearly voiced his dissatisfaction to the Social Worker and her manager at the time in such a way that his response was considered to be 'angry and confrontational'.
32. The agreed threshold document reads as follows, with references to page numbers in the bundle:
 - There are longstanding concerns about the mother's misuse of alcohol.
 - (a) The Local Authority has received referrals in 2007, 2009, 2010 and 2012 expressing concerns about Mother's drinking [C4].
 - (b) Mother has convictions for shoplifting which have included stealing champagne, vodka and wine [C5]. Mother has been involved in a recent shoplifting incident.

(c) Mother has admitted drinking excessively and said she primarily turns to alcohol when she is stressed and under pressure [C6]. Mother says she has significantly reduced her alcohol consumption.

(d) Mother was drinking excessively in March 2013 when D was in hospital.

(e) On 18.03.13, during a home visit a large clear bin bag full of empty alcohol bottles was observed in EH's wardrobe [C6].

(f) EH has said that Mother 'gets poorly when she drinks too much' and during these times Mother cannot look after her, leaving EH to take care of herself [C12]

- There are longstanding concerns about Mother's mental health in particular depression:

(g) Mother has reported for many years that she feels depressed and stated that as a child she suffered physical and sexual abuse from her father and step-father. Mother also witnessed domestic violence and her father was alcohol dependent [C8].

(h) Mother has been prescribed anti-depressants which she takes regularly [C9].

(i) Mother was seen by a psychiatrist, Dr Pasternak, on 25.04.13, and explained that she had been struggling with depressive symptoms for about 16-17 years and these symptoms were complicated with harmful alcohol use. On 15.05.13, Dr Pasternak confirmed that Mother's main diagnosis would be one of a 'mental and behavioural disorder due to the use of alcohol' as well as 'depressive episode'. [C10]. Mother does not accept this

- The home conditions have been observed to be poor at times and have been described as dirty, cluttered and cold [C36]. Mother has been unable to sustain them to a good enough level:

(j) On several occasions during home visits conditions have been observed to be in poor state such as on 26.07.12, 20.08.12, 29.08.12, 30.08.12, 01.10.12, 17.10.12, 02.11.12, 23.11.12, 29.11.12, 14.03.13, 09.04.13, 08.05.13 [Chrono, C13-C15]. Mother accepts that the home conditions were poor at times but that she has been able to maintain her home to a good standard

(k) EH has stated that the house is sometimes dirty and smelly [C13]

- EH has witnessed domestic violence between her parents of a verbal and physical nature when they lived together and she has also witnessed acrimony between them post separation [C15]:

(l) The police attended Mother's address on at least 2 occasions on 10.10.09 and 14.08.10 [C16]. On both occasions Mother was described as being under the influence of alcohol and Father was abusive in front of EH during the later incident. Father has admitted to causing holes in most of the interior doors of the property, stating that he did this in frustration and that it is better for him to punch or kick the doors than to physically hurt Mother [C16]. Mother agrees that there has been domestic violence between her and Father and the police have been called. Father agrees but contends these matters are of a historical nature.

(m) On 28.01.13, Mother told her Recovery Worker, Jane McGuane, that Father had spat at her two weeks previously. The Social Worker discussed this with Father on 30.01.13 who admitted to doing so and added 'if she'd have been a man, I'd have knocked her straight out' [C18]. Mother agrees this incident. Father also agrees this incident and regrets it. Father says the incident arose from circumstances whereby Mother had inflicted physical and verbal abuse directed at him.

- EH's attendance at school has been unsatisfactory and, despite Mother living less than a 5 minute walk away from school, Father was travelling from Harrow to take her to school. Prior to the Initial Child Protection Case Conference on 09.10.12, EH's school attendance was 85.3% [C5]. Mother accepts that EH's school attendance has not been satisfactory in the past but says it has significantly improved.

- The parents have failed to engage and co-operate with professionals:

(n) Mother failed to respond to several home visits from August 2012 to April 2013 [Chrono, C13]. Mother agrees but says her cooperation has improved.

(o) To support Mother with her alcohol dependency, the Local Authority made a referral to the Crime Reduction Initiative on 17.10.12. The Local Authority had to repeatedly ask Mother to engage with this service before she finally attended an initial appointment on 22.11.12. Mother did return for a follow up appointment until 13.12.12. Mother then cancelled two full assessment appointments on 20.12.12 and 09.01.13. Mother has subsequently attended only 5 out of 10 key work sessions [C6]

(p) Mother self-referred for counselling through Herts Mind Network but attended only 2 sessions, on 04.12.12 and 11.12.12, out of 10. On 05.02.13, the Local Authority was advised that due to Mother's lack of engagement, she would be no longer offered counselling.

(q) On 12.03.13, Mother's GP referred her for counselling and she was later offered psychotherapy but on 01.05.13, the therapist closed the case because Mother had not responded to any of the attempts at contact she had made [C11]. Mother does not accept this.

(r) Father was angry and confrontational towards the Social Worker and Practice Manager during a telephone conversation to discuss EH staying with him over the weekend of 16.03.13 [C21]. Father agrees but does not consider that the Social Worker has acted in a constructive manner with the parents arising from which there is an unsatisfactory working relationship.

(s) Father was also verbally aggressive and intimidating towards the Social Worker during a Core Group Meeting on 18.03.13 calling her a 'Nazi' [C22]. Father agrees but does not consider that the Social Worker has acted in a constructive manner with the parents arising from which there is an unsatisfactory working relationship.

- There are longstanding concerns about Mother's inability to meet the needs of both her children. Mother's oldest child, D, has been subject to Child Protection Plans, a Supervision Order and finally a Care Order and currently lives with her maternal grandmother. EH has also been subject to Child Protection Plans and the Local Authority has now had to issue Care proceedings in relation to her."

33. The Mother was assessed by consultant psychiatrist Dr McClintock in July 2013 (E65), Father was assessed by Ms Mayet at FAST (a Hertfordshire County Council family assessment team) in early September (E84) with an addendum in October (E109), and ISW assessments of Mr and Mrs B (Special Guardianship report E157) and of Father (E222) were directed in November 2013. Mother's application for an ISW assessment was dismissed.
34. Also dismissed by both HHJ Serota at the last directions hearing in February and by myself on the first day of this hearing was an application by the Mother to adjourn this hearing in order that she could be reassessed by Dr McClintock and that he should answer further questions. I noted that he had declined simply to write his answers to a set of questions sent to him on 27.2.14, stating that an assessment appointment was necessary given the passage of time, and would not fit within the timescales leading to this hearing. I noted that he also declined to answer two of the questions as they were matters of fact to be answered by the Mother. I considered that the further information sought was not necessary given the Mother's case is that she is no longer drinking and given the cautiously optimistic conclusions of his July report, and in the context where the Local Authority bases its case upon the ongoing signs of neglect rather evidence of ongoing alcohol misuse or active/untreated symptoms of mental ill-health. There would also be unacceptable delay to these proceedings with consequent impact upon EH. In all the circumstances of the case and bearing in mind the overriding objective it was not proportionate to derail this final hearing for this purpose.
35. Having heard all the evidence and submissions I gave a very brief decision with outline reasons late on Friday 14.3.14 and adjourned to 19.3.14 to give my full judgment, in order that EH could move straight from her after-school club with the least disruption.

EH'S WISHES & FEELINGS

36. As might be expected, EH has expressed the wish to remain living with her mother. This is unsurprising given her age and that she has been cared for by her mother throughout her life. More recently she has expressed ambivalence, telling the Guardian that she would like to live with mum then adding "or dad"; and she has also been noted to say last summer that she would like to live in a 'clean and sparkly' house, contrasting her current living conditions with those of a friend's home and her father's flat.
37. I have no doubt that she loves both her parents dearly and she has also emphasised that she would like them to get along well together. She has said she does not want them to shout at each other. She said this in June 2013 to the Guardian and more recently to the Social Worker.
38. I note that it was her request that led to her father being invited to spend Christmas Day together with her and her Mother at her home. I have no doubt that she would like to spend significant time with both of her parents.
39. Although she has not stated this, I am sure that she would prefer to live with one of her parents than to have to experience the loss and disruption of moving to Mr and Mrs B's care.
40. And if she could express it, I also have no doubt that she would like to experience consistent stable care where all her physical, educational and emotional needs were met and that she would wish not to feel scared, worried or lonely while being cared for.

EH'S NEEDS AND CHARACTERISTICS

41. EH is a 6year 9month old white british girl. She has all the usual needs for love, care, attention, support, education and stability of any young child.
42. She has experienced her mother's misuse of alcohol and neglect of some of her basic needs. She has witnessed her parents shouting at each other in arguments and occasionally behaving violently towards each other. As a result she needs to feel reassured both about her mother's well-being and to be particularly protected from any further exposure to the effects of any further drinking by her mother, and also any conflict between her parents.
43. She has a speech and language processing difficulty which is being addressed at W primary school. She is performing below average such that the school have considered

that she would benefit from extra tuition in core skills which they also provide. Accordingly she has an enhanced need for regular and well-supported schooling.

44. She is much loved by both her parents and has a strong emotional attachment to both parents, such that she needs to continue to enjoy and benefit from those loving relationships. This element is singularly lacking from the relevant sections of the Local Authority's evidence and the Social Workers statement. I deal with this further elsewhere in this judgment.
45. She is said by the local authority witnesses to be variously quiet, timid, shy, submissive; by others, notably the Guardian and ISW and Mr and Mrs B, to be playful, chatty, and to have an affectionate bond with both parents and particularly with her Father. I will discuss this further under the heading of harm, but I find (as reasoned below) that her alleged quietness or submissiveness is atypical and that she does not suffer from a disordered attachment pattern, but has an affectionate relationship with her parents, and has shown otherwise normal behaviour with some degree of resilience and awareness of her experiences. Consequently, I consider it is unlikely that EH is in need of the specialist services for children with disturbed behaviour at the Datchworth Project, nor is she likely to need or qualify for CAMHS input. Those services are nonetheless available.

HARM EH HAS SUFFERED OR IS AT RISK OF SUFFERING

46. EH has clearly been exposed to her parents' volatile loud abusive arguments, and more historically, a few incidents of violence between them. In particular, in addition to the matters set out in the threshold document, the parents conceded that on one occasion when EH was very small her Mother had tried to attack her Father with a knife while he was holding EH, and on another occasion her Mother had thrown an ironing board at the Father who was lying in bed albeit they claim that EH was in her own bed and did not directly witness it as she was asleep. Both parents also acknowledged that more recently EH has tried to intervene when they have been shouting at each other to ask them to stop and has put her hands over her ears. She has told both the Social Worker and the Guardian that she does not like it when her parents shout and argue. I find that both parents have been equally responsible for an unacceptable level of conflict between them which they were well aware that EH was witnessing, and that this has been at the very least extremely upsetting and destabilising for EH. There is a likelihood that this has caused a degree of emotional harm to EH, but due to her fairly resilient presentation and fond relationships with both parents it is not clear to what extent this might be. I note that since October 2013 the parents have been getting on better, and indeed it was very evident to me the level of support and co-operation they were offering each other at this hearing from their respective behaviour, evidence and positions. On that basis, I consider that EH is at a much-reduced risk of suffering further harm from this type of behaviour between her parents. However, it is possible that her Mother may resent EH moving to her Father's care which has the potential to lead to conflict in the future. Given that these parents have been used to loud and abusive arguments to express themselves this may recur in those circumstances, but I am reassured by the work done by the Father at Caring Dads and by the future oversight of the local authority pursuant to an agreed supervision order to guide and assist the family in those circumstances.
47. Related to this issue, EH has told the Guardian of hearing her Mother argue with her recent boyfriend Mr C on the telephone. For the avoidance of doubt, I have no hesitation in finding that EH said this and was not confused about what she heard, having met Mr C in the context of his being her Mother's boyfriend. In the context of the incident of 27.1.14 when the police were called at 3.30am by a neighbour due to the extent of the arguments being overheard between Mother and Mr C, which also involved Mother throwing some of Mr C's property, I find that there has existed a recent risk of exposure to further domestic violence in her Mother's care. I take into account that the Mother says this was an argument flowing from her attempt to bring the relationship to an end, and that both parents say that EH was staying with her Father that night (although it was a Monday and the police document at J77 says she was seen at home but had not witnessed the incident), but it is clear that Mother has permitted EH to overhear volatile conversations and that at the least the relationship has the capacity to be loud and conflictual. Mother told me that he moved in

for some 6 weeks since New Year and she ended the relationship on 15.2.14, but continues to see Mr C from time to time as a friend, and occasionally does his washing. I note that it was Mr C's property that was cluttering the house and EH's bedroom as recently as 3.2.14 and that it has been with Mr C's help that Mother has made very recent efforts to clear, clean and start to redecorate parts of the house as noted by the Guardian on 19.2.14, and that Mother gave the Guardian the clear impression that this work was being undertaken with her *current* boyfriend (E254). I also note that Mother concealed the existence of this relationship from the Local Authority until the incident in January brought it to their attention. In these circumstances I find that the current and future status of Mother's relationship with Mr C is unclear. In addition, I found the Mother's account of when and whether she knew that Mr C had criminal convictions unconvincing. She gave different accounts in her oral evidence. Firstly she claimed that she only became aware he had convictions this year, but later in her evidence she said she had known he had had a couple of fights long ago due to her general knowledge of his background having known him for some considerable time. She acknowledged she first had a short intimate relationship with him last Spring and had refused to give his details to the Social Worker at that time for a police check, giving the reason that it was her 'private life'. I find that she was to some extent aware that he had criminal convictions involving physical violence at the point last year that he first became her boyfriend, and that she failed to show insight or consider the implications and increased risk to herself and EH then or more recently, but chose to conceal his identity and her knowledge. As a result I consider that based on this history, sadly, that the risk of exposure of EH to domestic violence in her Mother's care has to be considered an ongoing one.

48. EH's Father is not completely exonerated here. He was aware that Mother was seeing Mr C, but was not concerned to know more about him in order to protect EH. He did not take issue with Mother that she had not openly discussed this with him, as he has done by raising with her the question of bringing EH into contact with his girlfriend. He praised Mr C's help with improving Mother's home. He did not fully understand the implications of the incident of 27.1.14 in terms of the risk to EH, and he has consistently downplayed the impact on EH of what she had witnessed occurring between her parents. I therefore find that he is not yet fully attuned to risks associated with domestic violence and exposure to arguments, and more specifically that he was unable to see the concerns in terms of EH's exposure to Mother's relationship with Mr C.
49. EH has also witnessed her Mother's misuse of alcohol and its effects, and has commented that her Mother is "poorly" when she has been drinking. This is an accurate description from a child's point of view of exactly the effects of too much alcohol: her Mother shows signs of illness, and she is aware that it is because of the drinking. This is bound to bring with it real worry for EH, plus seeing someone using an inappropriate method of dealing with stress, and obvious implications of not being looked after by a capable adult on those occasions when her Mother was 'poorly'. These are harmful experiences.
50. This will also have been in conjunction with her needs being neglected from time to time due to Mother's difficulties managing with the pressures of everyday life, whether this has been due to her depression, or her preoccupation with the distressing experiences of her childhood, or the effects of misuse of alcohol. This has included: living in a cold, smelly, dirty, cluttered and inhospitable home; having to care for herself from time to time; not being assisted to get up and ready for school on time and poor school attendance; and inevitable lack of stimulation and supervision. This will have had the harmful impact of leaving EH unsure about whether her Mother will meet her needs, with consequent feelings of anxiety; missing out on being supported in her schooling and everyday practical needs, resulting in lower performance at school; and feeling uncared for, all of which have implications for her feelings of self worth.
51. The Local Authority have also cited in support of their position EH's submissive behaviour, indicative they say of a damaged child. This was particularly noted by Ms Mayet, the FAST assessor, who ascribed it to her Father's authoritarian parenting style which she described during the observed contact visit in early September 2013, and she went on to speculate that EH must therefore suffer from an insecure attachment. This analysis was adopted in the Social Worker's statements without further analysis.

52. She is sometimes noted to be quiet at school and prefers to talk to peers than adults. However, I note that other professionals such as Ms Bennett ISW and the Guardian have observed EH to be playful, relaxed and chatty with her father. In addition, the Social Worker notes in her final statement that EH's quietness may well have been due to fear and anxiety in the presence of professionals due to having been told by her mother that she was at risk of going into foster care (C154). This would have fairly recently predated the FAST assessment. Unsatisfactorily and somewhat unfairly, the Social Worker failed to incorporate this into her adoption of Ms Mayet's conclusions (C156). The Social Worker also conceded, after being requested to consider the various options, that it was not possible to tell if EH's quietness or alleged 'submissiveness' and 'insecure attachment' might be due to having suffered neglect at home, experienced her mother's drinking, witnessing the occasional violence and conflict between her parents, as well as experiencing her father as being resistant, angry and 'authoritarian' at the FAST contact while being in a strange environment for that assessment, plus having been told recently by her mother that she may be going into foster care. I was also disappointed that the Social Worker failed in her written and oral evidence to include or explain her own positive analysis and observations of the relationship between the Father and EH set out in the s37 report (E21).
53. Ms Mayet is a qualified Social Worker and has a degree in psychology, and as such admitted at E94 that she is not qualified to diagnose attachment disorders, but nonetheless proceeded to do so and to rely on those conclusions. However Ms Mayet was unable, despite being asked to consider the alternative observations of EH's behaviour by the ISW and Guardian, to incorporate this into her thinking, repeatedly emphasising that she "felt strongly" that this was the correct analysis of EH's relationship and the father's personality and its effect on EH. This betrayed firstly a reliance on her own emotional response rather than an exercise in objective analysis. It also demonstrated an excessively rigid and limited approach that applied the most negative interpretation to EH's and her father's behaviour, showing a lack of an ability to think more widely about either EH's wider experiences than simply those observed at FAST or the implications of others' observations. This was unhelpful and has led me to doubt the validity of Ms Mayet's conclusions from her observations.
54. The Guardian has observed EH on many occasions and in the company of both her parents and on her own. It is clear that EH is comfortable with her Guardian and feels able to tell her a certain amount of her thinking. The Guardian strikingly told me that the description of EH in the FAST report was quite unlike the little girl she is familiar with, and she gives her own observations of EH laughing and playing with her Father and telling him what to do (E128). These were very much in keeping with those set out in the ISW's report, and subsequently described by Mr and Mrs B, of a child with a warm, natural and affectionate demeanour, who was expressive and chatty when feeling confident in those present, and showing no sign of fear, anxiety or disturbed attachment. She also pointed out that no preparation of EH had been done in relation to the FAST assessment, and that this meant EH would have found it all very strange and that this may well have affected her presentation.
55. Ms Bennett the ISW who assessed the Father, is a highly experienced Social Worker of some 30 years experience who has worked as a Guardian and ISW over many years. Her observations of EH were undertaken on two occasions, rather than packed into a single visit; and she saw EH both after school and at the weekend, undertaking normal activities with her Father. Her descriptions were entirely at odds with those of Ms Mayet and I had no reason to doubt that she had witnessed what she described. It was suggested by Ms Mayet and the Social Worker that the Father might have 'learnt' what to say and so to portray an artificially enhanced relationship with his daughter. Ms Bennett gave cogent and persuasive evidence about how hard if not impossible it is to coach a 6 year old to be happy/playful/chatty/affectionate if in fact they are fearful of and ill at ease with a parent. She confirmed that it is far easier to achieve the reverse and encourage a child to be quiet and uncommunicative. While I accept that he may have quite properly learnt that he needed to engage in a friendlier and more open way with *professionals* involved in this court process, I do not consider that it would have been at all possible to manufacture the

series of natural interactions with EH that the ISW witnessed. In particular, she gave examples of their playing games together, EH seeking comfort from her Father following a bump to her head in a delightfully normal and affectionate way, and EH enjoying a sensitively managed visit to the shoe shop.

56. Towards the end of the hearing I also heard evidence from Mr and Mrs B, who gave delightful, genuine and entirely credible descriptions of their experience of EH. They had no axe to grind and were giving, without having heard any of the other evidence given during this hearing, natural descriptions of the occasions that they have observed EH over the years. They describe her as: "laughing, chatty, playful, sometimes shy", "generally very happy", "with a wicked laugh", and not quiet, passive, submissive or unassertive but confidently able to request that her needs are met. I find that she is not a child damaged such as to show unhealthily cowed or submissive behaviour or other signs of an insecure attachment, and I find her relationship with her father has been observed to be loving, playful, natural and relaxed, and not characteristic of an insecure attachment nor of an over-subdued child quailing at inappropriately authoritarian parenting. I find that it is not possible to be certain of the cause of EH's apparently quiet behaviour at the FAST assessment, but it is likely to have been affected by the strange environment, the threat of going into foster care, and by her Father feeling stressed and behaving irritably and intolerantly on that occasion.
57. The Guardian also added her warning that Ms Mayet's conclusions represented an unwarranted 'leap' from the observed behaviour to the conclusion of a damaged attachment pattern. She commented that if there really were an insecure attachment it would be most surprising for Ms Mayet to have also observed EH playing and chatting with her Father. A child with such problems would not have behaved that way but would have kept their distance from him. Given the Guardian's experience and the cogency and breadth of her evidence and analysis, I have no hesitation in accepting her appraisal of Ms Mayet's conclusions, and I find that this was an unjustified extrapolation unsupported by Ms Mayet's own account of other aspects of EH's behaviour.
58. I unhesitatingly reject Ms Mayet's analysis of EH and her relationship with her Father and prefer the evidence of the Guardian and ISW for all the reasons discussed above. I find the Social Worker's analysis of this element of the case to be inadequate and overly reliant on Ms Mayet's flawed analysis. This approach by the Local Authority has meant, however, that they have failed to consider the harmful effects on EH of separation from her parents and of limitation of her contact with them. I find this separation and limitation would be harmful and discuss it further under the heading Effects Of Change.

CAPACITY OF EH'S PARENTS AND MR & MRS B TO MEET HER NEEDS

59. Central to this exercise is an understanding, as set out above, of EH's characteristics, needs and any harm she has suffered, and to some but a more limited extent her wishes and feelings.
60. *Mr and Mrs B*
- (a) B is Mother's brother. He and his wife have three children and have been very positively assessed by the ISW Catherine Devereux in the Special Guardian report completed jointly with the Social Worker at E157 completed in January 2014. I have no concerns that they would offer warm, safe and stable care to EH, meeting most of her needs. Any failure to meet her needs would not be their fault, but simply a consequence of them not being EH's parents to whom she has strong attachments and thus the difficulty that she would experience emotionally in such a placement, and her deep need and interests in being placed with a parent.
 - (b) They are family members and live comparatively nearby so permitting ongoing contact with both parents.
 - (c) I do not hold against them any suggestion of poor commitment following the negative viability assessment in 2013. They were concerned about the legal costs and complications of pursuing the matter further and so did not press the matter until the Guardian took up the baton and applied for them to be independently assessed.

- (d) Nor do I hold against them the issues raised to justify the negative viability assessment. Mrs B immediately wished to challenge and investigate the suggestion that she had taken a recreational drug when pregnant many years before, and there is nothing other than the initial referral document (F71) to substantiate it. In any event, I am astonished that a single incident of alleged drug use as a young woman could derail an otherwise positive account of her parenting. Mr B failed to disclose 4 criminal convictions dating from when he was a very young man. His explanations for not doing so are reasonable and the record of his life since then is positive, and again I find it surprising that the Local Authority should so readily have discounted many positive aspects of his parenting on this score. It suggests the Local Authority were determined on an idealised notion of a placement and were not geared towards their obligation to support a child's family life.
- (e) I commend both of them for persisting with offering to care for EH notwithstanding these criticisms and setbacks, and it is thanks to them that I am able to be considering options for EH that do not include a removal from her family into foster care or adoption.
- (f) One further caveat emerged more clearly during the evidence. It is clear that the relationship between Mr B and Mother has been fragile, tense and fraught in recent years. This has been in part due, as Mother claims, to her losing D and by implication the reasons why that happened; and also in part due, as Mr B explained and Mother partly admitted, to Mother becoming drunk and disruptive during Mr and Mrs B's wedding in 2008 which greatly upset him. This will undoubtedly make it harder for an easy flow of information and communication about EH, her progress and contact issues. I was later told that after Mr and Mrs B gave evidence there had been an emotional reconciliation between Mr B and his sister. That is wonderful news and one hopes that it leads to closer bonds, support and communication, but I am aware that this arms-length situation has existed for some time and arose as a result of Mother's difficulties, and so may therefore arise again if those difficulties recurred. It would of course be mitigated to some extent by the enhanced powers held by Special Guardians, but this in itself does not improve the relationships.

61. EH's Mother

- (a) I have no doubt that Mother loves EH very deeply and is able to show her a great deal of love, warmth and affection. They have a close relationship, described by the Father as 'excellent'. Clearly this has at times been impeded when she has been under the influence of alcohol or suffering depressive symptoms or otherwise preoccupied, and I shall return to this topic further below.
- (b) She has cared for EH all EH's life and is her most familiar carer. Again, however, there is the caveat that this has been punctuated by periods of inadequate or unavailable care due to Mother's difficulties, and so that care has the negative component of having been inconsistent and neglectful at times.
- (c) Mother claims that she has made significant progress with the areas of concern and so should be considered able to care for EH. I have also taken into account D's understandably supportive and loving statement dated 9.3.14 in which she praises her Mother's loving nature and the steps her Mother has taken to improve her circumstances.
- (d) The Local Authority and Guardian are concerned that this is simply the same pattern of limited improvement while under pressure which has previously shown deterioration thereafter. Their argument is that until Mother receives significant help for her underlying difficulties that underpin her depression, response to stress, misuse of alcohol and inability to cope with everyday parenting, that it will be highly unlikely that she can sustain change. Even the Father, while showing clear signs of loyalty to Mother, has moved to a position where he recognises that despite the Mother's loving relationship with EH that she cannot be relied on to meet all EH's needs.

- (e) Firstly, I have already addressed the issues of domestic violence and my findings in relation to the ongoing risks and lack of insight in that respect, and I find that this is a fundamental issue in considering Mother's capacity to safely meet EH's particular needs.
- (f) In respect of alcohol misuse, I accept that Mother has not drunk since October 2013 save for two glasses of champagne on New Year's Eve. I note the CRI Spectrum letter dated 10.3.14 (C187a) that this was a lapse and not a full-blown relapse, and that she felt she had let herself down and has returned to abstinence. Mother is to be thoroughly congratulated in making this progress. However, this is not the whole story. Prior to October 2013 there was patchy commitment to her CRI sessions with her keyworker, and he notes that it has improved since then, albeit she has cancelled 3 of the 13 sessions since then and has not seen her keyworker since 5.2.14 due to cancellations by Mother and CRI. She resisted going to the recovery sessions her keyworker had advised, although I understand that he has now indicated she need not attend those sessions. Additionally, Mr C drinks alcohol and Mother conceded that he does so in her presence.
- (g) Dr McClintock's report of July 2013 concluded: "In diagnostic terms JH has shown a recurrent depression in the setting of a psychological dependence on alcohol", and that she has shown "emotionally dependent aspects to her personality" although insufficient to diagnose personality disorder. He considered her depression to be in remission at the time of assessment and that she should continue with antidepressants and to engage with alcohol services, and while "she has made good progress in the identified areas of concern...she needs to avoid a recurrence of these difficulties.". He considered that "coping with stress has been a much more longstanding problem for her" and that alcohol was her way of coping with stressful life events. At that point last year when she was still drinking but less than the daily drinking of March 2013, he considered it was "still early days in terms of her alcohol misuse".
- (h) Unfortunately Mother's childhood experiences have left her feeling hugely preoccupied with troubled feelings from her past and she has described feeling depressive symptoms for some 16-17 years. She has reported these feelings to the Social Worker, the Guardian, the Father, Dr Pasternak and Dr McClintock. These longstanding emotional disabilities require assistance so that difficulties do not recur by undermining the progress she has made in avoiding using alcohol to deal with those feelings. I am pleased to note that Mother has continued taking anti-depressants and reports feeling much better without alcohol. However, she only undertook CBT in late 2013 after delay of over a year since the recommendation in the Child Protection Plan of October 2012. She has as a result been referred on for much longer term counselling and has had an initial assessment appointment and is on the waiting list (of about 2-3 months). She had initially resisted the prospect of further counselling as it scared and worried her, and she told me she felt she was being forced into something she was not ready for. This led her to lie about having booked an appointment for the counselling in January, when no such appointment was booked. Having now finally had the assessment appointment she feels much more confident about pursuing this counselling. However, as with all such therapy, while it is vitally necessary to undertake it, nonetheless the Mother's engagement, its impact and outcome remain uncertain. Inevitably this does not fit well with meeting EH's needs here and now.
- (i) Mother maintains that she has also made improvements in meeting EH's practical needs. Mother has been sending EH to school in appropriate clean school uniform and has been attending parents' evenings, and compared to the previous academic year's school attendance of only 84.5% (K1), there was certainly an improvement in school attendance last term to 98.8%. By late February 2014 her attendance was down to 89%. Mother claims that this was due to stomach upsets and a throat infection. However, EH's punctuality has also declined with 16 late attendances out of 28 at the time of the head teacher Ms Morley's letter dated 24.2.14 (C175). Some late arrivals were only a few minutes late, but other late attendances are

considerably later at 9.20am or later. This is still significant as EH is being offered her extra tuition at 8.45am. Mother has tried to explain this away by stating that EH is reluctant to go to school due to bullying she has been suffering 'for weeks', but she has also said that EH is reluctant to get out of bed. EH has not mentioned bullying to the Guardian, the Social Worker, her teacher, her head teacher, nor most significantly to her Father. Her Father said, at most, there was a single incident of a difficulty with a friend. The school has no record of having been written to by Mother as she claims, and indeed she told me that she only took a letter in to the school the week before this hearing in early March, whereas the lateness was occurring in January and February. There has been no mention of this by Mother at any core group meeting where the head teacher regularly attends, and the only record the school has is of a single mention by Mother to EH's teacher of a friendship issue, and no mention of bullying. Finally, I note that EH herself would not back up her Mother's explanation for repeated lateness when she called EH downstairs to get her to tell the Guardian about the alleged bullying, and looked sullen and would not be encouraged to support what her Mother was saying (E256). Not only was this a wholly inappropriate demand placed upon EH, but unfortunately I am driven to the conclusion that Mother has lied about this bullying to cover repeatedly failing to get up in time and accomplish the simple but important care tasks that get a child to school on time. This was further highlighted on the last day listed for this hearing on 14.3.14 when Father attended at school to see EH performing in a play at a school assembly before coming to court and found that she had not arrived. He went to Mother's home, only two minutes walk away from the school, to find that EH was not ready and that Mother had been unable (for whatever reason) to manage to get EH ready. He tried to find a hairbrush and a hairband for EH's hair but none were available. He got EH to school but she missed her performance. I appreciate that this was a tense and stressful moment in the proceedings, and I appreciate that Mother may have felt unwell, but this was a very sad example of Mother's difficulty coping and achieving these basic tasks to meet EH's needs. Parents have to manage to meet their children's needs in the face of all sorts of adversities; and she could have contacted the Father to ask him to come early and assist.

- (j) Mother also claims that her home is in a better state and is cleaner, tidier and undergoing redecoration, and the Social Worker has confirmed seeing it in a better state. That is to be commended, but it is extremely recent. The accounts of the state of the home in previous years are dispiriting, and come from a wide variety of observers. Although Mother protested to me that EH had not "lived in squalor", it is clear that her environment has been regularly cold, dirty, uncomfortable and ill-suited to a little girls' needs, and EH has described it herself as 'dirty and smelly'. As recently as 3.2.14 the Social Worker noted it to be cluttered and untidy, with EH's bedroom floor and surfaces covered with bin bags of clothes, newspapers, dirty dishes and food wrappers (G47-49, C134). On 19.2.14 the Guardian visited (E254) and found the house to be very cold, with dirty floors and insufficient bed linen on EH's bed. Mother told the Guardian that the heating was not working properly, but then switched on a radiator complaining that it costs a lot to run. The Social Worker had made similar observations in January and February (C133-4). The Guardian noted the similarity with the situation that D was exposed to.
- (k) Mother has also found it difficult to achieve or sustain full and open engagement with professionals. She has missed 3 out of 4 core group meetings held since October 2013, she has cancelled prearranged home visits (C131-3) and has not responded to telephone contact (C132). She lied to the Social Worker on 3.2.14, falsely claiming that she had to take EH to the dentist in order to avoid an arranged visit and then refused to allow the Social Worker into the home until the police were called. As identified previously, Mother also lied about and concealed her relationship with Mr C, about EH being bullied and about her therapy appointment in January. The Social Worker also discovered that she has lied in her recent statement about contacting her GP for her back pain. While bearing in mind the

“Lucas” direction mentioned above, and noting that lying and concealment do not necessarily determine poor parenting capacity, I nonetheless find that in all of these examples save for her therapy and GP appointments EH was directly caught up in the dishonesty, and there is an important but indirect link to Mother’s parenting in that without being open and honest and permitting her parenting to be monitored it will be impossible for professionals to become aware of any deterioration in Mother’s wellbeing that might have an impact on EH. This has inevitable implications for any attempt to mitigate all the difficulties identified above.

- (l) I have taken into account the unhelpful attitude of the Social Worker from time to time, and which I analyse elsewhere in this judgment, and which I find must have felt upsetting and undermining beyond that which a parent would normally experience in such proceedings. I do not find that this assists the Mother’s case beyond perhaps explaining a resistance to meeting with or talking to the Social Worker. It does not explain her dishonesty, the failures to meet EH’s needs, the risk of exposure to her volatile relationship with Mr C and her lack of insight in that respect; and it bears no direct relationship to Mother’s own emotional needs which underlie her difficulty meeting EH’s needs adequately.
- (m) Sadly, as identified above, I find that Mother’s ability to ensure that EH’s needs are met has fluctuated in important respects, improving and deteriorating again, during the course of these proceedings notwithstanding her abstinence, her CBT, her good intentions, her good relationship with EH and her improved relationship with the Father. I also find that the improvements she has made have either not been sustained or are extremely recent and would appear to be following the repeating pattern of improvement under pressure followed by a failure to sustain that improvement that was seen with D.

62. EH’s Father

- (a) In marked contrast to the Mother, there is no criticism whatsoever of the Father’s abilities to meet EH’s physical, practical, and educational needs and to do so in a consistent manner. He has clearly made every effort to do so as a supplement to the full time care of her Mother. I am very impressed by the real commitment he has shown EH in maintaining regular good quality contact with her, and for example, not leaving her to get to school by herself when he feared that Mother might fail in that task and sometimes walking 30 minutes each morning to achieve this when he was out of work and had no car.
- (b) He is in stable accommodation with a friend where he has been able to commit to regular good quality contact with EH that she enjoys and he prioritises. He is criticised for failing to arrange new accommodation for himself and EH. But given the uncertainties in the case, I find this delay understandable but regrettable as it does pose some real practical difficulties and a further shift for EH. I accepted Father’s reassurance that he has sufficient funds to obtain private accommodation which gives him a little more flexibility. He will look for somewhere near enough to her school and friends to be able to maintain those links. The Local Authority has committed to assisting with a letter of support to the relevant housing department as necessary.
- (c) I note that the Guardian and the ISW Ms Bennett have both carried out their respective assessments of the Father and are confident that he has the capacity to meet EH’s needs. I must carefully take into account the opinions of two such experienced social work practitioners.
- (d) The principal concerns about Father are the nature of his emotional interaction with EH, his personality and behaviour towards others, and his insight into the need to protect EH from harm. In summary, the Local Authority’s case is that his personality is flawed and disordered leading to maladaptive behaviour towards others; that this in turn has led to a disordered attachment response from EH and a poor relationship between them, and additionally means that the Father cannot work with professionals to meet EH’s needs and in particular to accept guidance in regard to

parenting and safeguarding EH; and that the Father lacks insight into the harmful experiences EH has suffered.

- (e) I have addressed his emotional interaction with EH under the heading of harm above, and made findings that her relationship with her Father is in fact very positive, rewarding, affectionate and appropriate, and is not the attachment disordered, fearful, submissive and cowed relationship recounted in the FAST report and adopted by the Social Worker.
- (f) Ms Mayet also drew conclusions from aspects of the Father's behaviour during the FAST assessment to assert that he does not have the capacity to meet EH's needs. Ms Mayet considered that Father seemed unable or unwilling to give EH his full attention: reading his newspaper or using his telephone during the assessment and showing an apparent lack of concern for her feelings or needs (E89) and escalating levels of anger and stress. Father claims that he did not realise quite how the assessment would work and was told to try and be 'normal'. He thought that this type of interaction with EH was more 'normal', rather than trying especially hard to play/stimulate etc. He explained that he was very frustrated to have been told to bring DVDs only to find that the television did not work, and also to find that there were no instructions on using the cooker when he had been told to bring a meal to prepare. He expressed that frustration. He accepted that he probably came across as arrogant and obnoxious, and I have no doubt that he was at times irritable, unwisely nonchalant and unhelpful. And at the planning stage he had been difficult and aggressive at a meeting held jointly with the Social Worker (F73). Ms Mayet went a stage further and made yet another 'leap' – concluding that Father has "personality traits that are noticeably characteristic of a Personality Disorder" (E98). She recommended a psychological assessment, but repeated this assertion in her addendum, adding "It is important to *establish* a diagnosis..."(E110). This, I am driven to find, in conjunction with her oral evidence unfortunately betrays her position, as someone wholly unqualified to do so, that she clearly believed that this was the correct analysis of his personality and one she was entitled to make and rely on. I note that at E98 Ms Mayet states she concurs with the Local Authority's view at A14 to draw this conclusion. It appears that she has run with the Local Authority's early and unsubstantiated speculation as to the Father's alleged personality disorder set out in their Position Statement of June 2013. This is an example of a negative cycle between professionals where previously expressed views affect subsequent analyses and gain unwarranted currency through repetition. This also unfortunately undermines the Local Authority's assertion that FAST represents an independent assessment of the Father.
- (g) A further, absurd, 'leap' was suggested by Ms Mayet, namely that Father was a serious flight risk. I have seen no evidence whatsoever to justify this assertion and I note that the Local Authority has not sought to rely on this point before me.
- (h) There are numerous examples of the Father being abusive, hostile and aggressive to the Social Worker. He admits this. I have found only one other example of the Father being hostile with another professional: on 21.8.13 he significantly and aggressively obstructed the attempt by Ms Mayet to arrange dates for the FAST assessment, although I note that this meeting took place in the Social Worker's presence (F73). Otherwise, while other professionals have witnessed this behaviour, for example at the Core Group meetings, and will have found it intimidating and discomforting, there has been no other inappropriate behaviour towards professionals. The Father explains that this is due to the negative and unprofessional attitude of the Social Worker: ordering him around, expressing the Local Authority's views bluntly and pursuing its position insensitively, and taking up a position against the parents from an early stage. (I consider this matter elsewhere in this judgment and find some of his criticisms to be well-founded. However they do not justify his abusive behaviour.)
- (i) He has worked well with the Guardian and the ISW and with both the professionals and the group on the Caring Dads programme (C198-200). By contrast with the Social Worker, both the Guardian and the ISW Ms Bennett confirmed that they had

been able to challenge him robustly without losing his co-operation and his courtesy. He is noted to communicate well with the school and health professionals. The ISW witnessed him manage a rude sales assistant with calm politeness. He has retained good relationships within his own family and clearly has a circle of supportive friends, and I heard impressive evidence of his mature and thoughtful attempt to strike up good family relationships with Mr and Mrs B. They gave evidence of his instigation in late 2013 of a meeting with them over a meal in order that they should get to know each other better given the possibility that EH could move to their care. He works in a job that has the potential to cause immense hostility in members of the public and has both retained that job over many years and has only minor and historical criminal convictions and no relevant concerning forensic history.

- (j) I also note that despite his outbursts, he has in fact complied with all the requests made of him, such as taking EH for a longer staying weekend at short notice in March 2013, attending meetings, undergoing the FAST assessment, attending all 17 weekly sessions of the Caring Dads programme etc. In relation to the latter, he contributed well, reflected openly in the group sessions and in feedback with the Guardian, and had the humility to recognise that this was in fact of real benefit to him and not simply the 'tick box' exercise he had formerly called it.
- (k) I have already dismissed Ms Mayet's analysis of EH's relationship with her Father for the reasons discussed earlier in this judgment. I find that here, too, Ms Mayet has hugely overstepped any reasonable analysis of her observations. Clearly, conclusions can and should be drawn that Father can behave in an obnoxious, hostile, aggressive and intimidating manner, and has done so to the Social Worker. This is unacceptable and must be avoided in order to preserve good working relationships that will ensure that EH's future needs are best met. But this is a far cry, where there are numerous examples of contrasting positive social interactions, from someone who is personality disordered.
- (l) I found the Guardian's analysis of the situation to be highly persuasive and to fit best with the evidence I heard from the Father and his presentation. The Father is a physically big and tall man with a loud voice, and it became clear during his evidence that he is both a very emotional man and someone with strong views who would not like to be told what to do or think in such a way that he would feel ordered about, but preferably in a manner so that he could more readily reflect and accept it. The Guardian posited that his reactions to the Social Worker and during meetings involving her were a fight/flight type reaction prompted by the fear/threat she posed to him by taking the position that EH should be removed from the family's care. As such, I consider that there is a risk that EH will be exposed from time to time to certain aspects of his personality and behaviour that are imperfect and reflect his emotional and occasionally hostile responses in circumstances where he feels ill-treated and threatened.
- (m) I do not find that this flaw is sufficient to conclude, as the Local Authority does, that he is incapable of meeting EH's needs. EH will be exposed to his positive and his negative personality traits, as all children are exposed to their parents' personalities. I do not accept that this is so grave here, in circumstances where he has an otherwise good relationship with EH and can clearly interact well with others when treated with consideration and a sense of working in partnership, that he will be unable to meet EH's needs for warmth and balance in his responses to her, or that he will be unable to work with or learn from others to protect her.
- (n) I have considered aspects of his insight into protecting EH from harm in relation to exposure to domestic conflict and have found that there are gaps in this element of his understanding. Having heard Father give evidence it is clear that he has minimised or failed to understand the gravity of exposure to repeated domestic conflict on children. This ran over into his failure to grasp the risk implications for EH of Mother's relationship with Mr C. Further assistance and support is required in this area, but I do not consider it is so grave or irremediable that it should prevent Father from caring for EH, particularly where the parents' relationship appears to

- have hugely stabilised in the past 6 months whereby they were able to convey a true sense of working together in EH's interests rather than engaging in conflict.
- (o) Minimisation or a failure to comprehend the implications of ongoing drinking by a recovering alcohol misuser also emerged from his evidence. Father told me that so long as she was not drinking during contact he did not object to her limited drinking at other times. It was argued on his behalf that so long as she is not drunk or unstable, it is clearly in EH's best interests to still have contact with Mother in the event that she is unable to remain abstinent. I agree, so long as problems do not flow over into contact. However, the impression given was that Father did not fully understand the problems associated with what is called 'controlled drinking' when abstinence has been recommended by professionals. Father dismissed the idea that he may need further enlightenment on this point, but I consider that this is an area where he may find himself better armed for the future if he takes advantage of becoming better informed of these issues. I am confident that the Father has the capacity to work on these aspects of his skills given the positive accounts of his work with Caring Dads.
 - (p) Another area where it was evident that the Father lacked insight into the harmful implications for EH was his wishful thinking over the past months and years that the warmth of the relationship between EH and her Mother would make up for repeatedly neglectful care and exposure to her Mother's drinking, depression and difficulties coping. He is clearly very loyal to Mother and it is only recently and slowly that Father has realised that he had to assert his position over Mother's. I got the distinct impression that he was doing his utmost not to hurt Mother more than absolutely necessary and may have ducked this difficult challenge whenever he saw she had made some improvements – he became tearful when having to consider the impact upon Mother of EH leaving her care, and acknowledged that Mother probably relies on him as her first port of call. Notably, his own evidence was that she only makes changes when placed under extreme pressure to do so. That being said, I acknowledge that becoming abstinent must have seemed and must continue to seem to the Father to be a really major step forward by Mother and made it much harder to perceive that he should step in. Despite this loyalty and failure to see the wood for the trees for many months in these proceedings, I do not consider that this poses a real risk for EH at this point. He is now clearly fully committed to caring for her and robustly explained how he would check out Mother's stability before any contact or manage any communication from Mother, relying on his long experience of her to be able to interpret her condition. He will also be supported in this by the Supervision Order – so long as he is able to co-operate and take advantage of its services, and I am confident that, if it is managed appropriately by the Local Authority, he can do so.

63. *The Local Authority*

- (a) I deal with this issue here, not because the local authority's capacity to care for EH arises, but because its approach has had an evident impact on all those discussed above, and with the agreement by all parties that there should be a Supervision Order it is clear that the Local Authority's future conduct of the case will have an important effect upon EH's future care.
- (b) The parents, Mr and Mrs B and the Guardian have all raised concerns about the approach taken by the Local Authority in general and this Social Worker in particular.
- (c) I am aware that it can be said that parents are bound to criticise a Social Worker involved in child protection proceedings relating to their child, and that the Social Worker is in a no-win situation, but it is not as simple as that. The roles a social worker and a local authority play are crucial and must demonstrate a real effort to work in partnership with a family, a readiness to try and rebuild a family and identify support to do so, a fair and robust analysis of all the information available, and sensitive interaction with the family to support all the above.

- (d) I have already noted a number of concerning features earlier in this judgment: a failure by the Social Worker to include and consider carefully all the available evidence of the Father's relationship and interaction with EH, and particularly her own s37 analysis; an unquestioning acceptance of the extreme analysis of the FAST assessor; a failure to include in the social work analysis of EH's presentation during the FAST assessment crucial information that the Mother had told EH she might be removed into foster care and other potentially relevant factors; a failure to provide any adequate analysis of EH's needs in terms of her close and loving relationships with her parents and the impact upon her of being removed from their care with limited contact; and an excessively rigid and negative reaction to the concerns raised in Mr and Mrs B's viability assessment.
- (e) As already mentioned, the downturn in the Local Authority's approach and the parents' relationship with the Local Authority and the Social Worker appears to have begun with the angry response received by the Social Worker and Practice Manager Jenny Jones in mid-March 2013 when Father was requested at short notice to extend his weekend staying contact. The negative viability assessment of Mr and Mrs B by the Social Worker followed in May 2013. This appears to have been communicated excessively bluntly and negatively to Mr and Mrs B, according to their account to the Guardian (E125). I take into account that they were not questioned directly about this while giving evidence and so I have to rely on the Guardian's account of her conversation with them, but I also note that they were not challenged that this had been their experience, and I find that they had no reason to lie about this to the Guardian and they came across as entirely honest and helpful witnesses. I have subsequently seen an entirely proper letter, sent on 5.6.13 shortly after these conversations took place, setting out advice to Mr and Mrs B as to what steps they could take. By then however, that damage was done.
- (f) The proceedings were then issued and first steps taken to progress the case. On 21.8.13 a FAST planning meeting took place between the Social Worker, Ms Mayet the FAST assessor and the Father. I have already found that his approach was hostile and unhelpful in trying to arrange dates for the FAST assessment. However, it was followed by the Social Worker, later at the same meeting, pressing Father to sign adoption medical consent and parental health forms. I accept the Guardian's evidence that this was poor professional practice, and in any event it lacked sensitivity or any awareness of the meaning of these proceedings and assessments for the parents. A meeting about the Local Authority's plan for adoption (even if a parallel plan) should not ride immediately on the back of a meeting that is about the assessment of that parent's parenting. It will instantly undermine the parent's faith in that assessment, particularly where the Local Authority is the assessor, and will appear to be grossly insensitive and as if the Local Authority are approaching the case with a closed mind. A separate meeting with a proper explanation of the parallel planning process should have been conducted.
- (g) A similar and wholly unnecessary pressure and insensitivity was evident in the Social Worker's actions on 8.11.13. On that date DJ Pilling's judgment relating to the parents' and Guardian's applications for further assessment by ISWs was awaited from the contested hearing the day before on 7.11.13, and was handed down by email on the afternoon of 8.11.13. However, the Social Worker persisted with a meeting with Mother on 8.11.13, with the approval of her manager Jenny Jones, at which she sat with her for a lengthy period of time persuading her to complete parts of the Child Permanence Report which covers the views of the parent in relation to the proposed plan for adoption and contains a section relating to what information the parent would like the child to know in the future if adopted. I have seen that document. Understandably, the Mother described herself as intensely distressed by this exercise. The excuse for putting this highly vulnerable Mother through this was that the Social Worker had to prepare documents for the Agency Decision Maker to consider the Local Authority's plan for adoption and that she would have been in trouble if the documents were not ready. However, she of course conceded that as soon as an assessment is to be carried out an ADM is not

in a position to approve a plan for adoption, and of course it turned out that DJ Pilling's judgment confirmed that both the Father and Mr and Mrs B should be further and independently assessed. Simply waiting one day for that decision would have saved the Mother a great deal of unnecessary distress and saved the Social Worker a waste of her time on preparing wholly unneeded documents. I could not fathom what drove the Social Worker and her manager to continue with this course of action in those circumstances. It cannot but have led the family to be convinced that the Local Authority was not prepared to think supportively and openly about the possibility of EH remaining in her family, and that the Social Worker was prepared to put the Mother through an intensely distressing experience come what may.

- (h) Given that one of the key criticisms of the Mother was that she was failing to engage with the Social Worker, and of the Father was that he was aggressive and abusive to the Social Worker, I find it astonishing that she should take (or have been advised to take) such insensitive steps that cannot but have worsened the prospect of improving her working relationship with each of them.
- (i) The Guardian was also concerned that the Social Worker called the police twice to EH's home, in summer 2013 and February 2014. She considered that this was excessive and heavy-handed, particularly where a child is attending school and contact with another parent, and she could be seen through the window in summer 2013. It had a frightening impact on EH and again must have led the family to feel that the Social Worker had an excessively negative attitude towards the family.
- (j) I note and accept that the Social Worker has agreed with hindsight in her oral evidence that some of these steps were not best practice and expressed regret through the Local Authority's advocate for some of these actions. However, the matter unfortunately goes a stage further.
- (k) In her final statement dated 21.2.14 at C143 the Social Worker reported a comment of the Mother's that she had not in fact wanted the Father to spend Christmas with her and EH. The Social Worker then used this comment to suggest that the Father was again being inappropriately overbearing and that the Mother was being excessively weak, with consequent damaging exposure of EH to their relationship difficulties. However, during her oral evidence the Social Worker let slip that the Mother had in fact invited the Father to come for Christmas as EH had requested it. This is wholly absent from her written account and as a result it becomes a distorted and wholly misleading version of what occurred. Nowhere is the Mother's willing and appropriate response to her daughter's request mentioned. I am astonished that this could be characterised by the Social Worker as the Father overlooking the Mother's feelings and the Mother being too uncomfortable to assert her wishes against him, when it was clearly nothing of the sort. This level of distortion to fit the Local Authority's case is unhelpful in the extreme, unprofessional and frankly a misrepresentation of the true situation.
- (l) Additionally, last week the Social Worker concedes that she answered Mother's questions about what would happen at the end of this case by openly discussing in front of EH the need to pack a bag for EH. I fail to see how this should have arisen at all. The Social Worker should have either had this discussion long before with the Mother or should have deflected her questions so as to have the conversation in EH's absence. This was a hugely insensitive and potentially destabilising discussion for EH to overhear. It is frankly flabbergasting to hear that that a child protection professional has acted this way. It is as if the child's feelings are invisible.
- (m) I must express my disappointment at having to consider these examples of the Local Authority failing to approach this case sensitively and with the aim of truly working in partnership with a family, and I consider that the family's concerns as to the insensitive and negative approach they have been treated to are justified. Some examples appear to be the responsibility of the Social Worker and some of her management within her team. The attitudes betrayed by these examples must change for the Supervision Order to be properly administered by the Local Authority

in EH's interests. This is particularly the case given my findings in relation to EH and her Father that do not follow the Local Authority's position adopted thus far.

- (n) I am very grateful to the Local Authority for the addendum document dated 13.3.14 which adds to their care plan. I am also grateful for the Local Authority's decision of which I have been informed this morning: to change the team which will be responsible for the Supervision Order. The Local Authority had originally confirmed that the Social Worker would change but that the team would remain the same and the manager Jenny Jones would remain in direct charge of the case. The Guardian had expressed the view that it would be preferable for the team and the manager to change. While aware of the limitations on my powers, I concurred and I had invited the Local Authority to think carefully and creatively about how to achieve the fresh start that it appears from the concerns set out above are urgently required to serve this family fairly, to enable the Local Authority, the Senior Social Worker and the Professional Assistant to look at these parents with a fresh eye, and to be able to work in partnership with them successfully. I had reminded the Local Authority to consider the guidance of Sir James Munby P in *Re BS* (2013) at §29 in terms of doing what is necessary to make the orders of the court work and not to be limited by resource arguments.

EFFECT OF ANY CHANGE ON EH

64. If she remains with her mother there is the least change and there will be no impact on EH save for a continuation of the current circumstances which for various reasons discussed elsewhere in this judgment are considered to be neglectful of her needs and harmful for her, and which to some extent she has wished could be different.
65. If she were to move to her father's care this would result in switching to contact with her mother instead of living full time with her. She would be spared the risk of witnessing her mother's dysfunctional use of alcohol (if that were to recur), and she would no longer be exposed on a day to day basis to her mother's difficulties with coping, ranging from her feelings of depression and lack of motivation through to practical issues such as ensuring that she gets to school regularly and on time. This would be disruptive and upsetting in the sense of it being a change from her normal experience and spending less time with her mother, but would also meet her wishes and feelings to live in a clean, stable environment where her needs are more consistently met and where her father does not suffer from these debilitating difficulties. Her positive relationship with her Father would continue and be reinforced and would amply meet her emotional needs as discussed earlier in this judgment.
66. She will undoubtedly have more contact with her Mother than if she were to live with Mr and Mrs B, and significantly it is likely to be more natural and with less strain and less requirement for more formal supervision.
67. The Guardian has recommended that for the first two weeks there is one supervised contact per week and brief telephone contact if necessary to reassure EH. Thereafter that it should increase to twice weekly in the community so that EH is not unsettled by returning to her previous home. Father will have to review Mother's condition before contact begins but upon being satisfied that she is stable and sober contact need not necessarily be supervised. Contact should not return to EH's home nor take place overnight until Mother has made some progress both in relation to the physical environment and her own therapy, and that it should not move on to those stages without review, consultation and agreement with the Local Authority. The Father imagined something closer to his current contact arrangements where overnight weekend contact takes place, but I gained the impression of his increasing preparedness to adapt his approach (as has been borne out in the Agreement I have seen this morning).
68. EH might be able to remain at her current school, dependent upon where her Father moves to and how her Mother reacts to living so close to the school but not having EH in her care. This would ensure she has important continuity of schooling in terms of friends, teachers, and a supportive pastoral environment at a difficult time. Initially the Guardian had recommended a change of school would be necessary, but upon hearing the Father's evidence she now prefers to try and support EH remaining at her current school to avoid

further disruption and preserve positive support for her, dependent upon and reviewable in relation to the factors outlined above.

69. If EH were to move to her uncle and aunt, EH would no doubt be well cared for in terms of her physical and educational needs, and they would offer her a warm and stable home, where they have experience of caring for children and meeting their needs. However, she would experience a really significant disruption to her care and to her emotional and social world. She has never lived with them, but knows them and their children through occasional extended family activities and has had a sleepover there. She would be moving to a new home, where three other children live. She would be obliged to change school with all the uncertainty, strangeness, and insecurity that entails, with losses of friendships and relationships with teachers that she currently enjoys. She would be unsure of her new situation and would feel for some considerable time, and perhaps always, that she was to a greater or lesser extent an outsider to their family unit. She would feel intense loss and sadness at not being able to live with either of her parents.
70. Mr and Mrs B suggested that Mother should have monthly supervised contact, and supervised by the local authority for the duration of the Supervision Order. They suggested that contact with her Father could be fortnightly staying contact arranged flexibly around their own family activities.
71. The Local Authority's plan proposes that the levels of contact are reduced to only once every two months with each of her parents; the Mother's supervised and the Father's supported by a supervisor for the first three months due to their concern about his acceptance of the placement. This would be a massive drop in her ability to interact with her beloved parents given she lives with her mother and currently spends three days and a night each week with her father. She would feel confused, lonely and bereft. The Social Worker's analysis in her written statements and oral evidence singularly failed to address this issue. There was no adequate discussion in the relevant parts of her statement of these issues, there is no mention of the fundamental importance of these relationships to EH, of the love she feels and the loss she would feel and any harm that this would cause; and in her oral evidence the Social Worker was only able to talk in terms of EH experiencing 'difficulties' and 'tensions'. This is a revealing failure and has led me to consider that the Local Authority generally and the Social Worker in particular have not included in their analysis of the options for EH a full understanding of the impact upon her. I am unsure of the reasons for this important failure. Is it because they do not wish to acknowledge the importance to EH of her relationships with her parents? Or because the impact upon her sits very uncomfortably with their recommendation? Or because the inclusion of these effects upon her in any analysis might outweigh the argument for moving her from her parents' care? Or simply and shockingly that it went unconsidered? Whatever the reason, the Local Authority/Social Worker analysis is therefore flawed in this respect and I must and do look carefully at this element of the case.

ORDERS AND CONCLUSIONS

72. All the parties agree that a Supervision Order should be made in any event. I agree. It is obviously in EH's best interests that the Local Authority is able to advise, assist and befriend her, including by means of supporting her parents. I consider that this support should in particular include: the assistance with any contact supervision that may be necessary that the Father feels unable to provide; review of the progression of contact; monitoring and support of Mother's progress with therapy and abstinence; additional information and support for Father relating to the impact of domestic abuse and the complications of recovery from alcohol misuse.
73. As will have been apparent through the reasoning set out above I have considered the three options for EH and the full range of orders and powers that could apply. I have done so by exploring all the implications for EH in an holistic fashion and by reference to the welfare checklist factors. I have borne in mind the particular manner in which each parent or carer's capacity to care for EH interplays with her needs and characteristics, and interplays with that parent or carer's role in relation to any harm EH has suffered or is at risk of suffering and I have further considered the effect on EH of each proposal. I have considered her wishes and feelings, while being aware of her age and stage of

development in relation to her expression of her wishes and the weight to be given to her wishes and feelings. In undertaking this exercise I have considered the pros and cons of each proposal.

74. Overall I conclude that while Mr and Mrs B could care well for EH, her welfare interests generally and her relationships with her parents in particular dictate that she should be cared for by one of her parents if possible, and given my findings that should be her Father; and I do not find that there is any basis to require the imposition of the enhanced parental responsibility of a Special Guardianship Order.
75. Taken as a whole, I am quite sure that Mother wants to do her best for EH and loves her dearly, but I am also keenly aware that Mother remains a highly vulnerable person who from time to time is overwhelmed and unable to cope. While she has made some important improvements, and it remains vital for Mother and EH that she continues with those significant steps, there are key areas of risk and lack of insight that mean EH would continue to be at ongoing risk of neglect and some harm in her Mother's care. I do not consider a shared residence order could protect against these problems given the history. While it might be argued that this might be the least interventionist approach, those arguments are outweighed by the risks I have identified.
76. Turning to EH's Father, I have not found to be established any factor that makes the Father incapable of meeting EH's needs, and I find that while there are factors that require further assistance and support they are not sufficiently grave to prevent him providing good enough care, particularly in the context of a Supervision Order. Additionally, I have found that there are positive factors indicative of the Father's positive capacity to provide good enough and also better than good enough care to EH. He is not perfect, but is in the best position overall to meet most of EH's needs very well.
77. In considering all the factors in the welfare checklist and balancing all the competing evidence, it is quite clear that the most proportionate decision looking at EH's best interests lies in moving to live with her Father under a residence order, having regular good quality contact with her Mother as advised by the Guardian, and in being supported in these arrangements by the Local Authority under a Supervision Order.
78. In terms of that good quality of contact, given the issues I have identified above in considering EH's needs, the harm she has suffered and her Mother's capability to meet her needs, plus the inevitable disruptive effects upon the whole family of any change of carer, I consider the Guardian's recommendations as to contact to best meet EH's needs during the currency of the Supervision Order and while the new arrangement settles and Mother starts engaging with her therapy.
79. I am very glad that the parties can set out in the terms of a written agreement the expectations and commitments of the parents and the Local Authority that will preclude the need for any contact orders and will set the path for the future. It is vital that there is positive co-operation between all parties in the interests of EH's welfare.
80. I am well aware how painful this process is for any family. I again express my gratitude to Mr and Mrs B, and I wish her parents the very best in enjoying their parenthood of EH.

Ms Recorder Lazarus
19.3.14