

Neutral citation number [2025] EWFC 256 (B)

IN THE FAMILY COURT SITTING AT OXFORD

HEARD ON 1st to 7th August 2025

HANDED DOWN ON 11th August 2025

Before

HER HONOUR JUDGE OWENS

Between

Oxfordshire County Council

Applicant

and

M

First Respondent

and

F1

Second Respondent

and

F2

Third Respondent

and

A, B, C and D

**Fourth, Fifth, Sixth and
Seventh Respondents**

Representation:

For the Applicant: Mr Dove, Counsel

For M, First Respondent: Mr Mulholland, Counsel

For F1, Second Respondent: Mr Simons, Counsel

For F2, Third Respondent: Ms Kotilaine, Counsel

For A, B, C, and D, acting through their Children's Guardian, Ms Lawrence: Ms Williams, Counsel

1. This judgment is being handed down in private on [11th August 2025]. It consists of 36 pages and has been signed and dated by the Judge. The Judge has given permission for the judgment (and any of the facts and matters contained in it) to be published on condition that in any report, no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by name, current address or location [including school or work place]. In particular the anonymity of the children and the members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that these conditions are strictly complied with. Failure to do so will be a contempt of court. For the avoidance of doubt, the strict prohibition on publishing the names and current addresses of the parties will continue to apply where that information has been obtained by using the contents of this judgment to discover information already in the public domain.

INTRODUCTION, BACKGROUND AND EVIDENTIAL SUMMARY

1. This is the final hearing in respect of applications by Oxfordshire County Council for care and placement orders. M is the mother of the children concerned, A, B, C and D. F1 is the father of A and B. F2 is the father of D, and F3 is the father of

- C. The family have been known to the Local Authority since 2022, but prior to this were known to social services in another area.
2. On 8th August 2024 the children were removed by police exercising their powers of protection from the home of the maternal grandmother. Home conditions at the home of the mother were also found to be so unsanitary and unsafe that it was necessary to remove the children to foster care. These proceedings commenced on 15th August 2024, following an EPO granted by the Court on 9th August 2024. Concerns at this point included the extremely poor home conditions, parental drug use, chronic neglect, parental mental health difficulties and domestic abuse. As the Guardian noted in her final analysis and recommendations at E169, it is difficult to work out why it took so long for protective action to be taken to safeguard the children. There is no clear summary of the entire history of social services involvement in the initial SWET, the chronology at C19 in that document started in May 2022, and subsequent local authority case summaries prior to this FH simply stated that the background was set out in that document. There is a summary of the fuller social services involvement going back to February 2019 in the background section of the parenting assessments in section C.
 3. Interim Care Orders were granted by HHJ Moradifar on 15th August 2024, and the children were placed together in foster care, where they have remained. The first Case Management Hearing, listed in accordance with PD12A, was conducted on 11th September 2024. By the time of this hearing, F3, who as noted above does not have parental responsibility for C, had been located and served with notice of the proceedings. He attended the hearing and applied to be joined as a party, which was opposed by M. A Further Case Management Hearing (FCMH) was

listed on 4th October 2024 to deal with the contested application to join F3, necessary case management, and the format of the Issues Resolution hearing which was listed on 10th February 2025.

4. At the FCMH on 4th October 2024 F3 was joined as a party, but his access to some evidence was limited to address M's concerns about information being shared with him. Participation measures were also put in place in light of allegations made against F3 by M.
5. At the end of November 2024 the Local Authority applied to re-timetable due to a combination of redactions taking longer than anticipated, M having missed an appointment for the purposes of a cognitive assessment of her, delay in completing a kinship assessment due to another Local Authority having been unable to locate records, another potential kinship carer having vacillated about assessment, and delays in securing an ADM date. An FCMH was listed for 10th December 2024 to consider this application.
6. At the FCMH on 10th December 2024 the case was re-timetable to a new IRH on 7th March 2025, however on 21st February 2025 the Local Authority applied again to re-timetable the case. The basis for this application was that there had been *“significant delay in the children undergoing their adoption medicals which...resulted in them being unable to be considered at ADM and subsequently the Local Authority [were] not in a position to file their final evidence” (B235)*. This application led to an FCMH on 26th February 2025 at which the proceedings were re-timetable again, with a new IRH date set for 9th April 2025. 26 weeks for this case expired on 13th February 2025, so an extension to the statutory timeframe was also required.

7. At the effective IRH on 9th April 2025, F3 did not attend and had not been engaging with proceedings or providing instructions to his solicitors for some time. M, F1 and F2 were opposing the Local Authority final care plans for the children, so this Final Hearing (FH) was listed. I also listed a Pre-Trial Review (PTR) on 16th May 2025 to try to ensure that the FH was effective and to determine any participation measures, as well as to review a properly completed witness template since this had not been available for the IRH. F3 was warned that if he failed to attend the PTR, failed to give instructions to his solicitors and continued to fail to engage with proceedings, he may be removed as a party at the PTR. On 30th March 2025 F3 had applied for a declaration of parentage and a parental responsibility order in respect of C. He also applied for further hair strand testing. He was also warned that these applications may be dismissed.
8. At the PTR F3 did not attend, did not give instructions and provided no explanation for these. He was therefore removed as a party to the proceedings and his applications dismissed. On 14th May 2025 M had applied for a reverse residential assessment of her parenting. At the PTR she agreed to her application being adjourned to be considered at the FH. Witness requirements were confirmed for the FH, including that it was not necessary for Dr Wilkins, who had conducted psychiatric assessments of M and F1 (in the bundle at E149-E167 and E130-E148 respectively), to be called as a witness but permitting some limited further questions to be sent in relation to M. The addendum report dated 10th July 2025 in response to those questions is at E230-E236. Dr Wilkins concluded that M has complex post traumatic stress disorder (PTSD), and an underlying intellectual disability which complicates her mental health. Deficits in her parenting were likely to be related to her intellectual disability, but also to her

co-dependent personality and poor choice of partners. He recommended that she would benefit from treatment for her complex PTSD but had concerns about whether she would engage as well as her ability to benefit from it. He also recommended that she would benefit from attending a domestic abuse survivor programme. His opinions did not change in his addendum report, having reviewed the updating evidence received since his first report. In relation to F1, Dr Wilkins concluded that he suffers from a complex interaction of mental health problems characterised by lifelong learning disability, psychotic symptoms, and bipolar disorder, exacerbated by the use of cocaine and cannabis. At the time of the assessment, he was receiving treatment under the supervision of mental health services, and Dr Wilkins recommended that this should continue.

9. In addition to the psychiatric assessments noted above, Dr Fairweather completed a cognitive assessment of M (E96-E112). This concluded that M had an overall cognitive function within the low average range of ability and recommended that the parent assess model was used when considering her parenting capability.
10. Dr Boardman completed a cognitive assessment of F1 (E74-E95), which concluded that he had significant cognitive challenges and functioned within the extremely low range of intellectual ability. Dr Boardman recommended that either a PAM or parent assess model of assessment was used to assess his parenting capability, and that he should have access to an advocate for court.
11. F2 was cognitively assessed by Dr Boardman as well. Dr Boardman concluded that he functioned within the very low average range of intellectual ability, with significant deficits in verbal comprehension and processing speed, and recommended that he should be supported by an advocate for all meetings and

hearings. F2 has not engaged with the majority of these proceedings. He did give instructions to his solicitors in early April to the effect that he would be seeking to be assessed as a carer. However, he has not engaged with the allocated social worker who took over in early May and he did not attend the PTR nor give instructions to his advocate. He was granted an extension to 4pm on 30th May 2025 to file his final evidence and to respond to the final threshold but has failed to do so.

12. Various family members have been put forward to be assessed as potential carers, however very sadly none of them have been positively assessed. There has been no challenge to any of the negative assessments in section C, and all parties agree that there is thus no alternative kinship carer to be considered in this case.

13. I have read the evidence contained in the Bundle, and heard evidence from the previously allocated social worker, the Family Finder, the current allocated social worker, and the Guardian. F1 also wanted to tell me his views about what the outcome of this case should be, and therefore briefly gave me evidence about this.

PARTIES' POSITIONS

14. The Local Authority seeks final care orders with plans for adoption for each of the children. They also seek placement orders to enable them to place the children for adoption without the consent of the birth parents and thus ask the Court to dispense with the consent of the parents who hold parental responsibility for the children concerned. The Local Authority acknowledges that the current foster carers have provided very high-quality care for the children and are willing to offer

long-term fostering for them and accepts that it may not be possible to place all four children together in an adoptive placement. However, the Local Authority seeks approval of final care plans for adoption even if this would mean separating the children. The final care plans would mean that a single adoptive placement would be sought for the children for a period of three months, and then a six-month search for two separate adoptive placements would be undertaken.

15.M began this FH opposed the making of final care orders and the final care plans for adoption. She applied by way of C2 dated 14th May 2025 for there to be a reverse residential assessment of her. Initially her case was that she had made sufficient changes to enable the children to return to her care, either at the end of this FH or at the conclusion of extended proceedings after the reverse residential assessment. However, overnight on 4th August she made the very brave and difficult decision not to put herself forward to care for the children or to seek an extension to the proceedings. Her primary position was thus that she would support the children remaining in long term foster care under care orders but continued to oppose final care plans for adoption. She also wanted as much contact as possible with the children.

16.F1 accepts that he cannot care for A and B but does not agree with the plans for them to be adopted. He also agrees with the children being made subject to care orders. He was unable to participate in the hearing on day four, but was content for Mr Simons to represent him, and did manage to return for day five when I heard his brief evidence and closing submissions. He also wanted as much contact with A and B as possible, asking me to approve a plan for them to see him twice a month in person and as often as possible by video.

17. F2 did not attend this final hearing. He had given oral instructions to his legal representatives on 1st August 2025 that he wanted the best for D and trusted the Court to make the right judgment. He responded to previous threshold allegations concerning him and his response in September last year indicated that he did not accept the majority of the allegations (A10-A14). His only written evidence filed in these proceedings was his statement dated 6th September 2024 (C85a-C85i), in which he wanted D to return to live with M and be cared for by him with M. Since that statement M says that they have separated. He has not responded to the final threshold document filed on 8th April 2025 (A66a-A66c).
18. The Guardian acknowledges that the choice between long term foster care and adoption is a finely balanced one in this case. On balance, she has concluded that the adverse impact on the children of potentially being placed separately for adoption outweighs the adverse impacts of remaining in long term foster care.

RELEVANT LEGAL CONSIDERATIONS

19. In addition to considering section 31 (2) of the Children Act 1989 regarding threshold, I have considered the welfare checklist in section 1(3) of that Act and had regard to the article 8 rights of M, F1, F2 and the children. I have also had regard to the article 6 rights of all concerned, including any necessary participation measures. I have also considered the options for the children applying the considerations set out in *Re B-S (Children)* [2013] EWCA Civ 1146. I have considered section 1 of the Children Act 1989 with regard to the no order principle and the issue of delay. Since the Local Authority final care plans are for adoption, and there are applications for Placement Orders for the children as a

result, I have also considered the welfare checklist contained in section 1 (4) of the Adoption and Children Act 2002 (ACA).

20. I have also considered the case of *Re D-S (A Child: Adoption of Fostering)* [2024] EWCA Civ 948, which contained a useful review of the law in relation to fostering or adoption:

1. *Wherever possible, consistent with their welfare needs, children deserve an upbringing within their natural families (Re KD [1988] AC 806; Re W [1993] 2 FLR 625). Care plans for adoption are “very extreme” only made when “necessary” for the protection of the children’s interests, which means “when nothing else will do”, “when all else fails.” Adoption “should only be contemplated as a last resort” (Re B [2013] UKSC 33; Re P (a child) [2013] EWCA Civ 963; Re G (a child) [2013] EWCA Civ 965).*

2. *The Local Authority relies on the judgement of Pauffley J in Re LRP [2013] EWHC 3974 (Fam) when she said the following in respect of a guardian’s recommendation for long term foster care in respect of a 10 week old baby:*

39. *Ms Gorbutt’s report suggests that long term foster care would be a “means by which permanency can be achieved”; and that “a long-term foster home can offer ... commitment, security and stability within a new family...” I profoundly disagree with those contentions. Long term foster care is an extraordinarily precarious legal framework for any child, particularly one as young as LRP. Foster placements, long or short term, do not provide legal security. They can and often do come to an end. Children in long term care may find themselves moved from one home to another sometimes for*

seemingly inexplicable reasons. Long term foster parents are not expected to be fully committed to a child in the same way as adoptive parents. Most importantly of all in the current context, a long-term foster child does not have the same and enduring sense of belonging within a family as does a child who has been adopted. There is no way in which a long-term foster child can count on the permanency, predictability and enduring quality of his placement as can a child who has been adopted.

40. The realistic, as opposed to the fanciful, options are (i) a return to her parents or (ii) a placement for adoption. So whilst I am sympathetic to Ms Gorbutt, as I would be to any practitioner who is endeavouring to fulfil the requirements of the law in the way assessments are conducted and reports written, it is worth reiterating that the focus should be upon the sensible and practical possibilities rather than every potential outcome, however far-fetched.

43. The advantages of a placement order are many and obvious. Prospective adopters are required to submit themselves to a rigorous and very thorough assessment process over many months. Those who satisfy the selection criteria are ordinarily of the highest calibre. They may be confidently expected to provide extremely good parenting to any child who is matched with them in all areas of his / her development. They will protect LRP from harm of whatever kind. The overwhelming probability is that they will be able to provide her with the priceless gift of a happy, secure and stable childhood from which she will derive life-long advantages.

3. *In F-S (A child: Placement Order) [2021] EWCA Civ 1212 Peter Jackson LJ endorsed the weight placed on a child's sense of belonging by Pauffley J in Re LRP:*

That sense of belonging is not 'transactional' but arises from the mutual commitment between adoptive parents and children in those cases where adoption is appropriate. Here, the Judge was absolutely entitled to regard it as a factor of critical importance. [25]

4. *The judgment goes on to say the following in respect of the argument in respect of the importance of ongoing sibling and parental contact:*

It is also significant that an open adoption is hoped for. Nowadays it is well recognised that the traditional model of closed adoption without contact is not the only arrangement that meets the needs of certain adopted children. If the argument made against this placement order were sound, it is difficult to envisage a case in which open adoption could occur without parental consent. [25].

5. *The Court of Appeal has given further guidance about the different considerations that apply to long-term fostering and adoption in V (Children) [2013] EWCA Civ 913. In this case, the appeal was allowed and final care and placement orders substituted for children aged 9 and 5. The guidance at paragraph 96 is as follows:*

- i. *Adoption makes the child a permanent part of the adoptive family to which he or she fully belongs. To the child, it is likely therefore to "feel" different from fostering. Adoptions do, of course, fail but the commitment of the*

adoptive family is of a different nature to that of a local authority foster carer whose circumstances may change, however devoted he or she is, and who is free to determine the caring arrangement.

- ii. Whereas the parents may apply for the discharge of a care order with a view to getting the child back to live with them, once an adoption order is made, it is made for all time.*
- iii. Contact in the adoption context is also a different matter from contact in the context of a fostering arrangement. Where a child is in the care of a local authority, the starting point is that the authority is obliged to allow the child reasonable contact with his parents (section 34(1) Children Act 1989). The contact position can, of course, be regulated by alternative orders under section 34 but the situation still contrasts markedly with that of an adoptive child. There are open adoptions, where the child sees his or her natural parents, but I think it would be fair to say that such arrangements tend not to be seen where the adoptive parents are not in full agreement. Once the adoption order has been made, the natural parents normally need leave before they can apply for contact.*
- iv. Routine life is different for the adopted child in that once he or she is adopted, the local authority have no further role in his or her life (no local authority medicals, no local authority reviews, no need to consult the social worker over school trips abroad, for example).*

6. *Re T (placement order) [2008] EWCA Civ 248, [2008] 1 FLR 1721 held that uncertainty about the prospects of finding an adoptive placement does not in itself rule out the making of a placement order."*

ANALYSIS AND FINDINGS

21. The threshold findings sought by the Local Authority at this FH are appended to this judgment. They are agreed by M and not disputed by F1 but not agreed by F2 as noted earlier. However, F2 has not given instructions to enable his advocate, Ms Kotilaine, to challenge the Local Authority evidence about the threshold allegations that relate to him. The evidence before me with regard to threshold is therefore unchallenged and, on the basis of that unchallenged evidence, I make the findings sought. Threshold is therefore crossed for the purposes of section 31, and I adopt the findings at appendix A as my threshold findings in this case.
22. As I also noted earlier in this judgment, the dispute in this FH is about whether it is in the welfare interests of the children for them to be placed for adoption or to remain in long-term foster care. Given M's very brave decision to accept that she cannot care for them, and the absence of any other potentially suitable carer for them from amongst family and friends, it is not in dispute that their needs will have to be met by someone else.
23. The Local Authority evidence from the previously allocated social worker was that it was a finely balanced decision between adoption or long-term fostering in this case. She had completed the Together and Apart Assessment which is in the bundle at C358-C373. That assessment is a careful consideration of the bonds between the siblings, noting the strength of those bonds and the fact that there are no indicators at all which would support a conclusion that they should be

placed separately (C364). The assessment concluded that the best option for the children in light of the strength of their sibling bond would be for them to be placed together in an adoptive placement. However, it acknowledged that searches for possible adopters locally or nationally up to March 2025 did not show any potential matches, and thus *“the reality is that it may not be possible to find an adoptive placement for the sibling group together, and they therefore need to be separated. If this were the case separate adoptive placements for A and B together, and C and D together could be sought. This means that all siblings remain with a brother or sister, keeping that important day-to-day connection, and follows the separation between the children of their fathers (eg A and B having the same father). It would be important to make plans with potential adoptive families to maintain regular sibling contact and to ensure that support is in place for them”* (C366). On balance, she told me that she had concluded that adoption was better for the children than long term fostering, but she accepted that it was not clear that an adoptive placement could be found for all four siblings together, and that this may mean that the alternative plan of placing them as two groups of siblings may be more likely to be achieved. She also acknowledged the positives to the siblings of remaining together in light of their extremely strong bond with each other, and the fact that their current foster carers were committed to caring for the children for their minorities. She was very clear in her evidence to me that she regarded the decision as “very finely balanced”, and accepted that all of the children had elevated needs which may also make it harder to find adoptive placements for them, and in particular this may mean that it was less likely that an adoptive placement for A and B could be

found and they thus may remain in long term foster care even on the Local Authority plans for them.

24. The family finder's evidence to me was that no search she had conducted since March this year had provided a possible match to enable all four siblings to be placed together. She was clear that she thought it was possible that a match for all four may come up because "things change all the time", but she also accepted that it was less likely and that it may be more likely that placements could be found for the siblings separately. However, given the level of additional needs that the children have as well as the plan for ongoing direct contact, she accepted this would reduce the pool of prospective adopters further and that it would be much harder to source a match for A and B who currently appear to have the highest needs amongst the siblings. She also confirmed that any issues of potential sexual abuse may further reduce the pool, this being a concern in relation to B in particular, arising from some things she has said and done recently. Her searches did not reveal any potential local matches for two siblings, but nationally there were some. When questioned by Ms Williams for the Guardian, she accepted that the total number of children seeking adoptive placements nationally outstripped the total number of such potential placements, and this was also bound to impact on the number of potential matches for the children in this case too. She also told me that the level of support that would be available to foster carers would be higher than that which would be available to adopters, though in either case there would be access to support and adopters could currently access additional funding for assessment and therapeutic provision through the Adoption Support Fund. However, she accepted that the latter was subject to an upper limit, was viewed as a lengthy process by adopters,

and the Fund is currently only guaranteed until March 2026 when provision is due to be reviewed. Her evidence about potentially matching C to a culturally appropriate adoptive placement was that this could further reduce the pool of potential adopters since some are not willing to consider a child with a different ethnic background. I note that all four siblings have a variety of different cultural and ethnic heritage factors at play, in fact, which may impact on the numbers of potential adopters for any of them based on the family finder's evidence about what was likely in respect of C since I cannot see that this would solely apply to him in these circumstances.

25. The current allocated social worker remained firmly of the view that adoption was in the best interests of the children when she gave me her evidence. She accepted the evidence of the previous social worker that this was a finely balanced decision and also that the evidence from the family finder showed that it was very unlikely that a single adoptive placement could be found for all four siblings. She also accepted the evidence of the family finder about the higher level of support available to foster carers. However, even if it was more likely that the children could be placed in two separate adoptive placements, she was clear that only adoption could offer the stability and legal permanency that she had concluded the children needed. She told me that foster care came with the disadvantages of being cared for by carers who did so "not because of commitment to the children in their care but from a more general commitment to caring for children". She described the care as therefore being "transactional" because they were paid to provide it, and listed the disadvantages of such care as also including intrusive and ongoing professional involvement for the children with social services, the potential for foster care to come to an end if the carers

withdraw, and the fact that such an arrangement would potentially last a very long time for the youngest two siblings. She accepted that the siblings are very closely bonded to each other, have bonded well with the foster carers, and that the children would suffer disruption and trauma from a change of placement as a result. However, it was her opinion that the fact they have formed a good attachment with the foster carers was a good indicator that they would be able to do so with any prospective adopters. She was also clear in her evidence that this would require careful planning, and liaison between the foster carers and any adopters. She accepted that, despite putting in her statement at C448 that “no other practical alternatives to adoption have been identified”, as the former allocated social worker also told me, long term foster care or adoption could work for these children.

26. The Guardian gave me evidence which confirmed her conclusions and recommendations in her Final Analysis and Recommendations (E168-E194). She confirmed that she had had extensive conversations with the existing foster carers, discussing the needs of the children and the plans for them. From those conversations she was aware that the existing foster carers initially considered seeking Special Guardianship Orders (SGOs) but, on seeing the permanency medicals and the concerns raised in those about the needs of the children, they felt worried that they would struggle to access the support the children would need without continuing Local Authority involvement. The Guardian told me that she had discussed the impact on the children of remaining in foster carer, and that the foster carers were not ruling out the possibility of seeking SGOs in the future. The male foster carer in particular is a former social worker and very conscious of the lack of support under an SGO or adoption as opposed to foster

care. She was very clear to me that she was as confident as she could be that the existing foster carers were committed to caring for the children for the rest of their minorities, though she accepted that there was always a risk. She told me that she was very uncomfortable about such young children remaining in foster care, but after speaking to and meeting the foster carers it was clear to her that the children are very settled with them having been there for almost a year and that “the foster carers are amazing, and the way they speak about [the children] makes it very clear that they are part of their family and love each other very much”. As she pointed out, the children have also been together for all of their lives apart from one night apart when they were first removed from the care of M. It was the Guardian’s professional opinion that there were two factors that tip the balance in this case towards long term foster care. The first was the fact that she spoke for the children and, while she had not broached the subject directly given their ages, if they were to be asked which they preferred between remaining with foster carers now or realistically being placed separately for adoption, she imagined that they would say that they would want to remain together and to stay where they were happy and safe. The second was that she considered it a viable option to remain with their existing foster carers and, if there was a viable alternative option, she didn’t believe that she could say nothing else will do.

27. When cross examined by Mr Dove for the Local Authority, she expressed some concern about the evidence of the family finder in relation to finding a cultural match for C, but accepted that she had no concerns about the matching processes within the local adoption agency specifically and, if the appropriate tools were used correctly, that there could be matching to carers capable of meeting his identity needs. She was very clear that her biggest worry about the

plans for adoption was the separation of the siblings, and the fact that they had not been separated for the duration of the proceedings, the fact that the Local Authority own Together or Apart Assessment concluded that they should not be separated, and that there was an option to keep them together had led to her recommendation for long term foster care. She was also concerned about the additional trauma that separation would cause all of the siblings on top of the undoubted trauma that they have all suffered previously. Mr Dove asked her about the risk of disruption to the foster care placement if any parent were to apply to discharge the care orders. Her evidence to me about this was considered and balanced. She accepted that any such application could be unsettling for the children and carers but pointed out that any application would have to be made to court for a decision to be made.

28. Questioned by Mr Mulholland on behalf of M, the Guardian noted that there was a very real possibility in this case that approval of the Local Authority final care plans for adoption could result in the younger siblings being adopted and the older two not, especially given the challenges around finding a placement for A and B in light of A's likely age at the point that a match was sought and their heightened needs. She also told me that she thought the impact on the children of being placed separately would be "incredibly traumatic and does carry the risk of behaviours escalating and there is a risk of placement breakdown whatever placement it was. For the younger two, they would find immediate separation quite hard, it would make their behaviour more challenging, and the point the Local Authority were making about the foster carers maintaining contact with them would, in some ways, be very confusing for C and D who have an attachment to them and to see them with their siblings would be very difficult for

them. As they grow older, knowing they have siblings who are not legally siblings, I think will be very messy for them. When you factor in the additional needs of the children, this is going to add to those difficulties”.

29. F1 told me that he felt very strongly about any suggestion that A and B should be adopted. He really wanted them to be looked after by M but, since this was not an option, he wanted them to stay in long term foster care and for him to be able to see them as much as he could. He wanted to spend longer with them when he saw them, and to be able to go out in the community with them rather than just stay in a room in a contact centre. He also wanted more virtual contact and for longer than had been happening recently. His evidence to me was also that he was taking steps to address his own mental health issues, including a medication review later this month.

30. I agree with the evidence of the former social worker and the Guardian that this is a finely balanced case. I am not sure that the current allocated social worker accepted that it was as finely balanced as the former allocated social worker, but that may simply be because she seemed to be stronger in her view that the children needed legal permanence above all else and that adoption was the only way to achieve this. Of course, as I have noted above, the previously allocated social worker had also concluded that adoption was in the best interests of the children. I am simply observing that, in my view of their evidence, there was a degree of nuance about the extent to which the current allocated social worker accepted that this was a finely balanced case, though she did accept that the decision was a difficult one and ultimately for the Court.

31. Considering the relevant welfare checklist headings under the CA 1989 and ACA 2002, the first is the ascertainable wishes and feelings of the children in light of

their ages and understanding. As noted by the Guardian, all of the children are too young to be directly asked about their wishes and feelings. The social work evidence and that of the Guardian is in agreement that they no doubt want to be safe and in a secure placement, as well as to stay together if possible. The current allocated social worker told me that she thought that, as they got older, they would be likely to wonder why they were not offered the option of adoption. The Guardian did not agree with this, pointing out that if the children ended up with only the youngest two being adopted, she was not sure that the children would view that as a good thing. On balance, I preferred the Guardian's evidence about this aspect. It seems more likely than not on the evidence before me that the children are less likely to ask why they were not offered the opportunity to be adopted than they are to ask why they were separated from their siblings and removed from the current foster carers with whom they have clearly developed a very close bond. If, as also seems likely on the social work evidence alone, the children end up with A and B in long term foster care and the youngest two adopted, this may also lead to the children asking why they have been treated differently. Whilst the current allocated social worker and Guardian agreed that there can be a stigma associated with being in foster care, that does not seem to have affected the children during these prolonged proceedings. I accept that this could change as the children grow older, though, and may affect their wishes and feelings, but there is little evidence before me to show that it would alter them to the extent that they would prefer separate adoptive placements to being able to remain together.

32. The children's particular needs in this case are accepted by all concerned to be elevated beyond those that would be usual for children of their ages. A and B

have the highest level of additional needs, but C and D are also not without enhanced needs. They thus need additional support, and the social workers did not disagree with this. The Guardian's considered opinion is that they also need reparative parenting to redress the impact of the significant harm that they have suffered: *"as highlighted in the children's Together or Apart assessment, both of their current carers are full-time carers which enables the children to receive a high level of support. The same is highly unlikely to be replicated in an adoptive placement. In my view any adopters identified for all four children will need a much higher than usual package of ongoing support and even then, there is significant risk of placement breakdown"*. This was not challenged by the Local Authority, and I find that they do need better than good enough parenting as a result. Their enhanced level of needs also means that they will require ongoing professional involvement throughout their lives, particularly A and B, as Ms Williams pointed out in her closing submissions on behalf of the Guardian. There is also a risk that post adoption support required by these particular children to meet their elevated needs may not be available, as the family finder and current allocated social worker acknowledged. The support available to adopters through the Adoption Support Fund (ASF) is capped and may not be available after March 2026 if, as a result of government review planned for that date, anything changes to reduce it. There is also some research to suggest that adopters experience significant delays in accessing the support available through the ASF, as the Adoption Barometer May 2024 produced by Ms Williams shows (p19 of that document).

33. In addition to the children's enhanced needs, they also have the same needs as other children of their ages, including in relation to their identity and sense of self.

The latter is particularly relevant to these children who, as I have already noted, have a varied cultural and ethnic heritage. A is of an age to understand her identity as part of her birth family and to be starting to develop an autonomous sense of self but also as part as a closely bonded sibling group. She will have memories of her parents and of her life prior to being removed from the care of M. B, C and D are that much younger so this is less of an issue for them, but B is exhibiting some extremely concerning behaviours that show the impact on her of her witnessing frightening and aggressive adult behaviour, as well as suggestive of her being exposed to sexually inappropriate behaviour, and it is probable that she also has memories of living with M. She will also have memories of her parents. Of course, all children have also had ongoing direct contact with M since their removal, and A and B have also had contact with F1, which will be part of their forming memories too.

34. Taking harm as the next welfare checklist heading under both the CA and ACA, there is no dispute that these children have suffered significant harm as the threshold findings demonstrate. There is also no dispute that there is a real risk of harm to them if they are separated as siblings. The social workers' evidence was that this could be mitigated by good quality, careful, planning for the transition from foster care to an adoptive placement, as well as their identity needs being met by life story work, and direct contact being used to mitigate the disruption to their relationship with each other and with M, as well as with F1 for A and B. The Guardian accepted that this was possible but was concerned that it would be overall more harmful to the children because of the adverse impact on the siblings of separation even with potential mitigation in place. Both the current allocated social worker and Guardian told me that direct sibling contact was not

the same as living with their siblings day to day. The Guardian's evidence about the potential for emotional harm arising from the siblings being separated was also extraordinarily compelling. I was also very struck by her evidence pointing out that these are children who have suffered trauma and who would be further traumatised by being separated from each other, as well as from their current carers. Neither of the social workers disputed this in fairness. I have also taken into account the evidence about how long these children have been in their current placement and the close bonds that they have formed with their carers and their children. I am satisfied, based on this evidence but also that of the Together or Apart Assessment and the evidence of the previously allocated social worker in particular, that there is a real risk of further harm to these children arising from their being separated, and from being removed from the care of their current carers.

35. The Local Authority evidence before me also sought to establish that there is a risk of harm to the children arising from the inherent instability risk of foster care, I think, since that was a large aspect of the reasoning by each social worker for the balance tipping in favour of adoption even though this carries a high risk of sibling separation. As is set out very clearly in the cases I have noted above and as the social workers told me, foster carers can stop fostering, there is a higher risk of placement breakdown, and foster care involves long term interference with the children's article 8 rights through the ongoing statutory involvement of social workers and the Local Authority in their lives. As the current allocated social worker told me, this intrusion reaches right into the day-to-day minutiae of things such as needing to have social work permission for the children to stay overnight with friends. It is also clear from the evidence of all the professionals involved

that for C and D in particular, such interference would be for a significant number of years – most of their childhoods, in fact. Combined with the stigma that can attach to being fostered, there is a risk of harm to them from these factors.

36. The CA 1989 welfare checklist also looks at the likely effect on the children of any change of circumstances, and the ACA considers the likely effect on them of having ceased to be a member of the original family and become adopted persons. These two headings fall to be considered together in this case, in my view, since they go to the crux of the dispute between the Local Authority and the Guardian. The Local Authority evidence is that, whilst there will be disruption to the sibling relationship and that separating the children will cause them harm, this is outweighed by the positive impact of being able to have legal permanency under adoption. The Guardian is of the opposite view. My findings in relation to risk of harm demonstrate that there is likely to be a profoundly harmful impact on the children arising from their separation from each other, as well as from their current carers. A, and to a lesser extent B as she is a bit younger, will also be likely to suffer harm arising from the loss of their legal relationship and increased time with M and F1 if they were to be adopted. However, as I have also concluded, adoption for them is less likely than it may be for C and D, and it is likely that A and B could remain in long term foster care even with a plan for adoption for them. As the Guardian noted and I have found, whilst this is not without the usual potential risks associated with foster care (clearly articulated both in the social work evidence to me and in the relevant case law noted earlier in this judgment), this change of circumstances also poses a risk of harm to all of the children not just A and B.

37. I have thought carefully about the undisputed evidence that foster care would not provide lifelong legal status for the children when compared to adoption. It is this lifelong potential benefit from having ceased to be members of their family which underpins the social work conclusions about adoption being in the welfare interests of the children. However, I have noted that the Local Authority evidence is that they may have formed a different view if the Foster Carers had been prepared to consider SGOs (for example as set out in the final SWET, particularly the Re BS analysis at C443). SGOs last until a child is 18, and provide priority parental responsibility for the children concerned, but do not extinguish the parental responsibility of the parents and they do confer a legal status that persists into adulthood. The Local Authority argument that these children's welfare needs can only be met by adoption is therefore one that is driven by the fact that the current foster carers are not willing to consider SGOs at present. It is not an argument that is founded in a conclusion that the welfare needs of these children can only be met by the sort of lifelong change in legal status that adoption confers, and it is important to note that the Local Authority evidence accepts that adoption is less likely for A and B too. It is this distinction that the Guardian has highlighted in her evidence to me.

38. Parenting capability is a relevant checklist heading from the CA 1989. There is now no dispute that M cannot care for the children as a result of her very brave and child focused decision at this FH. F1 also accepts that he cannot care for A and B. F2 has been assessed as posing a very high risk of harm to D, as has F3 in relation to C, and the evidence before me shows that they are clearly not capable of parenting either of their children in a way that meets their enhanced needs. As I noted earlier, the Guardian is of the very clear view that these

children need reparative parenting and nobody disputes that the current foster carers are very experienced and capable of parenting the children to a very high level since they have been doing so for nearly a year at this point. The social work evidence and that of the Guardian demonstrates that these children have thrived in the care of the current foster carers, despite the children's elevated needs and the undoubted challenges posed by the behaviours of the children. Of course, as was evidenced by the family finder and the current allocated social worker, prospective adopters would have access to additional training and support, but it seems clear from this evidence this would be voluntary and unlikely to result in carers with the same level of experience and expertise as the current foster carers.

39. The final relevant ACA welfare checklist heading in this case, as set out by the Guardian in her evidence to me, is the relationship which the children have with relatives and with any other person in relation to whom the court considers the relationship to be relevant, including the likelihood of any such relationship continuing and the value to the children of its doing so, the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the children can develop, and otherwise meet the child's needs, the wishes and feelings of any of the child's relatives, or of any such person, regarding the children. As I have already noted, M and F1 accept that they cannot meet the needs of their children, and F2 and F3 have also been found by not to be able to do so. F2 and F3 have no current relationship with D and C. M has an ongoing relationship with all of the children, and her contact with the children is accepted by all to be largely very positive, though there are some concerns about the behaviour of A and B around that contact taking place.

Those concerns could, on the evidence before me, relate to the trauma they have experienced while living with M. F1 also has an ongoing relationship with A and B. His contact is, as the previously allocated social worker told me, lovely to observe and he is very playful with A and B. His cognitive difficulties do mean that he is not always as child-focused in the time he spends with A and B, but none of the professionals have concluded that this means he cannot spend time with them both in person and remotely. His issues, including his mental health challenges, do mean that his contact needs to be supervised at present, though the current allocated social worker agreed that this would need to be kept under review and also open to the possibility of some supervised contact in the community if his mental health permitted that. M and F1 also want to continue their relationships with their children, and A and B are very likely to derive value from this given their ages, though this is tempered by their need to have a stable and secure long term placement so it will be important that this does not risk undermining their placement. As I have also noted earlier in this judgment, whilst the cultural and identity needs of the children are varied, it would also help to meet these if they can continue their relationship with M, and for A and B that applies in relation to F1 too.

40. As I clarified with the Guardian's evidence to me, she regards the current foster carers as relevant persons under this welfare checklist heading. She was not challenged about this aspect of her Final Analysis and Recommendations and evidence in chief when questioned by Mr Dove. The social workers also acknowledged the importance of the foster carers to the children and the strength of their attachment when they gave me their evidence. I therefore agree with the Guardian that the foster carers fall to be considered under this welfare checklist

heading. They are clearly committed to the children, have been and would provide a secure environment in which the children can develop and otherwise meet the children's needs, and this is a placement which M and F1 support. The likelihood of this relationship continuing and the value to the children of its doing so is one of the other key aspects of the dispute between the Local Authority and the Guardian.

41. This links to the inherent risks associated with foster care, set out by both social workers' evidence and accepted by the Guardian. The Local Authority have confirmed that the children could remain as a sibling group of four with the current foster carers and, if the outcome were to be that only A and B were to remain there, they would need to seek resource panel approval and consider that the placement is for four children so would seek for other children to be placed there, but otherwise would want to keep A and B in the placement. The social workers both told me that the foster carers would be an essential part of any transition plan should the children move from placement, and potentially part of long term arrangements for inter sibling contact if A and B were to remain in foster care with them but C and D were to be placed for adoption. There is thus the potential for the foster carers to be likely to continue to have a relationship with all of the children even on the Local Authority evidence before me. If I conclude that adoption is not in the welfare interests of any of the children, the relationship would be very likely to continue since the Local Authority accept that the children should then remain in long term foster care with these carers as far as the Local Authority is able to control that.
42. The Local Authority has not sought to argue that the inherent risks and concerns about permanency in foster care mean that it is unlikely that the relationship

between the foster carers and the children would continue. At its highest, the evidence of all of the professionals was that there was a possibility or risk that the foster carers could decide to stop fostering, or that the placement may break down, and it would only ensure a legal relationship for the remainder of the children's minorities. However, I have borne in mind what the Guardian in particular told me about the clear commitment of these foster carers to caring for these children for the remainder of their childhoods. The evidence of both social workers and also of the Guardian also highlighted the close and loving bond that these children have with the foster carers, though I do note that the current allocated social worker described this as "transactional" this was not because of anything that she particularly identified in the care they were providing and was instead because of them being foster carers employed to provide care as opposed to adopters where "a child knows these people have committed to them for the rest of their lives and beyond 18, and that they are one of their children". As the Guardian made clear, these foster carers are clearly committed to the children for the remainder of their childhoods and regard them as part of their family and, dependent on my decision, it is very likely that the relationship they have with the children could continue if any or all of the children remain placed with them and that continuing relationship would be of significant value to the children too.

CONCLUSIONS

43. The options for these children are either:

- a) final care orders with care plans for adoption and placement orders, which breaks down into potential placement options of an adoptive placement for all four children, or two separate adoptive placements for

the oldest and youngest siblings, or the two oldest siblings remaining in long-term foster care and the two youngest being adopted; or

b) Care orders with care plans for long-term foster care.

Given my findings above, it seems clear the chances of the Local Authority being able to find a single adoptive placement for all four siblings are very poor. It is not impossible, as the evidence of the family finder showed, but it is not at all likely as even the social workers acknowledged in their written and oral evidence to me. Even the second option of two adoptive placements has a large element of uncertainty based on the acknowledgement by the social workers and family finder that it may also be much harder to source an adoptive placement for A and B in light of their significant additional needs. It is therefore more likely than not that pursuing a care plan for adoption would result in the siblings being separated and also in only the youngest two being adopted. Adoption does indeed bring a lifelong sense of belonging and permanency as the social workers told me. Foster care is also not without risk as I have noted above. Having carefully reviewed all of the evidence before me, on balance, I find that the risk of harm to the children by virtue of separating such close siblings outweighs the risks to them of remaining in long term foster care. Adoption is not necessary or proportionate in the circumstances of this case. Like the Guardian, I may have reached a different conclusion if the children had not spent so much time as a single sibling group being provided such high quality care by committed foster carers, but the fact is that is what has happened in this case and means that they have also formed a close and secure attachment to their current carers and would also suffer profound emotional harm from that relationship ending. I acknowledge the fact that refusing to endorse care plans for adoption for C and D

means they will spend sixteen or so years in foster care and that is also not without risk to them but, on balance, I have concluded that this risk to these particular children is outweighed by the benefits to them of remaining part of such a closely bonded sibling group and in the care of such experienced and committed foster carers. This case can be distinguished from the authorities such as *Re LRP*, as Ms Williams submitted, because I am dealing with a sibling group of four children and not a single child who is less than 1 year old. I have also noted the elevated needs of the children and the evidence of the extremely strong bond between the siblings, as well as the strong attachment that they have formed with their current carers. Those are also elements which justify distinguishing this case, as well as the fact that even the Local Authority acknowledge that this is a finely balanced decision. I will therefore grant care orders for the children and invite the Local Authority to amend their care plans to ones of long-term foster care. The Local Authority applications for Placement Orders in respect of the children are dismissed.

44. As noted at the beginning of this judgment, M was bravely not pursuing a case that the children should be returned to her care and thus did not pursue her application for a reverse residential assessment. Since no application for permission to withdraw that application was made, I will dismiss it.

45. The remaining issue in this case is in relation to contact between M and all four children, and F1 and A and B. It is important to note at the outset that it is clear that M and F1 love their children very much. The Local Authority and Guardian were in agreement about contact arrangements if the children were to remain in long term foster care. The dispute is between M and F1 and the professionals since they both want to spend more time with the children. The Guardian set out

her recommendations for contact in the event of the children remaining in long term foster care at E193. This is monthly direct contact for all of the children with M, subject to review, and for A and B three times a year direct contact with F1 in school holidays as well as indirect contact every six weeks. In relation to M's direct contact, whilst this is generally very positive (as illustrated by the contact note at CN1-CN4), there is overwhelming professional evidence that the impact and aftermath for A and B in particular is extremely concerning. It is important for the children that contact with M does not undermine the stability of their placement, though I note that there is no evidence of M doing this it does seem a risk if A and B's carers were to have to deal with the aftermath more frequently. It is also not in the welfare interests of A and B or their siblings to be exposed to A and B's reaction to contact with M more frequently than once per month. That frequency strikes the balance in maintaining their relationship with M but also mitigates the impact of the aftermath of that contact on A and B, their siblings and their carers. Contact with M must be kept under review, though, given the severity of the reactions by A and B, but also to acknowledge that prior to it moving to monthly the children were seeing her more frequently and it may be possible to increase it in the future if M makes positive progress in addressing her issues.

46. In relation to F1, it is important to remember that the question is what is in the welfare interests of the children, not what he would like or what is in his welfare interests. He has not yet addressed his mental health and drug misuse issues, though has told me that he has taken steps to address his mental health these are only in the very early stages. His cognitive issues also mean that he clearly struggles at points to ensure that time with the children is child-focused,

sometimes saying things that are upsetting for the children even though he may not mean to upset them. The Local Authority are clear that they will keep the frequency of contact under review, and also the duration and whether it can take place in the community. The frequency of face to face contact and indirect contact recommended by the Guardian and agreed by the Local Authority also strikes the balance between maintaining A and B's relationship with F1, ensuring that contact is positive for them and does not expose them to a risk of harm arising from any dysregulation by F1 caused by his own vulnerabilities. F1 did tell me that he wanted the virtual time with A and B to also be longer, but the issue with the length of the virtual contact is that it has to be child-led. F1 also has to be consistent with virtual contact, and the social worker noted at C441 that he has struggled with this, at times missing sessions without notice. A reduction in frequency for his virtual contact would therefore also reduce the impact on A and B of any inconsistency in F1 attending sessions.



HHJ Eleanor Owens

[11th August 2025]

APPENDIX A

Threshold Findings Sought

The Local Authority contends that on the relevant date, being 8th August 2024, A, B, C and D were suffering and were at continued risk of suffering significant harm, that harm being attributable to the care given not being what it would be reasonable to expect a parent to give.

In satisfaction of the threshold criteria, the Local Authority contend as follows;

1. On 8th August 2024 the children were removed under police powers from the home of the maternal grandmother. Home conditions at the children's home

were also found to be so unsanitary and unsafe that it was necessary to remove the children to foster care. The Court granted an Emergency Protection Order on 9th August 2024. The home conditions place the children at risk of neglect, injury and illness in the following ways;

1.1 The garden was unsafe being full of hazardous debris as evidenced by photographs and as witnessed by the professionals (EPO C1-8 and EPO D21-126) for example the following dangerous objects were within reach of the mobile children;

- Serrated/bread knife
- Gas torch attached still to a gas cannister
- metal poles
- rusty saws
- empty drink cans
- dirty nappies.

1.2 The inside of the home was unsanitary and unsafe as evidenced by photographs and witnessed by the professionals (EPO C1-8 and EPO D21-126) for example;

- Cat faeces, both old and fresh found in all rooms
- Food debris and rubbish found on kitchen counter tops
- Flies throughout the house
- No clean surfaces on which to prepare food or bottles
- A Moses basket contained a wine glass and was found on a dirty floor
- A broken, unusable cot
- Inadequate and unclean bedding
- Inadequate food supplies and no means to cook
- There was no electricity in the home.

2. On 9th August 2024 the children were seen by the community paediatrician for child protection medicals with the following evidence of neglect of their needs being noted;

2.1 D presented for examination with poorly controlled eczema on her face and thighs, encrusted dirt behind her ears, dirty toe nails, several small scratches to her hands (presumed to be cat scratches) and widespread nappy rash [E13 – 16]

2.2 B presented for examination with scratch marks, unkempt hair, delayed toileting and chronic nappy rash symptoms (scarring).[E9 – 12]

3. The children have been at risk of suffering physical and emotional harm by exposure to domestic abuse, including the aftermath of the same, between their mother and F2 as evidenced in police occurrence logs (incident date 19th

March 2024), (incident date 24th June 2024) and (incident date 10th May 2024) [G1 -15] and (incident date 31st October 2024) [G282 – 283] .

4. The parents have a history of cannabis use (EPO C1-8 / SWET C1 – 32, HST results E17 – 35, E35n – 35ac, E36 – E53, E195 – E212, E213 – E229] which continued or renewed use would impact on their ability to provide safe and consistent parenting, placing the children at continued risk of neglect, physical and emotional harm.
5. The parents have a history of mental health difficulties [EPO C1-8 SWET C1 – 32 and Reports of Dr Wilkins E149 – 167 & E130 – E148] which has an impact of their ability to be emotionally available and consistent in their parenting, placing the children at continued risk of neglect, physical and emotional harm.
6. At an ultrasound scan on 31st March 2024 F2 presented as dysregulated, aggressive and abusive to staff and M when he was denied access to the scan room.