A Local Authority v G (Parent with Learning Disability) [2017] EWFC B94

Judgment in care proceedings where the mother has a mild learning disability and the parents claimed that with appropriate support they were capable of caring for the children.

This matter concerns three children, A (aged 12), K (rising 3) and T (rising 2). The mother (C) and father (D) were parents to both K and T. A was the biological child of C but had been raised by D following the death of her birth father. The mother had a learning disability and partial deafness in both ears. The father had been her carer since their marriage in 2013.

The local authority sought care and placement orders for K and T. A was already residing with other carers under a special guardianship order, with a supervision order sought to support that. The parents disputed that threshold had been passed and sought the return of the children under a variety of orders, stating that they were able to care for K and T with appropriate support.

The mother had the support of an intermediary and supporting advocate throughout the three week hearing, with two lip-speakers translating for her. Ground rules were put in place and FPR 3A and PD3AA taken into account, as well as the Advocates Gateway Toolkits. An 'easy read' judgment was annexed to the main judgment for the purpose of the parents and children.

The judge considered a number of authorities. *Re L (Care: Threshold Criteria)* [2006] EWCC 2 (Fam) was endorsed in relation to threshold, as were *Re SB* [2009] UKSC 17 and *Re J (Children)* [2013] UKSC 9. *Re B (A Child) (Care Proceedings: Threshold Criteria)* [2013] UKSC 33, *Re B-S* [2013] EWCA Civ 1146 and *Re R (A Child)* [2014] EWCA Civ 1625 were endorsed in particular in relation to the placement application, as well as the point made in *Re W (A Child)* [2016] EWCA Civ 793 that there is 'no legal presumption or right in favour of a child being brought up by their natural family'.

With specific reference to the parents' learning disabilities, HHJ Dancey noted that a court must ensure that a parent is not disadvantaged simply because of their disability. The question is whether that parenting can be good enough if support is provided. *Re D (A Child) (No 3)* [2016] EWFC 1 and *Re Guardian and A (Care Order: Freeing Order: Parents with a Learning Disability)* [2016] NIFam 8 established the following principles:

- Parents with learning difficulties can be 'good enough' parents when provided with the requisite and ongoing emotional and practical support.
- The idea of 'parenting with support' must be the approach taken to parents with learning difficulties.
- Parents with learning difficulties must not lose care of their children on the basis of evidence that would not hold up against parents without such difficulties. Parents with learning disabilities should not be measured against parents without disability and the court must be mindful of the risk of direct and indirect discrimination.
- Multi-agency working is critical to provide effective support and the court has a duty to ensure that this is done.
- Welfare arguments should not obscure the needs of the parent due to the disability and the impact on parenting capacity.

- Courts should ensure that the 'supposed inability of the parents to change is not … an artefact of professionals' ineffectiveness in engaging with the parents in an appropriate way.'

HHJ Dancey also relied upon the DoH/DfES 'Good practice guidance on working with parents with a learning disability'. The Guidance was updated in 2016 and initially intended to address the lack of effective joint working between adult and children's services. Alongside the appropriate sections of the Care Act 2014, Equality Act 2010 and Human Rights Act 1998, a helpful summary of the Guidance is provided. Although it was argued that local authorities do not have access to the resources set out in the Guidance, the court endorsed the decision in *Re B-S* that a placement order should not be made unless there is no practical way of the authorities providing requisite assistance and support.

Determination
Threshold was found to have been met. HHJ Dancey also found there was 'considerable force' in the criticisms made of the local authority's approach, particularly in relation to the mother and the help offered to her. In particular, the local authority did not have a protocol for dealing with parents with learning disability which was reflected in their approach and which would have focused them upon the Guidance. Those working with the mother should have been trained to deal with parents with learning disabilities. Amongst other criticisms of the local authority it was further found that there had been insufficient focus on a positive strategy of planned support to keep the family together. Finding a solution for the children within their timescales rather than supporting the parents were not mutually incompatible if such support is provided in a 'timely and efficient manner', which in this case it was not.

Despite these criticisms, it was found that 'all the professionals did their best', and the Guidance and other advice were followed to an extent. There was 'force' in the parents' case that the assessment of them was not fair nor realistic. This argument was however undermined by the fact that the mother could not safely care for the children on her own and would require a package of support amounting to 'substituted parenting'. The father had not bridged that gap and the prospects of achieving necessary change were remote. Although A may have been adequately cared for, the stress of returning the two younger children would be likely to lead to the breakdown of the placement and both children required 'attuned' parenting to ameliorate for the neglect suffered by both.

HHJ Dancey conceded that the assessments undertaken in this matter 'could have been better' but were not entirely undermined by their shortcomings. It was unlikely that the outcome would have changed with different support because of the fundamental nature of the mother's limitations and the father's lack of understanding of the need for change. Neither *Re D* nor the Guidance require local authorities to provide support to the extent that it requires substitute parenting, which would also be the case for parents with a physical disability. Care and placement orders were made in respect of both children.

Summary by **Lyndsey Sambrooks-Wright**, barrister, **2 Dr Johnson's Buildings**

Case No: BH17C00359
IN THE FAMILY COURT SITTING AT BOURNEMOUTH

Courts of Justice
Deansleigh Road
Bournemouth
BH7 7DS

Date: 18/12/2017

Before :

HIS HONOUR JUDGE DANCEY
- -

Between:

A Local Authority Applicant
- and -
CG 1st Respondent
-and-
DG 2nd Respondent
-and-
A, K and T
(by their Children's Guardian CG) 3rd Respondents
- -

Dorset CC v G BH17C00359
- - - - - - - - - - - - - - - - - - -

Steven Howard (instructed by the **Local Authority**) for the **Applicant**
Emma Harman (instructed by **Jacobs Reeves**) for the **1st Respondent**
Omar Malik (instructed by **Aldridge Brownlee**) for the **2nd Respondent**
Dylan Morgan (instructed by **Dutton Gregory**) for the **3rd Respondents**

Hearing dates: 13-15, 20-24 and 27-29 November 2017
- -

JUDGMENT

His Honour Judge Dancey:
Introduction
1. This case is about three children, A, a girl aged 12 years, K, a girl aged nearly 3 years and T, a boy aged 19 months. K and T are the children of C and D (who I will call the parents or the mother and father) who are married to each other. A is the oldest child of the mother. A's father, Mr F, died when A was 3 years old.

2. The parents have been together since about 2009 . They married in 2013. The father, who is 59, does not have parental responsibility for A, although he did look into the possibility of adopting her. The father has two adult children who do not live locally.

3. The mother, who is 35, has a mild learning disability with an IQ of 57. She is partly deaf in both ears. The father, who does not have a disability, has been registered as her carer since they married. They have both suffered from depression.

4. The local authority seek care and placement orders for K and T, who have been in foster care since 18 May 2017. They say the parents are unable to meet the children's needs.

5. A has already been placed with Mr and Mrs N (Mrs N being the lead at K's preschool) under a special guardianship order. The local authority also seeks a supervision order to support the special guardianship order for 6 months.

6. The parents do not accept that the local authority has proved the threshold criteria under section 31 of the Children Act 1989 in respect of any of the children. So the question whether a supervision order should be made in respect of A has been left over to be considered at the final hearing only if threshold is proved. The Children's Guardian (CG) supports the making of a supervision order and, if threshold is proved, that would not be opposed by the parents.

7. The focus of the hearing that occupied nearly three weeks between 13 and 27 November 2017 was the question whether K and T could safely be returned to their parents under either a child arrangements order with a supervision order or under a care order or whether their welfare required that they be placed outside the family for adoption.

8. CG supports the making of care and placement orders. That is in line with the evidence of all the professional witnesses in the case that the parents are unable to meet the needs of the children.

9. The parents say that, with appropriate support, they are able to care for K and T and seek their return.

10. Negative viability assessments have been done in respect of:

i) the father's maternal aunt and her husband and A's paternal uncle and his wife in respect of the care of A;

ii) the paternal cousin of K and T in respect of their care;

11. A positive viability assessment was done in respect of A's class tutor but that did not proceed further in light of the special guardianship assessment of Mr and Mrs N.

12. No other alternative carers have been put forward for assessment.

13. There are a few things I want to say at the start of this judgment. This largely repeats what has been said by all the advocates and by the professionals who gave evidence.

i) The first and most important thing to say is that these parents love their children very much indeed.

ii) Secondly, the mother in particular has done everything she possibly could to care for the children. I would like to quote from the evidence of the current social worker, JT, when she told me at the start of her evidence about the mother:

> "She is a very lovely lady who loves her children very, very much indeed and wants the very best for them and does her very best for them. She has a very active love - not just a warm and fuzzy feeling. She tries her best to make sure they have the care she can offer. She wants the best for them, even at the sacrifice of what she would like."

I agree with every word of that.

iii) Thirdly, the parents have throughout been willing to work with the local authority and want to take advice, even if the father in particular has not always been prepared to accept all their concerns.

iv) Fourth, the parents have acted throughout this case, and during what must for them have seemed like an endless final hearing, with the utmost dignity and bearing. Mr Howard told me that they have spoken courteously and in a friendly way to the professionals during breaks in the hearing. They have attended every day, always on time. They have engaged in the hearing in the most constructive way. I have immense respect for the way they have behaved in enormously trying circumstances.

The hearing

14. The local authority are represented by Steven Howard, the mother by Emma Harman, the father by Omar Malik and the children (through their Guardian) by Dylan Morgan.

15. The hearing was conducted with careful regard to the mother's needs. A team of two lip-speakers translated for her. She had an intermediary and supporting advocate present at all times. Ground rules were considered both before the final hearing and at regular points during it with specific reference to the mother's needs as advised by her intermediary. Advocates and witnesses were encouraged to dispense with legal and social work jargon in favour of everyday language, with questions being put in simple, single idea, sentences without preambles. Regular breaks were taken throughout evidence and submissions, with more frequent breaks during the mother's evidence.

16. The mother gave evidence from her seat, supported by her intermediary and by visual aids. She had cards she could use to indicate at any point that she did not understand or needed an additional break. Regular checks were made to ensure her understanding.

17. Although FPR 3A and PD3AA dealing with Vulnerable Parties and Witnesses only came into force on the last day of the hearing (27 November), I have had firmly in mind the requirements of those provisions to ensure full participation of the mother in particular as a vulnerable party and witness. The advocates also bore in mind the provisions of the relevant Advocates Gateway Toolkits. I am grateful to them all for the constructive way in which they tried to make the hearing as accessible and meaningful for the parents as possible.

18. At Annex A to this judgment is an easy read version of my decision and short reasons which will be helpful I hope for the parents but also, in due course, for the children to understand why the court has made the orders it has in respect of them. Annex A is anonymised; the version provided to the parents (and which may be provided to the children) is not.

19. I heard oral evidence from LW, social worker, RG and CD, family support workers, who between them did a FAST (Family Assessment Specialist Team) PAMS assessment of the parents. I also heard from health visitor CM, previous social worker AM, current social worker, JT and Children Centre family outreach worker HP. The parents both gave evidence as did the Guardian.

20. In addition to the oral evidence I have read and taken into account:

i) statements by previous social worker LA, Mrs N, PD (safeguarding lead and deputy head at A's school), JD (K and T's foster carer) and BJ (contact supervisor);

ii) reports by JL of the Adult Learning Disability Team (ALDT) who advised FAST and social workers

iii) reported information from AL, the mother's adult social worker;

iv) psychological reports about the mother by Dr K, Psychologist, dated 8 November 2016 and about the father by Dr N dated I June 2017;

v) sections of the parents' medical records to which I have been referred, dealing in particular with their mental health and diagnosis of the mother's learning disability;

vi) contact notes;

vii) FAST visit records;

viii) the special guardianship assessment of Mr and Mrs N (relevant to the question of the care of A).

21. Dr K's report was not obtained for these proceedings and did not deal (as did Dr North's report about the father) about the issue of the mother's litigation capacity. I raised this with the advocates during a break in the mother's evidence as I had some concerns about her capacity at that point, in particular her ability to retain, weigh and use information. I was assured by Ms Harman that neither she nor her instructing solicitor had any concerns as to the mother's litigation capacity.

Legal principles and relevant Guidance

Threshold

22. The parents accept some of the local authority's concerns but do not accept that the threshold criteria under section 31 is made out. It is for the local authority to prove their case on threshold, that is, the children have suffered, or are likely to suffer significant harm, attributable to the care being given to them not being what it would be reasonable to expect a parent to give. They must prove the facts upon which they seek to rely, based on proper evidence (including inferences that can properly be drawn from the evidence) but not on suspicion or speculation. They must link the facts relied upon with their case on threshold, demonstrating why the facts asserted justify the conclusion that the child has suffered, or is likely to suffer, significant harm: ***Re A (A Child)*** **[2015] EWFC 11**; ***Re J (A Child)*** **[2015] EWCA Civ 222**.

23. When considering within threshold the care that it would be reasonable to expect a parent to give I bear in mind what Hedley J said in *Re L (Care: Threshold Criteria)* [2006] EWCC 2 (Fam):

> "..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, whilst 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."

24. The test for the likelihood of future harm is one of serious possibility, but that must be based on firm findings made on the balance of probabilities about what has happened in the past: ***Re SB* [2009] UKSC 17**; ***Re J (Children)* [2013] UKSC 9**.

25. 'Harm' in section 31 of the 1989 Act means ill-treatment or impairment of physical or mental health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another, including sexual abuse and non-physical ill-treatment. Development means physical, intellectual, emotional, social or behavioural development.

26. In considering whether the local authority has proved its case I take into account all the evidence I have heard and read: *Re A [supra]; Devon County Council v EB & Ors (Minors)* [2013] EWHC 969 (Fam)

27. The mother's credibility is not in issue. Mr Howard has, to some extent at least, put the father's credibility in issue. So I direct myself that it is not uncommon for witnesses to lie and they may do so for various reasons - shame, misplaced loyalty, panic, being examples. The fact that a witness has lied about some matters does not mean they have lied about everything: *R v Lucas* (1981) QB 720; *Devon County Council v EB & Ors (Minors) [supra]*. I also give myself the extended self-direction suggested by Mostyn J in ***Lancashire County Council v R and W* [2013] EWHC 3064 (Fam)**:

> "The assessment of credibility generally involves wider problems than mere "demeanour" which is mostly concerned with whether the witness appears to be telling the truth as he now believes it to be. With every day that passes the memory becomes fainter and the imagination becomes more active. The human capacity for honestly believing something which bears no relation to what actually happened is unlimited. Therefore, contemporary documents are always of the utmost importance."

What order

28. Because the local authority's case is for care and placement for adoption the relevant welfare test is that under section 1 of the Adoption and Children Act 2002 - the welfare of the children throughout their lives is the court's paramount concern. In determining that I must take into account the matters set out in the checklist in section 1(4) of the 2002 Act including the effect on the children of ceasing to be members of the original family and becoming adopted and the willingness and ability of family members and others to provide a secure environment within which the children can develop.

29. The local authority must demonstrate that "nothing else will do" before the court makes as draconian an order as placement for adoption:***Re B (A Child) (Care Proceedings: Threshold Criteria)* [2013] UKSC 33**, ***Re B-S* [2013] EWCA Civ 1146** and ***Re R (A Child)* [2014] EWCA Civ 1625**. As Baroness Hale said in *Re B*:

> "the test for severing the relationship between parent and child is very strict: only in exceptional circumstances and where motivated by overriding requirements pertaining to the child's welfare, in short, where nothing else will do."

30. This follows *YC v UK:* 55 EHRR 33

> "family ties may only be severed in very exceptional circumstances and that everything must be done to preserve personal relations and, where appropriate, to 'rebuild' the family. It is not enough to show that a child could be placed in a more beneficial environment for his upbringing. However, where the

maintenance of family ties would harm the child's health and development, a parent is not entitled under article 8 to insist that such ties be maintained."

31. That said, there is no legal presumption or right in favour of a child being brought up by their natural family:***Re W (A Child)*** **[2016] EWCA Civ 793**, per McFarlane LJ at 71:

> "The only 'right' is for the arrangements for the child to be determined by affording paramount consideration to her welfare throughout her life (in an adoption case) in a manner which is proportionate and compatible with the need to respect any ECHR Art 8 rights which are engaged."

32. And at 73:

> "… the phrase "nothing else will do" … does not establish a presumption or right in favour of the natural family; what it does do, most importantly, is to require the welfare balance for the child to be undertaken, after considering the pros and cons of each of the realistic options, in such a manner that adoption is only chosen as the route for the child if that outcome is necessary to meet the child's welfare needs and it is proportionate to those welfare needs."

33. *Re B-S* and *Re R* require the court to carry out an holistic analysis of the pros and cons of each realistic option, weighing each against the others together before deciding which option will best meet the children's welfare needs. This allows for unrealistic options to be ruled out at an early stage. The local authority and the Guardian argue that return to the parents is not a realistic option. Having got to the stage of a final hearing my view is that the holistic analysis should be undertaken rather than ruling out the parents as unrealistic, leaving adoption as the only option. To do otherwise would risk the linear approach disapproved by *Re B-S* and *Re R*.

34. Mr Howard invites me to consider two further authorities:

i) ***Re S (A Child)*** **[2014] EWCC B44 (Fam)** where Munby P said about assessment of the ability of parents to make changes within a child's timescale

> "These appraisals must be evidence based, with a solid foundation, not driven by sentiment or a hope that 'something may turn up'. Typically three questions will have to be addressed. First, is there some solid, evidence based, reason to believe that the parent is committed to making the necessary changes? If so, secondly, is there some solid, evidence based, reason to believe that the parent will be able to maintain that commitment? If so, thirdly, is there some solid, evidence based, reason to believe that the parent will be able to make the necessary changes within the child's timescale?"

Although said in the context of assessment Mr Howard submits this is of wider application.

ii) ***Re R (A Child) (Adoption: Judicial Approach)*** **[2014] EWCA Civ 1625**: where it was made clear by Munby P:

> "Where adoption is in the child's best interests, local authorities must not shy away from seeking, nor courts from making, care orders with a plan for adoption, placement orders and adoption orders. The fact is that there are occasions when nothing but adoption will do, and it is essential in such cases that a child's welfare should not be compromised by keeping them within their family at all costs."

Parents with learning disability/Parenting with support

35. Where a parent has a learning disability the court must make sure that parent is not being disadvantaged simply because of their disability. The essential question is whether the parenting that can be offered is good enough if support is provided. In ***Re D (A Child) (No 3)*** **[2016] EWFC 1** Munby P endorsed and recommended what was said by Gillen J in Re Guardian and A (Care Order: Freeing Order: Parents with a Learning Disability) [2016] NIFam 8. Those cases establish a number of important points relevant in this case:

i) Parents with learning difficulties can often be 'good enough' parents when provided with the ongoing emotional and practical support they need.

ii) The concept of 'parenting with support' must underpin the way in which courts and professionals approach parents with learning difficulties.

iii) Courts must make sure that parents with learning difficulties are not at risk of having their parental responsibilities terminated on the basis of evidence that would not hold up against parents without such difficulties. To that end parents with learning disability should not be measured against parents without disability and the court should be alive to the risk of direct and indirect discrimination.

iv) Multi-agency working is critical if parents are to be supported effectively and the court has a duty to make sure that has been done effectively.

v) The court should not focus so narrowly on the child's welfare that the needs of the parent arising from their disability, and impacting on their parenting capacity, are ignored.

vi) Courts should be careful to ensure that the supposed inability of the parents to change is not itself an artefact of professionals' ineffectiveness in engaging with the parents in an appropriate way.

36. Ms Harman says there are some features of this case that distinguish it favourably from *Re D* - (a) these parents cared for A for some years without concerns about her care (so there is a history of childcare that did not exist in Re D) (b) there have been no concerns about the children's development and they have met milestones and (c) these parents are keen to accept advice and support.

37. Ms Harman also refers me to ***Kent County Council v A Mother*** **[2011] EWHC 402** recognising (a) that parents with learning disability need to be supported and enabled to lead their lives as full members of the community, free from discrimination and prejudice, (b) a wider acceptance that people with learning disability may in many cases, with assistance, be able to bring up children successfully, (c) the need for professionals working with families and children to be trained to recognise and deal with parents with learning disabilities and (d) the need for Government Guidance to be followed.

Good practice guidance on working with parents with a learning disability (updated September 2016) DoH/DfES

38. The Good Practice Guidance was issued to address a lack of evidence of effective joint working between adult and children's services. I gratefully adopt and adapt the summary of the Guidance set out by Ms Harman in her written submissions:

i) Services need to help enable children live with their parents (as long as this is consistent with their welfare) by providing the support they and their families require. This accords with the general duty of local authorities under section 17(1) of the 1989 Act to provide a range and level of services to safeguard and promote the welfare of children in need and their upbringing by their families (insofar as it is consistent with their welfare).

ii) Good practice is also underpinned by an approach to parenting and learning disability which addresses needs relating to both impairment and the disabling barriers of unequal access and negative attitudes. Such an approach recognises that:

- If the problem is seen as entirely related to impairment and personal limitations, it is difficult to understand how to bring about positive changes for parents and their children.

- If the focus is, instead, on things that can be changed (such as inadequate housing) and support needs that can be met (such as equipment to help a parent measure baby feeds), there are many more possibilities for bringing about positive improvements. [p4]

iii) There are five key features of good practice in working with parents with learning disabilities: [pii]

• accessible information and communication

• clear and co-ordinated referral and assessment procedures and processes, eligibility criteria and care pathways

• support designed to meet the needs of parents and children based on assessments of their needs and strengths

• long-term support where necessary

• access to independent advocacy

iv) Adult and children's services, and health and social care, should jointly agree local protocols for referrals, assessments and care pathways in order to respond appropriately and promptly to the needs of both parents and children. [1.2.1, p8].

v) It is important that services understand who is to take the lead on assessments:

• where there are no welfare concerns but adults need assistance with routine tasks of looking after children, adult learning disability services should take the lead on assessment and care planning

• where parents need support in the medium to long term adult learning disability and children's services jointly co-ordinate assessment and care planning

• where intervention is required to prevent children suffering impairment to their health or development or significant harm, children's services lead assessment and planning with specialised input from adult learning disability services (1.2.5 p12).

vi) Services in contact with parents with learning disabilities should use appropriate assessment materials and resources and/or access specialist expertise. Failing to do so will result in the parent receiving an unfair and therefore invalid assessment, in breach of their legal rights. [1.2.6, p13].

vii) Where a parent has a learning disability it will be important not to make assumptions about their parental capacity. Having a learning disability does not mean that a person cannot learn new skills. [p13].

viii) In the case of parent support services, an assessment of a parent's learning needs and circumstances should inform the support provided to develop parenting skills. Research indicates that – for parents with learning disabilities – the key elements of successful parenting skills support are:

• clear communication, and ensuring parents have understood what they are told

• use of role-play, modelling, and videoing parent and professional undertaking a task together, for discussion, comparison and reflection

• step by step pictures showing how to undertake a task

• repeating topics regularly and offering opportunities for frequent practice

• providing/developing personalised "props": for example, finding a container which will hold the right amount of milk for the child so that the parent does not have to measure out the milk. [p16]

ix) A range of services is required. All families are different and at different stages of their life cycle families require different types of support. [1.3.3, p16]

x) A need for long-term support does not mean that parents cannot look after their children. [1.4.1, p20]

xi) Although a parent with learning disabilities can learn how to do things, their cognitive impairment

will not go away. Just as someone with a physical impairment may need personal assistance for the rest of their life so a person with learning disabilities may need assistance with daily living, particularly as new situations arise. Secondly, children and their needs change. A parent may have learned to look after a baby and young child and be coping well. However, as the child enters adolescence other support needs may arise. [p21]

xii) Where a need for long-term support with parenting tasks is identified, it should form part of the community care and/or child in need plan. [1.4.2, p21]

xiii) Advocacy and self-advocacy should be made available to help parents access and engage with services. The Care Act 2014 imposes a duty on local authorities to provide an independent advocate where an individual would otherwise have substantial difficulties in being involved in processes such as their own assessment and care planning. [p22]

xiv) The Equality Act 2010 imposes a duty on local authorities to make reasonable adjustments so as to eliminate discrimination and to advance equality of opportunity; the provision of an independent advocate may assist with this. The Human Rights Act 1998 entitles a parent to participate fully in the process; this includes stages prior to any formal legal proceedings being initiated. [p22]

xv) It is particularly important to avoid the situation where poor standards of parental care, which do not, however, meet the threshold of being of significant harm to a child, subsequently deteriorate because of a lack of support provided to the parent. A failure to provide support in this type of situation can undermine a parent's rights to a private and family life, and may also contravene an authority's disability equality duty. [p25]

xvi) Families affected by parental learning disability are likely to have an on-going need for support. [p27]

xvii) When children are placed in foster care, parents should receive practical support to maximise their chances of improving their parenting capacity. Without this, parents will have little chance of reunification with children who have been removed from their care. [2.2.12, p29]

xviii) Both children's and adult workers will need specific training in order to respond appropriately to the needs of families affected by parental learning disability. Child protection training strategies should include adult learning disability services. [p38]

xix) It is essential that assessments, training and support are both timely and appropriately tailored to the parent with a learning disability. Failure to build in, from the outset, the extra time that a parent with a learning disability needs in order to learn and understand, puts that parent at a significant disadvantage in child protection proceedings, compared to parents without a learning disability. [piii]

xx) There must also be joint working across all the agencies (in particular adult and children's services) and appropriate and effective communication permitting parents to participate fully in the process. [piii]

39. Mr Morgan said in his submissions that the Guidance works on the basis of a counsel of perfection and resources being available to the local authority and other agencies. The reality, he says, is that resources and availability get in the way.

40. Ms Harman reminds me however what Munby P said at paras 28-29 of *Re B-S*:

"28. … the court's assessment of the parents' ability to discharge their responsibilities towards the child must take into account the assistance and support which the authorities would offer. So "before making an adoption order … the court must be satisfied that there is no practical way of the authorities (or others) providing the requisite assistance and support." In this connection it is worth remembering what Hale LJ had said in *Re O (Supervision Order)* [2001] EWCA Civ 16, para 28:

> "It will be the duty of everyone to ensure that, in those cases where a supervision order is proportionate as a response to the risk presented, a supervision order can be made to work, as

indeed the framers of the Children Act 1989 always hoped that it would be made to work. The local authorities must deliver the services that are needed and must secure that other agencies, including the health service, also play their part, and the parents must co-operate fully."

That was said in the context of supervision orders but the point is of wider application.

29. It is the obligation of the local authority to make the order which the court has determined is proportionate work. The local authority cannot press for a more drastic form of order, least of all press for adoption, because it is unable or unwilling to support a less interventionist form of order. Judges must be alert to the point and must be rigorous in exploring and probing local authority thinking in cases where there is any reason to suspect that resource issues may be affecting the local authority's thinking."

Dispensing with consent

41. In considering whether to dispense with the parents' consent to placement for adoption the court must be satisfied that the welfare of the children requires consent to be dispensed with. 'Requires' connotes imperative rather than desirable or reasonable - so the children's welfare throughout their lives must require adoption rather than something short of adoption: section 52(1) Adoption and Children Act 2002; ***Re P (Placement Orders: Parental Consent)*** **[2008] EWCA Civ 535**.

Background history leading to the issue of proceedings

42. In this section I will look at how it was that these children came into the care system and the support that has been given to the parents. I take this from the chronology and the written and oral evidence and refer as appropriate to the local authority's revised threshold document

43. The chronology starts in March 2014 with a referral regarding step parent adoption of A by the father.

44. On 22 April 2013 the mother's medical records show a diagnosis of mild learning disability. The father was present when that diagnosis was made.

45. In August 2014 there was a referral to children's social care following an assault on A (then aged nearly 9) by the partner of the mother's friend (he 'flicked' A with a tea towel and lowered a bed under which she was hiding onto her causing marks). There was an ABE (Achieving Best Evidence) interview and CIN (Child in Need) assessment which resulted in no further role for children's social care being identified at the time.

46. I note from the CIN assessment by social worker NB dated 20 September 2014 the following:

i) A's health was not assessed but she presented as physically well;

ii) A presented as a happy and settled little girl who chatted very confidently;

iii) the father was still in the process of adopting A and the family had met with the Adoption Team to start the process;

iv) the mother was unaware that A had been left alone with her friend's partner, thinking she was being cared for by the friend; she said she had spoken to the friend and was confident she would not allow it to happen again;

v) it was noted that the mother had a mild learning disability and hearing impediment which did not negatively impact on her parenting capacity;

vi) there were no concerns for A's welfare - indeed it is noted that A appeared well cared for by her parents;

vii) the parents were happy with their family life;

viii) the mother was expecting (K) and would like to be re-housed.

47. In September 2014 the family were first allocated to the Children's Centre to complete some budgeting work before K's arrival. The Children's Centre supported the family to complete a money skills programme and debt pack, attend the Job Centre and First Point, ensured they were receiving Healthy Start Vouchers and provided them with foodbank vouchers. They also provided baby equipment (swing, bath, cot and mattress) and helped with washing clothes.

48. On 15 February 2015 the parents called 111 as K had a high temperature and was vomiting.

49. In April and May 2015 A's medical records show calls to 111 about her having toothache. On 12 August 2015 a family friend with whom A was staying contacted the ambulance service as A was saying she had been suffering with toothache for over two weeks and her parents had been giving her paracetamol rather than taking her to the dentist. The father told me that sometimes A would say she had toothache but it would go and come back and had not lasted for two weeks; the toothache usually coincided with A eating sweets. The father said that he had tried to find a dentist for the whole family but there were long waiting lists and they ended up going to an emergency dentist. They subsequently registered with a local dentist. [Threshold 8(i)]

50. On 9 September 2015 an anonymous call to the NSPCC raised concerns that the baby (K) could be heard crying for hours on end and the parents were shouting at each other. At the time of the call they were talking to a neighbour while the baby screamed, raising a question about who was looking after the baby. Meanwhile A was being left to play outside until 9 or 10 at night. I note from the CIN assessment on 23 March 2016 that on 11 September 2015 the case was closed as the concerns were not substantiated. The health visitor was heavily supporting the family and was happy to continue doing so.

51. On 23 September 2015 the family were referred again to the Children's Centre. The father disclosed that he and the mother had argued and the mother had thrown a cup at a wall. HP was allocated as family support worker. Work focused around routines. It became apparent according to HP that K had no routines. The Safe at Home team attended the home to make sure it was safe for the children. The kitchen was reported to be very dirty. HP saw the mother being rough with K, for example in the ways he put K in her highchair.

52. In October 2015 there was the first of a number of incidents (7 in all) when K suffered a febrile convulsion (fit). According to the parents they always happened at night when she was in bed and could last for some time.

53. In November 2015 HP visited the home one day at 1000. The family were still in bed. K's nappy needed changing, she was not dressed and had not had breakfast. HP worked with the family using pictures and wall charts to try and implement daily routines.

54. In early 2016 the Family Support Service began to notice the father's mental health begin to dip.

55. In January 2016 the parents were referred to the Incredible Years (IY) programme at the Children's Centre. This was taught by HP and a colleague. The parents completed most of the sessions, with genuine reasons being given for those not attended. The following points came out from the evidence:

i) The mother was worried about working in a group - nobody else in the group had a learning difficulty and the mother thought the others would laugh at her.

ii) The IY course is presented at basic level but is not tailored for those with learning difficulty. HP is not trained to work with people with learning disability.

iii) HP was not aware for certain of the mother's difficulties. She knew she had been to a special school, that she was deaf and did not wear hearing aids and founding reading difficult.

iv) However, HP told me that they used a number of different teaching styles, including video clips, discussions and practical role play. The mother did not always do the role play and was not made to if she was not comfortable. HP did not think that the mother stood out as being behind the group and she seemed to understand.

v) HP told me the couple seemed to find it difficult working as a team and would see things differently, despite talking to them about working together.

vi) The mother in evidence told me she found the IY course difficult. She did not understand the video clips. The father said he understood 90% of it.

vii) At a CIN review on 14 September 2016 HP said that the mother had become overwhelmed with the information presented [at IY] and would do some one to one work recapping work with her. She said that the mother was struggling to retain information.

56. On 23 February 2016 it was agreed that the case met the CIN threshold and referrals were made to Home Start (to support home conditions) and First Point (to support management of finances).

57. On 7 March 2016 the Children Centre said the children presented as unclean.

58. On 15 March 2016 the mother told the Children Centre she had slapped A for hurting K. More appropriate ways of managing behaviour were discussed. The mother told me that A had picked up K by the hair and she smacked her hard on her hand. [Threshold 8(j)]

59. A CIN meeting was held on 12 April 2016. I note from the CIN assessment dated 23 March 2016 the following:

i) A was healthy and active and enjoying school with a positive outlook and view of herself. She presented as having a good attachment with her parents and enjoyed family activities. She was appropriately dressed (although HP raised a concern about her being under dressed for cold weather) and spoke fondly of immediate and wider family. Her parents help her with her homework. She had developed a good relationship with the father who was the father figure in her life.

ii) There were some issues relating to the cramped accommodation at home (it is a small two bedroom flat).

iii) K was meeting developmental milestones and was attending the Children's Centre with the parents. She was developing speech and language and was mobile and walking.

iv) The parents had been struggling with day to day living. They had engaged well with support from professionals around parenting and routines, however they were struggling to implement and maintain any positive changes. The mother was struggling because of her learning difficulties and mental health and the father because of his mental health and competing responsibilities of trying to care for both the children and the mother. They sometimes struggled to work together and frustration sometimes led to arguments. That said they were supportive of one another and were open to support to improve their parenting skills. There were times when the father had to remind the mother what they had learned on the IY course.

v) The parents reported difficulty managing behaviour. K could have tantrums (normal for toddlers) and there were problems with A's attitude and she got into arguments with the mother.

vi) The parents had a couple of friends but were largely socially isolated, the mother because her learning disability made it difficult for her to make friends and the father because his focus was on looking after the mother and the children and he had no time for himself outside the home. It was noted that he was not doing any DJ work because of his commitments in the home.

vii) The mother was noted to have learning difficulties and was receiving DLA and needed support with tasks around the home, reading and writing, managing her emotions, dealing with social anxiety and processing information. She had experienced early childhood abuse and had been referred to Dorset Action on Abuse.

viii) The father had recently been experiencing mental health difficulties with feelings of stress and depression. This impacted on his functioning. He had sought support from his GP but there were still

days when he was struggling. He had been signposted to Steps2Wellbeing.

ix) The family had significant financial and housing issues which caused additional stress, impacting on them almost daily.

x) The health visitor (CM) had been visiting fortnightly. She had concerns about the ability of the parents to meet the children's needs consistently. The mother would put the cooker on and forget she had done so. There was shouting in the home and the father had become depressed so that he was not washing or dressing himself. The mother had mood swings. There is warmth shown by the parents towards the children but they struggled to know how to cope when K cried. The mother had been heard to shout at A calling her a 'c**t'.

xi) A's school reported some low level concerns, for example A commenting that she had not had breakfast that morning as she had been helping to feed K. A had been late a couple of times.

xii) The parents said the support they had been getting from the health visitor and Children's Centre was very helpful and were happy to have support from them, Home Start and First Point. They said they were benefitting from IY and hoped that would improve their parenting skills.

xiii) The parents had engaged with support and improvement in the functioning and presentation of the parents and home conditions had been seen. There was concern about how positive changes could be sustained and the need for additional support if they struggled was identified as essential. Home Start was identified to provide such support around the time of birth of T.

xiv) The mother was reliant upon the father for support. It was important if he was not well or able to provide his normal level of support that additional support was provided by others such as the Children's Centre or school.

60. On 29 April 2016 the health visitor was concerned that T had lost weight despite regular feeds and about safety with K having access to a steamer, pills and scissors.

61. On 10 May 2016 it was noted that the home conditions were cluttered with washing and other items on the children's beds. HP supported the family with two de-cluttering sessions (on 10 May 2016 and 2 August 2016). On these occasions the mother was proactive in helping but the father was not so involved and needed reminding that he was caring for the children.

62. At a CIN meeting on 24 May 2016 it was said that the parents were struggling to maintain efforts to de-clutter. The mother had been referred to the ALDT.

63. At a professionals' meeting on 28 June 2016 there was concern about lack of change and the impact of that on the children.

64. At a CIN meeting on 12 July 2016 it was noted that the father had been struggling with depression. The family's core routine was better but still lacked consistency. It was also identified that the mother needed to be assessed by the ALDT. In fact that did not happen until December 2016, according to AM because they were waiting to identify somebody to work with the mother.

65. On 8 August 2016 K was taken to the Minor Injuries Unit having fallen and hit her head at a barbecue. The parents reported that another child had picked K up and she fell and hit her head. AM accepted in evidence that the best cared for children may have accidents and injuries through play; her concern was that the parents had not supervised the children well enough as a result of which there had been avoidable accidents.

66. On 9 August 2016 a housing officer made a home visit and was very concerned about the 'total mess'. The father was unable to manage money having recently bought a new car, TV, phone, camping holiday and barbecue while needing support for food, a washing machine and cot, all of which had to be sourced from other agencies.

67. On 24 August 2016 a Family Group Conference (FGC) was held. It was attended by the parents, three godparents and an aunt as well as professionals (and I do not understand therefore references to no family attending). The resulting plan was for

i) The parents to spend some time together without the children supported by family and friends looking after the children at those times.

ii) The parents doing a specific activity with the children once a month. And the mother to spend time with A.

iii) The parents to de-clutter the flat and decorate helped by family members and friends.

iv) The godparents and aunt to help setting a routine for the children.

v) Various ways to help the mother with her confidence and both parents with their medication and wellbeing, again involving family members.

vi) Friends of family helping the mother, if she was on her own, getting in and out of the flat with the children and to have somebody she could contact.

68. On 13 September 2016 a CIN review was held. I note the following:

i) No specific concerns were noted but the parents were clearly at a low point. The mother felt as though she was stuck and needed a push while the father said he was "knackered". He was the main carer for the mother and said he did not know where to start. They were falling out a lot and he was getting frustrated with her as she could not do anything right. They talked about having "screaming matches" and snapping at one another, although the father thought the mother had been shouting at the children less.

ii) Although A said things were going well there were concerns that she may be a young carer, begging the question who was caring for her? The school thought if the parents were ill A may be staying home to look after K and T. A was giving reassurance to her mother.

iii) The resulting CIN plan identified that the parents were in need of support and services to help them meet the needs of each of the children.

iv) K was meeting her developmental milestones and there were no child protection concerns about her. However living conditions needed to improve immediately and needed to be sustained through infrequent prompts rather than frequent practical help. The social worker recognised that the mother may need information delivered in "simplistic and gradual manner" to assist her understanding and increase the chance of her addressing issues; a 'task centred' approach was thought to be more helpful.

v) The father had been to Steps2Wellbeing who recommended CBT but he had missed an appointment. The father agreed to make contact with Steps2Wellbeing or his GP by 23 September 2016.

vi) In terms of support offered:

a) the family were living in over-crowded accommodation but could not be re-housed because of a lack of local connection. Professionals at the CIN would write supporting letters;

b) the professionals would no longer maintain home conditions on behalf of the parents but instead would prompt and encourage, offering guidance rather than practical help;

c) ongoing fortnightly visits by HP including re-capping work under IY;

d) Home Start had competed an assessment and an initial appointment was awaited;

e) First Point were assisting with housing and financial needs and had contacted environmental health (presumably to get the landlord to take some action to improve conditions in the flat).

69. On 22 September 2016 the father had an initial appointment with Steps2Wellbeing. He was discharged on 14 November 2016 following three missed appointments.

70. Dr K's psychological report on the mother dated 2 October 2016 came from a referral by AL and was to establish whether the mother met the diagnostic criteria for a learning disability.

71. Under the heading Adaptive Skills is it said

> "[The mother] reports that she cannot manage money, bills, telephone calls etc and [the father] deal with such things. She can cook under supervision but can have difficulties with using appliances such as the hob, particularly working out which dial corresponds to which hob ring. [The father] reports that [the mother] can sometimes require prompts with daily tasks such as changing her daughter's nappy. In terms of accessing the community, [the mother] reports that she does not like going to places on her own and would struggle with navigating buses and reading maps. [The mother's] fear of going out on her own means that she has a limited social life, but does attend a weekly under 1's class at a local children's centre which she enjoys."

72. On psychometric assessment it was found that the mother:

> • has poor vocabulary and lack of stored knowledge and struggles to reason with some abstract verbal concepts and nonverbal visual stimuli;
>
> • has weak working memory, with poor ability to retain recently heard verbal information, [particularly for numbers - she may find it difficult to switch quickly and fluidly between tasks and holding information in her head and using it];
>
> • might struggle with cognitive decision making and learning new information.

73. Dr K made a number of recommendations:

> • the mother would benefit from home-based support and being demonstrated a skill rather than just receiving verbal advice; so she should be encouraged to carry out a task with prompting and encouragement until she can carry it out independently;
>
> • she may benefit from visual aids (eg pictures or photographs) to support her understanding, with all written communication being kept clear and concise with simple language and professionals ensuring she has understood information and advice presented to her;
>
> • as the children reach new developmental stages, the mother will need support to adapt parenting skills to later stages of the children's development;
>
> • as parents with learning disability often have difficult generalising advice from one child to another, advice given with respect to an older child would need to be revisited when her younger children reached that developmental stage;
>
> • the mother should be referred to the Perinatal Mental Health Team given her low mood.

74. On 16 November 2016 conditions were still cluttered at home and A had a tooth removed following toothache. The following day A's school said she was hungry and less focused in school, impacting on her attainment.

75. A Review FGC was held on 23 November 2016. The parents and three godparents, but not the aunt, were present. None of the actions agreed at the initial FGC had taken place. The anticipated support from family and friends had not materialised. The flat remained cluttered and routine remained a concern. The parents needed prompting to manage K's safety during the meeting.

76. On 30 November 2016 the health visitor reported that the mother had stopped taking Fluoxetine (an anti-depressant) because of side-effects and was feeling in low mood with thoughts of self-harm. The family had financial difficulties and the health visitor had used petty cash to buy formula milk. T had been given cow's milk against advice and his weight had dropped.

77. Significant concerns were raised following a home visit by a duty social worker on 7 December 2016 (while AM was on leave). A was being exposed to adult conversation and worry. Home conditions were sufficiently poor to give rise to safety concerns. Supervision of K was a concern, with the parents having to be prompted when K climbed on furniture and the duty social worker removing a spanner from her. The father said he used smacking as a form of behaviour management. K appeared unclean, her hair was matted with food and there was dirt under her fingernails.

78. As a result on 13 December 2016 a strategy discussion was held and section 47 enquiries started. On the same day the health visitor reported the father as being concerned about the mother's emotional presentation and mental health. The mother had threatened to take her own life. The health visitor had advised the mother to self-refer to F House Perinatal Unit.

79. The mother spent 10 days in F House with T. Her care of T in that setting was reported to be good. More detail is given later in this judgment.

80. On 14 December 2016 A was visited at school. She was worried about her mother being in hospital. She said she must be nice to her mum or her mum would kill herself. AM reported A as saying she had been told this by the father. From AM's evidence and that of the father it seems that the father may not have used these exact words when speaking to A. He says he told A that mummy was unwell and was in hospital because she had taken one too many pills and when she comes home we all have to be very good. AM accepted that was an appropriate way for the father to have dealt with it.

81. Late in 2016, early 2017 the family had financial difficulties because the mother's PIP payment was wrongly suspended. It took some time before it was reinstated and a back payment made enabling them to clear rent arrears that had accrued. This was a stressful time for the family.

82. An Initial Child Protection Conference was held on 4 January 2017. A Child in Need assessment had been completed. Concerns were noted about the home conditions, despite a high level of professional support, the exposure of A to adult worry and language and the family's financial difficulties. The mother's Community Mental Health Nurse, KP and JL were amongst those present and able to advise about the support the mother needed. It was felt that a high level parenting assessment by the FAST would be useful. It was acknowledged that the parents had been open and honest.

83. All the professionals agreed that a Child Protection Plan should be put in place under the category neglect. There had been a high level of support which had not made necessary changes. The mother said she wished it had happened before. The father was worried about achieving change in short timescales. An easy read version of the minutes of the meeting was produced for the parents. This ended with an action plan which included:

- HP and CM would visit the parents to support them regarding K's biting;
- AL would work with JL to support the mother and decide what long term support she can have;
- A would continue to have ELSA support at school;
- KP would refer the father to Steps2Wellbeing;
- AM would work with the parents to get information necessary for the parenting assessment;
- JL would complete a weekly chart of household chores and daily routines with the parents;
- AM would visit once a week;

• CM would visit once every two weeks.

84. Over January and February 2017 there were a number of visits resulting in ongoing concerns around supervision, neglect and financial management. There were discussions with the parents about avoiding tantrums, routines, shoes and clothing, K biting and comforting the children when hurt. T was taken to the MIU after falling and bumping his head on 7 February 2017. On 17 February 2017, during an unannounced visit by CM, there was left over food on the table and K had picked up a sharp knife (both the mother and A reacted quickly to take it from her). On 10 March 2017 T was observed picking up small objects in the home and putting them in his mouth, while K was climbing up on an open window.

85. Screening for the parenting assessment started on 28 February 2017 with an agreement for the assessment dated 8 March. Five further appointments took place with CD and RG and either or both of the parents before the Review Child Protection Conference on 21 March 2017. Although those meetings were not teaching focused I was told that all the meetings involved an element of teaching and guidance.

86. I note the following positives from the RCPC minutes:

• there had been a lot of progress since the ICPC;

• the children when seen by professionals are well presented, clean and in good fitting clothes;

• they were all healthy and height and weight were good;

• there had been some improvement in home conditions, particularly the lounge;

• both parents continued to be open about things they had difficulty with, were asking for help and working well with professionals;

• the parents were working more together, which was noted as really positive.

87. There were still concerns about:

• home conditions, particularly the kitchen, bathroom and K's bed area;

• routines were still being worked on with inconsistent meal times (although the parents said they were using the easy read routine provided by JL);

• prioritising money was still a problem with food vouchers being asked for one week and a new television being bought the next;

• the parents still had to work hard on supervision with prompting often needed regarding safety concerns;

• the mother did not know how to give K medication (or which medication) to reduce her temperature;

• they remained vulnerable as a result of mental health and learning disability needs, with the father still feeling low in mood;

• A's behaviour at home, although she seemed to be happier in school;

• there was still a lot of negative talk about A;

• the father admitted smacking A during the review period, saying he had the knowledge from IY but struggled to use it when needed.

88. Overall the parents had made a lot of progress but there remained areas of risk. The RCPC outcome was that professionals needed to see improvements maintained consistently over the next six months. An easy read action plan for the parents included:

• JL to create a pictorial guide to giving K and T medication;

• FAST to complete the parenting assessment;

• CM to continue visiting every 2 weeks and AM once a week;

• the father to speak to his GP about his low mood and to review his medication;

• AM to liaise with ALDT to establish what support the mother will receive and AL to complete her assessment of the mother's needs;

• A to continue to have ELSA in school.

89. The action plan finished with this:

> "The changes made need to stay in place and professionals need to continue to see changes over the next review period. IF [*original emphasis*] changes have not been kept and further changes are not made Children Social Care will need to seek legal advice, this will be so the court can make a decision whether the children should remain in the care of [the parents]."

90. A Core Group meeting was scheduled for 26 April 2017 and the next RCPC on 8 September.

91. The parenting assessment continued with regular appointments concluding with teaching sessions on 10, 11 and 28 April and 4 and 8 May.

92. In the meantime, on 29 March 2017 K was taken to A&E with a cut to her thumb that needed to be glued. She had cut herself on the sharp edge of a bath panel. There is an issue whether K was supervised at the time. The parents accept they were not in the bathroom with her (and the bath was being run) but thought A was. A said she was not present. During a conversation with the father on 30 March he did not agree that the children were not receiving adequate supervision saying they would need "eyes in their arse to keep an eye on them all the time". The father made a similar comment at a meeting on 3 May 2017. The local authority say this shows a concerning lack of insight. [Threshold 8(f)].

93. On 4 April 2017 K missed an appointment with the ophthalmologist.

94. CM did not have any concerns at a home visit on 5 April 2017.

95. On 6 April the FAST and CM completed a Graded Care Profile which was the subject of some discussion during evidence. It was suggested on behalf of the parents that the scoring was unnecessarily harsh at points. The witnesses stood by their scoring (with one exception) which had resulted from joint discussion. The scoring was as follows:

> 1 = all needs met, 2 = essential needs met, 3 = some essential needs met, 4 = many essential needs unmet, 5 = most/all essential needs unmet.
>
> **A Physical**
> Nutrition 5
> Housing 5
> Clothing 5 (in evidence CD accepted this should have been 4)
> Hygiene 4
> Health 3
>
> **B Safety**
> In carer's presence 5
>
> **C Responsiveness**
> Carer 5
> Mutual engagement 5

D Esteem
Stimulation 5
Approval 4
Disapproval 4
Acceptance 3

96. During the last week of the Easter holidays 2017 the family went on a camping trip locally. The father's step-brother and his wife, neither of whom the father or the mother had previously met, arrived at the site as a surprise and pitched tent next to the family. There were two incidents of concern during this holiday.

i) On 21 April the father left the mother alone to look after the children while he went to help a friend, returning at about 1am. The mother did not have a mobile phone (and would not have been able to use one even if she did). The father says he arranged with his brother and his wife to look out for the mother and she knew to contact them in the event of need. The local authority points out however that the father knew the mother had difficulty asking for help from people she does not know well. That evening K suffered another fit. The father's brother or his wife called an ambulance. The ambulance crew reported that K was dehydrated and had a nappy full of dark urine. They thought it looked like a case of neglect. On admission K's temperature was 40.8° and no Calpol had been administered (indeed they had not taken any with them on the camping trip). In evidence the father could not see any problem with what he had done. This was K's 7th febrile convulsion. [Threshold 9].

ii) Later during the same trip the mother made the father a cup of tea. They left the camp site for the day. When they returned they found a large burn hole in the tent. They were told by nearby campers that the stove had been left on and burnt the tent. The mother accepts she forgot to turn the stove off.

97. The father told CM about this when she did a home visit on 25 April. CM in turn discussed it with AM (although she said she found out from hospital staff and the father).

The issue of proceedings
98. On 10 May 2017 FAST prepared its first interim report. A final report was anticipated by early July 2017, but the interim report raised a number of concerns from which the local authority concluded that the situation could not be allowed to continue:

i) home conditions remained cluttered and unhygienic posing a risk to the children of accidents, hazards and hygiene;

ii) supervision of the children and responsiveness to K and T's needs was wholly inadequate with K and T appearing pale, unkempt and vacant in their expressions;

iii) basic care of the children was inadequate;

iv) frequent prompts were needed to change nappies;

v) the children had been observed to be dirty;

vi) there had been rough handling of K by the mother;

vii) the mother was unable to manage simple daily routines, multitask or meet the children's competing needs;

viii) the father:

a) was inclined to blame the mother for difficulties and infantilised her;

b) did not accept there was neglect or any failure in supervision;

c) made derogatory comments to the mother and to A;

d) had left the mother alone to care for the children and did not appear to understand the mother's needs;

e) did not recognise the need for change;

ix) it was clear that all three children were suffering neglect - "Their presentation is the epitome of neglected children".

99. By 3 May 2017 the local authority had decided to issue these proceedings because on that date AM spoke to A at school to explain the decision. A was tearful and said it would break her heart to be separated from her family. She asked practical questions about timescales and asked "what do we need to do at home to stop this happening?". AM told me that this was one of a series of questions put in a very calm matter of fact way by A. She simply wanted a list of things she could do. This suggested a level of adult responsibility felt by A towards the family.

100. The parents were invited to a meeting on 11 May 2017 to discuss the plan to issue proceedings.

101. On 15 May 2017 the local authority issued these proceedings. The parents suggest that the local authority 'jumped the gun' by issuing when they did rather than wait as planned at the RCPC on 21 March to see whether the parents could make and sustain change over the following 6 months.

102. Given the conclusions of the interim report coupled with the further incidents since the RCPC it is not difficult to see why the local authority felt they had to issue proceedings in May. As a result, sessions with the FAST stopped and there was no further teaching. No significant support has been given to the parents to enable them to effect change since the issue of proceedings. Ms Harman points to this as a breach of the Good Practice Guidance (see para 38(xvii) above).

103. The matter first came before the court on 18 May 2017 when the local authority sought interim care orders with a plan for the removal of the children into foster care. That application was not opposed by the parents. Mr Howard was concerned that the parents were, in arguing that the issue of proceedings was premature, going behind the decision of another judge that the making of interim care orders was appropriate. I do not agree with that. The test for the making of interim care orders is a high one - children may only be removed from the care of their parents if their immediate safety requires it. Mr Howard provided me with a note of District Judge Avis' judgment, which was appropriately brief given that the application was unopposed and did not deal with the merits of the application at all save to say that the parents accepted for the purpose of that hearing that the interim threshold under section 38 (that there are reasonable grounds for believing that the threshold criteria under section 31 is met) were made out. The judgment expressly noted that the parents reserved their position.

104. I see no objection in principle in those circumstances to parents being able at a final hearing to argue on the evidence then available that proceedings were issued prematurely. There are good policy reasons for that. The making of an interim order is a neutral holding position while matters are fully investigated. If parents were to understand that litigation estoppel would apply if they accepted the section 38 threshold for the purposes of interim orders, the courts would likely face more contested interim hearings. It is common place for parents and those advising them to take a pragmatic position at interim hearings and, in my view at least, should not feel that they will be prejudiced by doing so. That applies particularly to cases of vulnerable parents where there may be difficulties at an early stage (a) knowing whether they have capacity and (b) taking instructions.

The FAST parenting assessment

105. There have been no further appointments for assessment of the parents since the issue of proceedings. FAST has made two further reports:

i) their final parenting assessment report dated 31 May 2017 based on the appointments that took place down to 8 May 2017; this report concluded that the parents could not care for the children;

ii) a report dated 20 July 2017 which addressed two questions asked by the court:

a) whether the findings of the parenting assessment in the report of 31 May 2017 would have been different if additional support could be provided by the ALDT;

b) whether the parents had made any changes since the report of 31 May and, if so, whether they were sufficient to change the recommendations in that report; for the purpose of this part of this report a number of contacts were observed.

The FAST parenting assessment report 31 May 2017

106. The final report, completed after all 19 sessions, reflected the concerns set out in the interim report completed after 12-13 sessions.

107. The mother was noted to struggle to deal with her mood and, at times, her behaviour. She found it difficult to function before 1200 (although I note she attended court promptly for 0930 hearing starts each day). The mother sometimes shouted at K and T to get out of her room. She had been seen to handle K roughly on two occasions and on one of those K appeared frightened.

108. K and T appeared to the workers as exceptionally quiet and self-reliant children, wandering around aimlessly with blank expressions most of the time. Their cries for comfort or assistance went ignored or un-recognised most of the time. T in particular presented as an under-demanding child who seldom cried.

109. The father often voiced his frustration about the mother, blaming her disability for their situation, putting her down by saying she could not do things, saying that he sometimes felt as though he was parenting three children as well as A. At the initial visit on 8 March 2017 the father said if he knew then what he knew now he would not have had K and T. He infantilised the mother and was openly critical of her. It was thought unlikely they could work together.

110. The father was resistant to change and was at a pre-contemplation stage in the cycle of change [1], so not yet thinking about change or the need for it. He did not acknowledge that he had any difficulty in caring for the children or that their needs are neglected. The father would tend to dominate discussion within sessions making working within the home with the mother more distracted and difficult.

111. A presented as a neglected child. Her school uniform was too small and skirts too tight. The mother told me in evidence they had provided better fitting uniform and tried to persuade A to wear it with only partial success. A was expected to do things to care for K and T on a regular basis. K appeared to have a strong attachment to A. A had been known to wait in the local park for her parents if they were not home (I was told this was a place where drugs were used) and spent time in a neighbouring flat occupied by a male. There was concern that A was socially vulnerable and could be exploited in the future. A was well aware of her parents' difficulties and appeared to adopt a protective role within the family, expressing opinions that came from overhearing adult conversations.

112. K had recently started pre-school. An assessment of her development indicated that she was not achieving milestones consistently and her overall development was erratic and unstructured. According to the manager at K's pre-school, K was not used to structure around mealtimes and was unable to pick up on what other children were doing to model their behaviour.

113. It is significant to note that the perception of need tables within the assessment report show that whereas the mother's self-scoring for her own perception of needs was a total of 34 over 14 parenting domains compared to an assessed needs scoring of 42 (suggesting a reasonably realistic self-perception) the father's self-scoring was 23 against an assessed needs scoring of 40, suggesting a greater gap between how much help he thought he needed and the amount the assessors thought he needed. The mother was assessed as needing teaching immediately or within 4-8 weeks on 67% of skills, the father on 52% of skills.

114. This report repeated the concerns of the interim report concerning home conditions and hazards, supervision and basic care set out above.

The third FAST report 20 July 2017

115. In their third report FAST concluded that for the children to be safe in their parents' care there would need to be an additional primary caregiver in place permanently for the duration of their minorities. The couple were unable to access additional support because the mother did not meet the eligibility criteria under the Care Act 2014 for higher level support.

116. The report set out the support the mother was receiving and which she had (save for First Point) been receiving at the time of the assessment on 31 May 2017:

- First Point for housing and financial needs;
- daily phone calls from the Learning Disability Intensive Support Team for emotional support and to assess her mental wellbeing;
- GP to review medication and support with any health issues;
- the mother could be referred to psychologist Dr K for further support;
- a psychiatrist oversaw the mother's medication and mental health;
- emotional and practical support from JL of the ALDT, including visual guides to help her learning;
- the mother was attending Dorset Action on Abuse every week for specific support around her past experiences of abuse;
- the parents had approached the Children's Centre for a place on any available parenting courses, although none were available at that point;
- the mother was in the process of applying for a blue badge and bus pass;
- the ALDT could commission support for the mother in her caring role if the children were returned to her care.

117. In fact the amount of care offered was two hours a day in the morning. JT's opinion was that the mother would need support for 12-16 hours a day, effectively all the children's waking hours (on the basis there has never been a problem at night). CG agrees with that view. LW observed that the support given to the parents during the assessment exceeded two hours a day and that had been insufficient to bring about the required changes. She points out therefore that the offered support would not be enough to 'bridge the gap' and provide the children with good enough care within their timescales.

118. It had also become apparent that since the children had come into care the parents had bought a number of budgerigars living in a large cage. The mother told me she bought them because she was lonely and she could talk to them.

119. The mother was not at that point receiving support with cooking. She had started cooking a little with support from the father. It was agreed by the ALDT that they would look at appropriate classes for the mother.

120. LW visited K and T in their placement on 3 July 2017, before one of the observed contacts. She was struck by how differently they presented since being in foster care. They were clean and well presented in well-fitting clothing. They had shiny hair that was lighter in colour than previously. Their complexion was rosy and healthy rather than pallid and grey. Both children were inquisitive and interested, both playing with toys and relaxed in their environment. T appeared to have gained weight and stature, was standing confidently and appeared to have progressed developmentally.

121. The foster carer reported that in the five weeks the children had been in her care:

• K was now calmer and no longer running off in the street (a result of consistent boundaries);

• K was now wearing her glasses (which she had not done with her parents);

• K's speech had improved and she was singing songs;

• she was not presenting with aggression as before;

• she had started to use the toilet consistently;

• having started the placement by "eating loads", T's appetite had returned to a normal level;

• he was walking independently;

• he continued to present as placid and had no behavioural issues.;

• the children were learning to play and share together following early disagreements.

122. The conclusion from the observed contacts was that the parents could maintain positive interactions with K and T, and engage them in play, within the structured friendly environment offered by the Children's Centre for limited periods of time. However, the parents were easily distracted and the younger children not adequately supervised. There were frequent occasions when contact supervisors removed the children from risky situations. Indeed, LW felt the supervisors were getting too involved in caring for the children and spoke to them about distancing themselves. It was also felt that A received little attention or affection during contact because the needs of K and T superseded hers.

123. There was concern about an incident at a supervised contact session at the Children's centre on 31 May when K had red marks on her back after being left with her parents for a short period of time. The parents had photographed these marks, thinking they were caused by the foster carer. K made comments afterwards suggesting she may have been hurt by her father and concern was such that two supervisors were put in place for future contacts. There has been some issue about K using the toilet since. I note in evidence JT said in relation to another incident that she did not think the father would deliberately hurt K.

124. I do not consider there is sufficient evidence to come to any conclusion about the cause of these red marks and I make no finding in relation to them.

125. The father had, since the previous FAST assessment, been assessed by the ALDT psychologist who concluded that the father's IQ fell within the average range of ability and did not have a learning disability. He had been referred to Steps2Wellbeing in 2016 but had left after attending one session. LW said this supported her view that the father was resistant to change as he had not accessed available support to help him overcome his depression.

126. LW concluded that recent developments outlined in this report provided further evidence that the parents are unable to meets the needs of the children. There was nothing to prevent the father developing his parenting knowledge, taking joint responsibility for managing the children's care needs and helping the mother to parent the children to a good enough standard. The dynamics in the relationship between the parents negatively influenced their joint parenting capabilities combined with the mother's' learning disability and mental health issues meant that between them they were unable to 'bridge the gap'. LW said in her report:

> "The outcome of this case is not therefore reliant on an increased level of support being available to [the parents] because [the father] has the capacity to develop his knowledge in order to assist [the mother] but he has been unable to do so to date. This is in my view because he does not accept professional concerns about the children's care. He has not actively engaged in the advice offered by the FAST. He does not prioritise his children's needs over and above his own. He has not engaged in the support offered in regard to his symptoms of depression."

A's expressed views

127. On 7 September 2017 A wrote a letter. It is an open letter in the sense that A starts by saying that she wants everybody to know where she would like to be. She said she wanted her parents to know but she did not want to upset them. A said:

> "I don't want to live at home because I feel I would still have parental responsibilities and be asked to look after [K] and [T]. I felt left out at times, and this still happens at contact. I still love Mum and Dad very much and don't want to hurt their feelings.
>
> If the judge says I should go back home, I wouldn't mind but only if things have really, really, changed.
>
> I think the best thing for me is to find a nice foster family, and that is top of my list."

128. A went on to set out some of things she would like to be able to do and finished her letter "It's my birthday on Monday and I am seeing Mum and Dad after. I really hope they are not upset about this so we can have a good time together."

129. One gets from that letter a strong sense of A's responsibility within the home being more than she wished for, feeling isolated, seeing the need for real change and, surprisingly for a child in foster care, not wanting to go home without real change and seeing foster care as the better option. I am satisfied that this letter is a true and realistic expression of A's wishes and feelings and it is strong evidence.

Impression of the witnesses

130. Before coming to my findings I say something about the witnesses.

131. The professional witnesses were all straightforward and reliable. In evidence they were prepared to accept the positives in relation to the parents, not always apparent in written reports. For some of them it was the first time they had given evidence. They were challenged about their experience of dealing with learning disabled parents and their knowledge of the Guidance.

132. LW had not had specific training in working with parents with learning disability, although this is an area covered in the social work degree which she holds. She is PAMS trained. Hers was a co-ordinating role with the FAST assessment. LW accepted that the first two FAST reports, written by her, contained no positives about the parents. It cannot be said those two reports were balanced.

133. Most of the direct assessment work was done by RG and CD. RG told me she had done many assessments of people with learning disability. She also has a 1st in Psychology. She knew that the mother had a mild learning disability and liaised (with LW and CD) closely with the ALDT to find out how best to work with the mother. They followed the advice they were given. She gave evidence, as did CD, about the visual aids they used, charts, books and materials that were provided and the way in which they used open questions and checked for understanding.

134. CD told me that she had experience since 2001 of working with children and parents with learning disability. She is trained to level 3 in special needs assistance and level 4 health and social care. She spoke of how they had sat close to the mother giving her good eye contact and so that she could lip read. They listened to the mother when she said she preferred to use pictures than words.

135. It was clear to me that these three witnesses did their best to ensure that the assessment of the mother and the father was carried out fairly. I am also satisfied that the observations they made about the home conditions, the care and supervision of the children, and the role and treatment of A within the home were reliable.

136. CM, the health visitor, had been the family health visitor for three years. She told me that she was used to dealing with people with low IQ. She tried to help the mother fix things that had gone wrong. The mother worked well with her. CM did role-modelling with her and gave examples. She brought a different perspective to the Graded Care Profile scoring but agreed with it. CM is an important witness because she

is the only professional who has been involved with the family throughout.

137. AM was allocated as social worker for the children in October 2016 and handed over to LA of the Court Team following the first hearing on 18 May 2017. She had in her 2½ years as a social worker also worked with families with low IQs or learning disability. Before that she had worked for three years as a family support worker for adults with learning difficulties. It was clear from her evidence that she had a good understanding of the needs of parents with learning disability and put that into practice with the mother.

138. JT had very little direct involvement with the parents because she was not allocated to the case until 2 October 2017 to take over from LA when she took maternity leave on 7 November 2017. JT has been a social worker for 32 years and is experienced in dealing with a range of families with a number of different difficulties and disabilities. She told me had personal experience of dealing with learning disability and autism.

139. HP, the family outreach worker from the Children's Centre, gave evidence about the IY programme. She did not have training to work with people with learning disability. Nonetheless HP appeared attuned to the mother's particular needs and gave evidence in a balanced and straightforward manner.

140. The mother gave evidence over the course of two days. She was clearly able to understand the questions (although some had to be re-phrased) and was able to give understandable answers. She had clear difficulties with memory and in particular dates. She was unable to say how long ago something happened, only that it did happen. I am satisfied that she was a truthful witness who did her very best to say what had happened as she saw it. She was prepared to accept if things were wrong in the house. She was thoughtful in her answers and clearly wanted to help me reach the right decision.

141. The father also gave evidence over two days. By and large I thought he did his best to tell the truth, although he saw things from his own perspective which I did not always think gave a realistic picture. I did not form the impression of the father that he had taken on board the concerns about the children and he tended to deflect responsibility onto others.

142. CG is a very experienced Guardian who also gave evidence in a balanced way based on her overview of the evidence.

Findings

143. Reminding myself that the burden lies on the local authority to prove the findings it seeks, I make the following findings in relation to threshold and otherwise.

Home conditions

144. I accept the evidence of the professionals who went into the home that it was unacceptably cluttered and unclean with numerous choking and other hazards for the children. This much is largely accepted by the parents. The conditions were indicative of neglect.

145. Against that I accept:

i) that the flat was too small for a family of five and the parents' attempts to obtain better housing have been unsuccessful;

ii) that the mother made efforts to clean the flat, trying hard for example to clean the evidently unsuitable lounge carpet;

iii) that there were times when, with support, the conditions improved, but improvements were not sustained while the children were still at home;

iv) as AM told me, the parents only seemed to be able to sort one room at a time and could not maintain acceptable conditions in the whole flat;

v) since the children have left, the parents have been able to thoroughly clean, re-floor and decorate the flat to what seems a very high standard from the photographs I have seen;

vi) the question is whether those standards could be maintained if the children were at home.

Mother's mental health

146. I accept, as does the mother, that she has a history of depression and continues at times to struggle with poor mental health. In particular in November 2016 the mother had thoughts of ending her own life and in December 2016 threatened to do so as a result of which she was admitted to F House for 10 days. Sometimes the mother lashed out at the father as he described and as she accepted. The FAST described the mother sometimes being in a foul mood and shouting at the father or the children. The mother has punched the father. The children have been exposed to this behaviour.

147. I also accept that the mother's mental health may have improved with a change of medication and more activity such as going to the gym regularly and joining a local football team. I do not however have any updating medical evidence concerning the extent or sustainability of such improvement or whether it is likely to withstand the stresses of caring for the children again..

Father's mental health difficulties

148. The father accepts that he has suffered from depression for many years and has taken anti-depressants. Within the background history are a number of references to the father being referred to Steps2Wellbing. He failed to engage properly with that support. During 2016 and into 2017 it is clear that the father was not functioning properly. He described himself that he was not doing things he should and was having a really bad time with depression. The father's depression was not helped by the death of his own father just two days before T was born. This was just after he missed an appointment with Steps2Wellbeing which he did not then go back to. He told me he got to a state where he did not even want to wake up but only did so for the sake of the children. At times he did not wash or dress himself. He lacked motivation.

149. The father told me that physically he cannot do a lot of things he would like to. He gets out of breath very quickly. However he told me that, like the mother, he has been going to the gym, playing football and he has taken up golf. He says that his mental state is currently very good, almost back to being normal.

150. Again there is no medical evidence supporting what the father says about the improvement in his mental state. Ms Harman and Mr Malik point out that, having lost the children into foster care, it would have been very easy for the parents to have sunk further into depression and let things go. Instead they have picked themselves up, improved the condition of their flat so that it is unrecognisable, engaged constructively in the proceedings and generally tried to make the most of things. This would tend to support the parents' evidence that their mental health state has improved.

151. That said it is also apparent that this improvement comes about at the same time that the children came into foster care and the parents were no longer having to look after them. The father described how he had started to learn how to become a husband to the mother again and to re-learn how to love her. It may be that was something it was difficult for him to do when he had the responsibility, as he saw it, of looking after three children (including the mother) and A.

152. So, as with the improved state of the flat, it is not clear to me that the parents' mental health improvement would be sustained if the children were returned to their care and they found themselves under the same sorts of pressures that existed when the home conditions and their mental health states were so poor in 2016 and the first part of this year.

153. I do find that the children were exposed for an extended time to the father's depression and its consequences. Things were not done for the children that should have been done. They saw their father in a depressed state and he was unable, despite support, to do anything effective about it until the children were removed. This was emotionally harmful and affected the ability of the parents between them to meet the children's basic and emotional needs.

154. The father's depression also impacted on his decision whether to stop work to support the mother in her

care of the children. The father said he was medically advised not to stop work as it gave him something to do outside the house and afforded him some respite. Social work advice was for him to be at home to bridge the care gap. He says this confused him, which I understand.

Mother's learning disability

155. I accept that the mother's mild learning disability has a direct impact on her ability to care for the children unaided and undertake daily tasks without assistance. Essentially the mother requires continuous support to meet the children's care. She is unable to undertake many tasks unprompted. As she cannot tell the time she does not know when to feed the children. Nor can she cook them meals unassisted.

156. In April 2017 the parents accept there was the incident when the mother left a camping stove on in a tent. The mother had either not known how to turn the stove off or had forgotten to do so. Although the children did not suffer harm on this occasion, they could plainly be at risk if such an incident happened again.

157. I also accept the allegation that the father, who is the mother's carer, blames the mother inappropriately for difficulties within the family and fails to provide her with sufficient support. The father himself accepts that he has not done what he should have done to help. This may partly be to do with his own depression but it is also I find the product of a narrow traditional view as to roles within the home. Although the father is prepared to cook (and is on the evidence quite a good cook) he baulks at helping with household chores and more general care of the children. An example was given of the mother trying to find a thermometer to take K's temperature at the same time as hoovering and looking after the children. During all this the father sat using his iPad or iPhone.

158. Although it is not in the threshold document, the local authority seeks a finding that the father was aware of the mother's formal diagnosis of learning disability by August 2013 but failed to notify the local authority (as he should have done as her carer) so that they were not aware until AL's assessment that the mother had a formally diagnosed learning disability. The mother's medical reports clearly show the father knew about the diagnosis in 2013 not least because he was present at a GP's appointment which resulted in a letter from the GP in support of a benefits appeal referring to the mother's learning disability. A moderate learning disability had first been diagnosed in 1990 and was in the mother's medical records. I agree he should have told the social workers.

159. Having said that, I do not understand why the entire responsibility for telling the social workers lies on the father. If it was obvious to the father from what the mother could and could not do that she had a learning disability, as Mr Howard argues, it is not clear to me why the social workers observing the same limitations did not liaise at an early stage with the GP to find out whether there was a diagnosis; or simply ask the father as the mother's carer. More simply, NB recorded in her 2014 CIN assessment that the mother had a learning disability. This should have been known to the social work team and the FAST from the file. LW said it was not important to read this CIN assessment because at the time the parents did not have the younger children to care for. I disagree - I would have thought the FAST should have read and taken into account any assessments relevant to parenting capacity. Had they done so they would have immediately appreciated that the mother has a learning disability.

160. A number of witnesses describe the mother's learning disability as fixing her at a point, in the sense that she will always have a gap in her skills that would need to be filled. I agree with that observation although it does not mean that the mother is incapable of learning new skills.

161. I also note the father saying in his first statement about the mother "I do not believe that her learning disability is bad enough to impact on her parenting". It may be the father is relying on a statement to that effect in NB's CIN assessment. That may have been the position when the parents only had A to care for. It is certainly not the position so far as the care of K and T in addition is concerned. The father's statement shows a worrying lack of understanding about the mother's limitations.

162. Thus the father has not had sufficient understanding of the needs created by the mother's disability. It may be that his depression did not help his motivation to do things but he also failed to appreciate what needed to be done. I did not detect from the father's evidence any real acknowledgement about this. All he

could say was that he had not done what he should because of his depression and now he felt better.

Failure to meet the children's basic needs

163. The threshold sets out a number of allegations under this head. The following matters I find proved.

164. The parents are not attuned to the children's physical or emotional needs. While there is plenty of evidence of loving affection between the parents and the children, with lots of cuddles, there are also numerous examples in the evidence of the parents being unaware of K and T seeking attention during appointments and contacts and of A being ignored. Sometimes K and T were left uncomforted when upset. The mother has admitted calling K and T "c**ts". RG described K bringing a book to her in preference to one of her parents, suggesting to her that K thought other people coming to the house are likely to offer them more comfort than their parents. CM refers to K banging her head and biting, suggesting frustration which I accept is linked to the parents' inability to tune into and meet her emotional needs.

165. The children have at times been unkempt and dirty. This has not consistently been so. AM was only able to cite a few occasions when she had seen them dirty, last on 16 March 2017. However, there are numerous references to this by the FAST and in the evidence from A's school. CM, the health visitor, has been the most long standing, consistent and regular worker with this family. She said that most of the time the children were not clean. Mr Howard sets out a number of examples of the children having dirt under their finger nails, matted or greasy hair, dirty feet and grubby faces. They often presented as neglected children. The ambulance workers who attended at the camping trip on 21 April 2017 commented that the children appeared neglected. Even allowing for the fact that the children had been camping it seemed to them something of note.

166. K and T have been left in full and/or sodden nappies. There are a number of instances of this recorded. The parents frequently needed prompting to attend to nappies. Sometimes A helped. K suffered ulcerated nappy rash as a result. The parents were unclear how to deal with it although did obtain medication. They ran out of cotton wool and baby wipes and used toilet paper instead

167. The children have on occasion not been appropriately dressed. This applies particularly in relation to A who wore skirts which were much too short. The mother said she got her other skirts but A insisted on wearing a short skirt to school. This shows a lack of effective parenting. The short skirt should simply have been taken away. She also is noted to have been wearing trainers with the soles hanging off because she could not find her school shoes. K and T often went without socks. Mostly the health visitor records the children being appropriately dressed. She noted K not being appropriately dressed for cold weather on 25 February 2016 and the younger children not being dressed by the time of mid-morning visits.

168. There have been at least two occasions when the mother has handled K roughly. One of them amounted to moving her out of the way in the hallway. On one occasion K is noted to have looked frightened. This reflects that sometimes the mother is in a bad mood and shouts at the children.

169. K and T have not been adequately supervised. Many examples are given of workers having to intervene to remove something from a child. The children have suffered accidents which might have been avoided by adequate supervision for example, the occasion when K cut her thumb on the bath, when she fell and hit her head at a barbecue, T falling off the sofa and biting his lip and banging his head and on another occasion T bruising his forehead. I readily accept the point that all mobile children are likely to get bumps and scrapes as part of ordinary growing up and exploration. I accept the local authority's point however that K and T suffered avoidable accidents. There is a general impression from the evidence of the parents being unaware where the children are or what they are doing, or that what they are doing (eg climbing on the furniture, picking up small objects from the cluttered floor) is hazardous. Incidents are cited involving scissors, pills, a plastic bag, tools, items of left over food and so on. The mother was able to understand these dangers when giving evidence but seems to lack the ability to deal with them in practice. The father simply does not accept that there has been a lack of supervision. I do not accept, as Ms Harman argues, that the local authority sets too high a standard to these parents in respect of supervision or sets a standard they would not set for parents without disability.

170. The parents did not make sure that K wore her glasses. The parents say they tried to make sure she did

but she kept taking them off. They tried rewards. Whatever they did was not effective. Since coming into foster care K has worn her glasses regularly. This is important to correct a stigmatism. Failing to ensure she wore her glasses was therefore harmful.

171. The children lacked routine. I accept Ms Harman's point that there were times when the children were fed and bathed but this was inconsistent. This was particularly so regarding mealtimes which were haphazard. The concern was less about what food, rather when the children were getting it, if at all. This is a consequence of the mother being unable to tell the time and the father not bridging the gap. The father told me he had, as a result of a discussion during the hearing, bought an Echo Dot which can be programmed to say when it is lunchtime. The mother told me she was able to hear this with the volume turned up. The father seems to acquire devices (iPad, iPhone, new television). I am not sure why he did not do this earlier. That said, nobody else seems to have suggested it either.

172. A suffered with toothache which for some time was not effectively treated. I accept the parents had difficulty finding a dentist for some time. A's toothache may have come and gone over a period of some months (rather than continued throughout) but I do not consider the parents acted quickly or effectively enough to address this. They should have been able to find a dentist who could see A quickly rather than treat the problem with analgesics. So I conclude A suffered unnecessarily.

173. The mother admits slapping A for hurting K. Certainly what A did needed to be dealt with but physical chastisement was not reasonable as the mother now accepts.

174. The father has also accepted smacking A on at least two occasions. He too accepts this should not have happened.

175. Although the father had been observed to have a good relationship with A at times he has also made unnecessary negative comments about her and gets angry with her. The mother wishes the father would control his temper with A. The parents told me that A's attitude could be difficult, especially when she comes in from school. A is described as a 'people pleaser' ie she wants to keep people happy. This shows through in her dealings with professionals and the way in which she helps out around the house. A does not strike me as the sort of child likely to present challenging behaviours without reason. I infer that her attitude in the home reflected the adult position she was expected to take within it coupled with unnecessary criticism by the father and isolation within the home because of the priority given to K and T.

176. I accept the evidence shows that at times A arrived at school without having had breakfast, possibly because she had to prepare breakfast for K and T and did not have time for her own.

177. I also find that A took on (and was asked to take on) responsibilities for K and T which were unreasonable. The parents do not accept this. They say this was just A at 12 wanting to do what girls do and help out with younger siblings. I find that it went significantly beyond that. A number of examples were given by workers in the home. A would often volunteer but because she saw gap in the children's care not identified by the parents and realising if she did not fill the gap nobody would. This has created in A a sense of responsibility for the younger children and for her own mother which she should not, at her age, have to bear. The suggestion that A was happy with the situation and did it because she wanted to is scotched by her letter.

178. I also accept that A has been exposed to adult worries and conversation. This is reflected in the conversation A had with AM about the possibility of the children coming into foster care. I do not find that the father said anything inappropriate to A to prompt her comment that they had to be nice to the mother or she would kill herself. However, that did reflect her concern and sense of responsibility about her mother at that stage.

179. I find that the father has left the mother in sole care of the children at times either to work or for some other reason and that has both ignored the inability of the mother to meet the children's needs on her own and put the children at risk of harm. It was, or should have been, obvious to him that the mother could not safely care for the children on her own. While I accept the father may have made arrangements with friends and neighbours that has not, in my view, been sufficient to ensure the children's safety. I do accept the father was receiving conflicting advice from his doctor to carry on working and from social workers to stop. That

put him in a difficult position. In the final analysis the safety of the children should have come first.

K's febrile convulsion on 21 April 2017

180. The question is whether K's febrile convulsion resulted from unreasonable care. This was the 7th and last fit K suffered. She has had none since coming into foster care. It is the condition of K on arrival at A&E that is of concern - a temperature of 40.8°, a full nappy of dark urine and dehydrated. On balance I find that these conditions caused or contributed to the fit. Keeping K hydrated and her temperature down using Calpol may have avoided it happening. The parents knew of the risk of fitting but had not taken Calpol with them on the camping visit. Even if they had it with them the mother was in sole care of K and she did not how to administer it. This was unreasonable care resulting in harm to K. Although the mother was in difficulty calling an ambulance the brother and his wife were able to do so.

Domestic violence/chaotic lifestyle

181. I find that the children have been exposed to domestic abuse within the home with each of the parents shouting or screaming at each other, on at least one occasion the mother throwing a cup and on another punching the father.

Financial management

182. The threshold document relies on the fact that the parents amassed rent arrears. That was a direct result of the incorrect suspension of the mother's PIP at the end of 2016/ early 2017. Once they had that reinstated the arrears were cleared. This was not the parents' fault.

183. What is of more concern is an apparent failure to prioritise payment for basic needs - food, milk, clothing - in favour of a television, new car and phone. The father says the Sky TV installation represented a saving and I do not have any evidence to doubt that. I do find that the parents have at times not exercised sensible financial management with the result that they have had to seek outside support to meet the children's basic needs. This is symptomatic of the father's failure to understand and prioritise the children's needs.

Did the father record A?

184. In addition to threshold findings the local authority seek a finding in line with A's report to her foster carer and later to the contact supervisor on 17 October 2017 that after swimming during contact her father questions and records her. Initially the father denied having been on his own with A at all. When it was proposed to call the contact supervisor to give evidence his position changed and Mr Malik explained that the father had not considered the brief period after coming out of the pool and re-joining the contact supervisor counted as being alone.

185. In evidence the father denied recording A. Although I did not find his evidence about this entirely convincing, nor his change of position, the circumstances of the allegation are not set out in any detail. Although I do not doubt the fact that A reported being recorded it is far from clear when or how often that took place or why she thought she was being recorded. The allegation is in my view too vague. It is possible she thought she was being recorded when she was not. So I do not make a finding about this.

Conclusion as to threshold

186. Having made these findings I have little difficulty in finding that the children have suffered, are likely to suffer significant harm attributable to the care given to them by the parents not being reasonable. I take into account at this point the wide margin of care allowed for before the threshold is passed but conclude that even such a wide margin is easily exceeded in this case. I bear in mind the change in the condition of the children since they came into foster care as demonstrating the extent to which these children were actually being harmed physically and emotionally while in the care of their parents. I have no doubt that the physical and emotional harm suffered by this children from the constellation of findings made was significant.

What order?

187. So I turn to the question whether the court should make a public law order. I ask myself the following questions before turning to the analysis of the options:

- Was assessment of the parents' parenting capacity properly carried out having regard to the mother's learning disability and the requirements of the Good Practice Guidance and were the parents given enough and the right kind of support?

- What support would they need to give good enough care and would that amount to substituted parenting?

- Do the parents have the capacity to change (and have they already demonstrated such capacity)?

188. I start with the parties' submissions on these questions.

Were the assessments properly carried out and were the parents given the right support?

189. Mr Howard set out in his written submissions the support that has been given to the family:

- Perinatal mental health team for the mother;

- CIN plan for the children from January 2016;

- Child Protection Plan for the children from 4 January 2017;

- the Children's' Centre between 2015 and 2017 including the Recovery Toolkit, new equipment being provided, food bank vouchers and fortnightly outreach visits and teaching;

- weekly or fortnightly health visitor visits and supportive letters from the health visitor about housing;

- Inner Vision Course in September 2016, a 12 week course to help the father with his mental health and wellbeing - the family support service were concerned that the father had not used skills learned, although the father says he benefitted from it;

- IY programme at the Children's Centre for both parents in 2016 and two refresher sessions at home in January 2017;

- Steps2Wellbeing for the father in July 2016 discontinued after missed sessions;

- First Point in August 2016 for financial management and housing support;

- Home Start from July to August 2016 to help with home conditions;

- two family group conferences in November 2016 and August 2017;

- decluttering of the house on 10 May 2016 and 2 August 2016;

- ELSA support for A;

- teaching and guidance from the FAST during the assessment February 2017 to 8 May 2017

- a range of services for the mother including the ALDT, psychiatric assessment, psychological assessment, physiotherapy, occupational therapy assessment, Care Act assessment (to determine the level of support that could be offered) and access to the Intensive Support Team;

- Royal British Legion Support for the father.

190. Mr Howard says that the father has been unable to learn from this support and put into practice what was needed to support the mother and meet the children's needs. Although the IY programme had not been adapted for parents with learning disability it was delivered at a basic level and was intended to be understood by parents with limitations. The father should have been able to understand and implement the skills taught but did not do so. He could have modelled and supported the mother to understand the course better.

191. Mr Howard submits that the FAST complied with the Guidance. They showed her what to do and, Mr Howard says, used role-modelling. The health visitor also role modelled when teaching her. A variety of professionals had done their best to offer tailored support to the family.

192. Ms Harman mounts a strong attack on the assessment of the mother in particular. She says the parents have been failed by the local authority.

193. Ms Harman makes a number of criticisms in her written submissions:

a) None of the professionals had been specifically trained to deal with parents with learning disability. This was demonstrated by the inability of witnesses (less so says Ms Harman, CD) to keep their language simple and sentences short, demonstrating their inability and experience to be able to work effectively with a learning disabled person. There is force in the first point but I do not accept the second. LW, who gave evidence first, did struggle during her evidence to avoid jargon. The other witnesses were better and were generally able to use everyday language. Perhaps they had got the message about what was needed, perhaps they were less inured in social work jargon than LW. I accept Mr Howard's point that the comparison between how a professional behaves and speaks in the formality of the witness box and how they deal with their clients is likely to be an artificial one.

b) Although the professionals spoke to the ALDT for advice how to work with the mother, this on its own was insufficient. Somebody from the ALDT should have been asked to attend each training session and an advocate provided to the mother to ensure she understood the sessions. For those not trained in learning disability the 'nod' given by a person with learning disability when asked whether they understand may be taken at face value, whereas those trained will be able to find out whether there is true understanding and deal with it.

c) There was an inexcusable delay (7 months) between making the referral and getting the ALDT involved with the family. Ms Harman says that the referral should have been made when the children were made subject to CIN plans in January 2016, by which time it should have been clear to the local authority that the mother had a learning disability (remembering that NB had identified it in her assessment in 2014). In fact the formal ALDT assessment of learning disability did not take place until November 2016, denying the mother help and support which would have helped her learn new tasks in the home and in the care of the children. This, says Ms Harman, would have reduced the burden on the father.

d) the local authority does not have a protocol or policy for dealing with parents with learning disability, so there is no care pathway or specialised response. The only working together was conversations about how to work with the mother.

e) It was not until the third FAST report that it was identified that 2 hours support a day could be offered. Failure to consider such support during the assessment renders the assessment unrealistic and unfair because there has been no assessment of how the family manage when they have appropriate support.

f) The IY course was universally delivered (before the formal diagnosis of learning disability) and not adapted to the mother's needs, as HP accepted. Nobody else in the group had learning disability. The trainers were not trained in learning disability. The group environment was intimidating for the mother who did not like to get involved. No other work for the mother was considered. The video was not adapted to the mother's needs and HP did not know the mother had found it difficult.

g) The updating IY sessions delivered in the home in January 2017 were provided by somebody with no

training in learning disability.

h) The FAST assessment started in February 2017 and ended on 8 May 2017. About this Ms Harman says:

i. The four formal teaching sessions did not start until 10 April 2017. The FAST witnesses said they needed to establish what needed to be taught before teaching could start (although they say there was an element of teaching and guidance in all sessions). AM accepted in cross-examination that in hindsight the teaching given to the family was too late. She said that AL and JL did not complete their assessment until April 2017 (in fact March 2017), so information was still coming from them at that stage, presumably feeding into the question what teaching should be delivered.

ii. CD accepted in her evidence that each topic was only taught once and not repeated. This is contrary to the advice in the Dr K assessment (encouraging her to carry out the task with prompting and encouragement until she can carry it out independently). Teaching sessions were theoretical and lacked role-modelling with mother being asked to carry out each task repetitively. Although the FAST witnesses said they did role-modelling, the only role-modelling evidenced in the notes was role modelling of play on 21 March 2017. LW talked about 'subtle' role modelling which Ms Harman says is not enough for this mother, again highlighting the lack of understanding of the professionals about the mother's needs.

iii. Although the FAST provided books and leaflets they were of no use to the mother who could not read them. The pictures on their own were meaningless.

iv. The lack of specialised training highlights how support becomes ineffective.

v. The Graded Care Profile shows that the FAST failed to identify areas of concern and action to be taken. There was no plan and one was essential. Ms Harman questions whether LW's focus and attitude was negatively skewed, explaining why the support needed for the family has not been focused and provided. In this respect Ms Harman refers to this paragraph from the interim FAST report as demonstrating a fundamental misunderstanding of the role and duties of the local authority and evidencing the lack of focus on the support needed:

> "It is important that agencies work together to find a solution for the children within their timescales rather than concentrate their efforts on supporting the parents as the cost of the children".

vi. Ms Harman says that the first two FAST reports focused on negative aspects of the parents' care and ignored the positives, suggesting a negative approach.

194. In summary, Ms Harman submits that the mother has been let down by the local authority and the ALDT because of their failure to follow guidance and provide the mother with timely and appropriately tailored training. The assessment was therefore unrealistic and the mother has not been given a fair and appropriate opportunity to be able to improve her parenting skills. This, says Ms Harman, puts the mother at a significant disadvantage compared to parents without learning disability and has over-burdened the father by requiring him to support the mother and impacting on his ability to care for the children.

195. Notwithstanding deficiencies in the teaching, Ms Harman points out that, once formal teaching started, the mother had retained and used some of the information. For example, on 11 April 2017 the mother had been cleaning and the house was cleaner, a slip mat had been bought and put in the bath, the bathroom was free of obstacles, the bath was acceptably clean, the kitchen looked cleaner and tidier, the floor was clean and work surfaces were acceptably clean. There was new lounge furniture and things were more ordered. The mother was singing to the children, applying sun cream and changing T's nappy. On 28 April 2017, T was described as clean and appropriately dressed with far more colour in his face, more animated and smiling. On 8 May 2017 new bedding had been bought and a new bed for A and kitchen improvements had been maintained.

196. Ms Harman submits that these improvements, on the back of the plan at the RCPC on 21 March 2017 to

monitor change over 6 months, should have been recognised and the parents given a chance to demonstrate their capacity to change having only just started the teaching in April. The parents were given hope that they had 6 months to show sustained change. Had the local authority not issued, the teaching would have continued (according to AM). Once proceedings were issued and the children went into foster care no further support was provided by the local authority, contrary to the Guidance at 2.2.12. Nobody, save the Guardian, visited the home.

197. Mr Malik supported Ms Harman's submissions and made the additional point that the father had on a number of occasions asked professionals working with the family for help and training as the mother's carer. Only after the removal of the children has he been assessed and a carer's package considered. Mr Malik suggests that had this been done in 2016 it would have made a difference to the family dynamics. I had asked the father why he had not used his obvious IT skills to search for assistance with this. He accepted he had not done so. Mr Malik says that may be a symptom of his depression and resulting low motivation.

198. I asked Mr Howard to focus in his oral submissions on Ms Harman's challenge to the local authority's case. He submitted that the social workers and the ALDT did what was required of them by the Guidance. They met with the ALDT, who were the experts, and checked what they needed to do. They used the advice offered, for example using a traffic light system from the end of February 2017 (green for no worries, yellow for some worries and red for big worries). Children's Services took the lead working closely with the ALDT, as required by the Guidance. There were regular telephone calls or meetings with JL and AL to check they were doing things in the best way within the resources available.

199. Mr Howard said that the evidence shows the FAST checking with the mother how she liked to be talked to and that she could understand them. They found she liked using pictures. They left things with the parents after the sessions to help them. They gave a chart to the parents but they lost it.

200. All the witnesses save HP were, Mr Howard points out, able to talk about their experience working with learning disability.

201. Mr Howard accepted that if this was a case involving two parents with learning disability Ms Harman's criticisms about training might carry more weight. However, he says, this father had none of the problems associated with learning disability. He had been through IY, yet he showed none of the skills necessary to bridge the gap in the mother's care. The family is in the position it is, Mr Howard submits, because the father has not pulled his weight; rather he has sat back and waited for help to come to him. He has not done the training or made the necessary changes. Meanwhile the mother has been trying to do everything. The incident when the mother searched for the thermometer was a case in point.

202. Mr Howard accepted that the assessment, teaching and support had not been perfect but all the professionals had done their best. What could not be done was to change the father. The local authority had done all it could to keep the family together. This is supported by Mr Morgan who says there can be no real attack on the methodology used by the FAST.

What support would the parents need and would that amount to substituted parenting?

203. Ms Harman asks me to consider the following points in the context of this question:

- A has been well cared for by the parents for the majority of her childhood with limited family and friend support and no need for professional support. Ms Harman refers me to NB's CIN assessment which I have summarised.

- Both parents are extremely willing to engage and are receptive to advice and support.

- K and T were meeting all developmental milestones and there were no concerns with either child's weight.

- When the mother cared for T in F House between 13 and 23 December 2016 she was observed to "provide very good care of [T], providing all of his care without assistance".

204. Ms Harman also asks me to note the scoring by the nurse at F House morning and afternoon over a 7 day period which showed:

• good eye contact and responsiveness to the baby's state;

• holding and supporting the baby in a relaxed and efficient manner and good physical contact;

• initiating and maintaining dialogue in an appropriate way;

• generally being comfortable, relaxed, caring, warm and sensitive to the baby's mood and state and tolerant of the baby's distress or irritability;

• well organised and coping independently looking after the baby with feeds and nappies being changed in good time;

• no perceived physical risks to the baby;

• the baby is healthy, alert, happy and responsive.

205. Ms Harman says this evidences good care of the children although the mother has accepted that care of three children was perhaps too much.

206. Ms Harman proposes the following support package (I have included some links to websites giving further information):

• Tailored training for the mother provided by or in the presence of somebody who is specifically trained in dealing with learning disabled adults. Short simple sentences should be used and the mother encouraged to carry out tasks with prompting and encouragement until she can carry them out independently. Teaching should include repetition during each session and at future sessions until the mother had fully understood. DVDs and props should be used and provided.

• The ALDT to teach the mother skills such as cooking, safety, telling the time and calling emergency services.

• Nursery each morning for both children, enabling the parents to work on their learning, clean the house, wash clothes and prepare meals, etc.

• 2 hours support each afternoon from the ALDT.

• Social work and health visitor visits.

• Home Start - support provided by a volunteer in the home to help with cleaning, tidying and helping with the children: https://www.home-start.org.uk/ .

• Dorset Family Matters - a project supporting professionals working with families experiencing complex challenges with a range of services to help improve their wellbeing: https://www.dorsetforyou.gov.uk/dorset-families-matter

• The Children's Centre - playgroups, support and advice.

• Diverse Abilities - a local organisation providing tailor made support packages including support in the home and in the community for adults who are disabled and their families: https://diverseabilities.org.uk/ .

• Dorset Carers Hub - to provide support to the father as carer for the mother: https://www.mylifemycare.com/Dorset-carers

• The Leonardo Trust - an independent charity to help people in Dorset who care for a sick or disabled

relative or friend full time at home by providing funds for a short break, help in the home including cleaning and gardening, replacing broken equipment and funds to help the father learn something new: http://leonardotrust.org/

• CRISP - a local carers resource information service that could provide free training to the father to help with the mother's care, respite breaks, back up carers, all designed to make the father's job easier and less burdened so he can care for the family: http://www.crispweb.org/home.aspx

207. The local authority's case, supported by the Guardian, is that this family would need what Mr Howard described as a patchwork quilt of support that would mean that the parents were never left alone with the children, at least during waking hours. So, says JT, they would need 12 to 16 hours support a day. She identified a number of problems with this:

• while she accepted that the duty on local authorities under section 17 of the 1989 Act to meet the needs of children in its area is not limited in time or amount, JT considered such a package could not be resourced fairly having regard to the local authority's duty to other families in need;

• she made the important, indeed fundamental, point that such a package would not in fact be support but substituted parenting by professionals - so the parents would not be doing the parenting themselves;

• the parents have not put forward proposals from agencies as to the support that can actually be provided to this family;

• in the nature of things personnel change and the children would have to get used to different people coming in to provide care and support;

• in these circumstances it would be impossible for the children to identify primary carers to whom they could securely attach;

• these children need reparative parenting to put right the damage that has been done to them, particularly emotionally, during their time before they came into care.

208. The parents say in response to this:

• that the local authority cannot rely on resources as the reason why the children cannot be returned home and should be adopted (reminding me what was said in *Re B-S* at paragraph 29 about courts being alert to such thinking);

• it is wrong that the local authority has failed to consider support services because of its constrained thinking about resources;

• this does not comply with the local authority's Article 8 obligation to provide support keeping K and T with their parents;

• the local authority has failed in its written evidence to consider how the parenting gap can be bridged, suggesting that LA's thinking was focused only on adoption;

• consequently there is an absence of full and proper analysis of all realistic outcomes;

• the thinking about the need for support is discriminatory - significant numbers of families have high levels of support because of physical disability and such families are supported and do not have their children adopted;

• change of personnel is a fact of life - teachers and nursery workers change and children adapt;

• the level of support suggested by the local authority is not required and an appropriate package of support can be put in place as a realistic option (in which case it cannot be said that nothing else will do).

The parents' capacity to change

209. The question here is whether the parents have capacity to parent, whether the evidence shows that they have made changes and whether there is any support that would enable them to adequately parent the children.

210. The local authority says the fundamental problem is that the mother is at a fixed point and the father lacks motivation to bridge the gap and cannot change. Listening to the mother's evidence, says Mr Howard, highlights the size of the gap that needs to be filled. JT made the point that even allowing that the mother could, in time, learn new skills the children will keep developing and their needs changing faster than she can keep up with new learning.

211. The parents rely on the care they gave to A as demonstrating their ability to parent to a good enough standard. Mr Howard says that A's own reports of life at home are illuminating. In addition to her letter she has also reported feeling like a mother to the children and wanted a childhood. She, it is said, has more insight into the family situation at 12 than either of her parents.

212. Further, despite NB's generally positive CIN assessment in 2014 Mr Howard draws to my attention:

- That on 29 June 2012 the police spoke to the mother because A had not been in school for 9 days. The mother gave a false reason and was clearly in financial difficulties. The police had concerns about the long-term ability of the mother to provide for A and thought her to be in desperate need of support.

- On 21 August 2014 A reported to the police that her mother is always angry with her and shouting at her. A said she gets scared.

- From the mother's evidence it appeared that in fact she was not providing for A alone but relied on a number of other people to cook and act as carer.

213. The local authority essentially say this:

- The mother is at a fixed point.

- She will not be able learn quickly enough (or at all) to enable her to keep up with the children's changing needs.

- There will therefore always be a clear gap in parenting.

- The father does not understand that there is a problem. He deflects blame from himself onto the mother and professionals. He could have taken steps but has waited for help to come to him. He is insufficiently aware of the mother's limitations and has not grasped that things were bad for the children, to the point that he has not accepted that the threshold criteria are made out.

- The professional evidence is that the parents, but perhaps the father, in particular, is at the pre-contemplative stage in the cycle of change, so that he has not started to think properly about the need for change and how to achieve it.

214. The parents point to the changes that had started before the children were removed reported at the RCPC on 21 March 2017 and as a result of the few teaching sessions that took place in April and early May 2017. They rely on the significant improvements to home conditions since the children were removed into care. They say, and I repeat, that rather than collapse at the removal of the children these parents have in fact rallied to the challenge. They have taken steps to improve their mental health and are no longer depressed (notwithstanding the pressure of these proceedings and the absence of their children). They are willing to accept advice and help. These, it is said, are all indicators of parents who are able to make and sustain necessary changes.

Discussion and conclusion

215. There is in my judgement considerable force in the criticisms made by Ms Harman of the assessments of the parents and the support given to them. In particular:

• the local authority does not have, as it should, a protocol for dealing with parents with learning disability (or not one that the professionals were able to tell me about, which amounts to the same thing) and that reflects in the approach in this case;

• a protocol would focus on the Guidance which has not always been followed in this case - and to describe the Guidance as a 'counsel of perfection' is to give a charter to ignore it which should be robustly challenged;

• those working with the mother should have been trained in dealing with parents with learning disability which would have given them better direct understanding during assessment and teaching how best to work with her and how to deliver the right support;

• I do not consider it necessary to have had somebody from the ALDT present at every session; what was required was sufficient training of those that were there (and not just reliance on their experience of dealing with people with learning disability);

• there has not been enough focus in this case on planned support and a positive strategy to try and keep this family together:

• rather LW's focus (see paragraph 193(h)(v) above) was on a solution for the children within their timescales rather than supporting the parents - the two are not necessarily inconsistent if support is provided in a timely and efficient manner;

• in fact there were unacceptable delays in carrying out assessments and establishing what support was needed, creating a conflict with the children's timescales;

• JT said that the parents had not put forward proposals as to the actual support the various agencies could offer - this ignores that it is the local authority which should be making an assessment of the support that can be offered and that should include what is available from outside agencies as well as inhouse support;

• there could and should have been more focus on repetitive teaching using role-modelling and example as recommended by Dr K (I accept the health visitor used these techniques but there was little hard evidence of it in the FAST work);

• a more co-ordinated response to the father's evident need as a carer of the mother should have been put into effect earlier with a support package rather than leaving him to his own devices;

• work with the parents should have continued after the children were removed not least to assess whether they were making necessary changes;

• it was unfortunate that, as in many cases, these parents have had to deal with a number of different social workers, five in this case - that has an impact both on the need for vulnerable parents to re-build new relationships with professionals before and during stressful proceedings and professionals' continuity of knowledge and experience of the family.

216. Having accepted those criticisms I also accept the following points:

• all the professionals did their best;

• the Guidance was followed to the extent that Children's Services took the lead and consulted with the ALDT as the specialist service;

• the FAST workers and social workers sought to follow the advice given by the ALDT about how best to work with the mother;

• the materials they used - picture books and charts - were not in themselves inappropriate, particularly given the presence in the home of the father and his supposed ability to support the mother - it is just that more was needed by way of direct example and repetition;

• lots of support has in fact been given to the family as set out by Mr Howard, I just question whether it might have been more structured and planned had the Guidance been followed and a protocol been in place;

217. I do not see that the criticisms are met simply by saying that one of the parents did not have disability. The fact is, as this case shows, that whenever working with a parent with a learning disability, the Guidance should be followed.

218. Having got to that point, the real question is whether a different approach would have made any difference, or could make any difference now. The parents say that the shortcomings mean that the assessment of them has not been fair or realistic. There is force in that. However, based on the evidence there are in my judgment a number of problems.

219. The mother, on her own and without more from the father, plainly cannot safely care for the children on her own. I do not doubt that she would be able to learn new skills in time with the right support. It may be that she would struggle to keep up with the children's changing needs over time. However, to a large extent the point made by the local authority and the Guardian that the mother is at a fixed point is made out.

220. So, without more, the mother would in my judgment need such a package of support that it would amount to substituted parenting.

221. The question is whether the father is able to bridge the gap. He certainly had not done so down to the point where the children were removed. I accept that for much of that time he was suffering from depression. It may be that his depression has lifted, apparently coinciding with the removal of the children. It seems to me likely that the lifting of the burden of parenting three children as well as caring for the mother, enabling him to focus more on his relationship with the mother, has been a major contributor to his improved mental state.

222. But the difficulties with the father extend beyond his mental state and are more fundamental. I accept the professional view that he is at the pre-contemplative stage. He has not understood in any real sense the limitations of his wife's ability to care for the children. He has not internalised the local authority's concerns, particularly around supervision, or the need to change, even now.

223. Of course, the parents can point to changes that they have made, both noted at the RCPC and subsequently in their undoubted efforts to change the home conditions. Equally the local authority can point to the significant concerns in the FAST assessment which are not as such invalidated by any deficiency in the assessment process. The incidents at the camping trip seem to have highlighted the concerns and been the trigger (combined with the FAST interim report) for the issue of proceedings.

224. It is one thing for the parents to show willing to engage and accept help and support, and I do not doubt their genuineness in that respect, but unless they, between them, have a good enough understanding of <u>why</u> they need to change and what they need to do, the prospects of achieving real and necessary change are remote.

225. I am also very concerned that return of K and T would cause stress to the parents which would likely result in breakdown of the placement. They will not have A around to help out as she did before.

226. Further I am satisfied that K and T are children who need the sort of attuned parenting that will repair the harm caused to them by neglect in their parents' care. These parents are unable to parent at that level. Kisses and cuddles are not enough. Those they got when with their parents. What they did not have was attuned parenting sensitive to their needs and evidenced (a) by the emotional state of the children when removed that has been described and (b) the improvements in their physical and emotional states since being in foster care.

227. Drilling down to the core conclusion - I do not have sufficient confidence in the father to be able to make the changes necessary within the children's timescales to be able to support the mother in a way that this family could be left to parent alone at all.

228. That necessarily leads me to the conclusion that the package of support proposed by the parents will not of itself be enough to protect the children. Rather the family would need, as the local authority and Guardian say, support throughout the children's waking hours. That would be substituted parenting, not support.

229. Although Ms Harman and Mr Malik have hit home with much of their criticisms I do not consider that the assessments undertaken, although they could have been better, are entirely undermined by their shortcomings. Much good work was done by the individuals. Of course it can be argued the outcome might have been different had different support been given. However, I consider it unlikely simply because of the fundamental nature of the mother's limitations and the father's lack of understanding of concerns and the need for change. I do not consider that would have changed even had the Guidance been followed.

230. I do not ignore the important point that the parents seem to have cared for A well enough; however:

i) A seems to have become a resilient child at an early stage and to some extent self-sufficient;

ii) whether or not the parents were able to care well enough for A, they plainly have not been able to manage with K and T even with some help from A.

231. It is on that basis that I now consider the pros and cons of the two options - return home (under whatever order) or placement for adoption.

Return home

Pros

232. The obvious benefit of returning K and T to the care of their parents is that they will grow up within their original family, brought up by their parents and able to continue a relationship with A. I do not underestimate the importance of this. The parents evidently love the children and the children no doubt love their parents.

233. Sibling relationships are the longest enduring. A sibling assessment carried out by LW in July 2017 found the sibling relationships to be healthy. A was missing K and T but happy in foster care. The care plans for K and T express hope for ongoing contact with A, at least indirect. However, I would have to assume for the purpose of this analysis that direct contact would not be acceptable for prospective adopters given the risk to confidentiality. Also, as CG points out, very irregular direct contact could be more upsetting for the children and not be beneficial for them.

234. The parents are willing to accept advice and support and to work with the local authority.

235. There is past evidence that the parents have been able to care for A well enough (but see paragraph 230 above).

Cons

236. If K and T are returned to their parents I consider it likely (or at least a serious possibility) that they will once again undergo the stresses of trying to care for two very young children with a serious risk of placement breakdown. They may well suffer from depression again. For the children to have to be removed again, probably to different foster carers, would be very damaging.

237. K and T have undergone a number of positive changes since coming into foster care, including to their emotional states. There is a serious risk of regression if returned to the care of their parents give the experience they had before removal (and I say that whether or not the parents are able to improve their care of the children). This in turn would increase the stresses on the parents and the risk of placement breakdown.

238. It is highly unlikely that, even with training, these parents will be able to give good enough attuned parenting.

239. It is also unlikely, in my judgment, that the parents will be able to sustain changes after return of the children.

240. Although the parents are willing to accept help and support, the mother will not be able to care for the children without substituted parenting rather than support and the father is not at a point to understand what is needed and to make the necessary changes.

241. The package of support that would be required would amount to substituted parenting and the children would likely suffer repeated changes of personnel delivering care/support.

242. Consequently, it is likely that the children would be unable to identify primary carer(s) to whom they could form secure attachments.

Placement for adoption

Pros

243. K and T are likely to receive attuned reparative parenting in a calm, nurturing environment.

244. It is likely that K and T can be placed together. The sibling assessment identified that they have a healthy sibling relationship. They have done well together in foster care. Their relationship is important. There was discussion during the evidence about the possibility of the parents caring for one of the children given that they were able to bring up A without involvement by social services and given the evidence that the mother was struggling to meet the needs of both children. Entirely understandably that was not something the parents could contemplate. Nor would it be in the children's interests to be separated in that way.

Cons

245. Obviously it means that the children could not be brought up by their original family. They will inevitably have questions about that as they grow up. A life story will be essential and the children should understand that their parents loved them and fought to get them back.

246. It also most likely means that there will not be direct contact between K and T and A.

Conclusion

247. I have come to the difficult decision that, in reality, K and T's needs can only be met by the making of care and placement orders. I remind myself that I must consider their welfare throughout their lives and that short term problems should give way to mid and longer term benefits. Sadly, I do not consider that these parents are able to meet their needs for the reasons I have given. Comparing the pros and cons of each option leads me decisively to the conclusion that placement for adoption is necessary and proportionate as the only real option available. In short, I accept that nothing else will do.

248. I do not read *Re D* or the Guidance as requiring local authorities to provide support to the extent that it amounts to substitute parenting. If a parent had such a physical disability as to require substitute parenting then I would expect the result to be the same, so I would not accept that this conclusion is discriminatory of parents with learning disability.

249. I come to this conclusion with a heavy heart. I would very much have liked to have been able to say that the children should be returned. I am very conscious that Ms Harman and Mr Malik have hit home with much of their criticism.

250. I have not gone through the welfare checklist in detail. I have it very much in mind. I bear in mind in particular the harm these children have suffered, the impact on them of becoming adopted and the inability,

as I find it, of the parents or any other family member to provide a secure environment within which the children could develop.

251. Sad though the separation of K and T from their mother, step-father and half-sister will be those considerations must give way to the need for them to be able to grow up in a safe, nurturing environment.

252. I approve the plan for contact as put by JT in evidence which was for no contact for a week after judgment (to allow the parents to adjust) and then weekly in the community until the end of this year and from January to reduce until a last goodbye contact at the end of February.

253. As the children's needs can only be met by placement for adoption it follows that their welfare requires that I dispense with the consent of the parents to placement.

254. So far as A is concerned I make a 12 month supervision order as sought and unopposed.

Postscript

255. I have been critical in respect of the assessments and support. I do not accept that the methodology could not be criticised, as Mr Morgan put it. I am not critical of the workers who I am sure did their level best to try and make things work. My criticism is of a more systemic failure to take on board the Guidance and provide proper training for professionals working with parents with learning disability. I hope the local authority will take on board the comments I have made and review and implement the Guidance. I will also make this judgment available to the other [Dorset] local authorities for them to check their own compliance.?

ANNEX A

1. C and D have two children, K aged just 3 years and T aged nearly 20 months. C also has an older child A whose father died when she was 3.

2. The local authority say that C and D cannot look after the children well enough.

3. Sadly C has a learning disability and is partly deaf. This means that she struggles to look after the children. D doesn't have a disability. He is C's carer. He has not really supported C to look after the children as he should have done.

4. A has already gone to live with Mr and Mrs N. They are now her special guardians. A is happy there and wants to stay. C and D accept that. They are not asking for A to come home.

5. The local authority ask me to make orders putting K and T in their care. They also ask to be allowed to place K and T for adoption. That would mean ending K and T's ties and contact with C and D completely. They would become members of a new family.

6. C and D don't agree. They say they could look after K and T if they were supported properly.

7. I accept that C and D couldn't look after the children as well as they should. I am not going to write down here everything I have heard about. But K and T have not been looked after properly. C and D did not watch out for K and T well enough. Also they did not have good routines. Sometimes they were dirty and missed out on meals. But also C and D found it difficult to get in tune with K and T's emotional needs. Sometimes they didn't pay them much attention. K got frustrated. She banged her head and bit people. T didn't cry much or demand much attention. This was because he wasn't getting much attention.

8. A had to look after K and T more than she should have. It was like she became a parent to them. She also worried about C. These were things a child shouldn't have to worry about. A thinks she has lost out on some of her childhood.

9. I know that C and D looked after A well enough. But I think she had to start looking after herself when K and T came along. C and D cannot look after two very young children. They have different needs which C and D struggle with.

10. The local authority tried to help C and D with support. C and D didn't think all the support was of the right kind. I agree the local authority could have done this better. The people who worked with C and D needed more training about learning disability. D could have done with more help as C's carer. He could have helped himself more too.

11. C and D both had depression. I think that was a lot to do with the stress of trying to look after three children. Their depression has got better since they have not had the children. They have made some improvements too. The flat looks very nice now. It used to be cluttered and wasn't very clean.

12. The problem is that C can't meet the needs of the children on her own. D doesn't give her the support she needs. I don't think C or D really understand how worried the local authority are. I know they want to work with people to make things better. But I don't think C or D can really change things in a lasting way even with support. I think if the children come home things will get worse again. C and D will probably get too stressed. And that might mean they get depressed again.

13. I have decided that the children need care that C and D cannot give them. They would need so much support that other people would end up parenting K and T instead of C and D. K and T would not know who is their main carer. That would probably cause them problems in how they make relationships.

14. So I have decided I cannot let the children come home. It means that I must make an order putting K and T in the care of the local authority. I must also let them place K and T for adoption.

15. It is very sad to have to make this decision. I know how much C and D love their children. They have come to court every day. They have listened carefully and patiently. They have tried their very best to help me. I thank them very much indeed. The children will know that C and D did their very best to keep them.

16. But I have to decide what is best for the children. And I have decided that nothing else will do.

1 Prochaska and Di Clemente's (1983) Cycle of Change