

IN THE FAMILY COURT AT GUILDFORD

The Law Courts
Mary Road
Guildford
GU1 4PS

Date Handed Down: 19th August 2025

Before:

HHJ Lindsey George

Between:

Surrey County Council

Applicant

- and -

Mother

Respondent 1

-and-

Father

Respondent 2

-and-

C, Child by their Children's Guardian

Respondent 3

-and-

D (a competent child)

Respondent 4

Representation:

Ms Sarah Nuttall, Counsel instructed by Ms Jan Freemantle of Surrey County Council Legal Services for Surrey County Council

Ms Joan Connell, Counsel instructed by Ms Emma Quirke of Campbell Hooper & Co, Solicitors for Mother (A)

Mr Andrew Duncan and Ms Charlotte Steer both of Counsel instructed by Mr Sean Harrison of Simpson Millar, Solicitors for Father (B)

Ms Charlotte Brazier, Counsel instructed by Ms Gulizar Candemir of Freemans, Solicitors for C through her Guardian, CG1

Miss Emily Carter – Birch, Solicitor of Child Law Partnership on behalf of D, a competent child
CG2 of Cafcass appeared in person to report in respect of D as her Guardian

Approved Judgment

This judgment was handed down remotely on 19th August 2025 following submissions by the parties with regard to clarification, errors and omissions.

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment 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 this condition is strictly complied with. Failure to do so will be a contempt of court.

Publication

The Court has determined that this Judgment should be published. Publication was sought by the father and by the children. It was not opposed by mother. The Local Authority and both Guardians opposed publication. The Court received written submissions on the matter of publication and gave a written judgment permitting publication on 18th November 2025. The parties have worked together to anonymise the judgment.

HHJ Lindsey George :

Introduction

1. The Court is concerned with two young people, C and D who are the subject of proceedings brought by Surrey County Council (LA). C is 16, almost 17. D is 13. At the date of the approved judgment, they are 17 and 14 respectively. The children's mother is A; their father is B. C is represented in the proceedings by a Guardian, CG1 who has been C's guardian since 21st July 2023. D has been assessed as competent. D is separately represented by a solicitor, Ms Emily Carter-Birch. D's Guardian is CG2. The other significant people in the children's lives are their grandparents ('GPs') with whom they were living from end of May 2024 until events on 13th April 2025 and subsequently. They both now live in separate foster care placements. At the date of the approved judgment, they are living with their father.

2. I am grateful to the parties' legal representatives for their assistance in this lengthy and difficult matter, Ms Nuttall for the Local Authority; Ms Connell for mother; Ms Mettam and subsequently Mr Duncan and Ms Steer for father; Ms Brazier for C's Guardian; all of counsel, and Ms Carter-Birch, solicitor for D. CG2 as D's Guardian attended to assist the court and give evidence and was not legally represented.

3. The matter has a very long and tortuous history, not least with regard to the final hearing which started on 22nd July 2024. The Court heard evidence then from Social Worker 1, "SW1" (the previously allocated social worker); Social Worker 2, "SW2" (the former supervising social worker for the GPs) and Social Worker 3, "SW3" (the then allocated social worker but now the former social worker). However, during the course of the July hearing, concerning issues were raised about the expert evidence provided by Dr Katharine Bentley, who had been instructed to carry out an assessment of C's competence and a global psychological assessment. There had been significant delays in her providing the

original reports and in answering questions following on from that. Her inability to deal with the questions in a timely way (for personal reasons) had a knock on effect on the completion of the work done by the independent parenting assessor, Mr Butterworth who filed his addendum assessment in advance of Dr Bentley's report. When the final hearing started there had been some correspondence with Dr Bentley in respect of further questions. The Order of 30th July records,

“(a) All parties raised concern regarding the preparation, inconsistencies and inaccuracies in the reports of Dr Bentley and the communications received by her and on her behalf during the course of the final hearing;

(b) The court confirmed on 25 July 2024 and again on 29 July 2024 that in view of the communications that had been received and the content of the emails, the reports and the process by which they came to be prepared were of such concern that the opinion and conclusions of Dr Bentley could not be relied upon and should be disregarded.”

4. As a consequence, the hearing could not proceed and alternative experts had to be instructed. This resulted in a very long delay in the final hearing being resumed. It was not until 20th January 2025. When it did resume with a further time estimate of ten days the Court had to grapple first of all with an application by father to adjourn to enable Dr Bourne to be cross – examined and when that was refused with a contested issue regarding C's competence; there was then a two day delay dealing with a safeguarding issue and once again the final hearing did not conclude. The matter was relisted for the Court to hear the evidence of both Guardians on 19th March 2025, this being the first available date for the Court and all advocates. I received written submissions on 31st March 2025. Father sought to speak to the submissions which was on 9th April 2025. I believe at that stage, the matter had taken some 19 days of Court time spread over a period of 9/10 months.

5. Sadly, the matter still could not be completed. Although the Court heard no evidence and made no findings on the events of 13th April 2025, from the written documents it appears that the GPs were supervising mother's contact. An argument broke out between the mother and [a GP], culminating in the GP slapping mother across the face and pushing her. It appears they would not let mother leave the restaurant where they had been having dinner. Mother told the GP to “*fuck off*”. This was all in front of the children. Eventually mother and C went and sat in mother's car. C called the police and father. Father arrived and stayed in his car and contrary to mother's wishes, C went to join him. The police did not attend and did not speak to C or D until the next day. C refused to return to the GPs' home that evening and father, contrary to the wishes of the social work team and mother found C accommodation with a work colleague. This was all highly unsatisfactory and irregular. D went to their aunt's home with their cousin.

6. When Social Worker 4, “SW4” (the current social worker), spoke to the GP and to D, the GP agreed that they had slapped mother and said it was because she had been telling untruths and criticising their parenting.

7. D was very distressed by the incident and told the social worker it was “*shocking*”. D said it gave them flashbacks to when their mum “*went for*” their father. D subsequently returned to the GPs and said D would stay until the outcome of the proceedings.

At that stage I was due to give judgment on 6th May.

8. The matter came back before the Court on 25th April 2025 to consider placement of the children. C refused to return to the GPs' care; the LA wanted to shore up the care for D with a plan that D would remain with them longer term but under a care order. However, at that hearing, the LA indicated that it had further information regarding safeguarding and it raised a serious concern. The investigation was not complete and it would have been premature to disclose the information. The LA sought to withhold it pending further inquiries. I directed that the LA either had to make a formal application to withhold the relevant disclosure or disclose it by lunchtime on 28th April 2025. I criticised the LA for making the application in an ad hoc and unformulated manner.

9. The additional disclosure was made available on Monday 28th April 2025. The papers provided are quite shocking.

(i) The initial disclosure was made to SW2 who conducted the addendum Special Guardianship Assessment and was the previous supervising social worker. The GPs told SW2 that the children had been, *"up all night, on their phone to their father and that [they] are upset that these calls/accompanying activities are continuing to such an extent that they are finding it increasingly hard to know how to cope with it"*. SW2 passed on the concerns to SW4.

(ii) Father set out in an e mail to SW4 that the claims made by the GPs were unfounded and that he was not having late night communications.

(iii) On 11th April 2025, the GPs told SW4 during a phone call that, *"[the father] has got the [children] on the phone during the night, doing phone calls, "singing and preaching the Bible" and the [children] are "[allegation of sexual nature]"*". One of the GPs clarified their allegation. They told the social worker that they had *"heard it in the bedroom next door and [they] can hear voices"*. They said it happened every night.

(iv) When the social worker visited the children and GPs on 11th April 2025 she talked to them in general terms. Both children denied being on the phone to their father late at night. C offered to show SW4 C's phone. They both expressed upset that they had been told by their aunt that their father was the cause of the delay in getting judgment and that their mother had been on TikTok saying she was *"living her best life"*.

(v) There is then the incident on 13th April 2025

(vi) On 15th April 2025 CG2 visited the GPs. One of the GPs told her that *"the [children] are [allegations of a sexual nature] whilst B is on the phone"*. The other GP told her that they were putting a glass to the wall and had read and taken photos of C's diary (not seen or disclosed).

(vii) On 15th April 2025 a GP is said to have told CG2 that *"[Mother] has commented that [B] may be doing to [D] what he did to [C] when [C] was 13 years old"*. The GPs were apparently worried that the children would find out they had shared the information.

(vi) There were further discussions between SW4 and CG1; both agree that the allegations do not appear to make any sense. It was unclear the extent of mother's knowledge of the allegations.

(vii) There was a joint visit between SW4 and the GPs' supervising social worker on 23rd April. The GPs are reported to have remained adamant [about their allegation]. Apparently, it was happening "*every night*" between 10.00pm and 2.30am and then again at 5.00am. They said it had been going on for years. What they say to SW4 and the social worker is very muddled, confused and lacking credibility. They suggest that the parents are working together.

(viii) On 24th April 2025 there was a strategy meeting.

(ix) The hearing took place on 25th April 2025 where the new care plan was confirmed as C in foster care and D remaining with the GPs. The Court, father and D were wholly unaware of the new allegations. Mother's knowledge is unknown but she says she did not know.

(x) On 28th April 2025, SW4 discussed the allegations with the children. The children were truly shocked; C was physically sick; they were disgusted by the allegations. Both thought the GPs would say anything against father. Since then, it has transpired that the GPs took D's laptop and had it sent to some sort of tech consultant.

(xi) D refused to return to GPs and the LA placed D in emergency foster care.

10. B denies all of the allegations and the LA does not seek any findings nor does any other party.

11. There was a further hearing on 1st May 2025 to hear evidence from the social worker regarding the LA revised care plan and from both Guardians.

12. This situation is intolerable for the children **who are at the centre of this matter**. C will be 17 very shortly. They have been waiting for a resolution since July last year. I decided that they should not have to wait longer and gave them my outline decision on 12th May 2025 with a letter to them both, which are attached as Appendix A to this judgment. While they now know the decision that they should live with their father, issues of housing and support remain to be determined. Given the period between the draft judgment and finalising it, the children have moved to live with their father.

13. Due to the passage of time, the volume of materials, the extensive written submissions (almost 200 pages) and the additional matters that have arisen since the first round of written submissions on 28th March 2025, this judgment has taken some time to compile and I apologise to C and D for the further delay and uncertainty.

14. Since sending out this draft judgment and having a hearing on 20th May 2025 I have received further submissions and requests for clarification as follows:

(i) Amended draft judgment showing typographical errors

(ii) Observations on Judgment – Local Authority dated 3rd June 2025

(iii) Request for Clarification of the Draft Judgment and Initial Written Submissions on the Issue of Publication – Mother – 28th May 2025

(iv) Position Statement from Father to assist with criticism of the professionals contained in the judgment irrespective of any decision on publication; the process to be followed in light of obtaining the children's views of publication and the process to be followed in respect of publication of the Judgment – 4th June 2025

(v) Request for Clarification Regarding Draft Judgment on behalf of C's Guardian, CG1 – May 2025

(vi) Ms Carter–Birch on behalf of D sent an email on 28th May 2025. She collated the typographical errors but had no further points for clarification.

(vii) Request for Clarification regarding the Draft Judgment from D's Guardian – CG2– 11th August 2025 – CG2 had been away from work since 28th May 2025.

I have dealt with such matters as are appropriate by making amendment to this judgment. More substantive matters have been dealt with in a supplementary judgment at Appendix B.

I consider the additional issues raised and the extensive requests for clarification have been oppressive in circumstances where the placement of the children is not being further challenged by a permission to appeal application and in circumstances where the final hearing was beset with so many difficulties over such a significant period of time. However, I have done my best to deal with them while dealing with a very full case load, other judges on leave and my own leave. Added to this CG2 has been away from Cafcass for a time and sought extra time last week to submit her comments. Where I have not specifically dealt with a clarification, I do not propose to deal with it further. I have tried to be as reasonable as I can and I have adopted many of the points raised.

Parties' Positions

15. The parties' positions which have changed since the closing written submissions can be summarised as follows:

(i) The LA's care plan was for C and D to remain in the care of the GPs under a Special Guardianship Order. This would have been supported by a Supervision Order. However, since the issues in April 2025 and the unsubstantiated and damaging allegations made by the GPs, its position has changed. The LA plan is for the children to be separated and for C to continue to live in the foster placement where C is currently living. This placement is authorised for young people over 16. C will have the benefit of services for young people leaving care.

D is in an emergency placement. D will have to move to a long term placement. The LA hopes that will be in the same area but there is no guarantee. The LA acknowledges that school is very important to D but finding suitable placements is hard. It is possible that C's placement might be extended to include D but that is some time in the future and is not certain. The LA said it would continue to seek a placement to keep the children together.

The LA's original plan for contact was that it should be monthly with contact for father working towards being unsupervised. Mother's contact was to have been supervised by GPs but will now be professionally supervised by the LA or in a contact centre until mother can show six months of abstinence from alcohol.

The children will continue to have indirect contact and the parents will be expected to

moderate that to meet the children's needs.

The LA will arrange regular contact between the children, depending on location.

(ii) Mother does not seek to put herself forward to care for the children. She accepts and understands that her ongoing alcohol misuse prevents her from being able to care for the children. In her written submissions she says, "*Mother intends to address her alcohol misuse and maintain sobriety but accepts that she is not currently engaging with alcohol support services*". She accepts that the children cannot remain in the care of the GPs. She does not support the children going to the care of the father. She accepts that they will need to remain in foster care.

In light of the incident on 13th April 2025 and her lack of engagement with alcohol services, she accepted that her contact would remain professionally supervised and that she will need to provide evidence of abstinence for six months.

She is willing to reduce the indirect contact she is having to alternate days of initiated contact although accepts that the children might contact her and she would wish to respond.

(iii) Father opposes the LA plan, both the original plan for the children to live with GPs and the new plan for the children to live separately in foster care. It is his position that the balance of harm for the children "*falls squarely with the children's wishes being respected and them being allowed to live with their father.*" He wishes to care for the children and wishes to return to the family home for them to live with him. He considers that the [family] have an extremely negative view of him that will affect the children's relationship with him. He would be content to facilitate weekly contact between the children and mother.

If the children are not placed with him, he seeks regular contact on a par with mother.

(iv) At the outset of the adjourned hearing in January 2025, the Court was asked to determine the competence of C. Dr Bourne had been instructed to opine on this although the Court found that his evidence was far from reliable. The Court also had the benefit of evidence from C's solicitor and Guardian. The Court determined that C was not competent to instruct C's own solicitor and has continued to be represented in the proceedings by a Guardian, CG1.

On behalf of C, CG1 no longer supports the placement with the GPs. They do not support C living with father despite C's expressed views. They reluctantly support the LA position regarding foster care and accepted that the children are likely to be separated. They say that contact for each parent should be fortnightly with both parents' contact being professionally supervised.

CG1 realistically accepts that seeking to control indirect contact would be extremely challenging "*and would likely cause both children severe upset if such restrictions were imposed upon them*".

(v) D wishes to live with C in the care of father alongside the family dog. D does not oppose the making of a Supervision Order if D lives with father.

D wishes to have flexibility around contact and to decide whether to attend each session. D does not wish to have any contact with GPs.

(vi) CG2 as D's Guardian originally supported the children's placement with the GPs. They did not file any further views following the evidence. A letter was submitted from Cafcass dated 8th April 2025 in which, the Service Manager, stated,

"It is respectfully submitted that it is not within an unrepresented guardian's remit to cross – examine witnesses, prepare legal documents such as position statements or skeleton arguments or prepare legal submissions to the court. The guardian can of course continue to provide a welfare view on the contested issues before the court in the form of a welfare report".

Following the issues in April 2025, they filed a short addendum on 25th April 2025 and a further brief analysis dated 1st May 2025. They supported D being placed in foster care. They support mother's contact being professionally supervised. They also supported mother having to be abstinent for six months and thereafter being breathalysed before and after contact. They considered that if father is found to have been coercive and controlling, father's contact should reduce to eight times a year.

Background

16. I am very grateful to Ms Nuttall for providing the court with a chronology alongside her written submissions. There was no agreed Advocates' Chronology provided at the start and while I acknowledge that this is not an agreed document, it has assisted the Court to put context around the issues. Given the length of the parents' relationship and the long standing issues, a detailed background is required.

17. The parents met overseas. Mother was working as a nanny. They married relatively quickly after meeting in January 2000 and moved to the UK.

18. There seems to have been no professional involvement until shortly after C was born in 2008. Between 2008, following the birth of C, and 2011 there were a number of call outs to the police with referrals to Children's Services. No action was taken by police or Children's Services in respect of any of those incidents. In 2011, D was born.

19. There appears to have been no professional involvement between D's birth and February 2017, when there were a series of referrals from the children's schools to the police and referrals both anonymously and by neighbours. These referrals include concern about the children's exposure to the parents' volatile relationship; mother shouting in the home and at the children; mother's alcohol consumption and medication; the children being caught between the parents and picking up on what adults are saying, pressures on the marriage and both father and mother alleging that they were the victims of abuse from the other. The LA undertook two Child and Family Assessments in 2017. There was a recommendation for the children to be the subject of a Child in Need plan.

20. On 15th January 2018 the parents withdrew from the Child in Need process. Following inquiries of the schools, the children were said to be doing well and there were no

concerns save for the children being exposed to adult issues/conversations.

21. There was no further involvement until October 2019 when the police were called by a neighbour who heard arguing between mother and father. When the police arrived, mother was crying as were the children. Mother was said to be very emotional and alleged that father was mentally abusing her. The police officers spoke to both parents and the children. The police report,

“The children were also spoken to separately to which both of them concluded that their mother had been the instigator shouting and screaming after being asked to turn the light off. They said they heard their parents arguing and ran in to split them up to try and calm them down. They said that no one had assaulted anyone.”

Mother alleged that father was controlling. However, following questioning the police officer concluded, *“A DASH was taken with A as she was claiming mental abuse, and seemed the most upset. From what she told the PC there was no evidence of CCB.”*

22. In the police’s view, mother was the instigator of the situation and as her mother lived locally, she was asked to leave for the night to which she agreed. The police record,

“As she was gathering her belongings A's mother turned up and started shouting and screaming towards us, and B, calling him a 'scumbag' and swearing in front of her grandchildren. She was warned about her behaviour and told that we had the situation under control and she was just making things worse. She then left with A and took her back to... .”

23. No further action was taken by the police and they record that,

“A appeared to be the one causing the chaos, whilst B remained calm. A's mother then turned up who was also causing problems shouting and swearing, so A was asked to leave for the night with her mother which she did.”

24. Neither parent engaged with support offered by LA and no further action was taken.

25. Further concerns were raised by C’s school in February 2020, again raising concerns about parental acrimony and mother’s alcohol use. The social work chronology raises concern about *“possible coercive control”* from father but there is no evidence recorded to support this. A Child and Family Assessment was undertaken and completed in March 2020. The assessment is not in the bundle but the social work chronology records that the family will continue to work with the school Home Link worker which will provide mother with *“a safe space to explore her feelings and build her confidence”*. It is not known what was contained in the assessment to reach this recommendation.

26. In July 2020 the police were called again to the family home by a neighbour following reports of shouting. Father reported to the police that the parents were in the throes of divorcing. He reported that mother was narcissistic and psychopathic and would come and go without him knowing where she was. The argument on that occasion had arisen because father had gone for a walk with a female co-worker and mother accused him of cheating on

her. Mother's account largely agreed with father and she accepted that she had *"lost her shit"* and had told father he could not go for walks with female co-workers. She was jealous. The argument became worse because father had laughed and started recording her. Mother had gone to her sister's leaving father caring for the children. She had spoken to father and apologised since the argument.

27. A few weeks later police were again called to the home and father reported that mother had assaulted him. Mother was asked to leave the family home for a few hours to allow things to calm down. The police took no further action.

28. In October 2020 the Ambulance Service made a referral to Children's Services. They had been called out because mother was passed out, having chest pains and anxiety. She was passed out due to alcohol. The social work chronology records,

"They had further concerns that the children were being exposed to their mother's distress and emotional instability. They also noted that A could be secretive with alcohol consumption when she stated she only had consumed 1 glass of wine and both children sniggered and made the remark "more like a bottle"."

No further action was taken by Children's Services.

29. A further Child and Family Assessment was completed on 25th November 2020 which set out concerns about the difficulties in the relationship and the impact on the children of the arguing; both children had witnessed mother hitting father and both parents were said to be negative about each other. Although one of the reasons for the referral for a Child and Family Assessment was mother's alcohol consumption, there is no record in the summary of the assessment about those concerns and no evidence that any hair strand tests were carried out or recommended. The assessment is not in the bundle.

30. The situation came to a head on 1st January 2021. The family was isolating because father had tested positive for COVID. It must be remembered that COVID was a very stressful time for everyone perhaps especially in an unhappy home. Mother phoned 999 and reported that, *"her husband had been sexually abusing her and their children. The children and male party could be heard shouting and arguing with the informant whilst she was on the phone to Police."* The police attended and spoke to the parents and the children. She reported that she wanted a divorce and he would not agree. Neither of them wanted to leave the children so they remained living in a small flat. The police note,

"The biggest issue between the couple is clearly alcohol. He doesn't drink at all and lost his father to alcohol related illness. She does drink, though is seemingly in denial as to how much she consumes. Most of the incidents between them occur when she has been drinking and he becomes verbally abusive and taunts her about her drinking."

31. With regard to the allegation of sexual abuse, she alleged that [allegation of sexual nature] She confirmed that it was voluntary but that she did it to keep him in a better mood. She told the police that he had never been violent towards her or forced himself physically on her, but that he is emotionally controlling and constantly trying to get to her by saying nasty things and making constant references to her drinking.

32. When she was asked about the allegations she had made that [allegation of sexual nature against the children] *“she could not give any specific details”*. She told the police that she had *“no evidence that anything untoward had occurred but it was just something she was worrying about and then stated that B was a good father and had never been abusive to the children”*. Mother alleged that father was controlling towards her, possessive and jealous. She told the police that he goes through her phone to check up on her. *“However, she could not show a call history or messages to back this up, blaming this on B deleting the messages on her phone”* Given that father was not aware that the police would be called, it is surprising that he would have had the foresight to delete the messages.

33. When the police spoke to father, he told the police that the allegations were malicious and false. He explained that the marriage had been in difficulties since 2017 largely due to alcohol issues. He explained that mother had drunk two bottles of wine that evening. He said that he thought she made these allegations when she was under the influence to hurt him.

34. The police officers spoke to the children separately. They describe C as being visibly upset and as saying, *“I CANT BELIEVE MUM WOULD SAY SUCH HORRIBLE THINGS”, “SHE CAN TALK ABOUT HERSELF BEING THE VICTIM OF SOMETHING BUT SHE CANNOT SAY THAT WE ARE, IT’S NOT FAIR”*. The children report that they feel safe with their father and they have never been physically, emotionally or verbally assaulted by him. Both children reported concerns about their mother and that, *“when she drinks, she says “DISSGUSTING THINGS ABOUT DAD” which normally leads to an argument, and that she is “SCARY” when she’s drunk. When asked who they feel safer with, they both said that “although they love their mother they would prefer staying with their father when drunk like she was tonight.”*

35. The police conclude that they cannot ask one of the parents to leave the home because father is positive for COVID and the family has to isolate. The police are also satisfied that *“there was no history of violence and that therefore the risk of physical harm was low”*. The police were satisfied that no offences had been committed.

36. The police attended to speak to mother when she was sober on 10th January 2021. She,

“categorically stated that she had no basis for believing that [B] was in any way abusive, sexually or otherwise, towards their 2 [children]. She acknowledged the impact that her making these allegations in the presence of the [children] had had on them.”

She also confirmed that throughout the marriage she had felt pressured into having sexual intercourse with father but she had never been forced to engage with sex, and although she had gone into his room voluntarily on the evening in question, it was not a regular event. She did not expand upon her allegations that he was controlling or coercive.

37. There was a further incident on 4th January 2021, reported by a neighbour. When the police attended mother said she had confronted father about being in the children’s bedrooms and he told her to get out. Father explained that he was watching a film with the

children and mother came into the room telling him to get out. The children were spoken to and confirmed that it was mother who started the argument. C told the police that,

“it’s always mum who starts the arguments and dad has to end them. ... does not like the constant arguing and it is affecting sleep.... They both like spending time with their dad but their mum doesn’t seem to like it”.

38. Between 4th January 2021 and end of March 2021 there were a number of other police call outs. On 1st February 2021 father called the police sharing concerns about mother’s behaviour; on 19th February 2021 father contacted police worried about his neighbour’s behaviour towards the children; 2nd March 2021, the police attended to discuss the neighbour dispute, C was very upset by the further police attendance. On the same day there was an argument between mother and C and the neighbour called the police again. It is clear from the police record that C is utterly fed up with the situation and considers it is a recurring problem with no solution. C reported to the police that *“mother was smiling behind police’s back when [C] spoke to the police”.*

39. On 2nd March 2021, the police spoke further to mother following the incident between herself and C. She confirmed to police that she was fine after the incident and didn’t feel scared. She reported that she had separated from father. She then went on to made extensive allegations about father including:

- (i) There is daily abuse and the children are put under pressure in an emotional controlling way; explaining that he nagged her about food; made petty comments to make her angry and to make her react.
- (ii) She went on to describe sexual coercion and [description of sexual coercion] *“to make everything ok in their relationship and move forward.”* She described it as a *“HEAD FUCK”* to her and the children.
- (iii) She said that father made allegations of her being drunk all the time to make her look like a bad person, *“when it is her being the main carer for the children”*
- (iv) She alleged that father goes through C’s phone (C aged 13); that he has a massive influence on C and that C feels like C has to be a *“Daddy ‘child’”*.
- (v) She confirmed that the abuse is not escalating.
- (vi) She went on to allege a high level of [allegation of sexual nature]. She said *“[allegation of sexual nature]”*
She said it had happened multiple times over ten years and throughout their marriage but was not sure she wanted to report it.
- (vii) She was not concerned about being left with father in the house that evening.

40. The police conclude it is a medium risk setting out their rationale as follows,

“[A] has mentioned [B] smoked cannabis for 20 years (not in the last 3), but from this [B] is paranoid and has mood swings as a long lasting effect of the smoking cannabis, From previous history there is mention [A] is an alcoholic. [A] admitted today to drinking wine, but wondered why that is such a bad thing. She didn’t state how much but implied it was a “normal” amount and the allegation of her being

called an alcoholic was not true. There is also an allegation of historic [sexual nature] between [A] and [B], which although this hasn't happened in 3 months, I would not feel comfortable deeming the whole situation with the family as a standard risk situation with all the factors taken into consideration, even though the ZJ domestic was very much a standard risk minor argument over dinner choices."

41. On 5th March 2021 father was arrested at home on suspicion of [sexual nature] at around 10.30pm. The social work chronology suggests that the children were at home and were woken up by the police. However, the record of the arrest says that the children were with their mother when he was arrested. However, despite them being traumatised by events police assessed they were safe with her and could be supported by her and her family, sister and grandparent. Father was released on bail with conditions not to return to the family home. As a consequence of his arrest and the police investigation a referral was made to LADO and father was suspended from his employment working with children. At his police interview father denied the allegations and explained that the relationship had broken down in January 2021.

42. On 25th March 2021 mother took part in a video interview and made further serious allegations against father.

43. The police conducted a lengthy and extensive investigation into the allegations made by mother. However, the investigation concluded with no further action on either the [sexual nature] allegations or the controlling and coercive behaviour allegations for the following reasons:

(i) There was no evidence of [sexual nature]; there was no evidence of lack of consent taking place. In the VRI mother said, *"I never made it clear I didn't want to"*. The officer notes, *"Unfortunately a lack of respect and the fact that one partner has a higher sex drive than the other does not make out the "Points to prove" for an allegation of [sexual nature]."*

(ii) The alleged tracking app was on an old phone and there was no evidence of its existence; nor was there any evidence on any of the mobile or electronic devices of abusive or controlling messages. *"[A]'s parent confirmed that the screenshots from [A] have no evidence of controlling or questionable behaviour from [B]."*

(iii) There was no evidence of any cameras in the home – one was not wired and mother knew this; the other was for father to stay in touch with the children and not of concern. Any other cameras pointed outside for security purposes.

(iv) There was no substantive evidence of controlling and coercive behaviour. The GP and other family member's accounts differ even though they were produced together.

44. By the end of June 2021, the police investigation was concluded and both offences concluded with no further action. The police record that the parties were getting on better together and things were much more settled. Father had returned to the family home. However, even during the police investigation and while father was out of the home, there had been a number of reports to the police including mother and C having loud arguments.

Local Authority Involvement

45. Throughout an extended period of time the LA was involved with the family and worked alongside the police. In 2017 a Child and Family Assessment was completed that recommended a Child In Need Plan. The parents withdrew from this but at the time things seemed to be improving and the school raised no concerns apart from worries that the children were exposed to adult concerns. Following incidents in 2019, the LA took no further action; a further Child and Family Assessment was completed in April 2020. B had refused to engage with the assessment but there were recommendations for the family to continue to work with the Family Link Worker from school and the LA again closed the case. In October 2020 a further Child and Family Assessment was completed. Once again father appears not to have participated but mother agreed. There were concerns about the acrimony between the parents and mother's excessive alcohol consumption. Nothing was followed up with the excessive alcohol consumption; the LA did not pursue hair strand tests or seek to ascertain the impact on the family of the alcohol use.

46. On 22nd January 2021 a strategy decision was held following the false allegations made by mother on 1st January. A s47 inquiry was undertaken and a decision made to progress the matter to an Initial Child Protection Conference which took place on 10th February 2021. The children were placed on a CP Plan.

47. At the Review Child Protection Conference held on 27th April 2021, the Plan was continued and there were concerns about the children being influenced by both parents and sharing their views of the other parent. The LA remained involved during the course of the private law proceedings.

Private Law Proceedings

48. On 29th March 2021 father applied for a Child Arrangements Order. In the application he accused mother of making false allegations against him; having a drinking problem and using prescription drugs and caffeine pills. He said that this left her passed out caring for the children. Her allegations against him of [sexual nature] of her and the children had resulted in him being suspended from his job as working in a managerial position with children. He alleged the children were subject to emotional and psychological abuse as was he.

49. On 10th May 2021, mother filed her response to the allegations in which she denied those made by father and alleged that she had suffered years of emotional abuse and significant coercive control. She denied abusing alcohol stating, *"The applicant's allegations stating I consume alcohol on a constant basis with prescription drugs are totally false"*. Despite her serious allegations, she says she wants to reach an amicable contact arrangement and to work around the children's interests and needs and their respective work commitments. She says that since father has been out of the home things have been calmer.

50. The first hearing of the Children Act application was on 1st July 2021. This was before Recorder Heptonstall. A safeguarding letter from Cafcass set out the following advice:

"Advice to the Court

- *It may assist the court if clarification can be obtained that the Police matter against B has been closed.*
- *The social worker to attend the FHDRA and to assist in providing an update regarding the current child arrangements and any other relevant update for the children's welfare. Longer term child arrangements to be informed by a s7 welfare report to include an update from the children's school and any relevant professional working with the family.*
- *To consider if the parties should provide a GP letter to comment on their mental health and any relevant diagnosis or treatment or any concerns with alcohol use for A and any substance misuse issue with B*
- *To consider disclosure of the most recent Child and Family Assessment into the proceedings and any previous assessment or child welfare report that may have relevance or assist the proceedings.*
- *The parties to accept undertakings not to expose the children to any adult conflict or inappropriate adult views or to speak in a derogatory way of the other parent.*
- *A copy of this safeguarding letter to be shared with the social worker.*
- *There is no further role for Cafcass."*

51. The Recorder determined that a fact finding hearing was required to determine two issues – (i) the mother's consumption of alcohol and its impact on her ability to care for the children; and (ii) the relationship between mother and C. There was no suggestion at this stage that mother sought to pursue allegations of controlling and coercive behaviour, or any allegations of sexual abuse. Nor was this recommended by Cafcass. The parties were able to agree that the children would live with mother and have agreed contact with father. Directions were given for the LA to carry out a s7 report.

52. The matter came before me on 18th August 2021 on paper due to the expiry of various deadlines that had not been complied with. I recorded the following in my order:

"UPON the Court reviewing the last order made by Mr Recorder Heptonstall on 1st July 2021; the Schedule 2 letter from Cafcass dated 29th June 2021 and file generally; and

UPON the Order providing for a fact finding, a Dispute Resolution Appointment and a section 7 report; and

UPON the only issues remaining between the parties being identified as: (a) The mother's consumption of alcohol and its effect on her ability to care for the children (b) The relationship between mother and C (c) The ability of each party to care for the children; and

UPON the Recorder identifying the following matters as requiring a fact finding: (a) The mother's consumption of alcohol and its effect on her ability to care for the children; and (b) The state of the relationship between the mother and C; and

UPON the Court considering that the key issue is where the children should live, father seeking a transfer of residence and that the other matters go to the children's

welfare and can be considered as part of a welfare hearing rather than a fact find; and

UPON the children being subject to a Child Protection Plan to Surrey County Council under the category of emotional abuse; and

UPON the Court taking the view on the papers that a fact find is not necessary at this stage particularly in circumstances where the Local Authority is involved under a Child Protection Plan. This question can be reviewed at the DRA to be held on 24th November 2021 if necessary; and

UPON the Court considering that in light of that certain directions can be discharged or varied”

53. I then went on to discharge the direction for a fact find and gave directions for mother to undergo hair strand tests which should be considered by the LA within its s7 report.

54. The matter came before District Judge McCulloch on 24th November 2021. The social worker (at the time), SW5, was in attendance. She had prepared the s7 report dated 10th November 2021. The recitals to that order are very telling. Judge McCulloch directs the appointment of a Guardian for C. The recital records,

“The Guardian was needed in this case to represent the child who is not able to express their views to either of [their] parents or even the social worker since [they are] so worried about upsetting [their] parents. The parents are unable to reach any agreement about C and D or agree to live separately”.

55. On 17th December 2021 the matter returned to Court. The LA confirmed that a legal planning meeting would be taking place to discuss commencing public law proceedings. There were a number of worrying matters – the parents were again living in the same property and the Court having to record that they could not care for the children on a week on week off basis as they had no alternative accommodation; mother had done nothing about arranging a hair strand test, despite previous orders and had not provided a letter from her GP.

56. On 4th January 2022 mother filed her first HST. The report is dated 4th January 2022. Mother disclosed to the testers that she drinks 3-4 bottles of wine per week. The opinion of the testers is that this would be below the level considered to be chronic and excessive. The period of the testing was from June 2021 to start of December 2021. The results show chronic and excessive alcohol use with the ETpa component being above the calibration range, so extremely high.

57. On 8th February 2022 father issued an application for an occupation order. This was consolidated with the Children Act proceedings on 3rd March 2022.

58. The matter came back to court on 3rd March 2022. The children were represented by Ms Carter–Birch as their solicitor and a Guardian. The social worker had changed and was SW6. The order records delays in the LA making a decision with regard to

the PLO process – no legal planning meeting had taken place and there was no time frame for having one; the Court expressed considerable concern as to the delay in the LA decision making process. A further hearing was listed for 17th March 2022. During the final hearing this order was not in the bundle. However, since sending out my draft judgment it was located. The hearing was before Recorder Yasseri. It records:

“AND UPON [B] having confirmed his concerns about the care provided to the children by [A] to be:

- Physical and emotional abuse of [B] by [A] in within the family home.*
- [A] having made false allegations against [B].*
- [A] having physically chastised [C] by slapping [them] to the face*
- [A] using alcohol to excess*

AND UPON [A] having confirmed her concerns about the care provided to the children by [B] to be:

- [B] subjecting [A] to coercive and controlling behavior within the family home.*
- Ongoing sexual harassment of [A] by [B]*

AND UPON the court confirming Practice Direction 12 J is engaged for the purpose of future care management.

AND UPON the Court having determined it is necessary for there to be a Fact Finding hearing in relation to the above allegations prior to any decision being made in respect of [B's] applications for orders under the Family Law Act 1996 (Part IV) and the Children Act 1989.

AND UPON the court confirming the issue of further alcohol testing for [A] shall be considered at the next hearing; [A] having indicated her willingness to engage in further testing prior to any Fact Finding Hearing.”

Recorder Yasseri directed that the solicitor for the child should file a schedule of allegations for each parent to be considered at the next hearing before District Judge McCulloch.

59. The next order is from a hearing on 18th July 2022. The schedules of allegations were not prepared by the solicitor for the child as the police disclosure was incomplete and a further direction was made for these to be prepared following receipt of the police disclosure. However, the LA confirmed by an e mail to the solicitor for the child that:

- (i) Parenting assessments had been completed
- (ii) PLO review meetings had taken place
- (iii) The LA wanted the parents to physically separate as soon as possible and was willing to assist with finances
- (iv) No public law proceedings were to be issued.

60. The general tenor of the recitals is one of huge frustration that no real progress has been made in over six months. However, the parents were able to agree a schedule of arrangements for the children over the holidays. By now it is nearly 18 months since father first initiated proceedings. Further hair strand tests were sought for the mother as no further tests had been done. The court directed a s37 report to be completed by 22nd August 2022 to include its reasons for not issuing public law proceedings.

61. The matter next came before me on 26th August 2022. Once again there was delay from the LA – the social worker had left and was not able to complete the s37 report and an extension of time was sought. The Guardian expressed very considerable concern about the change in personnel and the delay in the s37 report being filed.

62. The matter was next in court on 14th September 2022. Mother had only completed her hair strand tests on the same day as the court hearing and the s37 report was therefore not complete. Yet another delay was caused for these children. The father's application had been made at the end of March 2021 and NO progress had been made in over 18 months. When the test results were obtained, they showed excessive chronic alcohol use for the entire six months.

63. The matter was once again before the court on 19th October 2022. There was a new Guardian, CG2 and the team manager was in attendance, TM1. The proceedings at this stage appeared to be at an impasse. The LA confirmed it was not issuing any public law proceedings, preferring "*for the court to resolve matters for the children within the private law proceedings supported by the Public Law Outline*". The Guardian expressed grave concerns about delay and sought a further s37 report. The LA and Guardian wanted father to move out of the family home straight away with the children remaining with mother. Father would not move without D and would respect C's wish to live with mother. This was not agreed. Mother was still struggling with alcohol issues. There were no further directions about the schedules of allegations which never appear to have been progressed by either party or by the solicitor for the children.

64. On 21st October 2022 the LA notified the parties that it would be issuing public law proceedings and on 18th November 2022 these proceedings were issued.

65. The consequence of the significant delay in making any progress in the private law proceedings is that these children have been subject to court proceedings for over 4 years. However, more shockingly they have had LA involvement in their lives, coupled with police involvement for almost 9 years continuously, since 2017. Neither parent has prioritised their needs. Each has been unwilling to move out as recommended by LA during the private law proceedings. Each seems to have prioritised being in the home over the children.

66. I apologise that this background has taken so long to explain and summarise. However, it is very important that the issues before the Court now are put into context.

Public Law Proceedings

67. The public law proceedings have also taken a very long time to reach a conclusion. When they were started C was 14 and D was 11. They are now almost seventeen and almost 14.

68. In order to put this delay into context it is important for the children in the future to understand why it is taken such a long time to reach a conclusion.

69. The first hearing in the public law proceedings was on 1st December 2022 before District Judge Trigg. The plan was for mother and the children to move to the maternal aunt's home for two to four weeks to enable father to move out and then for mother and the children to return to the family home. Father opposed this as he thought the children were better placed with him. Both parents accepted that the interim threshold was crossed. Mother agreed to have a SCRAM bracelet fitted. The Court made interim care orders in favour of the LA and approved the interim care plan.

70. The Case Management Hearing was before District Judge McCulloch on 20th December 2022. The order recorded that mother and the children had moved back to the family home on 11th December 2022 without informing the LA or the Guardian; that C had separated from C's Guardian and instructed C's own solicitor and that the LA was looking for therapy for C. The proceedings were consolidated with the private law proceedings and were directed to be heard together.

71. At a further case management hearing before District Judge Trigg on 11th January 2023, the Court dismissed father's application for unsupervised contact. The Court also had the results of the SCRAM bracelet that mother had worn from 11th December 2022 to 10th January 2023. There was no evidence of alcohol consumption. Mother clearly was capable of abstinence.

72. A further hearing was listed on 19th January 2023 before District Judge McCulloch. As an aside it is a great shame that there was not judicial continuity. The case seemed to flip flop between Judges Trigg and McCulloch. Judge McCulloch made orders for (i) further hair strand testing of mother; (ii) PAI to conduct a global psychological assessment of the family; (iii) an independent social worker (ISW) Mr David Butterworth to conduct a parenting assessment of mother and father separately. An IRH was listed for 21st July 2023 before District Judge Trigg.

73. The matter returned to court on 12th July 2023 before HHJ Nisa. At that hearing, issues arose about father's parenting assessment and parts that it was considered necessary to redact that impacted on C; mother was directed to file and serve a hair strand test for the previous six months as she had not provided an up to date one; there were problems around father's contact resulting in a written agreement being signed to put in place boundaries.

74. The public law proceedings first came before me on 16th August 2023. Just prior to the hearing mother had filed hair stand tests which showed that between January and July 2023, mother was consuming excess alcohol. This was wholly at odds with mother's

declared consumption of two glasses of wine once per week. This was when the children were in her care and she had alleged that she was not drinking. She clearly was.

75. A number of key directions were made as follows:

- (i) Having been considered competent to instruct their own solicitor at an early stage in the proceedings, C was subsequently found not to be competent. The relationship with C's solicitor had broken down and the court considered it in the interests of both children for them each to have a Guardian, CG1 being allocated to C and CG2 remaining with D who continued to be separated from D's Guardian.
- (ii) The Court directed Dr Katharine Bentley, Consultant Psychologist as a single joint expert report to conduct a global family psychological assessment. The report was to be filed by 25th October 2023. This was directed as PAI (previously directed but not yet instructed) was unable to do a global family assessment.
- (iii) Mother was directed to file monthly PETH tests and further hair strand tests for a further four month period.
- (iv) Father's application for unsupervised contact was refused as was his application for permission to appeal.
- (v) The LA interim care plan was amended and the children were removed from their mother's care and placed in foster care.
- (vi) Evidence was directed, together with a schedule of threshold and welfare findings. Both parents had the opportunity to provide a schedule of findings sought against the other parent.

76. A further case management hearing took place on 10th October 2023 when the court gave permission for a digital forensic expert, Evidence Matters to examine mother's mobile phone for communications between the parents from 1st December 2023 to date. Father refused to hand over his phone. Dr Bentley was given an extension of time until 29th November 2023 to complete her report. This was further extended at a hearing on 22nd November 2023 until 15th December 2023. The absence of the global psychological assessment had a knock on effect on the completion of the parenting assessments. A further opportunity was given to mother to file and serve a schedule of findings that she sought against father.

77. Following the removal of the children from her care, mother had a period of time from mid-August to November when the test results showed she was not drinking alcohol. Sadly, by 13th December 2023 her PETH test results showed excessive alcohol consumption again.

78. Unfortunately, Dr Bentley was unable to complete her report until 4th January 2024, some 2 months late. It then became clear that she would be unable to answer questions due to personal reasons. The timetable was derailed and the IRH listed on 27th February 2024 had to be vacated; the subsequent IRH listed on 25th March was ineffective. Mr Butterworth's addendum reports were also affected by the delay.

79. The Order recorded:

- (i) D would be separately represented but both Guardians would remain involved
- (ii) Mother confirmed in court that she did not seek to put herself forward to care for the children. She opposed them being with their father but supported them being placed with the GPs or remaining in foster care.
- (ii) Father was concerned that the children's wishes and feelings were not being accurately conveyed to the court. He was very concerned that they were not settled or doing well in foster care as it was against their wishes and feelings.
- (iv) The father did not support the children being placed with the GPs in either the short or long term.

80. The IRH was relisted on 29th May 2024 with a final hearing listed on 22nd July 2024 with a time estimate of seven days. On 29th May 2024, the parties all agreed to the children moving to the care of the GPs. Both Guardians "*requested that the local authority consider undertaking some bespoke work with the [grandparents] as set out in their position statements for this hearing*". C had still not received any therapeutic support despite it having been recommended many months previously.

The Final Hearing

81. The final hearing started on 22nd July 2024. I have set out above the difficulties that arose and will not repeat them here save to emphasise that the children have been significantly affected by the substantial delay.

82. The consequence of not having satisfactory responses to the questions and therefore not being able to rely on the report from Dr Bentley was that a further report was commissioned.

83. DVACT-PAI was instructed to carry out a Family Safety Assessment of father together with a psychological assessment of him; both reports to be completed by 14th October 2024. Further it became clear that the parents had had extensive communications with the children and they agreed to their phones being downloaded and digitally interrogated. The question of C's competence was raised again and Dr Bourne was instructed to undertake an assessment, as father challenged C's solicitor's assessment that C was not competent. The GPs had still not undertaken any work and the order provided for a schedule of work to be provided for them to engage in. The matter was further adjourned part heard to 20th January 2025.

84. The January 2025 hearing did not run smoothly. First the Court had to deal with a contested application relating to C's competence and found C was not competent and continued to be represented by a Guardian, CG1 in the proceedings. Secondly, during the course of the first week, there was a safeguarding issue raised by the children about the GPs. This required investigation and two further days were lost. The evidence of the Guardians was not heard until 19th March 2025. Written submissions were sent in and were then spoken to on 9th April 2025. I have already set out the events that took place in April around the time

of and subsequent to the filing of written submissions.

85. I have attempted to take account of the various comments made by Ms Nuttall in her “*Observations*” document and to deal with these as succinctly as possible. Anything not specifically dealt with I have not considered it necessary to change.

Evidence

86. The Court has the benefit of two substantial bundles for the hearing. These are the main bundle which is in excess of 4000 pages and a bundle of mobile phone messages which is well over 6000 pages long with many voice notes and photographs. There is a further bundle of evidence not in the main bundle which has been excluded including Dr Bentley’s report. In addition, I have received the parties’ opening notes and two sets of written closing submissions which together amount to another 200 pages. It has been a substantial task to read and marshal the evidence alongside the rapidly changing circumstances of the case. I am grateful to counsel and the instructing solicitors for their hard work, particularly in organising and sifting the mobile phone disclosure which came very late in the day and in respect of which there was considerable cross – examination. However, nothing can substitute for my own consideration of the materials. If I have not mentioned a document, phone call or some other piece of written evidence, it does not mean that I have not considered it.

87. The case has been in court for in excess of 20 days with 11 days of evidence. I have heard oral evidence from the following witnesses:

Local Authority – SW1 and SW3, previous allocated social workers; SW2, author of the addendum special guardianship assessment; Dr Ade - Serrano, Chartered and Registered Counselling Psychologist; Mr David Butterworth, ISW; SW4, current allocated social worker.

I have heard from both mother and father and the children’s guardians, CG1 and CG2.

The Law

(i) Threshold

88. Family life and relationships must always be respected and the law provides that there may only be interference in family life in circumstances where children have suffered significant harm or are likely to do so. This right is secured by a threshold that must be passed before the court can interfere in family life and authorise the removal of children or order that their care be supervised.

89. The threshold test of ***Section 31(2) Children Act 1989*** provides that the State cannot interfere in family life unless it is proved that at the relevant time the children were suffering or likely to suffer significant harm attributable to the care given to them or likely to be given to them by their parents, and that such care was not care which it would be reasonable to expect a parent to give to a child.

90. Where there are factual matters in dispute in the threshold it is necessary to make findings in relation to those matters.

(ii) The Law on Fact Finding

91. The burden of proving any allegation lies with the person making the allegation. In care proceedings it is for the LA to prove its case. This includes proving the facts on which it relies in its threshold document. The parents are not required to prove or disprove anything that is alleged by the LA. Where parents make allegations, the burden is on them to prove those allegations.

92. The allegations must be proved on what is known as the balance of probability. This means that the Court must be satisfied that something is more likely than not to have happened. If a matter is not proved, the Court will treat it as not having happened.

93. In ***Re B (Care Proceedings: Standard of proof) [2008] UKHL 35***. Baroness Hale at paragraph 70 said:

“I...would announce loud and clear that that the standard of proof in finding the facts necessary to establish the threshold at s31 (2) or the welfare considerations at s1 of the 1989 Act is the simple balance of probabilities, neither more nor less. Neither the seriousness of the allegations nor the seriousness of the consequences should make any difference to the standard of proof to be applied in determining the facts. The inherent probabilities are simply something to be taken into account, where relevant, in deciding where the truth lies”.

94. In ***Re A (Fact Finding: Disputed findings) [2011] 1 FLR 1817*** Munby LJ observed *“it is an elementary position that findings of fact must be based on evidence, including inferences that can be properly drawn from evidence and not suspicion or speculation”.*

95. The court’s task is to make findings based on an overall assessment of all the available evidence. In the words of Butler-Sloss P in ***Re T [2004] 2 FLR 838***:

“Evidence cannot be evaluated and assessed separately in separate compartments. A judge in these difficult cases must have regard to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward by the local authority has been made out to the appropriate standard of proof”.

96. I also remind myself in coming to a decision on fact finding the warning in ***R v Lucas [1981] QB 720*** that

“if a court concludes that a witness has lied about a matter, it does not follow that he has lied about everything. A witness may lie for many reasons, for example out of shame, humiliation, misplaced loyalty, panic, fear, distress, confusion and emotional pressure”.

97. In making findings of fact where domestic abuse is an issue the Court must take account of the Domestic Abuse Act 2021 as follows:

“1. Definition of “domestic abuse”

(3) Behaviour is “abusive” if it consists of any of the following—

- (a) physical or sexual abuse;
- (b) violent or threatening behaviour;
- (c) controlling or coercive behaviour;
- (d) economic abuse (see subsection (4));
- (e) psychological, emotional or other abuse;

and it does not matter whether the behaviour consists of a single incident or a course of conduct;” and

3. Children as victims of domestic abuse

(1) This section applies where behaviour of a person (“A”) towards another person (“B”) is domestic abuse.

(2) Any reference in this Act to a victim of domestic abuse includes a reference to a child who—

- (a) sees or hears, or experiences the effects of, the abuse, and
- (b) is related to A or B.”

(iii) Welfare Considerations

98. The LA was seeking a Special Guardianship Order but now seeks Care Orders. Once the threshold is crossed for the purpose of making public law orders, the court must be satisfied that it is in the children’s best interests for Care Orders to be made. The test for this is under the Children Act 1989 and the children’s welfare is the Court’s paramount concern. In coming to any view about what is best for the children, the Court must consider the various options and consider which of the options will best meet each child’s welfare needs. In carrying out this exercise the Court must look at the risk to each child of each of the options.

99. Lord Justice Peter Jackson set this out in ***Re T (Children: Risk Assessment)*** [2025] EWCA Civ 93 where he said,

“30. The separation of a child from a family can only be approved after a process of rigorous reasoning. That is essential where there is a plan for adoption, but it is also necessary for any significant decision where the outcome is not obvious. A structured process is of real benefit for these important and often difficult decisions, as without it there is a greater chance of error, leading to children living unsafely at home or being kept unnecessarily in care. The fact that the underlying principles are well-known to specialist judges does not relieve the court of its duty to the child, to the family and to society, to explain and justify its decision.”

Private Law Assessments

SW5 – social worker – section 7 report, 10th November 2021

100. The private law proceedings started in March 2021 and this report was directed as part of those proceedings. Its purpose was to address the parents' cross applications to determine where the children should live. At that time father was proposing the children live with him and have weekly contact with mother subject to her confirming that she had not been drinking alcohol. Mother proposed that the children live with her and they have unlimited contact with father.

101. The social worker provides a very careful *child impact analysis*, recording that:

(i) C is 13, a talented artist, bubbly and chatty although at times withdrawn and quiet due to the severe anxiety C suffers from. C records the very great difficulties that mother had in getting C to go to school without support from father. There were regular morning arguments and eventually mother stopped trying to get C to go to school. The view of SW5 was that C was isolated, out of a school routine and this exacerbated C's anxiety. C considers they have a good relationship with mother although C is "*confused, upset and frustrated with the situation*" and considers that C's mental health has been significantly affected by C's parents arguing and relationship. Even at that stage C is reported to be anxious about the outcome of the court proceedings. C tells SW5 that their parents have shared their views about each other with C and this is very upsetting. When speaking to an advocate C is reported to have said that C wants to live with both parents equally but cannot tell them this because they both want "*primary custody*".

(ii) D was only 10 when the s7 report was prepared. D is said to be happy, bubbly and chatty; D loves school and D's attendance is good. D loves [a sport] and has recently started [an after school club]. D seems less affected by the proceedings, either because D is younger or because D is more resilient. D is worried about C and C's anxiety. D is said to have a very close relationship with father and enjoys time with him.

102. SW5 also carries out a careful analysis of mother's alcohol consumption including:

(i) Father has raised numerous concerns about her drinking

(ii) The children raised concerns with the school about it

(iii) An incident when she had to be taken to hospital which was said to be due to alcohol consumption

(iv) The police do not record any concerns when they have been called to the home and when father was arrested the police left the children with mother.

103. SW5 very fairly sets out the father's concerns and in particular his concerns that neither he nor the children are being listened to about mother's drinking despite the children telling her about their concerns. Mother refused to take blood tests or a hair strand test and denied that her drinking was out of control. SW5 expresses her concerns about why she would drink in the family home when she knows father is worried to the extent, he has

taken photographs of her passed out to use in court.

104. SW5 considers that the parents should separate and that mother talks to her General Practitioner about controlling her alcohol intake. She suggests that they reflect on their actions and how this has impacted on the children.

105. It is clear from this that the parents are incapable of putting their children first – sharing information; engaging the children in their acrimony which the children and in particular C do not like; mother lying about her alcohol consumption and refusing to take any tests which then puts father on the defensive as he is certain she is drinking but is not believed; nor are the children despite their very real concerns.

Parenting Assessments dated June 2022 by SW6, allocated social worker

106. The assessments were carried out as part of the Child Protection Plan.

Mother

107. In January 2022 mother underwent hair strand tests which demonstrated excessive alcohol consumption for the previous six months. SW6 does not record any concerns with her daily presentation at school or at work. However, he does note concerns that the children see her under the influence “*on numerous occasions*”. He notes that if it is unaddressed then it will be emotionally damaging for the children. He relies on mother’s self – reporting that she has cut down but he wants her to actively engage with the relapse prevention programme with I Access.

108. SW6’s assessment of mother details the toxic nature of the parents’ relationship and the children being present and involved in their arguments, including mother hitting father in response to feeling intimidated by him. SW6 also notes that as of June 2022 the parents continued to have an intimate relationship with mother saying that “*she felt forced into it as sometimes she feels she has to give in to make him happy*”. He notes that neither parent is prepared to move out and assesses that this is because neither parent is willing to give up the tenancy which is with a social landlord. His view is that neither parent is able to prioritise the children.

109. SW6 recommends that:

- (i) The parents physically separate – one of them to find alternative accommodation. He recommends that this should happen within 2 months.
- (ii) Parents to work with domestic abuse workers to help them understand the impact of their behaviour on the children.
- (iii) Mother to continue to work with I-Access.
- (iv) The LA to consider further steps if the parents do not take steps to address the issues – the Child Protection Plan to continue

110. SW6 goes on to say that mother is able to care for the children in her own right if she and father are not living together. SW6 considers there are strengths in her parenting and he says, *“Despite the concerns around her alcohol use, which she recognises that she needs to address, there is no evidence to suggest that [A]’s alcohol intake has impacted on her parenting capacity”*. She is said to be highly motivated to work with I - Access to address her alcohol misuse. He forms the view that mother is the victim of serious and complex domestic abuse in the form of emotional, coercive control and sexual abuse from father. He acknowledges that the alcohol consumption is serious but considers that mother as a victim of domestic abuse has used it as a coping mechanism. He considers father to be manipulative

“and has succeeded in creating a picture of [A] as an alcoholic parent who is unsafe to safely care for her children including evidence and (admittedly) buying boxes of wine for [A] while at the same time complaining and evidencing [A]’s alcohol misuse”.

111. He makes a positive recommendation for mother.

112. It is of note that these allegations of *“serious and complex domestic abuse in the form of emotional, coercive control and sexual abuse”* have never been tested or found as facts. In light of the order of 17th March 2023 being located I have been asked to clarify this paragraph. Allegations were made by both parents and recorded in the order of 17th March. They were identified in general terms and the children’s solicitor was directed to prepare a schedule of allegations for each parent. This was never done within the private law proceedings nor within the public law proceedings although both parents had the opportunity to file a schedule of allegations in respect of the other. As a consequence, they have never been subject to court scrutiny or cross – examination. Of those that Recorder Yasseri recorded, mother’s alcohol abuse has been proved as a consequence of the hair strand tests and her own admissions as has the fact that she made false allegations against the father. Mother’s allegations have been adopted to a limited extent as the basis of the LA threshold. Despite this, mother’s allegations have largely been treated as the factual basis for part of the LA involvement.

113. SW5’s analysis was not as concrete as the LA position has become and as SW6 set out. She considered both parents had contributed and were responsible for the harm to their children.

Father

114. According to the assessment, father did not consider the assessment was necessary and did not accept the concerns expressed about him – he did not believe he was the perpetrator of domestic abuse; instead, he considered he was the victim of abuse; he did not consider he had contributed to the acrimony in the home. SW6 thought that father was not genuine in his expressed wish to support mother with regard to her alcohol; in fact, he took the view that father has used the issue of alcohol for his own ends and used the fact that father had purchased alcohol for her as support for this view.

115. Father acknowledged the ongoing relationship but says that they have both initiated an intimate relationship. SW6 was concerned that father did not consider the

inappropriateness of it given that mother had previously accused him of [sexual allegation]. SW6 also explored with father appropriate boundaries and whether going into and spending time with the children in their bedrooms is appropriate or whether he requires kissing and cuddling without the children having any choice. The report does not contain any detailed response from father; it is more a report of what he has been told. There seem to be underlying assumptions that his conduct is inappropriate. There is no evidence of this save what mother has said and what she has reported the children have said in that while D is happy C is not and would like more privacy.

116. SW6 says he has spoken on numerous occasions with the children. They love both of their parents. They have informed him that they want their parents to physically separate and co - parent them.

117. SW6 provides a positive parenting assessment for father. He acknowledges that father does not accept responsibility for the situation and for the parental conflict. However, he genuinely loves the children and wants what is best for them. It is also noted that while father is opposed to the Child Protection Plan and the PLO process he has actively and meaningfully engaged with them. His overwhelming recommendation is that the parents should live in separate homes.

Section 37 Report dated 7th October 2022, by TM1, Team Manager

118. Subsequent to my draft judgment, I have been asked to clarify the role of TM1 in the preparation of this report. She records that the allocated social worker is on leave and the social worker who did a lot of the work for the parenting assessment, the SW7 is no longer employed by Surrey County Council and did not have time to complete the s37 report. She describes the work done by SW7, including home visits and conversations with both parents. The report then goes on to set out the work done by SW7 which seems to be adopted wholesale by TM1.

119. However, the Concluding Statements at section 4 are prepared by TM1. She says,

“My summary and analysis have been based on previous discussions with both social workers, as well as from reviewing the available documentation. It is important for the Court to aware (sic) that whilst I have direct case management responsibility for [C] and [D], I have not met them, or their parents.”

120. C - TM1 records that C understands the difficulties of C’s parents’ situation and wants them to live apart. C reports that C “no longer gets on with [their] father since [they] can see through his lies”. C says C is concerned for mother’s welfare and believes that father favours D over C. C told TM1 that C wanted to live with mother and that C gets anxious if C tells their father what C really wants. C believes that mother is trying hard not to drink. C is still concerned that parents have both shared things about each other to C and TM1 notes that mother made negative comments about father in C’s presence. TM1 reports,

“[C] stated that [C] constantly feels anxious around [C]’s parents when they are in the house at the same time. [C] worries about mother's wellbeing when mother is stressed, upset or drinking. [C] feels the only way this situation can be addressed is

by the judge making [their] parents separate and live in different places.”

121. C finds it difficult to talk to their father and feels he has taken a step back and hardly talks to them. TM1 reports that father accepts this because, *“he had taken a step back from C through fear of upsetting C, since C’s moods can be temperamental.”*

122. C’s educational attendance is a concern – C was attending only 50% of the time and TM1 records that C attributes this to anxiety about home life. C is noted to be less likely to attend when in mother’s care.

123. D is recorded as being confident, bright and resilient. D is very clear that D wants parents to live in separate houses and to live with father but see mother when D wants to. D would choose that even if C is not with them. D says D loves mother but is closer to father – he pays them more attention and does more with D.

124. TM1 notes that neither parent has been able to prioritise the children by physically separating despite recommendations. She also notes that both parents have positive parenting assessments.

125. She qualifies the positive nature of father’s parenting assessment because father has not been able to engage with domestic abuse work *“due to his inability to accept that his behaviours have been seen as abusive”*. She quotes the DA practitioner saying that father is in pre – contemplation on the cycle of change as,

“he firmly believes his narrative and is creating as many opportunities as he can for professionals to be convinced of his beliefs also. There is a high risk that [B] will go to further lengths of controlling behaviour if he does not feel heard or believed”.

126. It is reported that he does not accept the impact his own behaviours have on the children. She expresses concern about the parents’ intimate boundaries and the children’s exposure to that, particularly in circumstances where the parents are not only separated but divorced.

127. TM1 records her concerns that there is *“a recurring theme of control”* in father’s interactions with the family. She also notes that *“Domestic Violence has been a feature within the family home for 14 years”*. She is concerned about the impact on C of living in an abusive household *“with adults unable to protect [them], and who have displayed inappropriate and confusing role modelling”*. She concludes that if the children were to be in the sole care of the father the LA would initiate care proceedings.

128. Mother’s alcohol intake is said to be the single significant concern with respect to mother. She is said to be remorseful and willing to engage with support. Hair strand tests in January and September 2022 demonstrate a pattern of chronic and excessive alcohol use. The author notes that it is imperative that she addresses her alcohol use as a priority but considers that her day to day care of the children does not appear to have been impacted by the alcohol use. There is no evidence for the author to rely on that suggests she

has been under the influence during the day or unable to care for the children or complete her daily tasks. However, she accepts that she has perpetuated physical domestic abuse suggesting that it is when she is provoked, frustrated or intimidated.

129. TM1 concludes,

“Both parents have struggled to prioritise the needs of their children over their own acrimonious relationship. This might be due to practical reasons however, the impact on the children has not led either parent to reach a resolution that would be suitable to all concerned. This is a concern of the action of both parents which requires ongoing monitoring considering the proposed support and recommendation.”

130. TM1 concluded *“The Local Authority is of the view that both parents share parental responsibility and are capable of caring for their children.”*

131. The LA’s recommendation was that if mother cared for the children or C lived with mother and D with father it would not need to take public law proceedings. However, if the parents remained in the same home or they lived with father it would. In the meantime, the PLO process was to remain in place.

132. There is no consideration of the accuracy of what has been said; no analysis of the factual basis of the allegations from mother; nor any consideration of her veracity. TM1 adopts the work done by SW7. TM1 is not in a position to make any assessment herself – she has not met the parents or the children. Her views are contrary to the parenting assessments that had been conducted previously without any proper investigation.

133. The father is required to attend domestic abuse work as a perpetrator. However, there was limited evidence, the police took no further action and the allegations raised by mother in private law proceedings were not determined. Father is criticised for failing to accept that he was and is abusive. He is clearly entitled to challenge mother’s allegations, particularly in circumstances where (a) alcohol was and continues to be an issue, he has informed the police and the LA about his concerns, the school has raised concerns and the HS tests and PETH tests evidence mother’s alcohol issues; (b) mother has made false allegations against him with regard to him sexually abusing the children and (c) police have been called not just where father has been alleged to have been abusive. The children have reported the difficulties with mother to the police.

Guardian’s Position within the Private Law Proceedings

134. CG2 was the Guardian for both children in the private law proceedings. They filed a position statement on 18th October 2022 which responded to the s37 report. They considered that the s37 report made for very concerning reading and identified the following concerns:

- *“Constant exposure to parental conflict, the children having been exposed to shouting, pushing, and damage to items in the home (mother having smashed a bowl in front of the children in October).”*

- *Exposure to unwanted sexual advances made by [B] to [A] (most recently 9.10.22)*
- *Controlling and coercive behaviour on the part of [B]*
- *[A] continued chronic excessive use of alcohol, to include concerns that she drives in the car with the children under the influence of alcohol."*

138. They set out their significant concerns for both children, C's anxiety and emotional wellbeing, C's inability to attend school due to anxiety and need for talking therapy. D is reported to be worried about what will happen in the home and the arguing between the parents. They say, *"Both [C] and [D] have been exposed to frightening behaviours at home and constantly worry this will be repeated. This has been the case for almost 2 years which amounts to a significant portion of both children's lives."*

139. Shockingly, the private law proceedings have been going on for 2 ½ years at this time and **there has been no progress for these children, life has become worse for them.**

140. They were very concerned about the way forward for the children and considers that care proceedings would allow the children to be protected and remove them from the risks of private law proceedings damaging them further. They press for the care proceedings to be issued, relying on the concerns set out in the s37 report which in my judgment for the reasons given is fundamentally flawed.

Public Law Proceedings

141. On 19th October 2022, the matter came before the Court following receipt of the Guardian's position statement. The Order records that the LA and the Guardian wanted father to move out and he refused but agreed to move out with D leaving C with mother. This was not acceptable to the Guardian or mother. Mother agreed to wear a SCRAM bracelet. The matter was referred up to HHJ Raeside given the complexities and prior to her hearing the matter, the LA indicated it was taking immediate steps to issue public law proceedings.

142. Proceedings were issued on 18th November 2022.

143. I have set out the detailed background to these proceedings as it is very important to see the issues in context. Without a fact finding hearing having taken place, the LA and those working with father formed the view that he was controlling and coercive of mother and the children. The professionals worked on the basis that this was the factual background. It is clearly very unfortunate that despite the private law proceedings having continued for 18 months (since March 2021) no one had got to grips with the factual allegations and made findings, nor had there been any resolution of the housing issue - neither party appears to have pressed for an occupation order, despite the exhortations of the LA that the parties **MUST** live separately. Mother's alcohol use continued, seemingly with little attempt to moderate it.

144. The professionals seem to have worked on the basis that because no professional had seen mother under the influence and the children were well presented there was not much to worry about. D was going to school and although C's school attendance had reduced this was attributed to anxiety caused by the acrimony. Mother was seemingly unable to get C to school. The accounts of the children and father about the level of alcohol use appear to have been minimised and father's concerns were seen to be part of his controlling behaviour.

145. There was no sound factual basis on which to make any recommendations about the care of the children. It is of note that when the matter was before Recorder Heptonstall in July 2021, the concerns were mother's alcohol consumption and mother's relationship with C, not father's allegedly abusive behaviour.

146. D is clear throughout that D wants to live with father. C who is anxious, older and caught between the parents has vacillated about who C would live with and seemingly not having as good a relationship with father as D, seemed at this stage to prefer mother. It is also of note that much reliance is placed on what C has apparently said to various professionals. However, it should be noted that C has not been found to be competent; C has been more exposed to both parents' views than D; C was often spoken to by professionals in the presence of mother with whom she lived from August 2023 onwards and with whom C had lived while father was on bail; C is likely to have had very divided loyalties. There has been no ABE interview and no real attempt to obtain anything more than informal hearsay evidence.

Professional Evidence

SW1

147. SW1 prepared the initial Social Work evidence dated 18th November 2022 and she was the children's allocated social worker for approximately one month, handing over to SW3 in December. She was responsible for the initial care plans and produced a number of case notes.

148. It is clear from her statement that she has relied on the previous assessments, including the s37 report from TM1. While she met mother and the children in preparing her report at no stage did she meet with father. He had no opportunity to discuss the matters that were contained in the report or to make any answer to the allegations that were set out as facts. For example,

"There is evidence from what has been reported by [A], the SCARF reports to the police from neighbours as well as the children's voices that there has been a high level of coercive control in the home perpetrated by [B] which continues to have a negative impact on the children's wellbeing. [B] fails to acknowledge the impact that his behaviour is having on the children in the home and continues to lack insight into [C]'s needs."

149. There is no mention in this statement that the police carried out a full investigation and found that there was no evidence of coercive and controlling behaviour; nor

that the allegations of sexual abuse of the mother were not pursued by the police.

150. At the same time, SW1 does not seek to obtain father's views on mother's alcohol abuse. She simply accepts what mother says about working with i Access which subsequently transpires is a lie. It is reported that TM2, the team manager, tried to arrange a meeting with father and mother together but he wanted his solicitor present and was concerned about any tension that would be caused as a result of them being together. The team manager met mother but no further attempts were made to engage with father.

151. In cross examination she accepted that she had not met with father; she also accepted that mother had lied about the sexual abuse allegations. She noted that mother had reintroduced suspicion about his behaviours. Somewhat surprisingly given the LA attitude to alcohol abuse in many other cases, she felt that mother's alcohol abuse would not and had not impacted on her parenting capacity; and she said she could not remember father being arrested in front of the children nor that mother was intoxicated when making false allegations in January 2021.

152. The absence of critical analysis is illustrated when she met with the mother and children on 26th October, her case note records that the only thing worrying D was her mother drinking which she said was "*hard to describe*". She sets out C's concerns about her father and the fact that C finds him intimidating and manipulative of D. She records that C does not want to live with father.

153. When she speaks to mother on this occasion, she does not challenge any of the statements made by mother including that she was the constant in the children's lives and that father worked out of the home and was "*having affairs*". She accepts without challenge that mother did not drink when father was out of the home and she had care of the children and that she drank due to father's allegedly abusive behaviour. There is no critical analysis of mother's account. She repeats the allegations of sexual coercion, again without any analysis or opportunity for father to challenge this.

154. It is very unfortunate and, in my view, wrong, in the context of these proceedings that both the s37 report and the initial social worker's statement were prepared in a way that excluded the father from having any input at all. There was no challenge in either document to what the mother said and despite the positive parenting assessment father is seen to be the problem in the family without there being any findings made or even any discussion with him to enable him to present his perspective. I have noted above that TM1 in preparing the s37 report relied on the work done by SW7 but the conclusions she reaches are her own and are reached without any discussions with the children or either parent. Father should not be criticised for (a) not wanting to have a joint meeting with mother given the history. It seems very surprising to me that such a meeting would be thought appropriate given that mother is said to be the victim of abuse; or (b) that he might want support from his solicitor.

SW3, Allocated Social Worker

155. SW3 was the allocated social worker for the children from December 2022 until SW4, the current allocated social worker took over the case in November 2024. SW3

has prepared 3 statements and the final care plans for the final hearing starting in July 2024.

156. The first statement from SW3 was in support of an application to remove the children from mother's care due to,

"increasing concerns for the children's welfare arising from the Hair Strand test results indicating very high levels of alcohol use by [A] and two serious incidents of [A] being intoxicated whilst having the children in her care. [C] and [D] were moved from their mother's care the with the agreement of both parents, and in consultation with both Children's Guardians ."

157. SW3 discounts father as a possible alternative carer despite a positive parenting assessment because

(i) He has *"continually failed to recognise the impact that his behaviour has been having on the children."* He is said to have discounted C's worries and mental health concerns".

(ii) She is concerned about his willingness to work with the LA *"as he does not appear to have an understanding of the children's emotional needs and lacks insight on how his behaviours have impacted on [C] and [D]"*.

(iii) She is concerned that father will limit the children's contact with mother if she continues to drink and this would be harmful as she has been their primary caregiver since birth. She goes on, *"This is another example of [B]'s controlling and coercive behaviour"*.

She records that father would like them placed in his care and does not accept that the [family] are supportive.

158. SW3 records a number of very concerning situations for the children where mother had been intoxicated – at school at a PTA event; following a family funeral and at D's birthday. Her sister and mother were fully aware of her alcohol abuse but failed to take steps to protect the children.

159. On 2nd August 2023, the children were distraught and the mother's sister reported that she attended the home having been concerned about mother's state, C was shouting and screaming as C was angry with mother and D begged to go with aunt but mother would not let D go. It seems clear from what SW3 reported that C had taken responsibility for mother with C saying, *"I can manage her drinking, I can manage her drinking, I can do it"*.

160. Mother had previously reported to SW3 that she felt triggered by the messages and actions of father and this would cause her to drink alcohol. However, as we now know from the mobile phone disclosure, communication between the parents stopped in May 2023.

161. SW3 reflects the children's views about their lives and her concerns for the situation in which they have found themselves, at the centre of a very acrimonious relationship with both parents. She notes that *"[C] has fluctuated in [C's] views regarding*

contact with [C's] father, with whom [C] would like to live and is conflicted in [their] views in respect of [C's] parents". She does not explore C's wish to live with father but focusses on when C has not wanted to go to contact – after a family funeral. She also records her concerns about father's control of the family. She records that D has *"strong affection for both of [the] parents and on 17th July 2023, told me that [they] wanted to live with [D's] father because [D] no longer felt safe in mother's care because of [mother's] continual consumption of alcohol"*. [D] was also said to be consistent in their view that D looks forward to contact with father.

162. In her final evidence, she sets out concerns that father is controlling and manipulating the children through the daily phone calls. She notes that they are having telephone and other contact outside of the supervised contact. It has subsequently become clear that both parents were having extensive contact with their children without it being monitored or supervised by LA.

163. When SW3 discussed their wishes and feelings about where they wanted to live, they were clear that they understood that living with their mother was not an option as she was still struggling with alcohol issues. Both children expressed the wish to live with their father. C said C felt safe with him and *"he takes responsibility and he's not like the other parent, he'll look after us"*. D said that D gets on well with father *"D has a good relationship with him and so therefore feels he is the safer parent"*, taking responsibility when their mother couldn't.

164. SW3's conclusion was that the children could not be placed with either mother or father. She considered that father needed to be in control of the children's lives and therefore he would not be able to meet their unmet needs going forward. She says of the siblings,

"[C] and [D] need to be placed together as they understand each other, support each other and have a shared lived experience. The sibling relationship is one of the most important and long-lasting relationships that a child will have in their life, they share their early lived experience and hold a deep understanding for one another. It is vital that these children remain together."

165. Her recommendation was that the children should be subject to a care order and remain in foster care together.

166. In her second final evidence dated May 2024 she maintains her view of father as having been emotionally abusive of the children and that he controlled and manipulated them. She reviewed the addendum Special Guardianship Assessment by SW2 which was now positive, the original assessment having been negative, and concluded that the children should remain in the care of their GPs under an SGO. SW3 acknowledges that any placement with the GPs would be regarded by the children as interim as they wish to live with their father. SW3 expresses the children's wishes in a very muddled way – accepting that they want to be with their father and that placement with the GPs is only temporary; then saying that they are *"jubilant"* at being told that they were going to the GPs – but in my view that was only in light of the fact they would no longer be in foster care. SW3 continues to be concerned by the level of *"control"* exerted by the father with regard to telephone calls and

messages.

167. There are significant criticisms of father and the way in which he has undermined the foster placement and been critical of social workers and has given the children a false hope that they might return to his care. She does not support a return to his care as they would “*continue to suffer/be likely to suffer emotional harm in the care of father*”. The harm that is identified if they live with father is that they will have a negative “*rhetoric of their mother*”; he is not considered an empathetic parent who can work with professionals.

168. In her oral evidence SW3 is clear that neither child wishes for a care order to be made. They would both be very upset. They want to be with family and they want to “*feel free*”. They do not want the LA to be in charge of their lives. SW3 says, “*They want family to take responsibility and for things to move on. [C] is 16+, [C] wants to be free of this and [C] wants PEP meetings and social work visits to stop*”. Although this was said in the context of the GPs caring for the children under an SGO, the principle remains the same.

169. She was also very clear that from her perspective, father was very difficult to work with and she had been unable to establish a rapport. She said she had never had a situation where she had been unable to do so. She described him as “*brash, rude and disrespectful*”. She described it as very difficult to establish a working relationship. It would appear that she never managed to meet him other than in formal LAC reviews. Certainly, she never discussed the concerns the LA had with him. While he may be a very difficult, loud and challenging man, it seems extraordinary that a very experienced social worker was not able to have some level of communication. I thought she was very defensive about why the LA had not investigated mother’s alcohol consumption when both father and the children raised it as long ago as 2021 – the allegations of sexual abuse were made when she was intoxicated. SW3 was very keen to point out that as far as the LA was concerned the children were happy so the LA did not question it. She was very defensive about whether the allegations were investigated or substantiated earlier than summer 2022, replying that she did not know.

170. SW3 was asked questions about the impact on the children of father suggesting he had Taylor Swift tickets; then that he only had two and then that they were fraudulent. She was very concerned about the impact on the children of promises having been made but the children being let down and father not appreciating the impact on them of that happening. She acknowledged that while the children were living with mother, she struggled to get C to go to school and father was asked to help with the school runs which he willingly did. Father was criticised for pushing the boundaries by parking on the drive, instead of in the layby.

171. However, father did have more success getting C to school and along with this SW3 had to acknowledge that there were positive aspects of father’s parenting. She also acknowledged that he had embarked on work with a therapist he had sourced and that this demonstrated a significant engagement.

172. Subsequent to SW3 giving evidence she had a conversation with Dr Bourne who was conducting his competence assessment in respect of C. Father criticises the appropriateness of her comments. Despite the fact that any allegations of sexual abuse by father of the children were retracted by mother, Dr Bourne raises them and instead of SW3 saying that they are not relevant and have been retracted, the notes say, “[SW3] agrees – *that is what is ticking over in my head.. the SA issue – odd things happen like Dad buying underwear And what’s gone on when the family were living together Mum’s concerns*”. While I accept that the accuracy of this was not put to SW3 this is what is recorded as in her mind about father. No party sought to recall her in order to deal with this document.

173. It is of significance to note that by May 2024, just prior to the final hearing starting, father had had no meeting with TM1, no meeting with SW1 and no meeting other than at LAC reviews with SW3. No one had sought to discuss the allegations of controlling and coercive behaviour with him, no one had critically analysed or challenged mother’s allegations. All had been accepted. For a significant time (until August 2023) mother’s alcohol issues were minimised. Father seems to have been accepted as the cause of her drinking but without any analysis. None of the professionals appears to have considered the relationship from father’s viewpoint. Father is described by SW3 as being difficult, rude and disrespectful. It seems clear that his views were neither sought nor given any weight nor considered. It is perhaps understandable that he felt frustrated and that no one was listening to him.

174. I do not underestimate the difficulties of working with father. He was very angry about the situation and felt that he had not been believed by social workers when he made allegations against mother about her drinking and her physically abusing him. Further he was deeply distressed about the allegations of sexual abuse of the children. He felt that he had been labelled as an abuser who had exercised controlling and coercive behaviour against mother and both children.

175. It is against this backdrop that SW3’s evidence must be viewed. She absorbed into her evidence the previous reports and assessments. This in my view would have coloured her view of father. She clearly had her own experiences with the Taylor Swift debacle and what was observed to be him pushing at boundaries. She felt she could not work with him. She described in her evidence what steps she had taken to try and build a relationship. In her view she had worked very hard at trying to build a relationship; however, what she said about how she went about it was rather vague and non- specific. She did not acknowledge the issues that father had with the allegations about him or the impact on him of those allegations, only the impact of care proceedings generally. He worked with other professionals, albeit reluctantly and not without difficulty. The evidence from SW3, in effect consolidated the view of the previous social workers without any proper challenge or investigation into what mother alleged.

176. There was very little in the way of a proper balance of harm assessment and analysis of what the actual risks would be if the children lived with father given the absence of any findings.

Dr Katharine Bentley, Consultant Psychologist - report dated 4th January 2023.

177. For the reasons set out above, no party seeks to rely on it for anything other than factual matters reported.

Family Safety Risk Assessment and psychological assessment of father – Dr Yetunde Ade-Serrano, Chartered and Registered Counselling Psychologist reports dated 28th November 2024

178. Dr Yetunde Ade-Serrano sets out the purpose of the risk assessment was “to consider the risk posed to [A] by [B] in relation to intimate partner violence, as well as the implication of this in terms of the risk to the children”

179. She describes how she found father- he was generally calm and controlled, engaged but struggled at time to maintain his composure “at moments of increased emotional arousal which is understandable and not unusual in these cases”. He seems to have demonstrated a full range of emotions across the assessment days which Dr Ade-Serrano described as “congruent with the content of the discussions”. She found him to be warm and engaging but on one occasion he seems to have become dysregulated and left the room and then appeared hostile and condescending. She then says,

“[B] was then apologetic, explaining that the proceedings had been going on for a long time and that it was "traumatic" for his [children]. [B] reiterated these points. I explained to [B] that I understood he was frustrated. He told me all he had was his voice.”

180. Dr Ade – Serrano assesses the static and dynamic risk factors for father. She considers that the static factors for father are:

- (i) suffering attachment disruptions (including the experience of separation). These were as a result of the separation of his parents at an early stage in his childhood. However, Dr Ade - Serrano does suggest that he had a secure attachment with his parents showing him love despite their own difficulties.
- (ii) Maltreatment as a child and was likely emotionally abused.
- (iii) He experienced physical abuse at the hands of his stepfather.
- (iv) He was exposed to the intimate partner violence within his own mother’s relationship.
- (v) Rapid early progression of his relationship with mother – Dr Ade – Serrano suggests that the speed of the relationship may be indicative of abuse, particularly coercive control.
- (vi) Alleged perpetration of coercive control within his relationship with mother and his children. The evidence relied on appears to be that he has frightened her with his temper and sworn and shouted in her face. Dr Ade - Serrano considers father made light of the allegations of control and that this is used as a way of minimising such behaviour. He also makes extensive allegations against mother. The conclusion reached is that father has exercised coercive control over mother and that he has accused mother of such control.

(vii) Alleged sexual abuse of mother and his children (later retracted). Dr Ade-Serrano appears to put some weight on the allegations of sexual abuse, despite them having been retracted and not pursued. There are certainly no findings in respect of the allegations. While she does not rate the significance of the allegations, she says that *“retraction of allegations is not unusual, particularly in the context of abuse and situations of coercive control.”* It is concerning that any weight is given to this in the absence of findings.

(viii) Breach of agreements around contact

181. The dynamic factors are based on changeable factors such as attitude, insight and understanding together with situational factors such as housing employment and substance misuse. These can be addressed and can make small adjustments to the baseline risk. Dr Ade-Serrano considered that there were dynamic factors that increased the level of risk over baseline including:

(i) Emotional dysregulation.

(ii) Continued presentation of coercively controlling behaviours.

(iii) Limited insight into his abusive behaviour. The report indicates that father is unable to recognise his contribution his own actions have made to his family dynamics. She notes that he was able to recognise some of his strengths as a father but likely feel vulnerable to accept his weaknesses particularly when he perceives he has failed in his role as a father.

(iv) No acknowledgment of the risks he poses. The report suggest that father’s history indicates that when aroused to frustration and anger he quickly shuts out awareness of the effects of his behaviour on others.

(v) Expressions of denial, frustration and anger

182. With regard to post – separation violence and abuse she says,

“If it is accepted that father has exhibited controlling and coercive behaviour, then it is highly likely that until he is able to come to terms emotionally with the relationship ending, the controlling and coercive behaviours will continue. The severity of violence during the currency of the relationship is among the best predictors for the occurrence of violence post – separation.”

This is a surprising observation given that mother does not allege any violence against father during the relationship. Dr Ade-Serrano considers this an ongoing concern.

183. Dr Ade-Serrano concludes that father presents negligible risk of minor physical harm to mother and the children. She says,

“As a minimum, father presents a high risk of moderate emotional and psychological harm to mother and his children should no risk management measures be in place. Should mother’s or other third parties’ accounts be preferred to father’s then this risk level could potentially increase”.

184. Dr Ade–Serrano considers that father also has vulnerabilities that mean he would be less able to protect himself or his children from abuse by mother.

185. She recommends that the parents should have no contact, particularly indirect via the children. Father would not be suitable for a perpetrator programme for coercive control as he denies the allegations. She suggests there may be personal therapy he could undertake and parenting work. At the end of the assessment she is somewhat more positive stating, *“The prognosis of treatment largely depends on [B’s] willingness to acknowledge there is a problem and that working through these deep-rooted issues would both be healthy for him and the relationship with his [children].”* She considers that contact should continue to be monitored.

186. Dr Ade–Serrano also carried out a psychological assessment of father. She sets out a summary of her conclusions including,

“4.2.1. [B’s] unresolved childhood experiences and likely trauma has an impact on his emotional interaction with others including his [children]. Because [B] has therefore developed survival strategies to manage his emotions, this has led to some difficulties in managing stress, frustration, anger and emotional stability. These have implications for consistently responding to the needs of his [children].”

187. She considers that he does not have a psychological disorder, nor any sort of clinical syndrome. She says that he has *“personality structure or styles that are vulnerable to threat due to experiences he has held”*. She notes that,

“Despite [B’s] experiences in childhood, ongoing emotional challenges and the stress of the family proceedings, he demonstrates considerable resilience. [B] is able to continue to function in the face of adversity and focus on the practical solutions he can provide for his [children]. He exhibits a desire to care for them and provide them with good enough parental care.”

188. Dr Ade–Serrano notes that father’s experience has indicated a mistrust in professionals as the information he has provided has been used to paint him in a negative light. *“[B] feels that professionals do not fully understand or empathise with his experience which then feeds into the distrust that already exists”*; she continues, *“[B] is also likely to be resentful that professionals have contributed to the lost opportunity around his employment and that action was not taken quick enough to protect him.”*

189. She considers,

“6.3.1. The likely impact on [B’s] ability to care for the children include emotional insecurity and anxiety, emotional dysregulation and impulsivity, parenting overcompensation, self-blame and guilt, difficulty with setting healthy boundaries, impact of past experiences, and cognitive distortions in his parenting.”

190. In her psychological assessment, she recommends that the LA supports father to engage in psychotherapy or art therapy to assist him with his emotional difficulties. The goal of any therapy is said to enable him to *“gain insight into how his early experiences shape*

his current behaviours particularly in relation to his children and his own emotional difficulties.”

191. She does not consider that the need for therapeutic work would stop father from remaining in contact with the children. She says,

“In coming to this view, I have considered: the emotional bond that exists between [B] and his [children]; the familiarity and stability his presence does have for his [children]; caring for the children could provide opportunities to practice the skills he is learning from the engagement with psychotherapy; and it could be positive for emotional growth and the development of parenting skills as part of a family healing process.”

192. She explains that this may be “*extended to [A] in facilitating healthy co-parenting strategies*”. She appears to be seeing him able to potentially co – parent with A which as is quite clear from any view wholly unrealistic.

193. In considering father’s ability to work with professionals she notes that his relationship with some professionals is fractured. She suggests that the professionals need to rebuild trust and be mindful of critical judgments. It is of note that far from professionals being mindful of critical judgments, father has been subject to much criticism throughout the proceedings. On the other side, father is encouraged to be open with feedback he may not want to hear and to accept the need for help; as well as demonstrating commitment to his personal growth.

194. In my judgment, despite his misgivings father has tried to be more open to working with professionals. He has agreed to a Supervision Order if the children are with him; on 13th April 2025 following the fracas at the pub between mother and the GP, he contacted the Emergency Team at the LA and tried to speak to SW4; he was very calm and collected giving evidence and despite the serious additional allegations made against him and the distress these have caused, he has been very measured and cooperative.

Oral Evidence

195. She confirmed that at present father would not be suitable for a perpetrator programme because he denied that he was a perpetrator of domestic abuse. She thought he would need some personal therapy and may then be able to engage. It begs the question that in the absence of findings why would he need a perpetrator programme?

196. She confirmed the opinion in her report that if the parents renewed their relationship or lived together under the same roof there would be significant concerns for the care offered to the children. She was also clear that any contact should be supervised, preferably professionally.

197. She was concerned about father’s ability to empathise with C’s experience, unable to imagine what that hostile environment could be like,

“In my professional experience, when a parent finds it difficult to mentalise about the impact of the home environment on their [child], this goes back to the interpersonal

relationships and how his childhood experiences impact how he relates to his [child]”.

198. She felt she had been very thorough in taking father’s perspective into account; she felt she had gathered all the information necessary to evaluate father’s profile. She felt that father would struggle to be emotionally available to the children, even if superficially he could engage and interact. She did not consider that to be the same as being emotionally available.

199. On behalf of father, Ms Mettam asked about the evidence base for the children being impacted by father’s psychological issues. Dr Ade–Serrano was very definite in her answers saying that *“the nature of those personal issues will [my emphasis] be extended into the relationship with his [children]”*. She based this certainty on his profile and the documentation she had read which suggested he had interpersonal issues if he is highly stressed or frustrated. She thought that would inevitably impact on his children and in particular his inability to empathise with C or the impact of a hostile environment for C. She thought he had an inability to *“mentalise”*. She accepted she had not seen father with his children but said she had taken account of what had been said by other professionals and his own evidence. She did not consider that her conclusions were too concrete and felt she was able to draw her conclusions from her assessment.

200. She accepted that for father the proceedings had been very difficult and had had a significant impact on him professionally and personally with the sexual abuse allegations.

201. With regard to his 10 sessions of therapy, Dr Ade–Serrano accepted that participating in the therapy indicated that he wants something to change. She was unable to speak to whether there had been change – she did not speak to his therapist.

202. Her views did not change with regard to father being potentially controlling and coercive and while she accepted that there were no court findings she drew on the reports before the court and her own experience when father became angry during the session and she found him intimidating and hostile. She stood by her view,

“[B] tends to exhibit coercive control by using his perspective to overwhelm that of others. Whilst it has likely been dominantly experienced within his relationship with [A], it is also experienced by others who are non-intimates. The coercive control serves to undermine the autonomy of others prioritising what [B] considers to be important. [B] lacks awareness of his actions [see psychological report] but it does not negate the impact on those who experience this from him. This lack of awareness can increase the risk of ongoing and escalating experiences of coercive control from [B].”

203. She considered that there was evidence of controlling and coercive behaviour in the sense that father had isolated mother; monitored her behaviour; made threats to her; in addition, her own experience of him during the assessment suggested he was controlling and she noted that he had involved the children to film her when she was intoxicated. She

accepted that his behaviour could be both safeguarding and controlling – in the sense that he was seeking to obtain evidence.

204. In response to CG2 she confirmed that she would remain concerned about the risk to the children even if no findings were made. This would be as a result of the static risks. She felt that there would be a risk of him not being able to meet the emotional needs of the children; that there was a risk the children would be disappointed and that he could not see the world from the children's perspective.

Analysis of Dr Ade-Serrano

205. Dr Ade-Serrano is an experienced professional and has applied the tools that she considered necessary to conduct the risk assessment and psychological assessment. The LA put very considerable weight on the assessment and it is clear from Ms Nuttall's closing submissions that it is a significant lynchpin in the LA case, submitting that her evidence was "*balanced, measured and thoughtful*". She says she has reached her views by her own communications and experiences of father and also through the professional reports she has read as part of her instructions.

206. She gives very concrete opinions as to the risk father poses. However, I have significant concerns about the nature of her evidence and the weight to be given to it.

(i) I have identified that the professional reports of social workers are flawed due to the failure to question, challenge or investigate mother's allegations; or to seek a view from father. He is seen as a perpetrator and while Dr Ade-Serrano pays lip service to the position that there have been no findings, in my judgment she is unable to dissociate her views from the allegations. For example, in her report she talks about father's "*continued presentation of coercing and controlling behaviour*".

(ii) She sets out in her report that he tends to exhibit coercive control by using his perspective to overwhelm that of others. She also talks of him being calm and cooperative and appropriate during the assessment.

(iii) It is also concerning that when she considers the allegations of sexual abuse, she says that although she has not taken them into account, that victims often retract the allegations. They remain a factor as the allegations have been made. She does not consider the fact that mother acknowledged they were lies. They should not have been a consideration at all particularly where the children are well aware of the allegations and know they are untrue. The children have never expressed any concern about having contact with their father.

(iv) She does not take account of the fact that the relationship between mother and father is over. They have not been in contact for in excess of two years and have only had very limited contact at court. She does not assess the ongoing risk to D and C of this change in the parental relationship.

(v) Dr Ade-Serrano neither speaks to the children, nor does she see the father with the children although I accept she was not asked to complete a global assessment of the family.

207. I consider that in the absence of a sound factual basis for assessing risk and father's denials of the allegations made against him, any risk assessment must be of limited weight. The mere fact that he denies the allegations is seen as a risk given that he is assessed as being unlikely to be suitable for a perpetrator programme. This pre – supposes he is a perpetrator.

208. In respect of Dr Ade-Serrano's assessment of him as a risk to C, in particular, I am struck that there has been no discussion with C; no observation of contact to consider the relationship. Further, Dr Ade-Serrano does acknowledge that father will be able to meet some of C's needs but may not be wholly emotionally available to C.

Mr David Butterworth – Independent Social Worker

209. Mr Butterworth has produced a number of assessments and reports. He carried out initial assessments in June 2023 of both mother and father. He then produced addenda reports in February 2024 for both parents. His final report is of father alone in December 2024. He also engaged in conversations with Dr Bourne and responded to questions by email. He gave oral evidence.

210. It would be fair to say that Mr Butterworth's views have varied as the proceedings have progressed. I agree with the submissions of Mr Duncan that he seems to have been unduly influenced by the views of others.

June 2023 Assessments of the Parents

Mother

211. Mr Butterworth concludes that mother is best placed to meet the children's needs in the longer term. However, he also has concerns that,

“[A] has been unable to meet their complex needs due to the ongoing impact and involvement of [B], she has good enough knowledge and skills from a secure base, from which she can recover, build on and improve her parenting levels.”

212. Mother was clearly untruthful with Mr Butterworth. She is reported as saying at para 36,

“36. [A] stated that the suggestion of her being an alcoholic and possibly an unfit mother has been perpetuated by [B] and continues to affect her children. She therefore believes that further testing is part of her ongoing victimisation. [A] would certainly acknowledge that drinking became her form of coping when in a relationship with [B] and the children would be repeatedly told that, 'mummy's drunk', if she was having a glass of wine. She added that [B] would use the 'mummy's drunk' if she was not responsive to him or acting distracted, moody or unhappy.”

213. She reported this at a time when the HST results in 2022 showed excessive alcohol consumption. The test results for August 2023 showed excessive and chronic alcohol use between January 2023 and July 2023, during the parenting assessment. Despite this, Mr Butterworth assessed her as showing insight and commitment to the I Access programme and

a desire to overcome her drinking.

214. Mr Butterworth notes that the children come back from contact with father “*seemingly happy and relaxed and have asked to see him*”; mother “*has also found it helpful when she may have a conflict with work and has taken up [B’s] suggestion of taking [D] to school or taking them out for dinner.*”

215. However, it is clear from this assessment that Mr Butterworth accepts mother’s description of father as, “*cruel, derogatory, uninterested, unavailable and intimidating*”. He says that she describes someone “*who is entirely consumed by their own needs and is conditionally available when it suits them*”. He goes on to say that she has been exposed to “*a cruelty where she feels belittled, powerless and useless*”. He cites father buying two boxes of wine as cruel and manipulative. He considers that mother used alcohol as a means of coping with the abuse she was suffering from father and he says, “*I have sympathy with [A] and can understand her viewpoint*”. He recommends that mother has care of the children.

Father

216. In his June assessment of father, Mr Butterworth notes:

- (i) he was difficult to engage
- (ii) he was reticent in sharing information
- (iii) he was argumentative, sought to control the narrative, lacked insight and would not consider alternative perspectives
- (iv) he positioned himself as the victim, induced sympathy and was persuasive

217. Mr Butterworth concluded that he was not interested in another opinion other than his own. He says,

“5. Whilst for me as a professional, who has the experience and ability to manage this and then reflect on this behaviour and formulate my thoughts, a child is likely to experience this very differently. For a child who is likely wanting to please a parent, navigating this parental behaviour will most likely cause them high anxiety and stress, even if they cannot recognise it directly.”

218. He says,

“Although I suspect he would disagree, [B] has unresolved issues through unmet needs and likely trauma that he continues to play out in his relationship and how he parents his children, and these are significantly harmful to his children.”

This clearly chimes with the evidence of Dr Ade – Serrano and the impact of his childhood adversity on his psychological functioning.

219. Mr Butterworth was very clear about the harm that has been done to the children by BOTH parents but considers that father’s actions have had a greater impact on the children as they are being manipulated because father is entirely focused on his own needs, his rights and what he wants. He does not consider that father would be able to prioritise the

children's needs over his own. He notes that C has ambivalent views of father and does not see him as predictable and therefore it is hard for C to show their emotions to him.

220. Mr Butterworth's concerns about the relationship and the need for stability in the home and the enmeshed relationship between the parents leads him to suggest that the children should have a complete break in contact with father for a period of three to six months. Contact could then be reintroduced in a supervised manner. There is very little analysis of the impact on the children of this radical suggestion or how it might be implemented, given their ages.

221. He notes very clearly that, *"The children are adamant that they want to live in their family home, with one of their parents, but do not want their parents to be together for any extended period and definitely do not want them to live together or re-start their relationship."*

222. Mr Butterworth does not recommend that the children live with father. It is of note that while he spoke to both children, he chose not to observe contact with father.

February 2024 Addenda

223. Both of these reports have been influenced by the evidence of Dr Bentley whose professional opinions were considered unreliable and her report was not before the Court. It is therefore difficult for Mr Butterworth's addenda to be considered other than for the factual matters contained in them.

224. Mother – Mr Butterworth sets out the position in respect of mother in February 2024,

"5. I am now aware that [A] was not being truthful about her alcohol abuse. In fact, her constant denial of the reports made by her children, in that they were influenced by their father's false reports were part of a considered strategy to deceive professionals and possibly herself."

225. She was inconsistent in her reports to Mr Butterworth and continued to minimise her behaviour. She accepted that buying alcohol affected her finances, she felt drained and tired and would lie on her bed after drinking. These were all observed and reported by the children. She acknowledged that her refusal to take a test in 2023 was not because she felt victimised but because she knew it would be positive. He reports,

"[A] suggested that as no-one seemed to notice a change in her whilst drinking, except the [children], then she carried on. It was worrying that she added, 'I thought someone would have noticed', as if to share the blame to others in some way."

226. Mr Butterworth does not consider that the children can return to their mother.

227. Father – Father made it clear that he did not accept the conclusions of the previous report. He did not accept that he was coercive. He was clear that he would wish to

have care of the children and was open to mother having contact provided he had assurances that she was not under the influence of alcohol and had not drunk alcohol within 24 hours and it was supervised. He reports that,

“The fostering logs I have seen, suggest that both children look forward to contact with their father and come home happy, although the children are keen to share all and every update with their father, and they seemed to feel it was crucial that they did this.”

228. While no reliance is placed on Dr Bentley’s report, I do consider it is relevant and important to note that in light of the more hopeful view from Dr Bentley of father’s ability to care for the children, Mr Butterworth changed his mind and reported,

“Whilst taking their views and ages into account, I am minded to agree with Dr. Bentley’s report in that if [B] actively works on the areas identified and the children start to receive some of the recommended work that is suggested, a transition home to their father is likely the best option for them at the moment. This is also on the basis that I do not believe that [A] can safely care for the children in the short or medium term.”

He recommends a period of supervision.

229. On 16th October 2024, Dr Bourne had a conversation with Mr Butterworth. It is somewhat concerning that Dr Bourne’s first question is why his remit is not wider. He was instructed to do a very specific piece of work, namely consider the competence of C. However, he has an in depth discussion (in my view wholly inappropriately) as to how Mr Butterworth has come to the view that the children could be placed with father. He discusses the conclusion with Mr Butterworth and questions the outcome he has reached, in particular, commenting,

“Dad in control of boundaries, lack of boundaries around bedrooms

Mum - confidante

Agrees there are a lot of flags about SA - Maybe [C] learns, nobody is safe the pros haven’t stopped stuff is Dad saying, whatever you do, I will be in control”

This is highly inappropriate given that there are no issues about sexual abuse of the children before this court. It is another example of this being raised and the professional involved (Mr Butterworth) not making it clear that this is not an issue before the Court. It also gives an insight into the way in which the allegations of abuse have permeated these proceedings.

Final addendum, 17th December 2024.

230. Mr Butterworth’s views have become much more settled and definite. He considers that father will continue to cause the children significant emotional and psychological harm. He says,

“Whilst risk management plans and intervention are suggested, [B’s] refusal to accept any role in causing harm to the children and to suggest that if anything he has been “the most empathetic, supportive and loving parent” is at best, evidence of his absolute denial, and at worst evidence of his deliberate attempt at misrepresentation

of the facts.”

231. He considers that the children have been manipulated into trying to act as their father’s protector and he does not believe that the children’s views, despite their ages or assessed competence can be given the same weight as those children who do not have *“enmeshed and role – reversed relationships with their parents”*. He says, *“In my opinion, the children's views are the product of their father's long-term explicit and tacit messaging that they must defend him and actively oppose any negative views about him.”*

232. Mr Butterworth reports,

“8. [B] refuses to accept that the evidence from various professionals concludes that on the balance of probabilities he has emotionally abused his ex-wife and emotionally harmed his children. He also refuses to accept that he has any vulnerabilities that could negatively impact on his parenting capacity.”

233. The difficulty with this assertion is that father is being asked to accept as fact matters that the court has not determined. The fact that, *“various professionals”* conclude on the balance of probabilities that something has or has not happened is not good enough. It is for the Court to make findings having heard the evidence from BOTH sides.

234. Mr Butterworth expresses concern about father’s attitude to the GPs. He says that he is *“concerned that he would make this relationship very difficult, given the contempt with which he appears to hold them and his allegations of negligence.”* He says this without seeing the unredacted Special Guardianship Assessment in which the GPs’ views of the father are set out and are very concerning and abusive of father. Adding into this mix are the appalling and unsubstantiated allegations made by GPs following the conclusion of the hearing in April 2025 (obviously post-dating Mr Butterworth’s assessments). They rather substantiate the father’s position in respect of them. It is also worth remembering that [there was a previous incident of one GP] shouting loudly and abusively of the father.

235. Mr Butterworth no longer supports the children being placed with father. He says he does not believe that father can care for them safely.

Oral Evidence

236. Ms Nuttall asked Mr Butterworth to explain his shift in position between February and December 2024. He explained that in February, he felt he had been too hopeful that father would make progress. He said he had neglected to reflect further on the emotional harm to the children; that aspects of his personality were a concern and elements of control. He said he was also aware at that stage of the option of GPs as carers.

237. He was cross – examined by Ms Mettam and accepted that he had never met D on their own and only met C on two occasions, once on their own. Ms Carter–Birch pointed out that at that stage in April 2023, D was only 11 and was not competent. Mr Butterworth talks about *“visits”* but there was just the one and Mr Butterworth was yet another professional for D to talk to. He also accepted that he could have arranged another meeting

either at GPs or through Ms Carter–Birch, particularly as D is far more able to express D’s views now.

238. He accepted that much of his assessment is based on what others have said about father as well as meeting with father. He also accepted that the children would have changed in the two years since he saw them. He accepted that he made recommendations about suspending all contact without ever having seen the children with their father and he never observed contact explaining that he felt his presence at contact would not be welcomed and might affect the children. He accepted that he had never done that before. He explained his recommendation saying that he felt the children needed a break from father and a period of time to reflect on their relationship. He believed they were being managed by father and their views were being influenced by him.

239. Mr Butterworth was challenged to consider the impact that the allegations of sexual abuse would have had on father and in circumstances where there was continued speculation about it. He accepted that it would have been very painful and that discussion of those matters could be triggering for father. He said he could understand some of his views about professionals and that he felt he had been misunderstood and misrepresented. He also accepted that when he provided the update in December, he only had one phone call with father; he did not speak with the children; nor did he see father with the children.

240. He accepted that he had been taken in by mother and she was a convincing liar. He said he believed she was coping and she was not. He accepted that he adopted the belief that father was controlling and coercive from the documents, reports and his own experience of father. Mr Butterworth described a difficult assessment with father and while accepting that he may have been jaded as a result of not being believed and mother lying, he nevertheless felt that father was combative and unwilling to listen to the opinions of others. However, he also accepted that father wanted to do the right things by the children but he was concerned that his own vulnerabilities would mean he could not prioritise them above his own. However, in answer to Ms Brazier, he was very clear that father had made no progress in understanding or accepting the concerns of the professionals; nor had he demonstrated any openness of mind.

241. In my view, Mr Butterworth was evasive when being asked about the influence of Dr Bourne and the conversation about sexual abuse. It was also concerning that he told Dr Bourne that in his view possibly father had a personality disorder and narcissism. He accepted in cross – examination that this was not within his expertise. However, very concerningly it goes to Mr Butterworth’s thought processes and views of father which must inevitably colour the objectivity of his assessment.

242. He remained of the opinion that even if the risk assessment and psychological assessment are found not to be reliable, he would still form the view that the children should not live with their father. He also remained of the view that contact with their father should remain supervised.

Analysis of Mr Butterworth's evidence

243. I was concerned about the evidence of Mr Butterworth. There are a number of issues that arose during his evidence.

(i) I consider he was very influenced by the views of others, first Dr Bentley, then inappropriately by Dr Bourne, although I accept he also had the benefit of the risk assessment of Dr Ade -Serrano which also appears to have been an influence. When he finalised his December 2024 addendum, he accepted that he had only had a telephone call with father and had not spoken to the children. He accepted in his oral evidence that given the age difference between his first and final reports it would have been better to see them.

(ii) Mr Butterworth is another professional who accepts mother's allegations against father. In his first report he sets out his views of father in very extreme language. These are based entirely on what mother has said and the other professionals' reports. In circumstances where mother has lied to him very convincingly it is surprising that he does not look more closely at the other things she has told him. Father accepts that he bought alcohol for mother on one occasion. No one alleges it was more than one occasion and he accepts that it was a mistake.

(iii) Mr Butterworth's recommendation for a complete break in contact is extreme and not properly evidenced. He was clear that the children enjoy contact and are happy returning from it. He did not observe contact and he had very limited time with the children. I consider that this demonstrates a very extreme view of father.

244. I find that I can only give Mr Butterworth's views limited weight.

SW4 Allocated Social Worker

245. Before I consider SW4's evidence I want to acknowledge and thank her for her very hard work, particularly during the course of the adjourned final hearing. She had to deal with the "safeguarding" issue in January 2025 and then the much more serious issues in April 2025. Throughout she has developed and maintained a very good working relationship with the children. They clearly trust her and have confidence in her. That is a significant accolade where she is their 20 something social worker. She has had to have some very difficult conversations with them and has had to support them in the transition from the GPs' home to separate foster care placements. I am extremely grateful to her for her sensitive and empathetic approach.

246. SW4 has been the children's social worker since 4th November 2024. She has filed four statements. The first is dated 20th December 2024 and was prepared for the resumed final hearing in January 2025. She then filed a statement on 24th January 2025 in respect of the issues that arose during that hearing with regard to the "takeaway". She has subsequently filed two further statements which relate to the recent fracas at the pub between mother and the GP and the allegations made by the GPs against father. These are dated 23rd April 2025 and 28th April 2025. She is also responsible for the change in care plan. SW4 has also filed a number of case notes which I will not identify specifically.

247. The LA position has changed during the course of the proceedings as described above. However, it is important to consider the LA's initial position before considering the revised position.

Position Prior to 28th April 2025

248. SW4's December statement sets out the LA position for the resumed final hearing. Her first paragraph reads,

"3.1 [C] is a 16 year old and [D] is a 13 year old, who are both in formative stages of their adolescent years. It is my assessment that it is evident they have both experienced traumatic childhoods where they have been exposed to significant parental conflict, alcohol misuse by their Mother and coercive controlling behaviours from their Father."

249. This sets out as a fact that father has been coercive and controlling. The other matters are not disputed. She acknowledges that mother cannot care for the children due to her alcohol abuse. She refers to the assessments completed as part of the proceedings and concludes that father poses a risk of significant emotional and psychological harm to the children. She does not consider this is intentional but says that he is unable to demonstrate insight or take responsibility for the role he has played. Her recommendation is,

"3.6 It is respectfully proposed by the Local Authority that upon conclusion of these proceedings, a Special Guardianship Order is made to the [Grandparents]. It is the assessment of the Local Authority that should the Court agree with the proposed care plan, this will provide [C] and [D] with safe and loving care from within their family network for the duration of their minority."

250. SW4 discusses the children's wishes and feelings. With regard to C, she records that C wants to go home by which C means with mum or dad; in December at the CLA review C said Dad. SW4 speculates that this was because father was on the phone and could hear what C said. She also describes C as being very frustrated with mother for not resolving her alcohol issues and C felt let down by her. SW4 speculates about why C only said dad - it may of course be because C was realistic about the fact that there was only one parent to choose.

251. SW4 records the concerns that C has about living at GPs. These include negative comments about C and C's culture. She considers that C has been the subject of emotional abuse from them.

252. D is clear that D wants to live with father and the family dog. SW4 says that D did not raise the same concerns as C about the GPs.

253. SW4 considers the parenting capacity of both parents. She acknowledges that mother is not able to care for the children but she does have a good relationship with them in family time; she has worked with a domestic abuse practitioner and is continuing to do so. SW4 recorded concerns about contact not being properly bounded and taking place in the GPs' home. This was corrected once the Guardian had alerted the parties to the issue.

254. With regard to father, SW4 acknowledges that he has engaged with all the assessments of him despite disagreeing with the professional opinions. She relies on Mr Butterworth's conclusions that he is unable to meet the children's emotional or psychological needs. She comments on father's inability to reflect on his own contribution to what has happened for the children and his responsibility; she thinks it is unlikely that he has learned from the therapy that he undertook. SW4 takes the view that the reason he is highly critical of others with a distrust for professionals is because of some of the factors identified in the psychological assessment. Nowhere does she reflect on the advice given by Dr Ade – Serrano that professionals need to work to rebuild trust with father and they need to be mindful of critical judgments of him. She is clear that he needs to engage with therapy to address some of his childhood issues and that if there is family therapy this would be something that would have to be addressed. She does not consider that he would be able to do that.

255. SW4 does identify clear positives for father,

"5.16 There are some clear strengths for [B], and I do not question his love and care for [C] and [D]. He is committed to them and has shown this through his attendance at family time sessions as well as attendance at relevant meetings relating to his [children]. The children speak positively of [B] and report enjoying their time with him. It is clear [B] has a very good sense of their interests and what they like, and from the contact records I have available to me they appear to have fun."

However, she considers the risks outweigh the positives.

256. SW4 is very positive about the GPs and their relationship with the children. She notes C's concerns but, in my view, does not give them any real weight. She talks about the GPS doing "work" but this was recommended very early on and they have not done any and have found various excuses for not doing so. This does not appear to concern SW4. Further, SW4 does not address the very negative comments about father made in the SG Assessment which the GPs wanted redacted. It was not until the final hearing recommenced that those comments were unredacted. This meant that when SW2, the author of the addendum report gave evidence, she was not asked about them. A GP describes father as a narcissist; *"they do not wish for [C] and [D] to live with [B], describing him as warped, not right, he only playing dad he has been in and out of their lives"*; *"[GPs] do not like [B], they mimic [his] accent and talk badly of him"*. When seen in the light of what C was saying to SW4 it is hard to see how the GPs' animosity towards father could be effectively ignored in the placement planning. She says, *"It is clear to me that [GPs] care deeply for [D] and [C] and they are able to understand their individual needs. They have sought support and advice when required and I believe they have developed in their capacity to do so more recently"*. Unfortunately, this proved not to be the case.

257. SW4 gave her oral evidence after the issues arose with the grandparents about the takeaway and their understanding of the children's needs. In evidence in chief, she said that she believed the GPs could change; that they needed to do the work they had agreed to undertake although accepted that they had not done so to date.

Oral Evidence

258. In oral evidence, SW4 confirmed the care plan and for the placement to be underpinned by a supervision order. She did not agree with either the Guardian or mother that it needed to be a care order. She considered the need for a care order was finely balanced but

felt the balance came down on the side of an SGO, this seemed to be partly because she would remain the allocated social worker which she thought would benefit the children. She also indicated that there were programmes father could access if the matter remained under an SGO. With regard to contact she recommended that the parents have monthly contact for 4 hours, mother's supervised by GP and father's unsupervised subject to a risk management plan. There was no plan to supervise or contain the very extensive indirect contact.

259. Ms Connell for mother asked SW4 to confirm that the LA position was that mother had been subject to controlling and coercive behaviour and that the LA adopted the risk assessment by Dr Ade – Serrano which she did. She was asked about the risks that father presented by undermining the placement with the GPs as he is alleged to have done with the foster placement. Mother did not agree with the contact plan for mother – she wanted more frequent contact. SW4 gave very cogent reasons for recommending once a month for each parent. Mother also sought a care order if the children were with her parents.

260. In cross – examination on behalf of father, SW4 said that before filing her evidence she had not met him face to face but had e-mailed him and spoken on the telephone. She said he could come across as demanding and forthright. She said he was very anxious to make it clear that the allegations of sexual abuse were untrue. She accepted that false allegations could cause him harm; that they could cause him anxiety. She acknowledged there were repeated references from the professionals to this issue, although she maintained it was relevant to the children's history. She also acknowledged that the mere fact of it being mentioned would be likely to increase father's anxiety. She accepted that the allegations had been retracted and did not form part of the threshold.

261. SW4 accepted that there were limitations with the GPs' placement physically with very limited accommodation. However, she considered that they were doing what they could to support the children. She accepted that there was a risk that the children would not accept the decision as they would be asked to live in a room together where they do not want to live.

262. She was pressed about the appropriateness of the communications with father and while she accepted that the ones drawn to her attention were appropriate, she was clear that the Court had to look at the evidence as a whole.

263. SW4 struggled to answer clear questions about why father needed to attend a perpetrator programme and what he had perpetrated. She accepted there were no findings but she believed there had been domestic abuse in the form of controlling and coercive behaviour. She relied on the police reports and the assessments and considered there had been emotional harm.

264. In response to Ms Brazier for CG1 (C's Guardian) SW4 acknowledged that she had concerns about both C's involvement in the proceedings and also C's need to manage father's emotions. For example, in one of the many mobile phone communications C was asking father to remain calm and to "*keep his cool*". C is aware how he might be perceived by others and this makes C anxious; C thinks he might need some mental health support. She

agreed that C was anxious about the GPs and did not believe they could change.

265. She was clear that before father could have unsupervised contact there would need to be a risk management plan which would include management of his own emotions. She was clear that while fortnightly could not be wholly ruled out with both parents, it could be overwhelming for the stability of the placement with the children.

266. Ms Carter–Birch challenged SW4’s view that the children could not be cared for by father. SW4 accepted that D was a young person who was more than able to express their views and that D loves contact with father and wants to live with him. She accepted that the reality is that indirect contact will continue.

Revised Care Plan

267. Following the allegations made by the GPs and the very significant concerns they raised; coupled with the position of the children that they would not live with the GPs, the LA has changed its care plan. SW4 gave additional evidence about the changed plan on 6th May 2024. She filed a statement in support of this revised plan on 28th April 2025.

268. Following the incident on 13th April C refused to return to the GPs and after two nights in a YMCA a foster placement was identified. SW4 accepted that the YMCA was unlikely to be an appropriate placement. She also accepted that it was never her intention for the children to be separated but C was adamant that C would not return to the GPs.

269. Matters deteriorated further with the GPs making the extraordinary allegations about the children [sexual allegation]. It is clear that (i) there is no evidence of the children being on their phones or any other device to their father late at night, C willingly gave up C’s phone to be looked at by SW4; (ii) there is an inherent improbability in the events as described by the GPs happening at all – the children sleep in the same room on bunk beds; (iii) both children when spoken to by SW4 were disgusted and appalled by the allegations. C was physically sick; (iv) the GPs inappropriately described father as a Paedo; (v) no findings are being sought by the LA.

270. It is of great concern to this court that where there have been false allegations made already about the father, they have to some extent resurfaced and been repeated – Dr Bourne being a prime example. It must be recorded on both children’s files that no findings have been made and therefore these events did not happen.

271. Following the allegations from the GPs, D refused to return to their home. A short term foster placement has been identified for D that will enable D to remain at school in the short term. She said in oral evidence that the LA would try and find a placement for the children together and would also see if there could be any scope for extending C’s placement to include D who is under 16. However, this was in the early stages of exploration. She accepted that the children might end up separated. From D’s perspective, this would mean more change, another foster placement and no guarantee that D would be able to stay at the same school.

272. SW4 gave evidence that she had conducted a fresh balancing exercise between father and foster care. She was concerned that father would not promote contact with mother particularly as father believes that mother knew about the allegations of a sexual nature made by the GPs. In oral evidence, SW4 confirmed that the LA plan would be for mother's contact to be professionally supervised during any supervision order and for mother to identify a supported contact centre thereafter. She would need to demonstrate six months of abstinence before unsupervised contact could be considered. It is of note that this is the first time in both the private and public law proceedings that mother has been required to address her alcohol abuse as an LA requirement although as a clarification for the LA I accept that the children were removed from her care in 2023 when the extent of her drinking became clear from the much delayed hair strand tests. Her contact and the care plans filed earlier in the proceedings envisaged supervised contact until she could show abstinence from alcohol.

273. While SW4 accepted that the children might "*vote with their feet*" and leave their placements they had not done so to date, despite being unhappy. However, they know a judgment is pending and she accepted that both had said they would wait for it.

274. SW4 considered that the decision about the children's placement was finely balanced. There were limited choices now. It was either foster care or father's care. SW4 accepted that both children had suffered emotional harm in the care of the LA. They had been with the GPs whereas they wanted to be with father; they had been subject to negative comments about their father; they had been witness to an assault on their mother by a GP and had now had to deal with horrible allegations of sexual assault made by the GPs against father. It was put to SW4 that the new care plan would also cause them harm, including being separated in circumstances where it was said they would not be separated; not having their wishes respected, particularly C who will be 17 very soon; they might go to their father in an unplanned way and for C this would be very destabilising. SW4 agreed. She also accepted that D might leave and then there is the risk of further court proceedings with a recovery order being sought.

275. She accepted that the plan was not in accordance with the children's wishes and feelings and she accepted that D as a competent child was able to express those views very clearly and was able to form their own opinions. D had always worked with the professionals and D had been thoughtful and cooperative. SW4 accepted this.

276. Despite these issues SW4 remained of the view that they would be subject to emotional harm in the care of their father. She asserted that they would not be able to develop their own identities; they would continue to need to please father and defend him. She thought they would be able to "*express themselves truly*" in foster care.

Analysis of SW4's evidence

277. SW4 is a very conscientious and caring social worker. She has worked in a very difficult situation with the children, requiring careful analysis of the real risks to them. She has carried out a very limited "*balance of harm*" exercise but considers the decision about placement is finely balanced. There are a number of matters that she does not appear to have taken account of including:

(i) If father is perceived to be a real risk to the children's emotional wellbeing, that is likely to continue, given that the children are old enough to have phones and are very independent. Their indirect contact will continue. Given the history and the children's ages it will not be possible to control their phone usage.

(ii) Supervised contact has been generally positive for both children. They return happy having enjoyed contact. Father is able to meet their basic needs. They also rely on him for emotional support, contrary to suggestions from Dr Ade – Serrano – he is their first port of call if they need help or advice. That is not to say that all contacts have been good. There have been occasions when father has spoken inappropriately to the contact workers and has not prioritised how the children would feel about that.

(iii) Both children have said recently that they want to live with father. D has been consistent throughout that that is what D wanted. C has not always been clear. However, C's choices are limited. C knows that mother is not in a position to care for C. C has always said that C wants to be with a parent and therefore the only parent is father. C was always clear that staying with the GPs was an interim position and C has said that C will only stay in foster care until the judgment. SW4 accepts that this is C's position.

(iv) If the children live with father, it will be under a Supervision Order. It will be for the LA to assist the parents to communicate regarding contact arrangements. The parents have not had contact for more than two years and it is likely that any risk will be reduced.

(v) There has been little acknowledgement of changes made by father.

Threshold Allegations

278. Before considering the welfare of the children, I have to determine the threshold allegations. It is undoubtedly the case that threshold is crossed but the possible placement of the children is interlinked with the allegations against father. I remind myself that the allegations are made by the LA. They are for the LA to prove. Neither parent puts a positive case against the other.

279. I will therefore turn to the evidence of the parents in respect of those allegations.

Mother's Evidence

280. Mother has filed evidence within the private law proceedings together with five statements in these proceedings. There is also a substantial bundle of mobile phone and other communications before the Court. It is not possible to summarise this evidence in full here. However, the first witness statement is unsigned and contains no statement of truth. It is unclear the circumstances in which this was prepared although was clearly for the private law proceedings.

281. Mother alleges controlling behaviour including:

(i) Not being allowed to be in the living room with the children when father comes home from work

(ii) Controlling daily activities, including running a bath for the children when he gets home

(iii) Bullying and belittling her in front of the children, calling her names and emotionally manipulating the children to turn them against her

(iv) Sexually abusing her. She says she retracted the claims so he did not go to prison. She says he, *“continues to ask me for sex on a daily basis which makes me feel really uncomfortable and I refuse to be raped or do anything against my will but [B] doesn’t stop hurting me”*

(v) She reports that he gives her no privacy, walks into her room and she is only allowed to spend one evening with the children.

(vi) Father has fabricated stories about her

(vii) Father has not allowed family in the house and will isolate the children

282. With regard to her alcohol consumption, mother accepts that the test *“was not great”* but she blames her high level of consumption on lockdown during the pandemic when she panicked as a result of what was on the media. She says, *“I have since then stopped drinking and took progressive steps to be at work, meditate and go for walks with my dog instead of hitting the bottle.”* She asserts that during the pandemic father made her life hell.

283. Mother’s first statement in these proceedings sets out her concerns and allegations regarding the abuse she says she was suffering. These echo those contained in her first statement and include, coercive and controlling behaviour, emotional manipulation, intimidating behaviour and sexual harassment. The examples she gives are:

(i) Refusing to allow her to sleep in bed, being made to sleep on the floor or on the sofa, whilst still working long hours

(ii) Verbal abuse on a daily basis, antagonising her and then recording her when she became upset

(iii) Difficult to have anyone over due to the atmosphere in the family home being tense

(iv) She believed she was being gaslighted as she says he would incite an argument and then blame her and record it.

She says the home was a lonely place for her.

284. In explaining the allegations of sexual abuse against the children made in January 2021, she says that she was concerned that father was abusing them. She asserts that she only retracted the allegations when the police said there was nothing they could do. This is not consistent with what she is reported to have said to the police on 10th January 2021.

285. She says that father was intimidating to the children and very controlling, not allowing them to have certain family numbers on their phones. She says that he has threatened that if she left, she would not see the children again.

286. Mother says that she used alcohol as an unhealthy way of coping and started over the last 2 years. She says that things have improved since father left the family home in December 2022. However, she denies drinking to excess when she was alone with the children in the family home, only when father was there to watch them.

287. In her statement of July 2024, prior to the final hearing starting, mother accepts that she found it very difficult not to have contact with father. She considers that she tried to appease father and she relied on him. She felt under emotional pressure from father; she accepted that she met with father away from the home without the LA's knowledge. She says that she considered his behaviour to be controlling of her and in particular that he offered her money and favours in exchange for sexual relations.

288. She sets out the circumstances in which father delivered two boxes of wine to her. She accepted that she did not stop him coming round and she sought help from her sister and put the wine in the bin. She identifies this as another example of father being very manipulative. She alleges that father encouraged her to drink as this made her more amenable to his sexual advances.

Oral Evidence

289. It was clear from the nature of the LA cross – examination of mother that it did not challenge her evidence. Indeed, the LA has adopted the mother's narrative about father and it forms the basis of their threshold findings. In addition to the allegations already before the Court, the LA questioned mother about father's attitude to her finances, eliciting information that while they were together he paid all the bills; there was no set agreement about what he would pay; there was no CMS payments for the children; he was only responsible for the water bill after he moved out. She made clear that she faced financial difficulties and had to use the food bank on occasion. She also accepted that she did not always have a clear recollection of the past and parts of it were "foggy". She had also accepted to Mr Butterworth that she spent money on alcohol. This would have impacted significantly on her finances. There is no finance evidence produced by the LA to substantiate these allegations, no bank accounts and no disclosure sought.

290. Ms Nuttall took mother through some of the mobile phone disclosure which I will come on to later.

291. During her cross – examination by Mr Duncan mother accepted that the children value father as their father and their relationship with him; that mother's relationship with them can be difficult as they feel disappointed with her; she accepted that the children would want to live with a parent and that they know they cannot live with mother and therefore it would be natural for them to say they would like to live with father.

292. Mother accepted that she had not been truthful about her alcohol use and had minimised it; that she had lied to Mr Butterworth; would sometimes fall asleep and sometimes pass out. She accepted that it would be worrying for the children but refused to accept that it would have caused father concern and worry. She did not agree that father was trying to get her to stop. She also accepted that she had made the allegation about sexual abuse of the children because she was under pressure and needed him to be out of the house.

She accepted the allegations were false, although she maintained that she thought there might have been something going on. The children refute this and say that nothing was going on; C told Dr Bentley that father would lie on their beds with them and read stories or look at YouTube videos. This would be an entirely normal thing for a father to do.

293. Mother accepted in cross – examination that father had never been physical to her although she accepted that she had pushed and hit him. The children have seen mother shout and scream at father and smack him. C found her behaviour scary. Mother accepted that but said that father would make comments to get her to react. She refused to accept that she could not cope without alcohol; only that she struggled with it. She denied ever begging father to buy her wine. She attributed the fact that she was volatile to father's controlling behaviour.

294. Mother confirmed that the parents have not spoken for two years, since May 2023.

295. Ms Brazier explored with mother father's influence on the children when they were in foster care and mother's view was that he had manipulated them and had not supported them. The effect was to undermine the placement so they did not want to be there.

296. When she was asked by Ms Carter-Birch about the GPs missing D's parents' evening for GCSEs, mother did not seem very concerned about it and in my view came across as dismissive of the significance of this meeting.

297. It was difficult to identify what responsibility mother believes she has for the situation the children are in. Her version of the relationship with father has never been challenged by the LA; she has lied about her alcohol consumption and while I remind myself that people lie for all sorts of reasons, she has also lied about the children being sexually abused. The police found there was no evidence for mother being sexually abused. There must therefore be some doubt as to the truth of other allegations. However, the majority of the serious allegations are not before the Court and do not fall to be determined.

298. She was clearly the cause of some of the police call outs and it is clear from some of the police reports that she was the cause of the call outs.

Father's Evidence

299. Father has also filed numerous statements both in the private law proceedings and these proceedings. In his first statement which seems to be wrongly in the bundle as January 2021 but is, I believe, March 2021 or perhaps later for an FHDRA hearing in July, father makes a number of allegations against mother:

- (i) he alleges that mother misuses alcohol which affects the children emotionally, mentally and physically
- (ii) he seeks alcohol testing for mother before contact and for her to refrain from alcohol consumption before she has overnight contact.

(iii) he says that the children have been exposed to mother's excessive drinking since 1st January (when he was arrested and had to leave the home) including passing out due to excessive drinking; waking up confused while being under the influence of alcohol; yelling and threatening the children; taking money from the children's savings; blaming the children for the situation.

(iv) the [family] have threatened the children that they will not see him again.

(v) he relies on the telephone call to the police on 1st January, falsely accusing him of sexually abusing the children and herself, the call having been made while she was intoxicated.

(vi) continuing to abuse alcohol after he has left and exposing the children to it on 12th May among other dates.

300. In a further statement dated 10th November 2021 father sets out further detail of the allegations he makes which are in essence that he has been psychologically abused by mother both by making false allegations against him and by her misuse of alcohol. He also alleges physical abuse against him and cites the police call outs. He alleges that before mother called the police on 1st January 2021, she threatened that she would have him arrested and he would never see his children again. He also relies on the allegations made by mother of sexual abuse and coercive and controlling behaviour and the impact on the children of him being arrested and taken away in the night.

301. Within the care proceedings none of father's allegations have formed part of threshold; nor did he seek to pursue allegations. What is clear is that father was correct about mother's alcohol misuse. He was also the subject of false allegations that he sexually abused his children. These were retracted by mother and have formed no part of the threshold for these proceedings.

302. Father's first statement in these proceedings sets out his concerns about mother's false allegations against him; the impact on the children of those allegations being made; he speaks about his relationship with C and the fact that it has "*drifted*" since the marriage broke down; he attributes C's closer relationship with C's mother to mother being more "*permissive*" and allowing C not to attend school if C says C is feeling anxious; he expresses concern about mother "*coercing [C] to make untrue statements to the professionals*". He denies C's accounts of him shouting at mother and getting in her face. At paragraph 23 he acknowledges that C suffers with anxiety and says, "*I deeply regret that the situation at home has caused this, and my part to play in that*". However, he says that when C is with him and D, C does not appear to be overly anxious. He considers C should be attending school.

303. Father is forthright in his evidence about mother's drinking. He says she continues to drink to excess and is often passed out as a result. He sets out his concerns about her drinking and driving with the children and the impact it has on them. He denies any controlling behaviour and says he believes that he is the victim of abuse but that he has never been taken seriously because he is a man.

304. Father's statements within the proceedings demonstrate increasing frustration with the process. His second statement sets out the significant delay in his contact being set up after the children had moved to foster care; he deals with the contact between mother and himself and the children in a further statement.

305. In his final statement of March 2024, father describes his frustrations with the approach of the LA to the issue of mother's drinking and in particular the fact that she had lied to the social workers, to Mr Butterworth and that no one took his concerns seriously. He says, *"My attempts to encourage the children to report their mother's drinking was used against me by the local authority"*. However, he points out that the LA did nothing about it and believed what mother told them. He says,

"8. The local authority has only now accepted that the children were exposed to significant harm whilst in the care of the mother, due to her drinking. It is frustrating that it has taken them so long to admit this when I have been saying this for years."

306. Father denies being manipulative of the children and in particular around indirect contact. He refutes that the children are anxious to please him, adopt his views and keep him updated twice a day. He says,

"This is completely misinterpreted to suit the narrative driven by the social work team. Both my [children] freely of their own volition text me good morning and good night. They also voice note me with issues that they are having within school or their placement, tell me they love and miss me. At no time have I demanded the [children] call or message me. I have not given them an ultimatum about the frequency of contact."

He considers that are old enough to have their wishes and feelings with regard to contact respected.

307. At paragraph 28 of father's final (March) statement he sets out how he feels,

"The court has seen my outburst at hearings, but this was at a point where I felt complete despair. I felt like I was being targeted and presented as an abusive husband to justify the mother drinking and the problems in the home. As I said above, I feel that from the outset I had my back against the wall. The social worker had made up her mind about what happened in the past and this has been filtered down to every professional and expert I have dealt with. They have come in with a preconception of who I am as a person and ruled me out."

308. In his statement of June 2024, father is clear that he does not support the placement with GPs and he refutes the suggestions that he is manipulative of the children. In his statement of 9th January 2025, father set out in some detail his concerns about the placement with the GPs including the children's concerns that they speak negatively of C, they are racist around them and do not really wish them to be there. It is undoubtedly of note that the redacted passages in the SG Assessment indicated considerable concern about the GPs' attitude to father and their approach to the children being half [different culture]. Father acknowledges that he has struggled with some professionals, that he has felt they have pre-judged him and he considers that some have believed lies about him which have continued.

He does not consider he has had a fair hearing from them. He accepts that he has struggled with the LA not being willing to consider the children being in his care.

Oral Evidence

309. Father gave a very warm and vivid picture of the children. He described C as smart, with empathy, open minded, understanding; C listens and gives an opinion. He felt C was like both him and mother. C has a good head on their shoulders. He described D as very similar but mature for D's age with a good understanding and a great head on their shoulders. D loves school. He said he was so proud of both of them. They never give up and have got on with everything they have had to deal with.

310. He was asked about the LA's view that he has involved the children in the case. He accepted that at times he had over involved the children and acknowledged that he had sent more messages to C than to D; he said he did not want C to feel he had given up on C. He acknowledged that this might have put pressure on the children. He was very clear that the GPs would not promote him to the children. He had clearly thought about what he would do if the children were returned to him and had considered education for C and agreed that he would promote contact with mother. He would work with the LA although he had found that hard given the circumstances of the case and the fact that he did not consider the LA had properly considered the case from his perspective.

311. I will deal with father's responses to the specific allegations in due course. In his oral evidence he did not seek to paint himself as the perfect parent. He accepted that he could come across as aggressive and confrontational but considered that was because he was defensive and anxious to put across his perspective. He struggled to accept criticism, especially when he considered that his actions were for the benefit of his children. For example, when he complained about the foster placement and black mould in the bedroom, he found it difficult to see that this was not such a major issue that he needed to raise it so stridently; he was very defensive about the issue with the Taylor Swift tickets and absolved himself of responsibility for disappointing the children and considered he had remedied the situation by organising the Niall Horan tickets.

312. B is in my view driven by a desire to do his best for his children despite accepting that with hindsight he had not always behaved appropriately. He accepted that he should not have continued the relationship with mother. He was clear that he struggled with mother's alcoholism and found it very difficult when he was not believed and his approach was seen to be part of controlling behaviour. While he accepted that the children did take photographs of their mother when she had been drinking, he clearly thought that this was a way to obtain evidence; he said he had not directed them to do so. When he discussed their mother's alcohol abuse with them, he said that he had told them she was ill and accepted he may have said she was an alcoholic although that is not how she describes herself. He accepted that he had bought her wine and said that in retrospect that was a wrong thing to do but she was begging him to do so and it was easier.

313. It was clear from his evidence that he has a deep distrust of professionals although he said he knew he would have to work with them if the children were placed in his care. It was clear that he felt the professionals had based their work and assessments on falsehoods, in particular the implicit references to sexual abuse of the children and the

assumption that he was an abuser which he refuted.

314. He accepted that at times he had been difficult, for example when he was asked to hand over his phone in October 2023, he considered it a breach of his privacy and he knew that mother would have the same messages; he felt uncomfortable with the LA obtaining passports for the children and he said he wanted their first passports to be from the parents. This was obviously not child focussed.

315. There were aspects of his evidence that were frankly not credible, for example the fact that he did not know he could have packages delivered to his work address; he said he did not realise that it would be an issue for the children to bring the packages to contact, showing a lack of awareness of involving the children. He accepted that there was a tracker on mother's phone, he minimised this and suggested that he told her after two days and she bought another phone.

316. Father was clear in his answers that in his view things became worse for C after he left the home. He said before he left both children went to school full time, he accepted C had anxieties but felt they had increased after he left. He did not take much responsibility for that anxiety although he accepted that C was showing traits of social anxiety.

317. He was expressive of his desire to protect the children, he felt he knew them and he accepted that he wanted to be the person they went to and relied on. He felt confident that they would tell him if they had issues and he would try and resolve them. He was asked specifically "*what if the issue is with him*". He said that he was not saying that he was not responsible but he did not feel represented. They had lived in the situation and he wanted to protect them so they did not feel it was their fault. He had just tried to be a good father.

Mobile Phone Disclosure

318. There has been significant disclosure of mobile phone communications. These include messages between father and the children including transcripts of voice notes; communications between mother and the children including selected voice notes; the expert reports from Evidence Matters dated August 2024; voice notes between the parents from 1st December 2022 to summer 2023; photographs and videos shared between the parents from 2023 disclosure; what's app and text messages between the parents between December 2023 and summer 2024.

319. In her closing submissions, Ms Nuttall comments that,

"It is noted that the father's written evidence makes little if any reference to the communications filed as between the parents. The father's position in respect of these communications and how they are to be interpreted was developed during the oral evidence, in cross – examination of the mother and then the father's oral evidence."

320. There is an implied criticism that the interpretation of the messages was not put to the professional witnesses. The large number of messages passing between the parents between December 2022 (when father moved out of the family home) and May 2023 when

communication ceased between them and the messages disclosed in August 2024 were available to the professional witnesses. Dr Ade – Serrano was sent the later (January 2025) partial disclosure between father and the children on the morning of giving evidence. She makes reference to some of the messages that she has seen in her report. It was unclear the extent to which Dr Butterworth had seen them. However, both independent experts will have had access to a large number of the messages in preparing their reports. Clearly the social workers and Guardians have formulated views, taking these into account. It is also the case that mother did not address these matters in her written evidence.

321. There are over 6000 pages of mobile phone disclosure. It is simply not possible to cover or to summarise all of that evidence, even if that was thought to be a fruitful exercise. Quite frankly, there is something in the evidence for all sides in this case.

322. Following the parents' separation in December 2022, mother's mobile phone disclosure showed the following:

- (i) 52 telephone calls to and from father of which only six were made by father
- (ii) A significant number of SMS messages were identified.

323. In February she obtained a new phone which showed:

- (i) 99 calls between the parents, which ended in May 2023, although there was also a call on 29th June (missed) and one on 2nd August from father which was answered. The calls were made and received by both parties and were for a variable length of time. For example, on 3rd March there was a call from father lasting 32 minutes; on 16th March one from mother lasting 31 minutes
- (ii) There were 270 SMS messages and over 4400 What's App messages passing between the parents.

324. From 1st December 2023 until July 2024 the following can be noted from mother's phone:

- (i) What's App – no messages between father and mother. Mother had 17,675 to and from C and D.
- (ii) 302 telephone calls between mother and the children
- (iii) On 19th January 2024 mother and father exchange some Snapchat messages about father collecting his post. He does not do so but in the course of the exchange mother says, *"I am on till 1.30 then. a meeting with shit head [CG2] lol"*. There are some further exchanges in which she says she cannot trust him and he says he will collect the post another way. She goes on *"Such a shame we can't just get along for the [children B]"*. Father does not reply to this last message.

325. On father's phone there were no calls to or from mother after 1st December 2023 and nine calls to and from C and D, together with 17 SMS messages. In addition, there were over 400 What's App messages, Instagram and snap chat. There were also numerous

voice notes between father and the children.

326. On any view there has been extensive communications between the parents between December 2022 and May 2023 and ongoing and extensive messaging and communication between both parents and the children. There was additional disclosure provided in January 2025 of communications between father and both children. However, given the ages of the children I believe all parties agree that any attempt to contain their communication is likely to be fruitless.

Communications between mother and father – December 2022 to May 2023

327. It is the LA case that the text messages between the parents “reinforce the professional assessment that [B] prioritises his own needs” which includes his wish to maintain/pursue a sexual relationship with mother despite their divorce and physical separation. It became clear during the evidence that “cake” and “cuddles” were used by the parents as euphemisms for oral sex and sexual intercourse.

328. Following separation, it is clear from the messaging that father wants to see mother. He talks about when he is available, whether he will see her; he talks about missing her. On 14th February, he is clearly hoping to see her, the SMS messages between the parents are clear on this.

329. On 19th February 2023 the parents have a very intense What’s App discussion about their relationship and how they feel. It is mother who contacts father at 2 minutes past midnight on 19th. Father responds in the afternoon shortly after 3.00pm. The discussion goes on until after 8.00pm. The LA categorise it as an argument by text. In my view it is more of a very emotional outpouring about how they feel about each other. Father is quite open that he still has strong feelings for her; mother says he is hard to give up but she is trying to move on with her life. She tells him she is not drinking (which we know is untrue). She says she cannot have sex with him because “it’s fucking up my emotions”. She talks about struggling when D wore something from their wedding. They discuss money and the neighbours and then mother says, “All u want is sex”. She then says, “I hate u but miss u I don’t trust you I’m tired parenting our [children] alone it’s all ok”. The conversation moves on to how C is and how C is feeling and mother’s concerns about getting C to school and the risk of C self-harming. Mother then brings it back to father and her wish that he was romantic, saying, “Even with us being apart you try nothing to woo me no flowers no fucking nothing”. This is very bizarre from a woman who is also trying to tell him she has moved on and even has some interest from someone else. It is a real mixed message. She tells him that she loves him “and always will”. Within the conversation, father says, “So we still fucking?” and later when mother says he will make her suffer for moving on he says, “The only suffering i planned was an orgasm from heaven lol”.

330. There are a lot of very confused emotions within this conversation lasting almost five hours. Father clearly wants to see and be with mother, including having sex. Mother is emotionally struggling and still has feelings for him but knows she has to move on. Given the way this is put in submissions as an example of father only being concerned for himself and how he feels and an example of abuse, it is surprising that the following morning on 20th it is mother who contacts father first saying, “Morning... how are u?” The communications are then about the children and the case. The following day she sends him a

song from their wedding, asking whether he remembers it. There is an issue about father sending mother flowers and then telling the children they are for them. This seems to be blown into a bigger issue than it should have been – it would have been confusing for the children to be told that father had sent their mother flowers.

331. The LA rely on the messages between 15th and 16th March to show that the communications between father and mother are abusive and impact on the children because they relate to contact. The messages are far from ideal. However, these are parents living under great stress, father has limited contact and is anxious to see both children. He is not there and is struggling to understand why C is not coming.

332. There are also positive messages. When mother drinks at the PTA event and becomes intoxicated father does not criticise her; he is supportive and tells her not to worry. He does not take the opportunity to make her feel worse. Given how he feels about mother's drinking he is restrained.

333. There is a series of SMS text messages where mother introduces the word "cuddles" and makes plans with father to go shopping to Tesco's and to look for beds for the children. It is an amicable conversation. Mother accepted in her oral evidence that "cuddles" could be misconstrued by father and that there was risk of her sending him mixed messages. She accepted that by using the word "cuddles", this could have been misconstrued.

334. Mother's evidence about the various messages was contradictory – she said she felt the need to message in order to maintain a cooperative parenting relationship; some of her messages were flirtatious as were some of the audio messages including the message about a "*soggy wet chocolate cake*". I do not accept mother's explanation that she was in fact talking about a chocolate cake. I have listened to all of the voice notes and the vast majority are the parents exchanging messages about the children, C, getting C to attend school and co-parenting. There is a short passage of messages when mother plans how she is to arrange her day to come and see father; it is apparent it is for sex and says that she is "*coming for one thing*" and it would not take long. She accepted in evidence that she had gone. There was no need for her to do so.

335. In May 2023 the parents have a disagreement about beds and where C is sleeping. Following this mother tells father that communication should be through solicitors. He agrees and there is no further communication from him. However, mother persists in messaging him for several weeks and apart from acknowledging a bag of laptops and other equipment he does not have further communication.

336. That was two years ago. There has been no communication between the parents apart from a message from mother asking father about being together for C's 16th birthday cake to which he did not reply.

337. Given the extensive number of messages between the parents it is clear that some were inappropriate from father; some were flirtatious from mother; some were deeply distressed about the situation in which the parents found themselves; there were far too many;

neither parent was honest with the LA about the extent of the messaging, nor that the parents were carrying on an intimate relationship.

338. Although mother often asked father for money, I do not consider that was given in a coercive way or in exchange for sex. He frequently transferred money to her on request without being unduly inquisitive. Although there are some messages that suggest he was hopeful of sex at no time did he refuse mother money because she had not come to his room for sex.

339. It is the LA and mother's case that these messages showed father to be controlling and abusive which is part of his overall personality and approach to mother. It is also clear from the messages that both parents had issues with the LA, mother complaining at one stage that no one had been to see her or the children for 18 days which given she was drinking heavily during this time is a concern; further neither parent had any respect for the Guardians, neither CG1 nor more especially CG2. Mother's comments were unprompted. Finally, they felt that they were the only ones who could help their children, again this was not something that was solely the view of father. Both parents discussed it together.

340. Mother was wholly unable in her oral evidence to explain why she felt she needed to maintain the relationship or what she thought would happen if she did not. She could not explain why she did not speak with a social worker or her solicitor or another professional if the relationship was so upsetting to her. It is also at odds with the approach she took when father parked on her drive on one occasion. She was very quick on that occasion to report him. This does not tally with the way in which she approached the ongoing relationship and almost appears as if it was for show. Finally, it is clear that father ended the relationship – he confirmed he had done so in his evidence; it is also clear that mother sought to continue it, again at odds with her being distressed by its nature.

Communications between the parents and the children

341. As the statistics demonstrate there have been very extensive communications between the children and their parents outside of the formal supervised contact. I will deal with these in the context of the welfare issues and the Guardian's evidence.

My views of the parents' evidence

Mother

342. Unfortunately, neither parent is the perfect parent. Sadly, mother has a serious issue with alcohol which she has not been able to overcome. She has found it very difficult to face up to this issue and to accept that it means that she cannot care for her children. In my view she has at times paid lip service to her problem but has not taken active steps to deal with it. While she was at home with the children and father, life must have been very difficult. In my judgment this has been underplayed by her and by the LA who have accepted what she has said about the nature of the relationship with father without challenge. It is of note that there was little substantive cross – examination of mother, her version of events in the home has not been challenged by any of the social workers; nor the experts; she was able to deceive Mr Butterworth by deliberately lying about her alcohol consumption. She has in effect flown under the radar; her story of control and coercion has not been challenged. In my judgment this has coloured the views of all of the professionals, no one has looked at it with a

forensic analysis. There are a number of matters of concern:

(i) Mother has been untruthful. She has lied about her alcohol consumption. This has coloured the views of the professionals – father was perceived as being the person who was making up issues about mother consuming alcohol and he was not believed – the police did not believe him and nor did the initial social workers. This made him very defensive and, in my view, resulted in him trying to obtain evidence. In this he engaged the children, which was highly inappropriate. In 2023, it became clear that father was correct and mother had lied. While SW3 acknowledges in her evidence of August 2023 that mother was using alcohol to excess, there is no acknowledgement of father's long standing reports and concerns. She notes to Mr Butterworth that she was able to fool everybody except the children about her drinking.

(ii) Mother was again untruthful in January 2021 when she called the police while intoxicated making allegations against father that he had sexually abused both her and the children. Having retracted the allegations (they are not before this court and have been vehemently denied by the children) she has continued to insinuate that there might have been something in what she has said. This is reflected in the report of Dr Ade – Serrano and in Dr Bourne's report. The allegations have been around the edges of the case throughout. There are NO findings sought about these allegations. In the absence of findings there is no substance to the allegations and given that this is a binary decision making process, they did not happen.

(iii) It was not until March 2021 that mother made allegations of domestic abuse by way of an alleged sexual abuse and asserted there had been controlling and coercive behaviour. This was in circumstances when the police had been called by a neighbour because of the argument between mother and C. This is the real starting point for the allegations of abuse. Mother told the police she has a diary of incidents. This has never been produced or seen. There is no substantive evidence that she has reported the allegations to anyone; not even her General Practitioner - there are no General Practitioner records. The police investigate; they arrest father for [sexual allegations] but following a full investigation they bring no further action. Her allegations are never challenged other than by father in the private law proceedings and then in the public law. Although these allegations were raised in the private law proceedings they were not determined before the public law proceedings started. She has not pursued them in these proceedings as separate allegations against father although she had the opportunity to do so.

There is an acceptance by the professionals that she is telling the truth. Mother's evidence has not been subject to the same degree of challenge as father by the Local Authority. The approach of the LA in cross-examination was very different and cannot be justified by the fact that mother does not challenge the LA care plan. Threshold is in dispute and the LA should have forensically analysed mother's primary evidence which forms the factual basis of their threshold. It did not do so.

(iv) Mother has failed to prioritise the needs of the children by remaining in a home where the children were exposed to a very acrimonious relationship which has been harmful to them, she has been determined to remain in the family home and would not contemplate moving out, alleging that she did not believe the children were safe with their father. However, she did not remove the children with her in order to safeguard them – she could have taken them to the GPs and then sought an occupation order. She was not prepared to

consider moving from the family home – that remains her position today. Instead, she preferred to remain in an abusive household, exposing the children to the toxic relationship with father. This was not child focused.

(v) I have no doubt that mother loves her children deeply. However, she has not been able to manage her alcohol consumption to the extent that she could care for the children. In fact, the children have suggested that there have been contacts supervised by the GPs when she has consumed alcohol. She has failed to prioritise the children's needs.

(vi) The parents have not communicated for over two years. In her evidence mother showed a considerable acrimony towards father despite the lengthy communications between them from December 2022 to May 2023. In my judgment while many of the communications were inappropriate for a couple who had separated, mother made no attempt to end the communications; to speak to her solicitor about them or to seek advice from her domestic abuse worker. She now says that they were abusive and she was an unwilling participant. Having read the communications in their totality I do not consider that to be a fair assessment. Father was persistent in his invitations to mother; however, on occasion she not only reciprocated but instigated communication. When father stopped all communication in May 2023 it was mother who persisted and tried to continue the communication. I consider mother is disingenuous about the communication and ongoing relationship. She was also unable to break the tie with father and was not honest about her role in that ongoing relationship.

(vii) Mother has supported the children living with the GPs despite the fact that they have been very negative about the children's father and heritage; have had limited insight into their needs; have failed to engage in any work required to develop their knowledge to care for C and D; have not adapted their home to accommodate the children even though they have been with them almost a year and have caused the children significant upset including in January 2025 during the resumed final hearing, the takeaway incident. She was also involved in the argument with GP and was assaulted by them. The circumstances of the situation are unclear but the children were exposed to a very distressing situation and D reported that it reminded D of when mother used to attack father.

Father

343. Father is a difficult man. As the psychological assessment describes he has had to grow up being very self-sufficient in a society where it is possible for a 14 year old young person to be emancipated. This is very different from where he finds himself in UK society. He feels he has to fight his corner and defend those he loves. I have no doubt that he feels that he has been badly treated in these proceedings. He can come across as very rude and dismissive of professionals; he can also appear to be intimidating and aggressive. In one of my early encounters with him he shouted across the court room that I had kidnapped his children.

344. However, in giving his evidence he did not seek to portray himself as perfect and without fault. He conceded he had made mistakes, not least by continuing his relationship with mother into 2023. He accepted that at times he had encouraged mother to come and see him; he found it difficult to accept that she had not always wanted to and had been avoidant; however, he also felt that there had been occasions when she had led him on and he felt that it

was mutual. He acknowledged that what happened was wrong.

345. He clearly felt very frustrated that when he raised issues about mother's alcohol consumption he was not believed, even though he knew she was consuming it excessively. I accept that he was worried about his children in her care when he was out of the home on bail. While it was a cruel thing to do to suggest that the children might take photographs, I do not consider he did this to be cruel. In my view he was desperate to show that he had not lied about the alcohol; as a secondary issue I do consider that however inappropriate, he thought it was a way of safeguarding the children. He was willing to concede that this was not an appropriate way to go about things.

346. Father was deeply distressed by the allegations made by mother that he had sexually abused the children. In some ways, this is the most serious allegation a loving father can be subjected to. In my judgment, he has struggled to get beyond the unfairness of this and the fact that the allegation has been raised in professionals' reports and it appears that it has never been fully withdrawn. During the conversations that Dr Bourne had with the professionals he raises the issue of sexual abuse; none of the professionals dismisses it or say that it is not before the court. Other than CG1 (to whom the notes of this conversation were not put in any event), all engage in a discussion about possible sexual abuse. This is illustrative of the attitude taken to the father by the professionals. It is also of note that as a result of the various allegations made by mother, he lost his career.

347. He was deeply frustrated that no one took the allegations that he made of abuse seriously. He considered that he was not taken seriously because he was a man. There was no investigation of what he said by the LA. It was dismissed. There is no real suggestion that father has told lies in the same way as the mother and I do not find he is an untruthful person. He sees things through his perspective but that is not the same as lying. Dr Ade - Serrano considered he was an honest person when she carried out her tests on him.

348. It was notable that despite being in the witness box for a long time and being rigorously cross examined by the LA and mother, at no time did he become angry or rude; he was very emotional at times but that was understandable. He was able to show some insight into his behaviours and in my view he was reflective. Despite being deeply upset about the allegations made by the GPs about him [and the] children he managed contact well after that and was both supportive and understanding. None of the professionals including the Guardians have seen him to speak to or to discuss the plans. I consider he has shown a capacity to accept things he has done wrong and there has been some change in approach.

349. In my view father is genuinely concerned about the welfare of his children and wants what is best for them, he believes that this is for them to live with him.

Threshold Findings

350. The findings that apply just to mother have been accepted and no further comment is required.

Allegation 3 – Parental Conflict

351. 3(a) Both parents accept there was parental conflict and that this would have caused harm to the children. Father disputes the number of police call outs. I have not counted them. In 13 years, there were said to be 13 call outs. The LA spent some time cross-examining father about the call outs in 2008, 2009 and 2010 when C was a baby. They were said to demonstrate that father was even at that stage controlling. I'm afraid that I have not found it helpful to go back to police reports from almost 17 years ago. I have not found them helpful in coming to a decision in this matter about whether father was controlling and coercive in 2022 when these proceedings started.

352. 3(d) Father accepts this allegation in part. However, he does not accept that C was suffering from anxiety until false allegations had been made against him. He says that before that date C and D had 100% school attendance. We do not have the children's school attendance records. However, it is clear from all the evidence that C has been significantly affected by the conflict between the parents. C has aligned themselves initially with father when police were called and C considered father to be the safer parent; C's mother and then with father. Such is the concern about C's wellbeing that despite being 16 the Court found that C was not competent to instruct their own solicitor in January 2025. I consider father has minimised the impact that the conflict in the home had on C. I also acknowledge that father was more successful in ensuring that C attended school. From the evidence before this Court, it is clear that mother and C had significant rows in the morning in an attempt for C to go to school and in the end, mother gave up.

353. 3(e) Mother accepts that she did not engage at the beginning. Father does not accept the allegation. It is very vague. The reference in threshold is to the initial social work statement generally and the following passage is relevant and is a reference to the parenting assessment of SW6,

"[B] should continue to engage with the Specialist Domestic Violence Service. It is expected that the intervention will help [B] to gain insight and empathy towards victims. It is also expected that the Specialist Domestic Violence Programme will help [B] to gain insight into how his own behaviour has contributed to the current situation and help him to accept responsibility for his own actions and be prepared to work towards addressing the concerns that have been raised."

354. Father says that he attended one of the sessions with the domestic abuse worker. However, he felt uncomfortable and did not feel free to discuss his own experiences. It is clear from all the professional evidence that mother was treated as the victim of abuse and father as the perpetrator. In Dr Ade – Serrano's report she talks of his suitability to attend a perpetrator course but says he would not be suitable because he does not accept that he is a perpetrator. Nowhere is there any analysis of whether he is in fact a perpetrator or the truth of mother's allegations. Nowhere is there any consideration of him as a possible victim. It is not clear what other *"support aimed to (sic) improve their understanding and insight in relation to the impact of behaviours on the children"*. Father paid for ten sessions of private therapy which he indicated had assisted him. No one seems to have discussed the impact of the therapy on him or what further therapy would be helpful. Father has said that he would be willing to engage in further therapy. Father says that he has obtained support from Samaritans and Fathers for Justice.

355. I find that father was not offered suitable support; nor was he considered objectively as someone who might need support himself. It was not reasonable of the LA to treat him as a perpetrator in circumstances where he denied he was and there had been no findings made that he had perpetrated abuse against the mother. It is very unfortunate that during the course of the lengthy private law proceedings and the intervention of the LA in those proceedings, there was no fact find about these allegations. When I saw the case in August 2021, I discharged the need for a fact find as the issues were about mother's alcohol use and her relationship with C. However, Recorder Yasseri identified the need for one in March 2022. There have been no base line facts found on which to determine the nature of the relationship. I do not find this proved in relation to father.

356. 3(f) I find this proved. Neither parent was willing to move out of the family home in order to safeguard the children. Neither parent trusted the other with the children – mother says because father was emotionally abusive; father says he remained to be a protective figure given mother's alcohol issues. Neither of these perspectives is child focussed. If the parents thought the children were at risk from the other parent, they should have taken the children out of the home to safeguard them and then taken the necessary court proceedings. Exposing the children to acrimony, alcohol and conflict was harmful. I consider that neither was prepared to risk losing the family home. This remains a point of dispute even now.

Allegation 4 – The [children] have continued to be exposed to the conflict between their parents since the proceedings have commenced

357. 4(a) This allegation is proved. Father accepted that he encouraged the children to report their mother's drinking. He says it was to ensure they felt safe. However, I consider it was also an exercise in evidence gathering. He was not believed by professionals when he told them that mother had a serious alcohol problem. The police did not believe him; nor did the social workers. However, he was correct. This does not excuse involving the children. It is only necessary to look at the history of the private and public law proceedings to realise that the children have faced conflicting parental loyalty and pressure.

358. 4(b) See 4(a) above.

Allegation 5 – B's controlling and abusive behaviours. C and D have experienced controlling or abusive behaviours shown to their mother by B which has initiated some of the conflict and chaos to which they have been exposed.

359. 5(a) This is accepted by father

360. 5(b) In my judgment and based on all the evidence, I consider there were occasions when father shouted at mother. The situation in the home was very tense. The marriage was unhappy; there were tensions between mother and C; mother was drinking and both children report that the parents shouted at each other. There were reports by the neighbours of shouting by both parents. Neither parent comes out of this well. While I accept this allegation as proved, it is misleading to look at it in isolation and therefore adds little to the findings in those circumstances.

361. 5(c) See (b) above. This appears to be one instance when the police were called although there is no detail pleaded, nor primary evidence. There were other instances when police were called. In October 2019 there was arguing, the children said mother was the instigator, that was the police conclusion, in July 2020 the neighbour called the police, mother told the police she had “*lost her shit*”. A few weeks later, father called the police saying that mother had assaulted him and she was asked to leave the home for a short time. This allegation seems to be in relation to the last incident. I do not find that father or mother was at fault. This was yet another incident symptomatic of the breakdown in the relationship.

362. 5(d) Mother may well “*state that father is possessive and jealous*”. This pleading derives from a Police SCARF from 4th January 2021 shortly after mother made allegations of abuse against father. She may well have told the police that he was possessive and jealous but there is no other evidence to substantiate this and no pleaded instances when this was said to have manifested itself and been an issue for mother of controlling behaviour. In the mobile phone records, when mother tells him that she may have someone else, he does not behave in a way that is possessive and jealous. In fact, she provokes him by suggesting he should be wooing her. I am satisfied that they had a very enmeshed relationship, they seemed to be co – dependent; mother admitted to police that she was jealous. There is no substantive evidence that father is possessive. They appear to have remained in the house together as neither trusted the other with the children and neither would leave the house in case they lost the tenancy. In all those circumstances, I do not find that father was possessive and jealous although I accept that she did tell the police that he was.

363. 5(e) This is not proved. There is no substantive evidence of this; it is not properly pleaded, a reference to the first page of the SWET when there is so much evidence is not acceptable. Mother does not appear to have any first-hand knowledge of it. She says in response, “*The mother understands that the father told the children that if Granny or Auntie came anywhere near the house, he would call the police.*” She does not set out the source of this response, nor a reference to her statement. I do not believe father was questioned about this.

364. 5(f) Neither parent has responded to this but I have worked on the basis that mother accepts this and father does not. I will split this in two parts. First, “[B] *is entirely focused on his needs, his rights and what he wants*”. The allegation as it stands is very vague. I assume it applies to his position before proceedings started but there are no pleaded instances of him behaving in this way. I believe it has been drawn from one of Mr Butterworth’s parenting assessments. The references in the threshold document bear little relation to the allegation apart from mother’s report to the police on 2nd March of the alleged abuse, as allegations, they are not before the Court. As a pleading this is not ***Re A*** compliant. It is clear from Ms Nuttall’s submissions that the LA prays in aid the assessment of Dr Ade – Serrano and the assessments of Mr Butterworth. However, these are not factual. They are opinion evidence. Opinion evidence cannot found the basis of factual allegations in threshold. In any event, as a statement it is patently untrue. There is clear evidence from father, from mother and from other professionals witnesses and others that he loves his children; that he wants to do what is best for them and while this might be misguided at times it is done for what he believes is best for them. I do not find this aspect of 5(f) proved.

In respect of the second part of the allegation, I do find this proved. It is true of both parents.

Neither of them considered the impact on the children of them remaining in the same house; continuing to have an intimate relationship in circumstances where they were supposedly separated and divorced. Mother accepts that she engaged in intimate relations, she says to make life easier for everyone; she also accepts that father never forced himself on her and she went to his room voluntarily. Father also blurred the boundaries by continuing to seek to have sexual relations with mother while they lived, separated in the home with the children. It must have been very confusing for the children. Further, it is clear from the mobile phone records that between December 2022 and May 2023 the parents carried on a close relationship. As I have considered, there were inappropriate messages from father; there were also mixed messages from mother; both parents engaged in intimate communications. I do not consider it was all one way and that all the responsibility is with the father.

365. Before considering the allegation of controlling and coercive behaviour I remind myself of its definition contained in s1(3) (c) of the ***Domestic Abuse Act 2021 and Practice Directions 12J***. This defines controlling and coercive behaviour as,

““coercive behaviour” means an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim;

“controlling behaviour” means an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour”

366. I have considered the case of ***Re H-N [2021] EWCA Civ 448*** and the cases of ***A County Council v LW [2020] EWCOP 50*** (set out in ***Re H-N***.) These cases demonstrate that the controlling and coercive behaviour does not require violence to be proved. Hayden J suggests that there will usually be a pattern of acts encompassing assault, intimidation and threats. Whereas coercive behaviour is likely to involve the subordination of an individual to the other’s will. The court must look at the pattern of acts that together make up the behaviours. In ***A County Council v LW*** Hayden J looked at certain matters that might be relevant in the context of vulnerable adults. These include such matters as isolating a person from their friends and family; depriving them of their basic needs; monitoring their time; using spyware or tracking devices; controlling their lives as to where they can go and who they can see; repeatedly putting them down and suggesting they are worthless; financial control. There are others.

367. While it is now accepted practice that when pleading controlling and coercive behaviour it should be dealt with in clusters of allegations and divided into types of control and coercion, this has not been done in this case. Ms Nuttall refers to ***K v K [2022] EWCA Civ 468*** and the Court of Appeal guidance that emphasised the need to focus on the overarching allegations and the need for a broad panoramic evaluation of the evidence. This specifically refers to private law proceedings but the principles are similar. However, in a public law case, the burden is on the LA to prove its threshold and the parties must be entitled to know the allegations that form that threshold. As a minimum there should be examples of the alleged behaviours for the parties to consider. Instead in this case, there are a number of allegations and nothing to link them to controlling and coercive behaviours. There was some attempt by Ms Nuttall to bring in an element of financial control during cross – examination but that was never pleaded as an issue or given as an example. Insofar as the purchase of

alcohol was concerned that is accepted by father. However, there is no evidence that on that occasion he then reported mother for drinking alcohol. He had already done so numerous times for justifiable reasons. That remains a safeguarding and welfare issue for the children and cannot be seen as coercive or controlling.

Dr Ade-Serrano refers to father putting a tracking device on mother's phone for a short time and monitoring her social media. While not pleaded both of these seem to have been accepted by father. However, at the time of the proceedings neither seems to have been a live issue – when the police investigated in 2021 mother no longer had the phone that had had the tracker and there was no suggestion it was ongoing.

368. Like all factual matters, the allegations must be proved on the balance of probabilities. I do not find that taking into account the matters pleaded at paragraph 5 and the additional matters not pleaded but referred to above that together they amount to controlling and coercive behaviour. The substance of mother's allegations is not pleaded, there are no separate allegations raised by mother and I do not consider they are relevant to threshold.

Allegation 6 – B continued to expose the children to his negative views of the mother, professionals, and arrangements for their care and contact.

369. I will deal with this in welfare which is where it more properly belongs.

370. I am satisfied that on the basis of the findings made threshold is crossed.

The Guardians' Evidence

CG1, C's Guardian

371. CG1 has filed a final analysis dated 17th July 2024 and an addendum dated 20th January 2025. In addition, they adopted the position statement prepared by Ms Brazier for the hearing on 1st May 2025 in respect of the LA's final position.

372. CG1 was allocated as C's Guardian in August 2023 following C's separation from CG2 who was the Guardian in the private law proceedings and the breakdown of C's relationship with Ms Carter-Birch and then Ms Sarbjit Munday. Ms Gulizar Candemir is instructed by CG1 on behalf of C.

373. CG1 very fairly sets out that C's separate representation was having an impact on C's mental well-being and despite C having a good grasp of the legal process and being a child with no educational needs, aged 16 C was not considered competent. That was the position I confirmed in my judgment in January at the outset of the adjourned final hearing. They say, *"I intend for [C's] wishes and feelings to be fully presented in this report and ask that the court give considerable weight to them despite our positions differing."*

374. CG1 notes what many other professionals have recorded, C is enmeshed in the difficult family dynamics; father has minimal understanding of the role he has played in the numerous adverse experiences that the children have faced; C has repeatedly witnessed

mother under the influence of alcohol acting in unpredictable and concerning ways.

375. They have concerns about the capacity of both father and mother to provide emotionally attuned care for C, noting that father denies responsibility for the vast majority of the concerns before the court and that mother has *“a significant and enduring addiction to alcohol and has exposed the children to significant emotional harm by drinking heavily whilst they were in her sole care”*.

376. CG1 is clear that C’s views have fluctuated over the period of the care proceedings. They say that in August 2023 C stated that *“living with both parents was ‘like walking on eggshells’”*.

377. CG1 notes the support that C has from D and that they have both faced the challenge of removal from their mother’s care, foster care and a move to the GPs together.

378. In their analysis of the parents, they notes that,

“33. [A] maintains that it was the presence and influence of [B] in her life that has led to her frequently misusing alcohol. She has described to me what sounds like a very unpleasant home life when they were living together with her feeling that she had to manage and appease [B] for fear of his becoming unpleasant or aggressive.”

379. They also note that mother maintained contact and occasional sexual relations in 2023 and did not avail herself of the support services. They note that this would have been confusing for C. They also note that it would have been scary for the children to have seen mother physically attacking father when they were in the home.

380. With regard to father CG1 sets out,

“41. [C’s] views at the end of these proceedings are unequivocal in that C wants to live with father and [D] in a new home. [C] speaks exceedingly positively about father and the contact notes indicate that they are very close. There is lots of evidence in those notes of shared interests and of [B] ensuring [C’s] needs are met. [B] shows an interest in [C’s] life and schoolwork and can offer supportive and thoughtful advice around the different issues [C] brings to him.”

381. CG1 describes a difficult meeting with father prior to the final hearing starting in July 2024 in which father presented as defensive and unable to see that his behaviours had contributed to the very stressful and difficult time that the children were experiencing.

382. CG1 considered the mobile phone messages passing between father and mother in the period of him leaving the home in December 2022 and May 2023. CG1 considers that these messages provide some evidence of father being controlling and coercive of mother. They link the provision of money to the father seeking to have sexual relations with mother and that he frequently directs the conversation in the directions of sex and *“cuddles”*. It is CG1’s opinion that, *“the overall tone of the entirety of the messages is one of [B] focusing primarily on his desire for sex with [A], on one occasion even moving*

discussion away from serious chats about [C's] wellbeing onto more informal matters."

383. They are also concerned about the contact that father has. While accepting that is positive for the children and they enjoy it, they note that there is a disproportionate focus on the court proceedings and their potential outcome. They are also concerned about the failure to seek any rapport with the contact workers, on occasions being hostile and making the contact uncomfortable for the children.

384. CG1 considers he is difficult to work with and hostile to professionals saying, *"I am left with little evidence to indicate that [B] would be able to work calmly and openly with the local authority to locate appropriate housing should the court agree with his proposals."* CG1 does not consider that the therapy that B has undertaken has been effective in enabling him to manage his frustration, anger and hostility.

385. CG1 sets out in detail C's views about where C would like to be and the overwhelming tenor of those conversations and messages is that C would want to live with father. However, if mother was well and able to care for them, C might prefer to live with her and see father. It is very sad for C that C has been caught between the parents; C loves both of them and they love C but the situation has caused C great distress.

386. In their analysis, CG1 sets out that while he accepts C's firmly expressed wishes and feelings, they cannot agree with father's approach; nor do they accept that the problems for C have nothing to do with father. He remains concerned that C has been manipulated by father, has been frightened to express C's true views due to worry about father's response to C. They are concerned about the intensity of C's descriptions of father, being the *"perfect parent"*. CG1 states,

"If it is my view that [B] has sought to confuse, complicate, and distort his children's experiences living in the family home then I must inevitably conclude that I would be concerned about his ability to care for the children on his own in the future. This could lead to [C] living in an environment where [C's] experiences are not fully believed or understood or [C] is provided with conflicting and contradictory narratives that [C] cannot resolve."

They continue,

"[B] presents as a deeply mistrustful individual. Despite wishing to paint himself as a perfect father he is emotionally harming his children by seeking to control the narrative of their past experiences. [B] is a vulnerable adult who, in my view, requires lengthy and specialist intervention to seek to help him understand the harm he is causing and to support him to better consider how his actions impact on the emotional wellbeing of his children."

387. They recommend that the LA has a care order and that C is placed with the GPs.

388. In their updating analysis of January 2025, they report a positive shift in the way in which father deals with the contact supervisors which they consider will reduce C's anxiety. They consider that the further professional reports evidence the risks already

identified by social work professionals and provide robust arguments as to why father has struggled to understand the risks posed to his children by his behaviour.

389. However, CG1 also notes that while some aspects of the mobile phone disclosure between him and the children is concerning and critical of professionals it also highlights,

“a father who takes great pleasure in speaking with his [children] and has an in depth understanding of their personalities and their likes and dislikes.

26. [B] can also often respond to the children in an understanding and supportive manner about the care proceedings and is not always seeking to manipulate their views. It is certainly not my view that [B] is a malevolent character with sinister motives. He really does feel that he has been wholly misunderstood by professionals and I imagine this must feel scary, confusing and disorienting, especially when it involves the wellbeing of his children.”

390. CG1 considers that father remains a risk to C and due to his presentation and inability to accept that he needs to change it is difficult to identify interventions for him. CG1’s views remained the same as previously.

391. Following the change in care plan, there was no further written analysis, nor was any further written analysis requested or directed given the time constraints, the Court directing that the social worker and Guardians would be cross – examined on the change of care plan, CG1 gave oral evidence and confirmed that their position was that C should remain in foster care, albeit separated from D. They still believed the risks of returning to father were too great.

Oral Evidence

392. Some of the oral evidence given on 19th March is out of date and I will not deal with it. They were clear that indirect contact could not be controlled. C will be 17 very shortly and there is no mechanism to control indirect contact. They hoped the parents would control the contact rather than put the burden on the children.

393. In response to Mr Duncan, CG1 was clear that C was consistent with wishes and feelings; they were concerned about the motivation for them. The concerns with C living with father were C’s emotional relationship with him and him being able to meet those needs; C’s presentation and anxieties and father’s understanding of C’s relationship with mother. They accepted that there were some positives of father, he had undertaken therapy; he had a consistent desire to protect the children; he had shown resilience and he had a good understanding of their needs. Further, he is always available to them; there are no ongoing communications with mother and he had no substance misuse issues and was not in a relationship. CG1 accepted all of the positives but nevertheless considered the risks to C of living with father outweighed those positives. The identified risk is that he will continue to cause C emotional harm. It should be noted that CG1 has not observed a contact - they had a sense that they were not wanted at contact.

394. They accepted to Ms Carter–Birch that while they had only been able to watch half of father’s evidence there had been change and he had developed some insight and while he was now able to show some acceptance and responsibility, he had left it until the end. They put weight on the risks assessed by Dr Ade – Serrano and father’s attitude to professionals including the contact supervisors.

395. They were clear that if the children were to go to father there should be a 12 month supervision order which should include psychological support; a family support worker to promote contact (this has been superseded now); assistance with education especially for C; regular visits to the home and urgent housing support. CG1 had concerns about father returning to the family home due to the emotional impact on the children as a result of the experiences they had there. Further, mother is very vulnerable and C would be worried about mother being made homeless.

396. In their updating evidence on 6th May, CG1 confirmed C’s position that C would not be in foster care beyond judgment; C will move to live with father and will do it in a planned way, waiting for him to have appropriate accommodation. CG1 considered that the children had complex relationships and that if they were with their father these would be more difficult. They thought that if they were with father there was a risk of manipulation and control which might result in difficulties with mother. They thought that while father was not willfully difficult it would be hard for the children to be in the middle. They were concerned about the children being separated.

397. CG1 accepted that the effect of the children living with their GPs was that they had suffered significant harm and had been subject to hostile and negative comments about themselves and their culture; GPs had made terrible allegations against their father; they had failed to engage in training, the GP had attacked their mother in front of them and as a consequence they were now in stranger placements, separated from each other. They have wanted to live with father for over a year. They accepted that in the current situation they were likely to remain separated and D might have to move areas and schools. They accepted that the LA had not managed to promote education for C in over 2 years.

398. CG1 was reluctant to say that they were likely to leave their foster placements; They said they had not left so far but thought it more likely than not that they would leave. C could apply to discharge the order when C is 17 and there would be further litigation if D left a placement with the necessity for a Recovery Order. CG1 accepted that there was no perfect answer.

399. CG1 accepted that the risks to the children are that due to father’s controlling behaviour they would not be free to be themselves; there would also be restrictions on the relationships with the family. CG1 agreed with that but added that there are also the allegations of domestic abuse and controlling and coercive behaviour that he thought had been lost sight of. They said there were concerns about father’s behaviour; his manipulation of the children and the historical concerns about what C has said against father. They said that in accordance with Cafcass policy where there are allegations against a parent, they could not recommend placement without evidence of change and there has not been change

in their opinion. Despite the situation in which the children find themselves they did not accept that the balance was in favour of father.

CG2, D's Guardian

400. CG2 is D's Guardian. They have filed a final analysis dated 23rd March 2024, a further analysis dated 17th July 2024, an updating analysis in January 2025 and a further update on 1st March 2025. They also provided short notes of their views on 25th April and 1st May 2025. They also filed a report in the private law proceedings which I have already considered.

401. When they gave evidence on 19th March their opinion remained that D should live with GPs. Similarly to CG1, they set out concerns about both parents in their report. I will not repeat the concerns. In March, CG2 set out their position,

"13. Considering the above and that there are gaps on the evidence before the court, I am not in a position, at present, to recommend that [D] is placed in [B's] care. [D] could be at risk of further emotional harm if [B] is found to have perpetrated coercion and control, if he continues to expose [D] to his negative perception of [D's] mother, as contact notes demonstrate, if he does not accept that he has contributed to the harm [D] has experienced."

CG2 is another professional who put weight on the previous assessments including s37 report from TM1. They say that the finding of facts will provide a factual matrix about father's conduct and whether domestic abuse is affecting father's parenting capacity. Unfortunately, there has never been a fact finding in relation to father's alleged behaviour; the best we have is the threshold for these proceedings, dealt with above.

402. CG2 refers to a number of contacts where it is clear that father was not supportive of D and could have caused conflicting feelings about professionals. They consider that father is encouraging the children to be disrespectful of their mother and that he has created a hostile environment on occasion in contact. Further, he has not supported the children in their foster placement. CG2 considers that father prioritises his own needs above those of his children.

403. CG2 is clear that D's wish is to live with father and the family dog. D was aware that they could not live with mother. In her first report she was not able to make any recommendations.

404. In her July 2024 report, CG2 considered the addendum SG Assessment and supported a placement with the GPs. They remained concerned with aspects of father's behaviour that appears to be controlling of the children so that they need to appease him (eg the Taylor Swift tickets) and his angry presentation to professionals. Again, there is the hope that the Court will establish a factual matrix from which to determine whether father has been controlling or coercive of the children and /or mother. They conclude that father is not able to meet D's emotional needs although identifies positives in his parenting of them but in her opinion the negatives outweigh any positives including the fact that they believe father will seek to undermine any placement including negative comments about the GPs. They do not consider that he is child focused and believes he is actively manipulating D and *"preparing the ground for [D] not to accept a court decision that does not align with his plan to care for*

[D] and [D's] wish to live with him”.

405. They recommend limiting father’s contact to once a month and only eight times a year if he is found to have been controlling or coercive. This should be supervised.

406. In their January analysis they put considerable weight on Dr Ade – Serrano’s evidence while acknowledging that there have been no findings against father. They explain,

“25. I am going to add to this, that Dr Ade-Serrano's Family Risk Assessment and Psychological Assessment of [B] is significant because it presents a concerning picture of the further harm [D] will be experiencing if placed in his care. Potentially [D] will be unable to be [their] true self and to acquire psychological independence from [their] father, as [D's] perceptions on things and circumstances are likely to be overpowered by his views. [D] is likely to be hypervigilant to his potential emotional dysregulation and experience parenting that has been described as over-controlling. These dynamics, in my professional experience typically present in relationships where control and coercion exist.”

They consider there is a significant gap in father’s parenting capacity.

407. They do note some positives, that he encourages D’s learning, is proud of D’s academic achievements and provides D with a good role model in terms of work ethic. They also note that since the July analysis there have been improvements in contact; there have been no negative comments about mother from August to December 2024. However, he remains negative about professionals and GPs and can be critical of the contact workers. They continue to support the placement with GPs.

Oral Evidence

408. CG2 did not change their views in their oral evidence. They acknowledged that they had not met with B during the care proceedings save for a Teams meeting with him in May 2024 and had only done so during the PLO several years ago. They had not observed any contact. They said they had read the contact notes but did not want to make contact more difficult. They accepted that any placement with the GPs was fragile and that the children were exposed to negative comments about their father. They acknowledged that there were positives for father. They relied on the evidence of Dr Ade – Serrano and said that the children should not be having unsupervised contact with father. He needs to engage with therapy. They also relied on the evidence of others to support her position that father was angry when dealing with professionals.

409. CG2 was also referred to the notes prepared by Dr Bourne of his discussion with her about C’s competency. They could not explain why he spoke to them. The content of the note is very concerning with Dr Bourne raising the issue of sexual abuse and CG2 not dismissing it but joining in the speculation. They were very defensive when asked about this and why they did not tell Dr Bourne it was not an issue. They said they could not remember the conversation. They denied saying that father was creepy and said that she did not think the conversation was accurately recorded.

410. It is however another example of a different professional who engages in a conversation about father possibly being the perpetrator of sexual abuse against the children in circumstances where this is not before the court.

411. CG2 accepted in cross – examination on behalf of D that D was able to express their own views, they accepted that D has been consistent throughout that D wants to live with father, although accepted that mother might be a possibility if she was well; D does not want the intrusion in D’s life of being subject to a care order. It was put to CG2 that life would be more normal if she lived with father; they did not agree and considered that it would continue to be harmful to D and he would seek to impose his will on D. They were clear that there is a real risk of controlling and coercive behaviour and that D will “parrot” father’s views.

412. On 6th May, CG2 confirmed that despite all the difficulties faced by the children and D in particular they remained of the view that the balance of harm favoured D remaining in foster care although there was no in depth assessment of that balance in their written reports of 25th April and 1st May. Their views were confirmed in oral evidence. They had not discussed their position with father and had not spoken to him since May/July 2024. Their view remained that father had not made any substantive changes. He was still presenting challenging behaviours in contact although they accepted that in the very difficult circumstances since January he had behaved appropriately.

413. They accepted reluctantly that D had suffered significant harm in the care of the LA; they also accepted that there had always been problems with the placement with GPs but they thought those could be fixed. She said that she accepted that the ongoing separation of the children was likely to result in emotional harm and that it “*was not ideal in the circumstances*”. She thought this could be ameliorated with contact. She was optimistic that D would accept any decision the Court made if father was willing to accept it although she also acknowledged that if D was out of school and county it would be difficult and a breakdown would be possible. She identified the risks of D living with father as father’s difficulties placing his own needs above the children; difficulties in him regulating himself; domestic abuse and controlling and coercion allegations.

Analysis

414. Both guardians express concerns about the welfare of C and D if placed in father’s care. The concerns surround the effect of father’s strong and what they see as controlling personality on both C and D. They both consider that the children have been influenced by father in expressing their views and that they are therefore less reliable. I do not agree with this. Having reviewed the evidence going back to 2019 and the start of the LA involvement D has always wanted to be with father. D has never wavered and there is no evidence that D has presented a different position to Ms Carter–Birch. C has not been so consistent. C felt father was the safe parent at the outset when the children were faced with their mother’s frightening behaviours. When C was living with mother, C spoke to Mr Butterworth. I cannot put much weight on that. First, I have not found Mr Butterworth to be a very reliable expert. Secondly C withdrew what C was said to have said. There has been no investigation into which of C’s views are more reliable. CG1 has only known C to express the view that C wants to live with father, this has been consistent since 2023.

415. Further, the Guardians' evidence is similarly tainted with the assumptions made that mother's evidence is correct and father's is not regarding the allegations of domestic abuse. There is little critical analysis about the nature of the allegations and their veracity, given mother has lied on a number of occasions and has deceived a number of professionals.

416. CG1 in particular accepted and identified a number of ways in which father provided the children with good parenting and emotional support.

417. Both Guardians are very experienced and they were being asked to provide their views in the rapidly changing situation that had developed, including weighing up the balance of harm to the children of the changing scenarios. In my judgment, in light of the positive aspects of father's parenting and the negatives for the children in foster care, insufficient weight was given to the harm to the children of both separation and foster care in the final care plan put before the Court on 6th May. While I accept there was limited time there was also limited consideration of the harm to the children if they are in foster care and separated and insufficient consideration of the positives that the children would have from father's care and how any support plan might assist father. CG1 was at least realistic that the ongoing indirect contact would continue.

Welfare Analysis

418. I turn now to the welfare analysis and the factors to be considered in determining the outcome of this matter. The children's welfare is my paramount concern. That means that whatever decision I reach must be what I consider to be in the children's best interests. The delay in this case reaching a conclusion has most certainly not been in the children's best interests. C has almost become an adult and D has gone from a 9 year old to a young person of almost 14. I have met them on one occasion and they were both delightful. Despite all the adversity they have suffered they are a credit to both of their parents and at some time must have had some very good parenting.

419. C will be 17 very soon. CG1 has, I believe, set out very fairly the issues that C faces with C's mental health; C's anxiety and C's wish to return to school and education, having been out of it for some time. C is a bright young person and deserves to have the opportunity to make the most of any educational opportunities. C seems to be a caring young person; C is close to D and the two children have been through this together until very recently when they have been separated. C loves their mother and their father.

420. D will be 14 in August. D has been instructing Ms Carter-Birch independently since 2023. While D is unusual in having a separate voice in these proceedings D does not actively participate. However, Ms Carter-Birch has been clear that D has a clear understanding of the issues, is able to give thoughtful instructions and to listen to explanations. She is satisfied that D is able to express their instructions clearly and with independence. There has been no doubt that D is competent. D is bright and has ambitions to be [a professional career]. D loves their family, father, mother, C and their dog. D has a close relationship with C and can sometimes be C's protector despite the age difference.

421. Both children have had a very difficult childhood. Their parents have not always prioritised their needs. They need a resolution of these proceedings that will give them stability and security not just until they are 18 but going forward in life.

422. I provided the children with a summary of my reasons under the welfare checklist why I thought it was best for them to return to their father's care. I have attached that summary and my letter to this judgment. For the avoidance of doubt, they do not form part of this judgment.

(a) the ascertainable wishes and feelings of the children concerned (considered in the light of their age and understanding)

423. I have heard a considerable amount of evidence about the reliability of the children's wishes and feelings. They both accept that they cannot live with their mother. They can no longer live with their GPs. The children's choices are therefore very limited – they can either live with their father or live in foster care with the significant uncertainty and LA involvement that this brings with it. Their views need to be considered in light of their age and understanding.

424. C – C's position is complicated. C will be 17 soon but was not assessed as competent. C has therefore had their wishes and feelings explained to the Court by CG1, her Guardian. In my view, he has very fairly set out C's current and settled views in detail. However, in his evidence he was concerned about the impact of father on those views and he reflected that C might feel that they have to express those views in order to satisfy C father's needs. C's views have not always been consistent. C has at times said that they feel safer with father than mother, C has also said that C would want to live with both of them but not in the same house; C has indicated that if their mother was well, C would choose to live with mother and see father. Most recently C wrote a letter which CG1 provided to the Court, the relevant extract reads as follows,

““I want to live with dad because he is the only one I feel safe with - his presence makes me feel calm.

If you decide that I cannot live dad you might as well put me and D in juvenile detention (a prison for kids) because it would feel like you were keeping us from a good home and a good parent. It would feel like it has been done out of spite because I do not see why there is a reason why we can't live with dad. We would feel safer in prison than we do here ([the GPs' home])).

If we are with dad we would like to see mum when she is well and give her time to work on herself and her drinking.”

This sets out a clear expression of C's views. CG1 accepted that these have been settled views since before they became C's Guardian in August 2023. When C was placed with her GPs C accepted the placement but was clear that C saw it as an interim placement until judgment when C hoped to be placed with father.

Since then, the choices for C have become more stark. C has never expressed a wish to live in foster care, on their own and separated from D. That has never been an option C has had to

consider. Therefore, in reviewing C's wishes and feelings, whatever influence father may have had seems to me to be irrelevant where the choice for C is so limited. I am satisfied that C wishes are to live with father in preference to living in foster care and these are settled views that reflect C's own opinion. CG1 accepted in their oral evidence on 6th May that C had told them that regardless of the judgment C would move to father, once he had arranged appropriate accommodation. This sounds a considered and measured approach in order to achieve what C wants. This would also be what father wants but that is not to diminish C's own view.

425. D – D is less complex than C. D has been consistent throughout the proceedings that D would choose to live with father. In circumstances where D's choice is father or foster care there would seem to be no question that this would be D's position. It was suggested by CG2 that D has also been influenced by father and that D needs to meet his needs. I do not accept that in respect of this choice. D has been a competent child for a considerable time in these proceedings – able to give instructions, understand advice and make choices. I am satisfied that D has given the matter thought and made their own decisions. D sent voice notes to their solicitor in January 2025 before the adjourned hearing. These read as follows,

““Hi Emily, I know I can't be in court but I would just like to say that me and [C] don't care if we still have to have social services in our life or we have to be in a different place not [the family home] the only thing that matters is that we are with dad if you could somehow raise this in court on Monday I would highly appreciate it thank you. [D].

09:45 Including that if we are with dad we could get our life back and have a fresh start. It's the little things that bring us comfort like hearing his voice, hugs, laughing, going for walks, his cooking, and most importantly going to church every Sunday. These things need to be highlighted in court because at the moment me and [C] have been waiting for the light in the tunnel and the only thing that is keeping us going is dad.

09:49 Me and [C] shouldn't have to make Spotify playlists that remind us of dad, or buy his cologne to bring us comfort, his voice is in a build a bear that I press when I miss him which is whenever I'm not with him. I don't think anyone understands the feeling of having your dad taken away from you. But most especially our dad, because there are not many dads like ours, ones that care and look out for you no matter what happens. I apologise for the long writing I just needed to say it.”

This is particularly poignant and from the heart. D has an open and positive relationship with their solicitor and I am satisfied that this genuinely represents D's views with regard to living with father.

(b) their physical, emotional and educational needs

426. C – there are no particular physical needs that the court needs to consider. C is a healthy young person but as a young person C will need to feel that there is another person of the same sex to whom C can bring any personal health issues if they wish to discuss them; C will need a good relationship with a General Practitioner. This might be while C is at father's or in foster care. C will be a young person who is entitled to support from leaving

Care and will also be subject to a Supervision Order. It is clear that C has built a good relationship with SW4. C is also able to speak with mother about issues concerning health as they have done to date. If C were in foster care, a foster carer may well be able to support C in this.

C needs to be reintegrated into education. While in their parents' care, particularly mother's C largely ceased to attend school. This is clearly a huge loss to C and C will be disadvantaged in future without reintegrating into education. While C was in foster care, C did recommence school but this ceased on placement with the GPs and the LA has not accessed education for C. Mother had said she would fund a tutor but this has not been forthcoming. C has found it very difficult to focus on education while these proceedings have been outstanding. C has wanted them to end before considering the next step educationally. It is vital that the future for C includes education so C can achieve their potential. I am sure that a foster carer would be able to support C in accessing whatever education is offered and this may be a fresh start for C. C's father is also positive about the importance of education. I feel confident that he will support what C wants to do, he is proud of C and that comes across in the many voice notes he sends. C will need to be able to make good decisions with support about what is best for C who would like to go to College or University in the future.

C has significant emotional needs – C suffers from anxiety; social anxiety and C is worried about having traits of OCD. There is very considerable concern among the professionals that father will not be able to accept or support C with these needs. He is said to be too focused on his own needs to recognise C's. This is likely to cause C emotional harm. On the evidence, it appears that C will require careful and well – planned therapy to assist. It is not of course known the extent to which C's anxiety might be alleviated once the proceedings are over, C is settled and is confident that the parents are not continuing their battles. This will need to be reviewed as part of the Support Plan with a planned assessment of C's needs. Similarly it is not known whether being with father will reduce C's anxiety if that is their settled placement or whether foster care will help C to settle.

Given C's expressed wishes and C's desire to be with father, it seems to me on the balance of probability that C will remain anxious in foster care, as for C, matters will not have ended and C will be looking to find a way back to father. C has already discussed this with CG1 and said that that is the intention. Further, C may feel that the Court has not listened to C and has ignored C's views which could cause C further anxiety.

The Court has no proper evidence before it of C's mental health. Although Dr Bentley did a report her opinions are not before the Court. The LA will need to ensure that a proper assessment of C's mental health is conducted as part of its support plan to enable appropriate and focused therapy to be provided. In order to engage in therapy, C will need to be settled in placement. I have more confidence in C being settled with father than in foster care, given the expressed views. I said in my letter to the children, *"If you live with [father], he will need to be open to learning about what you need and he and the professionals can best help you"*. I reiterate this here.

427. D – D is a bright and focused child who on all accounts has shown considerable resilience. D has remained focused on education and has ambitions to become [a

professional career]. D is also very keen on a particular after school club and has been part of a team that enters competitions. All of this is to be encouraged. D is very settled at school and the school is very supportive of D. During the recent difficulties with the GPs in April a teacher from D's school reported to the Strategy Meeting on 24th April,

"Checked in with [D] on Tuesday. D is a very good student. Knows what [D] wants - to be a [professional career]. [D] mentioned the recent incident of GP hitting mum. [D] wants to move back to the family home with dad. Says is struggling to live with [GP] because of taunting and sarcastic remarks and [C] being placed elsewhere.... Does come across as genuine with what [D's] saying. Said [D's] lost their mum, [D's] lost their dad, and now the worst thing has happened as [D] has lost [C]. Feeling low at the moment."

The professionals all acknowledge that father is supportive of D's education; he is proud of D's achievements and wants D to achieve their best.

If D were to remain in foster care, there is no guarantee that D would be able to stay at the same school. D is very settled at school; D has friends and activities. D does not want to move schools. When D was in foster care D did not settle as well at school and was very anxious to return to the previous school. It is important that D is settled before D starts GCSE courses in September; in foster care this might be more challenging to achieve.

School is also a safety net for D. D clearly has an open line of communication with staff and any concerns about father's care can be raised by the school.

D has proved to be more resilient on the surface than C. D does not openly display any particular needs, although it is of note that as recently as March, the school was expressing concern for D and the stress on D of waiting for an outcome. Again, it is hoped that the conclusion of the proceedings will bring a resolution for D and D will be able to look forward, with the summer holidays and a new school year when D will start their GCSEs. If D still needs therapeutic support, it should be provided to D. I know that father is supportive of this and is willing to pay for both children to have therapy. This is positive given the concerns that have been expressed that he minimises their therapeutic needs.

(c) the likely effect on them of any change in their circumstances

428. Both children have encountered a significant amount of change over the past 4 years. They have lived with both of their parents in very tense and acrimonious circumstances; then they have seen their father arrested and removed from their lives while on bail; then father has moved back into the family home; the parents were then required to separate and father moved out again; this was a confusing time as the parents continued to have an ongoing and at times intimate relationship; during the vast majority of this time mother was consuming excess alcohol and hiding the fact from professionals, the children were fully aware of this. In August 2022 the children were removed from mother's care and placed in foster care, they had to move location and schools; they missed their friends and had limited contact with their parents. They became less happy in foster care. Eventually in May 2023 they were moved to the care of their GPs which for a time was positive; they

regarded it as preferable to foster care but not their final placement. This became less sustainable with the children making complaints about their treatment and the comments made about them and their father; the GPs did not undertake any training and the professionals in January 2025 were convinced/hoped that they could make this placement work. They did not wholly believe the children about the behaviour and attitude of the GPs. However, sadly it proved accurate, the redacted comments in the addendum SG Assessment being very revealing. Sadly, the placement did not work and the placement broke down for C on 13th April when a GP slapped C's mother and for D on 28th April when SW4 explained to the children that GPs had made allegations of sexual abuse against father in respect of them. Since then, the children have been separated and the LA has changed its care plan. This plan is completely contrary to the original LA plan, has had very little consideration and even less time to plan. I note what was said by SW3 in one of her statements,

*“[C] and [D] need to be placed together as they understand each other, support each other and have a shared lived experience. The sibling relationship is one of the most important and long-lasting relationships that a child will have in their life, they share their early lived experience and hold a deep understanding for one another. **It is vital that these children remain together.**” (my emphasis)*

429. This is a hugely significant change for the children. If the court adopts this care plan C and D will be likely separated for the rest of their minority in separate foster placements. While C's placement can offer some degree of permanence. D's cannot. D is in temporary foster care; D does not know where they will be placed and D does not know whether D will be in the same area as C or not. D does not know with GCSE years approaching where they will be at school. Given the huge changes these children have already had to deal with, they now have significant and unplanned further disruption to their lives. It is hard to see how this level of uncertainty can help their mental health or emotional wellbeing. Added to which they are being placed in foster care where they do not want to be.

430. If they both move to their father they will also have change to cope with. First, they will be cared for by their father as a sole carer. This is not something he has done before. Secondly, he will have to work constructively with the LA which I know will be very challenging for him, given the strong feelings he has about the professionals who have worked with him. I note that Dr Ade – Serrano considers he will have difficulties working with professionals. He will have the emotional needs of two young people to cope with, both of whom have a degree of fragility, C more so than D. He will need to resolve housing. None of these are straightforward.

However, the children will be living with him and will feel they have had their wishes listened to. They will be able to remain in a familiar area and for D there is the benefit of attending the same school. Father has employment in the area. Contact with their mother will be accessible and they will be able to attend without difficult transport issues. There should be no need for father to be involved in contact.

There may be a honeymoon period with father and then there may be further challenges for him and for the children. However, this is a much wanted outcome for all three individuals

and I believe that father will do his best for them. He has agreed to a Supervision Order and to benefit from the support that can be offered.

(d) their age, sex, background and any characteristics of theirs which the court considers relevant;

431. C will be 18 next year and the Supervision Order will expire shortly before their 18th birthday. As the more vulnerable child, C will have the benefit of the supervision order and post – care support. This will help C to transition into adulthood with both support from C’s family and from the LA. This will perhaps be the best support C can have. If C were in foster care there are likely to be issues with C remaining and retaining a stable placement. C would be subject to a care order which C may find restrictive and C would have limited contact with both of the parents. C may struggle to settle and has set out clearly to CG1 that C does not intend to settle. This would not be in C’s best interests.

432. D will be 15 next year and becoming a young person in their own right. D has clear views about the future and will need support to achieve these.

433. Both children are bright and articulate. They can express themselves well on paper and clearly in their voice notes. They are both thoughtful about their lives and their experiences. They should be able to benefit from offered therapy. They both have an [overseas] heritage of which they are proud and will be able to enjoy this with their father. With their grandparents they have been upset because they have been mocked and their accents have been mimicked. Their heritage has been belittled which they have struggled with. It is not known if any foster parents would be able to sustain their cultural identity.

(e) any harm which they have suffered or are at risk of suffering;

434. This factor is crucial to any decision made by the Court. The Court must balance the harm to the children of living with their father against the harm of being in foster care. Neither of these options is perfect or even ideal. Both present concern and possible harm.

435. I start with the simple proposition that these children have suffered significant harm. The children have suffered harm as a result of the mother’s alcohol consumption; the conflict between the parents; the inability of the parents to prioritise the needs of the children above their own needs to remain in the family home; their need to remain in and continue an enmeshed relationship, even after it was over; the father’s need to be proved right with regard to mother’s alcohol use and engaging the children in obtaining evidence; and father blurring the boundaries in his relationship with mother.

436. On the basis of the factual matrix pleaded in threshold I do not find that the children were exposed to controlling and coercive behaviours by their father.

437. However, the children have also had extensive indirect contact with both parents that has not always been in their interests. While it is accepted that father's contact can be supportive and helpful, it can also be inappropriate and he has undoubtedly exposed them to inappropriate adult matters; inappropriate discussion of the court papers and discussion of their mother which at times has been with a view to supporting them given her difficulties and at times has been critical of her. On any view, given the ages of the children and their autonomy with mobile phones, this contact is likely to continue even if they are not in the care of father and they will continue to have extensive indirect contact. Given the very strong views they have about being with their father it is unlikely that if they are separated from him, they will cease contact or moderate it.

438. The children have also suffered significant harm in the care of the LA. This was accepted on 6th May by SW4 (after some deliberation) and also by both Guardians. This harm has resulted from them being placed with GPs who were unpleasant and abusive about their father; belittled their sense of being half [different culture]; failed to provide for their needs by way of accommodation (not making the home suitable for two teenagers); failed to promote C's education; refused to undertake work to improve their parenting despite being recommended to do the work on a number of occasions; exposed them to an assault by the GP on the mother and made unsubstantiated allegations against father that he was sexually abusing the children in a shocking and horrible way.

439. The question for the Court now is what option is least harmful to the children, the children having already been harmed by their parents and in the care of the LA as a corporate parent including while placed with the GPs by the LA.

440. It is helpful in considering risk of harm to look at the guidance provided by Peter Jackson LJ in ***Re T (Children; Risk Assessment) [2025] EWCA Civ 93*** in which Peter Jackson LJ emphasised the need for a proper evaluative process to be undertaken to assess the risk. In my judgment there has been limited assessment of the actual risk to the children in this case and the balance of risk before making a determination. I have set out the analysis of the parties' views below, in identifying and analysing the risk.

441. The LA supported by the mother and both Guardians submits very forcefully that the risks and therefore the harm posed by father are as set out in the evidence of the professionals and experts:

- (i) Father would not be suitable for a perpetrator programme as he does not accept he is a perpetrator of domestic abuse. It is recommended that he embark upon therapy to understand his abusive behaviour so he can then attend a programme.
- (ii) Dr Ade – Serrano does not consider he would be emotionally available to his children on a consistent basis. This is supported by the contacts where father has engaged with contact workers in an aggressive and hostile manner. It is clear from a number of contact reports, as set out CG2 that this is the case.

(iii) She considers he would have difficulties understanding the experiences of his children and in particular their emotional needs if this was different to the information that he had.

(iv) Most significant is the assessment by Dr Ade-Serrano that father does not accept his own contribution to the situation in which the children find themselves and fails to take responsibility for his actions, blaming it on mother and her alcohol issues. This is supported by both Guardians.

(v) Mr Butterworth was also of the view that father lacked any sort of insight into the children's experience and his part in that. He was also concerned about the nature of the parents' relationship and the fact that in his view the text messages suggest that it is controlling and coercive. He thought father would expose her vulnerabilities.

(v) His behaviour in contact even recently is not always in the children's best interests; on 25th March he made the children uncomfortable as they walked to a fast food restaurant for lunch.

442. *The nature of the risk identified by the LA is emotional harm.* I have already identified what in my judgment are the significant weaknesses in the evidence before the court, namely the second and third hand nature of the allegations; the repeat nature of the allegations without any proper investigation or inquiry into father's perspective; the failure of multiple professionals to speak to the father or to view his contact with the children. The opinions of experts without a sound factual matrix must by its nature be flawed. There were no findings of domestic abuse or controlling and coercive behaviour yet the experts have treated father as having been found to be a perpetrator and when he has refused to accept that, they have found that he is in denial, uncooperative and a significant risk to the children.

443. Nonetheless, there is clear evidence that the father has exposed the children to emotional harm; he has not managed contacts in a way that is child friendly or focused, on occasion engaging in a hostile way with the contact supervisors; he has engaged in very extensive and lengthy mobile phone communications with them that have not always been child focused. It has taken him a long time to accept that C does require emotional support and therapy for anxiety. (He has offered to fund that. That is child focused.)

444. Balanced against this is the evidence that while father may present a risk of emotional harm to the children there is also evidence of him being supportive; he responds to their worries and concerns when they contact him. He provides them with emotional support and the contact they have is very positive. They want to discuss their mother and her issues with him. Given their ages it is unrealistic for him to brush them off. At the contact on 25th March there were some very difficult moments for father with the children wanting to discuss the fact that mother had attended contact drunk. The overall assessment of the session was,

“Dad was eager to have everything the children complained about documented. He encouraged them to share their worries and emotions, but it was clear he was also steering them away from more distressing subjects towards lighter conversations. It is

worth noting that the children maintain virtual contact with Dad, where their communication is not monitored.”

445. Father’s desire to have everything monitored is likely to be coloured by the fact that he has been disbelieved by professionals who have in the past failed to take his concerns seriously. Father has been confrontational and hostile to professionals. He has not been willing to simply accept that he is in the wrong in circumstances where the original allegation against him was false and when mother was intoxicated.

446. It is clear from all the evidence that the children may well be at risk of emotional harm in the care of father. For the reasons set out above they are also likely to be subject to emotional harm if they are in foster care.

447. The next question is *how likely the harm is to arise*. If the children are in foster care, it will certainly arise. The children will be separated and away from their family and each other. Their wishes will not have been respected.

448. If they are with father, Dr Ade–Serrano consider there is a high risk of emotional harm. I consider for the reasons I have set out above that the opinion of Dr Ade–Serrano is flawed, having had no sound factual basis to work on and then to draw conclusions about risk without such a basis. Further she has also accepted without question the reports of previous professionals. Father submits that the high level of risk is likely to end once the proceedings end and matters are settled. The parents have no relationship and father is not in the middle of a conflict where he feels unheard. Clearly there will be an outstanding risk regarding how he manages professionals, particularly with a supervision order and whether he exposes the children to any hostility and awkwardness. Regardless of whether the children are placed with him, CG1 and the social worker accept that indirect contact for children of this age cannot be contained and there will be an ongoing risk of communications being harmful.

449. *What are the consequences of emotional harm arising?* The children have already been the subject of emotional harm through the actions of the parents and the LA. They are sadly children for whom this has been a norm. D being more resilient is likely to cope better than C. For C will suffer further anxiety and may not be able to settle. However, this is a risk to C in either placement. If C is in foster care, C is likely to feel frustrated and want to return to father given C’s very strongly held views. This may further delay any therapy and any return to education.

Both children might be subject to further court proceedings.

450. *To what extent might the risks be reduced or managed?* The children will be subject to a supervision order for 12 months. The LA will be able to provide a support plan for father – nothing has been put before the court in the way of a plan to date. While remaining with father was an option especially since 28th April, no plan was formulated for

the court to consider. However, there will be regular reviews with an allocated social worker who will visit him, see the children at school and engage with them. The LA will be able to support the children to have therapy as assessed and required. Further, as mother's contact will be supervised, there will be no need for the father to have any contact, thereby removing a further element of risk. Father is willing to engage in any work required.

451. *What other welfare considerations have to be taken into account?* I have considered above the other aspects of the welfare checklist.

452. On the balance of probabilities, it appears to me that with a support plan and cooperation from father and the LA the harm of the children living with father would be just about manageable. I consider that placing the children in foster care is likely to prove difficult and potentially more harmful than the risks of being with father.

(f) how capable each of their parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting their needs;

453. Mother cannot meet the children's needs; nor can the GPs. It is not known whether foster carers could; this is an option that the children have expressly said they do not want and both have said they will not remain if they are placed in foster care. Father with a supervision order to support him can and should be able to meet their needs. There are no issues with their basic care; he has shown in contact that he is able to manage their needs well; although there have been far too many telephone calls and messages many of these are instigated by the children. They value the communication and the support he offers. It is not always appropriate. However, I do not find that overall, it is controlling. It seems to me that it is filling a need in the children to feel a connection with him and to have a parent there for them. They feel let down by their mother.

454. I do consider that he will struggle to manage the involvement of the LA and the interference with his autonomy but I will set out again the advice from Dr Ade – Serrano for both the LA and father,

“6.5.1. From [B's] perspective the relationship with some professionals is fractured. This can make it difficult to foster a working relationship. There is a potential for forced compliance.

6.5.2. In my professional opinion, it would be important to rebuild trust gradually, be transparent, normalise vulnerability (i.e., encouraging B to understand that expressing his emotions is not a sign of weakness which may help reduce defensiveness), and be mindful of critical judgements.

6.5.3. Equally, it would be helpful for B to be open to feedback he may not want to hear, acknowledge and accept the need for help, demonstrate his commitment to personal growth, and set realistic goals for professionals.”

455. However, this is a situation where the court has to look at what is the least worst option, neither is ideal.

Conclusion

456. This has been a difficult and complex case. I have concluded that for these children at this time the balance of harm falls in favour of them transitioning to the care of their father. I do not say it is an ideal placement. It is not. I do not go against the views of the LA professionals, experts, mother and both Guardians lightly. However, I consider that given the ages these children, given they have a father who however inadequate emotionally, dearly loves them and wants what is best for them and given their clearly expressed views, the balance of harm just tips in favour of them being rehabilitated to his care with a robust support plan that he will be expected to follow. I have expectations that the father will work with any support plan and will cooperate with the social workers who are there to support his children.

457. The proceedings are over. There are no winners, only losers and the biggest losers are the children for whom this nightmare is at an end. I hope everyone will be able to move on for the benefit of the children.

HHJ Lindsey George

Approved judgment handed down:

19th August 2025

Appendix A

HER HONOUR JUDGE LINDSEY GEORGE

12th May 2025

Dear C and D

I am writing to you again at the conclusion of these very long and painful proceedings. I am so sorry that we have not been able to conclude them sooner but as you will both be aware there have been a number of stumbling blocks. Back in January we did not have enough time to finish the evidence because during the course of the hearing you had both become distressed at your grandparents. Time was spent trying to resolve that. The delay was not caused by either of your parents. It was very unfortunate.

I was not able to get all the advocates and me in court together until 19th March when I heard the evidence of CG1 and CG2. I then had time to consider what will be a very lengthy judgment. However, as you know on 13th April there was the serious incident in a pub involving your mother and GP where you were present. C, you then moved away from your grandparents' home which was very disruptive for you and for D. Finally, I had to deal with the allegations made by your grandparents about [allegations of sexual nature]. They were incredibly serious allegations and very distressing for you to have to hear them and respond to SW4. This has resulted in neither of you living at your grandparents' home nor living with each other. This is something that has never happened to you before but I understand from SW4 that you are dealing with it bravely and sensibly.

To be clear, I have concluded that none of the sexual allegations are true], neither in 2021 nor at your grandparents' home nor at any other time.

I understand that you may have been told that the delays in the court proceedings have been caused by your parents and your father in particular. That is not the case as I have set out above. I am certain that both of your parents want these proceedings over. Everyone must move on with their lives and look forward, however difficult that will be, once they are concluded. You are both young and have all your lives ahead of you and you need to plan for those, not worry about your parents.

I have not yet managed to complete the final written judgment. It is going to be very long. However, I have made up my mind about what should happen to both of you. I have decided that you should be able to live with your father in accordance with your clearly expressed wishes. I know that will make you and him happy. However, it is not without risk. You have described your father as the perfect parent. He is not. None of us are; we do our best.

He and you will still have to work with the Local Authority and for 12 months the Local Authority will provide support to you and to him which I expect you all to engage with. This is known as a Supervision Order. It will be very important that you all approach it with an open mind. I know Ms Carter-Birch will explain it to you in more detail and will answer any questions. I do not know if (SW4) will continue to be involved but I hope she will as I think you have a good relationship with her.

I have attached to this letter a summary of part of my judgment. It includes my analysis of why I think placement with your father as opposed to foster care is in your best interests. I know you have arranged to consider this with Ms Carte –Birch and your Guardians today. If my note is not clear, I hope they are able to explain how and why I have come to this conclusion.

If you wish to meet me again, I would be very happy to do so. It can be arranged through Ms Carter–Birch and Ms Candemir.

With very best wishes for your futures

Lindsey George

HHJ Lindsey George

GU22C50158

Surrey County Council/

A (Mother)

B (Father)

C a child by their, Children's Guardian, CG1

D a competent child

Children's Guardian of D , CG2

Summary of Decision for C and D

Threshold

1. The role of the judge in a difficult case like this is to make decisions where those responsible for the young people cannot agree what is best for the young people. In making decisions where there are public law proceedings (such as these), the court must be satisfied first of all that what is known as *the threshold* has been crossed. This means that the Local Authority (Surrey County Council) must prove to the Court that you are suffering or are at risk of suffering significant harm and that the harm is because your parents have not provided you with reasonable care.
2. The threshold in this case is clearly met. Your mother accepts that she has an issue with alcohol so that she cannot look after you, much as she would like to. If she did so you would be at risk of suffering significant harm as you have in the past in her care. Both of your parents accept that there has been too much conflict in the home and that you have both suffered harm as a result. There have been too many police call outs which have distressed you. The Court has also found that your father has not always supported you appropriately during these proceedings and has been negative about professionals with whom you are working and about your foster placement which meant you found it difficult to remain in the placement.
3. I have also found that there is NO evidence that [any sexual allegation was true either] recently alleged nor at any other time.
4. Once the Court is satisfied that the threshold is met, the Court has to make a decision based on what the Court considers is in your best interests. You are the Court's most important consideration. The Court is not concerned about the impact of any decision on your parents -they are adults and must deal with the decision as best they can with the support of those around them.

Placement Options

5. As you know there are limited options for you about where you will live. You can live with your father. That is not what the Local Authority wants, nor is it supported by your mother or either [CG1] or [CG2]. It is what you father and [D] would like. As you know, [C], I have not found you to be a competent child and so you continue to be represented by [CG1] and in Court by Ms Brazier.

6. The Local Authority plan for you after the breakdown of the placement with your grandparents is for you to live with foster carers. [C] will continue to live in the foster placement they are in now. [D] is only in an emergency placement and you will have to move at least once more. It is not possible for you to be together at [C's] foster placement. The Local Authority has said through [SW4] that it will do its best to find a placement for you together but this might not be possible. The Local Authority plan is supported by your mother and both of your Guardians.

Welfare Checklist

7. In coming to a decision, the Court is helped by what is known as the welfare checklist. This comes from **s1** of the **Children Act 1989**. It sets out the factors or considerations that the Court must weigh in the balance when coming to any decision.

8. The first of those is your **wishes and feelings**. These have to be considered in light of your ages and your understanding. I know that you both love both your mother and your father. They both love you. However, you understand that your mother is not able to care for you, so she is not an option.

9. Since the court proceedings started in 2021, you have at times held different views to each other. I am told that initially (back in 2021) [C], you wanted to live with your mother but felt that you could not say that because it would upset your father. This is a very difficult position for a young person to be in. However, it is a common situation, where parents cannot live together, and children are asked to explain what they want. Usually, a child does not want to upset one of their parents because they love both of them.

10. However, I know that you now have very clear views about where you want to live. You wrote a letter in March which [CG1] has passed to me. Part of this reads,

"I want to live with dad because he is the only one I feel safe with - his presence makes me feel calm.

If you decide that I cannot live dad you might as well put me and [D] in juvenile detention (a prison for kids) because it would feel like you were keeping us from a good home and a good parent. It would feel like it has been done out of spite because I do not see why there is a reason why we can't live with dad. We would feel safer in prison than we do here (the maternal grandparents home).

If we are with dad we would like to see mum when she is well and give her time to work on herself and her drinking."

11. [CG1] told me when they gave evidence last week following the breakdown of the placement with your grandparents that your views were firm and that you wanted to return to live with your father. They felt that if the Court did not let you do that you might leave your placement once your father had sorted out accommodation and leave anyway as you would be 17. Obviously, that would be a worry to all those who love you as it might put you at risk if you moved to your father in an unplanned way. I understand from this that you feel strongly about it. Given that [soon] you will be 17, your views must be given considerable weight but they do not decide the issue.

12. [D], your views have been much clearer and more stable since the start of the proceedings. You have been consistent in wanting to live with your father. You have been assessed as a competent young person and you have been able to provide your own instructions to Ms Carter–Birch which I believe you have found helpful. In January you sent her three voice notes as follows,

"Hi Emily, I know I can't be in court but I would just like to say that me and [C] don't care if we still have to have social services in our life or we have to be in a different place not [our family home] the only thing that matters is that we are with dad if you could somehow raise this in court on Monday I would highly appreciate it thank you.[D].

09:45 Including that if we are with dad we could get our life back and have a fresh start. It's the little things that bring us comfort like hearing his voice, hugs, laughing, going for walks, his cooking, and most importantly going to church every Sunday. These things need to be highlighted in court because at the moment me and [C] have been waiting for the light in the tunnel and the only thing that is keeping us going is dad.

09:49 Me and [C] shouldn't have to make Spotify playlists that remind us of dad, or buy his cologne to bring us comfort, his voice is in a build a bear that I press when I miss him which is whenever I'm not with him. I don't think anyone understands the feeling of having your dad taken away from you. But most especially our dad, because there are not many dads like ours, ones that care and look out for you no matter what happens. I apologise for the

long writing I just needed to say it.”

13. These are very powerful messages and Ms Carter–Birch is clear that they represent your views and you have thought about them very carefully. You will be 14 [later in the year] and you clearly have a good understanding of what you want. The Court must take your views into account and give them weight in the same way as [C].

14. The next thing the Court considers are your **physical, emotional and educational needs**. You are both healthy young people and do not have any particular physical needs. Everyone agrees that foster carers and your father could meet those needs – food, housing warmth etc.

15. [D], I know that you are thriving at school. You want to be a [professional career], I believe. I also know that your father will support you to achieve your educational goals to the best of his ability. He wants you to thrive and do well. I believe you are also very keen on [afterschool club] and you compete for your club. I have no doubt that your father will support this too. If you are in foster care, your foster carer will want to support you educationally. There might be an issue with schools if you cannot stay at [your current school]. This would impact on your friends, education and activities. I know you would not want to move schools as you are happy where you are; success in your exams is important to you and you will need to be settled before you start your GCSE courses. That will be in September. If you are with your father, you will be able to do this. If you are in foster care this is less certain.

16. The Court must also consider your emotional needs. At present, [D], you do not show any particular needs but whoever cares for you must be aware that once all the stress and uncertainty of the proceedings is over you may need some support with your emotions, even if it is just someone to talk to. It is important that you are open to that.

17. [C], as I am sure you know your parents, social worker and school are concerned about your education. I am told you are a bright [person] and would like to go to university. I am sure you realise that there will be some catching up to do. It may well be possible to do this from foster care and this might give you the opportunity of a fresh start where you do not have the “*baggage*” that has gone with you previously in school. You have found trying to attend school and deal with the uncertainty and stress of the lengthy proceedings going back to 2021 very difficult.

18. The Court hopes that after the proceedings are finished you will be settled and will be able receive some careful therapy that will help you with your anxiety and enable you to return to education. For this to be effective you will need to feel settled and stable in your placement. You feel that that would be with your father. It is a risk that going to foster care, instead of giving you a new start, will upset you further and make it difficult for you to return to education. You are vulnerable now and it is important that you are given the tools to become more resilient. At the moment I am not sure that your father has all the tools to understand your needs. If you live with him, he will need to be open to learning about what you need and how he and the professionals can best help you.

19. The next consideration is ***how any change would affect you both***. You have already had very significant change. In the last four years you have lived with both of your parents, then your father could not return to the family home; then he did return but these proceedings started at the end of 2022 and he had to leave. You were then cared for by your mother alone for a time but sadly she carried on drinking and was not able to care for you properly. You then went to foster care in August 2023. In May 2024 when I first met you, you were going to move to your grandparents. In truly terrible circumstances that placement with your grandparents has come to an end and that must have been the most awful shock to you both. I know you have both been very brave in dealing with it.

20. This recent change means you no longer live together. This is very significant and must be a loss to you both as you have always been together, even in the darkest times you have had each other for support. That has changed. If the Local Authority plan is implemented there is a chance that you will not be able to live together and you will stay in separate foster placements. It is hoped that those placements will be near to each other but there is no guarantee of that. The Local Authority plan would be for you to see your parents once a month. Again, that is a very significant change given the frequency you see them now. I have no doubt given the regular and frequent messages you send each other that you will stay in touch with each other and with your parents.

21. If you live with your father, that will also be a big change. He will need accommodation which might be [your previous home] but might have to be alternative accommodation. You have never been cared for by him on his own and you might find that the reality is not what you were expecting. [C], at different times it has been said that you find him scary and intimidating. This would not be a good place for you if he was frightening. I know that is not what you now say. I know father wants you to live with him and will do his best for you both.

22. You will both have changes to cope with. This means that the Court will have to decide which of the changes will cause you the least harm and may give you benefits.

23. Next on the list of factors is, your **age, sex, background and any characteristics of his which the court considers relevant**. You are both young [people] approaching adulthood. [C], you will be 18 next year and [D] will be 15. You are both bright and engaging, you express yourselves well on paper and in your voice notes. You both have [a different half] heritage that you are proud of and which you want to be able to acknowledge. Otherwise, there are no particular features that I need to consider. Your father is well placed to support your heritage. It is unknown what a foster placement could offer. However, it is important that any foster carers do not criticise your background.

24. This next factor is very important; it is **any harm which you have suffered or are at risk of suffering**. The Court has found that you have suffered or are at risk of suffering significant harm and I have summarised the threshold findings above. However, in this part I have to consider what harm you have suffered and what harm you might suffer in the future if you were to be in foster care or with your father. I will not discuss the harm you may have already suffered but it is important to balance the possible harm in the future if you stay in foster care or if you return to your father.

25. If you remain in foster care, you are likely to be separated. You will experience that as being upset, sad, maybe a feeling of loss. It is certainly likely to cause you emotional harm which may impact your education and future welfare. I am concerned, [C] that it will delay you returning to education which everyone says is important for you. You will have no sense of being in your family and I know family is important to you. You are both sensible young people but it is possible that you will try and return to your father in an unplanned and ad hoc way. This would not be positive and may result in more litigation as the Local Authority seeks to bring you back into their care.

26. If you remain in foster care the plan is for you to see your mother and father face to face for four hours each month. You will each live with foster carers not family and you would have the Local Authority involved in your lives for the rest of your minorities – this means that if you wanted to have a sleepover; go to a [after school club] competition and sleepover; school trips etc, the Local Authority would have to approve them. You would have a social worker involved in your lives and another social worker supervising the foster carers. You would have to make arrangements to meet each other. There is no certainty that you will live near to each other or that you, [D] will continue to

attend the same school.

27. If you are in foster care, you will be able to continue with indirect (such as telephoning/messaging and sending voice notes) contact with your parents; however, the Local Authority says that this may expose you to further emotional abuse.

28. If you were to live with your father there are also risks. The Local Authority, mother and your Guardians are all worried that your father will be controlling of you and will not let you grow up to be independently minded; they are concerned that you will not be able to put your own needs first but will have to comply with his views and “fight his corner” for him; it is a risk that he will not be able to put your needs first, instead he will prioritise his own needs and will be emotionally dependent on you. It is their opinion that he is manipulative and this will also affect how you are able to live your lives. They are also concerned that he will not enable you to have a full relationship with your mother, assuming she manages to bring her alcohol consumption under control. These are all concerns about being with your father. They consider that he will cause you further significant harm.

29. However, if you live with your father, you will stay together and be a family with [your family dog]. This is what your clear wishes and feelings are. He loves you both very much and you love him. [C], even if you are away or at college or university you will have your home to return to; [D] will be there for the next four years while completing school. [D] will be able to remain at school; C can explore educational options with the support of father; C will still be entitled to ongoing support from the Local Authority which can support C into adulthood. Father is very supportive of C’s education and has had some success in getting [C] to school in the past. Father is your support figure; you both turn to him in times of crisis; your maternal family have let you down, making serious and unfounded allegations against your father. You will no longer be children one of whose parents is the Local Authority.

30. Finally, I must consider ***how capable each of your parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting your needs***. The only person who can be considered is father. Mother cannot care for you and your grandparents have been shown to have been wholly inadequate and have caused you both significant harm. Father will need to work at his parenting of young people and be open to advice. He has already agreed that he will work with the Local Authority; will engage in some family therapy with you and will be subject to a Supervision Order. The reason he will need to do this is to ensure that he is able to meet both of your emotional needs and to provide a stable home. It is important he does not underestimate the difficulties he may face with two intelligent and

vocal young people.

My Decision

31. These decisions are difficult; there is no perfect answer in the same way there is no perfect parent. However, I have considered that on balance you will suffer the least harm by being cared for by your father. This may not happen immediately as the parties will need to make a plan for this to happen and for accommodation to be sorted out so you need to be patient a bit longer. The parties will be meeting again in Court to consider the plans for this move very shortly. I hope that this short summary decision explains why I have made this decision and that any questions can be answered by Ms Carter–Birch and your Guardians.

HHJ Lindsey George

12th May 2025