

MISS RECORDER HENLEY

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Before:

MISS RECORDER HENLEY

IN THE FAMILY COURT

Case No. NE17C00325

SITTING AT NEWCASTLE UPON TYNE

In the matter of the Children Act 1989

Date: 05 July 2018

In the matter of:

S (born in the month of September 2007)

O (born in the month of June 2009)

D (born in the month of October 2012)

BETWEEN:

LA

Applicant

-and-

(1) M

(2) F

(3) The children

(Minors, acting through their Children's Guardian, Susan Reed)

Respondents

JUDGMENT

Representation

Applicant Local Authority– Miss Choudhury (Counsel)

Respondent Mother – Miss Callaghan (Counsel)

Respondent Father – in person

Respondent Children – Mr Flower (Solicitor)

Introduction

1. This is an application for care orders brought by the local authority, LA
2. The Court is concerned with S (born in the month of September 2007) now aged 10 years old, O (born in the month of June 2009) now aged 9 years old and D (born in the month of October 2012) now aged 5 years old. All three children have resided together in a local authority foster care placement since 11th May 2017, under the auspices of Interim Care Orders. The children are of Black African decent and were born in this jurisdiction. They all speak English.
3. The Mother of all three children is M (born in 1972) aged 45 years old, she originates from Zambia. She speaks and reads English fluently.
4. The Father of all three children is F (born in 1982) aged 35 years old, he has Parental Responsibility for all three children. He is Nigerian. He speaks and reads English fluently.
5. This matter was originally listed for a Final Hearing with a time estimate of 5 days, commencing on Monday 12th February 2018.

6. The matter first came before me on 5th February 2018 for IRH. At that stage the Father had recently taken the decision to represent himself during these proceedings. He had filed a very lengthy statement in the early hours of that morning indicating that, in addition to the witnesses who had been agreed as required for the final hearing, he required a further 6 witnesses from A London based Probation Services, a further 7 witnesses from A London based Children's Services, all of the contact supervisors (5 in total), the IRO, a Paediatrician, and three members of management from LA, including the Director of Children's Services.

7. At the IRH before me that day the Father confirmed that he sought to support the Mother's case. The Mother had already, through counsel, expressed concerns about the children's interim welfare and a desire for the case to proceed as an effective final hearing the following week. I explained to the Father that the Court could not accommodate all of these witnesses within a 5 day listing and that none of them had been warned to attend therefore if he were to persuade me that all of these witnesses were required, the case would inevitably be adjourned. He confirmed that he did not seek an adjournment of the final hearing and wanted it to proceed, was content with the LA's suggestion that the two main contact supervisors be provided to give evidence, and that the case would proceed with the witnesses who had already been required until and unless it became apparent that there were any relevant issues that they could not deal with. I made directions for disclosure of documentation from the Probation Service and from a London based Children's Services in an attempt to address any issues that he had by the provision of documents. He informed me that he was content with that course.

8. I was also informed by the children's solicitor at the IRH that day that the children wanted to meet me. I gave the parties an opportunity to make any representations about that and there were no observations or objections raised. I made clear my intention to meet them before the final hearing in the company of their Guardian and solicitor together with a member of the Court staff and that the meeting would

be recorded. I made arrangements to meet the children directly with the Children's Solicitor during the course of that week and met all three of children together on Friday 9th February 2018. They were accompanied by Mr Flower, their solicitor, who took a note of the meeting, and the Children's Guardian. The meeting lasted about 20 minutes in total. They had had a tour of the court building before I met them and they came into my room to meet me. They had with them original copies of letters that they had written to me. I assured them that I had already been provided with copies of them and had read them. I informed them that anything they told me could not be kept a secret and I would have to tell everyone what they said in Court the next week. They said they understood. They had nothing additional to tell me, just confirmed that what they had put in their letters was true and that they didn't want to add or change anything. I asked them who they wanted to tell them of my decision, giving them the option of the Guardian, the social worker, the foster carer or a family member. They all agreed that they would like the social worker to tell them. I informed the parties about the meeting at the outset of the final hearing.

9. Before the evidence started on the first morning of the first day, I had to determine whether or not the children should be permitted to have contact with their sister N and their Maternal Grandmother that afternoon. The Local Authority proposed that this contact would take place on a supervised basis. The Mother agreed to N having contact but objected to the Maternal Grandmother having contact. It appeared that her principle reason was that given the information the Maternal Grandmother had given the Local Authority about her, she didn't trust her to have contact with the children and felt upset about the prospect of them seeing each other. She raised concerns that the Maternal Grandmother may try to negatively influence the children against her. Once I explained to the Father that such contact would be supervised, he agreed to it taking place, but preferred there to be at least two supervisors present due to, in his view, the Maternal Grandmother's manipulative nature and the alleged abuse that she had perpetrated towards the Mother as a child. The Guardian supported the contact going ahead and said that the children were

already aware that N and the Maternal Grandmother were in the North East. I determined that the contact should go ahead for N and the Maternal Grandmother with the children on the basis that I considered it was in their best interests for it to do so. This was because the Maternal Grandmother already has an established relationship with the children and I was concerned that should contact not go ahead when they were aware that she was in the North East, and when they would be seeing N, they may question why she had not been to see them and it may cause them a degree of distress. The parents have raised complaint over the course of these proceedings about the lack of contact that the children have had with the extended family and it seemed to me that this was an opportunity that should not be missed. The children last saw these family members in May 2017 and therefore it seemed to me for that reason alone that contact should be supervised to allow the contact to be professionally supported. Supervision also served the dual purpose of reassuring the parents that it would take place safely. I therefore directed that it would take place on a supervised basis and that contemporaneous notes of the contact session should be made available to all parties the following morning, before the Maternal Grandmother or N were to give evidence, so that the parents could be reassured that nothing untoward had been said to the children.

Background

10. The family originally resided together in London, which is where all three children were born.
11. The Mother came to this jurisdiction from Zambia as a child in February 1986 with her mother and younger sister, to join her father, who was a diplomat attached to the Zambian Embassy in London. She was granted permission to permanently remain in the UK by the Home Office on 11th December 2000.
12. The Mother has four older children from her first marriage to GA. She married GA in 1993. Their children are A, N, B and T. The Mother's relationship with GA

broke down in 2003 and they divorced in 2008. Following the breakdown of her relationship with GA, it is unclear how much time their children spent living with the Mother and how much time they spent living with GA or how much contact he had with them. For periods of time they all lived together with the Mother and the Father although there came a time when N moved out of their home and back to the care of her father. B's recollection is that he lived with his father between the ages of 6 years and 8 years and then went to live with the Mother, along with T, but that he saw his father at weekends.

13. The Father entered the UK on 6th January 2006 on a valid student visa to study Marine Engineering at the University of Southampton. His visa had been issued on 21st December 2005 and was valid until 21st June 2006. That visa was subsequently extended until 28th February 2009. His visa was then curtailed on 2nd May 2008 without right of appeal, on the basis that he did not have a sponsor who was associated with the university where he had been studying. He did not complete his degree.
14. The Mother's relationship with the Father began in 2006. S was born on 29th September 2007 and the couple began cohabiting from October 2007 in London, living together with some of the Mother's older four children and S. On 5th June 2009 O was born and on 5th October 2012 D was born. The parents were by that stage therefore residing together with, at times, up to seven children. B's recollection is that the Mother "kicked them out" when she first formed her relationship with the Father and at that time he and T went to live with their father, returning after a couple of years.
15. On 4th November 2014, a London based Children's Services received a referral from the Police that B, then aged 13 years old, and T, then aged 10 years old, had been assaulted by the Father. The children had disclosed this originally to their sister N on 2nd November 2014 and then to their father GA on the same day, who subsequently contacted the Police.

16. On 3rd November 2014 both children had forensic medical examinations carried out, they were noted to have multiple injuries which appeared to be consistent with their allegations that they had been whipped repeatedly with a plastic coated cable by the Father.

17. A strategy meeting took place on 4th November 2014 and both boys were the subjects of Achieving Best Evidence interviews that day. Both children alleged that they had been regularly physically abused by the Mother and the Father. They described in detail an incident in which they were each whipped by the Father on multiple occasions to their backs, using a television cable. The boys stated that the Mother and three subject children were present in the home at the time and that the Mother failed to report this incident or obtain medical attention for them. They each said that the Father had been beating them over the course of the previous five years, using his hands, cables, wire from some curtains, a wooden clothes hanger and a leather belt with a metal clip and that he had whipped them with a cable before. They said that the Mother was aware of these beatings. They also said that the Mother would beat them with a rolling pin or wooden spoon. The boys said that they had to do the majority of the care tasks for their younger three siblings (the subject children) and the majority of the cooking for the family.

18. On 16th July 2015 the Father made an application for Further Leave to Remain in the UK on the basis of his relationship with the Mother.

19. On 23rd November 2015 the Father entered guilty pleas and was convicted at Woolwich Crown Court of four offences of assault occasioning actual bodily harm in respect of B and T perpetrated over the period 1st July 2014 to 4th November 2014, at Woolwich Crown Court. On 21st December 2015 he received a two year custodial sentence.

20. The Mother was arrested and interviewed in respect of Child Cruelty offences arising out of these matters but the Crown Prosecution Service decided to take no further action. The children who are the subject of this application remained in her care. The Father also remained living in the family home on the basis that the Mother was responsible for supervising his contact with the children, whilst he was on bail over the course of a 13 month period. This situation was agreed by a London based Children's Services on the basis of a Child in Need Plan.
21. On 26th January 2016 the Father was served with a decision to deport him to Nigeria.
22. On 17th February 2016 the Father sought to appeal the deportation order on the basis that it would be a breach of Article 8 ECHR. On 10th March 2016, the Father withdrew this appeal and expressed a desire to return to Nigeria, signing a disclaimer on 24th March 2016. On 24th June 2016 the Father resubmitted his appeal against deportation on the same basis as he had in February 2016.
23. On 11th July 2016 a deportation order was signed against the Father. The Father currently has an outstanding appeal against his deportation, which is due to be heard following the conclusion of these proceedings. Those proceedings are therefore running in tandem with these.
24. On 11th October 2016 a London based Children's Services received a referral from the Probation Service that the Father was due for release from prison on 20th December 2016. He had indicated a desire to return to the family home. He was not in fact released on that date for immigration reasons.
25. The family remained living in London until December 2016 when they were evicted and provided with alternative accommodation in Luton and Rochester in Kent. They moved to Luton then Rochester on 9th December 2016, where the children were registered in school. At the end of January 2017 they moved back to London

until April 2017 when they moved to the North East, then Peterborough then back to The North East again. The Father was released from custody on 11th April 2017, on immigration bail to an address in the North East.

26. The family came to the attention of this local authority on 4th May 2017 when the Probation Service made a referral as the parents were living together in the the North East area with the children, in a property that the Father had been provided by the Home Office. The property was said to be uninhabitable for a family, it consisting of a single room. The local authority provided accommodation for the Mother and children in a Travelodge, subject to a written agreement, until further information could be gathered about the family and a s.47 Investigation could be carried out. Upon receipt of further information, the local authority decided to issue these proceedings and seek the immediate removal of all three children.

27. The local authority's reasons for issuing these proceedings and seeking the immediate removal of the children on 11th May 2017 were as follows:

- It was alleged that the Mother had led a transient lifestyle and that there was a risk that she would flee from the area with the children
- The Local Authority did not consider that either parent had insight into the risk that the Father posed to the children
- The Local Authority did not consider that the Mother was able to prioritise the children's welfare above her relationship with the Father.
- The local authority had been informed that the parents had not informed the Probation Service or a London based Children's Services that the Mother and the children were moving to the North East of England or that they would be living together as a family with the Father.
- The Local Authority considered that the children were at risk of physical and emotional harm in the care of the parents

28. On 11th May 2017 the children were made the subjects of Interim Care Orders and removed from the care of the parents to foster care, where they remain. The parents did not seek to appeal the making of interim care orders sanctioning the removal of the children but have raised complaints about that hearing. The reasons behind them not being present in the Court room that day are not clear although they were each present in the Court building and were each represented by experienced specialist family solicitors who continued to act for them for the next three hearings (the Mother dispensed with the services of her first solicitors after that and appeared in person at a hearing on 31st July 2017, the Father continued to instruct the same solicitor until February 2018). The orders made on that occasion were short term orders made to a further contested hearing listed on 18th May 2017. That hearing was then adjourned at the request of the parents pending disclosure of information they sought from a London based Children's Services and the Probation Service. The matter was then listed for a further contested hearing on 26th May 2017 at which the parents did not actively oppose the continuation of the Interim Care Orders. Those orders remain in place to date.

Evidence and progress of the final hearing

29. During the hearing listed in the week of 12th February 2018, I heard from counsel on behalf of the local authority and on behalf of the Mother, I heard from the Father in person and I heard from the solicitor for the children. I read the bundle of documents filed for these proceedings.

30. In the week of 12th February 2018 I heard oral evidence from MF, the previous social worker; MS, the current social worker; AK, the children's previous social worker when they lived in London; N, the children's older maternal half sister; MGM; CH, contact supervisor and JL, contact supervisor.

31. I requested that better quality colour photographs of B and T's injuries be produced. I received colour copies of B's injuries. I had read the police disclosure relating to

those offences, which included the police's written summaries of those children's Achieving Best Evidence interviews. On the second day of the final hearing I asked when I could see the video footage of those ABE interviews in circumstances in which the Local Authority invited me to make findings arising from those ABE interviews, which go above and beyond the Father's convictions and the admissions made by each parent in these proceedings. I had assumed that the failure to supply those video recordings to me prior to that had simply been an oversight. I was informed that none of the advocates or the parties had seen those videos before. Only one copy of each video was available and had been in the possession of the Local Authority's legal department.

32. On Wednesday 14th February 2018 the key social worker MS took ill and therefore was not well enough to resume her oral evidence. The local authority had no other witnesses to call and so it was agreed that the remainder of the Court day should be used to watch the videos in the Courtroom. The parents agreed to this course notwithstanding that they said they had not seen them before. Shortly before the first video was played the Mother indicated that she felt ill and wanted to leave the courtroom – she did not object to the parties watching the videos in her absence and with her counsel present. The Father remained to watch them. I indicated that both parents should be given the opportunity to view the videos before giving their evidence.

33. B's ABE interview is 2 hours 20 minutes in length. It corroborated some of the findings already sought by the local authority but went further than the case had been put at that stage. In particular, greater detail of the alleged physical abuse was included, together with greater detail about the Mother's role as well as general allegations of maltreatment and neglect in respect of, not only the older children, but the three subject children as well. At the conclusion of the video, Miss Callaghan, counsel for the Mother, indicated that she may now require B and T to give evidence in these proceedings, and would need to take instructions about that

from the Mother once the Mother had viewed the videos. The Father indicated that he may now seek legal advice.

34. On Thursday 15th February 2018 the Father attended Court indicating that he sought to instruct a solicitor. The parties agreed that the case could not proceed, that the videos needed to be fully transcribed and that copies of them needed to be made available to all of the parties. I directed transcripts of evidence be prepared of all the evidence that I had already heard to enable any solicitors acting for F to advise him and to allow any legal representative taking conduct of the case to be aware of all of the evidence I had heard. I gave permission for the Local Authority to amend its schedule of findings in light of the oral evidence I had heard and the contents of the ABE videos and directed that the parents each file position statements in respect of whether either of them sought B and/or T to give evidence in these proceedings. I listed the matter for a further case management hearing to review the issue of whether they were required to give evidence.

35. In the intervening period I informed the parties that the Immigration Tribunal dealing with F's appeal against his deportation order had made a protocol compliant request for disclosure of some of the case papers from these proceedings and that I would consider that request at the next hearing, forwarding a copy of the request to the parties.

36. At the case management hearing on 29th March 2018 F was legally represented by new solicitors and counsel. Both parents confirmed that they did not require B or T to give evidence and that position has never changed. On behalf of the Father arguments were raised that the Local Authority should not be allowed to seek findings that went beyond the Father's convictions. Those acting for the Father were not then in possession of the full Court bundle nor had they viewed the ABE interviews or read the transcripts of the evidence that I had heard. I indicated that I would listen to argument about this if necessary once they had more documentation but expressed the view that the argument that was being raised was

being put on the misunderstanding that the local authority had not previously sought findings that went above and beyond the Father's convictions, which was incorrect. I explained that the Local Authority had always sought findings that went beyond the Father's convictions and that the scope of the factual determinations sought had not been in issue prior to the hearing commencing before me in February, that the matter was adjourned as a consequence of my intervention in seeking to see the full ABE interviews in light of the findings that the Local Authority had always invited the Court to make, which went above and beyond his convictions. I had taken the view that if the Local Authority sought findings on the basis of B and T's complaints, I should view their ABE interviews rather than simply rely on the summaries of their evidence provided by the police. I was satisfied that I should view the videos as they were the best available evidence of the children's complaints. I informed counsel acting for F that the final hearing was adjourned to permit those videos to be viewed and transcribed, to consider whether those children would be required to give evidence and to allow the Father to take legal advice if he wished to, but for no other reason. I permitted the Local Authority an opportunity to revise its schedule of findings based upon the full ABE interviews and the other evidence that the Court had heard during the February hearing, to allow the parents a fair opportunity to know the case that was being put against them and to be able to respond properly to it. The revised schedule of findings sought remained substantially the same as it had been at the outset of the final hearing in February 2018 and the findings reflected the evidence that had already been heard by the Court. I therefore did not consider that the revised findings sought were inappropriate or unfair. I was satisfied that the matters that the local authority sought to prove were relevant, necessary and proportionate for the welfare evaluation that I was tasked to undertake.

37. To enable those acting for F to understand the decisions that had been taken about witness requirements, I also directed a transcript of the IRH on 5th February 2018 to be produced, which took place before me. The Father had appeared in person at that hearing and had agreed to the witnesses that had been proposed. I listed the

matter for a further IRH in May 2018 and for a resumed part heard final hearing in the week of 11th June 2018. I invited those acting for F to make any applications they had about witness requirements once they had read the full bundle and the transcripts of the hearings that had taken place. Mr Todd, counsel for F originally outlined that he had originally sought disclosure of B and T's medical records, school records and other primary source materials covering the five year period during which they alleged that they had suffered abuse, but that upon reflection he recognised that it would be better for him to simply make submissions about the absence of referrals and contemporaneous reports to support the children's allegations rather than require further disclosure or seek to call additional witnesses. No request for medical records, health visitor records, school records or requests for any other witnesses were pursued that day. I indicated my support for this stance as being a proportionate approach. The local authority also accepted that it was willing to make admissions about the absence of referrals about the children from professionals and other family members during this period. None of the parties objected to disclosure of the case papers to the Immigration Tribunal and I indicated that I intended to make a reciprocal request for disclosure from those proceedings. I outlined the documents that I intended to seek and no objection was taken by the parties to that course. I duly made a protocol compliant request and the Immigration Tribunal provided a full lever arch file of papers from those proceedings to me, which I disclosed to the parties. I gave leave to the parties to rely on those documents as evidence in these proceedings.

38. On 14th May 2018, the week before the further IRH hearing was due to take place, the Father contacted the Court to state that once again he had chosen to act in person.
39. Neither of the parents attended the IRH on 18th May 2018 listed at 2pm, the Mother was represented by counsel Miss Callaghan (who had represented her in February 2018), who conveyed that the Mother was now working full time and was unable to attend the hearing, that she had been unable to meet the Mother since the last

hearing in March and that both she and her instructing solicitor were relying on email instructions given without any opportunity to give advice. She said she had been given firm instructions to seek an adjournment of the hearing that day. The Father had contacted the parties the evening prior to the IRH, after 5pm, requesting that the IRH be put back to 23.5.18 due to “irregularities with the bundle” which he said disadvantaged him as a self representing party. This request was apparently sent to the Court (after business hours the night before the hearing) but it appears not received; as a consequence of an incorrect email address being used. The Father’s request was not agreed by the other parties. The Father then failed to attend the IRH, the parties informing the Court that it appeared from his correspondence that he had decided not to attend on the basis that he was asserting that it could not proceed. The Father subsequently accepted (on 12th June 2018) in Court that he had not attended the hearing as he considered it would not be a fair one. I am satisfied that his decision not to attend that hearing was a deliberate attempt on his part to engineer an adjournment of that hearing. During the course of the resumed hearing in June, the Mother accepted that her night shifts do not commence until 7.45pm and asserted that her need to travel and get changed before work was a reason why she could not attend the hearing at 2pm. I reject her explanation and am satisfied that both parents failed to attend the hearing with the intention that their failure to attend would produce the adjournment that they sought.

40. An advocates meeting had taken place prior to the IRH on 15th May 2018, which the Father had attended, he had also emailed the local authority to make a series of requests for further disclosure of medical records, school records, health visitor records and a request for a large number of additional witnesses amounting to a suggestion on his part that the case should be listed for a further 4 weeks. His list of requests was forwarded to me and was opposed by the local authority and children’s guardian but supported by the Mother. In the Father’s absence, his application to enlarge the final hearing and seek production of these documents and further witnesses could not be pursued but I had an opportunity to consider the list of documents and witnesses he said he now required. Miss Callaghan indicated

that due to her lack of instructions she felt unable to make submissions about these issues. She had clear instructions to seek an adjournment of the IRH. I explained that an adjournment was not practically possible as I was not sitting again until the case was due to resume as a final hearing due a period of planned annual leave. I was not satisfied that the final hearing should be vacated. These proceedings were already over 12 months old. The only reason I had adjourned the case in February 2018 was due to the need to have the ABE interviews transcribed, to give an opportunity to the Father to seek legal advice and to enable the parents to consider whether they required T and B to give evidence. I was satisfied that the revised findings sought did not go substantially beyond the original findings sought and the parties had already agreed which witnesses had been required for this hearing back in February, this agreement had been reached at an IRH I had conducted when the Father was in person. I was not satisfied that the difficulties with the bundle or the late service of the local authority's final evidence should preclude the Father from attending the IRH or from making his applications to the Court, nor was I satisfied that the Father's request for a 4 week trial was necessary or proportionate. The hearing was ready to resume. Transcripts of the ABE interviews had been received, the Father had obtained legal representation and decided once again to represent himself and neither parent required B or T to give evidence. The points that the Father wished to make about the absence of referrals from agencies when the children were in the parents' care could be dealt with by way of submissions and if appropriate, a series of admissions from the local authority. It was these points that the Father wished to make by calling additional witnesses and seeking additional documentation. These points were however agreed – the Local Authority accepts that no earlier referrals were received either from the children's father, their step-mother, their schools or any other professional involved in their care. It was not necessary for the Court to hear from every professional who had been involved with the children to make those points. I was satisfied that it was neither proportionate, necessary nor most importantly in the best interests of the children to further delay the final hearing which would be the inevitable consequence of acceding to the Father's requests. Neither of the parents had obtained any evidence from any of

the witnesses they said they required and were simply expecting the local authority to contact all of these witnesses and arrange for their attendance. I indicated that he would have to make any applications to me when I returned from leave and I would consider those applications afresh but I was not persuaded at that stage that the final hearing should be put in jeopardy by these requests. It was not possible to lengthen the 5 day hearing to a further four weeks in June 2018, nor was it at all clear how the Court would benefit from hearing from these additional witnesses or from receiving these additional documents. The burden of proof rests with the local authority to establish the findings it seeks. It is not for the parents to prove a negative. The hearing had been listed on the basis that it would resume in the week of 11th June but that the first day would be a reading day and that evidence would resume on 12th June 2018. In light of the Father's failure to attend the IRH I agreed to list the matter for a hearing at 2pm on 11th June 2018 so that any case management issues could be dealt with then prior to the evidence commencing.

41. Whilst I was on annual leave, between the IRH in May 2018 and 11th June 2018, I was notified by the Mother that she had decided to represent herself. A series of emails followed to the Court, to me directly and to the parties sent from the parents. The parents sent a narrative document to the Court giving notice that they were pursuing a claim for damages pursuant to the Human Rights Act 1998 and sought a listing before a different judge to deal with their allegations that the local authority and various other professionals had breached their Human Rights, and the rights of the children. They requested an urgent 2 day listing to deal with these issues, before another Judge, whilst I was on leave. Issues raised included that the children had been wrongfully removed from their care and that they had not been given a fair hearing in the care proceedings. No formal application had been issued. Their correspondence was referred to me by Court staff. Despite being on annual leave I replied to indicate that I would deal with these issues upon my return at the hearing on 11th June 2018 at 2pm.

42. The parents continued to send email communications to the local authority and the children's solicitor, which appeared to indicate that they were not willing to attend the final hearing. They each failed to attend the hearing at 2pm on 11th June 2018 without any explanation but had emailed the parties and the Court at 8.31am that day sending a further joint statement in support of their Human Rights Act claim. Having viewed the correspondence sent to me from the parents and some of the correspondence alluded to in the Guardian's report I considered that the parents may be suggesting that I should recuse myself. I therefore gave a brief ruling in respect of that issue. I was satisfied that there was no proper basis for recusal and that I intended to continue to hear this case to conclusion. I made an order that the hearing would proceed in the absence of the parents if necessary and that findings and final orders may be made in their absence, unless they provided a reasonable excuse for their non attendance, and I had the order served upon the parents that day by email, which I was satisfied was a method of communication that they used frequently for the purposes of communicating with the Court and the parties. I permitted a later start time of 2pm on 12th June to allow the parents extra time to make arrangements to attend.

43. At 1.25pm on 12th June 2018 a further email was sent to me from the Mother, copying in the parties, with another joint statement attached. She indicated that she was on her way to Court with the Father but they did not know the venue. The venue had been included on the Court order they had been served with and was a Court building they had attended several times before. They were informed again as to the venue. At 2pm they had not arrived. I permitted a further period of time for them to arrive. They attended Court at 2.30pm. I heard argument from them about witness requirements. Their arguments included that they sought to have evidence heard from B and T's father, step mother and all the professionals involved with the children over the five year period that they alleged they had been abused to prove the absence of corroborating evidence and contemporaneous complaints. I informed them that I was not prepared to adjourn the hearing or allow any of the further witnesses they required. The local authority's case was for it to

prove and the parents could make submissions to me about an absence of evidence presented. I informed them that the onus was not upon them to require witnesses to corroborate a lack of referrals from B and T's schools, General Practitioner, Father or step mother – all of whom they said they required to give evidence in the document they had circulated an hour before their arrival at Court. I made clear to the parents that they did not have permission to continue to file evidence and that I would deal with Human Rights issues in this hearing, following which, if they sought to pursue compensation, they would need to make a Part 8 Civil Procedure Rules compliant application to the Court and issue it with the Court office.

44. The parents informed me that they had over 25 complaints outstanding about a range of professionals and sought to litigate those complaints during this hearing. That was the basis upon which they required the remainder of the additional witnesses that they sought. I refused to allow them permission to do so, informing them that my case management powers were such that I would determine the scope of the hearing and the witnesses who would attend on the basis of what I considered to be relevant and that my focus would be on the children, where they should live, what their care and contact arrangements would be and that those decisions would be made, in part, on the basis of any findings I may make about the parents' ability to safely parent them. The parents made complaint about the ABE videos asserting that they had never seen them before and were not aware of them before the hearing I conducted in February 2018. They also made complaint about the immigration papers from F's immigration appeal being used in this case. I made clear to the parents that I was satisfied that the ABE interviews had been lawfully and properly conducted, were being lawfully and appropriately relied upon as evidence in this hearing, that I was entitled to view immigration papers disclosed to me by the Immigration Tribunal and that such information could be used as part of the evidence in the case – in particular I had been sent a copy of the Judge's sentencing remarks when F was sentenced and various documents written by the parents in support of F's immigration appeal, which I considered to be relevant to these proceedings. I informed the parents that whether they had seen the ABE interviews

before February 2018 or not, I had adjourned this case for four months to allow them the opportunity to view them, take legal advice upon them and to receive transcripts of them and therefore I considered that the use of them during this hearing was fair, as well as being necessary and proportionate to the issues before the Court because the primary reason why the local authority and Children's Guardian opposed the children returning to the care of the parents was the risk that the parents posed arising from the complaints made by B and T in those videos and the Mother's inability to protect the subject children from risks the Father may pose arising from those complaints.

45. The hearing resumed on the afternoon of 12th June 2018. I heard further evidence from MS, the children's current social worker. I permitted the Father to cross examine the social worker before the Mother as he said she was unwell. I informed the Mother that if she was too unwell to conduct the hearing or give evidence I would require medical evidence from her. At no stage did she inform me she was too unwell to continue with the case. The Mother actively participated in the hearing by addressing me directly and by assisting the Father with documents. I informed the parents that the hearing would continue for the rest of the week sitting at 10.30am until 4.30pm each day, that they were expected to attend Court at 9.30am for the purposes of discussions with the advocates and should they not attend by 10.30am the hearing would proceed in their absence, unless there was a reasonable excuse for them failing to attend.

46. On 13th June 2018 I heard further evidence from the social worker, MS, who was cross examined by each of the parents, acting in person. The parents attended Court that day at 10.15am. They attended without the full bundles that had been provided to them by the local authority for use in the hearing, without an explanation as to why they had failed to bring them. They made no requests to be provided with any other documentation during the hearing. I heard evidence from the Mother. I refused a request by F for him to be allowed to give evidence before her on the basis that he said she was not well. I informed him that I had no medical evidence that

she was unwell and that she had been perfectly able to conduct her cross examination of the social worker that day over a lengthy period of time prior to giving evidence. At no stage did the Mother inform me that she was unwell herself that day, nor did she at any stage request a break or appear to be unwell. F complained during the local authority's cross examination of the Mother that he should have been allowed to ask her questions before the local authority. He had not asked to do so before cross examination commenced. I allowed the local authority to continue its cross examination informing F that I would allow him to ask questions afterwards. I was not made aware before that point that F would have any questions for M given that they were presenting joint cases. I had assisted her in giving her evidence in chief by dealing with formalities and inviting her to tell me anything she wished to before cross examination commenced. I directed that the parents would not be permitted to produce any further evidence or video recordings in support of their case unless they attended Court at 9.30am the following morning to share new evidence with the parties before the case resumed, the Father having indicated that he had further evidence he sought to adduce. Again I stressed that the hearing would proceed in their absence unless there was a reasonable excuse why they could not attend. The additional evidence that each parent sought to adduce by way of audio and video recordings were not provided to the Court on 12th or 13th June 2018. The parents had said that they would be provided on 13th June 2018 but they each failed to provide them. I had made clear to the parents that I had to ensure that proceedings were fair for all of the parties, including the children and that I would not permit the late submission of evidence from them unless it had been shown to the other parties, hence my stipulation that they attend Court an hour before the hearing was listed to share any new materials or evidence with the parties.

47. On 14th June 2018 at 9.57am F sent me an email, copied to the other parties stating that neither he nor the Mother could attend the final hearing as the Mother was in hospital with a kidney infection/ blood poisoning. He complained that the hearing

had been unfair and that the Mother's evidence and cross examination should be "stricken from the Court record" due to her ill health.

48. I adjourned the hearing that day, directed that the parents produce medical evidence to support their contention that the Mother was too unwell to attend Court by 9.30am the following morning, directed that the Father attend Court the following morning in any event, and ordered that the final hearing would resume at 10.30am on 15th June 2018 unless I was satisfied that the Mother was too unwell to attend. I invited the social worker and Children's Guardian to attempt to ascertain the Mother's whereabouts. I was informed later that afternoon by the local authority that the Mother was in hospital having been admitted with a kidney infection.

49. On 15th June 2018 the Father failed to attend Court without explanation. He had provided a handwritten letter from a staff nurse to the parties on the afternoon of 14th June 2018, which confirmed that the Mother was in hospital having been admitted with a kidney infection but no prognosis was included. The Guardian informed the Court that the social worker was aware that the children were very anxious to know the Court's decision and when it would be made. I directed that the matter be listed on Monday 18th June at 2pm for mention with a direction that the Father attend in any event, to ascertain whether the Mother had by that time been discharged from hospital, with a view to resuming the case that Friday, 22nd June 2018 unless I was satisfied that the Mother was too ill to continue with the case that day.

50. At 2pm on 18th June 2018 neither the Mother nor the Father attended Court and no further medical evidence had been produced. The local authority informed me that it had obtained information from the hospital that the Mother had been discharged from hospital on the evening of Friday 15th June 2018. I directed that the matter

would resume on Friday 22nd June 2018 unless the parents filed medical evidence that the Mother was unfit to attend, with a view to completing the evidence that day.

51. On 19th June at 1.52pm the following email was sent to the Court by M, copying in F but none of the other parties:

Dear Sirs,

Case Number : 17C00325

E Children,

I was sick ,during the Hearings on the 12/06/2018 and 13/06/2018,but Recorder Henley insisted on continuing the hearing and I was made to give live evidence,despite my ill health.

The court was informed by both me and F on both days,that I was sick.I felt dizzy,persistent headaches,weak and generally unwell.On the 13/06/2018,after the hearing ,I had to be taken to Accident and Emergency in hospital,as my health suffered.I was discharged from hospital on Saturday,16/03/2018.

Given the unfair hearings held at the Moot Hall on the 12/06/2018 and 13/06/2018,it breaches the Article 6 rights of the Children,F and I.

The Recorder also stated that our Joint Human Rights Claim with F purports to be a Human Right Claim.I am currently searching for a Human Rights Lawyer and a Family Lawyer to represent me.

However,I believe it will be unfair ,if either I or F is expected to attend any further hearings at the Moot Hall or under the same Recorder,given our Article 6 rights violations.

Yours Faithfully
M

52. This email was referred to me by the Court administration. I invited the Court staff to respond to the parents that the hearing would remain listed on 22nd June 2018 and that the parents were required to attend unless there was a reasonable excuse why they could not attend, stressing the need for medical evidence to be produced.

53. The content of M's email was untruthful in that she had not at any stage told me herself that she was unwell during the hearing on 12th or 13th June 2018, despite addressing me on a number of occasions, only F had mentioned it as a reason for him to ask questions first, not as a reason why she would not be able to give evidence or conduct the hearing on those days. Neither of them mentioned any details or symptoms of the illness that she was said to be suffering from. Neither of them sought an adjournment or made an application for the case to be stood down for medical attention to be sought. At no stage did M tell me that she was too unwell to conduct cross examination or to give evidence. F's only requests were that he be allowed to cross examine first which I permitted, that he be allowed to give evidence first and he also sought to cross examine M first on the basis of her ill health. I did not permit that to happen because at no stage did M tell me she was unwell herself and I was concerned that the Father was attempting to control and manipulate the proceedings in the hope that he could give evidence for her and lead answers from her that he wanted. He did not at any stage say that she was too unwell to give evidence, only that he wanted to be allowed to go first and ask her questions first. At no stage did M appear unwell, require a break, struggle to ask questions when cross examining, struggle to address the Court or indeed struggle to assist F to ask questions, which she did by assisting him with the papers they had with them and by passing notes to him. At no stage during her oral evidence did she indicate that she felt unable to answer a question as a result of ill health. I specifically asked her whether she wished to ask questions following his cross examination of the social worker, which was extensive, and during which I permitted him to ask many questions on her behalf as though on her instruction, putting her version of events to the social worker. Even after his questions had concluded, she said that she wished to cross examine herself which I permitted and which she was perfectly capable of doing. She cross examined at length.

54. I was satisfied that given the stage that the hearing had reached and the extensive delays that had already been encountered I was not prepared to permit any further

adjournments to allow time for F or M to seek legal representation again. They had commenced the resumed hearing in June 2018 in person, which was their choice, and nothing had happened in the interim period to create any change of circumstances as far as the evidence or conduct of the hearing was concerned.

55. I am satisfied that the parents deliberately sought to represent themselves at the resumed hearing in June 2018 with the intention of using that status to manipulate and control these proceedings, as became apparent from their exchanges in Court that they had thought that by representing themselves they would have a litigation advantage in being able to run their cases however they wished and I am satisfied in a way that, had I permitted it, would have resulted in unfair litigation conduct as far as the local authority and the children's solicitor was concerned. Whilst of course allowances must be made for those acting in person, I am satisfied that they deliberately sought to take advantage of that status. They failed to comply with Court orders, attempted to submit documents and make applications for the first time on the day that hearings were listed and generally did all they could to derail the case. I am quite satisfied that the parents have repeatedly attempted to have this matter adjourned following the ABE videos becoming available. The production of those videos sparked a sequence of events in which Mr and M have dispensed with the services of their specialist and experienced legal representatives, made complaints about the Court venue, about myself, about the other advocates in the case and about the fairness of the proceedings. I am satisfied that they have taken every possible opportunity and used any possible excuse they can, to attempt to derail this hearing and delay the conclusion of these proceedings. Their actions have not been at all in keeping with the best interests of the children. After the production of the video recordings of the ABE interviews, they did not approach these proceedings as an opportunity to present their cases or respond to the evidence but attempted to simply delay and/or prevent the Court making findings based upon the evidence before it. I am quite satisfied that that is because they are all too aware of how compelling B and T's evidence is and that their tactic has therefore been

one to seek to exclude that evidence, and in the event that they were unable to do so, to attempt to change the trial judge. Their episodes of non engagement with these proceedings, late attendance at Court hearings and late email correspondence that made demands about disclosure of documents and the production of witnesses and raised applications for the first time at the eleventh hour was all engineered with a view to attempt to distract and detract from the key issues in the case and prevent the Court from reaching a determination. Their email correspondence with the parties and the Court was often hostile, making unreasonable demands and raising unfounded allegations. It often arrived in the middle of the night/ early hours of the morning and was sent with an unreasonable frequency.

56. I accept the evidence of the Children's Guardian that the frequency of the parent's email correspondence during these proceedings increased at times when the parents were unrepresented and that it often featured unfounded complaints and allegations which were designed to distract professionals away from the central issues in the case. A common theme within their email correspondence was a demand for apologies and threats of litigation. Health professionals, legal professionals, social workers, the Guardian and probation officers have all featured in complaints. Complaints have been made about the Court venue and about the fairness of these proceedings with demands for more senior Judges to hear the case. Having viewed samples of this correspondence I am quite satisfied that it is designed to intimidate and distract professionals from carrying out their duties.

57. The parents both failed to attend the hearing on 22nd June 2018. No further communications were sent to the Court from them, no medical evidence had been provided to justify their non attendance. The parents had been served with a copy of the order listing the hearing and directing them to attend by email, and personally when they attended for contact with the children during the course of that week. In

the circumstances I was satisfied that they were aware of the hearing and had chosen not to attend. I was satisfied that the hearing should proceed in their absence and that further delay was contrary to the best interests of the children. I heard oral evidence from the Children's Guardian and directed that submissions be made in writing. The Local Authority and the Children's Guardian would have had time to make submissions orally that day but I decided, with the agreement of those parties, that the parents should be given one final opportunity to address me if they wished. I also decided that the parents should, unusually, be given the advantage of having sight of the written submissions of the Local Authority and Children's Guardian, who I directed file their submissions first, permitting a right of written reply to the Local Authority after the parents filed their submissions if necessary. I then listed a date for the handing down of this judgment in writing. I was informed by those acting for the children that the children were particularly anxious for a decision to be made and therefore a tight timetable was set to permit me to hand down a written judgment within two weeks' of the conclusion of the evidence. The time table afforded the parents a full week to provide their written submissions.

58. The local authority filed and served their written submissions by email at 9.36am on 26th June 2018, copying both parents in. The Children's Guardian's written submissions were emailed to me at 3.51pm on 27th June 2018, with a covering email to say that they had been served on both parents.

59. On 29th June 2018, the day that the parents' written submissions were due by 4pm, I received an email from the Mother timed at 10.39am in which she accepted receiving and having read the written submissions filed by the local authority and on behalf of the Children's Guardian, and in which she accepted having received the order of 22nd June 2018 directing the parents to file their submissions by 4pm that day. She requested an unspecified extension of time to file her submissions,

stating that it was unfair to expect her to respond in such a short space of time given that she was recovering from illness and working nightshifts. She said that she was attempting to instruct a barrister to write her written submissions, made a request, for the first time, that S and O be required to give oral evidence, said that she wanted an opportunity to give full oral evidence and to play You Tube videos in support of her case. She said that she could file medical evidence to support her contention that she had been unwell.

60. At 11.40am on the same day the Father sent an email to the Court supporting the Mother's application for an extension of time to file written submissions and sought the same extension on the basis of his "limited funds" and the lateness of the receipt of the written submissions from the other parties. He stated that the Guardian's submissions had not been sent to him and that he had only been passed them that morning by the Mother. He also echoed the Mother's request for S and O to give oral evidence.

61. I directed that the parents had to file their written submissions by 4pm that day, as previously ordered. The Father does not work and has no other commitments through the day. The Mother works nightshifts but has never provided evidence of her working commitments to the Court. The time table for the filing of written submissions had allowed the legally represented parties one full working day to file their written submissions (by 10am on Tuesday 26th June 2018) and the parents a further four full working days to file theirs (by 4pm Friday 29th June 2018). Medical evidence had still not been filed and there was no explanation at all given as to why the Father could not comply. I was satisfied that I had given the parents repeated opportunities to engage in the Court process, to file medical evidence, to submit evidence, give oral evidence and to file submissions, even after they had made clear their intention not to engage with the Court process. I was satisfied that their

continued late communications containing yet more applications for further evidence to be filed and seeking further adjournments were nothing more than a repeated pattern of their conduct within this litigation, with the aim of seeking to adjourn the proceedings.

62. The parents were aware that the Immigration Tribunal had adjourned the Father's appeal against deportation until the conclusion of these proceedings and that for as long as these proceedings continued, he could remain in the UK. I am satisfied that the primary motivation of the parents to seek to delay the finalisation of these proceedings is to prolong the immigration process and defer the Father's deportation.

63. The reasons they gave to justify their request for S and O giving evidence – namely to allow the parents an opportunity to contest allegations that those children each were seen to rock back and forth, which in the opinion of professionals was an emotional response to contact with the parents, were issues that had been the subject of oral evidence in February 2018. Evidence about these issues was contained in the local authority's written evidence served prior to that hearing commencing in February 2018. The children's behaviour had been noted from them first being placed in foster care but had been said to have improved markedly over the time that they had been accommodated. I consider it entirely inappropriate to seek to have oral evidence given from young children about these issues. The parents each had an opportunity to question local authority witnesses about these issues during the hearing. I am satisfied that the request to have the children give evidence was simply a further delay tactic on the part of the parents. The children have repeatedly made clear in their letters to me, both before and after they met me in February 2018 that they want to remain in foster care. I consider that it would be contrary to

their welfare interests to require them to give oral evidence in the presence of their parents and that such an experience would run a high risk of being abusive.

64. I was satisfied that in the absence of any medical evidence justifying why the parents had not attended Court on 22nd June 2018 to complete the case, it was not appropriate for the Court to continue to receive any further evidence, that the time for evidence had by then concluded and that the parents had been given every opportunity to engage in the process fully but had declined to. I was not prepared to permit any further delays in the matter and was not satisfied that if given any further opportunities to give evidence, the parents would in fact attend Court to do so. I was satisfied on the basis of the parents' conduct throughout these proceedings which has included repeated demands for meetings and medical appointments for the children to be rescheduled, only for them to fail to attend, that I could have no confidence that if I afforded any further opportunities for them to give evidence or file submissions they would comply. I was satisfied that the children's best interests demanded that decisions be reached in a timely fashion and that to permit any further adjournments, without any guarantee that the parents would engage or comply was not fair for the children. What was clear by that stage was that following the Mother's discharge from hospital, she had been well enough to attend contact with the children and to go to work and I could see no reason why any illness would therefore preclude her from attending Court or filing written submissions.

65. The parents had each had had two sets of specialist family solicitors and specialist family counsel during the course of these proceedings and had chosen to dispense with their services. They had made a conscious choice to represent themselves, therefore any suggestion that they would, at the very end of the case, seek yet more

and different legal representatives appeared to me to be yet another attempt to delay the conclusion of these proceedings.

66. At 3.44pm on 29th June 2018 I received a further email from M asking for an extension of time to file her written submissions on 3rd July 2018, alongside the Father's, on the basis that she could provide medical evidence on 3rd July 2018. She said if that date was "not acceptable to the parties" she would file her submissions on 2nd July 2018. I refused to grant an extension without medical evidence being filed and ordered that unless I was satisfied that the parents had a reasonable excuse for their failure to comply with the order requiring them to file written submissions at 4pm that day, no further documents from them would be considered. I reiterated within the order that I intended to deliver my judgment on 5th July 2018. I considered it unlikely in the circumstances that any medical evidence would provide justification for the continued non compliance with Court orders following the Mother's discharge from hospital. The Father had provided no reasonable excuse at all for his non compliance. It is worthy of note that 3rd July 2018 was the date by which I had permitted the local authority an opportunity to respond to the parents' submissions and, had I permitted the parents more time, it either would have resulted in the local authority being prevented from replying to their submissions, or would have precluded me from delivering my judgment on time, or both.

67. At 3.02pm on 2nd July 2018 M emailed me her written submissions, stating that she would file medical evidence the following day. Her written submissions were typed and were 85 A4 pages long. I have read those submissions notwithstanding that they were served late.

68. At 3.15pm the Father sent me an email to state that he had received his asylum money that day and would “endeavour” to make his submission on 3rd July 2018.

69. At 4.13pm on 3rd July 2018 the Mother emailed me a statement of fitness to work completed by her GP dated 18th June 2018. It confirmed that she was unfit to work from 16th until 20th June 2018 as a consequence of a kidney infection. She also sent a copy of her discharge sheet from hospital which stated that she had been admitted to Accident and Emergency at 11pm on 13th June 2018 and discharged from hospital on 16th June 2018 at 2.09pm. No medical report from her GP was supplied. Nothing within the documentation provided any evidence or justification for her failure to attend Court on 18th June 2018 for the mention hearing I had listed or more importantly her failure to attend Court on 22nd June 2018 to give evidence or her failure to file and serve her written submissions by 4pm on 29th June 2018. Nothing within the documentation provided by the Mother provided evidence to support the contention that the Mother had been too unwell to conduct proceedings on 12th or 13th June 2018 or to give evidence on 13th June 2018. The Father provided no evidence or proper explanation for his failure to comply with any of the Court orders that I had made in respect of his attendance at Court hearings, failure to give evidence and failure to file written submissions on time.

70. I am satisfied that neither of the parents had any reasonable excuse for their failure to attend Court on 22nd June 2018 to give evidence or their failure to attend Court on 18th June 2018 to give me an update in respect of the Mother’s health. I am also satisfied that neither of the parents had given me any reasonable excuse for their failure to supply their written submissions on time. I am satisfied that the parents have been given a fair and proper opportunity to give evidence in this case and that their own failure to comply with Court orders and failure to attend Court hearings without any justifiable excuse prevented them from doing so. I am satisfied that

there is no proper basis upon which any further opportunities should be given to the parents to give evidence in this case and that it has been entirely appropriate and in the children's best interests to proceed with the case, to conclude hearing evidence in their absence and to adhere to the timetable I set for the handing down of this judgment.

71. I am not satisfied that it is in the best interests of the children to permit any further delays in this case. The children have been in foster care for 13 months and require a decision to be made. I have no confidence that if the parents were afforded any further opportunities to engage in these proceedings that they would take them and am satisfied that their primary motivation is simply to delay the outcome of these proceedings. I remain satisfied that the Mother was able to give evidence on 13th June 2018 and to make submissions and cross examine the social worker on 12th and 13th June 2018. At no stage during the hearing on those two days did she present as unwell or complain that she was unable to do so due to ill health or for any other reason. The hearing concluded on 13th June 2018 at 4.30pm, I note that the Mother was not admitted to hospital that night until 11pm, some six and a half hours later. At no stage did she request medical attention or assistance either in the Court room or in the Court building on either 12th or 13th June 2018. I do not consider that the questions that the Mother was asked in cross examination by the local authority were unfair or improper.

72. At 1.49pm on 4th July 2018 I received the Father's written submissions. They were typed and were 37 pages long. I make clear that in my view there was no justification at all for him filing these submissions less than 24 hours before I was due to hand down my judgment and after the date I had given permission to the local authority to respond to the parents' submissions, thwarting its ability to do so. I have read his submissions. I am satisfied that a great number of the assertions that

he makes within his submissions are factually incorrect, deliberately misleading and characteristically dishonest, to give just a handful of examples: his allegations that the local authority has “tampered with the bundle”; that he has been unable to write his submissions or attend Court due to a lack of funds – his lack of funds has never been used as a reason for his non attendance before; I am deeply troubled by the email that he has recently sent to the Immigration Tribunal alleging that that Judge should also recuse himself for sharing documents into these proceedings in accordance with the protocol. At no stage prior to me making my request for disclosure of documents from those proceedings into these proceedings did the Father seek to object to that course or raise any objection to the documents that I sought, and I raised the issue on a number of occasions with the parties before my request was formulated and sent; the issue of the playing of the ABE videos was prompted and raised by me in Court on the second day of the final hearing, not by the local authority.

Recusal and Article 6 ECHR Right to a Fair Trial

73. The test that I must apply when determining whether to recuse myself from hearing this case is that found in the case of **Porter and Magill [2002] 2 AC 357**, namely;

“Would a fair minded and informed observer, having considered the facts, conclude there was a real possibility that the Judge was biased?”

74. The parents have alleged that these proceedings have been unfair since I assumed conduct of them in February 2018. These proceedings were not allocated to me and came before me to hear as a final hearing and IRH that month for the first time. I had had no prior involvement in the case.

75. One of the complaints made by the parents is that I permitted the local authority to rely upon the videos of the ABE interviews of B and T, videos that they say that they were unaware of the existence of and had not seen prior to my request to see them. Those videos formed the primary evidence in the Father's criminal proceedings and were disclosed to the local authority and into these proceedings following an order made for third party disclosure against the Police in July 2017. The local authority had always pleaded its case based upon what those children had alleged in their video interviews. The existence of the videos is apparent from reading the police disclosure, the assessments of the parents and the local authority evidence prepared well in advance of February 2018. It was open to any of the parties, including the parents, to request sight of the videos. As part of my general case management powers I am entitled to determine which pieces of evidence can be utilised within proceedings. I was not satisfied that reliance upon summaries of ABE interviews produced by the Police permitted the Court to proceed on the best available evidence. In circumstances in which I was being invited to make findings based upon those interviews and what those children had alleged, I am satisfied that it was necessary, proportionate and fair to request sight of the videos themselves. I am satisfied that by adjourning the case for a four month period once they became available to allow them to be fully transcribed, to allow time for all parties to view them and take legal advice upon them, to allow both parents the opportunity to make applications for B and T to be cross examined, and to allow the Father time to instruct solicitors, I was acting fairly and without prejudice or bias towards or against any of the parties. I was acutely aware of the very serious nature of the findings sought and the fact that the Father was unrepresented, albeit by choice, and I gave him the opportunity to reconsider his position in that regard and to seek legal representation. Notwithstanding the length of time afforded to the parents to view these videos, the Mother refused to view them and the Father also refused to view T's video interview. He only watched B's video interview when the parties watched it together in Court in my presence.

76. I permitted the local authority the opportunity to amend the findings it sought on the basis of the videos and the oral evidence that had already been heard, to enable its case to be fully and fairly pleaded prior to the parents having to give evidence and prior to the case resuming. I have set out in this judgment the findings originally sought, which remain unchanged, and the additional findings sought which do not substantially differ from the earlier findings. In so far as the neglect allegations are concerned they arise from the oral evidence given by N and the Maternal Grandmother, corroborated by information given from the foster carer by the social worker in her evidence all of which was heard in February 2018, as well as allegations made in the ABE interviews. I consider that those allegations are relevant and that it is necessary for me to determine them. The parents were afforded a lengthy adjournment to respond to them.
77. I do not consider that my decision to make a reciprocal protocol request of the Immigration Tribunal for case papers or my inclusion of those case papers that were supplied to me, within the evidence for these proceedings indicates bias or is unfair. I am entitled to make such a request and consider it to be entirely appropriate to request disclosure of documentation from those proceedings, which are running in tandem with these. The Father's immigration appeal is predicated on his argument that he should be entitled to have a relationship with the children with whom I am concerned and therefore any information that he or the Mother gives in those proceedings about their ambitions to care for or have contact with the children is relevant in these proceedings. The consistency in their accounts or lack thereof between the two sets of proceedings is also relevant to their credibility.
78. Prior to 18th May 2018, neither parent made an application to me or notified me that they did not intend to attend that hearing or that they sought an adjournment of it. It therefore remained listed. It was not possible for me to adjourn the hearing as between that hearing and the resumption of the final hearing I was on leave. I did list this matter on my first day back from leave (11th June 2018) for a case management hearing to deal with any applications that the parents wished to make

prior to the resumption of the final hearing on 12th June 2018. The parents failed to attend that hearing, without any explanation.

79. My refusal to permit requests for multiple additional witnesses made by the parents very shortly prior to and on the day of the resumption of the final hearing, amounting to a request for a four week trial was refused because these requests would have led to an inevitable adjournment of the case which I'm satisfied is not in the best interests of the children. The children's welfare is my paramount consideration and I am anxious to avoid any further delay for them given that they have been accommodated in local authority foster care for 13 months and that the final hearing commenced in February 2018 and has already been adjourned for a significant period of time. The parents did not make timely applications for these additional witnesses, nor were they able to properly explain why it would be necessary for the Court to hear from them. On 12th June 2018, F stated that he had over 25 outstanding complaints against professionals and sought to litigate those complaints during these proceedings. I am satisfied that it is inappropriate to allow these proceedings to be used as a vehicle to investigate professional complaints in the way that he suggested and do not consider that my refusal to allow him to do so leads to a suggestion of bias on my part. The remainder of the witnesses, health and school records that were requested were to support the parents' claims that B and T could not have been abused and mistreated in their care because their schools, GPs, Father and step mother did not raise any concerns at the time. The parents required each professional who had ever had contact with the boys over the five year period that it is alleged they suffered abuse and mistreatment. I am satisfied that since it is accepted that no referrals were made and that the boys say that they didn't tell anyone at the time that it is neither necessary nor proportionate for these witnesses to be required to attend Court. None of them had been warned to attend Court or ever approached to give evidence in these proceedings before. I am satisfied that the correct approach was to permit the parents to make submission about the absence of contemporaneous corroborative evidence by professionals and these family members and that this approach is a fair one.

80. I am satisfied that my approach in requiring medical evidence from the Mother to justify her inability to proceed with the hearing in June 2018 was fair and appropriate given that on Tuesday and Wednesday of that week she had presented to me as being well and had been able to present her case, ask questions and give evidence without complaining to me that she was unwell. Only the Father raised that she was not well without any explanation as to what her illness may be or how the symptoms of it were manifesting themselves. Upon confirmation of the Mother's admission to hospital I adjourned the continuation of the evidence for a full week and gave repeated opportunities for the parents to supply medical evidence to justify any contention that the Mother was unfit to attend or give evidence. The parents failed to produce that evidence.

81. I am not satisfied that by choosing to continue to case to conclusion after the parents had repeatedly failed to attend Court, had repeatedly failed to file medical evidence and had repeatedly indicated an unwillingness to engage further in proceedings was unfair. My paramount consideration has to be the children with which I am concerned and their need for a determination without further delay. I have permitted lengthy adjournments during the course of this final hearing which has taken place over the course of an unusually protracted period of time for the benefit of the parents, to ensure that they were able to have a fair hearing but there comes a point when a line has to be drawn under the granting of any further adjournments and decisions need to be made. I am not satisfied that during the course of the resumed part heard hearing in June 2018 it was unfair to continue in the parents' absence given the clear position that they were advancing at that stage that they were refusing to attend Court.

82. I am satisfied that there is no proper basis for me to recuse myself from hearing this case. I am also satisfied that having commenced the hearing in February 2018 during which I heard evidence, the matter was part heard and therefore I had to

continue to hear the case to conclusion and that it was not appropriate to move this case to another Judge once it had started.

83. Clearly in proceedings of this nature, each parents' Article 6 ECHR Right to a Fair Trial is fully engaged. I have been acutely conscious of the need to conduct these proceedings fairly, taking particular care in light of the very serious nature of the findings sought, the draconian nature of the local authority's care plans and the orders sought. I have been especially careful to ensure that the local authority's case was fully and fairly pleaded, that the parent's each had adequate time to respond to the evidence and the findings sought and that they each had time to seek legal advice if required. I also ensured that the parents were aware that they were entitled to non means non merits tested legal aid and that they could each therefore have solicitors and counsel of their choosing if they wished. The parents each chose to represent themselves during these proceedings and I received lengthy and substantial correspondence and documentation from them, which I allowed to be admitted into evidence despite its very late service upon the Court and the parties. Following their decision to represent themselves for the resumed final hearing in June 2018 I ensured that the local authority supplied them with a full paginated Court bundle, identical to the Court's bundle. The parents attended the resumed hearing without those bundles and were unable to provide me with any explanation as to why they had failed to bring them or where they were, the Father simply saying they "would bring them tomorrow." I gave the parents a full week to file written submissions even after they had indicated a refusal to engage further with the Court process. I also gave them an opportunity to have sight of the submissions of the other parties before they had to submit theirs, affording them every possible advantage I could.

84. The children's Article 6 ECHR Rights are also fully engaged in these proceedings. They are properly and competently represented in these proceedings through an experienced Children's Guardian and Children's Solicitor. I am satisfied that their rights have been fully protected during this process.

85. I am satisfied that the parents' and children's Article 6 ECHR Rights have been fully protected during my conduct of the case.
86. The parents complain about the removal of the children from their care. I am satisfied on the basis of the evidence before me, the Father's convictions and the circumstances in which the Mother and children came to the North East, that it was necessary and proportionate for the children to be removed from the care of the parents at that stage. The decision to grant Interim Care Orders was made by a competent Court, the parents were each legally represented by specialist and experienced family solicitors and the orders were made for a short period of time to allow the parents to fully contest those orders on the production of further evidence which they chose not to do. The orders have never been the subject of an appeal. I am not satisfied that there has been any breach of the Article 6 ECHR as far as the parents or the children are concerned in connection with the removal of the children from their care. The removal was lawfully ordered, on notice, following a hearing. I agree with the Guardian that the actions of this local authority in issuing these proceedings and seeking to remove the children on the information it had were entirely appropriate.
87. The parents seek to rely heavily on the actions and inaction of local authorities in London and the Probation Service as justification for their contention that the children were not at risk of harm in the care of the Mother and should not have been removed. I disagree. The fact that different safeguarding decisions were made in a different area does not change the facts of the case or the risks that those facts give rise to. The fundamental issues in this case are that the Father had very serious convictions for assaulting his step children, had been released from prison following those assaults and had been joined in the North East area by the Mother and the children in circumstances in which the Mother had been accused by those older children of also perpetrating abuse, of failing to protect them from the Father and of failing to seek medical attention for their very serious injuries. Once that

information came to light, that information alone was sufficient to merit protective measures being taken and the children being removed.

The Court's case management powers

88. Rule 1.1 Family Procedure Rules 2010 “The Overriding Objective” stipulates that dealing with a case justly includes “dealing with the case in ways which are proportionate to the nature, importance and complexity of the issues”; rule 1.1(2)b and “ensuring that the parties are on an equal footing”; rule 1.1(2)c).
89. The Court has broad powers of case management, which includes the power to “exclude an issue from consideration”; Rule 4.1(3)(1) and “take any other step or make any other order for the purpose of managing the case and furthering the overriding objective”; Rule 4.3(3)(o).
90. It is for the Court to decide which issues require determination: Re W (Care Proceedings: Functions of Court and Local Authority) [2013] EWCA Civ 1227 [para 72], Ryder LJ, “Within proceedings, however, the local authority in common with all other parties, are bound by the case management decisions of the court. It is the court which decides what the key issues are, that is the matters of disputed fact and opinion that it is necessary to determine in order to make the ultimate decision asked of the court. It is the court which decides the timetable for the child having regard to the welfare of that child and then the implications of that welfare timetable upon each of the interim procedural questions that it is asked to decide. It is the court which decides the time table for proceedings. The court decides whether there are sufficient facts which if found would satisfy the threshold and provide the jurisdiction to make orders and it is the court which decides what evidence is necessary to answer the key issues and the ultimate decision, whether by directing the local authority or the other parties to provide the same or, if it is necessary, authorising the instruction of an expert on the question...

[para 77] The court has the power to direct evidence for the very reason that it must decide the issues as they become apparent from time to time.”

Scope of the hearing

91. Prior to the commencement of the evidence in February 2018, none of the parties sought to argue that the findings sought by the local authority were inappropriate or unnecessary, either at IRH or as a preliminary issue at the start of the final hearing. In its case summary dated 5th February 2018, the local authority submitted that it was necessary to explore these factual issues as its case was predicated upon the basis that each parent was culpable for abusing and failing to protect B and T, above and beyond those matters that the Father had pleaded guilty to and that “Although the father accepts his behaviour, and his conviction, the local authority would want to consider further his acceptance of what was said by the children within the ABE interviews, also the Mother’s failure to protect the children from the Father’s behaviour.” The Mother had not been prosecuted in respect of any role she may have played in the abuse or for failing to protect the children from it and therefore I was satisfied that the findings sought were both necessary and proportionate matters for the Court to explore in order to determine the full extent of the risk that each parent may pose and the Mother’s ability to protect the children from any risks that the Father posed in circumstances in which she was putting herself forward as a sole carer for the children whilst remaining in a relationship with the Father.

92. The parents were each assessed by Dr Susan Cooper, Consultant Forensic Psychologist in these proceedings. Her report is dated 24th August 2017. In answer to a question about the extent of the risk that the Father may pose to others, including the children, she states “One of the issues with assessing risk in this case is that F was convicted of four offences against two children. However, Police information indicates that the children reported that the abuse had been going on in the family home, from both mother and father, for five years. If the abuse did span

five years (and it is outside the scope of the psychological assessment to comment on this), then clearly the risk to the children would be higher than if there was two incidents, as described by the parents. This would suggest a different scenario where the parents have deliberately deceived and misled professionals, making future risk management strategies impossible to implement with any confidence.”

93. The local authority’s case had always been put on the basis that the Father had perpetrated far more physical abuse than he accepted and that the Mother had also perpetrated abuse and failed to protect the children from the abuse that the Father caused. I am satisfied that it is necessary for the Court to explore these issues and make determinations about the extent of the abuse in the household and whether B and T’s full complaints were truthful and therefore whether both parents were responsible for physical and emotional abuse over a lengthy period of time. I am satisfied that these issues are relevant to threshold in so far as the Mother is concerned as the children were removed from her care and relevant to welfare issues because, as Dr Cooper observes, if the findings sought by the local authority are made, it would mean that the parents were not telling the truth about the extent of the abuse and therefore that the risks associated with them could be unmanageable.

Positions of the parties

94. The local authority’s original final care plans are dated 18th January 2018. They provided for the children to remain in long term foster care, under the auspices of Care Orders. The children’s current carers have indicated a desire to foster the children on a long term basis and it was likely that they would be matched as suitable to do so. It was proposed that the children would have supervised contact with the Mother once per month for a period of 3 hours and that they would have supervised contact with the Father six times per year - once during each school holiday, the parents having separate contact with the children.

95. For the resumed final hearing, the local authority filed amended final care plans dated 11th May 2018. The plans for the children's care arrangements remain the same but the Local Authority now recommends that both parents have joint contact with all three children six times per year. This accords with the parents' wishes to have joint contact.

96. The parents oppose the local authority's applications. They present as a couple but each puts forward a plan for the children to be returned to the Mother's sole care, on the basis that they will not live together as a couple. It is unclear what role they say the Father should play in the children's care arrangements, how much contact he should have with the children and whether that contact should be supervised. Neither parent has given a consistent account of this to the Court at any stage of these proceedings.

97. The Children's Guardian has filed a further final report dated 8th June 2018. She supports the local authority's care plans for all three children.

Threshold Criteria

98. It is unclear whether the parents concede that the threshold criteria pursuant to section 31(2) Children Act 1989 is crossed – this was conceded on their behalf when they were represented but the position since they have been unrepresented is uncertain, particularly in light of their contention that the children were wrongfully removed from their care. They do not accept all of the findings sought against them. It is therefore necessary for the Court to make factual determinations.

The Law in respect of Factual Determinations

99. The law to be applied when considering the issues before the court is well settled. When considering the findings sought by the local authority the court applies the following well established principles.

100. The burden of proving the facts pleaded rests with the local authority. In cases of alleged inflicted injury, it is for the local authority to establish on the balance of probabilities that the injuries in question were inflicted. There is no requirement on the parents to show that the injuries have an innocent explanation.
101. The standard to which the local authority must satisfy the court is the simple balance of probabilities. The inherent probability or improbability of an event remains a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred (*Re B* [2008] UKHL 35 at [15]). Within this context, there is no room for a finding by the court that something *might* have happened. The court may decide that it did or that it did not (*Re B* [2008] UKHL 35 at [2]).
102. Findings of fact must be based on evidence not on speculation. The decision on whether the facts in issue have been proved to the requisite standard must be based on *all* of the available evidence and should have regard to the wide context of social, emotional, ethical and moral factors (*A County Council v A Mother, A Father and X, Y and Z* [2005] EWHC 31 (Fam)).
103. In determining whether the local authority has discharged the burden upon it the court looks at what has been described as ‘the broad canvass’ of the evidence before it. The role of the court is to consider the evidence in its totality and to make findings on the balance of probabilities accordingly. Within this context, the court must consider each piece of evidence in the context of all of the other evidence (*Re T* [2004] 2 FLR 838 at [33]).
104. In this context, and self-evidently, I am not limited to the expert evidence before me but may take account of a wide range of matters, including my assessment of the credibility of the witnesses and inferences that can be properly drawn from the evidence. The opinions of the medical experts need to be considered in the context of all of the other evidence.

105. The evidence of the parents and carers is of utmost importance and it is essential that the court forms a clear assessment of their credibility and reliability. The court is likely to place considerable reliability and weight on the evidence and impression it forms of them.
106. The court must always bear in mind that a witnesses may tell lies in the course of an investigation and the hearing. The court must be careful to bear in mind that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear and distress. The fact that a witness has lied about some matters does not mean that he or she has lied above everything (*R v Lucas* [1982] QB 720). I make clear that in reaching my conclusions in this matters, I have given myself this direction in respect of the evidence of both the Mother and the Father.
107. It is also important when considering its decision as to the findings sought that the Court take into account of the presence or absence of any risk factors and any protective factors which are apparent on the evidence. In *Re BR* [2015] EWFC 41 Peter Jackson J sets out a useful summary of those factors drawn from information from the NSPCC, the Common Assessment Framework and the Patient UK Guidance for Health Professionals.

Evidence in respect of the Findings Sought

108. The findings sought by the local authority are predominantly based upon the evidence given to the Police by B and T in the form of ABE interviews that were video recorded and which I have watched.
109. Neither parent has required B or T to give evidence in these proceedings or sought to challenge their evidence directly. Instead, the parents seek to discredit them by asserting that they cannot have suffered the abuse that they allege over a five year period because if they had, they would have complained about it at the time and/or that other family members and professionals involved with them at the

time would have been aware and would have raised safeguarding referrals to the Police and/or Children's Services.

110. By virtue of the Father's convictions, by way of guilty pleas, and the admissions of the parents, B and T are at least telling the truth about two occasions in which they were each repeatedly whipped with cables by the Father. The circumstances leading to those assaults are in dispute but like the trial judge who sentenced the Father in the criminal courts I make clear that none of the mitigation or explanations put forward by the parents for those assaults can possibly explain or justify the Father's behaviour. Those assaults were clear instances of physical abuse. During the judge's sentencing remarks, when describing the photographs of the boys' injured backs the judge said "In my view, [the photographs of the injuries] vividly demonstrates the barbaric nature of the assaults and the level of force that you used upon them". I respectfully agree.

111. I also echo the trial judge's sentencing remarks that the evidence provided by way of ABE interview from B and T was consistent. Each child was able to give clear, cogent, lengthy and detailed accounts of the abuse that they had themselves suffered and that had each respectively suffered. Their accounts were measured, with no hint of exaggeration and dove tailed together without any sign of being rehearsed. Each child was able to answer open questions spontaneously and to give answers with embedded details that I am satisfied were genuine, truthful descriptions of incidents and episodes of abuse that they had suffered and witnessed. Each gave the same sequence of events leading to them being beaten on the last occasion; that they had been caring for D "Junior" in the kitchen and that the Father had lost his temper because "Junior's" milk had spilled onto the floor. Both described the use and location of the cable from the Sky television box and that the Father had doubled the cable over to whip them with it whilst they lay face down on the floor, having been told to remove their tops and having complied with that order. Both said that during the flogging the Father repeatedly said "new house,

new attitude”. Both said that B was hit first and then T. Both were able to describe how they felt during the assaults.

112. T was 10 years old when he gave his interview on 4th November 2014. He presents as a polite, compliant, reserved and candid child. He appeared embarrassed at times when he was distressed. I am satisfied that his distress was genuine and entirely in keeping with the events that he was describing.

113. B’s interview was longer and more detailed than T’s but that was commensurate with his age, being the older of the two. He was 13 years old at the date of his interview on 4th November 2014. He gave clear and compelling accounts of having to feed and care for the three subject children, especially “Junior” who he also had to take to nursery. He said that he was predominantly responsible for feeding the children and because he was unable to cook this resulted in the provision of cereal in the most part and occasionally noodles. He described the Mother’s neglectful care of the children and her prioritisation of the Father above the needs of the children.

114. At times each child was visibly and appropriately distressed during interview. B is affected by a speech impediment in the form of a stammer which inadvertently worsened and became more pronounced during those parts of his interview when he was asked to recall certain aspects of the abuse. Both boys spoke freely and were interviewed by the same police officer who conducted the interviews in accordance with good practice guidelines.

115. I have no hesitation but to conclude that these children are telling the truth during these interviews and that neither of these children have sought to exaggerate or embellish their evidence in any way. Both children give compelling explanations as to why they did not disclose the abuse they suffered earlier either to their father or to a professional. They were simply too frightened of the Father to do so. Having chosen to live with the Mother, they also felt unable to tell their father that their

lives in her care had not transpired as they had hoped. Their evidence is powerful, coherent and utterly believable. B and T's ABE interviews are entirely consistent with the contemporaneous accounts they gave to the Police (PC J), to the Paediatrician who examined them, to their father and to their sister N. They each describe being systematically abused by the Father over a five year period, with him beating, whipping and hitting them with a variety of weapons on a regular basis during that timeframe, in the household in which they lived with the Mother and the subject children. They make clear that the Mother was aware of this abuse and did nothing to prevent it and that she too behaved in a physically and emotionally abusive way towards them and neglected their care needs and the care needs of their younger siblings. B and T have never sought to retract or resile from these allegations and have refused to accept any form of apology from the Father in respect of them.

116. The parents argue that if the children had been beaten more often than the Father pleaded guilty to, then their injuries would have been noticed by professionals or their father or step mother. I disagree. B in particular was able to describe how his injuries were not noticed and how he was able to conceal the abuse from his friends when they had noticed injuries at school. The first assaults that the Father pleaded guilty to had gone undetected and without complaint by either child to a family member or to a professional. They were serious assaults causing significant injuries. I am satisfied that the fact that they could be concealed adequately and persuasively explains how earlier assaults and injuries had also been concealed.

117. The evidence of MGM and N also corroborates and supports the accounts that B and T gave about the lack of food in the family home and the controlling behaviour of the Father.

118. N was an exceptionally impressive witness who was able to give clear and calm evidence to the Court notwithstanding that she was cross examined directly

by the Father. She composed herself with considerable dignity. She declined the use of any special measures in the Court room despite my expressed view that she would be entitled to them as a consequence of the allegations she was making. She gave persuasive evidence of the ill treatment that she suffered and the abusive treatment of the children that she was aware of. Her evidence entirely corroborated the evidence of B and T in respect of the final assault that they each suffered – she saw the injuries and said that she was “horrified”. Their explanation to her in respect of what had happened and it being prompted by D’s milk being spilled was consistent with their ABE interviews. They told her that the Mother had done nothing to stop them being hit. She said that she had seen the Father hit A several times, but that he had never hit her. She was clear that the Father was controlling towards the Mother and that home conditions were poor. She said that the family’s money was sent to Nigeria for the benefit of the Father’s relatives. She said that the Mother prioritised the Father above the children and that he would always be fed but quite often the children would be left with no food and no electricity. She said that A left school in Year 9 and never went back. She said that there were times that she went hungry living with the Mother. She did not seek to embellish her account, which is consistent with a contemporaneous complaint that she made in 2007 – found within the police disclosure - asserting that her mother favoured her boyfriend and was mistreating the children by not feeding them and that the Mother had hit her with a wooden spoon.

119. She said that the Mother had told her not to say anything that may jeopardise the case for her and that she contacted the social worker herself after the Mother had said she was refusing to give the social worker her contact details to enable her to give her account for these proceedings. In respect of her attending contact with the children when they were due to go on holiday with their foster carers, she said that she had written a letter saying that she missed the children at the Mother’s request but there were no arrangements made for her to see the children and she knew that T was not going to visit.

120. She said that the Mother had told her that the Father had been deported and it was only later that she found out from someone else that he was in prison. She said that the Mother knew that she was not supposed to take the children to The North East to be with the Father and had told the children not to tell anyone that the Father was there. I accept her evidence as truthful. I do not accept that she was negatively influenced by the Maternal Grandmother or that she was telling lies as was put to her on behalf of the parents. She is a highly educated university student, who I accept “has her own mind” and is quite capable of giving evidence independently of the thoughts and wishes of others. I do not underestimate how difficult it must have been for her to give the evidence she did in the presence of her mother and the Father and commend her for giving evidence. I am satisfied that her motivation for giving evidence was in order to secure to the safety of her younger siblings.

121. Immediately prior to MGM giving evidence the Mother sought to play an audio recording of a telephone conversation she had had with her, recorded without MGM’s knowledge. I said she could play it later in the case as part of her evidence but that given the constraints of time that day (it was already mid afternoon) and that the Maternal Grandmother needed to be able to give evidence and complete her evidence as she was due to return to London that day and could not return, we needed to proceed to hear her evidence. The Mother did not play the recording later in the hearing.

122. MGM was a formidable witness who gave forceful and unwavering evidence to the Court about the concerns she had in respect of the parents’ treatment of her grandchildren and the negative impact that their relationship had on her relationship with the Mother. She said that the Mother had changed her name from EL to M without telling her. She gave particularly detailed evidence about the children often being hungry, appearing dirty and thin and complaining that the electricity had been cut off. She said that she was aware that the Mother’s money was being spent on alcohol and cigarettes for the Father. She said that she often

had to assist by giving the children bags of food and that the children were otherwise fed noodles “the kind you add water to”. She also gave the family money for food and nappies. She stated that before the Mother’s relationship started with the Father and when he was in prison they had a good relationship and that the Mother was “a loving child” and that it had been the Father who had forced the Mother and A to change their names. She said that the Father was “a manipulator” and was manipulating the Mother. She said that the Mother had told her “and everyone, even people in Zambia” that the Father had been deported. I accept her evidence as truthful.

123. In June 2018 the parents produced a letter which is purported to be from the Maternal Grandmother in support of the Father’s immigration appeal. The Maternal Grandmother has not confirmed that the letter is genuine and I cannot be satisfied that it is. Even if it is, the letter in no way seeks to retract the evidence she gave in these proceedings or suggests that any aspect of it was false.

124. The evidence of MF was straightforward, detailed and balanced. She was a helpful witness who was able to explain the difficulties that she encountered in working with the parents and the lengthy daily email complaints that the Mother sent to her, some of which were abusive about her as a social worker. The Father had also emailed her to accuse her of being “tyrannical” and to allege that the children had only been removed due to their being a lack of black children available for adoption. She described being in a “constant fight” with the parents and expressed the view that the Mother had lost sight of the children and focussed entirely on her fight with professionals who disagreed with her. She said that when the children were first placed in foster care they could not identify fruit and vegetables and were used to eating sugary, unhealthy snacks.

125. She made appropriate concessions about the way that the parents had initially presented prior to the removal of the children, and their initial positive co operation at that time. She also accepted that there is no evidence that the written

agreement they entered into prior to the children's removal was breached. She explained that concerns had escalated following receipt of more information and therefore the initial safety plan that had been agreed was changed, resulting in an application to remove the children. She accepted that the initial safety plan, which involved the Mother being placed in a Travelodge with the children and adhering to a written agreement had not been broken by either of the parents but that further information received suggested that that strategy was not adequate to safeguard the children given the background circumstances relating to: the Father's convictions, the fact that the Mother had left a settled home in London with the children to join him in the North East despite being aware of the severity of the assaults he perpetrated; that the Mother had been investigated but not prosecuted for child cruelty and concerns about the Mother's ability to protect the children. I accept her evidence as truthful.

126. I heard evidence from the current social worker MS, on two occasions; in February 2018 and in June 2018. On both occasions she presented as an impressive, child focussed and hard working professional. I was struck by the patient and calm way that she was able to work with the parents and that notwithstanding their persistent complaints to and about her, the way that she continued to attempt to work with them and offer them meetings to address their concerns with her on a face to face basis. She began co working the case with MF in June 2017 and has been involved with the children since that time. It is clear to me that she knows these children well and has developed a very good working relationship with them. When I asked the children who they wanted to tell them of my decision, they unhesitatingly named her as the person they wanted to do it. I consider this testament to the regard they have for her. She gave evidence about the efforts that she made to engage with the parents and the difficulties that she encountered with working with them. She highlighted an episode when the parents refused to agree to the children going on holiday to Cornwall with their carers – a holiday they were looking forward to – on the basis that the parents asserted that their siblings were coming up to see them from London. She also explained her efforts to reassess Mr

and Mrs N as a possible viable family placement for the children following an initial negative assessment of them and her understanding that the placement was supported by the Mother. She stated it was only after the care plan proposed a placement with Mr and Mrs N that the Father's solicitor emailed to object to the placement. She said that the reason that they withdrew as carers was the hostility that they had experienced from the Mother after they had been positively assessed.

127. When MS was recalled in June 2018 she explained why the local authority had revised its care plans in respect of the frequency of the contact that was being proposed to the Mother in the long term – a reduction from monthly to six times per year. She stated that this was prompted in part by the parents' request to have joint contact, the contact plan for the Father always being six times per year, and partly due to the very high level of criticism that the parents levelled towards the foster carer which gives rise to the risk that the parents may seek to use contact as an opportunity to destabilise the children's placements. She stressed the need of all of the children to be able to settle into their placements and adjust to them as long term. She said that O had expressed a wish not to go to contact but was compliant and so has continued to attend. S and O have refused to attend as often as D does and therefore they only attend twice per week with him attending a third session alone. The parents have taken comments made in contact sessions and escalated them as a basis for making serious allegations against the foster carers; for example alleging that because they were present in the bathroom when O was in the bath to assist her with personal hygiene – something they said she struggled with when she was received into their care – they were sexually abusing O, alleging that D was suffering from sleep apnoea because the girls mentioned that he did not always sleep well and alleging that D was punished by being given cold baths because of a comment he made in contact during which the children were giggling. These allegations have been investigated by the local authority, the police and medical professionals. Those investigations concluded that the parents' allegations were unfounded and then led to a series of complaints by the parents about the professionals involved. The parents have alleged that the contact sessions were a

breach of their Human Rights because they say that the CCTV cameras in the venue is recordings them. The social worker stated that the cameras have always been situated in that venue and cannot be switched off but that no one watches the CCTV footage.

128. She highlighted that since February 2018 there had been a marked deterioration in the parents' co operation and engagement with the local authority. The parents often demanded that professionals meetings were cancelled and rearranged at short notice. Medical appointments they had insisted upon for the children had to be rearranged due to them cancelling them and ultimately a decision had to be taken to allow an appointment to take place in their absence to check that D was well given the very serious allegations of sleep apnoea that the parents were making. The parents then complained that the appointment had proceeded in their absence. They were twenty minutes late to D's recent LAC medical. Care team meetings had been cancelled and rearranged for their convenience only for them to fail to attend. Three meetings had been arranged for the social worker to visit the parents at the Mother's home, all of which were cancelled by the parents. The parents continue to be persistently late for contact with the children. The Father was 40-45 minutes late for Christmas contact, the Mother was also late for her session of contact which followed that. The Mother was recently 25 minutes late for contact, which meant that it had to be cancelled and the children had to be returned to placement. They have either been late to LAC Reviews or not attended at all. The parents were referred to the Triple P parenting course having asked to attend a parenting course, but then subsequently the Mother refused to attend by email and neither of them attended. Her opinion was that the parents had deliberately made an allegation of sexual abuse against the foster carers to spoil the children's holiday with them.

129. It was her clear opinion that the safeguarding decisions made in London in respect of the children following B and T's complaints against the parents had placed the children at risk of physical and emotional harm. She did not accept that

the Father should ever have been allowed to reside in the family home whilst on bail and did not accept that the Mother should have been permitted to supervise him with the children. She did not accept that because this arrangement had been permitted, it meant that the Mother was capable of safely supervising the children or that they had been protected from harm during this period of time. I accept her evidence as truthful and agree with the opinions that she expressed in respect of the parents and the safeguarding decisions that were made when the Father was on bail.

130. I heard evidence from AK, the children's allocated social worker when they lived in London, via video link. He worked with the family following a referral from the Probation Service once the Father was reaching the end of his period of imprisonment. He was not involved with the family prior to the Father going to prison. He gave clear, and at times, emphatic evidence about the advice that he had given the parents, recalling vividly his conversations with each of them. He did not alter his evidence when cross examined. I found him to be a credible and reliable witness. I have no reason to doubt that the evidence he gave was truthful. He informed me that he was not interviewed as part of the parents' complaint about him and had not seen documentation from that investigation. Documents concerning the complaint confirm that he was not interviewed as part of the complaint process, which I consider to be surprising, given that his reports and work was being investigated. He apologised that there was an error in his reports in respect of a historical domestic abuse matter but confirmed that that issue was not relevant to his assessments save to highlight that the Mother may need support to address issues arising from domestic abuse. The parents were awarded compensation arising from their complaint in respect of the error about the domestic abuse incident, found in his reports and as a consequence of a lack of case notes. I do not accept that that compensation in any way detracts from the credibility of AK's evidence.

131. He was clear that given that the Father had been assessed by Probation as posing a Medium Risk to children, he did not support the Father returning to live

in the family home following his release from prison. He outlined that he was concerned about the Mother's inability to protect the children and keep them safe given her desire for the Father to return home notwithstanding his offences, following his release. He said that the Mother was not able to recognise the risk that the Father posed. He recalled having heated arguments with her following him sharing the outcome of his assessments with her, which had indicated that the Father was a risk to the children and had to be supervised around them. The Mother refused to accept his recommendations.

132. He spoke to B and T directly who were not aware that the Father was in prison and told him that the Mother had informed them that the Father had been deported to Nigeria. He described them being "shocked" when he told them that the Father was in fact in prison. He described seeing physical scars on the backs of B and T which he described as "unbelievable". He said that the decision to manage the case under a Child in Need plan was because the Father remained in prison and was not having any contact with the children. He said that the Mother had not told the children that the Father was in prison and that she had just told them he had "gone to work": that was information that the Mother told him.

133. He described the number of moves of address that the family had in the London area – that the Mother was evicted from Southwark and placed in A London based, she then lost her property there in December 2016 and told him she was looking for properties in Luton where she planned to stay "indefinitely". He then said he was surprised when a few days later they moved to Rochester and even more surprised when they then returned to A London based, especially after the children had been enrolled in schools in Rochester and had started attending them. He thought that the Mother had been proactive in ensuring that the children accessed education. He said the Mother told him that at around the time of the Father's release she was staying with a family friend in Peterborough and that he was not told by either parent that she was moving to The North East. He only discovered that following a call from The North East Children's Services. He stated

that the Mother had not been honest with him about her plans to move to the North East. He accepted that not every house move was the Mother's fault but said that his overarching concern was the lack of stability for the children and that as an adult she was free to make choices but needed to recognise the impact of those choices on the children. As far as he was concerned the Mother was in search of cheaper housing.

134. He was clear that at no stage did he tell the Mother that it was safe for the Father to live with her and the children and that he had always made clear that there would need to be a risk assessment carried out first. He accepted that assessments did contain an error in respect of a historical alleged domestic abuse incident which named the Father as the perpetrator when the complaint had in fact been against GA but said that made no difference to his recommendations. He accepted speaking on the telephone to the parents when they were together but said that he did not know that the children were with them and that had he known that he would have made a safeguarding referral. He was very clear that at no stage was he aware or told by either of the parents that the Mother was planning to move to The North East with the children to be near the Father.

135. I heard evidence from CH, contact supervisor who had supervised around twenty of the Mother's contact sessions and one "to one and a half" of the Father's. She has had twenty year's experience as a contact supervisor and said that she always makes accurate notes. She said that the Mother was 10-15 minutes late for about 90% of the contact sessions and had been 25 minutes late for one. She said that the Mother was generally co operative with her and that the contact was of good quality, the only issues were that the Mother struggled to manage D's attention seeking behaviour and tended to give in to him and give him more attention than the girls and that there was far too great a provision of sugary drinks and snacks. She accepted that as far as she could recall the Father's contact was positive. I accept her evidence as truthful.

136. I also heard evidence from JL, contact supervisor who had supervised around ten of the Mother's contact sessions and one of the Father's. Again she accepted that the Mother and the Father had positive contact with the children and identified the same concerns as CH – namely that the Mother was persistently late to contact, provided too many sugary treats and drinks and struggled to manage D's demanding behaviour so that he dominated the contact sessions. Prior to the issue being raised with her, the hot food that the Mother provided would consist of take aways.

137. I heard evidence from the Children's Guardian – this is the only evidence I heard in the absence of the parents, following their failure to attend Court on 22nd June 2018. I found her evidence to be helpful, balanced and measured. She explained the difficulties that she had encountered working with the parents; their lack of engagement with her, their persistent complaints, their continual emails which is their main method of communication. She confirmed her view that in light of their inability to work with professionals it was not possible for the children to be rehabilitated to their care and that on the basis of the evidence before the Court the children would be at risk of significant physical and emotional harm in the care of either of the parents. She stated that she was "lost for words" that Children's Services in London did not respond to the gravity and seriousness of events and that they allowed the children to be placed at risk of significant harm when they permitted the Father to reside in the family home whilst he was on bail for 13 months. She described the Mother as manipulative and unable to appreciate and protect the children from the risk that the Father poses. She explained her view that it was unusual for children to express the views that these children have, namely that they do not want to return home and want to stay in foster care. These have been their consistent views throughout proceedings.

The Mother

138. I make clear that in forming my assessment of the Mother, my assessment is not based solely upon her performance in the witness box. The Mother's oral evidence was incomplete as a consequence of her non attendance on 22nd June 2018, she completed her evidence in chief and was partially cross examined by the local authority. I have given myself a R v Lucas direction in respect of her evidence. I have the benefit of the witness statements and threshold responses filed by the Mother in these proceedings, her police interview, the statements and letters she prepared in support of the Father's immigration appeal and her email correspondence with the Court and the parties, all of which she confirmed on oath was true. During the June 2018 hearing she was sworn for the purposes of the submissions that she made, her cross examination of the social worker and again for the purposes of giving evidence in the witness box.

139. The Mother's presentation in the Courtroom is usually calm and respectful. She became hysterical at one stage during the Maternal Grandmother's evidence and left the Courtroom, she also absented herself from viewing B's ABE interview indicating that she was unwell. No medical evidence was provided in support of that contention or further explanation made. The Mother has chosen not to watch the ABE video recordings of B and T although I am satisfied that she has had ample opportunity to do so. Both parents have attended persistently late to Court hearings, without apology or explanation in the most part, throughout my involvement, a point I raised with them in June 2018. Lateness to contact sessions and meetings is also a pattern and source of complaint about them as far as the key social worker and contact workers are concerned. The key social worker also described times when the Mother has presented in a verbally abusive and hostile way towards her. The Mother has however generally chosen not to engage with the social worker or the Children's Guardian. She has insisted on having an independent advocate or 'witness' present for meetings with the social worker and there is a notable pattern of her either failing to attend, refusing to attend or cancelling arranged meetings: both individual meetings or professionals meetings (LAC Reviews/ Care Team

Meetings) in respect of the children, or to discuss the concerns she has raised by email.

140. During the resumed hearing in June 2018 both parents informed me that they had been covertly recording their telephone calls with the key social worker, MS and Probation officers for a number of months in 2017. The social worker told me that she had clearly stated that she did not consent to this. The Mother's presentation in the Court room and during oral evidence does not accord with the tone and manner of her email correspondence or her actions throughout this case. I am satisfied that the mismatch in her presentation is due to her wishing to appear to be complaint and respectful when her behaviour in fact is the opposite. She is deceptive, manipulative and clearly deeply committed to the Father, irrespective of the consequences that her relationship with him has caused – namely the loss of her children and the damage to her relationship with her mother. The Mother is an intelligent and educated woman. Her behaviour however can often be erratic. I am satisfied that her denials about the abuse that her older children suffered at the Father's hands and at her hands are lies.

141. The Mother's email correspondence and actions have involved her making, at times, wild and unfounded allegations such as that the local authority are intending to take the children permanently out of the country once final orders are made, that the local authority had arranged sibling contact for T purely with the intention of removing him to foster care and that the local authority were intending to tell the children that their parents were dead once final orders are granted.

142. The care plans for the children had involved them living with maternal family members until January 2018 – Mr and Mrs N – who the Mother had originally advanced as alternative kinship carers for them. Very sadly those carers withdrew on the basis of the hostility directed towards them by the Mother, following their positive assessments being served. The Mother also prevented T having contact with the children this year, something that had been arranged and

that they had each been looking forward to, on the basis that she alleged that the local authority planned to remove him to foster care. She convinced the Maternal Grandmother (his carer) that this would be the case. She sought to prevent the children going on holiday with their carers last year on the basis that she stated that N had arranged to come and see them. N confirmed in her oral evidence that this was not true. Once they were on holiday – a holiday that had to be sanctioned by the Court with a specific hearing listed to determine the issues – she made an allegation that the foster carers had sexually abused O. Her actions in these three key respects demonstrate that she is not capable of acting in the best interests of the children. I am satisfied that she has done all she can to attempt to undermine the foster care placement and bring it to an end as a result of her continual criticisms and complaints about the carers, some of which have had to be investigated by the Police – including the allegation that they had sexually abused O by assisting her with personal care in the bathroom. Such allegations were investigated and determined to be unfounded but I have no doubt caused distress and upset to the children’s carers. It is to the great credit of the children’s foster carers that they have committed to continuing to care for these children in the long term, notwithstanding the barrage of criticism that they have faced and which sadly, I am satisfied they will continue to face for as long as they remain carers for these children.

The Father

143. The Father’s disengagement in these proceedings occurred before he gave oral evidence formally to the Court however, I have had the advantage of hearing submissions and cross examination from him on several occasions in February 2018, June 2018 and also submissions at case management hearings. On each of those occasions he was sworn and he effectively gave evidence as a prelude to asking questions or making submissions. I have had the advantage of reading his witness statements and threshold responses prepared for these proceedings, the documents prepared on his behalf for his immigration appeal and his police interview, conducted under Caution. I have given myself a R v Lucas direction in

respect of his evidence and have not assessed him solely on the basis of his presentation in the Courtroom. The Father presents as respectful, softly spoken and polite in the Courtroom. At no time did he appear to be aggressive. He was often at pains to express his remorse for his “shocking” acts – however his remorse was limited to those matters he had already pleaded guilty to. Like the Mother, I consider that his presentation in the Courtroom was designed to persuade me to the view that he was reasonable, remorseful and respectful when his actions outside of the Courtroom were the opposite. I was able to witness for myself his attempts to manipulate N during the course of her oral evidence, which I intervened to stop. I am satisfied that the Father is a controlling and deeply manipulative man and that his expressions of remorse are not in any way genuine. His behaviour has caused deep divisions in the Mother’s family, isolating her from her children and from her own Mother. He is an intelligent man who has attempted to control these proceedings to his own ends. He was visibly irritated during the Mother’s oral evidence by the admissions and concessions that she reluctantly was forced to make during cross examination about the risks that he must continue to pose to the children and the apologies she made to me and the local authority about her unfounded allegations. It is for that reason I am satisfied he has sought to have her evidence excluded. I am satisfied that the Father is lying about the extent of the abuse that he inflicted in respect of the Mother’s children and that he continues to pose a risk of significant physical and emotional harm towards the children.

Findings sought

144. During my consideration of the factual determinations, I have included the parents’ written responses to the findings sought which they served as part of these proceedings. The Mother confirmed that her response document was truthful during her oral evidence. The Father has not sought to argue that his is inaccurate. I have set out their responses from their documents below.

145. The local authority seeks the following findings:

146. At the time that protective measures were taken, on 11th May 2017, the children were suffering or were likely to suffer significant harm and that likelihood of harm was attributable to the care likely to be given to them, not being reasonable to expect a parent to give to them by reason of the following:

1. The Father was sentenced on 21st December 2015 to a period of 24 months in custody for four offences of assault occasioning actual bodily harm

(a) the victims of those assaults were B and T, who were the children of the Mother; and

(b) at the time the children resided with the Mother and the Father

These matters are accepted by the parents and therefore I make these findings on the basis of their admissions and the Father's convictions.

2. B and T informed their father GA, of the assault perpetrated by the Father on 2nd November 2014.

This is accepted by the parents and therefore I make this finding based upon their admissions and based upon the written evidence that GA provided to the police.

3. Between 01.07.14 and 31.08.14 F repeatedly hit B and T with a TV cable wire causing them to suffer injuries to their backs, arms and shoulders similar to the injuries they sustained during a similar incident that occurred between 01.10.14 and 01.11.14.

This is accepted by the parents on the basis that within this timeframe there were two occasions when the Father assaulted B and T in this way. I therefore make this finding, based upon their admissions and the Father's convictions.

4. Both children required pain relief after the assault

In her response to the threshold criteria, which she confirmed as truthful during her oral evidence, the Mother states that she applied Vicks Vaporub to the boys' backs to treat the injuries. During her police interview she states that she applied Vasoline to them. I am satisfied, having watched the children's ABE interviews in which they describe the pain that these injuries caused them and having seen the photographs of the injuries that these children sustained, that they required pain relief for their injuries and that the application of Vicks Vaporub, a menthol cold and flu treatment, or Vasoline, was not an appropriate form of pain relief for them.

In his response document the Father states that he was not present after the assaults occurred. He did not obtain or administer pain relief for the children. I am satisfied that it was obvious to him that they required it.

5. The Mother failed to seek medical attention for the injuries

The Mother accepts this, stating that she treated the injuries herself. I make the finding sought based upon her admission. I am satisfied that she did not adequately or appropriately treat the children's injuries and that her failure to seek appropriate medical treatment represented neglect of their medical needs. I am satisfied that she failed to seek appropriate medical treatment for them in an effort to conceal their injuries from professionals and other family members and to protect the Father from facing the consequences of his actions. I accept the evidence of B that the Mother did not tell anyone about their injuries as "she did not want D to get into trouble".

6. The Mother failed to protect B and T from being violently assaulted by the Father

The Mother states that she was not aware of the assaults at the time that they took place and had she been aware she would have intervened to stop them. I

reject her account. I am satisfied, based on the evidence of B and T that the Mother was aware that the Father had been repeatedly beating those children, with weapons over a lengthy period of time and that she did nothing to prevent him doing this. I accept that on the last occasion they were assaulted she was not aware that he was about to beat them before he did but I am satisfied that she took no steps to prevent him beating them on other occasions and that she was fully aware of the physical abuse he was perpetrating towards her children on a regular basis but did nothing to stop him. I make this finding based upon the accounts of B and T, which I am satisfied are truthful.

7. The Mother failed to protect B and T from being assaulted again by the Father in October 2014.

The Mother states that she was asleep on the second floor of the home, with the youngest children, when the assault happened. If she had been aware she states that would have intervened. I am satisfied that the Mother was well aware by October 2014 that the Father was physically abusing the children by beating them with weapons, causing them injuries and that she did nothing to stop that happening. I am also satisfied that the Mother is likely to have heard the beatings that took place based upon the evidence of B and T and that the noise involved prompted her to go downstairs and discover the children's injuries. I make this finding based upon the evidence of B and T which I am satisfied is truthful.

8. On 3rd November 2014, B (born in the month of January 2001) then aged 13 years old was examined by Dr K, paediatrician, and was found to have the following marks:

(a) Multiple linear marks covering the back from the shoulder blades to just above the hips. All marks between 31-20cm long with some marks curving on themselves towards the lower back. Some of the injuries were scabbed over and some were pink, raw with spotting of blood

- (b) Multiple smaller linear marks on the back of the left upper arms, mostly dark brown with some pink centres**
- (c) Brown linear marks on the outside of the right upper arm between 5cm and 6cm in length**

The parents accept that B sustained these injuries. Dr K's medical reports and statements are within the Court bundle. His evidence clearly describes these injuries. I make the findings sought based upon his evidence, the body maps which display the injuries and the photographs of the injuries provided by the Police.

9. All these marks were injuries inflicted on B by the Father between 01.10.14 and 02.11.14

The parents accept this finding and I make it based upon their admissions and the Father's convictions.

10. The injuries were caused by the Father repeatedly hitting B with a folded TV cable wire.

The parents accept this finding and I make it based upon their admissions and the Father's convictions.

11. B was struck with the cable wire 10 times

The Mother accepts that this is what B reported to the police, she states she was not present and therefore cannot comment upon this. The Father accepts that this is what B reported but does not recall that he struck Bas many times as he said.

B was clear that he was struck ten times "because he counted." I accept his evidence.

12. On 3rd November 2014 T (born in the month of December 2003) then aged 10 years old was examined by Dr K, paediatrician, and was found to have the following marks:

- (a) 15mm flat brown mark with a central 5mm pink area on the front of the upper thigh**
- (b) Multiple painful long well defined linear marks 20-21cm long with some folding back on themselves over the lower back. Mostly brown in colour, scabs with some area of central pink healing skin.**
- (c) 11cm brown linear mark below the right shoulder blade**
- (d) several 3-4cm linear marks across the centre and the right side of the middle of the back. Well defined marks brown on the edges with some area of scabbing and central pink areas of raw healing skin**
- (e) Two curved linear marks 2cm long each over the right side of the trunk**
- (f) Multiple linear scabbed marks over the outer surface of the left upper arm to just below the elbow. 2cm long marks at the top of the central pink healing scar.**

The parents accept that T had these injuries. Dr K's medical reports and statements are within the Court bundle. His evidence clearly describes these injuries. I make the findings sought based upon his evidence, the photographs of the injuries provided by the Police and the body maps of them.

13. All the marks were injuries inflicted on T by the Father between 1st October 2014 and 31st October 2014.

The parents accept this finding and I make it based upon their admissions and the Father's convictions.

14. The injuries were caused by the Father repeatedly hitting T with a folded TV cable wire

The parents accept this finding and I make it based upon their admissions and the Father's convictions.

15. T was struck with the cable wire 15 times

The Mother accepts that this is what B told the Police. She states that she was not present and cannot comment. The Father accepts that this is what was reported but does not believe that he struck T as many times as this.

B was clear that T was struck 15 times "because he counted it" and that T was hit more times than him "because he cried" and the Father had told them not to cry on previous occasions in case the neighbours heard. I accept B's evidence and make the finding sought. I am satisfied that the Father is seeking to minimise the severity of the assault by denying the amount of times that he struck T.

16. Both B and T were highly distressed during both assaults; and

The Mother accepts this.

B and T each give vivid accounts of the distress they felt and displayed during the assaults. B said that he felt "tortured". Both were clearly and visibly shaken during their police interviews when describing what happened to them. I accept their evidence and make the finding sought.

(a) The Father failed to stop hitting them; and

The Mother accepts this. The Father also accepts this and states this is why he pleaded guilty.

I am satisfied, based upon the evidence of B and T that notwithstanding that they were clearly highly distressed, in pain and bleeding during the assaults

the Father continued to beat them and that he beat T more times than B because he was crying out in pain.

(b) The Mother failed to stop the Father from hitting them

The Mother states that she was not present when the Father hit the children. She states that had she been present, she would have stopped him. The Father also states that the Mother was not present during the assault.

Both children confirm that the Mother was not present in the room during the assaults that the Father was convicted for. However, both children stated that the Mother was present on other occasions that they had been hit and that she had done nothing to stop the Father hitting them. I am satisfied that the Mother was upstairs during the final occasion that the Father whipped the children but that it is likely that she heard the assaults taking place and took no action to stop them based upon the timing of her arrival into the sitting room following the assaults, as reported by B.

17. The Father repeatedly mistreated and was violent to B and T during the course of his relationship with the Mother until November 2014, including:

- (a) forcing them to kneel down and hold a bag of heavy books;**
- (b) He used a wooden hanger, belts, hands and wire to hit various parts of their bodies including their hands, feet, bottom and back**
- (c) He broke T's glasses by banging his head against the corner of the wall**

This is denied – the Mother states that she was not aware of these things ever taking place. The Father denies this, other than using what he states was a BT internet cable. He denies using any other implement to hit them and denies hitting them with his hands. The Father states that B's glasses got broken when he was playing football.

These findings are sought based upon B and T's evidence. I accept their accounts. They were able to describe that the belt used was leather with a metal clip with an eagle on it and gave detailed descriptions of the frequency with which they were physically abused and the weapons used. The local authority subsequently amended finding (c) to it being B's glasses that were broken. I make this finding on that basis, based upon B's account of this incident. I also find it incredible that if B's glasses had been broken as the Father accepts, that the Mother would not have known about it. I am satisfied that she did know about his glasses being broken.

18. The Mother failed to protect B and T from being physically harmed by the Father

This is denied – the Mother states that as far as she is aware the Father was not physically harming the children and that had she been aware of the two assaults that he accepts happened at the time, she would have intervened to stop them. The Father denies this.

Both B and T were clear in their accounts that the Mother was aware of the abuse and took no steps to stop it. I am satisfied that they are telling the truth and make the finding sought.

19. All three subject children were:

(a) present when the assaults took place; and

The Mother states that she is not aware of this and the Father denies that they were present.

B and T are clear in their accounts that all three children were in the home when they were assaulted by being whipped with a cable on the last occasion and that the incident which led to that assault started in the kitchen

over some spilled milk of D's, in his presence. I am satisfied that their accounts are truthful.

I am also satisfied that all three children would have been aware of the physical abuse in some way – either by hearing it take place, seeing the aftermath or (in D's case) witnessing the Father's loss of temper beforehand.

I consider it highly likely that these three young children were exposed to the repeated abuse that the Father perpetrated towards B and T over a long period of time and that for that reason the home environment that they lived in was a frightening one causing them to suffer significant emotional harm as a consequence. They may not have been physically present in the same room when he whipped or hit B and T but they were living in the household at the time. I am satisfied that the atmosphere in which all of these children were living is likely to have been an emotionally abusive one in which B and T were living in fear of the Father. These three children will not have been ignorant of that and are likely to have also felt fearful. The physical abuse that was being perpetrated was repeated, sustained and severe. Any child living in that house is likely to have heard it, witnessed the build up to it and/or the aftermath of it.

(b) S and O would have been aware that the assaults occurred

The Mother accepts this, stating that she told them about the assaults in order to explain why B and T no longer lived with them and why they were not allowed to visit the Father in prison. The Father also accepts that an explanation of what he had done had been provided to them and that he explained what he had done when speaking to them over the telephone whilst he was in prison.

For the reasons I have already given, I am satisfied that S and O were aware of the abuse.

20. All three subject children were exposed to the violent behaviour of the Father and therefore suffered significant harm as a consequence

The Mother denies this.

For the reasons I have already given, I am satisfied that this is the case and make the finding sought.

21. The Mother has minimised the nature of the physical assaults on B and T

The Mother denies this and states that she accepts that these were serious assaults.

It is difficult to categorise the physical assaults perpetrated against B and T as anything other than brutal, vicious and cruel. Nothing that I have seen or read persuades me to the view that the Mother accepts or has ever accepted the extent of the brutality shown towards these children or that she has any insight into the way that these assaults made them feel. The fear that they experienced goes to this day unrecognised by the Mother who has remained utterly devoted to the perpetrator of those assaults irrespective of the damage that that has done to her relationships with her children. In a document she submitted to the Immigration Tribunal in support of the Father she described these barbaric assaults as him “smacking” the children. I am satisfied that the Mother minimised and continues to minimise the Father’s behaviour.

22. The Mother was not able to protect the children from the emotional harm caused by the Father’s violent behaviour; and

The Mother denies this and the Father denies that the children suffered any emotional harm as a consequence of his actions.

For the reasons I have already stated, I am satisfied that the children suffered significant emotional harm as a consequence of their presence in a household in which the Father was administering brutal and repeated significant physical abuse towards B and T. The Mother undoubtedly failed to protect them from suffering significant emotional harm as she continued her relationship with the Father notwithstanding that I am satisfied, based upon the evidence of B, T and N, that she was aware that he was behaving in an abusive way towards B and T.

The fact that the Father is unable to recognise that children living in a household in which their two older siblings were brutally and viciously whipped on two separate occasions suffered emotional harm demonstrates his lack of insight into the impact of his behaviour, not only in respect of B and T but in respect of all of the children living in the household.

23. Would not be able to protect the children in the future from the emotional harm caused by the Father's violent behaviour

The Mother denies this.

I am satisfied that the Mother would not be able to protect the children in the future from the significant emotional harm that the Father's violent behaviour is likely to cause them. I am satisfied that the Mother prioritises the Father above all else and is unwilling and/or unable to recognise the emotional impact upon the children of either her behaviour or his. I have no confidence that she would take any steps to safeguard these children from the Father given her failure to safeguard her older children from him.

The Mother's negative attitude towards professionals throughout these proceedings and her dishonesty about the abuse that took place when the family

lived together has precluded any ability on her part to reflect upon the children's experiences or effect any change. I have no confidence that given more time, she would be any better able to work with services to address these issues. The Mother was very evasive during her oral evidence about the risks that the Father may pose to the children and why he would need to be supervised during his contact with them. Ultimately she accepted when cross examined and asked repeatedly what risks he posed did she accept that there was a risk he would hit these children in the same way that he hit B and T. This was in my view a reluctant admission. I do not accept that the Mother's evidence demonstrated that she had any insight into the risks that the Father poses. I make the finding sought.

24. The Mother would not be able to protect the children from physical harm caused by the Father

The Mother denies this. The Father contends that the Mother did care for and protect the children during the thirteen months that he was on bail and residing in the family home with her and the children. He states that she always complied with the supervision requirements expected of her by children's services and the police at that time.

For the same reasons I have given to the earlier finding in respect of emotional abuse, I am satisfied that this finding is made out.

I do not consider that the arrangements that were put in place for the Mother to supervise the Father when he was on bail were safe arrangements for the children. I agree with MS and with the Children's Guardian that these children were failed by professionals working with the family at the time. B and T's allegations against the Mother should have been thoroughly investigated by Children's Services at the time that those children made them and the children should not have been permitted to continue to reside with the Mother. The

distinction made between these children and their older half siblings was not a safe one. I am not satisfied that because these children are the Father's biological children that the risks to them were and are not just as great as the risks to B and T. These children should not have been permitted to continue to reside with the Mother and she should not have been entrusted to supervise the Father. The Mother poses a risk of physical harm to the children in her own right and is incapable of protecting the children from the Father. I make the finding sought.

25. The Mother hit B and T repeatedly including with a wooden spoon and a rolling pin and with her hand

The Mother denies this and that Father states that this did not happen to his knowledge.

I am satisfied, based upon the evidence of B and T that the Mother perpetrated physical abuse to them in the way that they described. I make the finding sought.

26. The Mother does not accept that the Father is a risk to her children.

The Mother denies this. She states that she does accept that he is a risk to the children and in fact to any child. She states that she is capable of managing that risk, she states that she demonstrated this during the thirteen months that he was on bail and living in the family home with her and the children. The Father also asserts that by supervising him as she was required to do during this period, she has demonstrated that she accepted the risk that he posed and that she could protect the children from that risk. He states that she did not allow him to have any unsupervised contact with the children during this period of time.

I am satisfied that the Mother fails to appreciate the risks that the Father poses to the children. She has minimised and defended his behaviour and has steadfastly supported him despite the barbaric acts of physical abuse that he has perpetrated. I am satisfied that the Mother simply does not appreciate the significant harm that he has caused to B and T and the significant risk of harm that he poses to the children.

The failings of professionals following B and T's complaints and prior to the Father's imprisonment do not provide evidence that the arrangements made for the children at that time were safe. I do consider however, that those decisions have provided an unfortunate background upon which services in the North East began working with the family. The parents were given a message at the outset of the process and whilst the Father was on bail, that it was acceptable for the children to remain living at home with both parents and that the Mother was a protective factor who could safely supervise the children from the risks that the Father posed. Those decisions represent a fundamental misunderstanding of the risks that the Mother herself posed to the children and represents a very poor assessment of the Mother's ability to protect the children. It is unhelpful for parents to be given mixed messages from professionals in this way. This confusion has then been further compounded by the decision to award the parents with compensation without fully exploring with the key social worker at the time, AK, the issues that were the subject of complaint. Poor safeguarding decisions and the payment of compensation have each played a part in emboldening these parents into then making repeated complaints about other professionals and failing to address the key issues in the case, which are the risks that each of them pose to the children. I make the finding sought.

27. The Mother has moved the children five times from November 2016 to May 2017

The Mother denies this. She states that Southwark Council made her statutorily homeless on the 6th December 2016. A London based council enforced moves to temporary accommodation in Luton (9th December 2016), Rochester (13 December 2016) and back to its area (18 February 2017). A London based Council relinquished responsibility, declaring that the Mother was intentionally homeless and she therefore had to find her own accommodation.

Whilst AK accepted that not every move was the Mother's fault, he said that the Mother was evicted from her Southwark address. B also confirmed in his ABE interview that the family were evicted. AK said that the Mother chose to move to Luton in search of cheaper housing, she then took the children out of the London area without informing him as the children's social worker. It was his understanding from the Mother at the time was that the primary motivation for the moves of address had been her wish to obtain cheaper housing. Her choice to move the children from Rochester was made notwithstanding that the children were settled in schools there and had expressed the desire to remain in those schools during assessments conducted at the time.

No schools had been arranged for the children in the North East and the family arrived in The North East with no accommodation, living in the Father's immigration bail hostel, which provided one room for both adults and the three children.

I am satisfied that the Mother moved five times in this period of time and that this resulted in a lack of stability for the children. I am satisfied that at least two of these moves were due to a combination of eviction and the Mother's choice to move area. I am satisfied that her move to the the North East area was entirely contrary to the best interests of the children, placing them at risk of significant harm from the Father and removing them from their extended family in London, their schools and nursery provision.

28. S and O did not attend school from February 2017 until their removal on 11th May 2017

The Mother denies this. She states that whilst the children were not attending a school, they were home schooled by her. This was because A London based Council did not have any availability for them and they were placed on the waiting list. The Mother states that she found a school place for the children at NS Academy on the 5th May 2017 after securing her property in that area. The children were due to visit the school on the 11th May 2017 but were removed from her care that day.

I do not accept that the children were home schooled by the Mother. There is no evidence to support this contention. The children's move to the the North East area was made without notice to the local authorities concerned and was unplanned as far as their education was concerned. I am satisfied that by moving to the North East the Mother prioritised her desire to be with the Father above the children's education. It appears to be accepted in the Mother's response that this finding is factually correct, albeit she seeks to blame a London based Council for the lack of a school place at the same time as accepting in her earlier response that a London based Council had classed her as intentionally homeless. Her home moves were unplanned and made at short notice resulting in a lack of education for the children. I make the finding sought.

29. The Mother lied to the children about the whereabouts of the Father whilst he was in jail, informing B and T that the Father had been deported.

The Mother denies this stating that she told them that he could be deported upon his release from prison, but that they were made aware that that did not happen. The Father states that B and T were having regular contact with the Mother whilst he was in prison and were aware that he was in prison. He states that he

spoke to the children on the telephone whilst he was in prison, during which conversation he explained the reason for his imprisonment.

I am satisfied based upon the evidence of AK, N and MGM that the Mother repeatedly lied about the Father's whereabouts, and that she had told all the children, including B and T that the Father had been deported, which was something she also told her mother and other family friends. I make the finding sought.

30. The Mother moved to the North East, taking the three subject children with her, without informing a London based Children's Services of her move

The Mother denies this. She states that she informed the immigration Judge on 11th April 2017 of her intention to move to the North East. She says that she informed AK of a London based Children's Services on the 13 April 2017, whilst at Victoria Coach Station, that she was looking for a houses in the North East in either the North East or Middlesbrough. The Mother states that she spoke to AK again on 3rd May 2017 (following his holiday) and again informed him that she was looking for a house in the North East or Middlesbrough. She says that he was informed on the 5 May 2017, by the Mother that she had secured a house and that he was given the address. She argues that AK refers in one of his reports to the Mother having informed him of the move.

The Father states that both he and the Mother spoke to AK by telephone and that during that telephone call the Mother informed him of the move.

AK was very clear in his evidence that the parents are lying about this and that at no stage was he informed by either of the parents that the Mother was moving to

the North East – he was informed that she had moved by professionals in the North East after the move had taken place. I accept his evidence as truthful and make the finding sought.

31. The Mother lied to a London based Children’s Services when she informed them she would be returning back to the area on 8th May 2017.

The Mother denies this. The Mother states that she informed a London based Children’s services (AK) that she was only returning to London to remove property from her emergency overnight accommodation.

She states that she had no intention of returning to London on the 8th May 2017. She had been placed in a Travel Lodge by LA on the 4th May 2017, Section 47 enquiries were initiated and the children were subject to a Child Protection Plan. The Mother states that she was aware that she could not just move with the children given LA’s involvement.

In his witness statement dated 23.05.17, AK states “On 2nd May 2017, I spoke to M to arrange a second home visit to discuss the recommendations of the assessment. M reported that she was in Peterborough with her children visiting a family friend. M stated that they will be back to London on 8th May 2017. M also stated that they had been offered a place at DL School in London and that they will start next week. M did not give me the impression that she was planning to relocate out of London or were not planning to return to A London based.” He confirmed this account orally.

I am satisfied that the Mother lied repeatedly to a London based Children’s Services about her whereabouts and intentions. I accept AK’s evidence that she told him she was staying with a friend in Peterborough and that the next information he had was from professionals that she was in fact in The North East with the children. I make the finding sought based upon AK’s evidence.

32. The Mother placed her own children at risk of physical and emotional harm by moving to the North East despite knowing that the Father should not see the children until a risk assessment was undertaken.

The Mother denies this. She states that it had been agreed that the Father could return to the family home on leaving prison (which did not happen because of the Mother being made homeless and because the Father faced deportation). She states that she had not been not advised that the Father was not to live in the family home. She argues that AK had approved the home address for the Father's bail address in October 2016.

She states that Lisa Brown, a London based Probation Officer had informed the Mother that the Father was allowed contact with his children as he had no restrictions.

She states that she attended P Probation with the Father on the 3rd May 2017 and spoke with RB, the Father's Probation Officer, and that she expressed no concerns whatsoever.

She states that before being granted immigration bail, the Father was risk assessed for release by the Immigration and Asylum Tribunal in conjunction with a London based Children's services and a London based Probation Service.

The Father denies this and argues that during the period surrounding the move, professionals were informed of the move and expressed no concerns about it.

The local authority accepts that the Father was initially advised by the Probation Service that his licence had no conditions upon his release, that this was an error and that it corrected that position.

I accept AK's evidence that at no stage were the parents told that they could live together following the Father's release and that as the children's social worker he had made clear to the parents that the Father was only to have supervised contact with the children and would need to undergo a risk assessment. I accept his evidence that the assessment of the Father from the Probation Service had found the Father to be a Medium Risk of Harm to children and that on that basis he made clear to the Mother that the Father could not return to live in the family home with her and the children. He vividly described her arguing with him about these recommendations and therefore I am satisfied that she was well aware of the outcome of these assessments and that she disagreed with them. I am satisfied that no professional endorsed the Mother's move to the North East with the children as being safe for the children and that this move was made without AK being informed. It was the Probation Service who made the initial safeguarding referral to this local authority when it became aware that the Mother was in the North East with the children and the Father and therefore it is clear that the Probation Service did not support this arrangement as safe for the children. I also accept N's evidence that the Mother was well aware that she should not be moving to live in the North East with the Father and the children. I make the finding sought.

147. Following the adjournment of the February 2018 hearing, the local authority amended these findings to include the following additional findings:

19C Broke B's glasses by banging his head against the corner of the wall

The Mother states that she is not aware that this happened, the Father states that his glasses got broken whilst he was playing football. I have addressed this finding already and make the finding sought for the reasons stated.

19D This occurred over a five year period

The Mother states that she is not aware that this happened and the Father denies this and relies on the fact that there is a lack of any corroborative evidence from professionals involved with the children over this period of time to support the contention that abuse was taking place, only accepting those matters that he pleaded guilty to.

Both B and T have given detailed, cogent and compelling evidence about the abuse that they suffered and the time span in which they endured this abuse. Both were clear it lasted for 5 years and described what that abuse entailed and its frequency. I accept their evidence and make the finding sought.

I do not accept that the lack of professional concern about the children during this period of time, from health professionals, the children's schools or from other involved with the children, including other family members such as their father and step mother means that this abuse did not happen. B and T clearly explained in their evidence that they did not disclose this abuse at the time as they were each too frightened to. Whilst it is correct that professionals are trained in child protection, they cannot make referrals about abuse unless they are aware of it happening. B and T made no disclosures during this time, they described why they did not do this during their video interviews. I accept those explanations.

19E That M was aware of the abuse suffered by B and T and failed to protect them

The Mother states that she is aware that there were two incidents when F hit B and T. M states that she was not aware of the assaults when they took place and that if she had been aware she would have intervened to stop them. M does not accept that she was aware of any other abuse of B or T.

Both B and T gave consistent evidence that the Mother was aware of the abuse that they were suffering and that she did nothing to prevent it. I make the finding sought based upon their evidence.

33. F's controlling behaviour led M to neglect her children. Placing responsibility on the older children, A, B and T to care for the younger children including feeding them, taking D to nursery and putting them to bed.

The parents deny this and the Father contends that the children always had sufficient food.

The evidence of B, T, N and MGM is all consistent about the Father being controlling towards the Mother and that whilst she was in a relationship with him she neglected the children. B, T and N all gave evidence about the children being left hungry and the Mother's prioritisation of the Father and his needs above the children. B and T each explained the care that they had to give to their younger siblings in circumstances in which the basic care of those children was not being provided by the parents. I accept their evidence as truthful and make the finding sought.

34. That the children were neglected whilst in the care of F and M as they failed to ensure the following:

- (i) Repeatedly failed to provide sufficient food in the house to feed the children;**
- (ii) That the children were frequently fed by B and T, and**
- (iii) All the children were frequently fed cereal for all their meals**

- (iv) **Failed to ensure that there was sufficient money to ensure that the home always had electricity; and**
- (v) **Instead of spending the benefit money they received on the children, the parents sent the money to Nigeria for F's family.**

Both parents deny this.

Again, the evidence of N, MGM, B and T is all consistent about these issues. Individually and collectively their accounts are compelling and entirely convincing. I am satisfied based upon their evidence that these findings are made out and I make them.

148. As a consequence of these findings, I am satisfied that the threshold criteria for the purposes of making orders pursuant to s.31 Children Act 1989 is crossed and that the children with whom I am concerned have suffered significant emotional harm and neglect in the care of the parents and are at risk of suffering neglect, significant emotional harm and significant physical harm, attributable to the care given to them by the parents.

Legal Framework in respect of welfare decisions

149. I remind myself that each child's welfare is my paramount consideration. That is section 1(1) of the Children Act 1989. In considering what orders to make I have regard to the Welfare Check List found in section 1(3) of the 1989 Act.

150. In relation to the threshold criteria of section 31(2) Children Act 1989 I have regard to whether I am satisfied that each child has suffered or is at risk of suffering significant harm.

151. When considering which orders if any are in the best interests of the children I start very clearly from the position that, wherever possible, children should be

brought up by their natural parents and if not by other members of their family. The state should not interfere in family life so as to separate children from their families unless it has been demonstrated to be both necessary and proportionate and that no other less radical form of order would achieve the essential aim of promoting their welfare. In [Re B \[2013\] UKSC 33](#) the Supreme Court emphasised this, reminding us such orders are "very extreme", and should only be made when "necessary" for the protection of the child's interests, "when nothing else will do". The court "must never lose sight of the fact that (the child's) interests include being brought up by her natural family, ideally her parents, or at least one of them".

152. It is not for the court to look for a better placement for a child; social engineering is not permitted. In [YC v United Kingdom \[2012\] 55 EHRR 967](#) it was said: "Family ties may only be severed in very exceptional circumstances and... everything must be done to preserve personal relations and, where appropriate, to 'rebuild' the family. It is not enough to show that a child could be placed in a more beneficial environment for his upbringing."

153. I have looked again at the words of the President in [Re B-S \(Children\) \[2013\] EWCA Civ 1146](#) as well as the judgments in [Re B](#) (supra) and reminded myself of the importance of addressing my mind to all the realistic options for the children, taking into account the assistance and support which the authorities or others would offer.

154. In considering making a Care Order I have had close regard to the Article 6 ECHR and Article 8 ECHR rights of each parent and of each child, but I remind myself that where there is tension between the Article 8 rights of the parent, on the one hand, and of the child, on the other, the rights of the child prevail; *Yousef v The Netherlands* [\[2003\] 1 FLR 210](#).

Welfare analysis

155. The local authority investigated different kinship placement options for the children at the request of the parents:

(a) Mr and Mrs E were negatively assessed. That assessment has not been challenged. They have not made any applications to the Court to be joined as parties and have not provided witness statements or attended as witnesses for the parents. The parents did not seek to advance them as carers for the children by putting their case before the Court during the hearing.

(b) Mr and Mrs N were positively assessed as prospective carers for the children. The local authority's care plans had been to place the children in their care. However, sadly, Mr and Mrs N decided to withdraw as prospective carers for the children, citing concerns about the parents' opposition to a placement with them and the hostility that had been directed towards them by the Mother. Following the completion of their positive assessment, the Mother, having originally put them forward as carers, began to allege that they were only offering to care for the children for financial reasons. The children had been excited about the prospect of living with Mr and Mrs N. This was an opportunity for them to be placed in a family placement alongside cousins of a similar age. It would have provided them with a cultural match as far as the maternal side of the family was concerned and would have assisted them in understanding their maternal cultural heritage. It would have allowed them to live in a natural family setting, without being looked after children. It is a great sadness for these children that the parents opposed this placement, and I am satisfied, caused these carers to withdraw. The parents' actions in undermining and thwarting this placement were selfish, short sighted and entirely at odds with the children's best interests.

156. As a consequence of Mr and Mrs N's withdrawal as prospective carers for the children, I now have two realistic placement options before me in respect of the children: firstly a placement with the Mother or secondly, a placement in long term foster care.

157. When contemplating which care option is in the best interests of the children, I must consider their needs now and in the future. My assessment of each child's needs, presentation, wishes and feelings is based upon the evidence of their Guardian and the current social worker's evidence which I accept as accurate and truthful. Those two professionals have met the children on a number of occasions, have formed positive relationships with the children and, I am satisfied, know them well.

158. S is a very bright, bubbly, intelligent 10 year old girl with a fantastic sense of humour. She enjoys school and her school are very pleased with her academic progress. She is very settled within her foster care placement and sees herself as part of that household in the future. She attends a lot of extra curricular activities which she benefits from and enjoys. She is responding very well to the care that she is being provided with. S has expressed a consistent wish to remain with her current foster carers. She wants to be able to make plans for her future and to have her living arrangements confirmed. She has written letters to me during these proceedings confirming her desire to stay placed with her current carers, and confirmed when I met her in February 2018 that those were her views. Her most recent letter to me prepared for the resumed hearing in June 2018 reiterated again her desire to remain with her foster carers. There are no concerns about her health, educational or emotional development. She needs to have her future care arrangements to be decided without any further delay. She has been placed with her foster carers for 13 months. She is thriving in a placement with them. She is a child of mixed heritage of Zambian, Nigerian and British origins. She needs to have a settled placement which keeps her safe, promotes her education and encourages her to meet her potential. She needs to be able to see her maternal extended family members who she has established relationships with such as B, T, N, Mr and Mrs N and their children and the Maternal Grandmother. She needs to be supported to understand their cultural backgrounds and heritage.

159. O is a 9 year old girl who is also very settled in her foster care placement. She too sees herself as part of that household. She is also a healthy child who is doing well at school. O has the same mixed heritage as her sister. She is quieter child than S and can present with difficulties when she feels anxious. When she was first received into foster care she would rock back and forth which was considered to be an involuntary emotional response to feelings of anxiety. She occasionally presents this way in contact with her parents but not in her foster care placement. She is far less guarded and much more confident since she was first placed in foster care. She is reported to have suffered from elective mutism when she was four years old. O has alleged that the Mother has hit her with a remote control and that she would feel scared when she was living with the Mother. The police have been notified of this allegation but have decided not to investigate it. I was not invited to make a finding about it in these proceedings. O has expressed a wish not to see her parents. She has had access to counselling through her school which has been helpful for her. In the future it may be useful for her to have some input from CAMHS. She needs a settled placement which keeps her safe and gives her stability. She has the same educational and cultural and contact needs as her sister.

160. In October 2017 O and S expressed a wish to attend less contact with their parents than was afforded to them. S said this was to enable her to attend extra curricular activities, O did not give a reason. I am satisfied that the local authority made efforts to encourage the children to attend contact with the parents and sought to offer different contact times or extra curricular activities so that the children could continue to attend contact with the Mother three times per week but that S and O did not wish to attend.

161. D is a very healthy five year old little boy, he is “a character”, he can be “cheeky” and is doing well in school. He can be distracting of other children but nothing out of the ordinary for a child of his age. D has the same mixed heritage as his sisters. He has suffered from enuresis during the time that he has been in

foster care which is being appropriately managed by his foster carers, in consultation with medical advice. His fluid intake is limited towards his bedtime which has assisted to improve his bed time enuresis and he is very proud of his progress in that regard. D needs a settled, safe and stable placement which offers him clear routines and boundaries whilst supporting him in his education and development. He has the same cultural, contact and identity needs as his sister.

162. All three children are bright, responsive engaging young children. They have grasped every opportunity offered to them since they were placed in foster care. They have a lot of energy and are full of character. They have managed their transition to foster care well as a sibling group. Their family members are important to them and they have enjoyed seeing their Maternal Grandmother and N during these proceedings. Their contact with their parents has largely been a positive experience for them.

The Mother

163. There are clear advantages to the children being placed with the Mother. She is their natural parent. She has been their primary carer throughout the majority of their lives. A placement with her would promote their natural identities and cultural needs.
164. The Mother's contact with the children is generally of good quality.
165. There is no doubt that the Mother loves the children and that they love her.
166. Earlier concerns in these proceedings about the Mother's frequent house moves and lack of settled accommodation for the children is no longer a prevailing concern. The Mother has lived at her current address for a long period of time and appears to be settled there. She has however repeatedly refused to allow the social worker to conduct home visits, often cancelling them at short notice which has

prevented an up to date assessment of the home from being carried out.

167. The Mother states that she wishes to care for the children as a sole carer but wants to provide supervised contact to the Father. She considers that she should be able to ultimately supervise that contact and that in the interim they should have contact all together “as a family”. She was evasive and vague in her evidence about why the Father’s contact would need to be supervised but did reluctantly accept that he posed a risk to the children in that he may do to them what he had done to B and T in terms of “hitting” them.

168. The Mother remains in a relationship with the Father and they present very much as a united team.

169. I am not satisfied that the Mother is telling the truth about her future intentions for the care of the children. I consider it likely that if the children were to be returned to her care that she would seek to live with the Father “as a family” and that she cannot really accept why that could not be the case.

170. I am not satisfied that the Mother would promote contact to extended family members if the children were to live in her care. She has a poor relationship with the Maternal Grandmother and has sought to thwart contact taking place between the children and their older siblings. I consider it unlikely that her older children would travel to see the children if they were in her care for fear that they would see the Father. She also has failed to promote their relationships with Mr and Mrs N and has behaved in a hostile way towards them.

Long term foster care

171. If placed in long term foster care, the children would have the opportunity to continue to have contact with their birth family.

172. The children would continue to be placed with their current foster carers who have been suitably assessed and matched as long term carers for them.
173. The children are thriving within their current foster care placement and have expressed a consistent wish to remain living there.
174. The children have been placed with their current carers for 13 months. Those foster carers have been assessed and positively matched to care for them in the long term. They have demonstrated their commitment to care for the children in the long term notwithstanding the repeated and serious allegations that the parents have made about them.
175. The children's foster carers would be able to ensure that their needs are met to a high standard and that they are kept safe from harm.
176. Their foster carers have demonstrated that they have a very good relationship with the children's schools and that they would work with services to ensure that each child reaches their potential.
177. The foster care placement is not a cultural match in that the carers are not of Zambian or Nigerian heritage but the children are very settled in their care and the foster carers have striven to learn about the children's heritage and culture and ensured that their hair and skin care needs are met, they have taught themselves traditional recipes so that the children can eat African food in their care. They have sought and followed advice from the Maternal Grandmother and Mr and Mrs N about these issues and have been proactive in this regard. I am satisfied that they will continue to address the children's needs in this regard in a proactive way in the future should the children remain in their care.
178. I am satisfied that the local authority will actively promote contact with the children's older maternal half siblings and extended family members and that this

is far more likely to take place if the children are in foster care than if they are placed with the Mother.

179. As looked after children they would continue to have the support of the local authority.

180. However, long term foster care would mean that the children would be cared for by professional carers, rather than belonging to a family of their own.

181. Children in foster care can experience a number of moves of placement, which can be disruptive to them. Foster care is therefore regarded as a less stable option than a placement with a family member or an adoptive placement.

182. Some children grow to resent being looked after children with the associated stigma of growing up in the care system and the continued professional oversight it entails. Being a looked after child can result in greater restrictions being placed around day to day life than other children experience.

183. If a child is placed in long term foster care, there is a possibility that they can be reunified with their birth family in the future. Whilst this can be a positive for children, there is also a risk that children seek out illicit contact with their family and can gravitate back to their care in an unplanned way, which can present a risk of harm to the child concerned.

Overall analysis and conclusions

184. Where at all possible children should be cared for by their natural parents, or at least one of them, however, such a placement option can only be countenanced if it is safe for the children concerned.

185. I have made a series of very serious findings in respect of both of these

parents which have far reaching consequences as far as welfare determinations are concerned. I am satisfied that the parents have repeatedly lied about the extent and nature of abuse that they each perpetrated towards B and T and that they were both aware of the full extent of the abuse that all of the children who lived with them suffered in their care in terms of neglect and significant emotional harm and each other's significant physical abuse of B and T.

186. I agree with the local authority that the parents' primary motivation throughout these proceedings has been to protect their own interests, deflect responsibility from their actions and to attempt to prevent professionals from carrying out their duties by bombarding them with unfounded complaints and criticisms. The parents have entirely lost sight of the children in this process and have sought to obstruct professionals and undermine the children's care and welfare arrangements.

187. The parents complain that the children's cultural needs have not been met and are not being met in foster care and yet, I am satisfied, they have failed to assist the children's carers to address these issues and refused to give recipes, advice or information which would be in the best interests of the children. I accept the evidence of B and T that when the children lived in the care of the parents they had a limited diet of predominantly cereal and noodles with take-aways as treats. I am not satisfied that the parents provided them with African home cooked food when they were at home or that their care needs were met to an adequate standard.

188. The parents have caused for repeated health investigations for all of the children, demanded health appointments and complained about their medical care whilst accommodated. However, the parents have persistently cancelled and sought to rearrange the children's medical appointments, failed to attend them or attended late for them when they have taken place. They have refused to sign delegated authority forms to enable health appointments to take place and this has required the local authority to exercise its Parental Responsibility to meet the

children's medical needs. I accept the evidence of the local authority and the Children's Guardian that these are healthy children who have had their needs met to a high standard in foster care. I do not accept that they have been ill treated in foster care in any way or that their Human Rights have been breached.

189. The parents have also complained that the children attend a Roman Catholic School. I accept the evidence of the local authority that this is a multi faith school and that the children are excelling within it. They are very settled within their school and I am satisfied that it would not be in their best interests for it to be changed. I do not accept that the choice of school represents a breach of the children's or the parents' Human Rights.

190. As a consequence of the barbaric and sustained systematic abuse that the Father perpetrated towards B and T and his denial of the same I am satisfied that he poses a risk of significant physical harm to the children. His refusal to take responsibility for the full extent of the abuse he perpetrated renders the risks that he poses to be unmanageable. His manipulation, dishonesty and failure to work co-operatively with the local authority and with the Court preclude any prospect of services or court orders being utilised to successfully reduce those risks.

191. The Mother has perpetrated sustained physical and emotional abuse towards B and T and has neglected all of the children in her care as a consequence of her prioritisation of the Father above her children. She continues to prioritise him above them. Her choices in this regard have resulted in her losing contact with her older children and the removal of the subject children. She has been unable and/or unwilling to put her children first and that remains the position to date. I am satisfied that she poses a risk of significant physical and emotional harm to the children, that they are at risk of neglect in her care and that she is unable and unwilling to protect them from the Father who she fails to genuinely recognise as posing a risk of significant harm to her children.

192. I have no confidence that these parents will work openly and honestly with any professionals to lower the risk that they each pose to the children either now or in the future. I am satisfied that any instances of previous engagement and co operation, such as during their assessment by Dr Cooper, are in fact examples of disguised compliance. They presented a falsely positive picture of themselves which was entirely at odds with their behaviour outside of that assessment. Within Dr Cooper's report dated 24th August 2017 she raises the possibility that M has misled her, "M has the capacity to engage in treatment as she is psychologically minded and motivated to make progress. I found she engaged in the assessment process in a reflective and co operative manner. I was therefore surprised when the social worker informed me that she has found M to be obstructive at times. I therefore cannot rule out the possibility that the parents were trying to present in a good light during our meeting. Whilst this is understandable given the situation, this is concerning if M has presented information in a misleading way." I am satisfied that M presented an entirely false and misleading picture of her own engagement with professionals and insight into the issues in this case during that assessment.

193. Dr Cooper's assessment of the parents was predicated on the basis that what they were reporting was truthful. I am satisfied that she was significantly misled by the parents. The risk assessment of the Father proceeded on the basis of the convictions only. I make clear that I make no criticism of the expert in respect of her conclusions as she adds the above and the following caveat to her opinions and recommendations: "If the abuse did span five years (and it is outside the scope of a psychological assessment to comment on this, then clearly the risk to the children would be higher than if there was two incidents, as described by the parents. This would suggest a different scenario where the parents have deliberately deceived and misled professionals, making future risk management strategies impossible to implement with any confidence." As a consequence of the findings that I have made, I am satisfied that the parents have attempted to deliberately mislead professionals, including Dr Cooper, into thinking that the abuse was limited to the

two incidents to which the Father pleaded guilty. The scale of the abuse was far more extensive and prolonged than that. I agree with Dr Cooper's opinion that the parents' deliberate deception of professionals, and I would add the Court, make it impossible to implement any strategies to lower the risk that they pose. The parents contend that they have acted upon the recommendations of Dr Cooper and accessed therapeutic support, and in the Father's case anger management therapy, from MIND. The starting point for any successful therapeutic work or intervention to address the risks in this case has to be openness, honesty and a full recognition of the extent of the abuse that has been perpetrated. I am satisfied that as a consequence of the parents' dishonesty they have not begun to address the risks that they each pose to the children and that they are not genuinely motivated to do so.

194. The parents simply will not work with professionals who seek to challenge them or with whom they disagree. I accept that whilst in London, during the time that the children were at home and F was on bail, the parents co operated with a Child in Need Plan but that was at a time when they were able to live together with the children. It was a time when they agreed with the care and welfare arrangements that professionals were advancing. I also accept that the parents co operated with a written agreement when they first arrived in the North East but again, that was for a time limited period and before they were being significantly challenged by professionals. The local authority was not in full possession of all of the information and, I am satisfied, the parents were well aware that the Mother and the children should not be in the North East with the Father and had been given clear advice about that by AK which was ignored. When AK highlighted the risks that the Father posed the Mother responded angrily and sought to argue with him, her actions in then leaving the London area and taking the children with her to live in the North East with the Father demonstrate her total disregard for professionals.

195. The Mother informed the Court early on in these proceedings that she wants to care for the children as a sole carer, and this is recorded in the order of District

Judge Goudie dated 6 June 2017. Accordingly parenting assessments were carried out on the basis of her caring for the children alone. She raised no issues during these proceedings or whilst living in London about her ability to care for the children alone. However, in a letter to the immigration service dated 6 January 2016 she sets out that her complex health conditions are so significant that F had to remain in the UK to care for both her and the children as she is physically unable to manage. No medical records or other medical evidence has been supplied to support these assertions. I am satisfied that this is yet a further example of the Mother's dishonesty and that she will say or do anything to try to ensure that F remains in the United Kingdom so that they can continue their relationship. I am satisfied that these parents will continue to attempt to do all they can to ensure that the Father remains in the United Kingdom and that that is likely to involve considerable dishonesty, repeated applications and appeals and attempts to delay and adjourn his deportation.

196. There are no courses, services, court orders or other forms of support which could lower the risk that the children would face if living with the Mother. Each parent has repeatedly demonstrated a total disregard and indeed disdainful attitude towards professionals and the Court. They refuse to meaningfully engage with professionals and fail to comply with Court orders. I am satisfied that the children cannot safely return to their care whether they seek to care for them jointly or separately.

197. There is a real risk in this case that the parents will do all they can to seek to disrupt and undermine the children's foster care placements by making repeated complaints and allegations against the foster carers. I am satisfied that these foster carers are committed to caring for the children and have agreed to do so in the long term on a informed basis, aware that the parents may continue to make allegations

against them. I consider that it is a great testament to these carers that they have agreed to care for the children in the long term and provides clear evidence of the commitment that they feel towards these children. I consider that the local authority should do all it can to protect this placement and that one of the steps necessary to do so is to restrict parental contact in the way that is proposed in the care plans, so that it takes place on six occasions per year. This lower level of contact than was originally proposed for the Mother should serve to minimise the opportunities that the parents have to use contact sessions as a platform to make allegations against the carers. I am satisfied that the local authority decision making in this case has been appropriate and child focussed and am satisfied that care orders are necessary and proportionate orders to make in this case. I am satisfied that the local authority will exercise its Parental Responsibility in respect of these children in a way that meets their best interests and supports them to meet their potential. I consider that it is entirely appropriate for the local authority to keep the children's contact with their parents under review for the duration of the Care Order. If the Father is deported then clearly his contact will need to change and that may mean supervised Skype or Face time contact is substituted for direct contact, together with monitored indirect contact.

198. I approve the local authority's care plans for the children and make Care Orders in respect of all three children. I am not satisfied that there have been any breaches of the children's Human Rights or the parents' Human Rights in this case. I consider that the local authority has acted proportionately to safeguard these children from the very significant risks to them presented by the parents. I agree with the Guardian that the removal of the children from the parents care was entirely justified. I consider that their care needs have been met to a very high standard in foster care by their carers, that all medical issues have been thoroughly and properly investigated in a timely fashion and that the children have been fortunate to have such dedicated and committed foster carers who have provided them with an exemplary level of care. I commend the social worker for her obvious hard work

in this case and her diligence in performing her duties notwithstanding the extremely challenging behaviour of the parents. I extend my gratitude to the Children's Guardian for her clear and compelling reports and oral evidence and to Miss Choudhury and Mr Flower who have provided the Court with considerable assistance by communicating with the parents, ensuring that the parents have been included in Advocates Meetings, had access to documents and have been served with Court orders. They have worked tirelessly to ensure that the case has been able to proceed notwithstanding the submission of late documentation by the parents and the unfounded criticism levelled at them.