IN THE FAMILY COURT AT STOKE ON TRENT NCN: **[2022] EWFC 200 (B)**
CASE No. SQ20C00230

IN THE MATTER OF THE CHILDREN ACT 1989

IN THE MATTER OF:

AA
BA
CA
DA

STOKE-ON-TRENT CITY COUNCIL

and

Mrs A

and

Mr A

and

AA, BA CA AND DA
(Children acting through their Guardian)

Judgment

This judgment was handed down in private. Permission has been given to publish the judgment but only in this partly anonymised format.

INTRODUCTION

1. These proceedings concern four children: AA now aged over 16 years old; BA aged over 10 years old; CA aged under 10 years old; and DA aged under 5 years old. The proceedings have been extremely lengthy and difficult having commenced just over 2 years ago. Indeed, they have been extraordinary in many ways beyond just their length: the number of hearings; the level of intervention and oversight required by the court; the overwhelming volume of emails, letters, documents and statements filed with the court; the highly unusual but firm refusal by Mr and Mrs A to engage in any court-directed assessments until the latter part of proceedings due to their suspicion and lack of trust in the Local Authority; the challenges posed by Mrs A's fluctuating health; the allegations and concerns surrounding the Local Authority's conduct; and the need – on the basis of the Local Authority's own application after the oral evidence of the then allocated social worker, Ms Owen - to adjourn the first part of

the final hearing in September 2021, to, in effect, try and start again and 're-set' their relationship with the parents.

2. At this adjourned final hearing, the Local Authority, supported by the Guardian, seek final care orders for BA, CA and DA with a final care plan that the children remain placed at home with their parents. AA's proceedings have concluded on no order. The Local Authority have been represented by Ms Kirstie Danton leading Tom Duggan.

3. The mother of the children is Mrs A. At various points throughout the proceedings she has represented herself, but has been represented during the adjourned part of the final hearing by Mr Buckley. The father of the children is Mr A. He has represented himself for most of the proceedings and has continued to do so throughout the final hearing.

4. The younger three children are represented through their guardian Ms Evans by Mr Timothy Bowe leading Mr George Smith. AA has been separately represented in these proceedings since July 2021. She is represented by Ms Orla Grant leading Ms Berney-Dale (first part of final hearing) and Mr Jones (adjourned final hearing).

BACKGROUND

5. Proceedings were issued on 30th July 2020 alongside an application by Stoke on Trent City Council for a High Court declaration regarding the admission of AA to hospital for investigation and treatment of what was believed by professionals to be an urgent life-threatening skin condition. Mr Justice Hayden made a declaration with respect to A's medical treatment on 31st July 2020. Proceedings for A's younger siblings were heard by this court the following week. An interim care order was made on 3rd August 2020 with the children remaining at home pending a further hearing on 6th August. On 5th August 2020 the parents were arrested, and the children removed by the Local Authority in highly contentious circumstances. Sadly, Mrs A became seriously unwell upon her arrest and the interim contested hearing as to the necessity and proportionality of continued separation was adjourned a number of times, until HHJ Davies sanctioned ongoing separation for the reasons set out in her judgment of December 2020.

6. There then followed several months of extremely difficult litigation. AA was fundamentally opposed to being in foster care and refused to cooperate with the Local Authority and any assessments of her. She did however engage with her treating medical team.

7. BA, CA and DA were reported to have settled well in foster care but contact between BA and his parents completely broke down in October 2020 and CA's contact was limited and sporadic. The Local Authority's position was that the children were simply refusing to attend. These problems were exacerbated by COVID and issues regarding whether Mr A should wear a face mask within the children's contact centre: an issue which dominated a number of hearings in the early part of 2021. By the time of the final hearing, the Local Authority were reporting that BA was expressing clear resistance to returning home.

8. Mr and Mrs A have throughout proceedings felt hugely aggrieved by what they perceive to be the unlawful removal of their children by the Local Authority on 5th August 2020. From the outset of proceedings, they have vehemently denied all threshold allegations made against them. They were further aggrieved by the outcome of a cognitive functioning assessment of Mrs A carried out by Dr Allen in September 2020. They have thereafter refused to participate in any assessments within these proceedings, save for the parenting assessment by the ISW, which was directed after the first failed attempt at a final hearing in September 2021. They clearly perceive themselves to be in a battle with the Local Authority to prove their innocence.

9. As already noted, the first attempt at a final hearing came before me in September 2021 and was adjourned at the Local Authority's request. Since last September I am pleased to say that matters have moved on quite significantly.

10. AA, given her age and firm opposition to remaining in Local Authority care, returned home at the conclusion of that first final hearing. She immediately settled well and was reported to be much happier. She sadly suffered a flare up of her skin condition in the Autumn of 2021 but continued to engage with her treating clinical team and happily her health has now stabilised again. Her education has not been so stable, with it not being possible to achieve a reintegration into mainstream education. She now receives private tutoring at home. In April of this year the ICO was, however, discharged and proceedings concluded on no order, it being accepted by the Local Authority that given her age and absolute refusal to engage with the Local Authority there was no purpose in them sharing parental responsibility for her.

11. DA was also able to return home in November 2021. Given his young age he had been much less affected by the removal and was able to maintain contact with his mother throughout the proceedings. Although the court was clear that the interim threshold under s 38 remained satisfied on the grounds of medical and educational harm, it was accepted by all parties that there was no basis on which continued separation could be deemed necessary and proportionate. DA's rehabilitation home was successful. He is thriving, regularly attending nursery and the Local Authority have no concerns about the care he is receiving.

12. The situation with BA and CA has been much more complex. Re-establishing contact with Mr and Mrs A was challenging, with their respective foster carers reporting quite extreme emotional reactions to attempts to progress the contact arrangements, such that the Local Authority made an application under s 34(4) in December 2021 to suspend sibling contact and pause attempts to re-establish contact pending therapeutic intervention with the children. That application was withdrawn by the Local Authority at the hearing in December, and contact was finally re-established in January of this year. Matters then progressed quickly with CA moving into the care of BA's foster parents and rehabilitation home achieved in February of 2022.

13. The very significant issue which has prevented these proceedings concluding in what might have been an entirely consensual way has been the refusal of BA and CA since their return home to attend school or to engage in any way with the social work team. The reasons for the children's behaviours and how the issues may be successfully resolved now lie at the heart of the remaining dispute between the Local Authority and Mr and Mrs A.

14. The Local Authority, supported by the Guardian, are deeply concerned that the children are not in school and at the deterioration in the relationship between Mr and Mrs A and the social work team since the children were rehabilitated to their care. They say there are deficiencies in the parenting of Mr and Mrs A which caused the children significant harm, with an ongoing risk that the children's needs, holistically understood, will not be met in Mr and Mrs A's care. The Local Authority and Guardian remain concerned at the lack of insight and understanding demonstrated by Mr and Mrs A into those issues, most notably around but not exclusively with respect to education, and say the only way to provide the children with the crucial support and services they need, and ensure they are receiving a satisfactory education, is by the making of final care orders. The Local Authority's position is that a final care order will ensure the children can continue to receive educational and therapeutic support as Looked After Children with robust oversight and monitoring by the Local Authority and, if necessary, employing their overriding parental responsibility to ensure those needs are met. The threat remains that if parents fail to engage, the Local Authority will need to reconsider their current support for placement of the children at home.

15. Mr and Mrs A, on the other hand, vehemently believe that the Local Authority are solely responsible for the harm and trauma that has been caused to their family since the children were 'unlawfully' removed. They have said clearly to the court that they will not continue to work with the Local Authority. In short, they say enough is enough. The Local Authority's ongoing intervention into their lives is, they say, oppressive and a source of ongoing anxiety and distress both for them and the children. They do not accept that there are, or have been, any deficits in their own parenting which has led or contributed to the children's current difficulties.

16. Thus, although it has been a case fraught with difficulty, the most difficult challenge has been to resolve the complex welfare dilemma the court now faces in making final orders for these children. All of the children are back home with their parents. All are settled. However, BA and CA are sadly two children who now have a very high level of complex need:

    - They require therapy and support to assist them understand their experiences both before and after they were removed from their parents' care by the Local Authority, and they need assistance to help them adjust and move forwards now they are settled back at home.
    - They need to be supported back into education to ensure they can reach their true potential.

17. It is a difficult dilemma because of the complex factors feeding into how we have reached this point, making achieving the right welfare outcome for the children particularly challenging.

THRESHOLD

18. The Local Authority have refined their threshold following the evidence heard in the first part of this final hearing. They now rely on the following matters in support of the s 31 threshold criteria:

Physical and Emotional Harm and Neglect

1. AA was presented to Royal Stoke Hospital on 21 July 2020 suffering from a dermatological emergency which was life threatening, skin failure. Without immediate treatment AA faced serious and potentially life-threatening consequences.

    a. Mrs A and/or Mr A did not attend an emergency hospital appointment on 15 July 2020 arranged by the GP, only presenting AA to the hospital on 21 July 2020.
    b. Against medical advice and whilst admitted to CAU, AA did not remain on the ward or in the CAU despite the parents knowing that the medical professionals considered AA to be extremely unwell and in need of urgent in patient care.
    c. AA was not returned to the hospital on 22 July 2020 as directed by doctors, preventing AA from receiving immediate and necessary medical care.
    d. AA was not presented for appropriate medical treatment from 21 July 2020 until 31 July 2020, a delay of 10 days.

2. In and around July 2020, Mrs A and Mr A failed to ensure that AA received medical attention, causing AA physical and emotional harm.

3. In the alternative, Mrs A and Mr A were unable to exercise parental responsibility over AA and ensure that she attended urgent medical appointments and engaged with essential treatment causing AA significant harm.

4. The failure to access appropriate medical treatment for AA from at least 22 July 2020 to 31 July 2020 places each of the other children at risk of significant physical harm, emotional harm and neglect as;

    a. Mrs A and/or Mr A at the time of issue and since 2013 have been unable to consistently engage with medical appointments including follow up reviews and health checks for each of their children.
    b. Mrs A and/or Mr A have not followed professional medical advice as to routine health checks and screening.
    c. Mrs A and/or Mr A have missed follow up appointments and refused routine or non-urgent health interventions, this includes;
        (i) AA has missed the urgent hospital appointment on 15/7/20 and the return appointment on 22/7/20.
        (ii) BA has uncorrected medical conditions which the parents have declined surgical intervention
        (iii) CA failed appointments re “clicky hips”
        (iv) DA screening bloods, gestational testing and heel prick screening declined.

Educational Harm and Neglect

5. Mrs A and/or Mr A at the time of issue had not enrolled the children in formal Education since 2012. The children have significant educational delay as a direct result of the inadequate education they have received from the parents by way of home schooling there being no identified learning need or genetic cause. In particular;

(a) AA was assessed as presenting much younger than her peers,
(b) BA was assessed as presenting educationally in line with a reception age child,
(c) CA was assessed as presenting educationally in line with a reception year child.

6. The inadequate educational provisions made by Mrs A and/or Mr A has resulted in educational delay for the children, when in comparison with their peers, causing AA, BA and CA social, emotional, and educational harm and exposing DA, not yet of school age, to the risk of such harm. The harm is directly attributable to the care of the parents.

7. The educational delay is directly attributable to the absence of adequate educational provision, there being no learning need or genetic cause identified for any of the children.

Failure to Engage with Professionals

8. The parents have been unable to prioritise the needs of the children and demonstrate an ability to engage with professionals where professional advice and guidance conflicts with the parents' own beliefs and opinions;

(a) Education- the children were removed from school in 2012 and have been known to the home education service since 2014 which has resulted in significant educational delay and emotional harm.
(b) Follow up appointments have been missed including but not limited to an orthopaedic assessment for CA's talipes and "clicky hips" post birth.
(c) Recommended midwife services were not accessed for DA; the parents failed to engage with routine screening pre and post birth and raised complaints about the service. This placed DA at risk of significant harm in utero and post birth.
(d) The parents raised complaint against the GP in June and July 2020.
(e) Hospital – the parents did not engage with the hospital and medics after 15 July 2020, raising complaints against Dr Wong and disengaging with treatment offered.

The failure to engage consistently with professionals and services coupled with the inability to reflect upon advice given and demonstrate insight where such advice conflicts with the parents' own beliefs, places the children at risk of significant physical and emotional harm and neglect.

PROCEDURAL MATTERS:

19. The majority of the evidence pertaining to threshold was heard in September 2021, with the final welfare evidence and the parents' evidence being heard at the adjourned final hearing. Sadly, there were further complications regarding Mrs A's health. Her oral evidence commenced on 5th May 2022 but had to be paused when she suffered a relapse of the functional neurological seizures which caused such difficulties at the outset of these proceedings. Importantly, Mrs A was able to resume her evidence after a period of recovery, completing her evidence from home when the final hearing recommenced on 29th June. She has been able to provide instructions to her counsel throughout this adjourned final hearing.

20. There is one procedural matter that requires separate consideration. Ms Grant on behalf of AA invites the court to make serious findings of professional misconduct against individual social workers and senior managers of Stoke on Trent City Council. Allegations made against them include seeking to manipulate decision-making to achieve the removal of the children outside of court proceedings and forcing a separation between the children and their parents; deliberately withholding information and/or misleading professionals including the police in a key strategy meeting on 5th August 2022; unlawfully removing the children on 5th August 2022; and failing to fulfil their duties under s 34 of the Children Act 1989 to promote family time between the children and their parents.

21. Social workers and their managers do an incredibly difficult job in the most challenging of circumstances. Nevertheless, it goes without saying that they must carry out their duties carefully, ethically and in good faith. If they fail to do so they can expect to be held accountable. The question however is whether this court is the correct forum in which to determine such matters. I am satisfied it is not.

22. The strong grievances raised by Mr and Mrs A against the Local Authority concerning: 1) the circumstances surrounding the removal of the children from their care on August 5th 2020; 2) the Local Authority's fulfilment of its s 34 duties on contact; 3) the way in which parental responsibility was exercised by the Local Authority under the interim care order to the exclusion of the parents and in apparent disregard of their views; and 4) the Local Authority's failure to engage properly or at all with the parents during the proceedings, are clearly all relevant. They go to the question of whether the Local Authority is able to exercise parental responsibility under a care order in the best interests of BA, CA and DA and whether the parents could realistically now be expected to share parental responsibility with them and work positively and collaboratively in partnership with the social work team. The court has therefore allowed these matters to be explored in evidence.

23. Sadly, on the evidence before it, the court has concluded that the conduct of the Local Authority fell short of the standards of good social work practice parents are entitled to expect, no matter how serious and concerning the presenting circumstances appear to be, and how challenging and difficult the parents may appear to be in terms of their own engagement with the authority. The court is however satisfied that it would not be procedurally fair and just nor indeed necessary and proportionate within these proceedings to go further and consider whether specific findings of serious professional misconduct should be made against one or more Local Authority employees. As exemplified by the approach taken in *A and B (Findings against social workers)* [2016] EWFC 68, before embarking upon such a course of action, which has such potentially serious consequences for individual professionals, they are entitled to a just process in which they can fairly participate including:
    - Knowing with clarity and particularity in advance of giving evidence what allegations are made against them;
    - Being able to see and consider in advance the evidence relied upon against them and before giving their own evidence;
    - Being able to rely upon their own formal evidence filed specifically in response to the allegations made against them;
    - Being afforded the benefit of legal advice and potentially also separate representation within the proceedings with the support where applicable of their professional indemnity insurers.

24. Whilst it is true to say that Mr and Mrs A have consistently made serious allegations against the Local Authority (such that they have lied, unlawfully removed the children, and committed a series of crimes) and those allegations are no doubt known in general terms by the social work staff involved, the basic procedural requirements to ensure fairness and just process to those individual social workers have never been satisfied. Nor, having considered the transcripts of evidence, were such allegations clearly and unambiguously put in particularized form during cross examination of Local Authority witnesses. Indeed, senior managers against whom vague allegations are made have not participated at all in the process.

25. That is not to say, of course, that the A family may not have grounds of legitimate complaint against the Local Authority. But different forums exist for the proper and fair determination of such matters.

LAW:

FACT-FINDING:

26. The law to be applied when determining disputed threshold facts is not contentious. It is effectively summarised by Baker J, as he then was, in *A Local Authority v LM* [2013] EWHC 1569 (Fam), with the following core principles being particularly relevant to this matter:

    1) The burden of proof lies at all times with the Local Authority. The parents do not have to prove anything.

    2) The standard of proof is the balance of probabilities.

    3) Findings of fact in these cases must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation.

    4) When considering cases of suspected child abuse, the court must take into account all the evidence and furthermore consider each piece of evidence in the context of all the other evidence. The court invariably surveys a wide canvas.

    5) When determining whether a fact is proved on the balance of probabilities, the inherent probability or improbability of an event remains a matter to be considered.

    6) Whilst appropriate attention must be paid to the opinion of [medical] experts, those opinions need to be considered in the context of all the other evidence. It is important to remember that the roles of the court and the expert are distinct, and it is the court that is in the position to weigh up the expert evidence against its findings on the other evidence. It is the judge who makes the final decision.

    7) The evidence of the parents and any other carers is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability.

    8) It is common for witnesses in these cases to tell lies in the course of the 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, and the fact that a witness has lied about some matters does not mean that he or she has lied about everything (see *R v Lucas* [1981] QB 720). The court must also note the Court of Appeal's more recent exposition of the *Lucas* direction in *Re H-C* [2016] EWCA Civ 136, in which McFarlane LJ emphasised that the fact an individual has lied on a material issue is not itself direct proof of guilt.

SECTION 31 THRESHOLD

27. The threshold criteria is set out in s 31(2) of the CA 1989:

(2) A court may only make a care order or supervision order if it is satisfied—

(a) that the child concerned is suffering, or is likely to suffer, significant harm; and

(b) that the harm, or likelihood of harm, is attributable to—
(i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or
(ii) the child's being beyond parental control.

Both limbs of the threshold criteria must be satisfied:

- The child must be suffering or be likely to suffer significant harm; and
- The harm must be attributable to the care given to the child not being what it would be reasonable to expect a parent to give or to the child being beyond parental control.

28. Taking the requirements in turn, 'harm' is very widely defined in s 31(9) as the 'ill-treatment or the impairment of health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another'. 'Ill-treatment' includes 'sexual abuse and forms of ill-treatment which are not physical.' Importantly, as made clear by the Supreme Court in *Re B (Care Proceedings: Appeal)* [2013] UKSC 33, this includes emotional harm caused by the parents' behaviour and/or particular personality traits. 'Health' includes both physical and mental health. 'Development' means 'physical, intellectual, emotional, social or behavioural development'.

29. As to whether the harm is 'significant', section 31(10) provides that where the question of whether the harm suffered is significant turns on the child's health or development, then the child's health or development should be compared with that which could reasonably be expected of a similar child. 'Significant' is not otherwise defined by the legislation. The threshold criteria was considered at length by the Supreme Court in *Re B (Care Proceedings: Appeal)* (above), in which Baroness Hale cited as helpful the ordinary dictionary definition of 'significant', which demands that the harm must be 'considerable', 'noteworthy', or 'important'.

30. As regards the second limb of the threshold criteria: that the harm is 'attributable to the care given to the child not being what it would be reasonable to expect a parent to give', it was again made clear in *Re B (Care Proceedings: Appeal)* (above), that the care must fall below an objectively acceptable standard. We are not concerned here with questions of blame or culpability.

EDUCATIONAL NEGLECT:

31. It is clear from the case law that a failure to ensure adequate education of a child can constitute grounds for significant harm under the s 31 threshold. The issue of educational harm was addressed by Mr Justice Ewbank in *Re O (a minor)* [1992] 4 All ER 905, a case concerning truancy:

> It is said on behalf of O and her parents that the conclusions that her intellectual development and social development are suffering significant harm are unjustified. It is said that the conclusion is speculative and that being at home it is not established that she has suffered in her social and intellectual development. This I have to say seems to

> me to be a totally unrealistic approach to a case of truancy. In my view it was entirely open to the magistrates to come to the view, as they did, that O's intellectual and social development was suffering and was likely to suffer, and that the harm which she was suffering from or was likely to suffer from was significant.
>
> If a child does not go to school and is missing her education it is not difficult to draw the conclusion that if she had gone to school and had not truanted she would have improved her intellectual and social development.
>
> In relation to whether the harm is significant on behalf of O it is said that the comparison which has to be made is with a similar child under s 31(10) and that there is no evidence that she has suffered harm compared with a similar child.
>
> In my judgment, in the context of this type of case, 'similar child' means a child of equivalent intellectual and social development, who has gone to school and not merely an average child who may or may not be at school. In fact what one has to ask oneself is whether this child suffered significant harm by not going to school. The answer in my judgment, as in the magistrates' judgment, is obvious.

32. On the question of whether educational harm is 'attributable to the parents' (within the context of a child refusing to attend school), Mr Justice Ewbank held in clear terms that where a child is suffering harm in not going to school and is living at home it will follow that either the child is beyond her parents' control or that they are not giving the child the care that it would be reasonable to expect a parent to give. As was said by Lord Denning MR in *Re D J M S (a minor)* [1977] 3 All ER 582: "If a child was not being sent to school or receiving a proper education then he was in need of care."

WELFARE:

33. If the threshold for the making of public law orders is crossed, then whether the court should make the orders sought is a question relating to the children's upbringing and the children's welfare is thus the paramount consideration. Section 1(4) directs the court to have particular regard to the welfare checklist in s 1(3). Crucial to the court's assessment of welfare is the Local Authority's care plan in which is set out their permanency plan.

34. The court also has at the forefront of its mind that the Article 8 rights of both the parents and the children are engaged. Any orders the court makes must be both necessary and proportionate to the risks of harm identified.

35. In undertaking the welfare analysis, the court also reminds itself of what was said by the then President in *Re B-S* [2013] EWCA Civ 1146, namely, that the court must consider all the options which are realistically possible, carrying out a proper balancing exercise in order to determine whether it is necessary to make a care order as sought. The advantages and disadvantages of each option must be carefully considered.

GUIDING PRINCIPLES:

36. Before turning to the evidence and the court's decisions, the court will first set out the fundamental principles which have underpinned its decision-making.

FAMILY AUTONOMY V'S PROTECTION OF CHILDREN:

37. In English law the balance between our respect for private autonomous family life and protecting children from harm is encapsulated in the threshold criteria in s 31 of the CA 1989. As set out above, this court can only make a final care or supervision order if it is satisfied that when the LA first intervened on 30th July 2020 the children were suffering or were likely to suffer significant harm and that harm is attributable to the care provided by their parents, not being reasonable to expect a parent to give. Only if that threshold is established does this court have jurisdiction to make any kind of public law order interfering in the private family life of Mr and Mrs A and the children.

38. In understanding what significant harm may mean, it is important to remember that the child is not the child of the state and we embrace a rich diversity of values and lifestyles in the way we raise our children. As Baroness Hale says in *Re B (Children) (Care Proceedings: Standard of Proof)* [2008] UKHL 35:

> Taking a child away from her family is a momentous step, not only for her, but for her whole family, and for the Local Authority which does so. In a totalitarian society, uniformity and conformity are valued. Hence the totalitarian state tries to separate the child from her family and mould her to its own design. Families in all their subversive variety are the breeding ground of diversity and individuality. In a free and democratic society we value diversity and individuality.

Those words echo the much-cited words of Hedley J in *Re L (Care: Threshold Criteria)* [2007] 1 FLR 2050:

> Society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent. It follows too that children will inevitably have both very different experiences of parenting and very unequal consequences flowing from it. It means that some children will experience disadvantage and harm, while others flourish in atmospheres of loving security and emotional stability. These are the consequences of our fallible humanity and it is not the provenance of the state to spare children all the consequences of defective parenting. In any event, it simply could not be done.

39. Bearing these principles in mind, the line between respect for family autonomy, diversity and choice on the one hand and state intervention to protect the safety and welfare of children on the other, sits at the point of a child suffering significant harm.

PROPORTIONALITY AND THE PROVISION OF SUPPORT AND SERVICES UNDER A CARE ORDER:

40. If significant harm is established and the State has jurisdiction to intervene, then again, as set out above, well established principles drawn from the Children Act 1989 and our obligations under the European Convention on Human Rights, provide:
    - The child's welfare is paramount;
    - The court should only make an order if it is better for the child than making no order at all (s 1(5) of the CA 1989);
    - The orders the court makes must be proportionate to the risks identified.

41. In that regard, a care order can in appropriate cases be a positive vehicle by which the Local Authority and parents can work together in partnership, sharing parental responsibility with a child placed at home, to support and promote family life rights and ensure all of a child's needs are met. However, it must always be borne closely in mind that a care order is a very significant, draconian interference into family life and is an order which confers significant power and authority on the state over the family.

42. Whilst seeking to avoid any inappropriate gloss on the statutory provisions contained within the Children Act 1989 which make a child's welfare the paramount – and thus only - consideration, it is well established in the case law that it would be wrong in principle (and contrary to the child's welfare) for the courts to impose an otherwise overly intrusive, oppressive and disproportionate order on families, to secure the delivery of support and services by the Local Authority. The court makes that observation acutely aware of how tempting it might be to make a care order in such circumstances, when one is fully aware of the reality of the resourcing constraints on local authorities, the prioritisation of resources that result and the court is anxious to ensure the child in the individual case has the support and services he or she so clearly needs.

43. These principles are robustly encapsulated in the recommendations of Keehan J's Public Law Working Group:

> If the making of a care order is intended to be used as a vehicle for the provision of support and services, that is wrong. A means/route should be devised to provide the necessary support and services without the need to make a care order. Consideration should be given to the making of a supervision order, which may be an appropriate order to support the reunification of the family.

The clear message that emerges from the case law and the Public Law Working Group is that responsibility must rest with the Local Authority to ensure that essential support and services are provided to a family outside the framework of a care order if a care order would not otherwise be necessary nor proportionate.

44. Any suggestion that the only means by which BA and CA can continue to receive the educational and therapeutic support they need is from Yellow House and the Virtual School as looked after children, and by extension, this forms part of an argument in support of a care order, must therefore trouble the court. If that is what the children require, those services must be provided by the Local Authority by alternative means.

THE IMPORTANCE OF EDUCATION:

45. Finally, the issue of BA and CA's education has come to dominate the final stages of these proceedings. It is of central concern to their future welfare. So why does education matter?

46. Education is the right of the child and it is the reciprocal duty of the parent to provide it. It is the means through which a child's own individual identity, developing autonomy and capacity is promoted and secured. It ensures the child has an open future: that the child does not become the mere creature of either the parents or the state. In other words, it is through education that the emerging adult is able to exercise

meaningful choice; in other words, is able to become an autonomous self-determining being.

47. The right of every child to an education, and the corresponding duties and responsibilities of the parent, is enshrined in English law in s 7 of the Education Act 1996. Section 7 provides:

> It shall be the duty of the parent of every child of compulsory school age to cause him to receive efficient full-time education, **suitable to his age, ability and aptitude** and to any special educational needs he may have either by regular attendance at school or otherwise.

Education is therefore compulsory. Mainstream schooling is not. Neither is the delivery of the national curriculum. But every child must receive an education 'suitable to his age, ability and aptitude' or the parents fail in their fundamental duty to the child. Whilst reasonable people in a diverse and open society may reasonably differ as to what an efficient full-time education should ideally look like in meeting the developmental needs of a child, if the child's right to an open autonomous future is compromised, the child's right to an efficient education is being denied.

48. As noted above, it is clearly established in the case law that a child not receiving an efficient full-time education is likely to suffer significant harm in terms of their social and intellectual development within the meaning of the s 31 threshold criteria.

EVIDENCE:

49. As the final hearing proceeded as a composite hearing, the court will deal with the relevant evidence pertaining to both threshold and welfare before turning to its decisions.

MEDICAL EVIDENCE:

DR N, A MEDICAL CENTRE

50. A detailed letter dated 1st March 2021 was filed by the family's GP, Dr N. He did not give oral evidence.

51. The letter records from AA's medical notes that the first telephone review regarding her skin condition was 19th June 2020. The review was with an advanced nurse practitioner. Her records document a history of undiagnosed psoriasis. She had suffered from patches and thick plaques to her knees but it had settled and improved. She had experienced changes to her nails and hair loss and her father was worried it was an auto-immune condition. The nurse requested blood tests and for Mr A to send nail samples.

52. The blood results were returned on 2nd July 2020. On 6th July 2020 there was a telephone consultation with Dr S. The documented history was that the problem had been ongoing for 4 -5 months and was getting AA down. Dr S requested photographs.

53. On 7th July 2020, Dr S reviewed the photographs and requested a face to face appointment. On 14th July 2020, AA attended a face-to-face appointment with Dr I, a registrar. He sought advice from Dr N due to the complexity of AA's presentation and her pulse going up and down. It is recorded that AA had extensive red patches/rash all over her face and erythematous all over her upper limb and hands. She refused a blood pressure test. The notes record that Mr A was unhappy throughout the consultation and wanted to know why they were brought in. Dr N questioned the diagnosis of psoriasis given the atypical presentation and advised that an urgent expert opinion was appropriate.

54. Dr I contacted the on-call paediatric consultant for an urgent opinion. The paediatrician requested an examination of AA's abdomen but that was declined. AA and Mr A were offered a rapid access clinic appointment at the Child Assessment Unit the following day, 15th July.

55. On 16th July Dr N followed up on AA's progress. When told she had not attended the rapid access clinic appointment he spoke to Mrs A. Mrs A complained about the appointment at the GP on 14th July and accused Dr N of being very loud and rude and not being very nice to Mr A or AA. Mrs A reported that AA had been very distressed so did not attend the rapid access clinic appointment. Mrs A informed she had spoken to the CAU and reorganised the appointment.

56. The GP's surgery had no further direct role in the treatment of AA.

DR BIRCH:

57. Dr Birch filed a witness statement dated 9th September 2021 (prepared without the benefit of her clinical notes) and gave oral evidence. The court also has the benefit of her original clinical note and there are no material discrepancies.

58. Dr Birch was a trainee GP at the Royal Stoke University Hospital and the first doctor to review AA in the Child Assessment Unit on 21st July 2020. She presented with a history of worsening psoriasis. Dr Birch recalls that she appeared younger than her age, timid and quiet and was dressed unseasonably in a warm hat and coat. She describes Mr A as talkative and pleasant. She recalls that Mr A answered most of her questions although she tried to direct some questions to AA. Mr A was critical of the GP who referred them to CAU and gave her a letter of complaint he had written. Dr Birch considered this behaviour unusual.

59. Mr A gave a history of AA being unwell for the preceding few months and due to being unhappy with the GP practice minimal medical attention was sought. She says Mr A told her that he knew a lot about psoriasis and its management as his father struggled with psoriasis. She recalled him mentioning that natural remedies such as drinking Kefir milk was an excellent treatment for psoriasis.

60. Upon clinical assessment she says AA appeared very slim, almost frail. Clinically, her psoriasis was severe. She was diffusely erythematous with widespread severe psoriatic lesions and active dry, peeling skin. Her hair was thin with bald patches. Dr Birch recalls that when AA removed her hat some hair also came off with it. She

describes AA as being uneasy removing her coat and so she did not examine her chest. She examined her lower limbs. She says that she has never seen such a severe case of erythrodermic psoriasis and knew immediately that she needed admitting to hospital and urgent review by the dermatology team. There were 'red flags' regarding her presentation.

61. Dr Birch says she reviewed AA with the paediatric registrar (Dr Band) due to her concerns and then referred her to the on-call dermatology consultant. She informed AA and Mr A that it would be a wait to be reviewed and she would almost certainly need to stay in hospital. She reports that Mr A grew unsettled and didn't want to wait. He was unhappy about the delay and she had to convince him to stay a bit longer.

62. Dr Birch says she was updated by Dr Band who was present at the consultation with Dr Wong (dermatologist) and was told that AA would be coming for daily review by the dermatology team in CAU. She reports being surprised but was told that Mr A did not want AA to be admitted to hospital and this was a compromise. She says there was no indication that anything untoward occurred during the consultation with Dr Wong who was chaperoned by AA's father and two female medical professionals.

63. In summary, Dr Birch says that this was a memorable encounter due to Mr A's behaviours. In her opinion he did not seem to understand the seriousness of AA's condition and she felt something was 'off'.

Assessment:

64. Very oddly, both Mr A and AA say they do not remember being seen by Dr Birch on 21st July 2020, despite Mr A making reference to Dr Birch in his police interview and Dr Birch being recorded as present on the medical records. However, in the court's judgment, nothing turns on this. It could just be confusion or lapsed memory; certainly, it is difficult to discern any advantage to the case being advanced by the A family by denying her involvement. It is however absolutely clear from Dr Birch's evidence that she did assess AA when she arrived at the CAU and she has a clear and detailed – indeed vivid recollection - of the consultation and her discussions with Mr A. As a professional witness, she has absolutely no reason to lie or mislead the court and is clearly not fabricated by the Local Authority. The court found her to be a credible and reliable historian of fact.

DR WONG

65. The court has the benefit of Dr Wong's clinical note completed on 21st July 2020 and the contemporaneous medical note completed by Dr Band who accompanied him when he saw AA. He also gave oral evidence.

66. Dr Wong records the presenting history as the patient having developed several months of scaly red rash with the rash being very extensive. There was no reported previous history of skin problems in childhood. The problems had developed recently. There was a strong family history of psoriasis.

67. Dr Wong records that AA was very withdrawn and refused permission for them to examine her. Mr A is recorded as insisting that they follow her feelings. He was

therefore only able to see her hands and right forearm and part of her face. His initial impression was that she was suffering from icthyosiform erythroderma, extensive red skin and large scaling. The cause was unclear. He also notes early ectropian over both eyes.

68. Dr Wong advised that AA be admitted but that was refused by both AA and Mr A. He says he explained the possible causes of erthyroderma and its seriousness. He also advised of the need for close fluid and temperature monitoring. He was however unable to persuade AA and Mr A to stay. He therefore consulted with Dr Kumbattae over potential safeguarding issues. He accepts he did not say in explicit terms – either in front of AA or having drawn Mr A aside - that the condition could be life-threatening. He was however clear as to the urgency of the situation and its seriousness.

69. In terms of treatment, Dr Wong prescribed application of 50/50 WSP on the whole body and advised she needed close review by paediatrics and dermatology. It was eventually agreed she could go home with daily review in the CAU.

Assessment:

70. The court found Dr Wong to be a clear, careful and balanced witness who demonstrated genuine concern and empathy for AA and the distress around her presentation at hospital on 21st July 2020. He was an impressive professional witness.

DR KUMBATEE

71. Dr Kumbattae was the on-call Consultant Paediatrician at the CAU when AA was seen on 21st July. She filed a letter detailing her involvement for the proceedings in the High Court before Mr Justice Hayden. She also gave oral evidence before this court. She confirmed that both Dr Birch and Dr Band were involved in the assessment and treatment of AA on 21st July.

72. Dr Kumbattae records that on the request of Dr Wong and noting the seriousness of the skin condition, she had a detailed discussion with Mr A and again stressed the seriousness of the skin condition and the negative consequences in delaying the treatment. She requested that AA be admitted to start the needed treatment and monitoring. Mr A again refused immediate admission but agreed to bring AA back to CAU for a daily review by the dermatologist and agreed to admission if there was no improvement. Dr Kumbattae says she expressed disappointment at his unwillingness to agree to immediate admission. Clear instructions were given regarding the treatment plan whilst on ward leave and steps to be taken if there was any deterioration in her condition.

73. AA was not brought back to CAU for the review as planned on the following day. Dr Kumbattae records that she was unable to contact the family over the telephone despite multiple attempts. She confirms that Mrs A contacted her Registrar later that day and told her that AA was distressed as a result of the hospital attendance and she was not willing to bring her for review. Mrs A also told the Registrar that they were not following the treatment plan because they were concerned about the side effects.

74. Dr Kumbattae was extremely concerned about the family's reluctance to engage with the treatment plan despite being given a detailed explanation of the seriousness of AA's condition and therefore made a referral to children's services.

Assessment:

75. Dr Kumbattae was a clear, careful and balanced witness who remained firm as to the urgency and seriousness of AA's presenting condition on 21st July 2020 and the very high level of concern amongst the treating clinical team. She was similarly firm as to the steps taken by the medical team to provide clear and detailed explanations to Mr and Mrs A as to the urgent need for admission and treatment. Although she also accepted that she did not say in explicit terms to either Mr A or AA that AA's condition may be life-threatening, the court is satisfied on her evidence that she made very clear that this was a serious condition and admission and treatment was required as an emergency. The agreement that AA could go home on 'ward release' was not the preferred plan but they were seeking to try and work with AA and Mr A. She was also clear that Mr A did not seek to assist the medical team in encouraging AA to accept the need for examination, admission and treatment. Similarly, she was clear that Mr and Mrs A objected to the prescribed treatments and said they wouldn't use them.

76. Dr Kumbattae was in my judgment an impressive, credible and reliable witness. The court is satisfied both Dr Wong and Dr Kumbatee acted entirely properly and professionally in trying to ensure the necessary and optimal medical treatment for AA.

DR CRAVEN

77. The court also notes for completeness that it has read and considered the letter dated 1st August 2020 from Dr Craven, a dermatologist who provided a private telephone consultation to Mr and Mrs A through Nuffield Healthcare and considered photographs of AA's skin supplied by the parents. He records the history given by the parents as skin problems having started earlier in the year with localised patches of rash on elbows and knees but having spread to become much more extensive over her head, body and limbs. The affected areas are described as bright red, sore, tight and scaling. Her nails were abnormal and developed some hair loss. They also reported pain in both knees, although one knee has now settled, and initial weight loss as skin flared up but that she was now re-gaining weight.

78. From the photos he records significant swelling of some of the joints in her right hand and notes the nails on the right hand and her left foot are abnormal. There are large quantities of scale that have been shed, with the same rash over the whole body.

79. Dr Craven notes that the rash is consistent with psoriasis and she is due to see a rheumatologist. He further notes that she is currently an inpatient under the care of the dermatology team and therefore as she is under the care of another specialist he will not take any direct involvement in her ongoing treatment.

80. Dr Craven's letter does not take matters any further forward as he effectively defers to AA's treating specialist.

DR TABOR

81. Dr Tabor is a consultant paediatrician with a sub-speciality in paediatric rheumatology. She is AA's current treating clinician. She provided an initial letter/report for the court dated 13th August 2020 and subsequent updates. She first met AA on 10th August 2020.

82. Dr Tabor records from her initial consultation on 10th August 2020 that AA reported suffering psoriasis for many years (albeit she accepted in oral evidence that was a possible mistake in her recording) with plaque psoriasis predominantly around elbows and knees. AA reported a deterioration in lockdown but denied any joint symptoms or early morning stiffness. She reported that there was no discomfort with exercise, she could easily mobilise, there were no difficulties in day-to-day living or with her fine motor skills.

83. Dr Tabor's clinical findings were however notably different from AA's reported symptoms. There was significant evidence of inflammatory juvenile arthritis, predominantly in the small joints: the fingers of both hands, toes, knees, ankles and wrists. The joints were swollen and there was some restriction in movement, although she was able to fully straighten her joints and the swelling didn't really interfere with the function of her hands.

84. Dr Tabor reports that is difficult to say how long the arthritis had been there. In her view, a degree of widespread arthritis is likely to have been present for around 3-12 months prior to presentation but it is difficult to be sure given the lack of reported symptoms.

85. Dr Tabor gives a diagnosis of juvenile psoriatic arthritis and psoriasis. She explains that both are auto-immune conditions, and the extent is such that AA will need to take immune suppressive medication. Untreated, active arthritis can cause joint damage and destruction with pain and decreased movement and function of the joints. If properly treated the arthritis can be controlled, reducing the inflammation and risk of long-term damage. She could continue her normal daily activities.

86. The initial prescribed treatment was Naproxen (NSAIDs) and Lansoprazole (protects stomach). AA initially responded well and within a few weeks had significant improvement. However, on October 3rd 2020 she needed to be commenced on oral Methotrexate, a disease modifying anti-rheumatic drug that could treat both the skin and the arthritis. At her review on 5th March 2021 her joints were very good with only very minimal traces of arthritis and she was reporting no symptoms or interference in her quality of life or day to day activities.

87. Dr Tabor emphasises that complying with and monitoring the impact of the medication is crucial with blood tests and clinical reviews paramount. Her initial opinion was that the methotrexate would be required for 2–3 years, although events in July 2021 subsequently overtook that advice and AA is now on an alternative medication.

DR PACKHAM

88. Dr Packham is a Consultant Rheumatologist with a special interest in paediatric rheumatology. He is responsible, with Dr Tabor, for AA's current treatment. He provided a letter to the court dated 2nd August 2021 and also gave oral evidence. His evidence was primarily directed at the potential consequences of AA stopping taking her methotrexate which is no longer a live issue before the court. He did however give some important evidence regarding the general management of AA's condition.

89. Dr Packham explained that if not treated, psoriatic arthritis almost inevitably leads to joint damage, increased pain and decreased movement of the affected joints causing physical disability. Over time it is not unusual for increasing numbers of joints to become affected, with continuing risk of damage to those joints. Patients experience fatigue, anxiety, depression and social/employment challenges.

90. With optimal treatment, however, AA's treating medical team would hope that AA's arthritis will remain controlled with no major impact on her daily activities. By reducing the inflammation they reduce any risk of long term damage.

91. Dr Packham was clear that if the current and potential subsequent treatment options for AA's skin psoriasis and psoriatic juvenile idiopathic arthritis were stopped, then it is highly likely that her skin and joint inflammation would return to its previous severe level, with potentially life-long consequences on her health, joint damage and levels of physical disability.

92. Dr Packham is knowledgeable about herbal remedies and, in short, was clear that there is no herbal remedy which controls the damage caused by arthritis. They would however always try and use the least toxic alternative.

93. Both Dr Packham and Dr Tabor stress that they are not going to force treatment on AA. They want to work with her, not against her. The biggest concern would be if AA simply stopped coming to clinic so her condition could not be monitored.

94. Dr Packham confirmed that AA's previous psoriasis flare in July 2020 was truly life threatening.

DR AMARASENA

95. Dr Amarasena is AA's treating dermatologist. She provided a letter to the court dated 4th September 2021. She did not give oral evidence. She confirms that AA has attended all appointments and followed all instructions to date.

MR GRIMES:

96. Mr Grimes is a consultant in oral and maxillofacial surgery who saw BA for the purpose of assessing his medical conditions. He provided a letter dated 22nd October 2020. He reports that there is nothing to suggest BA is suffering from a speech impairment, but his tongue function is compromised. In the long term, his medical

conditions could interfere with oral hygiene and chewing. Mr Grimes recommends a simple surgical procedure which has minimal potential complications.

97. Mr Grimes notes that one of BA's medical conditions is unsightly and could be removed during the same surgical procedure.

98. In general terms, Mr Grimes observes that parents would usually support surgical intervention to improve tongue function, self-confidence and reduce the risk of bullying.

DR KUNNATH

99. Dr Kunnath, a community consultant paediatrician, was instructed within the proceedings to provide a paediatric overview of all four children. His report is dated 6th May 2021. AA refused to engage with the assessment so for AA he could provide only a paper-based assessment. He also gave oral evidence.

100. Dr Kunnath reports that DA is generally a healthy child who is achieving his developmental milestones. He did not have the routine new-born screening for various congenital and genetic disorders, some of which are life threatening and can be controlled by early intervention. He did not have his childhood vaccinations.

101. He concludes that Mr and Mrs A seem to have met DA's basic physical needs but by refusing neonatal blood screening and routines vaccinations, it is his view that parents have put DA at potentially significant health risk.

102. CA is reported to have normal speech comprehension and content appropriate for her age. Her speech clarity was poor, and she had problems with articulation, but the problem appears isolated and there were no pointers towards a social communication disorder.

103. Dr Kunnath reports that CA has a generalised joint hyper mobility with hyper extension and mild flat feet for which no intervention is required. She had difficulties with fine motor tasks which in his opinion was due to a lack of practice rather than any underlying neurological or developmental problems. Eye tests reveal that she needs glasses for reading. He notes it is not uncommon for that to go unnoticed.

104. CA was born by breech and therefore would be regarded as high risk for Developmental Dysplasia of Hips (DDH). At her baby check she was noted to have clicky hips and thus at higher risk for DDH. Undetected DDH can cause damage to the hip joints necessitating future surgeries and significant problems with walking. However, Dr Kunnath confirms that this did not develop into a problem for CA and no action is now required.

105. CA is unvaccinated giving rise to a risk of serious communicable diseases.

106. Dr Kunnath thus concludes that with respect to CA, Mr and Mrs A had met her basic physical needs. However, as with DA, by not providing appropriate vaccinations, CA had been put at a potentially significant health risk. Furthermore, by

not following up on the risk of DDH and not seeking early support for her speech problem, it is Dr Kunnath's view that Mr and Mrs A have not met her global needs. He does however confirm that she does not have a global developmental problem.

107. BA is reported to be a generally healthy boy who is growing normally. He has a very obvious medical condition which is of no clinical significance other than cosmetic. Dr Kunnath confirms that it may be easily resolved if causing psychological or emotional difficulties. He has further medical condition which can interfere with infant feeding and later development of speech production. Dr Kunnath notes that there is no good evidence that the condition can cause significant speech problems but it can impact on articulation and can cause problems later on with adult kissing. The treatment is low risk surgical intervention.

108. On examination BA was in good general health. He presented as happy and showed good interpersonal interactions. He could speak in good, structured sentences but was not able to articulate certain consonants and his speech was difficult to understand. Dr Kunnath opines that the medical condition is unlikely to be the cause of the speech difficulties but has potentially contributed. He recommends a detailed assessment by a paediatric speech therapist and suggests BA would benefit from speech therapy to improve his production and articulation. He identified no underlying neurological or developmental problems. Like CA, BA struggles with some fine motor skills but that is likely to be due to a lack of practice. He would also benefit from an assessment and input from a paediatric occupational therapist.

109. Dr Kunnath concludes that Mr and Mrs A have met BA's basic physical needs but by not seeking early support for his speech problem they have not met his global needs.

110. Finally, Dr Kunnath provides a paper review of AA. He notes that she was diagnosed with psoriasis with erythroderma, psoriatic arthritis, anaemia and ectropian. He explains that anaemia is very common in chronic inflammatory conditions and can occur without iron deficiency. In AA's case her anaemia was compounded by iron deficiency. Ectropian is a condition where the lower eye lids droop downwards and outward causing difficulty in closing the eye. Chronic exposure of the cornea without treatment has the potential to cause excessive drying and inflammation of the cornea leading to scarring and severe and permanent visual problems.

111. Dr Kunnath observes that Mr and Mrs A may have delayed medical attention as psoriasis can flare up and get better on its own. He also notes that it is likely that AA's arthritis may not have been noticed by her parents as her skin all over her body was red and inflamed and she did not complain about joint symptoms.

112. Significantly, Dr Kunnath notes that, on the whole, there is no evidence to suggest that AA's global physical needs were not met prior to hospital admission. He identified no developmental problems. However, Dr Kunnath concludes that by going against medical opinion when she presented to the hospital on 21st July 2020 Mr and Mrs A exposed her to significant risk. Her skin condition could have led her to significant morbidity and even mortality if timely medical treatment was not instituted and delayed treatment of arthritis could have led to damage to joints causing

deformity and chronic disability. Ectropian if left untreated could potentially lead to corneal scarring and severe and permanent visual problems.

EDUCATION PROFESSIONALS:

Jo Softly – Educational Review Officer

113. Ms Softly has filed three statements within proceedings, dated 25th August 2020, 8th September 2020 and 14th September 2020. She also gave oral evidence.

114. Ms Softly's first statement sets out the relevant legal framework on home education. She explains that under s 7 of the Education Act 1996 parents have a right to educate their children at home but the education provided must be suitable to his age, ability and aptitude. In determining the suitability of educational provision, the local authority would consider:

- The effectiveness of literacy and numeracy in relation to a child's ability and aptitudes;
- Whether the education provided addresses issues of progression both intended and achieved;
- Whether the curriculum and teaching have produced attainment in line with national norms for children of the same age but it must bear in mind the s.7 requirement that education is suitable to a child's ability and aptitude;
- Whether there is marked isolation from peers or the environment in which education is provided makes it difficult for a child to learn or make satisfactory progress;
- The education would enable a child to participate fully in life in the UK.

115. Ms Softly confirms that Mr and Mrs A have been home educating their children for 8 years and had been known to the Elective Home Education Service in Stoke since 2014. The last home visit in which the children were present was conducted in May 2016 and the education was considered to be suitable. No concerns were noted. Mr and Mrs A have subsequently provided information and evidence of work when requested. In her oral evidence Ms Softly said they 'lost contact' with the family in 2016, although it was not suggested this was due to any default by Mr and Mrs A.

116. Ms Softly carried out a home visit to view the children's work on Friday 14th August 2020. Mr and Mrs A provided examples of work from GD, AA, BA and CA which was discussed with parents. Following that visit Ms Softly concludes that Mr and Mrs A appear to have provided a full-time education for the children and have paid attention to literacy and numeracy. She notes that the children have also undertaken learning in areas such as science, geography, history, French and design technology and have incorporated educational visits into their learning. They have also grown vegetables as part of that learning. It is noted that Mr and Mrs A provided a range of age-appropriate equipment and there was evidence of progression in some areas of learning and in some of the work seen. Ms Softly, however, concludes that to develop deeper learning in literacy and numeracy and to be in line with their peers, the educational provision would need to strengthened and specialist subject knowledge would be required.

117. During the visit, Mr and Mrs A confirmed to her that it was their intention to send AA, BA and CA to school in September 2020. Ms Softly considered this to be appropriate, observing that whilst thus far Mr and Mrs A appear to have provided a suitable education, she was concerned as to whether the parents had the capacity to meet the demands of education beyond the current level.

118. Ms Softly was then requested to undertake direct work with the children, the outcome of which is recorded in her second, addendum report dated 14th September 2020. This second report identifies discrepancies in what the parents had reported and the children's observed levels of educational attainment.

119. CA was visited on Thursday 27th August 2020. Parents had reported that CA had been working on phonic strategies for reading, developing and sight vocabulary of simple frequently used words, letter recognition and formation. CA could not, however, identify any initial sounds other than 'c' and 'x' and her letter formation was inconsistent and not secure. She could not write her name and did not appear to know any of the letters contained within it. In relation to reading, she was not able to follow a simple sentence being read to her and there was no recognition of common words. Mr and Mrs A had reported that CA was working on the alphabetical order of letters and simple words, but she was not able to order letters and showed no recognition of the alphabet.

120. In relation to maths, Mr and Mrs A had stated that CA was working on numbers to 12, recognition and formation and addition to 10. CA was able to recall numbers in a sequence to 7 but became confused beyond that. She was not ready for the concept of addition.

121. As regards BA, Mr and Mrs A reported that BA had been working on spelling patterns, words and sentence work and comprehension activities based around texts he had read. BA was visited on Friday 28th August 2020. He was able to write his name and form the letters correctly and could identify the initial sounds of most letters in the alphabet. He appeared to rely on phonic strategies to read but was able to blend and segment simple words with support. He did not know the day or the sequence of the days. He could sequence letters with minimal help. Ms Softly notes that it is clear that when BA understands what to do, he can apply his knowledge to independent activities.

122. BA attempted to read a simple story that contained repetitive simple words but needed a lot of encouragement and support to do so. He lacked a sight vocabulary.

123. Mr and Mrs A stated that BA had been working on addition and multiplication, fractions and 2D shapes. BA could count reliably to 100 and was secure with number facts to 10. He could complete simple addition and subtraction but needed support to count in 2's and 10's. He was able to identify simple 2D shapes.

124. Ms Softly concludes that BA clearly has the ability to learn and is quick to develop his understanding but appears to have gaps in his knowledge in literacy and numeracy.

125. As regards, AA, Mr and Mrs A had reported that AA was working on reading comprehension, reviewing fiction texts, grammar and poetry. She was able to read an unknown text with a good degree of fluency but did not self-correct when she misread a word. She demonstrated an understanding of inference and deduction but her writing was immature and she lacked knowledge of the technical aspects of spelling, punctuation and grammar.

126. Mr and Mrs A had reported that in Maths, AA had been working on mental maths, basic number functions, fractions, place value and measurement. AA was able to demonstrate a good standard of mental maths with basic functions but appeared to have no knowledge of place value or different types of numbers such as prime, square or factors. She therefore did not appear to have the fundamental knowledge required to access higher mathematical learning and make progress in line with her peers.

127. Again, Ms Softly observes that AA is clearly a capable girl but appears to have significant gaps in her literacy and numeracy skills.

128. Having assessed all three older children, Ms Softly concludes that there are inconsistencies between the educational provision described by parents and the educational levels CA, BA and AA appear to be operating at. She notes that they are consistently behind their peers in relation to age related expectations but have no additional special educational needs. She thus concludes that Mr and Mrs A have not caused the children to receive 'a suitable and efficient education.'

Assessment:

129. Ms Softly gave clear and frank evidence. The court observes in light of her evidence that the system for monitoring the suitability of home education appears quite fundamentally flawed. Educational review officers have no power to directly work with or assess home-educated children and they are thus dependent on what they are told by parents as to the education being provided. Furthermore, they cannot compel parents to engage with them. The parents must be willing to share the information requested. It is an entirely reactive system.

130. The problems with the service are exemplified by the way in which they engaged with Mr and Mrs A. Mr and Mrs A had properly registered their intention to home educate and complied with all requests made of them. However, Mr and Mrs A received just two visits in eight years and the information provided to Jo Softly on 14th August 2020, when compared with the outcomes of the direct assessment of the children, reveals the flaw of relying solely on parents' reporting in determining if suitable education is being provided. On the basis of Ms Softly's evidence, whether Mr and Mrs A realised it, the education they were providing was seriously deficient.

HOME-SCHOOL LINK WORKER

131. Ms is the home-school link worker and safeguarding lead at the school where BA attended whilst in foster care. She has provided four reports: two whilst BA was in foster care and two reports (dated 9th and 10th March) following the children's

return home. She also gave oral evidence at both the initial and adjourned final hearing.

132. Ms reports that it did not take BA long to settle in and to start to build relationships with other children in the year group, as well as adults. Indeed, she says he made a 'phenomenal amount of progress'. When he first started, she says he could 'just about write his name'. His letter formation was weak, and he struggled to hold a pencil. Ms says he did not know what a sentence was or how to write a sentence. When he started school, he could not read. His knowledge of the wider world was very limited, and he therefore had no experiences to help him know what words meant. Within a few weeks, however, he was able to write in full sentences, understand capital letters and full stops. He was reading books. She describes him as a 'great mathematician' who progressed quickly from just being able to form numbers to working at an appropriate level for a Yr 4 child.

133. Ms considered that BA's medical condition was a barrier to reading and writing. She says he was unable to pronounce words which impacted on his confidence. In her view he needed a speech and language programme from a speech therapist.

134. Overall, Ms describes BA as very obviously a bright, clever boy. She says she has never seen such progress in such a small amount of time. Had he attended school she says he would be working at or beyond his peers. In her view, he loves being at school and soaks up every bit of knowledge. As his confidence has grown, she says he has emerged as a cheeky, happy child with a strong sense of humour.

135. Ms provided updating evidence, following BA's return home and his refusal to attend school.

136. In her evidence, she confirms that BA had not been in school since February half-term. On 28th February Mrs A contacted school to report that BA wouldn't be coming to school because he had a sickness bug. There was a further email saying he was still unwell.

137. On Monday 7th March and again on 8th March school received a message from mother stating that BA was refusing to come to school because he was anxious and didn't want to be apart from his family. On Wednesday 9th March, CA attended school but BA refused to get out of the car. Mr A parked on the staff car park to see if teaching staff could assist. The headteacher spoke to BA. She asked BA what was wrong and why he didn't want to come into school. She asked BA if she could take his seat belt off. BA said no and started to push her hand away. BA was crying. The headteacher asked Mr A if he could take BA's seat belt off and get BA out of the car but he refused because he has been accused of things in the past. It was agreed the school staff would go to the family home the following morning and try and bring him into school. That was not successful.

138. Ms observes that this is extremely unusual behaviour. She says that the BA she saw in the car was not the BA that she has known for the past 18 + months. She also comments on his presentation, saying it was not as good as usual with 'dirt

around his ears'. She said he looked and was acting out of character and it was extremely distressing to see.

139. With respect to CA, Ms confirms that she returned to school on Monday 7th March. Her class teacher has however expressed concern that she seemed to be struggling to concentrate in class, and wasn't the 'happy, bubbly little girl she knew before'. She is described as quieter and not as enthusiastic.

140. Ms sets out that she completed 1-1 work with CA. They completed the 3 houses exercise. In her happy house she wrote that she is happy when she is with mum and dad, brothers and sisters, her toys, her family and her rabbit. In her sad house, she wrote 'when not with mum and dad'. In her house of dreams, she put ice-Cream, a unicorn and she would like two more rabbits. Ms said that she engaged really well with the work and her presentation was good.

141. In her oral evidence at the adjourned final hearing, and despite the school's concerns regarding BA and CA's behaviours and presentation since returning home, she accepted that Mr and Mrs A had worked with the school to try and get BA back into school and that at no time had they said that they did not want the children in school. She also accepted that Mrs A had been proactive in asking for meetings to try and resolve the situation. She denied ever suggesting that AA was actively discouraging BA and CA from attending.

Assessment:

142. Ms was clear and firm in her evidence. Her assessment as to BA's educational levels when he entered school were entirely consistent with the assessments of Jo Softly. She was clearly passionate about BA, his potential and the progress he had made in school. She was unequivocal about the importance of him being in school and was clearly saddened by his refusal to attend school when he was rehabilitated home and his markedly different presentation and responses to them when they were seeking to encourage him to return.

BA'S FOSTER CARER

143. Ms was BA's foster carer. She filed a statement dated 6th September 2021 and gave oral evidence.

144. She gave evidence that when BA arrived at their home on 7th August 2020 he was non-verbal and struggled with toileting and personal care. She describes how they used flash cards to support him to communicate his wishes and feelings. She says he had minimal words and was difficult to understand. Ms says that they supported him to learn the alphabet and to start to form words and within a year he had learnt to read, write and spell and could write in full sentences. He was forming positive peer relationships but remained anxious around new situations with lots of people. If not faced with lots of people she describes BA as chatty and confident. She concurs with the home school link worker that he was thriving at school and enjoys learning.

Assessment

145. Ms was, in the court's judgment, a straightforward witness who gave an honest account of BA's presentation and educational difficulties when first placed in their care. Her assessment of BA's educational levels are entirely consistent with the professional assessments of Jo Softly and Home school link worker. The court notes for completeness that it is satisfied that BA was well cared for and happy in that placement.

PROFESSOR WILCOX

146. Professor Wilcox was instructed within the proceedings to carry out a psychological assessment of the three older children. AA again refused to engage but Professor Wilcox carried out face to face assessments with both BA and CA. His final report is dated 5th July 2021 and he gave oral evidence to the court.

147. Professor Wilcox was provided with a core bundle of documentation, spoke to the children's foster carers and school teachers, undertook age-appropriate psycho-metric tests and conducted clinical interviews and observations (2 hours clinical interview and 2 hours school observation with each child).

148. His clinical observations of BA were that he presented as an exceptionally anxious child who frequently fidgeted and wrapped his hair around his fingers, suggesting that he was unsure of himself. During interview he often chose not to respond to questions but would routinely shake his head and shrug his shoulders. In Professor Wilcox's view he was uncomfortable responding to any questions relating to negative emotions.

149. When asked about his family he talked about his brothers and sisters but did not volunteer information about his parents. He said his parents got on well together and scored their relationship 9/10. In the Family Relations Test, he allocated a number of negative items to 'Mr Nobody'. He reported that he does not hate anyone, that no one in the family gets 'too angry' or physically violent towards him. No items were allocated to AA, GD or Mrs A. When talking about Mr A he said that: 'this person listens to what I have to say', and 'this person sometimes tells me off'. He also commented that Mr A 'makes too much of a fuss of FD'.

150. In the psycho-metric testing he scored in the tenth percentile for vocabulary and abstraction skills which is unsurprising given his more limited schooling. Professor Wilcox considered that he responded in a guarded manner on psychometric measures relating to his psychological functioning, saying he has never experienced any challenges in any areas. His global self-esteem score was within average range with particularly good self-esteem relating to social skills. He was visibly uncomfortable when asked specific questions about his parents. Professor Wilcox described him freezing and being unable to respond.

151. In Professor Wilcox's view, BA persisted in struggling to acknowledge experiencing any negative emotions, reporting scores in the average range relating to anxiety, depression, anger and disruptive behaviour. In his view, BA responded in a defensive manner and was not forthcoming about challenges. His scores suggested a good level of 'resilience'.

152. BA's foster carer highlighted significant concerns relating to BA's anxiety levels as well as features likely associated with PTSD. For example, she described BA as tense, easily startled, hyper-aroused with symptoms including sleeping problems, concentration difficulties, ongoing anxiety and a tendency to panic or confusion. The foster carer was significantly more concerned about BA's wellbeing than the school SENCO who was only concerned about BA's high levels of emotional distress. Both agreed that BA frequently appears anxious or tense, worries a lot and seems uncomfortable in new situations. He is described as very self-critical and will worry about making mistakes. The foster carer noted that BA had been uncomfortable with affection in placement.

153. The clinical observations of CA were that she presented as an exceptionally cheerful and buoyant child. Professor Wilcox considered that she suppressed any negative affect throughout the appointment and was overly compliant. Despite showing signs of visible anxiety (twisting and chewing her hair), she smiled throughout. In Professor Wilcox's opinion CA has developed quite sophisticated strategies to 'charm and disarm' adults around her, such as mirroring their body language. He considered this unusual behaviour for a child of her age.

154. Professor Wilcox considered that she had a more limited understanding than her peers although she nodded and smiled throughout as if she understood. In his view she had an exceptionally limited vocabulary.

155. CA similarly refused to answer questions relating to negative experiences or emotions. She also did not voluntarily offer any information about her parents. When asked, she said they were 'nice'. In the Family Relations Test, she elected to allocate most negative comments to 'Mr Nobody', suggesting that no one in her family makes her feel unhappy, angry or afraid. She said all family members are 'kind'. With respect to Mr A, she said that he 'listens to what she has to say' and 'likes himself the best'. She said her mother 'likes to cuddle her'. She gave a number of cards to FD and said he 'sometimes gets too angry', but would not expand on that comment.

156. In the psycho-metric tests, Professor Wilcox considered that her responses were likely defensive. Her global self-esteem was average, her self-concept score was above average. Her anxiety, depression, anger and disruptive behaviour were all within the average range, albeit her anxiety score was slightly raised. When asked to identify her favourite people she said her siblings, dogs and lastly her parents. She reported that mum is 'nice', and she would like her parents to 'hug me'.

157. CA's foster carer reported that she is hypervigilant and tense and frequently presents as worried and fearful. Professor Wilcox considered that an underreporting of issues is likely related to CA's significant efforts to over-control and mask negative emotions. She presented as so fearful of making mistakes or doing anything wrong that she would not push boundaries or resist requests as one would expect of a child of her age.

158. On the strengths and difficulties questionnaire, the foster carer and the school were agreed that she was close to average in all areas. Both considered that she 'worries a lot' and 'worries about mistakes' and both reported she has trouble with reading, spelling and writing. Her foster carer reported that she has strong fears and

worries about getting sick. She had problems with bed wetting and frequent nightmares.

159. In summary, Professor Wilcox concludes that BA presents as exceptionally anxious and guarded, refusing to discuss or even acknowledge experiencing any negative emotions or thoughts. In his opinion, BA has developed skills when in the care of his parents to mask displaying negative emotions to try and meet his needs. He notes that Mr A has been described as intimidating and overly authoritarian and that the Bible was used for discipline purposes with passages read out regarding being 'judged' and 'Satan'. In his opinion, this is likely to have contributed to BA's visibly anxious presentation whilst instilling in him a significant fear of failure. If BA considers he has failed to live up to these high expectations he has engaged in low level self-harming.

160. Professor Wilcox further notes that Mr and Mrs A appear in the documentation to be preoccupied with raising 'good' children and are proud that they do not act like other children. He observes that by invalidating a child's experience of negative emotions and restricting their expression of such, children do not learn how to appropriately manage or regulate their feelings and that can lead to harmful ways of coping, adapting and acquiring a positive sense of self.

161. BA has experienced a number of significant changes (removal from home, starting school, contact disrupting). Professor Wilcox observes that this will have contributed to his confusion and undermined his identity. He has been exposed to very limited external life experiences and so BA would benefit from support to explore areas of interest to him to assist him to adjust and develop his confidence and personal sense of self.

162. With respect to CA, Professor Wilcox notes that she is similarly guarded whilst presenting as visibly anxious, hypervigilant and tense. She seeks predictability and control. He notes that she goes to great lengths to mask feelings of anxiety and presents as overly compliant and conforming. He considers her to be quite cognitively rigid and has difficulty deviating from the rules. He notes that this is an attachment strategy some children employ to keep themselves safe. In his opinion these attachment strategies have been developed in the care of her parents, as an attempt to appease the adults, but unfortunately make her extremely vulnerable to exploitation by others. She is poorly equipped with the necessary skills to keep herself safe. He also notes that CA has been programmed into traditional female roles which again exposes her to exploitation if she has learned that her voice is not significant, and she must simply accept the social reality perceived by her parents.

163. In terms of the impact of removal on the children, he acknowledges that the process of removal will have been distressing. However, in his opinion that is unlikely to have caused significant mental trauma to the children, because they were moving from an environment where their key care and attachment needs were not met, to a safe, nurturing environment more conducive to meeting their needs. Furthermore, he gave oral evidence that it was not one event that had led to their presentation with features of PTSD but repeated experiences over a significant period of time.

164. Thus, it is Professor Wilcox's view that both children have developed type A attachment strategies whilst in the care of their parents. Typically, for children with these attachment types, he explains that the caregivers have not met their needs and they have learnt that displaying negative emotions will not lead to comfort and care but make things worse. They thus adopt alternative strategies to attempt to have their needs met i.e. CA always happy and smiling.

165. As regards the parenting capacities of Mr and Mrs A and their ability to meet the children's needs, although he had not assessed the parents or even spoken to them, Professor Wilcox was clear that an authoritarian, rigid and inflexible approach, in which there was limited insight and ability to adapt and respond to the children's different and developing needs, would cause them harm. He noted the right of children to develop their own identities and to define themselves, and questioned the extent to which Mr and Mrs A were able to promote the children's own developing autonomy, freedom and choices.

Assessment:

166. Professor Wilcox is an experienced expert witness who is fully cognisant of the limits of his role. However, the court is satisfied that his assessment of BA and CA was compromised in this instance by the unusual context in which his assessment was carried out and the flawed nature of some of the assumptions that underpinned it:

- It is clear that Professor Wilcox was sent only a limited bundle due to the voluminous nature of the documentation filed. It was not clear what exactly he had been sent and read from Mr and Mrs A. He was not of course instructed to assess the parents, but neither was he able to speak to them at all regarding their perception of the issues and the children's presentation. The assessment was therefore unbalanced in that it was overly reliant on the account provided by the LA.
- In reaching his conclusions, it is clear that Professor Wilcox has relied on information provided by the LA that is fiercely disputed by Mr and Mrs A and has not been evidentially established within the proceedings. For example, in reaching the conclusion that the children have developed type A attachment strategies and are unable to develop individual autonomy and identity, reference is made to Mr A as an authoritarian, disciplinarian who uses the bible to threaten and control the children and instil within them a fear of failure. That characterisation of Mr A has not been established on the evidence – and is not the court's experience of him or his relationship with Mrs A and AA. It is also significant that the LA have not pursued a number of their original threshold findings against Mr and Mrs A, including that Mr A was physically violent to BA. In the court's assessment, the threshold allegations as originally drafted but subsequently withdrawn by the Local Authority influenced Professor Wilcox's understanding of the children's home lives prior to removal and [wrongly] informed his ultimate conclusions.
- It is indeed significant that the depiction of the children's lived experiences which runs through Professor Wilcox's analysis is contradicted by what BA and CA say about Mr A to Professor Wilcox. Indeed, it is fair to observe that CA and BA say nothing of concern regarding either parent during the assessment. To the contrary, BA says that nobody in his family gets too angry

or violent and describes his father as somebody who listens to him. It is also notable that in addition to the children making no concerning 'disclosures' about their family, the children do not appear to have returned any concerning scores on the psycho-metric testing (largely being average on most indicators) – all of which, rather than being taken as evidence that the children were presenting as relatively stable and well-adjusted, appears to have been interpreted as the children 'faking good' and not being able to express negative thoughts and feelings.

167. The court does not therefore consider the psychological assessment to provide a reliable analysis of BA and CA's presenting needs. Given the circumstances in which it was carried out, the court does not consider it advances matters for the court.

POLICE EVIDENCE

168. The court heard from two senior police officers who were present at the strategy meeting on 5th August 2020. Before turning to the evidence of the officers, it is instructive to first set out the contents of the discussion at that meeting, as contained within the minutes.

169. Concern was expressed that the children were being sexually abused due to their presentation and reluctance to undress for examination. There were also concerns about the behaviours of Mr A being grooming/controlling and the ability of children to speak freely in his presence.

170. It was discussed whether strategically it would assist to arrest parents and interview them to bolster the Local Authority's case to the court at the next hearing and to enable an opportunity for professionals to speak to the children away from the parents. Dr Sadavarte said she didn't know if the children's apprehension could be because the children are completely isolated from the world but felt it was important to get the opportunity to talk to the children alone. She expressed the view that Mr A is quite over powering which makes it difficult to take the children away from the parents and speak with them separately. Dr Sadavarte did not believe that the children would open up straight away anyway.

171. Ms Owen (allocated social worker) stated she saw CA and BA alone with the named nurse Gemma, and Gemma was making faces etc. in an attempt to get the children to be less anxious. However, she describes BA and CA as remaining sat stern faced not speaking with their back against the wall. Eventually BA did smile and then CA flipped from expressionless to a fixed grin on her face.

172. DCI stated that following the meeting she believed there needed to be an operational conversation to discuss the plan for getting hold of parents and bringing them in for questioning, giving someone the opportunity to speak to the children. She indicated that if one of the options for a bail condition was that Mr A could not go to the hospital to try to get some distance between him and AA, they would agree this unless this would cause AA a level of distress. Ms Owen stated that she believed this was a good idea, although initially it would distress her.

173. DCI stated that from a police perspective they could finish the meeting now and arrest the parents and undertake a thorough search of the home address. All phones and computers could be seized to see if there is anything to support the Local Authority's concerns about sexual abuse. DCI considered the pros and cons of acting immediately or waiting until after the Court hearing, the pro of this happening today being supportive of how seriously the Family Court takes this. Hilary Bridgewater advised that the view of the Local Authority, after speaking to the Strategic Manager yesterday, is that they would like the interviews to take place before the court hearing, because it could help. Ms Bridgewater agreed that forcing the distance between Mr A and AA would be positive.

174. The police then left to attend an operational meeting. It was unclear if the intention was to remove the children with the police exercising their police protection powers. Ms Bridgewater commented that they have PR and would need to discuss with the strategic manager whether they can determine where the children should stay if the parents were held overnight.

DETECTIVE INSPECTOR AND DETECTIVE CHIEF INSPECTOR

175. Both officers were clear in their oral evidence that amongst professionals at the strategy meeting there were significant concerns regarding the safety of all the children and that they were urgent. That was reflected in the involvement of DCI and senior LA managers. DCI understood that AA's skin condition was life threatening and there were factors indicative of sexual abuse. The police were therefore taking it very seriously.

176. It was the view of the police however that there was nothing in the information they were being provided with to merit immediate removal of the other children. She confirmed that they were aware of the ongoing court proceedings, attendance at and outcome of the CPMs and that the children were being seen frequently by professionals.

177. It was accepted that the issue of who would care for the children that evening was created by reason of their decision to arrest. However, both officers were clear in their oral evidence that the decision to arrest Mr and Mrs A was based on operational reasons regarding the police investigation and not a) to effect removal of the children, or b) to achieve separation between the children and Mr and Mrs A so they could be spoken to by professionals. They acknowledged that the latter may be regarded as a benefit of the arrest and any imposition of bail conditions but it was not a reason for the arrest. In any event, DI was clear that it would take time if children were being abused to open up to professionals.

178. What was clear from the police evidence is their high level of concern and how seriously they were taking the situation regarding AA. In considering risk to the other children, they took into account various impact factors that may be indicative of sexual abuse: that the family were isolated, transcient, withdrawn from services, displayed mistrust and hostility to authority and were obstructive towards professionals. There was an absence of the usual professional safeguards with eyes on the children such as teachers and nurses. The children were not engaging or talking and would look to parents before they spoke. The presentation of AA at the hospital:

scared, refusing to undress and apply creams and her wish for her father to stay with her were all indicators of abuse. They also weighed the fact that Mr A was being obstructive and refused to open the door to the social workers on 28th July and refused to say where the children were on 31st July.

179. They confirmed that the primary reason for the arrest was neglect but there were also concerns about sexual abuse and it was a factor in their decision-making. They accepted there was no tangible evidence of sexual abuse but it was noted that these are hidden crimes, often not reported, and the risk assessment must therefore be based on a range of impact factors.

180. In terms of the timing of the arrest, they were aware of the court proceedings on 6th August and could not arrest that day. They either had to take action or delay until after court and they were concerned about the preservation of evidence.

181. The officers were clear that arranging alternative care for the children was the responsibility of the Local Authority. Furthermore, they would not exercise their police powers when an interim care order was in force and when matters were before the court. They would have expected the Local Authority to explore temporary alternative care arrangements.

Assessment:

182. It is clear from the strategy minutes and the oral evidence of the officers that some of the information shared with them was inaccurate:

- AA was not refusing to apply the creams and had been doing so all over her body for a number of days;
- Mr A did not refuse access to the social workers on 28th July 2020;
- The family were not transcient in that they had been living at their last Stoke address for some 3 years.

183. The police were also not told important and relevant updating information, in particular regarding the extent of the parents' cooperation with professionals since the matter had come before the courts:

- They were not told the reasons for the court's decision not to remove the children on 3rd August;
- They were not told the parents were fully cooperating with the initial social work enquiries;
- They were not told no concerns had been raised about the parents' behaviours on the ward;
- They were not advised about the working agreement entered into on 4th August and that the parents were complying with that agreement in terms of allowing daily access by professionals to children and, importantly, the children being seen alone.

The police were therefore left with a false impression as to extent of the parents' hostility and recent cooperation with the Local Authority. DI also confirmed that they

did not know about the earlier requests by the Local Authority for the police to exercise their police protection powers.

184. DI accepted that this information would all have been relevant to their overall assessment of the impact factors and level of risk but remained clear it would not have changed the decision to arrest.

SOCIAL WORK EVIDENCE

HILARY BRIDGEWATER

185. Ms Bridgewater is an experienced social worker and team manager at the Local Authority. It was clear from her oral evidence just how shocking AA's appearance was when she was seen on 30th July 2020 immediately before she was admitted to hospital.

186. Ms Bridgewater says she was extremely shocked when she saw AA and found it very upsetting. She describes AA's head was down. She was in baggy clothing. She was very thin. Her face and hands were very red, and she was shaking. Her voice was very quiet. When she lifted her head her hair was very thin. In her view she was clearly terribly ill and she was in no doubt as to the seriousness of the situation. She believed AA needed immediate hospital treatment. Ms Bridgewater said she had never seen anyone look so ill and had never seen a child look like that in all of her years as a social worker. She appeared so neglected. Ms Bridgewater was shocked and upset.

187. She left the family home shocked and very worried. She discussed with Ms Owen whether they should request a police visit. With hindsight she felt she should not have left the property and should have called the police from within the home. In the end, the delay was such that it was late at night and the distress of removal to hospital outweighed taking immediate action given they were due in court the next day.

188. Ms Bridgewater confirmed that she then called the police again on 31st July seeking for them to exercise their police protection powers. In her assessment, the concerns were increasing. Mr A was not cooperating. He had refused to say where the children were. She was worried about AA's reluctance to apply the creams and there were concerns about electronic devices seen in the property. The children's presentation was also concerning, and they believed there was a pattern of the family moving when there was increased professional involvement. Alarm bells were therefore ringing. In her oral evidence she conceded it was perhaps inappropriate to seek removal by the police that evening given the children were eventually seen by social workers.

189. She confirmed her professional concern that Mr A was trying to groom and manipulate her.

KYLE BEESLEY

190. Mr Beesley, social worker at Stoke on Trent CC, gave oral evidence to the court. He visited the family with Danielle Owen on 31st July 2020. He gave evidence

that there were no immediate concerns for the children and nothing to say they could not stay.

191. Mr Beesley also attended at the family home on 5th August 2020. He confirmed that it was his understanding that he was attending to assist in moving the children to placements because if Mr and Mrs A were arrested there was no one to care. He confirmed that there was no discussion with the parents when they attended the property about alternative carers. FD was told that given Mr and Mrs A were not present the children would be removed. Mr Beesley says that FD nodded and was upset but did not ask him if he was able to care. Mr Beesley was not aware of anyone making enquiries about other adults who could care. He does not recall any approach being made to neighbours.

192. Mr Beesley accepted in his evidence that the children were very upset and distressed at the removal. DA was clinging to FD and he describes CA and BA as silently crying. The children would not engage with him. He noted that it is not however unusual or surprising that they were crying and withdrawn. Mr Beesley also confirmed that BA was very upset when told the following day that he could not go home, and it would be another eleven days before the Judge could decide. BA refused to be in the presence of his foster carer and tried to leave the property.

193. On 7th August 2020, Mr Beesley confirms that there was a call to the Emergency Duty Team by the foster carer very concerned at BA's behaviour and CA's distress. The foster carer described BA as shushing CA and following her around. She said it appeared controlling. The decision was therefore made to separate the siblings, causing further distress for BA.

Assessment:

194. In the court's assessment, both Hilary Bridgewater and Kyle Beesley gave clear, frank and honest evidence. Both accepted that mistakes were made in the decision-making surrounding the children's removal and in the days that followed. Neither attempted to conceal the issues or to defend poor practice. The court is satisfied that they gave a truthful and reliable account of events.

DANIELLE OWEN

195. Danielle Owen was the allocated social worker for the children from the outset of the Local Authority's involvement in July 2020 until shortly before the first part of the final hearing in September 2021. She has filed numerous statements within the proceedings and was the author of the Local Authority's first final evidence, albeit her welfare analysis and recommendations have now been superceded. Her evidence, particularly at the early stages of proceedings, remains important to matters of threshold and in understanding the dynamics of the relationship between the Local Authority and Mr and Mrs A. She gave lengthy oral evidence at the first final hearing.

196. In the Local Authority's initial SWET dated 30th July 2020, the Local Authority applied for an interim care order with respect to AA and interim supervision orders with respect to GD, BA, CA and DA. The concerns set out within

the initial SWET focused on the parents' failure to secure medical treatment for AA. With respect to the other children of the family, the SWET explained that the Local Authority had only very limited information. They were aware of two previous referrals to the Local Authority in 2016: one from the NSPCC resulting in an Early Help Plan, and one from a health visitor in North Wales. The Local Authority's concerns effectively amounted to the fact that the children appeared to be 'invisible' because they did not attend school or engage in health services. It is noted that they are believed to be very religious and live an isolated, alternative lifestyle. DA is described as dirty and BA and CA as not speaking.

197. Ms Owen prepared an addendum statement dated 31st July 2020. It focuses on AA and her medical needs. It gives a detailed description of AA's presentation and how shocking it was to professionals:

> "AA's overall appearance can only be described as shocking. Although AA had her hood up, we could see the front part of her head and it appeared as though she is losing or has possibly lost a lot of hair. AA's bottom eyelids were hanging forward and looked to be swollen. Her hands were purple and blue; again these were swollen in comparison to the rest of what could be seen of her frame. Her fingernails were peeling, with thick, dark blood around and underneath them. AA's skin that could be seen on her face, neck and hands was beetroot in colour, her skin was peeling, flaking and scabbed in places. AA was physically shaking throughout the time that she was in the room. Upsettingly, AA's appearance can only be described in that she looks like a child who is terminally ill and has been badly burned."

198. The impact of AA's presentation on the social workers who visited her is clear from Ms Owen's statement:

> AA's overall presentation was extremely upsetting to see; she is a 14 year old girl who appears neglected, frightened, indeed terrified and traumatised. She appears to have an eating disorder or a lack of food available to her (Mrs A described AA as anaemic) both of which could be a reason for the hair loss; however this is also a complication of Erythroderma not being treated….Her poor presentation cannot be exaggerated or stated strongly enough….".

199. A further addendum statement was prepared for the hearing on 3rd August 2020; this was the first hearing in the care proceedings. The statement sets out the Local Authority's escalating concerns, detailing for example Mr A's refusal to tell them where the children were – other than that they were with a relative - on the day of the High Court hearing before Mr Justice Hayden. The statement does however note that when they visited the family home on 31st July 2020, Mr A was initially reluctant to let them in, but he did then show them around the home and Mrs A spoke 'openly and freely' about her own childhood.

200. It was the oral evidence of Ms Owen that really changed the direction of the case. It was significant in a number of respects:

- Ms Owen said that on 28th July 2020 she visited the family home and informed Mr and Mrs A that having spoken to the dermatologist and paediatrician they had advised that there is a possibility of death should AA not be presented for treatment. They still, however, refused to take her to hospital. That evidence is known to be inaccurate as Mr A was not at home for that visit. Ms Owen had also not spoken to Dr Wong.

- She explained that the concerns that led the Local Authority to change their position between the initial SWET on 30th July 2020 and the application being made on 31st July and to seek an interim care order and removal of the children, was 'a lack of information sharing from parents' and the 'unknowns' surrounding the family. She noted the lack of engagement from parents. The court observes, however, that the social work team had been able to access the family home for visits and Mrs A had spoken to them openly about her past.
- On 30th July 2020, despite Hilary Bridgewater contacting the police after a visit to the family home and seeking for the police to exercise their powers of protection, she did not consider the children were not immediately safe. No immediate concerns or risks were identified.
- On 31st July 2020 she visited the family home with Kyle Beesley. She said she was not aware the police had been asked to exercise their powers of protection. The children were all present at the property and she did not have any immediate concerns.
- She accepted that following AA's admission to hospital, the medical staff were not raising any concerns about parents' behaviour on the ward. There was no suggestion they were trying to interfere with her treatment.
- A visit to the children by the Emergency Duty Team on 2nd August 2020 raised no concerns.
- She accepted that at the hearing on 3rd August 2020 there were the beginnings of cooperation by the parents and concerns were being expressed by the Guardian and the Court as to any unplanned removal of the children.
- She accepted that the ICO was made but with the children to remain at home and with no restrictions on contact to AA.
- She accepted that there was no breach of the interim working agreement and its terms had been fully complied with.
- She denied the strategy meeting was convened on 5th August 2020 with any preconceived expectations as to outcome. The purpose of the meeting was the sharing of information between professionals. She denies the intention of the strategy meeting was to achieve removal or persuade the police to exercise their powers of protection.
- She denied being aware that the strategic manager had asked that if the police were going to act, they did so before the court hearing on 6th August.
- She accepted it was a possibility, following the strategy meeting, that the children would be removed, and placements required.
- She denied the police were asked to take action that evening by the Local Authority. She was clear that it was a police decision.
- She acknowledged the importance of the information shared at the strategy meeting being accurate and up to date.
- Despite the minutes of the meeting being silent, she insisted she did share relevant updating information: that the parents were cooperating; that AA was complying with treatment; that there had been no major issues arising from their enquiries in the last couple of days; and that there had been no immediate concerns since the hearing on 3rd August. That is not supported by the contemporaneous minutes or the evidence of the police.
- She accepted that the strategy meeting speculated on matters of sexual abuse, grooming behaviours and a worrying 'cult vibe' but there was no evidence of

such matters. She accepted that none of those concerns formed part of the Local Authority's initial SWET.

- She denied, however, that she provided a 'misleading' picture to the strategy meeting of what was happening on the ground by failing to set out the countervailing positives.
- She accepted that it was inaccurate to say that AA was reluctant to apply cream to her breasts, bottom and private areas, as she had been doing so for a few days. It was therefore no longer a concern, albeit she denied knowing this at the time of the meeting.
- She accepted it was inaccurate to say the family moved every 3 months, as they had been living in Stoke at their current property for 3 years.
- She accepted that she didn't inform the meeting that Mr A had his own business in Stoke.
- She told the court that she knew the police were going to the family home after the strategy meeting, but did not know for certain they would arrest Mr and Mrs A. She accepted there was a plan to remove the children but it was not known for certain.
- Ms Owens was clear that as an interim care order was in place, if parents were arrested they would be responsible for care of the children.
- The Local Authority had no suitability assessments, so a placement would need to be identified.
- She accepted she did not approach the parents to ask for names of any alternative carers.
- She accepted she did not speak to FD before telling the children they would be removed and they did not believe FD could care. She explained that she reached that view due to Mr A telling them on 3rd August 2020 that it wouldn't be right or fair for FD to look after all the children.
- Ms Owen's position was that there was no time to explore alternative carers or anyone who could support FS to provide care. She hadn't been able to speak to ED and the children had left by the time she arrived.
- She accepted that the Ward were told on 5th August 2020 that AA was not to be discharged and could not be visited by any family member. Her explanation was that the police were involved, and the LA did not know the bail conditions. On 6th August 2020 the Ward were informed by the police that father had bail conditions but mum and other family members were allowed. She accepted that later that day both she and Hilary Bridgewater spoke to the Ward and said no visitors were allowed. She said that direction came from 'higher management', the basis for which was that they were gathering further information and needed to be certain AA was not being influenced and they were able to speak to her alone.

201. With respect to the fraught issue of contact, Ms Owen gave the following evidence:

- Less than a month after the children's removal, the LA made an application under s 34 to suspend CA's contact and to reduce BA's. By this point she accepted that there had been only one, possibly two, direct contacts. The basis for suspending CA's contact was her extreme distress after contact. She was saying she was missing her family and wanting to go home. BA was similarly destabilised after contact. She agreed that the children may well have been expressing conflicted

loyalties: missing their family on one hand but enjoying school and their new life with foster carers. She was unable to identify any work which had been done with the children to support with these issues whilst promoting family time.

- She accepted that on 5th October 2020, BA completed work with Home school link worker at school and told her he wanted to go home but still attend school. Shortly after that he refused all further contact with his parents. She accepted no specific work was done with BA around his feelings of being torn between his family and his new life in foster care.
- She accepted CA was similarly asking to go home to be with her mum, dad and siblings and she continued to consistently express that view into May 2021. Ms Owen could not recall what work was done to try and arrange a direct contact with mum, dad, FD and GD in accordance with CA's wishes and feelings.
- She accepted no sibling assessment was completed. Her justification for this was that the siblings, their relationship and their placements, had been looked at and had been determined in the very initial stages.

202. As regards the working relationship between Mr and Mrs A and the Local Authority:

- Ms Owen accepted that no steps were taken to arrange for parents to be involved in discussions or decision-making regarding AA's medical treatment. She said that parents were updated but it was difficult due to the pandemic.

- She was aware parents did not consent to the children being immunised. She confirmed she did not discuss the immunisations with the parents, believing the legal department would do so. She did not inform the parents either before or after the immunisations had taken place. She accepted it was BA who told his parents during contact and that she only confirmed the children had been vaccinated in a statement to the court some 4-5 months later.

- She confirmed she had no direct contact or discussion with the parents throughout the majority of her time as the allocated social worker. She explained that it was decided she would provide weekly updates to parents, which were communicated through the legal department. She had no discussion with them, for example, about Dr Kunnath's report with respect to the children's medical needs, including BA's medical conditions.

- She confirmed that prior to making the application to the High Court in July 2021 for AA's methotrexate to be administered by injection, she had no discussion with the parents and no discussion with the treating clinical team, who, it transpired, did not consider it to be urgent and something that couldn't be worked through with AA. No meeting was arranged involving the parents after the hearing.

- She confirmed that there had been no discussion with parents around education and how important it was for BA and CA and how they had thrived in mainstream school.

- She explained that the lack of direct communication was in part because she had been told she was causing Mrs A stress and making her unwell.

Assessment:

203. The content of Ms Owen's evidence was undoubtedly concerning; as was the tone in which it was given. Unusually for a professional witness, she was at times evasive and defensive. In the court's judgment, she demonstrated little empathy or concern for the impact of the Local Authority's decision-making on the parents and the children, and demonstrated limited capacity to reflect on where things had gone wrong and things could, and should, have been done differently.

MS PEERS – NEWLY ALLOCATED SOCIAL WORKER:

204. Ms Peers became the newly allocated social worker following the first aborted hearing in September 2021. She has filed a number of updating statements, is the author of the revised final evidence and gave oral evidence to the court at the adjourned final hearing.

205. Ms Peers has filed a number of updating statements detailing progress since the adjourned final hearing in September 2021.

206. On 1st October 2021, AA returned to her parents' care. AA settled well and parents appeared to be meeting all her needs. There have been no concerns regarding her health care. Unfortunately, she suffered a significant flare up of her condition but she attended all of her health appointments supported by her parents and her skin condition and arthritis is being managed well.

207. Her educational progress has been less positive. Ms Peers reports that initially AA and her parents agreed that she should continue to attend the farm and Intuition - the educational provision she attended in foster care. However, almost immediately after returning to her parents' care, AA and parents were reporting that she was too unwell and conscious of her presentation to attend. Arrangements were made with Intuition for her to attend one hour per day after the other children had left, however she only attended one session. Her attendance by March 2022 was just 17%.

208. AA, supported by parents, decided in March 2022 that she no longer wanted to attend school. A C2 application was made for her to come off roll at Intuition and to be privately home tutored. That is now the settled position.

209. DA returned to his parents' care on 2 November 2022. He has consistently attended nursery. Staff report that he presents well and attends nursery with all items needed. Mrs A communicates well with them. Nursery report that DA is developing well and has grown in confidence. He has built some lovely friendships and enjoys playing with other children.

210. The social work visits to DA have all been positive. The interactions between DA and his parents have been observed as positive and there are no concerns.

211. The situation regarding BA and CA has been much more difficult to resolve, with significant ongoing concerns.

212. Following the first part of the final hearing there was significant focus on trying to restore contact between the children and their family. The foster carers were however reporting increasing levels of distress and resistance by the children:

- On 6th October 2021, BA's foster carer reported that BA had said he did not want see his parents as his Dad slapped him every week. BA said that his Dad would not let any of the children go to school if they went home and that his dad had always told him that schools teach lies about the world.

- On 20th October 2021, BA's foster carer contacted Ms Peers to say that DA's foster carer had told her about DA's increased contact at home. She had told BA who had not spoken for an hour and a half and was slamming doors. BA's foster carer reported that he did not feel that he was being listened to.

- On 21st October 2021, Ms Peers visited BA in school. He handed her a letter which said:

'I am feeling angrey that DA going back to mum and dad, oh and the jud is not lising to me so my last leeter said that why DA karnt go back to mum and dad from BA ps I want my [medical conditions] dun and tell mum and dad that I hate them thanks you'.

213. On 3rd November 2021, the social work team met with BA and CA's foster carers to discuss the importance of encouraging contact between the children, their siblings and parents. Later the same day, the homeschool link worker from BA's school contacted Ms Peers to say BA was crying about attending sibling contact and indicated he did not enjoy attending. The social work assistant went to collect BA from his foster carers to take him to sibling contact at Mcdonalds in Stafford. BA refused to attend.

214. Mr and Mrs A began to express increasing concern about the foster carers influence on the children.

215. On 10th November 2021, there was a positive exchange of letters between parents and CA. On 11th November 2021 a letter from parents was shared with BA. He accepted it but was reluctant to write back.

216. On 17th November 2021, CA's foster carer reported that following Ms Peers' visit to CA on 10 November when the letter was shared from parents, school reported a change in her overall mood and wellbeing. The foster carer also reported that CA spent the afternoon very upset. That was not consistent with CA's presentation during the social work visit itself.

217. Later the same day the social worker received an email from CA's advocate, Mrs Rachel Burchell. Mrs Burchell advised that CA told her that she did not feel that her views and wishes had been listened to. Mrs Burchell said that CA had been adamant that she did not want to see her parents or older brothers FD and GD. Mrs Burchell said it was making her scared and worried that she might be made to see them.

218. On 26th November 2021, CA's foster carer stated that she had been contacted by school to advise that CA was upset with a stomach ache and reporting she was

very tired as she had not slept well because she had been dreaming that her dad was cutting off her hair.

219. On 1st December 2021, a review meeting took place with the children's foster carers to discuss progress. The foster carers reported that BA and CA were both having night terrors regularly, they felt forced into contact, both were stating they did not want to go and felt no-one was listening to them. The foster carers reported it was impacting on their day to day living, their eating habits and also their education.

220. Mrs Eleanor Etherton -Rogers, the Independent Reviewing Officer, observed the meeting and contacted the Guardian to express her concerns regarding the impact on the children of the social worker's direct work and ongoing attempts to promote family time. The IRO advised that she could not support the continuation of the plan to reinstate contact.

221. On 3rd December 2021, a Family Group Conference was held. Ms Peers had concerns about the influence of the support network on the parents and their relationship with the social work team.

222. On 7th December 2021, the Local Authority applied for a further s 34 (4) order to pause contact between BA and CA and their siblings and parents. It was withdrawn during the subsequent court hearing.

223. On 15th December 2021, a sibling contact took place. BA refused to get out of his foster carer's car and his carer said that he had been shouting and swearing on the way. AA and FD went over to the car and sat with him. BA and CA refused to go into McDonalds where the contact was due to take place but sat in the car with AA and FD. BA settled and he and CA appeared chatty with both AA and FD.

224. On 20th December 2021, sibling contact took place between BA, CA and ED.

225. On 23rd December 2021, Ms Peers arranged for sibling contact to take place and for Mr and Mrs A to attend at the end to give the children their Christmas presents. BA's foster carer tested positive for covid and therefore BA was unable to attend. CA refused to attend but did speak to her Mother on the telephone.

226. On 30th December 2021, Ms Peers arranged for sibling contact to take place and for parents to attend at the end of contact. CA refused to attend. BA attended but would not get out of the car. The parents went to the car and spoke to BA. BA was upset and asked to leave.

227. On 5th January 2022, contact was due to take place, BA and CA refused to attend.

228. On 10th January 2022, contact was due to take place. Ms Peers went to collect BA from his foster carers address and the social work assistant went to collect CA from her carers address. Both children refused to get in the car to attend contact.

229. On 17th January 2022, contact was due to take place between CA, BA, FD, DA and AA with parents attending for 10 minutes at the end. CA refused to attend.

BA attended. The sibling contact was positive and parents joined for 10 minutes at the end. BA was quiet and did not engage in conversation, but he did smile whilst in parents presence.

230. On 24th January 2022, contact took place between BA and AA, then parents attended with DA for 30 minutes. CA refused to attend. Sibling contact was positive. BA engaged with parents over his school work, and was able to hug them before he left.

231. On 2nd February 2022, CA moved placements to BA's foster carers. CA showed no distress at the move and immediately settled well. The social worker informed the children they would be going home. BA was clearly upset and would not speak to CA. She did not show any emotion.

232. On 3rd February 2022, both children had contact at home. They were both positive about it and contact went well. They said they enjoyed it.

233. On 7th February 2022, there was a further positive contact at home.

234. On 21st February 2022, BA and CA moved to their parents' care under the interim care orders.

235. In a further updating statement, Ms Peers then details the serious difficulties that had arisen in BA and CA's school attendance and presentation more generally following their return home on 21st February. She records that following their return home, BA and CA initially presented well. She visited on 22nd February 2022 and CA and BA seemed happy, engaged well with her and the atmosphere was positive. There were no concerns.

236. Things then quickly began to unravel. On 4th March 2022, the parents received a letter for a consultation with Mr Grimes to discuss surgery for BA's medical conditions. Mr and Mrs A immediately emailed a letter written by BA stating that he did not want the procedures. Parents alleged that BA was saying he had been put under pressure by the local authority and the foster carers to have the recommended surgery.

237. On 7th March 2022, CA returned to school, but BA refused. Prior to the 7th March the children had been unwell and appropriate medical treatment sought.

238. On 9th March 2022, Ms Peers reports foster carer reporting that BA 'lashed out' at her when trying to encourage him into school. Father produced a note he said BA had written stating he would never go to school again and wanted a tutor. Mrs A reported that BA had told her that he had never wanted to attend school but his foster carer would grab him into the car and force him to attend. Mrs A also alleged that the head teacher had grabbed him by the wrist that morning.

239. On 9th March, Ms Peers attempted a social work visit to speak to BA. He refused to speak to her, running off from the upstairs to down each time she tried to talk to him. He was shouting: 'NO NO, I'm not speaking to you'.

240. The notes produced by BA, what he was reported to be saying by parents and his refusal to engage with Ms Peers, obviously gave rise to concern that BA was being influenced and engaged directly by the parents in the developing conflict with the Local Authority over his attendance at school and treatment for the medical conditions.

241. On 10th March 2022, the home link worker and the head teacher attended the home to try and encourage BA into school. BA would not speak to them and ran upstairs. Ms Peers reports that later that day Mr and Mrs A wrote to the school and alleged that the home link worker and the headteacher had 'frightened' BA. Again, this heightened the Local Authority's concerns as BA had always had a very positive relationship with his teachers and loved school. Ms Peers was concerned that Mr and Mrs A were not providing clear structure, boundaries and guidance regarding the children's attendance at school. There was a real concern that BA's progress would be lost and a vital part of the safety plan was not being complied with.

242. On 14th March 2022, Mr and Mrs A attended a meeting at the first Primary School. They reported that BA was refusing to attend because he did not want to be away from his family. Mr A said that he was not going to force BA to attend. Mrs A was reporting that although they had been told that BA loved school, BA was saying that he had not been given a choice. Parents were also expressing concern about the practical burden of Mr A and the children travelling to the first primary school from where they live.

243. On 15th March 2022, Ms Peers visited the children. CA was reluctant to talk about school and BA refused to talk to her at all. Ms Peers described BA as seeming sad and completely different to how he had presented before. Mr A asked the children whether they liked school to which they replied 'no'. CA then refused to speak to her.

244. On 16th March 2022, a social work assistant, visited the family home to try and encourage BA to attend school. BA was refusing to put his school uniform on. He shouted 'no' at her when she suggested he could go to school in his own clothes and threw a large piece of lego down the stairs which narrowly missed hitting her. Mrs A repeated that he was saying he never liked school but was forced to go by his foster carer and they had refused to provide him with home schooling.

245. There were also escalating issues in the breakdown of the parents' relationship with professionals. On 23rd March 2022, social work assistants undertook a welfare visit. Mrs A asked if they had an appointment. The social work assistant explained that they did not but they needed to see CA and BA as they were not in school. On the same day Mrs A sent an email to Mrs Chell stating that two of her staff went to their home unannounced and upset and harassed the children. Mrs A stated that the staff members had demanded to see the children and spoke rudely to her. Mrs A said that all visits would now be recorded.

246. On 31st March 2022, staff from the first primary school arranged to visit the family home to see BA. Mrs A informed them via email that they would be recorded. The home link worker emailed Mrs A to advise that they did not agree to being recorded. When they arrived Mrs A was recording them on her phone. BA was seen sat on the sofa with his head down.

247. On 1st April 2022, Mrs A told Ms Peers that there was a breakdown in their relationship with staff at the first Primary School due to the very serious allegations and lies being told.

248. On 4th April 2022, Mr and Mrs A wrote to the court stating that BA was not happy or settled at school and was not willing to attend the first primary school again and they would not force him. Parents stated BA is not happy to be pushed around 'like a dummy'. Parents reported that they were able to oversee home schooling.

249. By early April, the Local Authority thus had significant concerns that BA was not being actively encouraged to attend school by his parents and their intention was to revert to home schooling; that BA and CA were presenting as different children, particularly BA, who was refusing to engage with professionals with whom he had a positive and trusting relationship; and that BA was producing letters suggesting possible encouragement/influence by his parents. Ms Peers was also concerned that any challenge or concern raised with Mr and Mrs A elicited a strong defensive response with allegations being made against professionals and their working relationship with professionals had significantly deteriorated.

250. Following a further court hearing and discussion between the Local Authority and parents, agreement was reached on moving the children's school closer to home and to a school that parents were happy with. BA and CA were enrolled at the primary school and efforts began to encourage them to attend.

251. The Local Authority's final evidence is dated 14th April 2022. The Local Authority confirm their position that following the ISW report, Ms Peers was of the view that if parents had been assessed as being able to meet AA and DA's needs, there was no reason why they would not be able to meet the needs of CA and BA. It was Ms Peers' view that the parents were able to adapt their parenting style to the changing needs of the children and had demonstrated that they are able to meet the basic needs of the children and provide them with stimulation and emotional warmth.

252. However, Ms Peers remained concerned that Mr and Mrs A were not able and willing to engage with services and that they did not understand or demonstrate any insight into the concerns of the Local Authority. Ms Peers reports that since BA and CA returned to parents care it had become increasingly difficult to engage with parents in a meaningful way due to constant allegations, reluctance to let professionals visit the home and their clear views on home schooling. Ms Peers expresses extreme disappointment at parents' stance saying she truly believed that parents would continue to work with her to ensure the children's happiness and welfare. Concerns are also raised about Mr and Mrs A obstructing the children's contact with their older sister, ED.

253. Ms Peers expressed significant worry that if the situation does not change the children are likely to become invisible again and their need to socialise with people outside of the family unit will not be met.

254. The Local Authority thus recommend that BA, CA and DA are made subject to a care order in the hope that the children can remain placed with their parents, the

children will attend school and parents will be able to work with the local authority and accept support. Ms Peers identifies ‘conditions’ that would need to be complied with whilst the children were placed at home under a care order: that the children consistently attend school and nursery; parents engage with professionals; and the children's health needs are met. She also states that parents must allow the local authority to facilitate contact with ED. Ms Peers concludes that if whilst placed with parents the concerns became unmanageable, it may be necessary to reconsider their placement at home.

255. Ms Peers makes clear that she would envisage the care order being in place for an extended, indefinite period. Thus, whilst the local authority would usually consider the discharge of a care order 12 months after it was granted, she says she is unable to say that would be the plan because of the serious concern that the children would not access education and DA would not be enrolled in primary school.

256. It is also clear that the Local Authority have not ruled out future removal if the specified ‘conditions’ are not being met. Ms Peers acknowledges that ‘removal of the children from the family home again would likely have a damaging effect on their well-being, however, if the concerns became unmanageable it may be necessary to reconsider their placement with their parents.’

257. Ms Peers believes that if a supervision order is made it is very unlikely that Mr and Mrs A would work with the local authority. Ms Peers argues that the evidence is overwhelming: whilst subject to an interim care order and placed at home parents have not adhered to the agreements in place and the children's wellbeing has declined. If parents have been unable to work with them under the conditions of an interim care order, Ms Peers does not believe they will work on any level with professionals if the children were subject to a supervision order.

258. Ms Peers identifies and weighs the advantages and disadvantages of each order. In terms of the advantages of a care order, she notes it will confer on the local authority parental responsibility, which will enable the local authority to over-rule parents if necessary. She notes, under a care order, parents are legally required to follow the recommendations and instructions of the local authority in respect to the children, thus ensuring their care and safety. The disadvantages of a care order are acknowledged: care orders at home can become oppressive for families, who have been deemed good enough to have their children remain in their care; and the level of social care involvement can also be intrusive.

259. As regards a supervision order, she notes that the local authority would continue to have some oversight and it would enable them to continue to monitor and support the children. However, she believes Mr and Mrs A would not work with the local authority, and therefore the local authority would not be able to ensure that the children's needs continue to be met whilst in parents’ care. She notes the interim care order has not worked as anticipated, and there needs to be a decent period of time to see if parents engage.

260. Ms Peers is clear that in her view ‘no order’ would not be in the children’s interests. She emphasizes that the local authority would have no oversight or involvement with the children; BA, CA and DA would become invisible to

professionals and the outside world; they would not attend statutory education and their life chances would be diminished; and their development could regress rapidly in all areas.

261. In her oral evidence, Ms Peers reiterated the Local Authority's view that since BA and CA returned home, they have seen a significant deterioration in their presentation, including their refusal to attend school and engage with professionals, and their belief is that without sharing PR the children will not return to school and will suffer a repeat of the harm they have suffered. She said that she fears the children will become invisible again and their medical needs neglected. It is clear the children have a fundamental need for psychological intervention and support given their experiences since removal from their family and she believes the Local Authority can support BA with any anxiety around ongoing Local Authority involvement.

262. Ms Peers filed a final statement due to the adjourned final hearing being further delayed as a result of Mrs A taking ill when giving evidence. In her updated statement, Ms Peers details the ongoing efforts to support BA and CA to return to school and the parents engagement with professionals.

263. On 16th May 2022, there was a meeting with Yellow House (psycho-therapeutic service for looked after children in Stoke). Mrs A did not attend as she was too unwell. Mr A attended. The service will focus for the time being on supporting the children to return to education

264. On 17th May 2022 a visit by the social work assistant was unsuccessful as Mr A did not want them to enter the property because of Mrs A's health and the stress caused by the visits.

265. On 19th May 2022, Ms Peers visited the family home. DA interacted well but there was only limited engagement by CA and BA refused to speak to her. Ms Peers says that Mr A was very quiet during the visit, with limited interaction. Mrs A engaged well. Mrs A advised that Mrs J, the safeguarding officer from the Primary School had been visiting and the children had engaged with her. Mrs A advised that A had been into school with her and AA for half an hour. BA was still completely refusing to go into the school grounds. The virtual school had arranged tutoring (two hours per day for BA and CA) and the children had been provided with tablets so that they could access the online tutoring.

266. On 26th May 2022, a Yellow House meeting took place. Mr A attended alone. Mr A reported that BA was starting to engage with Mrs Walton from the Primary School, and they were building a relationship with their online tutor.

267. On 31st May 2022, Ms Peers visited the family home. Neither CA nor BA would engage with her. DA engaged well. Ms Peers says that Mr A did not communicate with her other than saying hello.

268. BA has attended for a speech and language appointment. They have advised that BA needs to speak slower, and they have given him some speech exercises to complete. Mrs A reported that the children refused to get out of the car at the school's Jubilee picnic and they did not therefore attend. She reported to school that she had

not been able to get the children to walk through the school grounds. They are reported to be engaging well with their online tutor and completing work.

269. On 7th June 2022, 1ACE Virtual, who are providing the online tutoring, emailed the Virtual School raising a safeguarding concern that the children's cameras were not on during lessons. Mr A reported that the camera on the children's tablets would still not work. Ms Peers reports that when she and her manager visited to try and resolve the problem, the tablets had not been set up and were still in the box. Mr A stayed in the garden and did not engage other than to say hello. Mrs A was more talkative.

270. 1ACE Virtual tutoring have completed baseline tests with the children. CA (8.2 years old) was assessed to have a reading age of 6.9 and a maths age of less than 5.1. BA (11.5 years old) was assessed to have a reading age of 9.7 and a maths age of 9.

271. There was a further meeting with Yellow House on 15th June 2022. Mrs A attended the meeting alone. Mrs A reported that she was trying her best to get the children to attend school and putting their uniform out each morning but the children were completely refusing to attend. Mrs A said the children were traumatised and extremely anxious. She said the children were reporting negative experiences in foster care. Mrs A said she would not force them to attend school. Yellow House advised parents that they needed to be encouraging the children to attend and the children needed to be walking onto the school grounds daily. They should not be given the option of staying at home. The therapist advised rather than just accepting the refusal, the parents need to work through the children's anxiety with them, constantly reassuring them that they are safe. Mrs A continues to report that the children have refused to attend to walk on the school grounds.

272. On 17th June 2022 an issue arose with respect to DA's language and play at nursery. It has been resolved between the parents and nursery and he has continued to attend.

273. Underpinning the Local Authority's position is the clear belief that the parents are responsible for BA and CA's changed presentation and refusal to attend school. It is therefore the Local Authority's prevailing belief that they need a care order to have the 'controlling' hand. Ms Peers did however accept that the parents do encourage the children to speak to her when she visits the home, although Mr and Mrs A are now saying they will not cooperate with unannounced visits. She also accepts the children's health needs are being met and parents are engaging with school and yellow house over the children's school attendance.

Assessment:

274. It is important to acknowledge the determined efforts of Ms Peers who assumed responsibility for this case in the most difficult of circumstances to build a positive working relationship with Mr and Mrs A. Throughout her involvement she has remained focused on the needs of the children, successfully rehabilitating DA to his parents' care, and progressing the rehabilitation of BA and CA despite the negative outcome of the parenting assessment and the acute and complex difficulties

surrounding BA and CA's relationship with their parents. Although there still remain concerns about the approach of the Local Authority (as detailed below), Ms Peers should be commended for the work she has done with the family.

NINA CHELL, MANAGER

275. Ms Chell has provided an unusually lengthy analysis as Ms Peers' manager in the final evidence of the Local Authority setting out her position on behalf of the Local Authority. She did not give oral evidence. She states that the local authority were hoping to conclude proceedings with BA, CA and DA being made subject to supervision orders. She notes that if children are at home with their parents a care order should not be needed. However, she states that after careful consideration the local authority no longer deem this a viable option as parents have failed to engage fully with the local authority whilst the children have been subject to interim care orders and there remain a number of significant issues regarding the care afforded to them. She therefore argues that there are exceptional circumstances in this case. In particular, Ms Chell believes the behaviour of Mr and Mrs A since the children have returned to their care demonstrates they would under no circumstances work with the Authority under a supervision order.

EVIDENCE OF SAM MCDONALD
STRATEGIC MANAGER

276. Ms McDonald filed a statement dated 22nd April 2022. She did not give oral evidence. Ms McDonald sets out the balancing exercise the Local Authority have carried out in supporting the children remaining at home under a care order.

277. She states that the Local Authority concerns remain: the lack of overall engagement by Mr and Mrs A, insight, and most crucially, the ability of parents to demonstrate that they can suspend their own beliefs and views in the best interests of the children. She says they have not demonstrated that they can take on board advice and guidance from professionals where appropriate. However, she argues that the harm of removing the children again currently outweighs the harm of them remaining at home.

278. Ms McDonald argues that without a care order the parents would fail to promote education and/or attendance at school. She states that this is compounded by the closed nature of the family, the apparent strength of views and influence held and exercised by FD and AA and how that impacts upon the choices made by CA and BA. She says it is the absence of the parents' fundamental ability and understanding to work collaboratively with the Authority in the best interests of the children that necessitates the sharing of parental responsibility. She argues that this will ensure that each child has their educational and emotional needs met consistently.

279. Ms McDonald concludes that if the situation should deteriorate further, the local authority would have no option but to reconsider their position in the best interest of the children.

OTHER EVIDENCE

NEIGHBOUR

280. Neighbour, who is the neighbour of Mr and Mrs A, filed a handwritten statement and gave oral evidence. He described AA's presentation a couple of weeks before the children were removed as really bad and concerning. He said he was quite shocked. He said it was the worst case of psoriasis he has ever seen and he spoke to Mr A about it.

281. On the evening of the children's removal, he says he did not offer to care for the children and did not approach the social workers. His wife asked if she could provide support for Mrs A and was told no. He confirmed that they were not approached by either the social workers or the police to enquire if they could care.

282. He describes speaking to ED about an hour later. She was upset because she had expected to meet the social workers at the house but they had gone.

ED

283. ED, the children's elder sibling, filed a statement dated 3rd September 2021 and she also gave oral evidence. There were a number of issues around the reliability and credibility of her evidence, and the court has placed no weight upon it.

ISW

284. ISW was instructed to undertake a parenting assessment of Mr and Mrs A following the September hearing. His report is dated 18th January 2022. He concluded that Mr and Mrs A were able to meet the needs of AA and DA (given observations of the care they had received since rehabilitation home) but that BA and CA should not return home (based primarily on his reading of the court bundle and the 'extensive traumatic episodes' they have suffered).

285. The reasoning and logic of ISW in concluding that Mr and Mrs A could meet the needs of AA and DA but not BA and CA was difficult to understand. His assessment was undoubtedly heavily reliant on the contents of the court bundle much of which is highly disputed, including a threshold containing allegations that have not been pursued and a psychological assessment that was similarly flawed. There was a clear disconnect between his direct assessment and observations of Mr and Mrs A and the care they were providing to AA and DA and the reported concerns regarding BA and CA when entering care. Nobody sought to rely on his report, and he was not called to give oral evidence.

PRIMARY SCHOOL

286. The court has also read and considered a letter from the Primary school dated 28th April 2022. That details the parents' engagement in trying to encourage the children to attend. It makes clear the stress and anxiety being caused around the

children's school attendance and, in particular, the apparent desperation of Mrs A to get BA and CA to attend:

> "We arrived at the house and mum came to the garden to talk to us. She told us that CA had put her uniform on but took it off when BA refused to come. BA got up and put his lounge clothes on. She started to tell us about the meeting yesterday afternoon with Nina (?) and Gemma (Social worker). Dad came into the garden and invited us in. He told us that BA is suffering from anxiety and CA is too, now. BA has told dad he doesn't want to come as it is lots of children, mum told him that isn't an issue as there was lots of children in the old school.
> Mum took a call from Gemma – and told her the same information.
> Mum told us she has emailed Nina as she wants them in school today.
> They told us they want the LA to get the children into school as they want them in school and the court wants them in school. They told us numerous times that they want them in school. Mum said she wants them in school to help with her health, let her do her chores and so dad can concentrate on his job. They want someone from the LA to put BA in the car and bring them. They won't do it themselves as dad has had allegations made against him. Mum said that BA has said his previous carer had to pick him up, put him in the car and then get him out at the other end. They want the LA or Police to support getting them into school."

That description of the school staff visiting the family home on the morning of 28th April is perhaps telling as to whether at least since the change of school to the Primary School, Mr and Mrs A have been genuine in their efforts to secure the children's attendance.

RESPONDENT'S EVIDENCE

AA

287. AA filed a narrative statement in response to threshold which is dated 10th September 2021. Nobody sought for her to give oral evidence.

288. AA states that her skin condition did not appear before the end of March/early April 2020. She had some dry skin but then it went away. She says it was early/mid-June that it re-appeared and then it really got worse. On 14th July 2020 she confirms she had symptoms and her skin was not good but she says she did not feel unwell.

289. At the hospital visit on 21st July she says her dad did not refuse to let her be examined. She says it was her decision to refuse. She describes how she saw Dr Birch first who listened to her dad and looked at her legs and arms and said it pointed to psoriatic arthritis. They then waited 5 hours to see Dr Wong who came down with Dr Kumbattae. She says Dr Wong said that he needed to see her skin all over, but she did not want him to. She allowed him to see her arms and legs. AA is clear that she considered it her right to say no to being examined all over and it was her decision, not her dad's. Similarly, she says did not want to stay in hospital because she did not feel comfortable, and it was her right to decline.

290. Between 21st and 31st July, AA says her parents did speak to Dr Kumbattae and she recalls them asking if a dermatologist could come to the home. Her parents then contacted a private hospital who requested photos of her feet and hands. The doctor diagnosed her condition as psoriasis simply from the photograph. There was an appointment booked in early August. She therefore says it is wrong to suggest nothing

was being done to obtain treatment for her skin. She says she does not recall having been told by anyone that the condition was life threatening or needed immediate intervention.

291. She confirms that during this period in late July the family went on a day trip. She says she felt fine in herself and they had a lovely day.

292. AA denies that Mr A stopped the social workers from seeing her. She says that when they came to the house for the first time on 28th July, she was quite tired and in bed. When they came again, she was in the bath and although her mum tried to shout her to come down, by the time she had finished her bath and come down they had left.

293. On 30 July she confirms that she was downstairs when the social workers attended and when her mum called her, she went and spoke to them. Her recollection is that her dad was not at home on two of the occasions they visited.

294. AA denies ever being forced to follow what her parents say or being influenced by them. She says she has her own mind and is strong willed and holds strong opinions.

295. On other threshold issues, she says she does not remember any discussions in the house around BA's medical condition when she was growing up and it wasn't an issue for BA. She says it didn't affect his confidence. She describes him as "a really bright and sparky little boy." She says she cannot recall it affecting his eating or BA ever complaining about it.

296. As regards their home life more generally, AA denies that her parents are violent or aggressive at all. She confirms that they did bible study as part of their religious upbringing, but it was not used in a way that would scare them. She denies anyone spoke in tongues. She describes her parents' relationship as normal: that they had some arguments but nothing major. She says she was never brought into any of their arguments and always knew that they didn't last. They never bothered her.

297. She says that as a family, they spent lots of time together. She didn't, for example, spend much time in her bedroom. She says there was a happy atmosphere.

MR AND MRS A

298. Mr and Mrs A have filed a huge amount of documentation in the form of emails, letters and statements during the course of these proceedings. Their evidence on threshold and final position on welfare is most helpfully collated in the final response documents dated 4th August 2021 and 5th April 2022 (Mrs A) and 14th April 2022 (Mr A). They also both gave oral evidence. Although they have filed some individually signed documents, they have conducted an absolutely unified case throughout proceedings with many documents prepared and filed jointly. The evidence they give the court is therefore very much their joint account and position.

299. Mr and Mrs A say they were never told by the GP or the hospital just how serious AA's health condition was, and that they did everything they could to get her the medical treatment she needed when her psoriasis suddenly worsened in June 2020.

Their account is that dry patches of skin appeared on parts of AA's body during the lockdown towards the end of March/early April and they treated it with cream. It then came back and deteriorated very quickly in June. They explain that due to COVID it took them 3 weeks and 4 days to get a GP appointment and then had to push for blood test results and a face-to-face appointment. Mrs A describes that AA was very upset after the GP's appointment on 14th July, in particular because of the way the doctor had tried to remove her clothes to see her skin. She says she was man-handled by the GP. Mr A describes being made to wait outside in the hot weather for twenty minutes and the irate presentation of the doctor. AA therefore refused to attend the appointment at the Child Assessment Unit at Royal Stoke Hospital on 15th July. Mrs A therefore phoned to obtain a further appointment. Mr and Mrs A deny that the GP made clear to them the urgency of the hospital appointment.

300. When AA attended for the second appointment at the CAU on 21st July 2020, Mr A says that Dr Wong and Dr Kumbattae never used the word life threatening or urgent and the severity of their concerns was never clearly explained to him or AA. Mr and Mrs A contend that the only request made by the hospital was to keep AA in overnight for observations and monitoring. When she refused to stay they therefore discharged her with a prescription of 50/50 cream for monitoring at home.

301. Mr and Mrs A state that AA was so distressed following the appointment at the hospital that she pleaded with them not to take her again. They say they were upset and disappointed with the approach of the professionals at this appointment and they therefore made a complaint against Dr Wong.

302. On 22nd July 2020, Mrs A says she spoke to the hospital and asked for someone to visit AA at home but that was refused. She also asked for a list of private doctors but that was also refused. She says she then attempted to find private health care for AA, but the only available appointment was with the Nuffield Health centre. They made an appointment for a consultation on August 6th.

303. Mr and Mrs A deny refusing to allow social workers into the house or being uncooperative. Mr A acknowledges that not telling Ms Owen where the children were on 31st July, the day of the High Court hearing was a mistake. However, thereafter they say they complied with every request made of them by the Local Authority.

304. Mr and Mrs A are vehemently of the view that the children were illegally removed by the Local Authority on August 5th 2020, as they had no evidence justifying such a removal, and no orders from the court to do so. They maintain that they were cooperating fully with the Local Authority and the Local Authority breached the working agreement that had been drafted following the hearing before this court on August 3rd. From that point, Mr and Mrs A say they have not been able to trust the Local Authority who have never tried to work with the family. Mr and Mrs A take strong offence to the way in which the Local Authority perpetuated a 'narrative' that Mr A is an authoritarian, disciplinarian with extreme religious beliefs and who has sexually and physically abused his children.

305. They strongly deny that they were a 'hidden' family, that the children were not socialised, or that their health needs were neglected. They maintain that whilst they do adhere to a philosophy of living a healthy lifestyle through the food they eat and

engaging in outdoor exercise (and do not agree with vaccinations or other routine screening), they would seek medical attention if the children were ill, and it was needed. In her oral evidence Mrs A reiterated that it is not true that they did not engage with health services. She insists the children were registered with GPs, they engaged with the health visitors and ante-natal care and the children were taken for treatment if they were unwell. She refutes that after 2012 the family withdrew from professionals and became 'invisible'. GD, for example, received treatment for his hernia in 2013. They similarly point out that they have always engaged with the home education service.

306. In terms of home education, Mrs A says that she has been home schooling the children for 8 years and no concerns were ever raised. She points out she has a level 2 Teaching Assistant qualification and although they do not have to follow the curriculum, the children were educated in life skills, English, maths and visited various museums and libraries to help them. She says the children have achieved qualifications: ED, keyboard level 1; GD a First Aid qualification. They engaged with the LEA and the home-schooling service and always provided any material requested of them. The provision was always deemed adequate. She notes that Ms Softly's assessment changed between her first and second reports within the proceedings. Mr and Mrs A say that the adequacy of the children's education is evidenced by the fact that all of the older siblings have moved straight into employment. They deny that the educational assessments of AA, BA and CA when they were placed in foster care are accurate, blaming the trauma of their removal. They nevertheless say that they have been committed to sending the children to mainstream school since August 2020. Mr and Mrs A feel that they have never been given the opportunity to respond to any concerns regarding the children's education before they were simply removed.

307. During the course of the proceedings, Mr and Mrs A say that the Local Authority has ignored and marginalized them, overriding their parental responsibility by arranging medical appointments and vaccinations for the children against their wishes and consent. They were excluded from any decision-making regarding AA's condition. Mrs A says this continues with the LA continuing to push for BA's medical conditions to be surgically removed when they would prefer to address any impact of the conditions through speech and language therapy.

308. As to the current situation of the children, Mr and Mrs A say that both AA and DA settled back into the family home without any issues. They continue to support AA with her medical treatment and needs. Mr and Mrs A say that they have worked well with Drs Tabor and Packham to support AA in managing her condition and will condition to do so. They both tell the court they have established a good relationship with the clinical team.

309. As regards BA and CA, they say that when they were first returned home they were both very clingy and unsure, not wanting to let go of their hands or leave their sides, especially BA with Mr A. They say that the children loved being at home and with their siblings straight away and have visibly relaxed as time has passed. Mrs A says that they like going out for walks, to the park, and running around, just as they did before.

310. As regards their education, Mr and Mrs A say that travelling to and from the first primary school was excessive and they got minimal support from the Local Authority. They say they therefore made numerous attempts to get the children into education closer to the family home as this would be easier to manage and better in the long run for the children. Mr and Mrs A assert that BA has said that he did not like the first primary school, as he felt he was being treated like a dummy, which he did not like. He therefore refused to go back to the first primary school school once he returned home and they arranged for him to receive home tutoring instead which he enjoyed.

311. Since the children were registered at the Primary School, Mr and Mrs A say they have done everything they can to support them attending. They have purchased uniforms and worked with the school and Yellow House. They say the children are refusing to go, are anxious and distressed and they do not want to cause them anymore harm by forcing the issue. They say they are confident that with time they will be able to support them back into mainstream school.

312. As regards the children's health and well-being, Mr and Mrs A tell the court that they have registered all of the children with a local dental practice. They sought medical attention for CA when she was unwell, and have attended speech and language support for BA who has now been discharged. They also sought a referral for BA from the GP to assist with his anxiety but they say the referral to Harplands was cancelled because of the support he is receiving from Yellow House. They continue with an active, outdoor lifestyle and have registered the children for local races.

313. In her oral evidence Mrs A gave a more detailed account of BA and CA's presentation since returning home and their refusal to attend school. Both parents acknowledge there have been some concerns and difficulties since they returned. Mrs A says that they will not speak to Ms Peers or the social work team because they believe they will be removed again and have no trust in them. The children do not like to be away from them. They say Yellow House have been helpful, but it is focused on online assistance to the parents/professionals regarding school attendance and there has still been no direct work or help for BA to help him adjust and come to terms with his experiences. Similarly, they have received no help or guidance as to how to respond to the children's questions and talking about time in foster care.

314. Mr and Mrs A both speak highly of the support that has been given to the family by the Primary school. She says it is a slow process (the children have still not been into classes) but the school have been very understanding. CA is more willing to engage than BA, but she takes her lead from him. She remains clear that they want the children in school. Mrs A was clear in her evidence that they have reassured the children they want them in school and they can trust Ms Peers. Both Mr and Mrs A speak very positively and proudly about DA's progress at nursery.

315. Mr and Mrs A say to the court that they can ensure the children receive an education and any therapeutic support they need without the LA's intervention and support. They say in clear terms that they do not want a care order. Whilst they accept that they have got on well with Ms Peers, the Local Authority's final evidence, which they perceive as continuing the critical narrative of them and blames them unfairly for

the children's refusal to attend school and engage with the social work team, has further undermined trust. They say they will not cooperate any longer with the Local Authority.

316. Mr and Mrs A, in short, say to the court that they have been through enough in the last two years. They are very clear that the Local Authority is causing ongoing distress to all the family. In blunt terms they say they are scared of the Local Authority. BA is exhibiting clear signs of anxiety, and the continued presence of the social workers and other professionals is exacerbating his symptoms. Mr and Mrs A strongly oppose the making of final care orders in respect of BA, CA and DA. They say that they are looking after their children and they do not need the Local Authority's continued intervention. They request that the court makes no orders in respect of all the children and the family are left alone to move on with their lives.

Assessment:

317. As has been noted, Mr and Mrs A's engagement with these proceedings has been difficult and challenging, with both the Local Authority and the court being flooded with emails, letters, documents and evidence. I am satisfied, however, that has not been motivated by any malice or ill will but out of desperation to 'prove their innocence', fight the perceived injustice being caused to them and achieve return of the children to their care. It is clear to the court that both Mr and Mrs A have been completely devastated and traumatised by the events of the last two years and in the case of Mrs A it has had a very significant impact on her own health. It is important as professionals we do not lose sight of just how utterly devastating it is to have a child removed from your care. This court was particularly struck by Mr A's description of returning from the police station at midnight on 5th August 2020 to find his wife in hospital and his four youngest children all gone. That night, their world was turned upside down.

318. Mr and Mrs A have spent a highly unusual amount of time in court before this judge. Despite the challenges of these proceedings, they have always behaved with the utmost respect for the court. Both have been calm, polite and courteous to everyone. Indeed, Mrs A comes across as a pleasant, likeable and genuine woman whose children mean the world to her. Mr A appears as a proud, hard-working, perhaps stubborn man, but with a dry sense of humour. That is not to say that they do not have their idiosyncrasies and human flaws. They are however in my judgment essentially well-meaning and decent and honest in the evidence they have given the court.

319. The court has considered Mr and Mrs A's oral evidence very carefully. It was at times very difficult to get Mrs A to answer the question. She was often defensive and avoidant. Mr A was similarly defensive and frequently gave only short grudging answers in cross-examination. There are clearly matters Mr and Mrs A cannot and will not accept and on those matters their views remain fixed and rigid – even if that has been at the children's expense and has compromised the children's best interests. For example, their absolute refusal to engage in court directed assessments within these proceedings due to their distrust of the Local Authority may well have led to a situation in which the children could not be rehabilitated home. It was not child-centred. In a situation where threshold is crossed and thus significant harm found, the

court needs to understand whether parents can provide safe care for the children moving forwards. As difficult as it may be for parents to put aside their own views and feelings, in order for the court to make safe welfare decisions in such a situation, it needs to be properly informed by evidence; that means assessment. The parents' decision not to engage in assessment is clearly a decision the parents are entitled to make. It is not however one that prioritises the children's need for timely and properly informed decision-making. The absence of any welfare evidence to counter threshold findings of significant harm, also risked the children remaining in care by default.

320. They also continue to struggle to demonstrate any real insight into professionals' legitimate concerns on issues such as the children's education. They demonstrate no acceptance or understanding of the educational delay and poor outcomes suffered by all of the children and how that might impact on their life choices and opportunities. In the face of clear evidence before the court that the children are performing well below age expected levels, they nevertheless remained firm and fixed in their view that the education they provided was adequate and the children were performing in line with their age and ability. On those matters they have not been able to demonstrate a capacity to reflect and re-evaluate and to acknowledge any responsibility for the harm their views and actions may have caused the children. That gives the court considerable concern as to Mr and Mrs A's understanding as to why it is important for BA and CA to be receiving their education in school and the genuineness of their commitment to ensuring that happens.

GUARDIAN

321. The Guardian, Ms Evans, has filed two final analysis with the court: the first in preparation for the first final hearing dated 25th August 2021 and the second prior to the adjourned final hearing dated 4th May 2022. The latter is of course her final welfare analysis and recommendations to the court. She also gave oral evidence.

322. Ms Evans' final recommendation prior to the final hearing commencing in September of last year was that final care orders should be made for BA, CA and DA with a plan of long-term foster care and, given her age and wishes and feelings, no order for AA. However, since the first final hearing was adjourned, she has fully supported rehabilitation of all the children home.

323. As to the future, Ms Evans supports the Local Authority's position that BA, CA and DA should remain placed at home under full care orders. She states that she has considered whether BA, CA and DA should be subject to no court order or a supervision order but notes the Local Authority's position that parents are not open to working with the Local Authority. That said, the Guardian believes that 'on the ground' parents are able to work with professionals and their refusal to engage may well change and improve when the court proceedings conclude and matters settle.

324. The Guardian has considered the perceived advantages of a care order. She notes:

- It will enable the Local Authority to oversee and, if necessary, make decisions about the children's upbringing, for example which school the children attend and how often they will see family members;

- BA, CA and DA will have a full service from the Local Authority to include looked after child reviews, education planning and health monitoring. The Local Authority will be able to assist with supporting any future therapeutic needs;
- The Care Order will mean that the Independent Reviewing Officer can remain involved and ensure that the children's needs and family time is kept under review;
- There will be six monthly Personal Education Planning meetings;
- The children will be required to undertake medical assessments every twelve months;
- There will be six monthly Looked After Child Reviews. In addition, visits by the social worker are at a minimum of once every twelve weeks when the children will be spoken to alone by their social worker.

325. In her oral evidence and with respect to threshold matters, Ms Evans reiterated just how poorly AA was in July 2020 and how serious the concerns were around her health. She described how she and the child's solicitor needed to be prepared for the first time they met with her and how very concerning her appearance was. She described it as shocking. In her view there could be no doubt AA needed urgent medical attention. She commented that she had never seen a child suffering with such a serious skin complaint, accompanied by hair loss and being very thin. She had no doubt that she needed to be in hospital. Ms Evans confirmed that she was very concerned how AA had been left in such a serious condition and medical attention not sought sooner. It was her understanding that the skin was a major organ and was breaking down and that this could affect her other organs and be life threatening.

326. As an experienced guardian, she confirmed her clear view at the time that AA did not have competence. She says AA did not present as a typical 14-year old girl but as much younger and inexperienced.

327. In light of what BA and CA are reported to have said about their time in foster care, she told the court that from her own visits and enquiries she is satisfied that the children in fact flourished. She is satisfied that they were happy, settled, loved school and loved being with other children. She says she has reflected on whether BA was not being honest about his feelings when she met with him when in care, and it was some form of disguised compliance to survive. She does not, however, consider that to be the case. In her professional opinion, his presentation and expressed feelings were genuine and he was not unhappy. If now reporting to his parents he was unhappy, something else must lie behind that.

328. Ms Evans told the court that since his return home BA presents to her as the same BA but he is unable to articulate why he won't go to school. She is of course concerned that he cannot have that discussion but suggests that all he can cope with at the moment is needing to feel safe at home.

329. As to why education and a return to mainstream schooling matters, she says BA and CA thrived in mainstream school. Opportunities were opened up for them, and she is clear that it is not in their interests for those opportunities to now be lost. She describes BA as 'hungry for education' and that he has grown in self-confidence

and self-esteem. Ms Evans is anxious to make clear that she is not saying what education should look like. She recognizes that not every child needs to be in school. But she says that in this case parents have reached the limit of what they can provide. In her view, mainstream education will enhance the children's life chances and broaden their experiences and opportunities.

330. On the issue of the children's welfare and final orders, Ms Evans says that she understands the huge intrusion felt by the parents by a final care order, but her focus is on the children's needs and how they may be met.

331. As to the possibility of no order, the guardian observes that Mr and Mrs A have experienced difficulties in ensuring the school attendance of BA and CA. It is her view that when BA first returned home, parents supported his decision to be home educated, despite the clear expectation of all professionals and the court that he would continue at the first primary school. She says Mr and Mrs A expressed to her their concern that Mr A would be accused of being 'controlling' if he intervened against BA's wishes. In her opinion, parents struggle to understand that they need to exercise parental responsibility and enforce appropriate structure and boundaries. They cannot deflect that responsibility to simply let BA and CA do as they wish. Ms Evans suggests there is a commonality with what happened regarding AA's hospital admission in July 2020. The challenge for parents is that BA and CA are not the same children who were removed. She is concerned that Mrs A in particular is struggling with a defiant and willful BA who will not do as his parents wish.

332. Ms Evans is clear that the parents need to model expectations and behaviour so that there are no mixed messages, for example saying they are committed to school whilst proposing alternatives. The children will pick up on that ambivalence.

333. As to the parents' ability to work with professionals, the guardian believes it is positive that the parents sought advice from the school and local authority to try and secure the children's attendance at school. The guardian's view is that there is a disconnect between what the parents say and what they do. On the ground she says they do work with professionals and take advice. Crucially they are working with Yellow House.

334. Ms Evans therefore believes that the purpose of a care order would not be defeated by the parents' refusal to work with the Local Authority. Ms Evans accepts that a care order for BA, CA and DA is an interference in their family life and is stressful for Mr and Mrs A. However, it is her view that without the ongoing involvement of the Local Authority the children will suffer and not meet their potential, not only as regards their education, which will limit their future job opportunities, but also in terms of their emotional well-being and developing social skills. She acknowledges that a care order represents a high level of intervention but in the Guardian's view it is proportionate to the serious concerns that brought this matter into proceedings in July 2020, and necessary and proportionate given where matters currently stand. There is in her view still significant work required to support the children back into school and that process needs robust professional involvement and oversight. That requires in her view the structure of a care order with PEP reviews, LAC reviews and the oversight of the IRO. It will also ensure the ongoing therapeutic support of Yellow House.

Assessment:

335. Ms Evans is a hugely experienced guardian whose views merit the greatest respect. On behalf of AA, a number of criticisms were, however, made of the guardian and her role within the proceedings.

336. It is argued that Ms Evans, at least before September 2021, demonstrated insufficient professional curiosity and enquiry on behalf of the children regarding the Local Authority's conduct and that Ms Evans too readily accepted their 'narrative' of events. It is perhaps concerning that she did not make more robust challenge to the manner of the children's initial removal against her professional recommendations at the time and did not do more to interrogate the tone it set for the relationship between the Local Authority and the parents thereafter. Similarly, the Local Authority's conduct in vaccinating the children in the manner they did against the parents' wishes should have raised very significant concerns and needed to be addressed.

337. In the months that followed, Ms Evans was not aware of the extent to which the Local Authority were exercising their parental responsibility to the total exclusion of the parents. In her oral evidence she accepted that she was not aware Ms Owen was not communicating directly at all with the parents and that the parents were not being included in decision-making; she said that she assumed that they were. It also transpired in the evidence that Ms Evans was also being excluded from decision-making. She told the court she was not made aware of the strategy meeting and was not aware of the Local Authority's decision-making around AA and her contact with family members. Similarly, she said she was not aware that the children had been immunized against the wishes of the parents until after the event. It must of course be accepted that the true extent of the issues with Ms Owen did not become apparent until Ms Owen gave evidence at the first final hearing. However, it is perhaps a fair criticism of the guardian that she could have done more to speak with the parents and gain a better and more balanced understanding from their perspective of their concerns regarding the Local Authority's conduct and that of the social worker in particular. Ms Evans accepted she had only limited discussions with parents as her focus was on the children.

338. The absence of a sibling assessment to inform care planning prior to the Local Authority's first final evidence should also have been identified and challenged by the guardian given the importance of the sibling relationships.

339. The court also notes its concern regarding the way in which the issue of separate representation for AA was eventually resolved. In June 2021, the guardian's and the child's solicitor's clear and firm position before the court (recorded in a recital) was that in their professional view AA did not have capacity to instruct her own solicitor. In contrast, the court's view is that she very clearly and unequivocally did and that was immediately plain to the court when she was spoken to. Again, the court is concerned as to why that issue was not more proactively grappled with by the children's team, suggesting perhaps again an overly deferential approach to the Local Authority's stance.

340. Turning to her final analysis, Ms Evans does identify the less interventionist measures available to the court, but in the court's judgment she gives insufficient consideration to the advantages of such orders, and insufficient weight and consideration to the problems and disadvantages of a full care order. In the court's assessment, the guardian's support for a care order is very much driven by what support and services the children need and the care order being the vehicle to deliver them. The court has great sympathy with that approach but there are legitimate objections to justifying a care order on that basis, particularly in circumstances such as this where the care order is felt by parents as such an acutely oppressive and draconian measure and impacts so significantly on their sense of security and integrity as a family. In the court's judgment, the disadvantages of a care order for this family given the particular history of this case, deserved more explicit, detailed and careful analysis in the balancing exercise. Although in her oral evidence Ms Evans said she had given careful consideration to whether it would be better for the family for the Local Authority to 'back off', she said she felt that it would result in the children not achieving their potential. In the court's judgment more consideration should have been given to exploring alternative means by which the children could receive the support and services they clearly need without necessitating a care order.

341. There is also with respect to Ms Evans a tension in her position. On one hand she says that the work still to be done with parents is so significant that it cannot be achieved other than with a care order in force. Yet, in response to concerns as to whether realistically parents will work with the Local Authority under a care order, she says that 'on the ground' parents are able and willing to work with professionals. If that is the case, it is unclear why, assuming a supervision order can provide the children with the support and services they need, the lesser order would not suffice – unless the purpose of the care order is to provide the 'stick' (with the ultimate threat of removal) to force the parents into compliance. In fact, the court's assessment is somewhat different. The court's view is that the parents are unlikely to continue to work with professionals as is now their fixed position unless there is a fundamental shift in their relationship with the Local Authority and the currently entrenched power dynamics are challenged and re-set. That will not be achieved by trying to do more of the same under a care order.

342. The court does not wish to overstate the criticisms which have been made of the guardian. Ms Evans has taken a more proactive role in these proceedings than is often now the norm due to the difficulties and complexities of the case. She has also been key since September 2021 in supporting a fundamental shift in the approach and direction of the Local Authority. She has clearly reached a firm view as to the level of intervention she believes the family require. Ultimately, the court in undertaking that same welfare balance has reached a different conclusion, and has found itself departing from the guardian for the following key reasons:

- There has at times been a lack of challenge to, and questioning of, the Local Authority's narrative and position;
- The guardian has not sufficiently weighed the significant disadvantages of a continuing care order for the A family given their experiences of working with the Local Authority under an interim care order for over 2 years;
- Using the 'stick' of a care order to ensure compliance with the Local Authority is particularly damaging for the family given the way parental

responsibility has thus far been exercised by the Local Authority and their 'knee jerk' reactions to challenges and difficulties. The fear of a further removal is very real and the oppressive nature of that threat – alongside the other pressures of a care order at home – is taking a very real toll on the family;

- If the guardian believes the family will continue to work with professionals on the ground, that should be achievable in true partnership with the Local Authority under a supervision order;
- Insufficient and perhaps pessimistic weight is given to what can and should be achievable under a supervision order to ensure the children's needs are met through Local Authority support and services;
- If the family do not work with the Local Authority under a supervision order, the order can be extended or if necessary further application made for a care order – a supervision order is not without a 'stick'.

343. The court has therefore found itself departing from the guardian as to the necessity and proportionality of the orders she supports, and ultimately whether those orders will best promote the best interests of BA, CA and D.

DECISION:

344. The court is satisfied that the threshold under s 31 of the CA 1989 for the making of public law orders is crossed. No order is made for AA and that is agreed between the parties. Similarly, no order will be made for DA. In the best interests of BA and CA, the court will make a supervision order in favour of Stoke on Trent City Council for a period of 12 months. I am satisfied that is in the best interests of the children and the necessary and proportionate legal order in light of the ongoing risks identified. The interim care orders are thereby discharged, ending the sharing of parental responsibility.

THRESHOLD:

PHYSICAL AND EMOTIONAL HARM AND NEGLECT

AA and the failure to secure urgent medical treatment

345. The court is satisfied on the basis of the evidence before it that in July 2020 Mr and Mrs A failed to ensure that AA received medical attention causing her physical and emotional harm.

346. In reaching this determination, the court has carefully taken into consideration that Mr and Mrs A did in general terms seek medical help and attention for AA from her GP over the course of June and July 2020 for her deteriorating skin condition, and they continued to do so following the involvement of Royal Stoke University Hospital by seeking a private consultation with a dermatologist through Nuffield Health. This is therefore not a case where there was wholesale neglect of AA's escalating medical needs.

347. However, in the court's judgment, Mr and Mrs A did fail to respond adequately and reasonably to the developing medical emergency between 21st July 2020 and 31st July 2020 to ensure AA received the medical attention she needed,

despite the urgency of the situation and the serious and potentially life-threatening consequences for AA.

348. Whilst it is accepted that Mr and Mrs A were not told in clear and explicit terms by the treating clinicians at the Royal Stoke University Hospital that AA's condition was 'life-threatening', there is clear and compelling evidence from multiple experienced professionals that:

- AA was plainly and very obviously seriously unwell;
- They were all shocked and deeply concerned by her presentation;
- The treating clinical team consistently made clear in their various discussions with Mr and Mrs A the extremely serious nature of AA's condition, the level of their concern and that there was an urgent need for hospital admission, investigation and treatment.

349. However, despite the clear and obvious nature of AA's need for urgent medical care, Mr and Mrs A failed to ensure she received the medical treatment she needed in a timely manner necessitating the intervention of the High Court. In particular:

- Mr A did not exercise his parental responsibility to ensure AA remained in hospital on July 21st 2020 to receive the treatment she required. On the evidence, he failed to support and encourage AA to engage with the medical team and failed to support the medical team in their efforts to carry out vital investigations to enable proper diagnosis and treatment to be provided. The evidence from the hospital clinicians was clear, consistent and unequivocal. Mr A's behaviour was in my judgment clearly contrary to the welfare interests of AA and simply deferring to AA's wishes and feelings as regards hospital admission and treatment was a serious failure to exercise his parental responsibility in her best interests. In circumstances such as this, he needed to make the necessary decisions in her best interests but failed to do so with potentially very serious results.
- Similarly, Mr and Mrs A failed to exercise their parental responsibility to return AA to hospital on July 22nd following the agreement reached that she would be placed on 'ward release'. Furthermore, they failed to ensure she was receiving necessary treatment by not applying the prescribed creams or attending at the hospital for an urgent review of the medication. In the court's judgment, seeking alternative care through a private provider (something which took a number of days) was not an adequate response to such a serious medical emergency. Again, the parents needed to make and enforce decisions in AA's best interests, and they were either unwilling or unable to do so. The court observes that the fact AA willingly complied with treatment when the matter was determined by Mr Justice Hayden on July 31st suggests she would have complied if she had been told in clear and unequivocal terms by her parents that she had to do so.

350. The court has considered carefully the case put forward by AA that she was a Gillick competent child responsible for her own decisions and her parents should not be held accountable for any failures regarding her medical care. The court does not accept that argument:

- The evidence before the court does not support the assertion that AA was Gillick competent to make her own medical decisions in July 2020. In that regard, both medical and social work professionals describe AA as withdrawn, subdued and scared, in addition to being seriously unwell. The guardian's firm view was that when she first met AA she appeared to be operating well below her chronological age. The court accepts that the hospital (and indeed her parents) would of course be careful to listen to AA's wishes and feelings given her age and would not wish to impose treatment on her against her will (as was the evidence of Dr Wong), but that does not mean the hospital regarded her as Gillick competent nor that the parents could abdicate their own decision-making responsibilities to their daughter. The weight of the evidence is that the hospital engaged with Mr and Mrs A regarding AA's treatment in the expectation that they would make the necessary decisions, as parents, to ensure she received the care she needed. They were not engaging with AA as if she was a Gillick competent child exercising her own autonomous decision-making powers. When in the hospital's view Mr and Mrs A failed to exercise their parental responsibility appropriately, they made a safeguarding referral to the Local Authority.

351. The court is thus satisfied that the parents' failure to ensure AA received vital medical treatment between 21st July 2020 and 31st July 2020 caused AA serious physical and emotional harm and that harm was attributable to the care given by Mr and Mrs A, not being what it would be reasonable to expect a parent to give.

MEDICAL NEGLECT – BA, CA AND DA:

352. The court is not, however, satisfied and does not find that the parents' failure to seek appropriate medical treatment for AA between 22nd July and 31st July 2020, placed BA, CA and DA at risk of significant physical and emotional harm and neglect. As counsel for AA correctly argues, whilst the treatment of one child may of course be relevant in determining if that child's siblings are at risk of similar harm, it does not automatically follow. The Local Authority retain the burden of establishing the causal link between the harm suffered by AA and the alleged risk of harm to the younger siblings. In this regard, the Local Authority locate their case in broader allegations of medical neglect suffered by all the A children.

353. In the court's judgment, the Local Authority have not discharged the burden on them to establish this threshold allegation with respect to BA, CA and DA for the following reasons:

- The medical harm suffered by AA arose within a very particular context and in the midst of the challenging circumstances created by COVID. Whilst AA was not Gillick competent, her own wishes and feelings, given her age, undoubtedly played a significant part in how events developed and how the parents responded to them. In the court's view, the particular circumstances which surrounded AA's serious medical condition and need for emergency treatment do not, without more, automatically translate into similar risks for the wider sibling group.

- Clearly, whether the children have suffered medical neglect more generally feeds into the factual matrix underpinning this threshold allegation. However,

in the court's judgment, there is no evidence before the court that the children more generally have suffered harm or are likely to suffer significant harm as a result of neglect of their medical needs. There is evidence that Mrs A has engaged with ante-natal care and health visiting services, albeit she has declined some non-mandatory screening tests both ante- and post-natal. She has also declined some routine follow up checks, none of which have resulted in any actual harm to the children. DA did not have routine neonatal screening, but he has no current health concerns. CA was considered high risk for DDH and presented with a clicky hip, but again, although she did not attend a review appointment, there are no residual concerns. The younger children did not receive their full programme of vaccinations. It has not however resulted in any actual harm. Furthermore, the children have been registered with GPs and there is evidence of engagement with health services by all family members when needed. The evidence from the children's child protection medicals is that they are all healthy with no developmental health concerns. No actual harm has therefore materialized from non-engagement in these routine health programmes, and it is a difficult argument for the Local Authority to mount that a failure to engage in non-mandatory vaccinations and neo-natal testing establishes the likelihood of significant harm for the purposes of satisfying the s 31 threshold for state intervention into the family's life. With particular regard to BA's medical condition , the evidence of Dr Kunnath is that it is not clinically significant and the further medical condition is not the likely cause of his speech difficulties, albeit it may have contributed to them.

- As to the likelihood of future harm, there is evidence that medical treatment is sought by the parents when necessary. Mrs A clearly personally engages with NHS medical care when the issue is a significant one and treatment is needed. Similarly, medical attention has been sought for the children when they have presented with a serious condition. Thus, GD received the necessary medical treatment for his hernia in 2012/13 and assistance was sought for AA when her skin condition worsened in 2020. There is no reason to suppose Mr and Mrs A would not similarly seek medical treatment for BA, CA or DA if the illness or concern was a significant one, as opposed to one that could be managed with herbal/alternative remedies or those available from a pharmacy.

354. The court has to consider this threshold allegation in the round, taking into consideration the findings with respect to AA, the parents' general approach to health and medical care, their reluctance to engage in routine programmes of screening and vaccination and the extent to which the children have in fact suffered any harm as a result of neglect of their medical needs. When balancing those considerations, the court is satisfied there is no evidence that DA, CA or BA have suffered any actual harm as a result of neglect of their health needs, and, on balance, the Local Authority have failed to establish on the balance of probabilities the likelihood or real possibility of significant harm in the future.

EDUCATIONAL HARM AND NEGLECT:

355. The court is satisfied this allegation is proved on the balance of probabilities. Clear and consistent evidence was given on this issue by Jo Softly, the home link

worker and BA's foster carer. The court is satisfied on the basis of the direct assessments carried out by Jo Softly (all children) and home link worker (BA), that when the children first entered care that AA, BA and CA all had significant educational delay and were operating significantly below their chronological age. Jo Softly and the home link worker are education professionals and in my judgment adequately qualified to determine the children's current academic attainment levels.

356. Whilst the court accepts that the children may well have suffered some regression from the trauma of their removal and were still adjusting to their placement in foster care and commencing formal schooling, the educational delay is sufficiently marked and consistent for all 3 children that it cannot be wholly attributed to the removal. Moreover, the harm is most clearly seen and evidenced by the educational achievements of the older siblings, none of whom have any formal qualifications. Sadly, whilst it is not disputed they have obtained employment, it has limited their own life choices and opportunities. This is stark for AA. She is a bright girl who had the potential to achieve in whatever sphere she chose, but her desire, for example, to become a vet, has very clearly been seriously and perhaps irretrievably compromised by the home-education she received.

357. Moreover, the court is satisfied that the developmental harm resulting from the deficient education the children received is attributable to the home schooling provided by Mrs A. This is not a matter of criticizing or blaming Mrs A who the court is sure did her best. The court notes the parents have always engaged with the home education service, complied with all requests made of them, and no concerns have ever been raised. Whilst the court is however troubled by the apparently flawed, entirely reactive nature of that service in providing monitoring and oversight of whether a home-educated child is receiving a suitable education, and the court has some sympathy with the argument that nobody ever said to Mr and Mrs A it wasn't good enough, ultimately the responsibility to ensure a home-schooled child is receiving an education consistent with their 'age, aptitude and ability', rests with the parents who undertake to provide that education. Where the parents fail to provide an education that meets the children's educational needs and harm is suffered, responsibility must rest with them.

FAILURE TO ENGAGE WITH PROFESSIONALS:

358. The final threshold allegation has been finely balanced, but the court finds it proved on the balance of probabilities.

359. There is evidence before the court that Mr and Mrs A have worked with professionals and are capable of doing so in the children's best interests. They have cooperated with the LEA and home education service and complied with all requests. Similarly, whilst some appointments and interventions have been declined, they have in large part engaged with ante-natal, midwifery and health visiting services. In the latter part of these proceedings they have worked with Ms Peers, the Primary school and Yellow House.

360. The real issue before the court is whether they are able to work with professionals when they feel under pressure, challenged or criticized, or when the professional advice conflicts with their own values and opinions and how that then impacts on their decision-making for the children.

361. The court is satisfied that there is credible evidence before the court that Mr and Mrs A have a general distrust of public authorities and professionals, and that they will retreat into a defensive and combative stance when faced with perceived challenge or criticism. Furthermore, there is evidence before the court that this has led, at times, to a failure to prioritize the children's needs when making decisions, thereby exposing them to harm.

362. The parents lack of trust in professionals is evidenced in a number of ways. They themselves report having covertly recorded professionals including Dr Wong before these proceedings even commenced. They similarly report having recorded social workers and telephone calls without the Local Authority's knowledge prior to and throughout proceedings. In recent weeks they have reverted to similar conduct, threatening to record staff from the first primary school if they attended at the family home. If Mr and Mrs A were recording professionals even before proceedings commenced, it reveals an entrenched mindset of distrust and suspicion. The court also notes the complaints made by Mr and Mrs A against both the GP and doctors at the Royal Stoke University hospital as AA's health deteriorated and concerns escalated. Their initial response to the Local Authority social work team in the very early days of intervention can fairly be described as defensive, evasive and non-cooperative until the court intervened.

363. The court is satisfied that the parents' tendency to retreat into a defensive and combative position when they feel challenged has led to harm to the children which is attributable to their parenting. In particular, the hostile approach adopted towards the GP and medical team at Stoke University Hospital contributed to a situation whereby the parents, rather than working with professionals to support and encourage AA to receive urgent medical treatment in her best interests, became distracted by making complaints and seeking to undermine the steps the treating clinical team were recommending as necessary. Similarly, the stance they adopted towards the Local Authority from the outset of proceedings and their absolute refusal to engage in any court directed assessments, whilst it may have been a stance they were entitled to take and arose at least in part from legitimate grievances with the Local Authority, came at the expense of the children's welfare. It certainly did not further the interests of the children, greatly added to the difficulty and complexity of proceedings and risked creating a situation where rehabilitation home could not be supported on the evidence.

364. The court therefore finds on this basis that the allegation is proved on the balance of probabilities.

ADDITIONAL FINDINGS:

THE LOCAL AUTHORITY'S CONDUCT:

365. The court has set out above the limits of any findings against the Local Authority that it considers necessary and proportionate in order to dispose fairly of the proceedings. Having considered the evidence, the court therefore makes the following observations as to the Local Authority's conduct.

366. With respect to the strategy meeting on 5th August 2020, the court accepts that the Local Authority was in the very early stages of its enquiries into a family about whom little was known, and in the context of the exceptionally concerning issues surrounding AA's health. It was a developing and fast-moving picture, and the

information was incomplete. Nevertheless, it is vitally important and there is a heavy responsibility on the Local Authority to ensure that the information it shares at key strategy meetings at which crucial decisions are made is as accurate and complete and as current as possible. There is an onerous responsibility on the Local Authority to be balanced and even-handed. Decisions even at this early stage of the investigation must be based on the information and evidence available, and not mere suspicion, speculation and assumption. The court is satisfied that the information shared by the Local Authority at the strategy meeting fell short of those requirements.

367. The strategy meeting took place within a context whereby it is clear that the team manager had been persistently seeking the removal of the children from the family home for a number of days. It is also clear that the Local Authority were seeking to strengthen their case for removal before the court and were wanting the police to act before the hearing on 6th August 2020. That provided a context in which, in the court's judgment, the Local Authority were not as even-handed and balanced in the sharing of information at the strategy meeting as they should have been. It is a fair criticism that concerns were presented in an inflammatory way.

368. It is clear that there were inaccuracies in the information shared by the Local Authority and that relevant information that was not shared:

- AA was applying cream to all parts of her body in hospital;
- There were no concerns about the parents' behaviours at the hospital. They were not obstructing treatment and indeed Mrs A had been encouraging AA to apply the creams;
- Mr and Mrs A were cooperating with the social work teams both in terms of visits to the property and sharing information;
- Mr and Mrs A were not obstructing the children being seen alone by professionals;
- Mr and Mrs A had entered into a working agreement with the Local Authority and were complying with the terms;
- The three younger children had all attended for Child Protection Medicals with no immediate concerns identified;
- The family had been settled in Stoke-on-Trent for the last three years and had community links through employment and the church;
- The court had been clear on the 3rd August 2020 that the children should remain placed at home and not removed in an unplanned way.

There was also no information or evidence to substantiate concerns about sexual abuse or grooming behaviours by Mr A. The risk matrix applied by the police was distorted by the inaccuracy in some of the information shared.

369. The court is also satisfied that the Local Authority did not do enough on the evening of August 5th 2020 to find alternative care for the children to avoid removal. The court accepts that a Local Authority holding an interim care order must make suitable arrangements for the care of a child and that children who are subject to an interim care order cannot be 'placed' by the Local Authority without a prior assessment for suitability. The court also accepts that a Local Authority holding an interim care order with the children placed at home can remove a child from the

parents' care in an 'emergency', but subject to the guidance set out in *Re DE (A Child)* [2014] EWFC 6, to ensure procedural and substantive fairness to the parents. However, whilst the arrest of the parents clearly necessitated a need to make alternative care arrangements for the children, the Local Authority were not seeking to 'place' the children but to arrange temporary emergency care whilst the parents were being interviewed. In my judgment, in such circumstances, much greater efforts should have been taken to explore whether FD and/or ED could provide that short-term care or whether other family members could be approached. It is clear that no efforts at all were made by the Local Authority to identify suitable alternative carers either in discussion with parents or the older siblings and that they arrived at the family home with a plan of removal. Neither was there any discussion with the police about staggering the interviews to avoid leaving the children without care. That again in my judgment fell short of what would be expected of the Local Authority, particularly in light of the concerns expressed by the Guardian and the Court on the 3rd August about the potential harm to the children of an unplanned removal.

370. Sadly, the concerns regarding the Local Authority's conduct of the case continue after the children's removal.

- There was no legal basis for the hospital to be instructed to refuse contact between AA and her mother and other family members. Only Mr A was subject to bail conditions and there was no reason why the Local Authority could not make provision for supervised contact on the ward. Furthermore, it left AA isolated and alone at an exceptionally difficult time.
- The decision to separate BA and CA just a couple of days after removal and without seeking to assess and work through any presenting issues was premature.
- The Local Authority's conduct in arranging vaccinations for the three younger children without notifying the parents or consulting with them in any meaningful way was in the court's judgment high-handed and unacceptable. In light of recent case law (*Re H (A Child)(Parental Responsibility: Vaccination*) [2020] EWCA Civ 664), the Local Authority are able to make those arrangements pursuant to their parental responsibility under s 33 (even under an interim care order) and without seeking a declaration of the High Court. However, notice should be given to the parents, particularly where their clear and strong objections are known, so that they may be given a fair and proper opportunity to put the issue before the court. The Local Authority's conduct in failing to do so was in the court's judgment a serious failing. Mr and Mrs A still shared parental responsibility and had a right to be consulted. Vaccinating the children was not urgent and given Mr and Mrs A's principled objections to vaccination and that the Local Authority shared parental responsibility under an interim care order, Mr and Mrs A at least had an arguable case that the immunisations should await the final decisions of the court. The Local Authority's conduct further seriously undermined the parents' trust in the Local Authority.
- The court is acutely aware that the parents' behaviour over the course of proceedings has been challenging for professionals to deal with. They have sent voluminous communications to both the Local Authority and the court and their refusal to engage in any assessments posed a significant difficulty in trying to progress proceedings in a child-focused way. That does not however

justify or explain the failures in communication between the original allocated social worker and Mr and Mrs A, and the wholesale failure by the Local Authority to consult with the parents over important matters such as the children's medical needs.

- The court notes that the Local Authority's response to a number of issues and challenges has been 'knee jerk' in nature, which lost sight of the need to continue to work with the family and towards safe reunification of the children. For example, the court is exceptionally surprised that the Local Authority appears to have issued a High Court application in July 2021 seeking a declaration regarding AA's medical treatment without the allocated social worker speaking first to AA, her parents or even her treating clinical team. It was subsequently withdrawn. Similarly, the application made in December 2021 under s 34 to suspend both BA and CA's contact with their siblings and the ongoing efforts to reinstate parental contact was made without balanced and robust scrutiny of the reported distress of the children and its possible causes and without the necessary anxious scrutiny of the very significant impact it would have at that stage of proceedings on the children's family life with their parents and siblings. It was also withdrawn.

371. It is proper to acknowledge the concerted efforts taken by the Local Authority in September of last year following Ms Owen's evidence to try and 're-set' matters and build a positive working relationship with the parents. Ms Peers deserves enormous credit for the work she has done with the family. She has managed to build a positive working relationship with Mr and Mrs A and has achieved the successful rehabilitation of DA, BA and CA to their care – despite the negative outcome of the assessment by the ISW. However, the court observes that despite that marked change in the approach of the Local Authority, their readiness to default to the mindset which prevailed in the early part of these proceedings: to blame parents and too easily dismiss possible alternative explanations and causes, has not assisted in the creation and maintenance of a positive working relationship.

372. The ongoing tendency of the Local Authority to revert to solutions that see the children pushed further away from their parents is exemplified by their response to the crunch point reached when trying to re-establish contact between BA and CA and their parents in December 2021. The escalating concerns resulted in the Local Authority seeking to suspend all contact between BA and CA and their siblings and parents and issuing a s 34 application. By this point there should have been clear 'red flags' for the professionals regarding the role of the foster carers in the difficulties around contact:

- The foster carers approach, as reported to the Local Authority, was to question the children as to why they did not want to attend contact and to encourage them to provide reasons, rather than reassuring them and encouraging them to attend. Such an approach sends the message that 'something is not right', and the children simply need to tell them what it is.
- There was clear liaison between the children's foster carers with sharing of information and almost identical reporting. The children's refusal to attend contact became mutually reinforcing. The foster carers were also liaising directly with the children's advocates as regards their wishes and feelings.

- There was increasingly extreme and frequent reporting of the children's emotional dysregulation and distress both before and after contact to a range of professionals (GP, LAC nurse and advocates). Yet, the children were consistently unable to express reasons why they did not want to attend contact with family members. Strikingly, the children's reported fear and distress was not being seen by professionals in the actual contact sessions with siblings. Indeed, they were reported to present as happy and relaxed. The contact supervisors had raised concern about the impact on the children of the foster carers attending contact.
- At the meeting held on 1st December 2021 convened by Nina Chell, the Local Authority simply took the foster carers accounts at face value. There was a lack of appropriate professional curiosity and challenge given the disconnect between what the foster carers were saying and what the professionals were observing in contact.
- The Local Authority's reaction – to suspend contact and issue a s 34 application –is deeply concerning within a context whereby there was an urgent need to rebuild the children's relationship with their family. The argument it was only ever intended as a short-term measure whilst therapeutic work was commenced is troubling given Yellow House have been clear that they will not undertake direct work with the children whilst proceedings are ongoing. There was a clear danger that if the s 34 was granted that the destruction of the children's family relationships would have become entrenched and beyond repair.
- There has been a persistent and ongoing undertone to the way in which the Local Authority have approached the case that they believe something more – yet undisclosed and unevidenced – was going on within the family home.

373. Moving forwards, the concern which the acute difficulties in re-establishing contact exemplifies, is the default mindset of the Local Authority which is to assume responsibility for any issues and challenges lies with the family and not elsewhere. That approach lacks the necessary balance and open-mindedness in a matter of this complexity. The same problematic approach is evident in the Local Authority's response to BA and CA's refusal to attend school.

374. Clearly, one explanation for this significant issue which needs to be carefully considered is that the children are being influenced by their parents. However, there are a number of other credible possibilities which also need to be fairly explored: the children's distress at leaving foster placement where they were happy and settled and the association between foster care and school; their understanding of their 'old life' at home with parents where school did not feature and was not valued; confusion and anxiety caused by feeling they must demonstrate love and loyalty to their parents by rejecting anything associated with care; a basic fear of being away from parents and being removed again; and the need for the children to have space and time to adjust and settle. It is unquestionably an exceptionally complex picture but in the court's judgment this multiplicity of potential reasons (which are not of course mutually exclusive) are not given equal weight and consideration by the Local Authority in their evidence. The default is that responsibility for these problems must lie with parents and that they are exerting a negative influence over the children, despite the

acceptance by Ms Peers that the parents have engaged with the schools and Yellow House around the children's attendance at school.

375. In short, the Local Authority's conduct has fallen short in a number of ways and impacted significantly on how the family have experienced sharing parental responsibility with them under a care order. It is in the court's judgment an important and weighty consideration in welfare decision-making.

WELFARE:

376. The court finally turns to its welfare decisions. The welfare needs and interests of each individual child must be properly scrutinized.

AA:

377. As noted, no order is sought for AA and the court endorses that approach.

DA:

378. Turning next to DA, the court has determined that no order is required in the best interests of DA and that is the necessary and proportionate response to concerns about his longer-term educational needs and welfare

379. It is accepted by all parties that DA has no immediate needs over and above those of any other toddler. He needs to be loved, cared for and have all of his needs: physical, emotional, social and educational consistently met to a safe and good enough standard. He needs security and stability in order to thrive.

380. There is a professional consensus that Mr and Mrs A are meeting all of DA's needs and that he is thriving back home in the care of his parents. There are no current concerns. Mr and Mrs A are ensuring all of his health and developmental needs are met.

381. The concern of the Local Authority is that in the longer-term DA's educational needs will not be met if he is not successfully transitioned from nursery to mainstream primary school and reverts to home schooling like his older siblings. Given the inadequacy of the education provided to his older siblings, that would cause him harm. The position of the Local Authority, supported by the guardian, is that a care order until at least DA transitions into primary school and is settled is a necessary and proportionate response to that concern. The court disagrees.

382. The court observes that there is currently no evidence before the court that Mr and Mrs A are not genuine in their commitment to DA remaining in nursery and then progressing to primary school. DA's situation is very different from that of BA and CA, in that he will have known nothing other than attending at a nursery/pre-school setting. Moreover, it is the court's assessment that both Mr and Mrs A spoke with genuine pride and happiness when giving oral evidence as to DA's progress and achievements at nursery, talking freely about the way in which he has made friends and loves to attend. The court discerned nothing in their evidence to suggest that they will not maintain this position. It is perhaps instructive that when an issue did arise

over DA's reported behaviour at nursery, it was resolved between Mr and Mrs A and the manager and he continued to attend without difficulty.

383. In the court's judgment, where there are no current presenting concerns, it is disproportionate and oppressive to make DA subject to a final care order for an indeterminate period to afford to the Local Authority what is, in effect, a 'watching' brief over the family. The court acknowledges that in principle a care order can be made to prevent a child from harm only anticipated to materialize many years in the future. However, the impact of such an order on Mr and Mrs A (as will be discussed in greater detail below), and the level of ongoing state interference into their private and family life such an order entails (mandatory SW visits, LAC reviews, medical reviews, permission for many normal family activities), cannot in my judgment be justified as necessary and proportionate in light of the risk of harm identified.

384. The application for a care order with respect to DA is dismissed. Should issues materialize in the future, the Local Authority can initiate appropriate measures at that point.

BA AND CA:

385. The court has determined it is in the best interests of BA and CA to make a final supervision order for a period of 12 months. In reaching that conclusion the court has been guided by those fundamental principles of welfare and proportionality.

386. The court begins its welfare analysis as it always does with the children and their particular characteristics and needs.

387. BA and CA of course need love, emotional warmth, security, stability and all of their needs met consistently to a good enough standard. Crucially that includes their educational and developmental needs. There is however clearly now a complexity to those needs given their experiences in the last two years. They present as anxious, traumatized and confused children. As they are currently adamantly refusing to attend school, their educational development remains seriously compromised, and they continue to suffer harm in this regard. It is clear they will need ongoing help and support to ensure: 1) their complex emotional needs are met including life-story work and assistance to understand and adjust to their removal and rehabilitation home; and 2) their educational development is effectively supported so that their long-term choices and opportunities are not lost.

388. BA presents as a particularly complex child. Ms Evans remarks that it is difficult to understand or make sense of the significant changes in BA's views and presentation, not only in relation to his school attendance but also in relation to his medical conditions. Undoubtedly, he was traumatized by the initial separation from his family. Similarly, he would have been distressed by the removal from his foster carers with whom he had formed a close and secure attachment. His life in foster care was markedly different from the life he enjoyed with his family. There is evidence he thrived in foster care; which does not of course mean that he did not miss his family. He is a very confused, bewildered child.

389. The parenting capacities of Mr and Mrs A must be measured against the presenting now somewhat complex needs of the children. The evidence of Ms Peers and the guardian is that Mr and Mrs A have demonstrated that they are able to meet

the basic needs of the children and provide them with a safe, loving and secure home. All four children are presenting as settled in their care.

390. There is no evidence that what has been termed Mr and Mrs A's somewhat alternative lifestyle is in any way harmful to the children. The words of Hedley J concerning the need to respect a diversity of perspectives on family life are particularly pertinent in this regard. The lifestyle adopted by Mr and Mrs A is not extreme and should be respected. There is no evidence of harmful and extreme religious beliefs being a feature of their parenting. I am satisfied the children were not and are not 'invisible'. The family have engaged in the life of their church and various activities in the community, such as running. Mr A and the older children are all out and about in the course of their employment. The family enjoy time outdoors together and the children visited museums and other community resources as part of their home education. Indeed, the alternative lifestyle adopted by Mr and Mrs A – one which, as described by Mr A, begins with family as the foundation of its values - has many advantages for the children's welfare.

391. It is important to record that, contrary to the Local Authority's concerns at the outset of these proceedings, there is no evidence that Mr A is controlling, intimidating, aggressive or that there is any power imbalance in the parents' relationship.

392. The real concern regarding Mr and Mrs A's parenting capacity is their ability to meet the educational needs of the children. The homeschooling provided to the children was not adequate and has caused the children significant developmental harm. Despite the clear evidence on this issue, they have, however, struggled to reflect on that and demonstrate insight into and understanding of the concerns.

393. Whilst Mr and Mrs A have been clear and consistent that they want the children in school and are able to articulate the reasons why, the court is satisfied they hold firm views on the value and purpose of education which are not necessarily consistent with mainstream education and may be a source of conflict in the future. The existence of this underpinning belief is exemplified by the fact that within a couple of weeks of BA returning to their care, and in the face of difficulties in BA attending the first primary school, they quickly reverted to advocating for home schooling as the preferred and appropriate option for BA (letter to court of 4th April 2022). This raises clear concern as to the genuine nature of their commitment to ensuring BA and CA will attend mainstream school, particularly in the face of the children's resistance.

394. These issues are exacerbated by a parenting style which appears to defer to the children's wishes and feelings and struggles to impose necessary structure, guidance and boundaries. Parents need to exercise their parental responsibility on significant issues such as school attendance, including where appropriate and needed for the children's safety and welfare, taking the decision out of their hands.

395. Concerns about the parents' capacity to ensure school attendance are heightened by the parents' willingness to immediately accept, adopt and advance the accounts given by both BA and CA of being unhappy in foster care and being forced to attend school. Those accounts have been used to justify and explain the children's refusal to attend school and to advance home schooling as an acceptable alternative. The evidence, including from the guardian, of the children's experiences in foster care is all to the contrary. Mr and Mrs A do not seem to have considered that BA may well

be experiencing and acting out the very same conflict of loyalties and stress that he demonstrated in the early weeks of foster care: not wanting to betray or upset his parents by expressing any sense that he was settled and enjoying aspects of his life in care, including most significantly school. His vehement opposition to mainstream schooling may be borne out of an attempt to please and reassure his parents of his loyalty to them. In such circumstances they need to take the lead in making clear and unambiguous decisions whilst making BA feel safe to express his true feelings.

396. This is not a question of debating the pros and cons of home education; it is about ensuring these two children, BA and CA, are appropriately educated in accordance with their age, aptitude and ability and their particular needs and circumstances. I am satisfied that Mrs A, not through any fault of her own, is unable to provide the children with that education through home schooling. Utilizing paid tutors, as parents have done for AA, may be an option for a period of time but the court would question whether that is realistic and sustainable for a family of modest means. A return to mainstream education is thus critically important for BA and CA to ensure their developmental needs are met and their future autonomy, capacities, opportunities and choices are not taken away from them.

397. Having listened carefully to the oral evidence of Mr and Mrs A, the court is not satisfied that Mr and Mrs A understand and accept the issues over the children's education. In my judgment, monitoring and support by the Local Authority is required to bridge this gap in Mr and Mrs A's parenting and to ensure the children return to school and their educational needs are met.

398. Turning then to how that support and monitoring is to be provided in an effective but proportionate way, the Local Authority, supported by the guardian, say a care order is necessary, without which critical services cannot be continued and progress effectively monitored. The Local Authority make clear that a significant advantage of a care order is that it will enable them to insist on Mr and Mrs A's engagement and, if necessary, exercise their own overriding PR to ensure the children's welfare needs are met. The court has a number of concerns about that approach.

399. The first issue is whether the position of the local authority and guardian is realistic. The reality on the ground is that the Local Authority have not been able to effectively exercise their parental responsibility since the children returned to their parents' care, such as to secure the children's attendance at school. The children are refusing to engage with the social work team in any meaningful way so direct work and intervention with the children is not possible. The court observes that given the limitations on the social workers being able to directly engage with the children, the ICO has principally been used as a vehicle to organize and deliver services and support by others: Yellow House for therapeutic input and tutoring by the virtual school. The court notes that no direct work or support has been attempted by the social work team with the parents.

400. Moving forwards, if Mr and Mrs A refuse to engage with the Local Authority, there is little the Local Authority can realistically do, whether or not the care order is in force, other than seek the removal of the children. No one seriously suggests at this stage that a further removal would be in the children's best interests given the trauma they have already suffered. If BA and CA are to benefit from a network of family and

professional support, Mr and Mrs A will therefore need to voluntarily 'come to the table'.

401. As to whether it is realistic to suggest that Mr and Mrs A will voluntarily continue to work with the Local Authority, there is a clear tension in the position taken by both the Local Authority and the guardian. On one hand confidence is expressed that the parents can be persuaded to continue to work with professionals as they have done with Ms Peers under an interim care order and the objections to doing so made so vocally in court are not borne out by their behaviours on the ground. On the other hand, they simultaneously advance a case for a care order which is based on the parents' non-engagement and non-cooperation and the necessity of a care order to secure it. It is wholly unclear to the court how simply doing more of the same under a final care order will shift this now increasingly entrenched dynamic. In the guardian's view matters may settle once court proceedings conclude. In the court's judgment that is overly optimistic. Something more fundamental needs to change to effect a meaningful shift in the Local Authority and parents' ability to work constructively together.

402. The court has to also weigh within the balance the disadvantages of a care order. A care order is a highly interventionist order: a draconian measure which sanctions considerable interference into private family life. The court is satisfied being subject to a care order – as has now been the case for two years – is causing significant distress and anxiety to the family who fear further attempts at removal. It is an approach which is acutely felt as oppressive and as a threat by the parents.

403. The potentially oppressive nature of a care order needs to be understood within the context of the court's findings which establish the parents have legitimate grievances regarding the Local Authority's conduct; grievances which naturally impact on their working relationship with the social work team. Whilst the court does not suggest that the parents are blameless for the complete breakdown in their relationship with the Local Authority, there are a number of key issues (discussed in detail above) on which the Local Authority's conduct has fallen short of the professional standards to be expected of them:

- The inaccurate and misleading information shared at the strategy meeting on 5th August 2020;
- The circumstances surrounding the children's removal on 5th August 2020 and the failure to make all reasonable efforts to avoid the children being removed into foster care;
- The failure to effectively promote the parents' contact under s 34 and their knee jerk reaction to the children's difficulties;
- The lack of regard for the sibling relationship resulting in their prolonged separation in separate placements;
- The decision to have the children immunized against the clear wishes of the parents and in such a way that the matter could not be brought before the court;
- The exclusion of the parents from any decision-making with respect to the children's health – including of course AA – and their knee jerk reactions when difficulties developed in AA's treatment in July 2021.

- The absence of any proper communication between the social worker and the parents.

404. The way in which the Local Authority have exercised their parental responsibility in this case and the way it has been experienced by the parents is relevant to understanding the impact on the parents of being subject to a final care order and needing to continue to function under such high levels of Local Authority scrutiny and control. There is some force in the argument that the dynamics of the Local Authority and parents' working relationship shifted after Ms Peers became the allocated social worker, but in my judgment the Local Authority have still too readily assumed when difficulties have arisen that responsibility must rest with the parents. Knee jerk reactions by the Local Authority and a somewhat unbalanced assessment of the evidence undermines confidence that the Local Authority will respond in a balanced and proportionate way to any future challenges.

405. In the court's view, the real benefit of a care order in ensuring the needs of BA and CA are met is in securing the necessary support and services to which they will be entitled as looked after children: Yellow House for therapeutic services and tutoring support through the Virtual School. The guardian has identified additional benefits from the framework provided by a care order for delivering those services: a Personal Education Plan, LAC reviews and the oversight of the IRO. Parenting help and support can also be provided to assist Mr and Mrs A impose necessary structure and boundaries. However, returning to fundamental principles, a care order should not be justified on the basis that it is required to secure the delivery of services. All of these benefits, including a structure to provide for coordination, monitoring and review, should be available through a robust and bespoke supervision plan

THE RANGE OF POWERS AVAILABLE TO THE COURT

No order:

406. BA and CA have complex needs that require support and services to meet them. In the court's judgment, given the vulnerabilities in the parenting capacities of Mr and Mrs A, no order would leave a clear gap in ensuring the children's therapeutic and educational needs are met. Further support, monitoring and oversight is therefore necessary and proportionate to ensure the children are fully supported back into education, they receive the psycho-therapeutic intervention they need, and further significant harm is prevented.

Supervision order:

407. The court is always anxious when making a supervision order that it will turn out to be a 'toothless tool'. But this is not in the court's judgment an inevitability. There is no reason why the Local Authority through the provision of a robust and detailed supervision plan cannot replicate in large part the same support and services they could provide under a care order. It may mean that due to commissioning barriers they cannot rely on Yellow House or the Virtual School to provide services moving forward, but funding can and should be made available to ensure alternative provision is provided under a supervision order. Similarly, a structure can be created

around the provision of that support to coordinate services and monitor progress; a structure which replicates in large part that which would be provided through a PEP or regular LAC reviews.

408. A supervision order will of course require cooperation from Mr and Mrs A if it is to work. Its 'voluntary' nature is often perceived as its most significant flaw. However, the court hopes they will understand and accept the need for help and support to meet BA and CA's needs and be willing to engage with the Local Authority to ensure they receive it. A supervision order, unlike a care order, will fundamentally reset the parents' relationship with the Local Authority and will signal a truly fresh and different approach. A supervision order begins from a premise of equal partnership between the parents and the Local Authority who do not acquire PR. The significant and oppressive threat of removal is removed.

409. Moreover, unlike a care order, a supervision order does not provide for indefinite unlimited intervention into the family. A supervision order of 12 months will allow for a focused, time-limited plan, with clearly defined goals. But ultimately if parents choose not to engage and progress is not made, if they do not remain true to their word regarding their commitment to supporting BA and CA back into school, they are very likely to face further applications for an extension of the order and even a fresh application for a care order.

410. Balancing all of these matters, the court is satisfied that a supervision order is in the best interests of BA and CA and the proportionate response to the risks of harm identified. The Local Authority are to file a detailed supervision plan providing for the support and services the children require and a structure within the supervision plan for ongoing oversight and support.

HHJ Harris

Designated Family Judge for Stoke on Trent and Staffordshire

28th September 2022