

CASE NO:ME20C00356
Neutral Citation Number: [2021] EWFC 122
Date: 10th September 2021

IN THE FAMILY COURT AT CANTERBURY

IN THE MATTER OF:

A (18/09/2017)
B (10/11//2016)

BETWEEN

Kent County Council

Applicant

and

C

First Respondent

and

D

Second Respondent

and

E and F

Third and Fourth Respondents

and

G

Intervenor

and

A and B

(By their Guardian)

Fifth and Six Respondents

JUDGMENT OF HHJ SARAH DAVIES

REPRESENTATION

- Kent County Council represented by Jacqui Gilliatt, Counsel, instructed by Graeme Bentley at Invicta Law;
- Mother, C, by Paul Storey QC and Stephen Chippeck, Counsel instructed by Max Konarek of Boys & Maughan Solicitors;
- Father, D, by Vanessa Wells, Counsel, instructed by Gemma Duckworth of Robinson Allfree Solicitors;
- The maternal great grandparents, E and F by Lydia Slee, Counsel, instructed by Andrew Humphries of Patrick Lawrence Partnership LLP;
- G by Gemma Taylor QC and Gemma Farrington, Counsel, for Intervener, instructed by Andrew Stone of DSD Solicitors;
- B and A through their Guardian SS by Adrian Pidduck, Counsel instructed by Jaqueline Bowry of Rootes & Alliot Solicitors;

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1. I am concerned with two children A who is four years old on 18th September and her sister B who is five on 10th November.
 2. The mother is C and the father is D. The parents are not married. They separated in 2019.
 3. These care proceedings concern injuries to A, a child with significant disabilities (autism and chromosome 16 deletion). The risks to B are said to arise from the injuries to A.
 4. Proceedings were commenced 23/09/2020. Threshold is based upon A's admission to hospital on 29/07/2020 with multiple and significant bruises to her face and back together with scratches and blood spots on her eyeballs. There was also concern as to a leg fracture suffered in June 2020 which was at the time assessed to have an innocent explanation and this is confirmed by report of Dr Watt. The Local Authority accept that this injury is not suspicious. It is accepted that A suffered these injuries. The mother says that they are self-inflicted.
 5. The initial medical evidence in relation to the bruising was contentious between treating experts as to whether A could have inflicted the injuries herself as her Mother suggests, but the position changed following a meeting of those experts and others which is recorded in a letter of 17/09/2020. The earlier leg fracture was also reconsidered although this is accepted as an accidental injury.

6. Following an initial Emergency Protection Order withdrawn when Mother moved to live with the maternal great grandparents, an Interim Care Order was made by DJ Batey (to whom the case is allocated) on 01/10/2020 when he approved the Local Authority plan that Mother should move out. Initially, the approved plan was for contact at the home of the great grandparents four times a week, though this was increased to five at the hearing on 16/10/2020.
7. Mother's contact was extended at previous hearings and a Child Arrangements Order was made in favour of the great grandparents (who had not been able to be approved as foster carers, due to missing information). Further case management directions were also made.
8. At the hearing on 08/03/21 the court listed two further case management hearings, a hearing on 20/04/21 before me and a final hearing commencing on 16/08/21, time estimate 10 days before me. This was later extended to 17 days following a request from the mother's counsel.
9. At the hearing on 20/04/21 I extended the listing for the fact-finding to run from 16th August 2021 through to and including 10/09/21 save that the court will not sit on 27/08/21 and 31/08/21 (time estimate 17 days allowing for the August Bank Holiday).
10. I heard evidence from:
 - a. Dr X, a Consultant Paediatrician,
 - b. Dr Y, a Paediatric Consultant with a specialism in autism,
 - c. Dr Z, the treating Paediatric Consultant,
 - d. HH, treating nurse,
 - e. II, Care Coordinator,
 - f. JJ,
 - g. Dr Cartlidge, Consultant Paediatrician.
 - h. PC-KK,
 - i. LL, Head of Safeguarding. MM,
 - j. C, the mother,

k. NN, Maternal Grandmother,

l. G, the intervenor and mother's partner.

11. Dr X gave evidence. He told me that he was concerned with safeguarding and he had not had any clinical involvement with A or her mother. He said that he was concerned at the bilateral black eyes and the extent of her bruising. He was concerned that A was discharged home without a safeguarding – plan. He said that he had tried to contact Dr Z, but he said that he was not contactable before the strategy meeting.
12. Dr X said that he couldn't recall any discussions between Dr Z and the safeguarding team.
13. He described the peer review meeting and he said that the purpose was to review safeguarding and they worked under the guidance of the Royal College. He said that the Peer review process was part of Continuing Professional Development and was a learning process and every Paediatrician took part in them. It wasn't to blame doctors nor was it meant to be used for the purposes of legal proceedings and he said that minutes should have been taken and there were around thirty doctors in attendance. Dr Z presented A's case. Dr X said that he saw the pictures and he gave his opinion that these were non accidental injuries. There was a consensus of opinion from the other doctors that these were non- accidental injuries. He said that someone from safe-guarding attended the meeting.
14. Dr X said that after the Peer review he decided to put together a letter together with Dr Z. He said that Dr Z had agreed with his view of the injuries. The letter was started off by LL and he said that they jointly agreed the contents of the letter.
15. Dr Y gave evidence and confirmed her report. Dr Y is a Consultant Paediatrician with a specialisation of children with autism. She said that A had presented with significant multiple injuries on 29/07/20, including bruises to the face and back, both eyelids and bleeding under the outer covering of the left eye (conjunctiva), abrasion (friction burn) with a linear pattern to her face, bleeding from the mouth, reddening and swelling of the face and extensive bruising to her back. Dr Y considered it is more likely than not that the injuries on A's face and back resulted from several impacts with a significant force of different types (for example bruises are caused by blunt trauma, but friction burns require contact with an abrasive surface), and possibly at different time points. Therefore, the explanation provided of A causing the majority of those injuries to herself by self-injurious behaviour sometime between midnight and 8 am on 29/07/20, while in a travel cot with soft bedding, was not consistent with the variety, location and severity of the findings.

16. Dr Y said that on two occasions previously, in June 2020, she presented with bruising to her ears (pinna) and other injuries to her face and back; the provided explanation of self-injurious behaviour (head-banging) in her opinion is not consistent with the location of injuries, such as injury to her ears.
17. Dr Y broadly agreed with Dr Cartlidge's opinions except in relation to timing where she said that bruising can only be timed or dated by circumstantial evidence.
18. Dr Y accepted that head banging could have caused the bruising over A's forehead. However, the injuries to the ears were not reported on any other occasions despite the Great Grandmother confirming that A tugged her ears, therefore on the balance of probabilities she felt these were not self-inflicted. Dr Y said that she disagreed with Dr Z and it was for me to decide who was right.
19. Dr Z, gave evidence. He said that he had seen A at Accident and Emergency. A was constantly running and jumping. She had global developmental delay, she was hypermobile and had ASD. She was hitting her head and banging herself. Dr Z said that he never believed that A's injuries were caused by another person. He explained that gravity had caused the bruises to develop in the photographs. He said that the concerns related to neglect and whether the child had been left unsupervised.
20. Dr Z said that children with autism can't express themselves and show pain. They might be more irritable, and A was given pain relief as she had significant injuries. The medication she was on to help her sleep, melatonin was effective for some children but can cause others to become hyperactive.
21. Dr Z said that Dr X had not contacted him before the strategy meeting.
22. Dr Z said that A was a very challenging child and he described the mother as being frightened of being accused of causing her injuries. He had tried to reassure her. He described A hitting and slapping herself, hitting her head on her mother's shoulder.
23. Dr Z said that his view that these were self -inflicted injuries meant that he was in a minority and he didn't think it was inflicted by anyone else. He said that he was under pressure to reach a consensus.
24. HH, a nurse at XX Hospital. She said that A's mother explained that she had found her in that state. She said that she witnessed A hitting and slapping herself, banging her head and throwing herself backwards and arching her back and pulling out her hair and throwing herself around.

25. HH said that safeguarding had asked her to take out her opinion in the notes that these injuries were caused by A and she did and didn't record it as NAI but simply didn't say anything. She said that LL and the Safeguarding team were triumphant and wanted her to agree with them that this were non accidental injuries. She described TT as telling her what to say and she said that TT wasn't present as she had been, and she hadn't seen A. She said that she had wondered how A's mother coped at home and Dr Z had said that the mother deserved a halo. She said that the mother had been upset and crying. She was not agitated or stressed, and she felt that the mother's responses were perfectly appropriate and there was no sign of any fear from A. HH said that even as A was sedated with morphine she continued to pull her own hair and hit her head and she described A's mother telling her that she had asked for help from YY Community Centre as the self-injury had been going on for a long time.

26. II the Care Coordinator gave evidence. She told me that she worked at YY Children's Centre. Her role was to support parents with children with severe and complex needs. C told me that A's mother had told her about A smearing, and she had given advice in respect of clothing to stop A getting into her nappy. The mother had told her about the suspected bone cancer when she had broken her leg. She had accompanied the mother with A to hospital. She described A as slapping herself, hitting herself and throwing herself about. She was a 'wiggly, squirmy girl', she had been fretful and agitated until she had been given morphine.

27. C described the mother as being sensible and thoughtful. A, she said was at the forefront of her mother's mind and she was very concerned for her and she didn't want her to come to any harm.

28. During lockdown C had phoned the mother and she said that previously there had been home visits, but they had stopped during the lockdown.

29. JJ who worked for the Portage at the ZZ Centre. She worked with the mother from March 2020 and she had video calls during lockdown. She described the mother as very open and they had got on well. She said that the mother used the service well although she said that the mother had found A's behaviour challenging. She described A head banging, smearing and eating her faeces, pulling her hair out with a visible bald patch and hurting herself. She said that the mother had reported the stress fracture herself.

30. Dr Patrick Cartlidge gave evidence. He is a Paediatrician who said that A's injuries could not be measured in the same way as a 'normal child' without A's disabilities

which include a chromosome deletion, severe autism with no speech or language, global developmental delay, hypermobility and a tendency to bruise easily.

31. Dr Cartlidge said that A's behaviour was at the far end of the scale and he told me that the sub conjunctival haemorrhage can be caused if something impacts with the eye. This contrasted with Dr Y's evidence who said there would have to be a blow to the eye, like a punch or a ball hitting her in the eye. Dr Cartlidge said a small scratch could cause it.
32. Dr Cartlidge also told me that in contrast to the evidence of Dr Y who told me that ear injuries were almost always non accidental injury that A could have caused the marks to her ears by throwing herself around side to side, as if she had been pinched on the ear the marks would have been wider spread. Dr Cartlidge told me that these injuries could have been caused by A injuring herself.
33. Whilst Dr Cartlidge said that he did not look after children with autism and having read Dr Y's conclusions he had a lot of 'unease' about her conclusions having considered other people's descriptions of A's behaviour and he said he didn't agree with her. He said that the abrasions on the face could be caused by rubbing against something or fingernails.

Dr Cartlidge questioned the validity of literature review by Dr Y when A's behaviour was so extreme and she was so far outside the normal range of behaviour for a child. She also appeared to have some strength for her great grandmother's description of A overturning the television and table. He said that the mother had documented her injuries including significant bruising

34. PPB, A's Health Visitor first met the mother and A at home in June 2019. She described the children as clean and well dressed. She said that when she first met A, she was different to her sibling and she was concerned about her behaviour. She described C her mother as very loving towards her.
35. PC-KK gave evidence. She told me that she had been at the hospital and Dr Z had made it known that he wanted to speak to the Police. She said that he had told her that he was in no doubt that he believed that A had inflicted these injuries herself. PC-KK said that as the safe-guarding team had concerns she went to the home and examined the cot. They put it up and had an inspection of it. She said that the netting and the size and shape of the mesh matched the marks on A's face. She described the mother as being very welcoming to her.

36. PC-KK said that she decided not to take any further action. This was reviewed by a Senior Officer and the mother informed and because of the crime report had been reopened and the case was allocated to another Officer just in case she had not something correctly or she had missed something. This was standard practice.
37. PC-KK described the lay out of the house and said that although there were steps between the mother's bedroom and A's room it was much closer than it seems.
38. DC-QQ from the Child Protection Unit gave evidence. DC-QQ said that the mother was very upset and emotional about the re-opening of the Police report, but she maintained a good attitude. She said that the mother had begged them not to take her children away from her.
39. DC-QQ told the mother by telephone that the police investigation was discontinuing their investigation and she described the mother as very upset about the whole matter. She remained worried about any of her children sustaining an injury.
40. LL gave evidence. LL is head of the Kent Safeguarding team and she told me that she had attended the peer review meeting which Dr Z had presented. She told me that she had noted that the Clinicians had agreed unanimously that the injuries A sustained were non accidental. LL agreed with this. No minutes of this meeting were taken.
41. Following that meeting she had telephoned RR, the social worker and told him the outcome and she participated in a strategy discussion. LL said that she helped facilitate the joint report from Dr Z and Dr X. She said that as both doctors were busy in clinic, she typed this and went backwards and forwards by email and telephone, until they agreed the draft. She said that Dr Z had changed his view that the injuries were self-inflicted
42. LL said that she had not had any clinical care of A and had not met her or her mother.
43. LL said that there had been a level 3 referral which was a referral to social services for support when she said that as the bruises were unexplained she would have expected a level 4 referral as a child protection investigation needed to take place and she explained that she escalated this. In respect of HH she said that she had been given specific advice about the referral to Social Services. She denied that HH had been rebuked and said that was a very strong word, but she said that if people don't undertake the safeguarding action expected that their practice would be questioned.

44. CT told her that Dr Z was upset that he hadn't been invited to the strategy meeting, but her colleague TT had been unable to contact him. CT didn't believe that Dr Z was put under pressure to change his view of the injuries.
45. C, the children's mother gave evidence. She told me about her children that B is very chatty, she likes school, the film Frozen and she loves her sister. She said as a result of the trauma of being separated from her that B had now got a stutter. C described A as hyper, quite angry at times, very loving and she described her as a baby in a toddler's body. She described her punching and hitting her and smearing and eating her faeces. She said that she had documented bruising that A had caused. A had drawn blood on her Grandfather and she still pinches herself and whoever is close to her and she said that she had pulled over a coffee table and a television off the wall. She is very strong, and Dr Saggar had remarked upon that and also when he had examined her that he had caused her red marks even though it was an ordinary examination. She pulled her hair out and poked herself in the eye. She said that she throws herself around, bangs her head and has no fear. She had bitten through her lip. She doesn't sleep and when she was given melatonin this seemed to make her more hyperactive and it was much better now, she was on Phenergan.
46. C explained how she had come to find A injured and said that she had sustained some of the bruising previously. She said that it looked much worse in the photos. She told me that she had recently moved to a new house, and she put A in an upstairs bedroom as previously she had kept B awake and the bedroom she was in was unsuitable for A as it had the electricity meter and near to the front door. It wasn't very far away, and she hadn't got a baby monitor. She had checked on her around midnight and then at about 8 am. Her mother had come around to see her on the way back from her early morning job.
47. B had been staying with her grandmother B and A's great grandmother. Her partner, G was also staying over. She had gone in to find A covered in blood. She had bathed her to see where the blood was coming from and she rang her key worker to accompany them both to hospital. She said that she had been very upset, she had not hurt A nor had her partner and she was upset at the suggestion that she might have done so.
48. G supported by an intermediary, gave evidence. He told me that he had stayed over with the mother and he normally left the care of A to her mother and he had his own children one of whom who lived with his mother and himself. He had to leave on the morning of the injuries, as he had to take his son to school. He told me that he would not hurt a baby and neither he nor the mother had caused the injuries. He described A as being very happy and then suddenly really angry and he described it like a light

switch, and she would be biting or kicking or hurting herself. He said that he got on well with B and hadn't seen her or A.

49. F the maternal great grandmother who is looking after the children gave evidence. She described A as biting, bumping herself and bruising herself. She had rubbed her face against the cot which was rough and hurt herself. She said she was very strong and had pulled furniture over and off the wall. Things had to be tied down. She said that she had never realised that A was so bad. She told me that C the mother is very calm and loving and that A was terrible when she was taking melatonin.

50. D, A's father did not give evidence as no one required him to be cross examined. He made it clear that he didn't think that the mother or G would have hurt A. This is despite G being a friend previously and there being initial difficulties when he was aware that the mother and G were in a relationship.

51. Dr Saggar was not required to give evidence nor were a number of other witnesses who were asked to give evidence and were then not required which is why we did not sit for the 17 days. I have considered their evidence and that of the seven lever arch files. If I don't mention some of the evidence, it is not that I haven't considered it but that there is so much evidence that it is impossible to refer to every part of this evidence in detail.

THE LAW

53. The law in relation to fact finding is set out in the case of Devon County Council v EB & Others [2013] EWHC 968, Baker J summarized the correct approach to be taken by the Court when making Findings of Fact and the summary has most recently been approved by Jackson LJ in Re BR (Proof of Facts) [2015] EWFC 41. The law to be applied can be summarized as follows:

- a. The burden of proof is on the Local Authority, who make the allegations. The mother and G do not have to prove anything. They have both been asked to explain how the injuries came about which both deny inflicting. It is accepted that there is no burden of proof on them to prove anything. However, I am entitled to take their evidence into account as part of the overall picture.
- b. The standard of proof is the balance of probabilities. (Re B [2008] UKHL 35). If the Local Authority proves on the balance of probabilities any of the items within the Schedule of Allegations, the Court must treat those facts as established and all future decisions concerning the children's future will be based on those finding(s). Equally, if the Local Authority fails to prove any or

all of the allegations, the Court should disregard them completely. As Lord Hoffmann observed in Re B:

“If a legal rule requires the facts to be proved (a ‘fact in issue’) a judge must decide whether or not it happened. There is no room for a finding that it might have happened. The law operates a binary system in which the only values are 0 and 1.”

54. The Court should take into account the inherent probability or improbability of the relevant alleged incidents. The Court must not, guess or speculate or draw inferences from what are still only suspicions rather than proven facts.

55. Findings of Fact in these cases must be based on evidence. As Munby LJ, as he then was, observed in Re A (A Child) (Fact-finding hearing: Speculation) [2011] EWCA Civ. 12:

“It is an elementary proposition that findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation.”

56. The Court may, however, arrive at reasonable conclusions based on proven facts. In this case, one of the central issues is whether the mother or G has behaved violently or to be abusive. This factual issue will turn on whether the Court believes the mother and G, who deny this allegation, or those witnesses who claim to offer evidence to the contrary. I must give close attention to the details of their accounts; to assess their inherent plausibility and likelihood; to check their internal consistency or inconsistency, and their consistency, or inconsistency with external established facts. The credibility of each of these witnesses has been in issue and must be considered.

57. When considering cases of suspected child abuse the Court must take into account all the evidence and furthermore consider each piece of evidence in the context of all the other evidence. As Dame Elizabeth Butler-Sloss P observed in Re T [2004] EWCA Civ 558, [2004] 2 FLR 838 at 33:

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

58. There is no burden of proof on C and G to prove that A hurt herself. *Lancashire County Council v D & E* [2010] 2 FLR at 196 and *Re D (child) (fact finding hearing)* [2014] EWHC 121 (Fam) are relevant in this regard. An innocent person may find a false allegation inexplicable and may have difficulty in offering feasible explanations. The inability to do so could not logically prove that he was guilty of what is alleged. However, a guilty person may wrongly and unfairly discredit his accuser to protect himself and this could reasonably support the allegations.
59. The evidence of the Parents and any other carers is of the utmost importance. It is essential that the Court forms a clear assessment of their credibility and reliability. They must have the fullest opportunity to take part in the hearing and the Court is likely to place considerable weight on the evidence and the impression it forms of them (see *Re W and another (Non-accidental injury)* [2003] FCR 346).

MY FINDINGS

60. I have read the extensive evidence and it is of course my role to consider all the evidence. I have seen the photographs of the injuries A sustained and I was shocked by the extent of them. My initial view on looking at them was that someone must have done this to A. I reminded myself before the start of the case that I had to hear all the evidence before making any decisions about any of the injuries.
61. I have considered the medical evidence very carefully. The Local Authority are still seeking for me to decide whether the mother and or G caused all or some of the injuries. The Guardian in her closing submissions having heard all the evidence is unusually not supporting that position and has said that it would cause her anxiety if I do make findings against the mother.
62. In considering the evidence I am aware that the change of mind by Dr Z was the pivotal point in this sad case. When Dr Z gave evidence, he was very clear that he didn't believe that the mother had caused these injuries. Despite this he was unable to really explain how the joint statement of himself and Dr X came about and more mysteriously why he had made a Police statement saying that the injuries were non accidental in nature. He said that he was put under pressure by the Peer review meeting to change his mind. It was this change of opinion which led of course to the Local Authority bringing proceedings to remove these children from the mother's care.
63. The Local Authority in my view acted entirely properly based on the evidence presented to them. The photographs are very shocking. They point to the fact that the mother said that the injuries were not out of the ordinary when they clearly were worse than usual. Her response to A's injuries was to give her a bath and not seek medical attention for some time roughly an hour and a half. There appeared to be no

mechanism for bruising on A's back as the travel cot was soft. The abrasions on her face looked like grazes when she had never had such injuries since or before. Nor had she sustained so many injuries. She had been left in her cot for some eight hours without a baby monitor. A's challenging behaviour and the difficulties during lockdown of very limited support it was suggested might have meant that she or G acted inappropriately

64. I also have to consider the evidence of Dr Y who specialises in children with autism. I bear in mind that neither she nor Dr X had seen A with her mother and that seems to be the most important evidence in this case. Whilst Dr Cartlidge said that he deferred to Dr Y's expert opinion it was clear when he gave evidence that this was not the case. He was highly critical of her approach and cautioned concluding that any of the injuries were inflicted when A's behaviour was considered. He told me that I couldn't consider her case without consideration of her disabilities and her behaviour that was far outside that of a normal child.
65. Whilst of course Dr Y specialises in children with autism, I think the effects of the melatonin and A's extreme behaviour even for a child with this condition mean that even an experienced Paediatrician would have been surprised by A's capacity to hurt herself. Whether she could feel pain in the same way as any other child is debateable of course but what does seem to be apparent she didn't have the connection between causing herself pain and being able to stop herself doing it. The doctors describe her as being miserable and seemingly in pain.
66. I have considered all the evidence in this case, as I must. The most significant and compelling evidence is that of the people who had seen A with her mother.
67. The health visitor, PPB gave very positive evidence about the mother and her care of the children. JJ was very positive about her and whilst it was clear that she was struggling with A's behaviour and there was little support during lockdown the mother had taken pictures of A's injuries. II was an extremely important witness as she had a lot of contact with both the mother and A. Again, she was uniformly positive both about the mother's care and the mother. HH and Dr Z were alarmed by A's behaviour and very supportive of the mother. They were very experienced professionals. Then there were the two very experienced Police Officers PC-KK and DC-QQ. Whilst of course the criminal proof is beyond reasonable doubt and the civil and family proof is on the balance of probabilities, so it is more likely than not it happened as the Local Authority say, these two Police Officers did not consider that the mother caused these injuries. The Guardian also saw the mother with the children and her view is that the mother did not cause these injuries.
68. Of course, I am aware that even a loving mother under strain and pressure may act in a way that is completely out of character. However, in this case having heard the mother and Mr G give evidence I do not think that this is remotely likely. D was also

an important witness and despite the difficulties in his relationship with Mr G did not consider that either of them would have hurt A.

69. I accepted both the mother and G's evidence that because of A's autism he left her care to her mother. B's evidence of saying that G was nice, and kind was also important. She is a young child and young children very often tell adults as it is. The Guardian described her as delightful and there is clear evidence of high-quality parenting. Whilst the mother is very young, I was impressed by her maturity and her dedication to her children.
70. Dr Y, Dr X and LL had not seen A with her mother. The description of A's behaviour is shocking, and I consider at the most extreme end of the spectrum as Dr Cartledge suggests.
71. One of the early social work statements says it is strange that the mother didn't seem surprised by the extent of A's injuries. Whilst of course they were more extensive than they have been before or after this incident I bear in mind that the mother had been documenting A's injuries. She was not surprised by them because she was aware that A did cause herself significant injuries. Documenting injuries would be a remarkable thing to do for a parent who had caused them. I also bear in mind that it was the mother who had to pursue A's broken leg and she was persistent in getting help for A. She had also requested a helmet which I was told was not available except for children who fell over because of mobility issues. I also consider that A had been prescribed Melatonin and I accept the mother and Dr Z's evidence that this can make a child hyperactive and that is why she was changed back to Phenergan which has made a difference in calming her.
72. I have considered the point the Local Authority have made about the time A was in her cot. The mother checked her at midnight and then around 8 am. Whilst the bedroom was not next door to the mother, from the Police and the mother's evidence it was not far away from her room. It is understandable that the mother would not want to put A or B in a room with an electrical meter or near the front door. I also bear in mind there are no perfect parents in the world although this mother appears to score very highly at all other times. She had left A in a travel cot. It might have been slightly longer than usual but a parent in this situation could not imagine the injuries that might have resulted. I take the mother's point that A was a bad sleeper and listening to her on a baby monitor would probably have meant that she never had any sleep. We all must live in the real world and be realistic about what the mother could manage in the circumstances. I don't think this is a failure to protect point. A harmed herself in her mother's arms in front of doctors and her behaviour, as I have said, is off the ordinary scale.
73. It did take the mother some time to take A to hospital, but I bear in mind A's disabilities. The mother had phoned her support worker. A was extremely distressed.

The mother gave her a bath which the Local Authority say was unnecessary as she could have simply wiped away the blood. For a child without A's difficulties this might be true. I have never met A but the description of her would suggest to me that the mother was trying to calm her before taking her to hospital bearing in mind she didn't like strange places and trying to get her ready must have been difficult in this state. There is no suggestion by her support worker that there was any undue delay.

74. From all the evidence presented to me I am satisfied that all the injuries were caused by A. Dr Z describes A throwing herself about which could have caused the bruising to the face and head. HH described her hitting herself and putting her fingers in her eyes. I accepted the evidence of Dr Cartlidge that the injuries to her eyes were most likely caused by A by her fingernails or hands. The bruising to her back could have been caused the day before. I am satisfied that the mother could not necessarily document every injury because A regularly hurt herself. The bruises seem to be bruises on bruises. Whilst ordinarily I am told that bruises to ears will most usually indicate abuse, I rely on Dr Cartlidge's evidence that pinching would give a bigger bruise. A throwing herself to side to side could account for bruising to her ears. In any event I am not obliged to say how they were caused but I don't think the mother or G caused them. Dr Saggar said that she may have bruised more easily and Dr Cartlidge said he caused red marks by normal handling.
75. In respect of the abrasions the Police Officers were satisfied that the cot mesh could have caused these and I am grateful to them for their thoroughness in investigating this matter. I have no hesitation in accepting their evidence that the pattern of the mesh accorded with marks on A's skin.
76. The doctors and LL were subjected to fierce cross examination about the peer review meeting and the guidance from the High Court where there are potentially issues of non-accidental injury. I take the point that these are doctors not lawyers. However, it does seem to me that although it is said that it didn't affect the evidence ultimately, I was concerned that Dr Z and HH did feel under pressure to agree that these injuries were non-accidental and therefore inflicted by someone. It is difficult to reconcile Dr Z's written evidence and statement to the Police with his very clear evidence that this was a loving mother who coped extraordinarily well and deserved a halo.
77. Dr Z's evidence did cause these proceedings to be issued and for this poor mother and her children to be separated. I don't blame the Local Authority for issuing them because the photographs do present a very serious picture. I am aware of the trauma both children and the family must have suffered because of this and I am very sorry that they have had to wait for so long for this to be rectified. I am aware that Dr Z was placed under pressure and of course it is easy for someone not involved directly to ask why he did what he did? However, safeguarding is very difficult at times, we all make mistakes and the consequences of getting a decision wrong have enormous

ramifications, sometimes in the death of a child and this was a very difficult case. Dr Z is a kind and hardworking Paediatrician and that was evident in his evidence.

78. I do think the Peer review was unfortunate in the circumstances. I fully accept that it is a tool for teaching and learning but I would like the hospitals to be aware of cases such as this one where there might be issues of non -accidental injury and the dangers of a group of doctors in effect deciding what has happened to a child. I can well understand if there are issues of treatment or other medical matters which may need to be discussed and I can see the advantages of a peer review meeting as a tool for teaching and learning in those circumstances. There is a very real issue of doctors and other professionals being swayed by a group opinion when the members of the group haven't had any clinical care of that patient.
79. On behalf of the mother I am asked in effect to censure LL for her role in this case. LL is of course head of safeguarding. I can well understand her anxiety when she saw A's photographs which all the professionals say made the injuries look so much worse than when they were presented. I was very shocked when I saw the extent of her injuries. I bear in mind this is an extraordinary case because of A's extreme behaviour and disabilities. LL was not responsible for the Peer Review meeting, but I do think that she should have been aware of the dangers involved in holding something of this nature. I do understand that she was in a very difficult position because it is in effect a continuing professional event for the doctors, but I do hope that this can be reflected upon. She was absolutely adamant that these were inflicted injuries. Whilst I fully accept that they had to be investigated sometimes life is stranger than fiction.
80. I fully accept that this has been the worst nightmare for the mother and G because they of course knew that they had not caused these injuries and they fully aware of A's behaviour. This of course would have been much less apparent to the people who had no actual knowledge of A's behaviour. Sadly, parents do cause their children injury and it must be borne in mind that this is an exceptional, rare case where a child has caused herself significant injuries. The mother has to her credit worked well with social workers and the Guardian and she will continue to be involved with the Local Authority which will be necessary to support her with looking after A. I do hope the current difficulties can be resolved. All the parties conducted themselves very well.
81. I would like to commend HH, whilst of course I accept that safeguarding wanted this investigated and this was a proper exercise of their function, I do think some pressure was put on her and Dr Z. It is never easy when everyone else believes you to be wrong. Dr Z did of course accept his evidence to the Police was wrong and he did ensure that his original evidence stood and that was brave of him in the circumstances.

82. I would also like to thank the Great Grandparents E and F. They saved these children going into care and the consequences for these children would have been far worse than the trauma caused to them already by being removed from their mother.
83. All the advocates worked very hard on behalf on behalf of their clients and I am extremely grateful to them for the way this trial was conducted. Mr Storey QC, Mr Chippeck, Miss Taylor QC and Miss Farrington for the mother and G could not have worked harder for their clients. Ms Gilliatt for the Local Authority had an unenviable job, but she acted professionally and with great skill. Mr Pidduck for SS, the Guardian for the children is always the calm voice of reason.

END OF JUDGMENT