

IMPORTANT NOTICE

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Case No: MK14 C 00060

IN THE FAMILY COURT AT MILTON KEYNES

IN THE MATTER OF THE CHILDREN ACT 1989

AND IN THE MATTER OF Z (A CHILD)

Date: 21.1.2015

Before :

His Honour Judge Antony Hughes

Between :

Re Z

**Buckinghamshire
County Council**

Applicant

and

M(1)

F(2)

Z(3)

Respondents

Mr Murray of Counsel for the Applicant Local Authority

**Mrs Millin of Counsel for the Mother
Father in person
Mr Wainman Solicitor for the Child**

Hearing dates -15,16,17,18,19 December 2014

JUDGMENT

Judgment re (Z)

Introduction

1. The Court is concerned with Z, now five years of age. It is his welfare that is the court's paramount consideration and this has been a final hearing in the Local Authority's application for a Care Order, dated 13th June 2014, with a Care plan for long term fostering.

The Parties

2. The Applicant is Buckinghamshire County Council. The Social Worker is Julia Kelly (SW). The Local Authority's representative at this hearing is Ewan Murray of Counsel.

3. The First Respondent Mother is M. Melissa Millin of Counsel represents her at this hearing.

4. The Second Respondent Father is F. Ian Wheaton of Counsel

represented him on the first day of the hearing after which F chose to represent himself. F indicated that he was speaking to a national newspaper and the court injunctioned the father in the usual terms from divulging information about the proceedings to the media.

5. The Third Respondent Child is Z. Z's solicitor is Richard Wainman Solicitor. Z's Guardian is Carin Rothmann.

Background information

6. I draw on the Local Authority's helpful opening note for the background. Where of course any assertions conflict with either any of my findings or the Threshold findings, my findings prevail.

Z's Half Siblings

7. Z has four maternal half-siblings: (i) A; (ii) B; (iii) C, and (iv) D.

8. A Residence Order was made to D's father in April 2009. D's school reported that he was scared of F, who calls M nasty names, is rude and abusive and broke a window and put a hole in the door. There is evidence of D presenting with similar behavioural difficulties as Z, which only ameliorated when he went to live with his father

9. In July 2010 C (then 17) made an allegation that F was at the end of her bed with her underwear down. The investigation concluded that F did

no pose a direct risk as F was not in the family home.

Involvement of Local Authorities

10. There have been three local authorities involved with the family with intervention beginning long before Z's birth.

11. F has convictions for drug and violence related offences. It is understood that one of these convictions was for stalking a previous partner.

12. C and D were made subject of Child Protection Plans on 08 January 2008. C was self-harming in 2008. In 2008 a neighbour allegedly sexually assaulted C, although the alleged perpetrator was found not guilty at trial. There were concerns that M was placing her relationship with F before D and C's needs.

13. On 30 April 2009 M obtained an injunction against F.

14. Z was subject to a Child Protection Plan under the category of neglect by Winchester Children's Services prior to his birth in 2009. There had been a long history of intervention as a result of the abusive relationship that the parents were in and the impact that had on M's older children.

15. M subsequently moved to Southampton. There appears to have been

a history of continued conflict and confusion in relation to the status of the parents' relationship. In August 2011, Southampton removed Z from the Child Protection Plan; the IRO acknowledging that there had been no improvements but being on the plan had not had any impact.

16. The Child Protection Plan was reinstated on 11th April 2012 following disclosure by M of further domestic abuse by F. Support services were put in place to assist M. Z was showing increasing behavioural issues.

17. The PLO procedure was initiated in March 2013. Z's behaviour deteriorated, including touching himself, swearing and physical violence towards M. It was confirmed that the parental relationship continued and F had regular contact at the weekend.

18. M stated she could not remain in Southampton and agreed to move to Buckinghamshire. Whilst being moved, Z was seen to be verbally and physically abusive to M. M admitted to still being in contact with F. F knew of M's location (but not the address) having been told by M.

19. Z was made the subject of a Child Protection Plan in Buckinghamshire in December 2013. M continued to allow F access to Z, including taking Z to Southampton to visit F in January 2014.

Private Law Proceedings

20. F issued private law proceedings on 29th January 2014 in Southampton. F made a series of allegations including: (i) M was verbally and physically abusive to F; (ii) M would leave the children at home unattended; (iii) M would wake up Z screaming and shouting; (iv) M threw Z on a bed and assault him during a school trip, and (v) M is bi-polar.

21. On 6th March 2014 the court: (i) made a PSO preventing M from removing the child from the jurisdiction, and (ii) Bucks were to file and serve a risk assessment.

22. The FHDRA was heard on 28 May 2014 in Milton Keynes. The case was then formally to be heard with this application by virtue of order dated 13 June 2014.

Z's Contact with F

23. Z has had supervised contact with F. The first contact was on 12 June 2014. There were also contacts between the two in relation to the CATCH assessment.

Recent Communication Between the Parents

24. It was made plain to the parents that there should be no contact,

direct or indirect, between them. They signed a written agreement to this effect.

25. Z disclosed to a social worker on 13 November 2014 that he had seen F at his home.

26. The parents disagree about the exact nature and extent of the contact, but the following can be ascertained:

- a. F says M gave him her address months ago; M says he must have followed from contact but the social worker investigated and found that this could not be the case;
- b. M states that she gave into Z's pleas for F to come in;
- c. There were repeated visits by F to the property (at least two on M's case, more on F's case);
- d. Z said M didn't call the police like they were supposed to;
- e. F says he stayed overnight; F says M repeatedly asked him to bed;
- f. F asked M to buy a SIM card so they could speak, presumably without the local authority knowing;
- g. M says that F became abusive in his communication;
- h. M spoke to F from her landline.

27. Neither parent reported this to the police or social services.

The evidence

28. I have read two very full ring binders of evidence in relation to this case and heard live evidence from the various assessors, Dr Helps, the guardian and the social worker and the parents. I have also received written submissions from the local authority and the guardian, and to his credit, F who must have spent a long time preparing his written submissions. I have read F's references and some detail regarding a specialist therapeutic school for Z.

Expert Assessments

Dr Helps

29. **Dr Sarah Helps** is a consultant clinical psychologist and systemic psychotherapist and is an experienced expert in public law proceedings involving children. Her extensive qualifications are set out in the preamble to her report and she is the jointly appointed expert in this case. She is the author of a lengthy written report dated 27th September 2014 and three addenda by way of either email or letter to answers to specific additional questions.

30. I summarise the contents of her written evidence below.

Dr Helps : Initial Report

31. Dr Helps' summary of opinion on the parents includes:
- a. Both parents describe a volatile and toxic relationship;
 - b. M has struggled with unhealthy relationships over the years but there is no sign of mental illness, her self-esteem and self-confidence have improved in recent months; M seems to have insight into the part she played in Z's difficulties and appears to be engaging with professionals;
 - c. F has previous police involvement and convictions due to actions within intimate relationships; he experiences significant symptoms associated with clinical depression and anxiety disorder;
 - d. F has little insight into the part he played in Z's difficulties; he accepts clashes with M but no forms of abuse; he does not feel the need to change his parenting approach or relationship approach;
 - e. F is a long term heavy user of cannabis but self reports a decrease in the same as well as a cessation in use of cocaine;

32. In relation to Z, Dr Helps states that he 'is a boy with severe emotional, behavioural and attachment difficulties. He seems to have been greatly damaged by being exposed to the volatility of his parents' relationship. He appears to respond well to consistency, continuity and a calm and emotionally attuned approach and perhaps to a low-stimulation environment. He craves attention to reduce his feelings of anxiety but cannot effectively seek support from adults (in a developmentally appropriate way) to help him.'

33. Dr Helps concludes that it would not be in Z's interests to have a change in residence at this point given that it would unsettle him and undo the work that M has done with him over the past year/recent months. Dr Helps opines that M will need intensive support from the Local Authority, CAMHS and education services.

Dr Helps: Updated Addendum

34. Dr Helps analysed some questionnaires completed by M and concluded that:

- a. M did not fulfill the criteria for a psychiatric or personality disorder;
- b. She does, however, have personality traits of paranoid personality features, obsessive compulsive personality traits and narcissistic personality features that would benefit from long term psychotherapy. These can and will impact on her ability to care and will need regular and concrete intervention;
- c. Z is experiencing such difficulties that he is almost uncontainable in any environment.

Dr Helps: Further Points of Clarification

35. Z's solicitor asked some additional points of clarification about educational and therapeutic work. Dr Helps was not able to provide the details of particular resources but gave examples.

Dr Helps : Answers to Additional Questions

36. Dr Helps was particularly concerned about the parents' ongoing contact and the inability to grasp the impact of such contact on Z's emotional wellbeing.

37. Dr Helps outlines the skills long term carers will need. She goes on to acknowledge that M does not fit this profile at present but given Z's attachment (albeit an insecure one) feels M needs to be given a final chance.

38. Dr Helps gave evidence on the first day of the hearing when the father was still represented.

39. Her conclusion that M needed to be given a chance with the right package of support to parent Z remained her view at the conclusion of live evidence although perhaps a more tentative one. She said that there was "a glimpse of hope" that with the right package Z could remain at home with M.

40. She described Z's behaviour as extreme and said that she had never seen a child with such severe behavioural and attachment difficulties notwithstanding that she sees several hundred children a year in her clinical practice. The main concern was the speed at which he moves to acting in a

violent and aggressive and controlling manner. These arise out of Z's severe attachment difficulties which she believed were directly attributable to his previous experience of domestic violence and volatile adult relationships. She emphasised that he had no learning or cognitive difficulties but it would take two or three years to help him contain and manage his own behaviour.

41. Any carer that he should have is a key feature of this process and any treatment should be aimed initially at the carers around him rather than him directly. He will need highly attuned parenting by a robust carer able to withstand the torrent of difficult behaviour and violent assaults.

42. It is plain from her report that when she assessed M she took the view that she had reasonable insight to what Z needs and what needs to be done to meet his needs. However she struggles to act in line with what she knows is the right thing to do. In my judgment it is that latter feature that undermines the basis of Dr Help's recommendation.

43. She said that Z could not be "fixed" within a brief period. It is sadly true.

44. Any therapeutic process starts with the package around Z by way of education and his carers. She does not envisage that Z would get worse and changes must be introduced subtly and at his pace. For M the focus would

be on her parenting rather than her own psychological wellbeing so in effect things would be no worse for her than they are now.

45. Anything that does not work for Z – any failing in his care – will make his difficulties far worse and any challenge to his security and safety will make his less containable.

46. Her view M was that she had “unusual personality difficulties” rather than any personality disorder or mental health illness. Any therapeutic relationship with M should be linked to the task of parenting. She would need to have her own sessions but that necessarily would be linked to work with Z.

47. She thought M had been doing a reasonable job and did not accept any evidence of Z’s behaviour worsening. Again, I prefer other evidence that suggests that his behaviour is increasing in intensity. Z’s needs were such that no one could contain him once attention was shifted away from him and when his behaviour as a consequence becomes uncontainable. The kind of package that was needed was not that kind of intervention offered by the Junior CATCH team. This needs to be delivered by different professionals. She acknowledged M had had a huge amount of advice but what was required was something more intense.

48. As to prognosis, she was clear that M had the capacity for change

and a proper package of support has not been tested. This remained a key element in her evidence throughout cross examination. She accepted that M had not always followed advice and when she heard of the recent contact between the parents she said that her heart sank. She saw M as a vulnerable woman who is easily led by F and was uncertain as to whether M could gain the necessary robustness within Z's timescales. In my judgment this remains a key difficulty particularly as M had recently finished a Freedom Project course in August 2014.

49. She acknowledged that F's intention to fight for Z for the rest of his life could be an indicator of future conflict and agreed that M would always be under pressure and accepted that any foster carer would not have that difficulty.

50. So far as F was concerned a key concern was his ability to control situations and the lack of insight into the effect of his volatility. She was worried he did not seem to understand that him being with the mother even if there was no violence would cause Z confusion. Any evidence of volatility could wipe any progress made by Z and she remained greatly concerned about his latest visit to M's home.

51. In relation to the local authority's care plan, she acknowledged that the foster carers looked very experienced. She would prefer two fulltime foster carers and noted that they did not appear to have any experience in

dealing with younger children with attachment difficulties. She asked whether they had been prepared to be kicked and spat at and sworn at for a significant period of time. It is clear that she felt that his level of disturbance was a shocking indictment of all that he has experienced.

52. She had some concerns initially as to the presence of an older child in the foster carer's home in view of Z's apparent need for exclusive treatment although acknowledged that in the longer term it would be helpful perhaps for Z to know that he could not always have what he wanted immediately.

53. In relation to the local authority's care plan in relation to both M and F, she thought that the levels of contact were inadequate and after some cross examination it emerged that she would be broadly content with approximately six times a year with contact, particularly in relation to M, reducing, rather than Z be removed and then not see M for three months which would have a devastating effect.

54. She agreed that Z's behaviour was learned behaviour, in other words learned from his parents things that he had witnessed and well as of course the psychological impact of his development in terms of being exposed to volatility even as a baby.

55. She said that if he carries on with his behaviour he will be excluded

from school and find himself in the criminal system with personality difficulties. It was a very bleak outlook so far as he is concerned.

56. She described Z as a frightened little boy attributing it as she did on more than one occasion to the parents' relationship.

57. I was not sure to what extent she believed that Z's behaviour was worsening she preferring to see evidence of recent behaviour as part of his longstanding problems.

58. The incident when the parents met covertly in November was put to her and the various different accounts. M's account, that she should have told F to go away but was worried about the effect on Z found some credence with Dr Helps in that although she agreed the meeting was not in Z's best interests she explained that Z could explode and it was very frightening.

59. The social worker's reportage of what Z had said when he explained that F came to the house she found very concerning and very confusing for him.

60. Further, if F's account was to be believed there seems to have been a conversation in front of Z about the local authority removing him.

61. She accepted, and in my judgment this is a crucial observation that goes some way to undermining her other views, that the parties are in an enmeshed relationship which has no signs of untangling and in November both went out of their way to deceive the local authority even to the extent of the purchase of a SIM card for covert telephone conversations.

62. She also conceded, and in my judgment another key component that undermines her observations, that it was vital that Z's primary carer works in complete honesty with the professionals as without this there was the potential to wipe out any progress.

63. She conceded from the available evidence that M appeared only to be "in the foothills of change." I became increasingly concerned that Z could not afford to wait.

64. So far as F is concerned, she was plain that the assessment of him set out in the CATCH reports corresponded with her own psychological assessment of him. I have firmly in mind that assessment's conclusion regarding, in particular, his lack of insight into the impact of the parents' relationship on Z and lack of insight into his previous chaotic and abusive lifestyle.

65. She was concerned although F accepted some violence he continued to see himself largely as a victim and does not see himself as violent and

controlling.

66. The CATCH assessment I remind myself is firmly against any notion that Z should be placed in his F's care and Dr Helps indicated that he would first need to, in any event, engage with dealing with his drug use and have a prolonged period of abstinence. Psychotherapy would be needed to deal with his personality traits after reduction of his cannabis use which would require a year of weekly sessions. By any interpretation that would not be within Z's timescales.

67. With regard to M specifically she accepted that the local authority interventions have not worked but when she assessed M she saw positives and lots of evidence of applying what she had been taught in relation to her management of Z. She stressed that it would be not possible for anyone to be entirely consistent with Z at times when his attachment object is removed and it would be harder for carers to withstand the barrage of abuse without the emotional connection that M has. I surmise that this in fact was the nub of her objection to care by foster carers.

68. She was taken to the lengthy chronology in this case and the prolonged and worrying cycle of the toxicity of the relationship between the parents and she was clear, all these things had led to Z being the way he is.

69. It was a key concession in her evidence that she agreed that she had erroneously believed that M had escaped the cycle until the November incident.

70. She accepted that M has a huge amount to do but does have capacity to do work and to do therapy although she accepted that she was less wedded to that view because of the updated information.

71. In relation to the Care Plan, she described the package of support as thorough. She continued to express concern that of the two carers involved, although both were foster carers only one would be available fulltime and the presence of another young person in the property may or may not be a good thing. Her original view was of course that Z should be placed in a household on his own.

72. So far as contact is concerned she supported the notion that if Z is to be removed then there should be a decreasing schedule.

73. In cross examination by M's Counsel she was drawn into an analysis of the merits of placement with M as opposed to the foster carers. I distilled from those questions that M's main strength was that she has the insight and wishes to parent and there is some consistency in maintaining Z in his home environment. In fact it seems that M's "faithfulness" is the key strength in an argument of retaining Z with her and in an ideal world the

same package of care should be available to M as it would to foster carers.

74. She reiterated that there was a possibility that M could do this job and although there were no guarantees it was worth trying.

75. In terms of the risk of harm, a move from his M's care would be a massive change for Z and it is a finely balanced argument, a key consideration being whether M could withstand onslaughts from F.

76. In relation to F, she confirmed to his Counsel that M was not bipolar and agreed that F sees M as the protagonist. She was able to accept that there may well be positives in relation to F's contact with Z where he appears to manage Z quite successfully but this was a very different situation from having to look after him fulltime which F would be prepared to do while M obtains some help for her difficulties.

77. In the course of cross examination she distilled her views in relation to contact that contact for both parents would be important for Z and six times a year for each parent would be unobjectionable with contact decreasing to that level.

78. She was clear however that she could not support any notion of fulltime care by F notwithstanding his extended family support. Further and extended contact in the future could not be excluded but for Z it would

be long and slow progress.

79. At the conclusion of her evidence she maintained that M needed to be given a chance to parent Z with the right package of support. I was troubled with the words that I had rehearsed at the beginning of my summary of her evidence that there was a “glimpse” of hope and formed the view that she held her views a little less firmly than she had before she learnt of the November contact between the parents. It is, as she said, a finely balanced decision.

80. Whilst Dr Helps was very concerned over the M’s difficulties in managing Z, it was questioned whether any carer would have the same difficulty. She thought that a further time limited period of intervention, during which time Z is placed in an appropriate educational environment and during which period he and his mother can receive specialist therapeutic parent-child work to try to address his severe attachment difficulties, was required.

Court Assessment Service - CAS

81. Before proceedings were issued, Julie Smith and Sheila Newlands undertook a report on both parents, which is dated 01 May 2014. The report outlines the concerns about the parents, including: (i) similar patterns of poor parenting from Hampshire Social Services; (ii) insight into Z’s difficulties and the causes behind those difficulties; (iii) attachment

difficulties; (iv) minimisation of Z's behaviour and difficulties, and (v) working openly and honestly with professionals.

82. CAS do not provide a final conclusion as to whether either of the parents are able to care for Z and comment that CATCH reports will provide further information.

83. **Julie Smith** as a co-author of that report gave live evidence. Miss Smith is an experienced social worker with some knowledge of the impact of attachment disorders in relation to both children and their carer. The report summarises a number of meetings with both M and F, the paternal grandparents and Z's nursery teacher.

84. She was able in the report to articulate F's frustration in relation to his perception that he has not been fairly portrayed by professionals who see him as a perpetrator of domestic abuse. His case is that M is mentally unwell and Social Services have not acted on that and he raised the issue of M's sudden unpredictable outbursts, in respect of which he has been on the receiving end.

85. Interestingly F also provided to her Skype information annexed to her report which sets out his contact with M and the numerous messages are, in my judgment, illuminating evidence on the enmeshed and complex relationship between the parents at a time when they were meant to have

separated.

86. Poignantly she records a conversation with the paternal grandparents who were devastated to learn about what has happened to Z and rejected M's allegations of domestic violence by their son and obviously I have had regard to Z of the potential loss to him of an extensive paternal family if he is placed away from his family.

87. I read a vivid description of what happened on 28th April when this social worker and Ms Newlands met with Z and M and how when Z was challenged by M who wished to remove an electronic game from him, there was firstly, an air of building tension, and then an explosive episode after he was placed on the bottom stair. He then attacked M, grabbed her hair and would not let it go. He spat repeatedly at her calling her "a fucker" and telling her to "fuck off" numerous times. He was sent to his room and M indicated that Z may well trash his room. This is extreme behaviour from a child who was only four years old at that particular time and was described by this social worker as "distressing."

88. Although she accepted that it was typical behaviour of a child with an attachment disorder it was also to do with Z not feeling safe and not being appropriately contained.

89. She did not accept that the trigger was Z not feeling that he was the centre of attention by virtue of the presence of professionals it being M's case that she complains that often when others are in the room Z is difficult to control a view supported by Dr Helps.

90. Miss Smith was concerned that there were other reports indicating of uncontrolled behaviour when not in the presence of M, for example at nursery. A major concern for her was about M's consistency accepting as she did that sometimes M did things very well.

91. She accepted that there would have been evidence of unsecure attachment since Z's early childhood. Her view was that he would require re-parenting by trained carers and she did not know whether he would recover and accepted that building attachment to a different carer would be very difficult.

92. She was not confident that Z would improve while in the care of M and not confident that either parent could provide for his care needs and he would suffer greater harm. It is a powerful concern from an experienced social worker.

93. When cross examined by F, who was at that stage acting in person, she was clear that views had been sought from third parties including the nursery and relatives in Southampton and was clearly alive to the potential

loss of relationship with the paternal side of the family should the plan for foster care proceed. She accepted that the paternal grandparents would be devastated but it was a potential loss for Z in relation to contact.

94. She was able to accept that part of Z's distress could well be the loss of family.

95. She was resistant to any notion that there should be a further assessment of F and further delay in relation to the case, and having seen and heard F, I agree with her.

96. She was clearly alive to the fact that M had a capacity for lying describing her as a convincing liar when she gave evidence in the Family Magistrates Court but central to her concern was her view that both parents did not have the insight in relation to the level of domestic violence and abuse between the parties but it was clear that she did see M as a victim contrary of course to F's view that she was often the perpetrator.

97. She accepted that in considering what was right for Z the court had to consider the extremities of his behaviour, and Z's behaviour was extreme, and she also was mindful of the similarities in relation to some aspect of D's behaviour.

98. Her concerns regarding F are set out comprehensively in her report

and I mention a number of them: F has not had the sole care of Z; there is a history of lack of cooperation with Social Care; she was concerned about F's personality traits namely his addictive personality and his obsessional behaviour needing order and control.

99. There is a concern that she mentions in her report that if F was so concerned about the effect of M's behaviour on Z he did nothing to safeguard him and I am bound to say that F telling her that he told the local authority and it was their task to protect Z given this information is just not satisfactory. She also expresses concern about F's regular use of marijuana and his past history of using illicit substances throughout his adult life. I note he has criminal convictions for possession of drugs.

100. Although Z is observed as having a loving and affectionate relationship with M, this can quickly descend into aggressive and intentionally harmful behaviours towards her if his wishes and needs for immediate gratification are delayed and prevented.

101. She also recorded that F became very tearful and emotional when describing his loving feelings towards Z. Incidentally, I have little doubt that he does love Z and does indeed, as described, feel an acute sense of loss and despair particularly at the time of the assessment because he was not having contact. It may well explain why F flouted the expectation that he would keep away from M as he was desperate to see his son.

Unfortunately, in my judgment, that has only prolonged the complex and enmeshed relationship with M and caused him and M to go behind the back of their agreement with Social Services and act dishonestly as particularly evident in the November contact.

102. In the event I found her analysis to be both fair and balanced. The positives are faithfully recorded as well as the concerns and she rightly records that this is an intensely complex case.

CATCH Reports of M

103. Lesley Muddiman and Clair Farrow undertook work with M. Contained in a report dated 10th June 2014 there was the observation and analysis of 13 sessions in total from 3rd March 2014 to 9th May 2014. There were two further sessions on 5th June 2014 and 27th June 2014. The sessions were to provide M with the tools, advice, and strategies about managing behaviour and had been shown how to use them. The work ended to allow M to use and develop these skills.

104. A summary of the outcome of these sessions revealed that M was not consistent with her use of praise or behaviour strategies, focusing in calming down instead of preventing the behaviour. There were concerns that M would sustain and be consistent with the strategies, especially when stressed or worried.

105. There was a second referral to CATCH on 5th September 2014, the local authority requesting 4-6 sessions to recap the work previously undertaken and establish M's understanding of behaviour strategies and if any progress had been made.

106. There was an unannounced visit and a further 6 sessions. A summary of the observations included: (i) Z's behaviours had heightened; (ii) M is inconsistent in her implementation of boundaries and techniques; (iii) M was compliant with Z's actions, and (iv) there have been some changes to her original parenting style.

107. Ms Muddiman acknowledges that Z being removed from M would have a huge impact on him but is uncertain that M can provide the level of parenting that Z needs to ensure he develops into an individual who will develop socially acceptable behaviours.

108. It is clear from when **Leslie Muddiman** came to give live evidence, that she carried out conscientious and careful work with M that was carefully tailored in order to assist M in dealing consistently in managing Z's behaviour.

109. Of great significance, in my judgment, were her observations when

her team was recalled to do further work with M in September.

110. Incidentally I am wholly persuaded that appropriate and relevant work over eighteen sessions of behaviour support with M and Z had been given earlier in the year.

111. She commenced a series of visits from 11th September onwards. In a planned visit on 18th September M informed this witness that Z had been excluded from school for three days for assaulting a member of staff. She reaffirmed that she had been following the strategies given to her during the course of their previous involvement but said “she felt that her ex-partner, F, may do otherwise and she felt this could undermine the work that she had done so far.”

112. The visit on 24th September was significant and Ms Muddiman was clearly very concerned that “Z’s behaviour was more powerful than I had seen before; using that word is difficult when I am talking about a four year old child. On reflection I feel that this was my shock at the level that his behaviour had developed to.” She described an incident when Z wanted M’s attention, he had in effect strangled her when supposedly giving her a cuddle. Disturbingly M agreed with Z that he was cuddling and not acknowledging that this was clearly hurting her and she expressed great concern on M’s apparent compliance to Z’s actions even though they hurt

her or made her feel sick.

113. Her subsequent observations through to 17th October 2014 contained numerous examples of inconsistent use by M of the behaviour strategy.

114. She was clearly sympathetic as to how difficult and stressful it was for M to deal with Z's extreme challenging behaviours on her own. She said "Z may benefit from therapeutic work however given M's capacity around parenting I feel that she would struggle to support Z or utilise therapy given within her own environment." It is a compelling observation and one that I feel bound to accept.

115. In fact M's lack of consistency is a central concern in relation to this case because it is clear that Z's needs, in addition to therapeutic input, is absolutely consistent strategies and boundaries in relation to his behaviour .

116. Ms Muddiman said that she had not heard M shouting at Z. Her concern centred more on her lack of consistency going to her capacity to deal with Z and his difficulties.

117. Of particular interest therefore was her reaction when taken to the social worker's observation arising after a visit on 20th October when she waited outside M's house for twenty minutes and heard M screaming and

shouting at Z for that length of time. This witness said, “I have never heard M shouting. It doesn’t work and doesn’t help the child.” It goes directly, in my judgment, to the heart of whether M is able to parent consistently and incidentally gives credence to what F says about M’s volatile and irrational behaviour.

118. In cross examination she agreed with the diagnosis in relation to Z’s insecure attachment disorder. She is familiar with this condition having worked with children for some years suffering from a range of this and associated disorders.

119. She agreed with the proposition that Z was unsure of M’s availability and was looking for attention but maintained that he still needed boundaries and needed to be consistently parented.

120. She rejects any suggestion that M wasn’t properly supported and said that she was supported in a caring way and after having seen and observed this witness in the witness box I have no doubt that that was the case.

121. She did not believe necessarily that Z’s behaviour deteriorated only when he was in company.

122. Although Z has an untreated therapeutic disorder he needs parenting as well as therapy and she agreed with the proposition that without

treatment for his attachment disorder things were going to get worse and in any event expectation of quick progress must be very small. However she maintained her view that M was not consistent in following through behaviour strategies and finds it difficult to focus as she gets wrapped up in other issues in her life and she was concerned that M would not be able to change quickly enough in the right way to meet Z's needs.

123. Central again to her concerns was her view that M failed to apply the techniques that she had been taught and she has witnessed occasions when M has not deployed the no praise strategy, the star reward strategy and further used directive language. The end result is that M is not managing Z's behaviour. Having heard from M I accept her evidence on this crucial issue.

124. F asked why CAMHS had not been involved and she explained that they usually get involved when a child is in a settled place and clearly that is not the position at the moment as proceedings are continuing.

125. She rejected any suggestion by F that use of the behaviour step situated close to the back door was inappropriate and maintained that the strategies explained to M are correct and tailored to Z's difficulties. I accept her evidence even after having heard what M has to say that these strategies were not employed consistently by M and there would have been, in my judgment, a greater containment of Z's behaviour if they had.

126. She agreed that Z needed the best available care and better than average parenting. She was reminded of Dr Helps' evidence in relation to what Z would require namely, and I quote, "any carers and indeed professionals who try to work with him will therefore need a very high degree of self control to be able to withstand his provocations and to remain calm and focused on using consistent strategies to contain and calm him. Based on what I have read and seen I think this will be particularly challenging for either parent to achieve in a way that meets Z's needs." In essence, it was the lack of M's focus that troubled her and she highlighted the potential dangers for Z if any package of therapy is not followed consistently at home.

127. Perhaps most starkly in relation to her report and evidence she indicated that M would need daily support in maintaining parenting strategies with Z in order for him to be able to maintain a social and acceptable degree of behaviour especially as he gets older. Of course this is not feasible.

128. She writes in relation to M, "it is evident that she still cannot maintain a consistent approach to parenting Z. Without a consistent approach Z will continue to have difficulties which will only get worse for M to manage as he gets older and bigger in size." In short form, she just did not think that M could do it.

CATCH reports of F

129. Magi Zakrzewski and Emma Trafford undertook an assessment of F, the report of which is dated 19 September 2014. The assessment was comprised of support sessions and observations sessions as well as feedback and regular telephone contact.

130. The concerns included: (i) inconsistency of implementing parenting strategies; (ii) lack of insight into the impact of the parents' relationship on Z; (iii) F's ability to understand and respond to Z's needs is limited, and (iv) F lacks insight of his previous chaotic and abusive lifestyle.

131. The report concludes that Z should not be placed in the care of F.

132. **Magi Zakrzewski** gave live evidence in support of the assessment of F. She has impressive qualifications and I say from the outset that her report and her subsequent oral evidence was thoughtful, considered and balanced.

133. She explained carefully how the process of her involvement which amounted to in excess of 50 hours started with four sessions of support for F to involve careful explanations of play, stimulation and boundaries before she and her colleague went onto the assessment stage when it was

explained that they would only intervene to support as necessary.

134. Of great significance was her record that F appeared reluctant or unable to accept that he had failed to protect Z from abuse within the parental relationship focusing on M's behaviour rather than his own. Also at that time she recorded that he lacked insight into the impact of his own previous chaotic and abusive lifestyle.

135. In the assessment section there were a number of observation sessions and in each of them she recorded the verbal feedback in relation to the F's engagement with Z, both positive and negative.

136. F suggested at one stage in his cross examination that he had not received feedback in a written form but I am wholly persuaded that not only was the assessment of him both thorough and fair but that there had been appropriate and careful verbal feedback after each session.

137. What is demonstrated by her evidence both written and oral was her observation that F was constantly informed that he needed to be consistent in his approach to managing Z's behaviour and her record that F insisted that he could not change his behaviour until he had seen the recording of the sessions regardless of the advice offered and I am bound to say that F's insistence that he wanted written examples was not helpful although in fairness to her she did provide him with a list at the end of the period of

assessment, although by no means could it be described as comprehensive.

138. The report contains numerous examples of his lack of consistency in relation to the offering of sweets at inappropriate times, mealtime routine by way of example only. She found F to be chaotic in thought and behaviour and there were patterns in Z's behaviour which caused her to be concerned about his attachment style to F namely Z presenting as an insecure/ambivalent attachment style for example. She reported that F's actual understanding and ability to respond to Z's needs remained limited and his personality traits may impact negatively upon his ability to protect Z and accept professional input thereby placing Z at risk of further harm.

139. She went further than that in her live evidence and said that in fact F's behaviour increased Z's disturbing behaviour particularly when he over excited Z and gave him too many choices.

140. She agreed with Dr Helps' analysis in relation to the needs that need to be demonstrated by any prospective carers of Z namely the need for a very high degree of self control to be able to stand his provocation and to remain calm and focused on using consistent strategies to contain and calm. Her view is that F could not change his behaviour. She was clearly disappointed that her in depth discussions had not enabled him to be clear about taking advice from a professional in his child's interests and she said in her report, "it was concerning to observe F disregarding my advice at

times and how this impacted negatively on the behaviour that Z was displaying.” F, she said, was not likely to act consistently over a sustained period of time and needed insight into his own behaviour before he could begin to start meeting Z’s needs. She said that she was not sure that he was open to this and considered that that ingredient was vital to any positive placement with him.

141. She confirmed in cross examination to M’s Counsel that she agreed with the proposition that Z’s attachment to F was indifferent. In fact he did not seem to be troubled when parted from his temporarily or even at the end of contact.

The Local Authority’s Final Evidence

142. **Julia Kelly** is the social worker in the case and has been throughout the life of these proceedings. She is the author of three statements and, a co-author of the various care plans.

143. The local authority ask the court to endorse their final care plan of moving Z to a specialist therapeutic foster placement.

144. The local authority have identified two highly trained foster carers who have a wealth of experience caring for children with behavioural issues and highly trained in managing challenging behaviour. They are Action Plus trained and have only and always been therapeutic foster

carers.

145. Additionally the foster carers will be provided with a wealth of support, including:

- An agency psychotherapist as soon as Z is placed;
- Access to a specialist education team which will liaise with educational psychologist and provide in-house educational support until schooling resource identified post a SEN assessment;
- CAMHS and Occupational Therapists will provide support when placed in stable placement and work with the team attached to the foster carers.

146. The foster carers have a daughter of secondary school age. She has been there during her parents' careers as therapeutic foster carers. She is used to children with challenging behaviour and there are considered to be real benefits for Z.

147. There are no plans for reunification contained within the care plan. The local authority are clear that this possibility can (as it always is) looked at as part of the LAC process. The IRO will consider whether the parents have made the significant changes that are required and have been identified throughout these proceedings. Their ability to undertake this work, coupled with the risk to Z, will play a large part in the level of

contact and the possibility of return to the either of the in the future.

148. In common with other witnesses she too describes Z as a delightful little boy notwithstanding his challenging behaviour. It is clear that her involvement with him has been very frequent seeing him at least once a week and sometimes as much as three times a week. She is, in my judgment, uniquely placed to give evidence on his mother's management of his behaviour.

149. She is concerned as to the increase in his volatility and aggression, his behaviour is more challenging. There is increased frequency and intensity. I prefer her observations on this point to that of Dr Helps.

150. She is the author of a statement which deals with the inappropriate contact between M and F in November. It was on an unannounced visit with a student social worker, she reports that when M was asked she clearly stated she had not had any further contact with F. She challenged M on her claim at which point M disclosed that F had visited her home the previous Friday and she had allowed him in and he had stayed for upwards of two hours. It was then that F made accusations about M's relationship with another man; M taking the view that F had not changed and was trying to manipulate her. M stated that Z had been asleep while the parties had clearly been involved in an argument and had not seen F on 14th November

but Z disclosed to the student social worker that he had in fact seen F for a second time at the home. She took the view that had she not challenged M's statement she would not have disclosed seeing F for a second time and this goes to M's honesty and her capability of entering into a straightforward and honest relationship with social workers.

151. Apparently Z had told the student social worker, Ms Glennister, that, "daddy came to my house twice but we didn't call the police what Julia told us to." She stated that Z subconsciously or otherwise disclosed privately to the social worker an event which he knows should not have occurred.

152. It was she too who had witnessed the episode of screaming and shouting by M and Z while she waited with another social worker outside the property on 20th October an event I have already rehearsed in this judgment.

153. When pressed she indicated that a similar support plan would be available for M that which would be available to the foster carer if Z remained at home. I deduced it to be "broadly similar." Of course the missing piece of the jigsaw in relation to that support package would not be the therapeutic parenting that the foster carers would be able to provide.

154. It was clear from her evidence that it has been difficult to identify

foster carers with the necessary experience but she was clearly reassured that the foster carers were long term and committed to providing care for Z for as long as it took and knew that progress would be slow, anything between six months and five years.

155. She also saw a possible benefit in relation to the presence of the foster carers' 12 year old daughter. She initially described her as an "additional carer" but conceded later in cross examination that this had been a mistake but said in any event that this particular child had already experienced difficult children in the home when the foster carers had experience of dealing with particularly behaviourally challenged three year and a four year old.

156. She maintained that the contact plans, which had limited contact to M, were vital in order to be able for Z to settle and benefit from the support of the foster carers and if contact was allowed at the rate of six times a year for each parent Z would be engaged in parental contact once a month which she felt would make the transition more difficult.

157. She agreed under cross examination with the proposition that Z may always have an attachment disorder but maintained his behaviour could be worked on and this could best be done by safe and consistent parenting within an environment which was free from domestic abuse and violence. Otherwise she said she feared that the behaviours would get worse.

158. She disagreed with the suggestion that Z's behaviour had been quite good when at nursery initially as suggested by M but was clearly alive to the impact of changing Z's situation and potential disruption as a consequence of the CATCH assessments and contact to F.

159. She did not agree with any notion suggested by M that M had been consistent saying that her own observations and that of the CATCH workers did not back that up and certainly I am mindful of the examples given in the very helpful report of Leslie Muddiman which makes it plain that inconsistent management of Z's behavioural difficulties was not in his interests. She also did not agree that Z's behaviour gets worse when people are watching maintaining that matters escalated when M attempted to implement boundaries which would otherwise not happen. Of particular concern is that she had seen Z on a number of occasions to spit and kick and hit M for which he received no sanction or telling off.

160. She was challenged that the specific requirements for a beneficial placement as set out by Dr Helps namely that there should be dual carers and that Z should be a single child in placement were not available and that there was potential for competition by the presence of their own twelve year old child. She indicated that she thought that Z would have an opportunity to develop relationships with the carers and will have the attention from either carer at all times allowing for the fact that the

secondary carer would be out at work sometimes. Both were fully trained.

161. In answer to questions by F, she confirmed that F had indeed described his concerns about M and what he saw was her abuse and aggression to Z and all this has been noted as part of the child protection process. There was however no direct evidence until what she had heard on 20th October and the anonymised report of a neighbour. The risk assessment of M had made it plain that although there were concerns about M's issues in relation to anger they were not such as to remove Z from her care at that stage.

162. She agreed that by virtue of the proceedings this would be a stressful time for M and as a consequence Z. However that process was not solely to blame for the deterioration of Z.

163. She refuted firmly any suggestion that F had not been signposted to agencies that could help him. He had been referred to a CATCH assessment, recommended that he undertake a domestic violence course and take advice for substance abuse and perhaps undertake a holistic parenting course.

164. What seemed to be an issue in relation to F's cross examination was his frustration at the lack of communication from the social worker and he

criticised her for not working together in Z's interests.

165. What she says in her statement of 21st October perhaps best answers that in that she reported that F has little insight into appropriate boundaries and presents with obsessive and harassing behaviours towards professionals. She described a scenario where it was difficult to keep up with his level of communication – 18 attempts of contact in seven days as confirmed by his email of 12th September. Her legal department had arranged through F's then solicitors that there would be fortnightly meetings but it seemed that F only participated in two after which it seems that he took exception to the allegation of harassing behaviour.

166. He suggested that there were very few difficulties with Z's behaviour until he moved to Buckinghamshire and that the nursery in Southampton would say this but I am bound to say, having looked at the nursery report, that from early on it became apparent to staff that Z needed support to be able to control his behaviour and manage his feelings and emotions. I quote, "Z's uncontrollable behaviour soon resulted in staff and other children being hurt frequently although unintentionally." Looking at the care package available to foster carers in the care plan F asked whether the same training could not be made available to the parents and the social worker explained that the foster parents were trained therapeutic foster carers and that is why they had those qualifications. She further confirmed

that they were prepared for Z's extreme difficulties and knew clearly the extent of his behaviours. I note in passing that these foster carers are Action Plus trained 'to an advance level and have been practising as therapeutic foster carers for the entire of their foster caring lives'.

167. They will of course have their own support through their fostering adviser. In the event of Z being placed with either of his parents the social worker confirmed that all that was available to them would be available to the parents save and except those services that come through the foster carers' agency.

Parents' Evidence

The Mother

168. M is Z's mother and the author of five statements.

169. There is little doubt that at times Z is well behaved and loving and at other times she accepted physically and verbally abusive. There is little doubt that M is devoted to Z and if he were removed from her care it would be devastating for her and she opposes the local authority's application and care plan as she believes that removal would also have a devastating impact on Z.

170. Her case is straightforward: she wants Z to be placed in her care and for the therapeutic work recommended by Dr Helps to be put in place. In short form, she wants support to be able to parent Z and I have little doubt that life must be a tremendous strain for her.

171. She presented in the witness box as an emotional and vulnerable woman and I have little doubt that giving live evidence was a very great ordeal for her.

172. Although she wants Z to remain in her care she agreed with Dr Helps' view that he needed calm and consistent parenting which would have to be better than good enough. She also believed that it was important for any carer to work in an open and honest way with the professionals.

173. Cross examination of her centred on her lack of candour with Social Services' departments in the past and her relationship with F as well as what is said about her lack of consistency.

174. She was challenged that in one of her statements she claimed that she had never left her daughter, C, home alone but was able to agree that that was not right when presented with the police log in relation to an incident in July 2008 when police found C and D home alone and C was drunk, M having gone out to see a boyfriend and she was able also to concede that this did in fact happen a couple of times after this incident.

175. She was able to accept in relation to D, who I have already mentioned earlier in this judgment, that he was also exposed to the relationship with F and she did prioritise that relationship over D.

176. She agreed with the contents of a letter written by Stanmore Primary School in January 2008 describing D's behaviour as "rude and abusive to his mum and does not do as she asks. The school has tried to support mum with the introduction of using rules in the home linked to a reward system ..." and, "he gets upset when his mum lies and will argue with his mum in front of me or other members of the staff. However he is very concerned about his mum's welfare and safety." I note with interest that there is, as early as 2008, mention that M has been given guidance in relation to a strategy to manage D which clearly she was not able to implement. M was able to agree that at the end of 2007 Winchester Social Services were noting that they believed that D had witnessed abuse and was using abusive and threatening language. Of particular resonance in relation to Z, it was noted that when M stops playing with D in an attempt to divert his attention or wishes to go to the toilet or make supper, D will exhibit poor behaviour. Z of course mirrors that behaviour and she was able to agree that there were similar traits but D was not as physical with her. In any event she does accept that she was struggling to cope.

177. At the heart of this case and at the heart of the Threshold document is

of course her relationship with F which took place over eight or nine years and which was an “on off” relationship involving physical violence. The summary is contained in the threshold and I need not rehearse it further here save and except that on occasions the domestic violence and abuse was two sided with M shouting and throwing items but, in my judgment, the relationship was an enmeshed one with neither party being able to effectively disengage. The relationship resumed after M obtained the injunction. After M moved to Buckinghamshire in the autumn of 2013 she still took Z down to visit F at his address in January, the parties have been in touch throughout these proceedings and met covertly on two occasions in November of this year which I shall come to presently.

178. At one level M has clearly accepted that she needed to separate from F. She was able to accept that at times her emotional fragility has affected her emotional capacity to parent Z and accepted that particularly in 2011 things ‘got on top of her.’

179. It was a measure of her candour that she was also able to agree that she shouts and screams around Z and this is recorded in Southampton City Council’s child protection review conference notes of 2nd July 2012. Even then she was saying that she would want to bring Z up together with F explaining that there were trigger points in her loss of control which only happened with F. In the selfsame meeting F of course was saying that he

did not want to be in a relationship with M until she got help claiming that three months prior to the meeting M was trying to “hit the crap out of him” while Z was hiding in fear and he was defending him which was the worst incident for years. This of course is positive proof of Z being directly involved in a serious altercation between the parties for which they have been singularly unable to protect him.

180. Even more recently she was able to confirm that Z inevitably picked up on her arguments with F on the phone.

181. She was able to agree that F in September 2013, which precipitated her move to Buckinghamshire, used foul language and was frightening in Z’s presence.

182. She agreed that she was in “a horrible relationship” and had to remove herself and her son and knew that F should have no contact. Nevertheless it seems that Skyping took place in December and a series of Skype recordings are set out in the bundle and she agreed with the proposition that these communications would go from romantic to abusive and there is evidence of that in the transcript of the Skype recordings.

183. She agreed that Z’s language would have come from either herself or F and his knowledge of foul language and his use of it was harmful to him.

184. She agreed that she had completed in summer 2014 strategies and techniques in relation to domestically abusive relationships and its affect on children.

185. Of course against that background she now admits meetings with F on two occasions in November. (F I know says there were more visits). On one occasion F stayed overnight. Her deceit even extended to obtaining a SIM card so that she could communicate with F covertly.

186. To M's enormous credit she was able to accept this and the potential for great and continuing harm to Z. She explained how she felt isolated and thought that F understood how upset and worried she was feeling as she did that everybody was against her. She accepted as a consequence that there was a lack of prioritising of Z's needs.

187. She maintained that she did not know how F found her address, but of course it later transpired that she had shown him half the postcode in a Skype transmission.

188. She agreed that she had told Dr Helps that her head felt like 'a washing machine' although things were not as bad now but she accepted she needed help from long term psychotherapy but did not think that this would affect her ability to parent Z.

189. In relation to the continuing theme of lack of candour and honesty, she accepted that when she had said in an earlier statement that there had been no Skyping since February, this was a lie this occurring of course well before the February incident and evidence of a continuing relationship of some sort between the parties.

190. It was suggested that she minimised events in relation to Z's behaviour and had not been honest when, for example, he had last bit or spat at her but said, quite fairly, that sometimes she couldn't remember as the incidents happened so often and I believe that there is a real possibility that these incidents do happen very often indeed.

191. Most significantly in the terms of the identified care that Z will need she was able to accept in her statement of 10th November that she has been inconsistent but argued equally that the advice at times has not been consistent saying as she did that she was urged to use the naughty step for bad behaviour but then criticised for either using it too much and then for not using it. Incidentally in the same statement she complains that since Z was excluded from nursery she has been left to deal with his behaviour without any therapeutic work being undertaken with him. In relation to the reported account of 20th October, I am bound to say that her explanation that she wasn't really shouting or screaming is not accepted. I prefer the social worker's account and her own earlier admission in 2008 that she

does shout and scream accepting as I do the enormous pressure on her in caring for this very troubled little boy.

192. Significantly also she was able to agree that Z's behaviour was increasing in its intensity and accepted that this was partly due to her inconsistency by 'giving in' but also what happened as a consequence of him being excluded from school. I note also in one of her statements she attributes part of the difficulty to Z resuming contact with F from the summer of 2014.

193. A number of issues arose out of F's cross examination of M but I record that father seemed preoccupied in his cross examination of her in asking questions about their past relationship. M agreed with him that they did need to break up and the break up was not a smooth one and did affect Z. She agreed that Z had a bond with F and that he had a normal and loving relationship with Z. This was a surprising statement in view of Z's current presentation and the observations of Dr Helps in relation to what he would have experienced. That of course is not to say, in my judgment, that F does not love Z. He surely does.

194. In relation to Dr Helps, she said that throughout the assessment F spoke in a very hostile way about M. He showed little warmth or ability to reflect on the positives of their relationship and there was more than echo that in his cross examination of her.

195. M told him in answer to his questions that she had said to him that, “you are as bad a bully as Social Services.” She still believes it to be true.

196. Although she conceded that the number of abusive encounters when Z was present were limited, Z would have still heard arguments on the telephone. In any event even if Z was not around it affected her, it made her feel upset and that impacted on Z.

197. She agreed that there were similarities in relation to the behaviour that she had experienced from D to that of Z but D did not hit her. She described F’s “bond” with D as good.

198. She agreed with F’s suggestion that direct violence from him was limited to three occasions.

199. She agreed with F that she had received very little help from Social Services only advice to get out an abusive relationship but of course I recall that that was enabled by Social Services who assisted her in her move to Buckinghamshire.

200. There was clearly agreement between both M and F that M was scared of Social Services and scared to admit things with fear of Z’s removal.

201. Frankly there was not much of evidential value that emerged from F's cross examination of M even allowing for how difficult it would have been for both of them save and except it was clearly an attempt to go over the 'ups and downs' of their relationship and for F to attempt to portray himself in a better light. I am bound to say also there was very little focus in relation to Z's needs for the future.

202. M was able to accept from the guardian's solicitor that although she was able to see the potential for undoing all the good work if Z and she had unauthorised contact with F but she maintained, rather surprisingly, that that would not have happened if she had received the right support from Social Services.

203. Disturbingly and profoundly she mentioned at the close of her evidence and in the context of Z being exposed to use of the word "slapper" that if he hears it on the television he hears "slap her" and comes straight up to her and starts to hit her and slap her because he thinks it means hitting. Equally if he hears the word "bite" he tries to bite people. Apparently another trigger word is "battle"; on hearing this Z wants to fight. This, in my judgment, is a depressing indicator of just how far Z has to go and a measure of his extreme difficulties.

204. I have little doubt that M is committed to Z but the evidence reveals

severe and serious concerns regarding her lack of ability to apply any model of parenting consistently (an essential component in Z's case) and to work openly and honestly with the local authority. Her vulnerability was all too evident when she gave her evidence.

The Father's evidence

205. F is Z's father. He has filed three statements. He has had to contend with representing himself and having some sort of stomach bug during the course of this final hearing.

206. Due to his admission that he had been in contact with a national daily newspaper and had been divulging confidential information about this case I was compelled to make an order to prevent him from doing at the start of the hearing. However I am fully persuaded that I have understood his case and his lack of representation has not prevented me from doing so. Necessarily however the hearing has taken longer.

207. His position is that Z needs to be returned to his family and his plan is that Z should live with him in Southampton in his home with his extended family nearby. In that eventuality he would allow contact to M as much as two days per week eventually to include weekends. Z loves M. Contact handovers would be conducted by the family. His second option was for Z to stay with M with support from Social Services in order to enable M to receive therapy.

208. He also raised the possibility of Z attending a therapeutic Boarding School but that seemed to me to be a poor prospect for a five year old child when compared with the option of therapeutic foster carers.

209. His concerns regarding M however are many. She has anger problems and he told Dr Helps that Z spits and swears because of what he has learned from M. F was clearly very frustrated that his concerns about M had not been accepted by Social Services and that he has been painted as the villain and the perpetrator of domestic violence. If Z were placed to M he would want contact also of two days per week and eventually staying contact.

210. He opposes the care plan to put Z into therapeutic foster care. He describes it as “tragic” for Z and “jumping the gun” as effectively removal to foster care should only be used if either he or M failed. Throughout the hearing he has been using the expression “waving two fingers at the local authority.” By way of explanation he told the court that he had been trying for eight months for contact. He knew where Z lived since November 2013 because M had showed him on Skype part of a postcode and mistakenly revealed the other part of the postcode. The papers disclosed the nursery and M’s new name and it was easy for him to establish where she was but he emphasised that he did not go there until November 2014 in circumstances which he has set out in his statement.

211. I accord to him a measure of understanding in relation to his grievance that he has been painted as the villain but he has been able to accept that it was the continuation of his toxic relationship with M that lies at the heart of this case.

212. When cross examined by the local authority it was suggested to him that a letter from the head teacher at D's school in January 2008 revealed that "D does not like his mum's boyfriend (F) and is worried that she is going to be hurt by him. D has stated that F calls his mum nasty names. When F has stayed over D will leave home early and arrive at school around half past eight. D has described violence at home involving F breaking a window and punching a hole in the door." F conceded that they were not good parents at that time and that he was convicted for criminal damage for the door.

213. Nevertheless he maintained that he was not abusive but needed help to deal with M's anger problem and certainly there is some evidence in the police documentation is that the door panel was broken as he was trying to leave the property, he says to escape M.

214. However that and other examples including the occasion when he was convicted that does not sit well with his observation to Dr Helps "that he had never acted violently and had done nothing disproportionate."

215. I was not entirely persuaded that he accepted that Z's problems were as a consequence of "learned behaviour" and was anxious to limit occasions when he had behaved badly. He said, "M was the aggressor I was more of the victim." He accepted that this did not come out in the court papers. He also suggested that Z's bad language is attributable to what he has learned from M, his language being limited to calling her 'a slapper' in Z's presence. A word which, as I have rehearsed, triggers extreme behaviour in Z.

216. He resisted any notion that he was subjecting M to his controlling behaviour. During the relationship they both looked at one another's mobile phone as they did not trust one another.

217. He was resistant to any notion that he had done nothing in relation to addressing domestic violence issues and has taken advice. However he has also disclosed Dr Helps' report to his GP who has referred him for therapy in Southampton.

218. He was challenged in relation to his honesty and in particular that "all communication between us has ceased" in the statement that was dated 14th November. By that time, on his account, he would have had two unauthorised contacts with M and Z on 6th and 8th November with another

to take place on the day that he signed his statement.

219. His explanation for that is, quite frankly, incredible. He told the court he was forced to sign the statement by his solicitor and therefore it was his solicitor's fault. He was reluctant to accept it as a lie which of course it was and I perceive his evasiveness on this issue as a direct attempt to manipulate the court. It is evidence of his dishonesty.

220. As to his visit to the property, he did not accept that by visiting the property in breach of the agreement he was not prioritising Z's needs. His case is that it helped M so as a consequence helped Z. This shows quite staggering lack of insight on the potential for damage to Z.

221. As to the suggestion that the CATCH report indicated that he could not provide consistent parenting to Z, he complained that he did not get proper feedback. It is plain from the report, which I accept, that he did and I prefer the evidence from the CATCH report to his evidence on that issue.

222. He accepted that he found it difficult to work with Social Services and this was recorded as early as 1st July 2011 by Southampton. He has complained that he has been prejudged by everybody except CAS and complained of 'cloak and dagger' tactics. Incidentally I record here that he also admitted that he had taken steps to contact one of the contact

supervisors through Facebook in order to persuade her to speak to him “off the record.” Another example, in my judgment, of his manipulative behaviour.

223. He denied any suggestion put to him by M’s Counsel that his evidence was an attempt to discredit M to enforce his own agenda but I am bound to say that that was my distinct impression not only of his own evidence but also his cross examination of M. His position was that he could not allow M to continue to lie but denied he was sabotaging her case.

224. In the same breath he did indicate to the court that M was phoning him in between the filing of her three statements in relation to her explanation for the November contact.

225. He said she just wanted to find out what was in his statement and hence the telephone call.

226. He was questioned about his motive for going to M’s address. His first position was that he was worried about a scratch on Z’s neck but he said in evidence, “I didn’t need to find out about the scratch really.” He went round to tell her to stop arguing with Z but, in my judgment, his visit was opportunistic and controlling being aware that M would be in a mess after reading the social worker’s latest statement and final evidence.

227. He went on further to say that M disclosed part of the postcode to him in November 2013 because she wanted him to know where she was so that she could trap him in an injunction.

228. It was suggested to him that he was ‘a loose cannon’ but he reiterated he would keep away if things could be dealt with by giving the necessary information to him. It is that conditional issue that worries me and I have little doubt that he has a capacity to ruin any placement with M and provide a continuing risk to her and Z. I recall that he said to Dr Helps that he would fight for the rest of his life to have Z living with him. He was asked about how he thought this might affect Z and refuted Dr Helps’ comments about the psychological dangers to children if parents embark on lengthy contact and residence disputes and made it clear that he and his family would go as far as selling his parents’ house in order for “Z to have his family back.”

229. A scenario was suggested to him whereby advice from the therapeutic providers for Z may indicate that there should be no contact to him and he reiterated that he would try every legal means to get around having no contact before saying that he now accepted he may need to stay away. I was not persuaded.

230. At the conclusion of his evidence I was left with the impression of F as a father who loved Z and who took a great deal of delight in his

company. There are endearing positives in some of the contact notes but I accept the CATCH reports in relation to his lack of consistency in parenting and his inability or unwillingness to take instructions on those particular issues. He is incapable of working in a collaborative way with Social Services and will continue to manipulate and control M if it will serve his own agenda.

231. However after reading and hearing his evidence and considering the social worker's detailed note of her having heard M shout and scream at Z for twenty minutes on 20th October, there may well be some substance to F's assertion that M too behaves in unacceptable ways to Z and contributes to his behaviour and the use of appalling and extreme language.

Guardian's evidence

232. **Carin Rothmann** is Z's guardian in these proceedings and the author of two reports.

233. In her last case analysis prepared for this final hearing she supports the local authority application for Z to be removed into therapeutic foster care. Central to her concerns is of course Z's extremely concerning behaviour. She attributes that to the emotional harm he has suffered and her view is that neither of his parents have the capacity to manage his behaviour effectively.

234. Significantly also, in my judgment, is her observation that there was a marked regression in Z's behaviour after the support stopped leading to the further referral to the Junior CATCH team in September 2014 to reinforce the earlier work taken with M.

235. So far as Z's contact with F is concerned which recommenced in July 2014, she draws from the contact reports that Z has displayed similar behaviour towards F and there have been occasions where he would spit, swear and act in a physically aggressive way towards F although, as F highlighted when he gave his evidence, she was able to observe his contact on 27th November which she described in her written evidence as "mostly positive" and in her live evidence says "interactive and lovely contact." She made the observation however that this was limited contact in the safe environs of a contact centre.

236. In answer to F's questions she confirmed that the contents of her report in that she did not think that F had the ability to parent Z the way he was now and was resistant to any notion that if F was to have care of Z he should have a further twenty hours parental training. I am of course mindful of the fact that he has had in effect in excess of fifty hours input from the Junior CATCH team.

237. It is clear also the guardian had concerns that in the event of Z being placed with F there would be issues surrounding continuing contact with M and the risk of domestic discord. As far as she was concerned the existing assessments provided sufficient evidence to make a decision for Z.

238. She agreed with the proposition that placement in any foster care would have a risk of breakdown and the risk that Z would be uncontainable in a domestic situation if the placement breaks down. It was suggested to her that it was just too high a risk to remove Z from M but while acknowledging that it was a high risk it is plain that she thought that the risks of staying in the existing placement would only lead to history repeating itself particularly as M could not protect Z from abuse as was evidenced by the November meetings between the parents and it would be much harder for F to disrupt the foster placement.

239. The guardian reminded the court that she did not support early removal of Z when the local authority made an application following the November meetings but was concerned that so far as she is concerned that as a consequence there have been huge steps backwards.

240. She was able to acknowledge the potential loss of family contact but maintained her position that Z's parents would have six times a year each contact to him because he "has a craving" for his parents. I have of course in mind the social worker's observation about Z's need to settle and the

potential risk of his placement being disrupted.

241. She too would have preferred Z to be the only child in the foster placement but was reassured that the foster carers have experience of dealing with a child with aggressive behaviours and they did not give up on the two previous children in their care because of their behaviours. She said “they will stick it through for Z and manage his behaviours.”

242. I was struck with her description of Z in her final report: “The impact that the past experiences has had on Z is already quite severe. He has been isolated from his peers at nursery, he does not learn how to form acceptable social relationships, and at a very young age he requires intensive therapy. Z uses abusive language and behaviour to get his way and to get attention from anybody not just his parents.” In my judgment this is an appalling picture of a five year old child and a measure of the degree of consistent and patient work that will be required with him if he is to have any chance of avoiding serious emotional traumas in his life.

Law

243. I remind myself that Hale LJ (as she then was) said in *Re C and B (Children)(Care Order : Future Harm)* [2000] 2FCR 614 at paragraph 33

“... under Article 8 of the Convention both the children and the parents have the right to respect for their family and private life. If the state

is to interfere with that then there are three requirements: first, that it be in accordance with the law; secondly, that it be for a legitimate aim (in this case the protection of the welfare and interests of the children); and thirdly, that it be “necessary in a democratic society” “.

244. I have firmly in mind that under normal circumstances the best person to bring up a child is a natural parent and the powerful remarks by Mr Justice Hedley in *Re L (Care : Threshold criteria)* [2007] 1 FLR 2050 and the toleration that society must have to the very diverse standards of parenting “including the eccentric, the barely adequate and the inconsistent”.

245. I also adopt and agree with the propositions advanced in *Re MA (Care Threshold)* [2010] 1 FLR CA 433 that the significant harm that I should have regard to must be sufficiently high to justify the momentous step of taking children away from their parents and the risk must be an unacceptable one.

Threshold criteria

246. The parents have conceded the local authority’s final threshold document in its amended form in relation to clauses 1 to 5. In summary, Z has suffered significant harm at the relevant date, and is likely to suffer significant harm, such harm being attributable to the care given to him by his parents for the purposes of s31 Children Act 1989.

247. What remains at large is the local authority's contention that despite significant local authority support the parents have been unable and/or unwilling to make and sustain sufficient changes and further, that neither parents have taken on board the local authority's concerns and blame each other and take little or no responsibility themselves.

248. To M's enormous credit, when she gave her live evidence M was more accepting of her apparent inability to sustain changes. F's case is of course he has not been given a chance to parent but I am wholly persuaded that his ability to do so has been very thoroughly assessed indeed. Therefore, on the balance of probabilities, I find those additional paragraphs proved and the threshold is crossed in its entirety.

The welfare stage analysis

249. It is Z's welfare that lies at the heart of this case. It is the paramount consideration. The behaviours that he exhibits at just five years old are truly shocking. They have been rehearsed time and time again in the evidence and he has reached a stage where he is able physically to hurt M when in an incontrollable state. A welfare decision is required in relation to his future urgently by reference to the considerations set out in s.1 of the Children Act otherwise known as the "Welfare Checklist."

250. There are three options in this case: placement with M, placement

with F or placement into specialist therapeutic foster care. Much has been made in this trial of a risk of breakdown if placed in foster care having regard to Z's extreme behaviour and the consequences to Z should be thrown into the balance when considering the unconditionality of M's "faithfulness." I keep this in mind.

251. I take each of the considerations under the Checklist in turn.

- (a) The ascertainable wishes and feelings of Z considered in the light of his age and understanding.

Z loves his parents and they love him and placement with parents is always the first consideration. Equally it must be true that this confused and unhappy little boy would also like to live in a home free of risk of harm, emotional or physical.

- (b) His physical, emotional and educational needs. Dr Helps in her evidence, both written and oral, has made it clear as to the nature of care from any carer that will be required to meet Z's needs namely openness and honesty, calm and focused care, the ability to provide consistent boundaries, the ability to work with professionals, the ability to withstand great provocation and provide consistent care. The evidence of the CATCH assessors makes it plain that the parents are unable to parent Z consistently and take on board the advice of professionals. The clandestine November meeting severely

undermined the view that the parents will be open and honest with professionals. F's own evidence is riddled with his observations of his inability to work with social workers. These features severely undermine any confidence that either parent could meet Z's necessary needs. As I have said, the main strength of M's case is her unconditional faithfulness to Z but it is not enough.

- (c) The likely effect of any change in circumstances. Separation from M will be intensely painful for Z. In my judgment this is likely to be mitigated to an extent, and over time, by the reduction in the contact as proposed in the addendum care plan and the ability of specially trained therapeutic foster carers to manage the situation.
- (d) His age, sex, background and any characteristics of his which the court considers relevant. It is a deeply significant feature of this case that Z has been on child protection plans for much of his life. He has attachment disorders to both his parents and his behaviours are some of the most extreme that Dr Helps has encountered.
- (e) Any harm which he has suffered or is at risk of suffering.

Z is at risk from the continuation of the parents' enmeshed and toxic relationship. The effect of Z's learned behaviour has been devastating for him and both parents must take the responsibility for

the damage that they have caused him.

That complex relationship is bound to continue in one form or another if either parent has the care of Z because issues will inevitably arise in relation to contact and the consequent need for the parents to be in touch with one another. In my judgment having seen the parties and heard them in evidence there is the prospect of private law litigation continuing throughout Z's minority. It is an appalling prospect for him.

Throughout the trial it has been difficult to establish where the blame may lie in relation to one party's allegations against the other. The court has been invited to make a finding that this is an enmeshed, toxic and volatile relationship and I have no difficulty on the evidence in making that finding.

It is a matter of great concern to the court that notwithstanding all the efforts that were made to move M away from F's locality into Buckinghamshire that the parties Skyped and communicated up until May 2014 and were able to meet clandestinely in November in breach of a placement with parent agreement and in circumstances where M had already attended and completed a programme with the Freedom Project.

- (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.

The evidence in this case both written and oral is clear, namely that F lacks insight into the reason why Z presents with his difficulties. I accept the assessments of him that he will be unable to prioritise Z's needs consistently, work with professionals and take advice.

Although it is correct that some good contact has been observed from time to time (particularly by the guardian) there has been overwhelming evidence of his lack of consistency.

It is also clear that F has given very little thought in relation to the practicality of caring for Z. It would be an essential plank of any package of care that F would need to work with Social Services and other related professionals and that would be difficult, in my judgment, for F who is clear that there is some sort of Social Services' agenda against him. On his own admission he still smokes cannabis regularly and is yet to undertake psychotherapy. It is difficult to see how he could prioritise Z's needs given his own complex issues and indeed, lack of honesty.

I turn to M. There is little doubt that she has devoted herself to Z but I find as a fact that she has been unable to consistently implement the

strategies that have been suggested to her. There is little doubt that Dr Helps was persuaded that she has been attempting to implement the strategies and hence her recommendation that there is little hope for Z unless there is absolute consistency in the way that he is handled. I accept the assessment of Ms Muddiman and the social worker, Ms Kelly, in relation to examples of M's inconsistency and her extended shouting at Z on 20th October was, in my judgment, very clear evidence of her failing to introduce the strategies that she had been guided in.

There is a substantial risk that Z, if placed with M, would receive inconsistent parenting and this would undermine the urgent therapeutic work that he requires.

I observe in passing that M tends to minimise Z's extreme behaviours. I suspect she does this because she loves him and as I have repeatedly said, that is the main strength of her case namely the fact that she would be prepared to endure any of his behaviours rather than lose him.

There must be also a substantial question mark on M's ability to work openly and honestly with social workers. On her own admission she purchased a SIM card in November no doubt to better

communicate with F covertly and subsequently gave a false statement to the court.

- (g) The range of powers available to the court under this Act and the proceedings in question. The evidence is clearly overwhelming in relation to rejecting F's candidacy to care for Z for all the reasons that have been rehearsed.

The realistic options are of course either a care order or for Z to remain home under a supervision order but it would be plain from the observations that I have made in relation to M's lack of consistency that there would be grave disadvantages in relation to placing Z with M.

The local authority care plan includes the provision of two therapeutically trained foster carers who have experience in dealing with children of Z's age who display difficult behaviour. Dr Helps, I recall, recommended that Z be placed as an only child in the placement and the proposed foster carers have a 12 year old daughter. It is not possible for me to say whether that will present any positive in relation to Z is concerned but I am satisfied that the best package available is on the table so far as Z is concerned.

Analysis of the balancing exercise : Decision

252. There is of course a risk of placement breakdown even with experienced therapeutic foster carers and the comprehensive support package set out in the care plan. That risk has to be placed against the risk of harm to Z by removing him from M's care where he has been cared for since birth.

253. However Z has suffered significant harm and continues to suffer that harm and I have no confidence, on balance, that Z's interests would be met by M having regard to all of her difficulties which I have rehearsed in great detail in this judgment. The guardian has said in her report that "Z has been exposed to instability and risks for a long time whilst in M's care, whilst receiving support, with no significant and sustained improvements. I believe it is time to change the cycle of the last few years."

254. That, in my judgment, should be set against the observations of Dr Helps when she was being pressed by the court in her evidence about the balance of harm stood by her original position but said "I am very aware that it is unusual to take the position against the local authority and the children's guardian but in this case there is a glimpse of hope that with the right package of care Z might be able to remain in a family environment." This I am afraid is an expression of hope based on a limited observation. I prefer the lengthy assessments of the CATCH workers and the social worker in assisting the court to determine the balance of harm and Z's

welfare interests.

255. For all these reasons I approve the local authority care plan. I approve the regime for reducing contact. There will be a Looked After Children review, which will look at the issue of contact after six months in the light of Z's needs. I am pleased that the local authority have taken on board the remarks of Dr Helps in relation to the impact of Z of anything other than a reducing regime of contact but I am clear that in the medium and longer term the level of contact to parents will be guided by Z's needs. I look to the Independent Reviewing Officer to ensure that Z's care package is consistently applied to meet his needs. This will require a proactive approach to reviewing his progress and ensuring that resources are applied when required. It will also involve assessing whether levels of parental contact should go up or down. For example, I envisage, a greater contact for F if there is acceptance of the judgment and if it will bring benefit to Z. Equally, there may be some therapeutic value after time for increased contact to M if there is benefit to Z in close consultation with the therapeutic foster carers. These are decisions for another day and another mechanism.

256. I accordingly make a Care order in accordance with amended Care Plan

