MS JUSTICE RUSSELL DBE

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Neutral Citation Number: [2019] EWHC 39 (Fam)

Case No: NG17C00094

IN THE FAMILY COURT AT NOTTINGHAM
IN THE MATTER OF THE CHILDREN ACT 1989
IN THE MATTER OF Re M (Children) (By their children's guardian)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 27/06/2019

Before:

MS JUSTICE RUSSELL DBE

- -

Between:

A Local Authority	**Applicant**
and	
M	**1st Respondent**
and	
F	**2nd Respondent**
and	
A & B	**3rd & 4th**
(Children by their guardian)	**Respondents**
and	
P	**Intervenor**

- -

Ms Gemma Taylor QC and **Mr James Cleary** (instructed by **Nottinghamshire County Council**) for the Local Authority
Mr Andrew Bagchi QC and **Mr Gordon Semple** (instructed by **Watson Ramsbottom**) for the First Respondent
Ms Barbara Connolly QC and **Mr Simon Rowbotham** (instructed by **Smith Partnership**) for the Second Respondent
Ms Beryl Gilead Semple (instructed by **Jackson Quinn**) for the Third and Fourth Respondents

Hearing dates: 11th to 22nd March 2019

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IMPORTANT NOTICE

A Reporting Restriction Order was made in this case on 10th April 2017. It prevents the identification of the family members and other participants in the proceedings, or of the children's schools or of certain other geographical information. Failure to observe the terms of the order may be a contempt of court.

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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The Honourable Ms Justice Russell DBE:

Introduction

1. These are public law proceedings brought under s 31 of the Children Act (CA) 1989 by a Local Authority (LA) in respect of two boys (A and B now aged 10 & 8). The children now live with their father (F) following protracted private law proceeding pursuant to the CA 1989 which are set out below. In March of 2017 following a trial in the Family Court at Nottingham the circuit judge made findings in those proceedings and removed the boys from their mother (M) placing them in foster care; they were subsequently moved to live with their father (F) and his then partner after they were re-introduced to him, having had no contact with their father or paternal family for three years. In his judgment the circuit judge given on 27th March 2017 he found that the allegations made by M in 2014 that F had sexually abused the children having administered sedative drugs in order to do so, were without foundation and that either she or her mother (the maternal grandmother: MGM) had drugged the children herself.

2. Later, in March 2018, M appealed a subsequent order of the judge refusing permission to re-open the case based on a further analysis of the drugs which she had obtained surreptitiously, that is to say without permission of the court or the knowledge of the other parties. She was refused leave by the Court of Appeal to adduce the "new" evidence in respect of who had administered the drugs found in the children's hair. At an oral hearing in London on 28th March 2018, the Court of Appeal gave judgment having heard full argument and granted permission for it to be cited under paragraph 6.1 of the Practice Direction on the Citation of Authorities of 9th April 2001; under the title *Re M (Children)*; Neutral Citation Number [2018] EWCA (Civ) 607. It is of note that despite M's continuing insistence that F has abused the children, she had not, as was observed by the Court of Appeal, and still has not, appealed the decision in respect of the finding that no sexual abuse had ever taken place; instead M has continued to make attempts to re-open the findings in respect of the finding that she or her mother had given the children drugs in order to support her case.

3. During the hearing in the Family Court in March 2017, at which the judge was giving judgment, M left the court-room as he was doing so and absconded with the children, abducting them to a holiday resort the location of which she had deliberately withheld, along with her intention to take the children there for a "holiday" as she later described it. Her actions resulted in a nation-wide search. After about two weeks the police located the children in a holiday lodge or chalet; the boys were placed in foster care; the Local Authority (LA) applied for care orders in respect of A and B within care proceedings issued on 30th March 2017. Some months later, after reintroduction, the children moved to live with their father and have remained living with him since. The children have had contact with their mother, either directly, albeit supervised, or indirectly since their removal from her care but it has proved to be difficult and with significant problems, because not only has M refused to accept the findings of the court she has enlisted the assistance of others in campaigning to have the children returned to her care (of which more below) in addition to which there has remained the risk of further abduction. Nonetheless the children have always wanted to go on seeing their mother and expressed their wishes to continue to do so; they had

professionally supervised direct contact arranged by the LA with M up until 20th December 2017.

4. It was shortly after this contact session on 20th December 2017 (during which the elder child inadvertently let slip details of the location and identity of his new home) that at some time on the night of 30th/31st December 2017, at a time M knew the children and their father were on holiday abroad, that the home of his partner, where the children were then living, was burnt down and largely destroyed in an arson attack by D. D, who was later convicted of this and another arson attack, was a friend or associate of M's with whom she had had an adulterous sexual relationship. In February 2019, D was found guilty of the arson by a jury in the Crown Court and his sentence is unknown. The location of the children's home was, and has continued to, kept confidential and had been withheld from M because of the arson, the risk or fear of abduction and/or other interference by M with the children or with F. After the fire, and for understandable reasons, direct and physical contact between the children and M was suspended. In any case the children were forced to move with F to another address away from where they had been living and going to school.

5. In a composite document based on the evidence filed and contained in the court bundle, the LA has set out further findings of fact which it seeks in respect of s31 CA1989 threshold, primarily to inform future planning for the children, most specifically regarding any future contact with M. These findings include events which have taken place since the findings made and set out in the Family Court judgment of 27th March 2017 (upon which the LA relies) and the date on which the care proceedings were issued, to include the extent of M's involvement in, or knowledge of the arson attack on the children's home. As already observed, M continues to refuse to accept the findings made and has made repeated attempts to re-open the case, specifically the finding that she (or her mother) were responsible for administering the sedatives found in the hair samples taken from her sons.

6. This court has no longer any need to hear or determine the evidence or to make findings in respect of D's responsibility for the arson because of his conviction to a higher standard of proof in the criminal court. F supports the LA's position in respect of the findings sought and, because of the risks to the boys' physical safety and emotional well-being, supports the very limited indirect contact between the children and M as proposed by the LA. This plan is supported by their guardian, notwithstanding the boys clearly expressed wishes to see her.

7. To reiterate, M has continued to refuse to accept the previous findings made and upheld by the Court of Appeal; she seeks to re-open that part of the case, to have further tests carried out on the hair samples and for the children to be returned to her care. There has been a break in judicial continuity because this case is no longer before the judge who had previously conducted the proceedings as he was forced to recuse himself as a result of harassment and threats carried out by C. C is another associate of M's who has repeatedly posted messages on Twitter and social media supporting M, these messages or posts included some explicitly expressing C's view that the judge should recuse himself. Amongst his activity on social media, C posted messages on social media and pictures that he said he had taken at night of the judge's home and property.

8. As a result of C's activities concerning the judge C had been sought for questioning but, prior to this trial, he had evaded the police. He had, nonetheless, attempted to influence or participate in these proceedings by contacting M's solicitor through her sister and sent the solicitor what purported to be his "statement" and material which included details of F and the children and their location which had been supposedly confidential with the intention of keeping it from M. The LA informed the police, as directed by the court, of C's intention to attend court, as a result he was arrested and taken into police custody, on 12th March 2019 after arriving at court to give evidence.

Background

9. The early background to lives of these children is set out in previous judgments and it is not necessary for me to rehearse their history again as this court is concerned with events after 27th March 2018. To set out background to these proceedings I quote from the judgment of Lord Justice Peter Jackson;

> **[3].** *"The parents began living together in 2004, married in 2006 and separated in 2011. In 2012 and again in 2013, the father brought proceedings to secure contact with the children and orders were made. However, in December 2014, the mother and maternal grandmother made allegations to the NSPCC and to the police that the boys had been severely sexually abused by their father, by members of his family and by some of his male friends over a considerable period of time. The allegations led to there being no contact between the boys and their paternal family for almost three years.*
>
> ***[4].*** *During the police investigation into the allegations, the children were medically examined. That provided no supporting evidence. The children were also interviewed, but in a manner that the judge considered to have no evidential value. Additionally, at the insistence of the mother the police arranged for hair strand tests for drugs to be taken from the boys in January 2015. These were not sent for analysis until May 2016. In June 2016, Ms Kirsten Turner, a consultant forensic toxicologist then employed by ChemTox reported to the police the presence in the hair of the sedatives benzodiazepine and nordiazepam. In September 2016, Ms Turner, by now working for Alere Forensics ('Alere') produced a further report identifying the presence of nordiazepam, temazepam and zolpidem, in all cases in very low quantities.*
>
> ***[5].*** *In September 2015, the mother and children moved away from their local area. In response, the father issued proceedings to locate them and to restore his contact. It was those proceedings that came before the judge in March 2017. He heard nine days of evidence, including from Ms Turner, who was called by the mother. Her evidence was that the tests indicated that the boys had received the same substances in similar timescales and concentrations. The low levels were not suggestive of administration on a regular basis. They could theoretically be explained by accidental ingestion or environmental exposure. In respect of timing, she concluded that it was not possible to state the exact period covered by the hair samples and that it was possible that some traces of the drugs were from exposure prior to August 2014. However, the results could also be explained by a single tablet of diazepam being administered to each child in mid-December 2014.*

10. The prosecuting authorities have taken the decision not to prosecute F in relation to the allegations made by M (and she alleged the boys themselves). On any objective view, it is a fact that the children were ABE interviewed on 10th December 2014, and that those interviews did not provide evidence to support a prosecution. In his judgment in March 2017, the trial judge exonerated the children's father and other adults of sexual abuse; finding instead that reported statements made by the children were the result of pressure from their mother and the MGM, both of whom, he found, genuinely believed that the children had been sexually abused, but that that their belief was irrational. The judge explicitly rejected the mother's allegation that F had administered drugs to facilitate abuse, and he found in respect of the drug test results that M and/or the MGM had administered the substances found to the children; his findings were, he said supported in part by the striking determination on the part of M to have the boys tested.

11. He said *"…[M] was adamant that it should be done and was highly critical of the police for not doing so. Her determination, it seems to me, was driven by a knowledge of what the test results would be. She knew what they would be because she had caused [the boys] to ingest small quantities of drugs sufficient to produce a test result. The mother saw this as a small harm to prove a far greater harm. The mother knew after the first ABE interview that the case would go no further without some form of corroborative evidence.* "He went on to say that the administration of the sedative drugs to the children *"was not inadvertent but was done in order to prove the abuse which the mother and the grandmother were convinced had taken place and at a time when they felt frustrated by the police response."*

Law

12. There has been little argument about the law in this case in which the decisions that the court is to reach concern further fact-finding and welfare issues concerning these two boys. As a matter of law, pursuant to s 31 of the CA 1989, it is accepted that the facts as they stood when the LA issued care proceedings on 30th March 2017 crossed the threshold criteria in that the children had suffered and were at risk of suffering significant harm, attributable to the care given to them by their M, not being what it would be reasonable to expect a parent to give them. The LA, supported by F and the children's representatives seek fact finding that goes beyond the date of issue and the LA further relies on events that have occurred since the proceedings were issued, to support threshold findings following established case law; see *Re G* [2001] EWCA Civ 968.

13. While it is not necessary to set out the law in detail as the statutory and legal framework is undisputed, I have in mind the principles of law and statutory framework which pertain in this case. The burden of proof lies with this local authority as the Applicant bringing the case before the court and it must prove its case to the required standard, the balance of probabilities, which is the civil standard of proof. I have in mind and will apply the principles as set out in the seminal case *Re B (Care Proceedings: Standard of Proof)* [2008] UKHL 35, [2008] 2 FLR 141, and the words of Baroness Hale, at [70] *"the standard of proof in finding the facts necessary to establish the threshold under s 31(2) or the welfare considerations in s 1 of the 1989 Act is the simple balance of probabilities, neither more nor less. Neither the seriousness of the allegation nor the seriousness of the consequences should make any difference to the standard of proof to be applied in determining the facts. The inherent*

probabilities are simply something to be taken into account, where relevant, in deciding where the truth lies." It follows that the burden of disproving any reasonable explanation put forward by a parent also falls on the LA and I shall be vigilant not to reverse the burden of proof.

14. To quote Lord Hoffman, in *Re B* [supra] the law operates a binary system which is applied to the fact or facts in issue; evidence cannot and should not be evaluated or assessed in separate compartments. To paraphrase Dame Elizabeth Butler- Sloss P (as she then was) in *Re T* [2004] EWCA (Civ) 558, a judge is to exercise an overview of the totality of the evidence and consider the wide canvas of evidence before it. In this case as in all cases expert evidence must be considered in the context of all the evidential and factual matrix of this case, and weighed against any findings, agreed facts or other evidence. Expert opinion is no more nor less than evidence of the expert's opinion, albeit based on their experience, qualifications and specialist knowledge.

15. The children have spoken to, and complained to, the consultant psychologist appointed as an expert witness by the court, their social worker and to their father about their perception of their M's continued insistence that they have been sexually abused despite their instance to the contrary. Their reported speech is hearsay evidence and s4 of the Civil Evidence Act 1995 does not apply in the Family Court, nonetheless I shall have regard to it when assessing the weight to attach to reported rather than direct oral evidence given in interview or in court. In Family Court cases, such as this, the reported words of children form part of the evidence and are taken into the balance of evidence before the court.

16. In respect of lies told by witnesses including M and F the direction in the criminal case of *R v Lucas* [1981] QB 720 has relevance; the principle is that if, after a witness has given evidence, the court concludes that witness has lied it does not follow that they have lied about everything in their evidence nor can the lies, of themselves, provide proof of the fact alleged. A witness may lie for many reasons, out of shame, humiliation, misplaced loyalty, panic, fear, distress, confusion and emotional pressure. The *Lucas* direction has been adopted by the family courts for many years and was considered in the Court of Appeal by McFarlane LJ (as he then was) in *H-C (Children)* [2016] EWCA Civ 136. The judgment emphasised the need for any judge hearing a family case not to take a lie as direct proof of guilt, and I have in mind his words in [100] *"In my view there should be no distinction between the approach taken by the criminal court on the issue of lies to that adopted in the family court. Judges should therefore take care to ensure that they do not rely upon a conclusion that an individual has lied on a material issue as direct proof of guilt"*.

17. In establishing their case and the facts that the LA rely on, I have been referred to the case of *Re A (A Child)* (No 2) [2011] EWCA Civ 12, [2011] 1 FCR 141, and to the word of Lord Justice Munby (as he then was) as to the need for findings of fact to be based on evidence and not speculation; he said, *"the 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…I add two important points which I draw from the judgment of Baker J in Devon County Council v EB & Ors (Minors) [2013] EWHC 968 (Fam), paras 56, 59. First, I must take into account all the evidence and, furthermore, consider each piece of evidence in the context of all the other evidence. I have to survey a wide canvas."*

18. For clarity I emphasise that there is no evidence to support any application for a re-hearing or the re-opening of the issues decided by the judge and set out in his judgment of March 2017 and upheld by the Court of Appeal. I do not intend to rehearse those findings further in this judgment.

Chronology and evidence: 27th March 2017 to date

19. I have read the evidence filed in this case and contained in the trial bundle in seven lever arch files. I heard oral evidence from the consultant clinical psychologist, Ms Sambrooks, who prepared assessments and made recommendations about the treatment and support needed by the children; from their father, from their mother, from the allocated social worker and from the children's guardian. I heard from N a private investigator hired by M to investigate F and the children. The bundle included expert reports and opinion from witnesses who were not required to give evidence, as their evidence was not challenged and from other witnesses including those who gave oral evidence. I did not hear from C, who was arrested at court, and I did not hear from D, who was produced from prison where he was waiting to be sentenced for arson, because when he was produced from prison and brought before me he refused to acknowledge the court or to speak.

20. The bundles also included evidence and disclosure of material obtained from police investigations; electronic messages retrieved from the service providers and the mobile phones of M and D; social work records; statements and documents from the earlier CA 1989 proceedings; material from N (the private investigator) and Facebook posts made by J (the close friend of M); transcripts of D's evidence from his criminal trial and referrals to the Children's Commissioner by M in 2016 and again in 2017. Based on this evidence and the material before the court, this judgment will attempt chronologically to set out the events, including court hearings, which led up to this trial and occurred after the judgment given on 27th March 2017; it will include a discussion and review of the evidence in the context of the events as they occurred.

21. On 27th March 2017, the judge decided that the children had to be removed from their mother because of her false beliefs, beliefs which she and her family were deliberately inculcating in the boys, that they had been sexually abused by their father and others at his behest which had caused them significant emotional and psychological harm. The judge decided that he could not place the boys with their father straight away because of their false beliefs about him. The court's decision to remove the children could not have come as a surprise to M, not least because the court had already made prohibited steps orders (PSO); indeed, she told me it was what she had been expecting.

22. It is a matter of fact not in dispute before this court that prior to the trial (which took place between 6th and 24th February 2017) M conspired with her family and others to arrange for the children to be removed from home and hidden in a holiday park. On 24th February, and prior to judgment being handed down, a PSO was made forbidding M from arranging or causing the children to reside at an address other than the one known to the court and the authorities. On 21st March 2017 a booking was made for a lodge at a holiday resort from 27th March 2017 to 10th April 2017. This booking was made in a family name different to the one that was usually used by M and the children (and from the names on their birth certificate) and an address in Scotland was given as their home address, the rent was paid by M's sister's partner (S) through his

accountant. On 24th March 2017, S bought a car having told the salesperson that the car was for his daughter. M then instructed S's accountant to pay for the car, and later, at the holiday resort, completed a form in which she said this car belonged to her.

23. M collected B from school as normal on 24th March 2017, but telephoned the school on the following Monday morning, 27th March 2017, sometime between 08.40 and 09:00 to say B wasn't well. L did not attend school at the time as he was being "home-schooled" by M because she falsely believed him to have learning difficulties. That same day, 27th March 2017, there was the hearing at which the judgment was delivered. As established, M left the court while the judgment was being given and did not return, she told me that as she did so S took her iPhone; freely admitted to me in her oral evidence that he had told her he was doing this so that she, and the children, could not be traced by using the phone. While the case was still before the court on 27th March 2017, it became apparent that the children had been taken from their home and that their whereabouts were unknown.

24. The LA was invited to attend the hearing after the short adjournment; and the court made interim care orders and recovery orders for the children. The court summonsed the MGM, S and M's sister (L), all three of whom denied under oath any knowledge of their whereabouts. The MGM and S have subsequently been charged and await trial for perjury. M told me in her oral evidence that she was just taking the children on holiday, but she also said that her plan "B" was to avoid the children being removed from her, as she could see what was coming. There is no substantive evidence in support of an alternative plan "A" for a holiday and I find that the abduction (for that is what it was) was planned with the sole purpose of evading the authorities in an attempt to circumvent the decision of the court, as she had taken their passports and stopped paying for utilities. The plan can only have been for the children to remain hidden or be removed from the jurisdiction. It is likely that M did not expect the high level of publicity and the extent of the search for the children by the police and the authorities that ensued. In this, as in her later activities designed to retain or regain custody of the children, it would appear that M did not think through the likely consequences of her actions.

25. On 28th March 2017, the judge (sitting as a s9 judge) made the children wards of court by his own motion and discharged the interim care orders. Police officers searched M's home and seized a handwritten list (which appeared to be a list of items to be packed for going away) but were unable to find M's passport or the children's passports. Police officers seized another handwritten note, hidden behind a plastic bag in an office at the home of S and L, listing M's direct debits with the dates that they had been cancelled, with instructions for those direct debits that had not been cancelled along with a number of utility bills and other documents pertaining to the cancellation of utilities at M's home. The children's disappearance was publicized and there was a great deal of interest on social media including by activists and campaigners such as C who posted numerous items and messages in support of M. Both M's sister, L, and her close friend (J) responded positively to the posts.

26. On 29th March 2017, at a hearing before the judge L and the MGM were produced at court after being arrested by the police. They were asked by the judge if they knew where M and the children were, but they denied all knowledge. By this time S could not be found, and was, it is reasonable to infer, evading the authorities. An injunction was granted against C to prohibit him from publishing further information about the

case on social media or elsewhere, and on 31st March 2017, the judge made a reporting restriction order (RRO) without notice; along with orders to locate C so that he could be served with the injunction. In April 2017, during the police hunt for the children, a web or internet-based group was set up along with a fund-raising web page to raise money for M's legal costs; it is to be noted that she is publicly funded in these proceedings and has been ably and well represented by leading and junior counsel.

27. Eventually, in the early hours of the morning of 6th April 2017 the police found the children with M at the holiday resort. The children were removed and placed in foster care and M was arrested. The car paid for by S's accountant was found parked outside. The same day at a hearing before the judge the children were made subject to interim care orders and the wardship was discharged. On 10th April a RRO was made on notice to the press and media. At that hearing there was no opposition to the children remaining in foster care and F, who wanted the children to be placed with their paternal family as soon as was possible, accepted that he could not have contact with the children at that stage; an order under section 34 (4) of the CA 1989 permitted the LA to refuse contact between the children and their mother.

28. There was no contact between the children and their mother until after 21st April 2017, when at a hearing before the judge, the LA agreed to arrange contact, in the form of "Skype", letters and cards between the children and their mother. This period in March and April 2017 must have been a very distressing and frightening time for these children, who were removed from their mother and placed with strangers after the police found them hidden in the holiday chalet. I shall return to the effects on these children of the precipitate loss of their home, school and friends and family and harm suffered by the children later in this judgment. The court made orders for Dr Gwen Adshead, an eminent consultant adult forensic psychiatrist to undertake an assessment of M and for Ms Jean Sambrooks, an experienced clinical psychologist, to undertake an assessment of the children. The matter of contact returned to court on 5th May 2017 when an application by M for direct contact was adjourned until she had served a statement setting out the circumstances of surrounding the disappearance of the children in March and April 2017. The LA proposed that there should be an exchange of video messages to re-introduce between the children to their father, who they had not seen for several years.

29. At the same time M told her solicitor that she had approached Cansford Laboratories (the forensic science service referred to in the extract from the Court of Appeal judgment) to provide an analysis of the hair strand analysis of the children's hair, obtained by the police and relied upon by her in the private law proceedings. M was accompanied by S (her sister's partner who the police were still seeking in connection with a perjury charge). M accepted in her oral evidence before me that she had known the police were looking for S and had done nothing to alert the authorities of his whereabouts. I find this to be an example of M deliberately choosing to flout authority and act outside the law, this finding is supported by the fact that M had obtained the evidence from the laboratory contrary to common law, procedure and statute, specifically Part 25 of the FPR 2010 r25.4 and s 13 of the Children and Families Act 2013, as she had done so without permission of the court. Notwithstanding, her previous attempt to circumvent proper procedure, on 5th June 2017 M issued an application to admit the reports produced by Cansford and for the court to reopen the findings on the administration of drugs to the children. Details about the case which

had not been made public were simultaneously posted on *Facebook*, contrary to the court orders in force.

30. Nonetheless, on 6th June 2017, the court discharged the order under section 34 (4) as it had been decided (as set out in the written judgment handed-down on 7th July 2018) that that video-contact should take place between M and the children by 'Skype'. The court did not order direct contact between the children and M, the LA were to arrange two supervised contact sessions between the children and F, to progress their re-introduction to their father which would, in turn, progress to unsupervised contact if successful. It was agreed the court would determine the application to reopen the sedative drugs findings without a hearing and on submissions.

31. Meanwhile, on 20th June 2017, the psychiatric assessment of M by Dr Adshead was filed. Dr Adshead's expert opinion was that M did not suffer from any mental illness but that there was *"some evidence of psychological dysfunction in terms of [M's] fixed beliefs about [F] being an abuser of her children. These beliefs have a delusional quality, in that the record indicates that she holds to her beliefs rigidly and does not admit any contrary evidence which would weaken her position. She not only excludes disconfirmatory material, she preferentially includes and seeks out material that supports her position; and it is now established as a matter of fact that she gave her children sedatives to support her position. She does not consider that she may be doing harm to her children by being so hostile towards their father, and she has told professionals that she believes that her children have psychiatric diagnoses (e.g. PTSD) which are further evidence for the validity of her beliefs. She does not appear to be able to take in any new information or different perspective; and she seemed to struggle to conceive that the situation might be other than she would like."*

32. Dr Adshead said that she was unable to be certain as to the reasons behind M's beliefs but said that one possible explanation was that the beliefs – which usually involve wrong-doing by another person – offered some emotional protection from distress, *"hence such beliefs are often impervious to change, because they keep anxiety or distress at bay. They may be held with a high degree of dramatic emotional investment and intensity. They may also acquire strength if they are shared with others and enable a group of people to form a band of allies against a common 'enemy' (something of this process takes place when people are radicalized into a religious ideology)."* Hence, this court finds, that M's involvement with persons such as D, C and others associated with them who form groups operating on the fringes of well-founded investigation into child sexual abuse and child sexual exploitation and/or support groups of the victims of such abuse has increased the strength of her delusional beliefs and increased the risk to the children that M will act according to those beliefs.

33. Dr Adshead was unable to recommend any treatment to assist M in accepting the court's findings and to reduce the risk she poses to the children (see below) *"chiefly because in my view, [M's] beliefs are not driven by a mental illness, but an encapsulated system of ideas…. I am not aware of any treatment that might reduce any risk. [M] herself does not see the need for any treatment so she is unlikely to engage in any psychological work at this stage. Medication is not indicated for this type of problem."* Dr Adshead went on to say that she (and indeed this court) is *"mindful that any change process will be complicated by [M's] support from her family who share her beliefs. For [M] to change her beliefs will also entail a change*

within her family relationships that may be problematic." I pause in the narrative and rehearsal of the expert evidence to observe that the MGM, M's sister L and S declined to participate in these proceedings either as interveners, in respect of findings that may involve or include them, or as witnesses in support of M. Dr Adshead had written earlier in her report when considering the risk of further harm to the children brought about by M's actions, *"For the avoidance of doubt, this is not a case in which [M] would benefit from mandated psychological therapy."*

34. As part of her assessment Dr Adshead was asked to assess whether M posed a risk of emotional and or physical harm to the children. She noted that although the typical risk factors known to be associated with the risk of harm to others were absent, the risk factors in relation to child maltreatment are different, *"poor relationships between parents lead to increased risk of both emotional and physical harm risk to children, and there are reported cases where ruptures in relationships between parents have led to direct risk of harm to children by one parent in an effort to damage the other parent. These types of harm can include false allegations against a parent, encouraging parental alienation and, in rare cases, directly killing the children to stop the other parent having contact. These rare cases are particularly problematic because they are so rare and unusual; the risk is hard to assess, and perpetrators rarely show any signs of psychiatric disturbance."*

35. In this case it has been established that M made false allegations against F and was found to have administered substances to make the children appear to be victims of crime, as Dr Adshead said this type of induction of illness or of symptoms in a child carries a risk of physical harm. M has caused harm to her children as a result of her beliefs. The claim by M that the older child had PTSD as a result of sexual abuse, and that both boys demonstrated behavioural disturbance, if (as proved to be the case) *"an independent assessment by a child psychiatrist or psychologist were to find no evidence of psychological or behavioural disturbance in either child, then [M's] claim that they did have such a disorder might be seen as a form of fabrication or exaggeration of distress in a child: which carries a risk of both physical and emotional harm."*

36. It was Dr Adshead's opinion that as the children had been placed at risk of emotional and physical harm as a result of M's beliefs and it was her view that *"while those beliefs remain, the children remain at real risk of the same harms occurring. This risk is likely to persist into the future…I think it is likely that [M's] beliefs will continue for the foreseeable future, given they have persisted for two years, and have not altered despite considerable external challenge. Her beliefs are not driven by a mental illness, which could be treated with medication; but by a psychological mechanism which has deep emotional meaning for her. In my experience, these beliefs can change but only if the person in question wishes to consider the possibility of change."* A further twenty-one months have passed since Dr Adshead reported and M's beliefs remain the same; nor has M engaged or attempted to engage in any meaningful psychological treatment.

37. Dr Adshead was careful not to venture outside the scope of her expertise by assessing the impact of harm to the children, she said she was not able to advise *"how far [M] would go to 'protect' her children from perceived threat."* Dr Adshead reported before the children were the victims of an arson attack which left their home and belongings destroyed and led to them having to move, again, to a different location.

Presciently, Dr Adshead wrote in her report *"I do not feel able to rule out the risk of significant physical harm to the children at present."* The observations made about risk being ameliorated by expectable measures from child protection services, such as by supervised contact and control of contact, were not made in the knowledge of the arson attack and, in any case, those measures had not and could not have prevented the arson. M has accepted in her oral evidence to this court that, at the very least, the arson could only have occurred because of her involvement with D; although she continued to deny that she had asked or encouraged D to carry it out.

38. Were the children to be placed with their mother Dr Adshead did not consider that M would be able to promote a positive image of F, pointing out that she has been *"reluctant to promote a positive relationship* ***before*** [Dr Adshead's emphasis] *the onset of the false allegations in 2014; and since then she had used the allegations as a justification for ending the boys' relationship with their father…I am also aware that [M] has a big emotional investment in these beliefs, which are now [a] key aspect of her relationship with the children as well as her family."*

39. As trailed in Dr Adshead's description of M's need to share her beliefs with others and to seek out material which would support her position M engaged N, a private investigator, and, he told the court, a survivor of child sex abuse, whom she said she had met or been put in touch with by a member of a survivors group. The instruction to investigate F lasted from around 29th June 2017 or 30th June 2017 until about the beginning of August 2017 after F had found out he was being investigated. During the investigation N was provided by M with the registration of a car which was registered to F's partner, a fact about which M claimed ignorance. N proceeded to carry out his investigation of F and sent M what he called a "witness statement" in July. He informed her of meetings with third parties as part of the investigation and on 19th July 2017 M told N that she would send him photographs of the children to N to show to the third parties, which she proceeded to do later on, also sending N pictures of F, his friends and acquaintances, his parents and his then partner.

40. N then emailed M asking for further information including details of the children's foster carers. N, who gave oral evidence before me, insisted that the suggestion about his having information about the foster carers had been initiated by him and not by M. On 27th July 2017 M told N that she had information about F's accountant, which her sister had obtained. On 2nd August 2017 N e-mailed M and L to set out proposals for further action including obtaining details of the foster carers to whom the children may have made "disclosures" in respect of the false allegations of sexual abuse. This was not taken any further because on 4th August 2017 F discovered that M had hired N and applied to bring the matter and M back to court for breaching the terms of the extant non-molestation injunction.

41. On 7th August N emailed M and L about obtaining statements from *"people who have come into contact with the boys";* but on that day, there was a hearing before the judge and by that time M had been given advice about the possible consequences for her of having F "investigated" when there were protective measures and non-molestation orders in place. The court approved the instruction of a psychologist Dr Hellin to undertake an assessment of M. F did not pursue his application regarding the breaches of the court orders as M had said she agreed not to instruct anyone to investigate him, and to use her best endeavours to remove any information about the proceedings from the public domain.

42. Although M had told the court she would not instruct anyone to investigate F before that, and certainly by 17th July 2017, when there was a text message between them, M was in contact with D. There was a meeting between M, her sister L and D on 24th July 2017, followed by an email sent by M to D on 28th July 2017 containing all the addresses she knew for F, and along with the addresses of *"other perpetrators"*. On 19th August 2017, M texted D to tell him to use a different mobile number because F had knowledge of the number she had been using. In her oral evidence before this court M gave a convoluted alternative explanation for why she had given D a different number to use but, as she said, she continued to use both and because she did so I conclude that not much rides on this point, except to observe that there was a marked element of subterfuge in their communication.

43. On 31st August 2017 at court the judge ordered that M should have direct contact with the children for one hour each fortnight, to start after 29th September 2017; which would allow for two further contact sessions via Skype. A thorough and child-centred psychological assessment of the children by the amongst other matters it identified some of the difficulties caused to the older child by his mother's decision to home-school him based on what she considered to be his "dyslexia"; such as with integrating with his peers. Notwithstanding this positive movement in contact for M within a fortnight, on 17th September 2017 the day before the case was due to return to court, M can be seen texting D to suggest there is a link between the judge and a convicted child sex offender. On 18th September, the LA agreed to consider moving the children to live with their father before final determination of the case. Following an application made by M (on 31st August 2017) the court approved the instruction of Fiona Cadwaladr, an independent social worker (ISW) to undertake a social work assessment of M and the instruction of Ms Sambrooks (the psychologist) to undertake an addendum assessment of the children, to consider whether they could be placed with F before they had completed the therapy she had recommended.

44. Between 20th and 22nd September 2017, text message discussions between M and D took place about a meeting "on Saturday". M has consistently denied that she is involved with social media or other interested groups. She has made this denial to professionals, to the Family Court in the past court and to this court in her oral evidence and claims that the posts on social media supporting her and her version of events and the attempts of her supporters to participate in, or to influence, this case and her "cause" was not of her making or at her instigation. This is a matter to which this judgment will return, nonetheless, as can be seen from the evidence already set out above it has become increasingly clear that her sister L has been involved in the case supporting M throughout, and that her friend J has played a role in posting messages and material on the internet and it is most unlikely that they have done so without her implicit approval, at the very least. In particular, both L and M's friend J responded to the *Twitter* posts made by C when he surfaced as a supporter when M was "in hiding" with the children in March and April 2017.

45. M assured me in her oral evidence that she fully understands the orders made forbidding publication of the facts of the case and forbidding her from harassing F or posting material on-line extends to her permitting or encouraging anyone else from doing so. She has also told me that J is a close friend with whom she stays and who is in her confidence; as is apparent from the text messages between M and D and the intimate references made about J and the relationship that exists between J and M. It

was J who posted images of the Mother's Day cards sent by the boys to M on-line in 2018. M denied that she knew that J was going to do this, but it is a matter of fact that J had easy access to the cards and that J would be highly unlikely to have done it without either M's express approval or on the understanding that M would have wanted or approved of images of the cards from her children being posted.

46. There is some evidence that M was reluctant to dispense with the services of N as a private investigator, as it was not until 3rd October 2017 that N sent an email to M confirming or acknowledging she had withdrawn her instructions to which she replied on 4th October. On 29th October 2017 D texted M to tell her to ask the younger child for details of F's car in which he had had his finger trapped during contact. D's text included the phrase that it could be *"an opening for your prompt to the children"*, M agreed with his comment. Whatever the truth of what M offered by way of explanation (she told the court in oral evidence that she was not concerned as she accepted it was an accident) it is clear from this exchange that M was discussing the case with D and was, at the very least, open to his involvement and willing to take and consider suggestions he made as to methods to her pursue her case.

47. Shortly after this exchange, on 9th November 2017, the psychological assessment of M by the psychologist Dr. Hellin was filed. Although the psychologist's assessment of M was markedly more positive than that of Dr Adshead as Dr Hellin considered M to be capable of co-operation with the LA as she had finding M to be accepting of what she described as *"the reality and validity of other's perspectives to a considerable degree"*, the assessment has limited value and weight as evidence in the view of this court not least because this is not the case, as is evident from M' s own statement of evidence, and the fact that the report is not relied on by M for the purposes of this hearing. It is abundantly clear from M's own evidence that it is no longer an accurate reflection of M's views. In her report Dr Hellin went on to make various recommendations about therapy for M, apparently satisfied that M had modified the beliefs identified by Dr Adshead.

48. This is an inherent weakness in the report is exacerbated by the fact that it was based on M's own self-reporting about her modification of views, and that Dr Hellin had no knowledge of what M chose not to tell her, nor, indeed, could she have any knowledge of what was yet to come. Neither M herself, as can be seen from her statement of evidence filed with the court for use in this hearing, nor those that represent her claim that Dr Hellin's description of M's position can be relied on, but the psychologist's observation that M found the finding made that M (or her mother) had given the children sedatives to be the one that troubles M beyond all others is consistent with both with M's evidence to this court and the manner in which she has chosen to pursue her case. Reference has already been made in this judgment to the fact that M has not sought to appeal the findings regarding the allegations of sex abuse, rather she continues to seek a to re-opening of the finding regarding the administration of sedatives.

49. Even at the time it was filed with the court in November 2017, before the arson attack and the dismissal of M's appeal, Dr Hellin's report was of limited forensic assistance as (unlike the other expert witnesses) she did not approach the case based on the findings made in respect of the administration of sedatives. Wrongly, Dr Hellin was asked to consider the case and assess M on the hypothetical basis that her appeal would be successful. In this, as in all family cases, the parties, experts and other

professionals must and can only plan for the subject children on the basis of findings made by the court not on a hypothetical factual matrix based on a putative success on appeal. Dr Hellin should not have been asked by M's solicitor to speculate in this manner their letter of instruction should not have been agreed by the other parties' representatives. As a result, at least in part of that question that Dr Hellin strayed far outside her remit, effectively undermining her objectivity; moreover, any suggestion that the findings should be overlooked or put to one side to help M collaborate with the LA was wholly misplaced and incompatible with the need to put the children's safety and welfare first as is required by statute. Findings of fact are matter for the judge as decision maker and not for any expert witness.

50. Dr Hellin's approach to the case was somewhat naïve as her opinion that the likelihood of M doing physical harm to the children was *"very low"* is incomprehensible in view of the risk of physical harm already suffered by the children through the ingestion of drugs. Nonetheless, Dr Hellin considered that M was more likely to cause the children emotional harm and agreed with Dr Adshead that M held delusional beliefs which were *"not the product of a psychotic illness but had a psychological basis."* There is no doubt that M is a personable woman who can give the appearance of being susceptible to reason, as I saw when she gave her oral evidence, but, as was also apparent during her evidence, this receptiveness is superficial and ceases as soon as she is challenged about her beliefs.

51. The psychologist's acceptance of what M told her was, frankly, credulous and led her to seriously underestimate the risks posed by M to the boys. The report is notable for its failure to consider the boy's experiences from their point of view, concentrating instead on M; but, as Dr Adshead had earlier, Dr Hellin identified the considerable difficulties in finding the appropriate therapy, saying that there were *"no specific, established therapeutic methods by which to ameliorate these risks"* and describing it as *"quite an unusual therapeutic endeavour"*, and saying that finding a therapist to work with M, not least because the work would have to include members of her family who apparently share M's delusional beliefs would be difficult. Indeed, she was unable to identify any resource or professional capable of delivery the therapeutic intervention she posited for M rendering any suggestion of therapeutic intervention otiose. Moreover, the recommendations were based on the false premise that M had begun *"to loosen her cognitive rigidity and was more open to perspectives other than her own delusional one*" which further undermined any recommendation of therapeutic intervention. In addition, the likelihood of therapy being successful in the face of M's family and friends' stance is further reduced; they all remain as opposed to the findings of the court now as they were both before and at the time the report was prepared.

52. Having considered all the expert advice and opinion filed in this case the view, shared by this court, is that to have any meaning in respect of the reduction of risk or likelihood of success therapeutic work, including cognitive therapy would *ispo facto* be exceptionally challenging because it would have to challenge M's delusional beliefs, and, as has already been observed there is no evidence that M is now or is likely to become in the short or medium term, susceptible to such challenge. Further, without the support of her immediate family and close friends, who currently share those delusional beliefs and have refused to participate in the proceedings, it is almost certain that any therapeutic intervention would be constantly undermined further

reducing any possibility of its success or efficacy. It is a notable feature of this case that none of the maternal family, even after an express invitation to do so, have seen fit to engage with the court in these proceedings, to cooperate with the LA or to support M by giving evidence or take up the opportunity of providing reassurance and support to the two children about whom this court is ultimately and primarily concerned.

53. The ISW Ms Cadwaladr reported on 13th November 2017; her assessment of M's ability to parent the boys was based on the assessment of M by Dr Hellin which indicated that M had moved on, and M had told the ISW that her views regarding F were not *"fixed"* and was *"undergoing change".* As we have seen, based on M's evidence before this court including her written statements the opposite is true and so Ms Cadwaladr's assessment is of limited, if any, assistance to this court. The ISW prepared a second or "addendum" report in late 2017 shortly before the arson attack in December and before the boys moved to live with F. This was followed by the positive parenting assent of F (and his then partner) by the allocated social worker dated 16th November 2017.

54. The case came back before the court on 16th November 2017 when it was agreed (by the LA and their guardian) that the children should move to be placed with their father and to be cared for by him and his partner, once the court and the LA were in receipt of the further report of Ms Sambrooks and the LA had fully prepared a care plan including the arrangements for the children to move from foster care to live with their father. The LA were to increase the length of the contact sessions between the children and M to two hours. It was at this hearing that the judge refused the application made by M (dated 5th June 2017) to reopen the finding on the administration of sedative drugs and refused permission to appeal.

55. Further reports were filed by the child and family psychologist Ms Sambrooks and Ms Cadwaladr on 5th and 8th December 2017 respectively. I have referred to the former above. The psychologist again recommended therapeutic work with and for the boys; in her report Ms Sambrooks referred to the fact that the older boy held himself responsible for lack of contact with his mother and his perceived need to protect M and emphasised the need for him to have therapeutic support. It is of considerable concern to the court that the children have not yet directly engaged in therapy and that little or no life-story work has or is being done with them (which would be preceded by therapeutic intervention) to support them and assist them in making sense of what has happened to them; this despite a clear recommendation from a court appointed expert. Ms Sambrooks set the need for this therapy and support clearly in her second report after the arson attack had taken place and when the boys and their father were forced to move for a second time. This work is essential for these children and must be put in place without any further delay.

56. To resume the chronological narrative based on the evidence before the court, including the remaining text and other electronic communication, it was clear and obvious that the relationship between M and D continued to develop and intensify; nor has it been denied. There was also an increase in the exchange of confidential information between them, on 11th December 2017, for example, M asked D for his bank details which he then provided. As M has accepted in her oral evidence not all the messages and communications were retrieved in the forensic examination which took place in preparation for this trial, and it must be right to infer that there was

substantially more communication between M and D, including phone calls, throughout their relation and leading up to the time D was arrested and taken into custody for arson when it abruptly ceased.

57. That same day, 11th December 2017, the case was once more at court when the judge approved the LA's plan to move the boys to their father's care, under an interim supervision and child arrangements orders pursuant to ss 38 & 8 of the CA 1989 respectively. M was quite deliberately not informed where the children will be living with F and his then partner, because of the history of abduction and the fear of any further attempted abduction or harm. It was discussed in court (but not recorded on the court order) that F would be taking the children on a skiing holiday abroad immediately after Christmas and up to the New Year. To safeguard the children, to provide protection from intrusion and from any further distress, an order was made, without notice, forbidding M, the MGM, L and her partner S from taking various steps or action against F and/or involving or concerning the children.

58. The contact which took place on 20th December 2017 was M's last session of supervised contact with the boys and they have not had any direct contact with their mother since. M was due to see them again after New Year and from the evidence filed and her discussions with the professionals involved in this case she made clear that she was unhappy about the boys going abroad on holiday with F; she claimed in oral evidence that this was because she had legitimate concerns as their parent about their safety, although it the precise nature of those concerns remain unspecified. It was during contact on 20th December that the older of the two boys gave his mother some limited details about the house and location where he and his brother were living with F and his partner. The precise location was not disclosed to M, who had, however, been informed as to the dates that the children would be on holiday abroad with their father and his partner by the children's social worker.

59. On 23rd December 2017 M and D arranged to meet the next day, Christmas Eve. M described in her oral evidence that this meeting took place and said that for some of the time her mother was also present. M said that it was obvious that D was interested in her and having previously asked her what her favourite colour was, he turned up with a bouquet of flowers in that colour. He also brought flowers for her mother, but, M insisted, they had not started a sexual relationship at that time as she was aware that D was married and living with his wife. M professed to this court to hold strong "Christian" beliefs which should, she accepted, preclude adulterous liaisons. Although the court has not seen messages between them for the next few days they were obviously in communication with each other as M had sent a message to D on 29th December 2017 which said she did not receive his call the day before because she was using a different mobile phone. D then sent a message which read *"don't forget the rest of this year it's still got a few days to go"*. No communication was recovered between 12:59 on 29th December 2017 and 15:44 on 31st December 2017; M accepted that there had been communication but could not recall its content but denied that she and D had discussed the children's address or setting fire to their home while they were away on holiday. In the early hours of the morning at some time between 30th and 31st December 2017 D carried out the arson attack on the house of F's partner, her children's home.

60. On 1st January 2018, M sent a message to D saying that she has heard something which concerned her. M told the court that she had been following F's partner's

daughter on Twitter and had found out *"something bad"* had happened but did not know what had occurred. M must have deliberately searched for this Twitter account and accessed it, she has no personal connection with F's partner or her daughter and was quite deliberately not told much about them; her unconvincing explanation to this court was that she was looking at the social media communication of the daughter of F's partner, someone that she did not know and had no legitimate connection with, because she wanted to know that the children were alright. Although it was obvious from her evidence that M considers intrusion into the private life of any third party to be entirely justified if they had a connection with the children no matter how tenuous, the connection with her ex-husband's then partner's daughter is tenuous indeed.

61. Nonetheless I find that this is an example of her using her ability to find and access information in respect of other people, whoever they may be, in keeping with what she considers as her right to do so in furtherance of her case. M's approach, apparent in her oral evidence, is to treat as an affront any suggestion that her behaviour amounts to an intrusion which is either unreasonable or unacceptable, because in her eyes it is justified by her (baseless) concerns about the children. M denied that she had had to go to any trouble to locate the relevant Twitter account of this young person, but that simply cannot be true as it is not a public Twitter account. She sought to defend her actions by, again, protesting that, as a concerned parent, it was entirely reasonable to use any method to access information about her children. M was well aware, as she told the court, of the court orders in place to stop her finding out about the whereabouts of F and the children and of further intrusion into F's privacy so it is reasonable to infer that it is more than likely that she considered that the daughter of his partner fell outside the ambit of court orders and could safely use this as an avenue to gain access to information about F and his family. The fact was and remains that this young person was not responsible for the children's care and most unlikely to be involved in their day to day welfare; there was no justification whatsoever for any intrusion by M into her life.

62. Whatever the nature and extent of the exchanges took place between M and D occurred during the hiatus in recovered electronic communication, it is accepted by M that by the middle of January 2018 she had embarked on a sexual relationship with D. By 26th January 2018, when recovered messages are again available, M and D were exchanging torrid and explicit sexual messages, but there were also messages about other matters including these proceedings and this case. The nature of their relationship, based on the evidence of their messages and the oral evidence of M, was both sexual and personally intimate. Messages were not limited to those of a sexual nature and given the highly personal nature of that relationship, it is inconceivable that M and D did not discuss the case in detail; not only were they intimately involved, they shared a common interest in what they perceived to be injustice regarding allegations of child sex abuse; this common cause formed part of their intimacy and fuelled the emotional engine that drove their relationship. They also shared a belief in evangelical Christianity, as was evident from religious allusions and quotations which were a particular feature of D's communication. Not that that has inhibited them from committing adultery or, in D's case, from committing arson.

63. On the evidence before me I find that D must have been fully aware of what was happening in the case and fully cognisant of M's version of events and her wishes regarding F and the children. In her oral evidence M accepted that the arson attack on

the children's home would not have happened at all but for her involvement with D, but she continued to deny she had any knowledge of his involvement in the fire until he had been arrested some months later. Given that, on her own admission, she was the catalyst which led to the attack and the nature of their relationship and the frequency and intensity of their communications make it inconceivable that she did not discuss the arson with D and beyond the bounds of credulity that he did not tell her what he had done during January 2018. Although she continued to deny participating in the planning of the attack there can be no doubt, on her own account, that D carried out the attack directly because of his association with her and with her knowledge. There could be, and is, no other reason why he carried it out as he has no other connection with F or his partner, and was fully aware of M's antipathy towards F. On the balance of probabilities, the timing of the arson alone cannot be a co-incidence; and it is more than fortunate that no-one was present in the house at the time as neither M nor D could have been certain that the house would be unoccupied.

64. M claimed in her evidence that she was intending to bring the relationship to an end by the time D was arrested, but, there is no evidence in the contents of their messages (which continued right up until D was arrested) to support such an assertion and I do not accept she had formed any such intention. The evidence is that her intense and intimate relationship with D continued throughout February when he travelled with M to court hearings and waited for her nearby to meet up as soon as she left the court building. Their relationship, as can be seen from their messages, came to an abrupt end on his arrest. M told the court that she had decided to end the relationship when she became aware that D's wife knew about it, but the relationship had continued after its discovery by his wife and I was wholly unconvinced by M's protestations of regret in respect of D's wife's feelings and her remorse at failing to adhere to her Christian beliefs and religious rules of conduct.

65. Following the arson attack the children and their father were forced to move to a completely different confidential location and the boys have had to move schools; a second move for the younger child. The effects on the children were momentous; they were made homeless, they lost the family unit they had been living in, they lost all their belongings and had nothing left except the clothing they had taken on holiday with them. The effects on F must also have been very considerable: he had been on relaxed holiday with his children and his partner a skiing abroad which was shockingly interrupted by a devasting arson attack on their home perpetrated by person or persons unknown; it was frightening and distressing for the adults involved as well as the children. F, too, lost his home and his partner as they were forced to separate; and the boys lost a person to whom they were attached who had formed part of their home and family unit.

66. On 29th January 2019, when the children were visited by the consultant psychologist, Ms Sambrooks, one year on, the fear that they suffer brought about by the arson attack and its aftermath was still apparent. The older child asked her if someone could be watching them and said, *"nowhere is really safe, people could be everywhere, I could go anywhere in the world and they would still be watching us."* He asked if people would follow them on holiday; he spoke about his mother kidnapping them and, although he said he thought it unlikely, it was something that he had clearly thought about and which was on his mind; and he spoke about his mother putting tracking devices in presents should she send any. As a direct result of the actions of

his mother, her family and her supporters this young boy is constantly aware of his own safety, as well as that of his younger brother and his father, in a way that no child should have to be. It is an undisputable matter of fact that his anxiety has been brought about by his mother's actions. In respect of the arson alone it was her decision to conduct an affair with a dangerous and vindictive man that led to the attack. These boys and their father are compelled to live their lives perpetually on the alert and required to take precautions, as advised by the police, which are intrusive and clear interference with their day to day lives, a constant burden and likely to cause further emotional harm.

67. When the younger boy was seen by the psychologist at the same time as his older brother although separately, he told her that he understood his father's partner's house had been burnt down by a man his mummy knew, he said mummy could have told the man to burn the house down, but she had not. Everything in the house was burnt. He told the psychologist that some of mummy's friends are bad people, that the police had put alarms in their house as his mummy could try and get us, *"they could take us away"*, and that they could be taken by his maternal aunt, the MGM and S. If his mother turned up, he would be a bit scared. Like his older brother he wanted to see his mother but said she was confused and had confused ideas which he thought came out of her head.

68. It is not exaggeration, nor hyperbolic, to observe that elements of what has happened, and is happening, to these two children are akin to the trauma experienced by children during war or armed conflict; their home was destroyed in an attack by other people for no justifiable or lawful reason, they were forced to flee and go into hiding, they were and remain in fear and feel that they may not be safe anywhere. The long-term effects on them both is likely to be profound. I find it necessary to repeat they are long overdue the provision of therapeutic support and direct work to enable them to make sense of their situation as they grow and to assist them in coming to terms with it in a manner that will not inhibit their growth and development, their sense of identity (she is and will remain their mother) and self-worth.

69. To return once more to the chronological narrative, although no application had been made by the LA to suspend contact (as it should have been pursuant to s34 of the CA 1989) inexplicably neither was any application made by M to reinstate her contact. From the absence of an application to see or have contact with her children I can only conclude that she did not consider it to be a priority and was more concerned with D; she was still in the throes of her liaison with D and her campaign against F. On 4th February 2018 she sent D a document by email which had been filed in the proceedings by F, which they then discussed. In doing so without the permission of the court not only was she in breach of the existing court orders and the rules of procedure (as D that was not a party to the proceedings) it is amounts to further incontrovertible evidence of M directly involving D in this case, and of M's approach to the litigation in general. She has in the past, and it is more likely than not she will in the future, disclosed court documents to whomsoever she considers will further her case regardless of court orders. Moreover, and of greater concern is the fact that she put the children after her relationship with D and to her case against F.

70. On M's account, both in her written and oral evidence, she asks the court to accept that D had not told her of his part in the arson and she knew to nothing about his role in the destruction of the children's home; I do not accept her assertions. When the

case returned to court on 5th February 2018, it was listed for an issues resolution hearing (IRH) which was, unsurprisingly, not effective because of the arson attack. The court was told that all contact between the children and M had been suspended by the LA. Throughout her time at court M spent much, if not most, of it texting and exchanging messages with D, who was present nearby and whom she met straight after the hearing; this can be seen in the available retrieved electronic communication. From the evidence contained in their text messaging (which M has accepted to form only a part of their communication) I find that there can be no doubt that M and D were discussing the case and that she was keeping him fully informed as to what was going on; as, for example, two days after the hearing, they were texting each other and discussing whether an analysis of the children's teeth could assist in further drug tests. Not even a passing mention is made of how this might affect the children.

71. Again, and by way of further example from the evidence, on 13th February 2018, M and D were in discussing the pending appeal and messages were exchanged about some further investigation, the subject of which was not identified in the texts. When the case returned to court, on 16th February 2018, counsel for M told the judge that the MGM, M's sister and her partner S (the latter of whom the police had been unable to trace since March 2017) had been arrested the previous evening and were in custody. It was then, by court order, that all three were invited to intervene in the proceedings; they have never done so. The judge decided that the allegations made by the LA and F that M had been involved with the arson was a matter that could properly be brought to trial. It was also decided that the children could only have contact with M by exchanging of video messages, because of the potential risk to the children, which could not be properly assessed until the court had reached its conclusions as to the extent of her involvement in the attack.

72. Again, on16th February 2018, evincing the close and permeating nature of their relationship, M arranged to meet D immediately after the hearing and was texting him throughout her time at court. These intimate communications between M and D continued, as can be seen from the evidence before the court and despite M's protestations to the contrary M did not bring the relationship to a close; none of the retrieved messages support her case that she intended to do so. M told the court that, as a Christian she knew that it was wrong to participate in an adulterous relationship and felt ashamed, and that she was going to bring it to an end, but, even after D's wife found out there is no message from M to D which comes close to terminating or ending the relationship.

73. From her oral evidence M made it obvious that she was (and is) well aware that electronic communication can be traced (this knowledge as was apparent from as long ago as March 2017 when she left her smartphone with S before she abducted the boys). On 19th February 2018 M sent a message to D to use a different mobile number because her phone was *'bugged'*. Before me M claimed to have little or no interest in social media and not to have participated in any of the support for her online in contradiction to her evidence, on 22nd February 2018, D had complimented M on her Facebook post. This is a piece of evidence which gives lie to her claim that she was unaware of and did not participate in social media posting, a claim that she was most anxious to press in her oral evidence. Their last retrieved message was sent on 24th February 2018, D texted M to say that he will be *"busy raising awareness tomorrow night";* but in the early hours of the morning of 25th February 2018 D carried out

another arson attack, this time on a school in Cheshire and was arrested later that day. After that he was in custody where he remained awaiting sentence for both arson attacks during this trial and as a result communication with M ceased.

74. These proceedings continued with another hearing on 6th March 2018 when disclosure orders were made in preparation for the further trial. M's appeared before the Court of Appeal (Civil Division) on 15th March 2018 when her appeal was dismissed. The MGM wrote to the LA on 26th March 2018 to decline the invitation to intervene, followed by a similar letter declining the invitation by (L) the maternal aunt on 27th March 2018. Later, the MGM and S were charged with perjury relating to the evidence they had about the whereabouts of the children given the court on 27th March 2017.

75. The next hearing took place on 11th May 2018 when directions were made including a timetable for any disclosure requests from the Police or CPS. The children's contact with M was to be by a fortnightly exchange of video messages, with the children sending a message one week and M responding the following week. M was not to be allowed directly to receive or keep the video messages from the children to ensure that it did not get disseminated, to be used to trace the children's whereabouts, or appear online (as had happened with the Mother's Day cards). To ensure that she did not retain their messages and to assist M in sending appropriate, supportive and child centred messages to the boys this process was over seen by the allocated social worker. On 25th May 2018 the MGM and S issued applications to vary the injunctions made against them on 11th December 2018; and at the hearing on 21st June 2018 the parties agreed that their application to amend the injunction should be determined by a High Court judge. It was agreed that there should be an application for the RRO to be extended to cover other proceedings.

76. On 23rd July 2018 and 26th July 2018, the case came before Mr Justice Cohen, although the case remained allocated to the circuit judge apart from any applications in respect of the RRO. The court made a reporting restriction order to cover the criminal proceedings in respect of S, the MGM and D. S attended the hearing in person. Judgment was given and the orders were varied but to a limited extent made to allow S and the MGM to conduct their defence in their perjury trial.

77. There was an IRH before the circuit judge on 29th & 30th October 2018 which was not effective because there remained outstanding material to be disclosed by the police. The IRH was adjourned and listed to take place on 28th & 29th January 2019, directions were given for an analysis of the mobile phones of M and D, for Ms Sambrooks to complete an updated assessment of the children and for Dr Hellin to complete an updated assessment of M; D was invited to intervene in the proceedings. The case was listed a three-week final hearing from 4th February 2019. The court dismissed the application which M had eventually made for direct contact with the children.

78. On 20th December 2018 there was a further hearing at which D was joined as an intervener to the proceedings and permission granted (retrospectively) to disclose to the CPS documents as they had, in fact, already received from the police. On 2nd January 2019 the trial of D began in the Crown Court. At the hearing on 28th & 29th January 2019 the judge told the parties that he had had to make a complaint to the police about online activity concerning the judge by C including postings of the

judge's home address. C had previously posted messages saying the judge should recuse himself. The judge recused himself because of the outstanding complaint and the hearing had to be vacated. The activity of C in support of M raised further questions about the extent of the role M was playing in the attempts to disrupt and manipulate the proceedings. C had also produced a document in which he purported to have evidence supporting further allegations of abuse concerning the children and F. C claimed to have witnessed this abuse and taken video evidence at the confidential home address of F and the children; the video was not produced.

79. At the hearing on 29th January 2019, counsel for M told the court that M intended to pursue findings in respect of C's claims. It then transpired that M, in furtherance of her cause, had made a complaint about him to the National Crime Agency on 14th January 2019; she had also made a complaint to another police force in the area in which she believed F and the children were living. The investigation of both complaints did not give rise to any concerns in respect of the children's safety and welfare in their father's care; but as a result, and to the distress of the children, further security measures were put in place by the police to protect the children from risk of abduction (or worse) as the confidentiality and safety of the children's location appeared to have been further compromised, when C's involvement became known (see below).

80. On 8th February 2019 the case came before the Family Division Liaison Judge and the case was listed for a final hearing in the two weeks commencing 11th March 2019 before me. M then applied for the children to be removed from F and placed in a foster home and, once again, applied for the children to undergo further drug testing, an application supported only by the unsworn "statement" of C, a soi disant campaigner and "investigator" against supposed Family Court injustice and prolific user of social media. C is without any known credentials and there is a conspicuous absence of provenance in allegations he liberally makes it addition to which, in respect of this case at least, he was apparently given to making specious accusations and flouting court orders. The judge dismissed both M's applications. The court gave permission for further questions to be asked of Cyfor, the company which was carrying out an analysis of electronic communication. The direction for the further instruction of Dr Hellin was discharged.

81. D was convicted of the arson attack on F's partner's house and convicted of arson being reckless as to whether life was endangered in relation to the school. He was due to be sentenced on 12th April 2019 and will remain in custody for some years to come.

82. On 8th February 2019 Ms Sambrooks completed her further report and updated her assessment of the children (as a result of which she had visited the children in January 2019 as referred to above). The children were observed to have a good relationship with each other and with their father. In this comprehensive and child centred report there are no (my emphasis) concerns raised either about their father's care of the boys or of his ability to care for them in future. The persistent and repeated allegations made by M, even though they have been repeatedly denied and described as false by the boys, have been in the minds of all the professionals who have carried out investigations or assessments in this case and there is nothing to indicate that the expert witnesses have been anything other than vigilant and careful in their observation of the boys, in their analysis of the children's needs and of the harm

suffered by them. Indeed, they have, as can be seen from their written reports, taken great care to approach the case objectively. The fact is that with the sole exception of M's assertions all the evidence before the court is that the harm these children have suffered is as a direct result of their mother's conduct and behaviour, including the fact that she has chosen to associate with dangerous and manipulative individuals, some of whom would clearly stop at nothing to further her cause and their own.

83. As we have seen above, the children were upset by the return visit of consultant psychologist, particularly the older boy who became quite distressed when Ms Sambrooks saw him at his school. While the children were unsettled by the alarms recently being fitted in their home, as well as by the re-appearance of the psychologist after a year, the root cause of their emotional upset, anxiety and distress was the actions of M and her supporters' C & D which had led to further police involvement and intrusion into the boys' lives. The activities and criminality of the actions of these two men came about as a direct result of M's involvement with them, and they with her and her cause. To safeguard the children the police had had to enter the children's home, had increased foot patrols at the school, fitted alarms and other precautionary devices in their home and other relevant addresses (such as those of their friends) and had covered their letter box. Naturally the boys asked for reasons why this was being done.

84. These are children who, as observed by the court appointed psychologist, have had life experiences which are *"highly unusual and concerning; they have been subjected to trauma and harm including believing they had been sexually abused, being exposed to such knowledge inappropriately given their age, being abducted, losing their possessions and being the victims of an arson attack, being subjected to various restrictions in their life (which will become more irksome as they grow older if the situation does not change) and being aware that there are people who continue to threaten their wellbeing and to follow them."* They have experienced the loss of both their parents at different times in their childhood. They also lost their father's partner who they liked, *"all of this will have caused further emotional damage."* It was described in the report that the boys had come almost full circle to where they are now and that the children are frustrated by the fact that, from their point of view there is no way forward and the person who has caused of all of this is their mother, who will not change what the older child refers to as her *"confusion".*

85. When the older boy became very distressed at school while he was seeing the psychologist his teacher reported that he also become emotional when he came across a gap in his education. He had exhibited similar distress when his teacher referred to a topic or subject from an earlier year which he missed because his mother chose to keep him at home, for no good reason other than her self-delusion manifested in an irrational belief that the child suffered undiagnosed learning difficulties. Fortunately, he has caught up by working hard and applied himself at school and at home with help from his father; his educational attainment has improved, and he is described a different child when compared to earlier reports. As the psychologist said in her final report, there was a direct impact on this child resulting from his mother's factitious belief in his educational needs which have had a negative impact on him and contributed to him being in a different year group (he has been held back a year) and seeing himself as different. I find that M caused significant harm to L's education and

impeded his ability to reach his educational potential as well as negatively affecting his self-image and self- confidence.

86. To be add evidence of M's determination actively to intrude into F's life and pursue a case against him, is her instruction of N, a "private investigator" first referred to in paragraph 39 above. N told me in his oral evidence that he was a survivor of childhood sexual abuse. It remains unclear exactly who introduced N to M, she says it was by a man involved in sexual abuse survivors group, but at the same time N was instructed to act for D, and was acting for him when she gave N permission to make any enquiries on her behalf on 30th June 2017. Without the knowledge of the other parties or permission from the court M proceeded to send him numerous pictures, including of some the children and of F with a view to gathering evidence against F. It would seem, from the evidence before this court, that M has deliberately and repeatedly chosen to align and involved herself with individuals and in groups which have coalesced in recent years following Operation Yewtree and the active encouragement by the police for victims of childhood sexual abuse to come forward. While some of the people who choose to involve themselves in the personal tragedy and trauma of others no doubt do so for good reason, there are those such as D and C who clearly have their own agenda and who, if this case is any example, bring more misery and criminality to bear. Both D and C justify their behaviour by claiming respectively "to seek out paedophiles" or "expose injustice" in the courts.

87. N obviously takes his role as an investigator seriously; in his oral evidence, he gave, what was correctly described by counsel for the LA in their closing submissions as *"a very careful account of what he believed he had been instructed to do by M."* Of course, by instructing N in the first place M was in breach of the court order of 27th March 2017, forbidding her (amongst other things) from instructing anyone to "harass or pester" F (paragraph 2 of the order). From his written and oral evidence N believed at the time, and still believed when he gave evidence that he has been granted some kind of mandate to undertake far-reaching and grossly intrusive enquiries. His use of language was both instructive and illuminating in that he used a kind of officialese based on the vocabulary of the police. There was no evidence before the court that he held or had held a licence from Security Industry Authority (SIA) and none indicating that there was any independent professional oversight of his working practice; it would seem that N operated outside any proper professional or legal regulatory framework.

88. N undertook his unauthorised enquiries with some diligence and "interviewed" former neighbours, members of the public and workers based at or near F's former workplace and in the area where F used to live, all based on information supplied to him by M. This was a concentrated effort to try to discover "evidence" against F and establish further "lines of enquiry" in respect of F to further M's cause. He was prepared to, and had intended to, speak to the children's foster carers to find out whether the children had "disclosed" anything about sex abuse when in their care. It is difficult to imagine any act that could have been more intrusive for these children and the people caring for them at the time. The pictures of the children and F, which M supplied, were freely sent to his associates and contacts in what the LA has, with some justification, described as *"the paedophile hunting world"*, so that they could be cross referenced to other "enquiries". I agreed with counsel for the LA that this was a

wholly flagrant and gross intrusion into the private lives of these children and their father; to say nothing of their foster carers had they been approached.

89. One of the most striking aspect of N's evidence was his own pharisaical belief that whatever he did was justified because of the cause he espoused; in this his evidence was similar to M's. He was wholly uninterested either in whether he was acting appropriately or in the effects that his "enquiries" may have on any of those into whose lives he was intruding. The effects on the children, far less their father, of his "investigations" did not appear to have entered his mind, or if it had he considered it unimportant. N had not considered, or was entirely apathetic to, the likelihood that his actions would have meant that false accusations and allegations about F were being explicitly and/or implicitly disseminated and that the boys were wrongly being marked out as victims of parental sexual abuse. This behaviour is minacious, there were incipient and more obvious features of stalking which could have escalated into something much more serious; particularly if, as seems likely given his "cross referencing" of information, information about F and the children was shared with his other clients such as D. I found N to be an unreliable witness; I have no reason to doubt that he has suffered abuse but consider that he treats it as a qualification to act as an investigator apparently freeing him from the restraints that would apply to professional licensed investigators, authorised to carry out such inquires. His qualifications as an investigator are sciolistic at best. I am unable to rely on his assurances that M had given him only limited instructions and do not accept that it was only his plan to approach the children's foster carers which M was in ignorance of, I do not accept he would have do anything she did to explicitly expect him to do; it is more likely than not that he was and is motivated by a desire to further their joint cause, to investigate "abusers".

Oral Evidence

90. M's evidence. In her oral evidence to the court M insisted that she had never asked N to investigate the children's foster carers and what the boys might have told them. She was equally insistent she curtailed her instructions to him and brought them to an end when she realised she was in breach of the court order forbidding her from harassing F. She said she did not know it was harassment. The sequence of events accepted by M do not bear this out as she had instructed N knowing the order was in place, she had not told her representatives and did not discuss what she was doing with them until they raised it with her *after* F had found out himself and the matter was raised during the court proceedings. M told the court that she had then discussed it with her lawyers and was told it was harassment.

91. M is an intelligent woman who is more than capable of understanding the import of the words in the court order, particularly as she has been well represented and advised throughout these proceeding; it is inconceivable that she would not have known that setting an investigator on someone was anything other than harassment; and I find her protestations of ignorance mendacious. The investigation of F that she set in train came to an end only because F found out about it, had he not done so, or had it been discovered later there can be no doubt that it would have continued. Judging her, as I must, by her actions as a whole, there can be equally little doubt that M would have sanctioned the suggested inquiry into the what the foster carers might have been told by the boys; like N she sees her cause as justification for any action taken to further

that cause which is to find "proof" that the children were abused by their father and to disprove the finding that it was she (or her mother) who had fed the boys sedatives.

92. I found M to be a personable witness who did her best to appear both reasonable and susceptible to reason when being asked questions; but, she was also highly defensive and was seemingly unable to cerebrate on the divarication of her own actions and their effects on her children in particular. I was able to observe her conduct in court when she was not giving evidence; and, it was obvious when any witness with whom she did not agree was giving evidence, the social worker, the consultant psychologist and most of all the children's father, she was scarcely able to contain herself, could not sit still, grimaced and pulled faces, spoke out loud and had to leave the court room on numerous occasions. The abiding impression was of a woman who has long lost sight of the wellbeing of her children and who is wholly unable to put their interest before her own obsession. She is, I find, entirely caught up with the need to prove herself right and in the right, in doing that it follows that all others who do not agree with her must be wrong.

93. M did show some emotion when pressed about the effects on the boys of losing their home with her in a precipitate manner and without any preparation when she took them "on holiday" in March 2017. They did not know they would not be going home again, they had to spend the best part of two weeks confined to a chalet or holiday cabin, as she soon became aware that they were being sought by the police following orders made by the court. They had inadequate food for the three of them, M told me she went without food so that the children could eat, and while I accept she fed them first they must have been running out of supplies and on her account had no fresh food during this period. She told me that the boys did not feel confined and were happy as she kept them amused; and that they were unaware that anything was seriously wrong. I do not accept her evidence, she is either oblivious to the ability of children to pick up on what is going on around them, or wilfully choses to ignore it; it is much more likely to be the latter given her intransigent reaction to what the children have said for some time about the alleged "abuse". She, and they, were confined in a small space and M told me that she had become aware that the authorities were looking for her and the children on seeing and hearing broadcasts about it; the children must have been aware of some of what she had heard being broadcast and it is likely that knew the police were looking for them.

94. At the very least they would have known that there was something very wrong in that their mother was keeping them confined indoors. I have little doubt that they would have been unsettled, bewildered and very probably frightened; there is little she can have given them by way of plausible explanation which would, in turn, have done little to allay any fear. As M had taken their passports with her it is more than likely that she had some plan or idea to take the children into more permanent hiding, probably out of this jurisdiction to avoid the orders of the court. That this was more than a mere notion on her part is evinced by her having terminated the utility bills as well as taking their travel documents with them, and of covertly obtaining a vehicle through S. From her evidence about this episode and from her inability to reflect, even when giving evidence, on the extent of emotional harm and abuse she has caused these children during their abduction, it is inevitable that this court must reach the conclusion that she is unable or unwilling to consider their feelings or to empathise with them as to the full effect of any of her actions on them.

95. I have to conclude that M would rather that the children suffered as a result of what she does as she considers that she is justified in doing so; it is a calculated decision on her part to inflict harm on the children in the furtherance of her case. It is not only that these children have had to face the fact of their own mother's immutable insistence that they have been abused by their father and others at his behest contrary to what they themselves are saying over a considerable period of time, it also that they have been put in danger's way either because she knowingly allowed it to happen at the very best, or actively colluded in the action of D and C at worst, that can must cause considerable concern to this court. Added to this is that fact that, from the children's point of view (as described by the psychologist), they have been faced with their mother's intransigence for so long that on one level they are just tired of it and on another they feel close to despair and fear that it will never end. The children's lives and their right and ability to live their lives freely and without fear has been repeatedly curtailed, compromised and undermined by M's actions and those of her family and associates.

96. M's evidence was and remains that she (or her mother with her knowledge) did not administer sedatives to the children in order to build or prove their case that F had done so to enable the sexual abuse of these two children to take place. She dismisses their insistence that that they have no memory, at all, of being abused as the children being brain-washed or put in fear of saying anything else by their father because they are living with him. This is a vicious circle which she uses to justify her position. I am bound to accept the previous findings of the court, upheld by the Court of Appeal, but, even if that were not so there is no independent evidence before the court including the evidence of child protection professional witnesses and experts which would come close to suggesting that the findings of the circuit judge were erroneous or ill-founded. Many of the facts and background to this case and this trial, as set out above, in my rehearsal of the proceedings and the evidence that has emerged since are not in dispute, what remains is the inferences that I can properly draw based on the totality of that evidence.

97. M is aware of this and is, I find, increasingly desperate to find any way she can round the findings that have already been made against her. To do this she has tried to enlist the help and assistance of others starting with her close family. M has also tried more orthodox routes by going to the police and the NCA none of which have had the desired result. She has for some time, at least since March 2017, enlisted the support of others who operate on the periphery of, or outside, the law. She told me that C's document, in which he purports is evidence of abuse, emerged and was passed on by C contacting her sister (L) in an unsolicited and spontaneous offer of support, and that L had then put C in touch with M's solicitor.

98. I do not accept M's evidence about her lack of any involvement with C and the manner in which his "evidence" came before this court. C has had connections online both with L and with J (M's close friend who posted the Mother's Day cards the boys had sent M) since March 2017; given the history of the case and the inter-connection between those that support M (the connection between D and N being another example) it is stretching credulity to suggest that C who had been "campaigning" on M's behalf for over two years has been doing so utterly independent of M had then approached her sister all of a sudden unbeknownst to M. Furthermore, after the curtailment of N's investigation when it had become clear it could be considered

harassment of F, M would have been well aware that the emergence of the covert observation of F and the children at what is supposed to be a confidential address, had to be seen to be at arm's length and apparently unconnected to her.

99. I did not hear evidence from her sister L as she refused to take part in these proceedings, and I did not hear from C as he was arrested in connection with the harassment of the previous judge but it is noteworthy that the videoing of F would amount to similar harassment. On consideration of the evidence as a whole I do not, indeed, cannot accept that M is the passive persona she tried to make herself out to be in her evidence; with events occurring around her while she remains in ignorance and innocent of any encouragement or participation in the actions of other which are so clearly designed to support her and sustain her case. The people that she would have the court believe are acting outside her knowledge and beyond her control, including C and D, are actors in this case that have been connected with her for some time; in D's case the connection was personal and intimate. D knew and had met L and MGM; he had the pictures of M and her family as the background to his Facebook page. I have seen M give evidence and in court, she is neither passive nor detached, I find on the balance of probabilities based on all the evidence before the court, that she was aware of and involved in the actions of D and C. Equally she was involved and condoned the actions of L, S and J taken to support her case.

100. It is an inevitable conclusion that the children remain at risk of significant harm from their mother; she continues to insist that they victims of sexual abuse, she has already caused significant emotional harm, and in the case of her older son additional, and further significant harm in respect of his education. The evidence of Dr Adshead has been borne out and I have to keep in mind her perturbing words, as to the possible extent of the risks posed by M set out in paragraphs 32, 33, 34 and 35 above. Dr Adshead had said, *"I do not feel able to rule out the risk of significant physical harm to the children at present…"* the continuation of M's delusional beliefs in which she has invested so much and the arson attack which I find she must have had knowledge of prior to it taking place, mean that the risk of serious physical harm to the children is a real and present danger. It is, I find, and example of the direct risk of harm which Dr Adshead referred to in her report when she said, "*reported cases where ruptures in relationships between parents have led to direct risk of harm to children by one parent in an effort to damage the other parent. These types of harm can include false allegations against a parent, encouraging parental alienation and, in rare cases, directly killing the children to stop the other parent having contact. These rare cases are particularly problematic because they are so rare and unusual; the risk is hard to assess, and perpetrators rarely show any signs of psychiatric disturbance."*

101. It has already been observed that M herself accepted in her oral evidence that the arson attack would not have occurred if it were not for her; to that extent she admits responsibility, and at the very least I must find she is reckless as to the consequences of her association with someone her own counsel Mr Bagchi QC, described as dangerous following his silent belligerent and hostile appearance before the court. Notwithstanding her admission, on the evidence before this court as reviewed and set out above, I find that it is more likely than not, that M had colluded with D in planning the arson and that she had hoped and intended that the arson attack would lead to the boys being removed from their father's care. Indeed, she later applied for them to be placed in care, regardless of the harm that would have caused, rather than

have them remain with their parent. The fact that the arson took place when she *thought* she knew that the children would be abroad on holiday could be considered as an indication that she did not intend physical harm; but, the risk of serious harm, including possible fatality of other persons, remained high, and she must have known that, and was reckless as to their safety. M could not have known with certainty that the house would be empty or that the inhabitants, including her own children, had not for some reason returned home.

102. Moreover, it appears that she deliberately chose to inflict all the emotional harm on the boys that would ineluctably follow the attack and destruction of their home and belongings. Had they been moved to foster care, as she hoped and intended, they would have suffered yet more significant harm in being, yet again, removed precipitately from their father's care. I have found that it is inconceivable that M and D did not discuss or plan the attack together, they would have discussed it before and after no doubt the scheming contributed to the intensity of their relationship (see Dr Adshead's report quoted at paragraph 32 above).

103. It is important for the children to know that I do not consider that disclosure of the location of F's partner's home, which was the target of the arson attack, came principally from one or other of the children during their last contact with M on 20th December 2017. It is most unfortunate if that is the view of the social worker and the LA, as it somewhat naïve, and the court would be concerned if the children were ever to feel at all, even indirectly, responsible for the location becoming known by M or D. Regrettably, the information about the location of the boys and their home with F and his then partner was likely to been available to D and M by investigation through the internet and other means, as can be seen from the extensive information revealed by C in the documents he sent to M's solicitor. It would be foolish indeed and careless of the safety of F and the children to proceed on the assumption that M is not aware of that information herself, it is more likely than not, she has seen the information in C's documents, that her sister is aware of it and inevitable that others have shared that knowledge.

104. F's evidence. F gave his evidence calmly and demonstrated an ability to see beyond himself and his own feelings in the need for the boys to have as positive a picture of their mother as possible. I am not asked to make any findings about F, and I accept his evidence in respect of the children's welfare and was impressed by his open-minded approach and his support for his sons' love for their mother and need to keep a connection with her. Nonetheless I was and remain concerned about his considerable underestimation of the need for therapeutic intervention for the two boys to enable them to make sense of, and come to terms with, what has happened to them so that they are able to assimilate their experience and grown into self-confident young adults who are able to reach their potential. As the consultant psychologist said in her evidence, although I paraphrase, the time has come to be more open with the children about what their mother has done and the risk she poses; they need to be armed with this knowledge to protect themselves.

105. The need for life story work, which will include an age-appropriate narrative of the judgments of the court, is essential as the older child is due to start to secondary school this autumn and cannot be left to find out either through curious schoolmates or on his own, the information about this case still on the internet. Each boy will feel considerable resentment in the future should they find out that facts concerning them

have been withheld; but informing them in a sensitive and pertinent manner this a difficult task to carry out and one that F is not qualified to carry out alone (or with a counsellor in background as he has at present) the children need direct specialist professional support and life story work which emphatically must commence without further delay. I am reassured that LA have agreed to commit resources to this essential therapeutic support and work with the children.

106. SW gave oral evidence and I have no reason to doubt her commitment to the children or her wish to provide support to them in keeping in contact with their mother, but, having heard what she has to say I consider that a great deal of the time she struggled in her dealings with M by trying to offer support or intervention amounting to counselling which she is not able or qualified to give a person with M's entrenched delusional beliefs; the description of a long car journey during which she had tried to get M to see the case as other's did and reach some compromise was telling. This is not a criticism of the SW, it can be seen from Dr Hellin's report that the challenge that M would pose for any counsellor or therapist, and not just in assisting M to send appropriate messages to the children. It is, nonetheless, a criticism of the LA's conduct of the case, the social worker's managers who should not have left her to deal with such a difficult situation without adequate and appropriate specialist support. It is to be hoped that the LA will provide such professional support of a more apposite and detached nature if they are to act as a conduit for video messages between the boys and their mother in future. These are children who love their mother but have found her constant declaration of love and the reminders that she misses them oppressive, and to use the vernacular, her "neediness" is a burden to them. Any further exchange of video messages will require careful professional support.

Conclusions and findings

107. I have considered the evidence included in analysis and discussion above and have not set out or referred to every matter raised as it was neither necessary nor proportionate. For clarity the findings in this judgment are that M planned and carried out an abduction of the children in March 2017 and that it only came to an end because they were located and retrieved by the authorities; that she was directly involved in the planning of the arson attack on the children's home; that she used a private investigator N to make enquiries including about the children's foster placement and that as a result there was gross intrusion into the lives of the children and their father putting them at risk of further significant harm; the children have suffered significant emotional and psychological harm and have been placed at risk of physical harm, because M and her supporters have used social media and Internet groups to pursue and publicise her campaign against F this has directly resulted in the children living in a climate of secrecy and in fear of a constant threat to their safety and private family life.

108. In respect of the last finding, much of the evidence in support of such a finding was not in dispute, some is referred to above but there are internet forums or group activity with various names which make reference to "Justice" for M set up after 27th March 2017. Some of information on these sites, which supported M in the abduction, and accused the police and Family Court of failing to protect the children from sexual abuse, could only have come from M directly or indirectly from her family and friends. M herself contributed by posting on the site after her release from custody (she was in custody after the children were retrieved) thanking people for their

support. In addition, M's allegations have been prominent in a Facebook page; this includes on the internet pages that can only have come from the M in the first instance.

109. Contact. Statute and case law reflect the widely held view that it is in the best interests of children to have contact with their parents. The children's welfare remains the courts paramount consideration and that must and does include the need for them to be safe from further significant harm. The decisions I must make are governed by the CA 1989 and the Children and Families Act (CFA) 2014. The standard of proof, to which I have already alluded above, in all cases involving the welfare of children is the balance of probabilities as set out by the House of Lords in the case of *Re B (Care Proceedings: Standard of Proof) supra*, confirmed by the Supreme Court in *Re S-B (Children)* [2009] UKSC 17. In addition, as the court will be making private and not public law orders in respect of the children, it is once again section 8 of CA 1989 that will apply to the arrangements made for the children in future; the court is has in mind the amendments to s8 of the made by the CFA 2014 and that s 1(2A) of the CA 1989 now includes the presumption that *unless the contrary is shown* (my emphasis) involvement of a parent in the life of a child will further that child's welfare. In short the presumption is subject to the requirement that the parent concerned may be involved in the child's life in a way that does not put the child at risk of suffering harm.

110. Section 1(2B) of the Act defines 'involvement' as meaning involvement of some kind, either direct or indirect, but not any particular division of a child's time. This case is unusual as there is a high risk of further serious physical and psychological harm posed by M. As I have previously observed, while it is a fact that no one was in the house when the arson attack occurred there was nothing in the evidence that would support a finding that the risk of serious harm was eliminated by M's assumption that the occupants, including her own children, would be absent; she could not have been sure that was the case. In considering future contact between the boys and their mother I am acutely aware (as is their father) that they both want to see her and have repeatedly told their guardian so. The local authority and the guardian submit that that even supervised direct contact would bring too much risk with it; the risk of abduction, the risk of disclosing the children's location and the risk that would lead to physical harm. Their submissions have considerable force based as they are on the previous action, including serious criminal acts perpetrated by M and her supporters.

111. As I am considering making an order for no direct contact I remind myself of the judgment of the Court of Appeal given in *Re J-M (A Child)* [2014] EWCA Civ 434 in particular to paragraphs [23]- [25] which set out some guidance where the Court is considering making an order for no direct contact as follows:

i) "*The welfare of the child is paramount;*

ii) *It is almost always in the interests of a child whose parents are separated that he or she should have contact with the parent with whom he or she is not living;*

iii) *There is a positive obligation on the State and therefore on the judge to take measures to promote contact, grappling with all available alternatives and*

taking all necessary steps that can reasonably be demanded, before abandoning hope of achieving contact;

iv) *Excessive weight should not be accorded to short term problems and the court should take a medium and long term view;*

v) *Contact should be terminated only in exceptional circumstances where there are cogent reasons for doing so, as a last resort, when there is no alternative, and only if contact will be detrimental to the child's welfare."*

112. I keep that guidance in mind, along with the need to ensure that any decision reached is compliant with the obligation under the Human Rights Act 1988 s6 (1) not to determine the application in a way which is incompatible with Art 8 rights of the children and M, which are engaged in this case, and that my decision is consistent with the principles outlined by Lord Justice Munby (as he then was) in *Re C (Direct Contact: Suspension)* [2011] EWCA Civ 521, [2011] 2 FLR 912. European case law (by which we are presently bound) emphasises the positive obligation to respect family life as cited by the Court of Appeal in *Re F* [2015] EWCA Civ 882. In the case of *Re M* [2013] EWCA Civ 1147, the Court of Appeal allowed a father's appeal against a judge's order for no contact in circumstances where he sought unsupervised contact as a disproportionate response but as the circumstances of that case related primarily to the safety and emotional stability of the children's mother and not, as in this case, the children themselves it has limited application in this case. This is a case in which I have found that the children's mother has already caused significant harm to both children; and that the risk of future significant and serious harm remains high as long as M continues to hold to her delusional beliefs.

113. Mindful of express wishes of the children and their rights as set out in the United Nations Convention on the Rights of the Child (UNCRC), the fact that the children were joined as parties even prior to the commencement of public law proceedings has ensured that their voices were heard, and I keep in mind, too, each child's right and need for a relationship with both of their parents in this case. In *ZH (Tanzania) v Secretary of State for the Home Department* [2011] UKSC 4; [2011] 2 AC 166. Lady Hale in considering article 3(1) of UNCRC said:

[23] …… In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. This is a binding obligation in international law, and the spirit, if not the precise language, has also been translated into our national law. Section 11 of the Children Act 2004 places a duty upon a wide range of public bodies to carry out their functions having regard to the need to safeguard and promote the welfare of children."

114. The emphasis in this case surely must be the need to safeguard the welfare of the children including their physical safety and emotional well-being; the actions of M and her associates have placed the children in the path of extremely serious physical injury, extensive, pernicious and continuous intrusion into their private lives on social media and elsewhere, emotional harm and the continuing risk of intrusion and abduction, or worse. It is not in the children's best interests for there to be a continuation of these private law proceedings already prolonged with the intervention

of public law proceedings; any further applications and consequent hearings will only create further anxiety and instability for the two children. I am asked to consider making an order restricting M's ability to make further applications to the court by making an order pursuant to s91(14) CA 1989.

115. The effect of such an order would restrict M's ability to make an application involving the children and F as parties to those where she had been granted the court's prior permission. M resists this application. The approach to be taken in considering applications under s91 (14) CA 1989 have been set out by the Court of Appeal in *Re P (Section 91(14) Guidelines) (Residence and Religious Heritage)* [1999] 2 FLR 573 and approved in numerous decisions since. The court should carry out a balancing exercise between the child's welfare and the right of unrestricted access of the litigant to the court. The jurisdiction of the court to restrict applications is discretionary and I must weigh in the balance all the relevant circumstances in the exercise of that discretion.

116. Orders for no contact and pursuant to s91(14) are unusual and severe, but it is within the court's jurisdiction to grant them if it is considered to be in the interests of the children to safeguard and promote their welfare. In respect of the order that there should be no contact, having regard to the need to take a medium to long-term view (Cf. *Re H-W (Child)* [2017] EWCA Civ 154 there, is, sadly, no evidence to support any conclusion that the risks posed by M are short-term. Her entrenched position in respect of F and the children and her determination to prove herself right defies logic, common sense and in many ways her own self-interest, persisting despite all attempts to support her to see reason. There is no evidence before me to suggest that her attitude or behaviour will change in the medium term. It is open to M, of course, to take proactive steps to deal with her delusional beliefs and fruitless systematic attempts to prove herself right; but the evidence, both of expert opinion and factual, is that she is unlikely to change and that there is limited if any effective intervention available without change. The risks to the children are of such severity that the court has little choice but to order that there is no direct contact.

117. At the end of this case the local authority will step back as there is no need for further public law orders, the children are to remain in the care of their father, of necessity the LA has agreed to provide a conduit for video messages. The risks posed by M are unusually high and the possible harm so significant that I considered whether there could even be video messages exchanged. The children's father had been encouraging them to make their own message which they had made at home, but, because of the recent action taken by C, any video of the children which might lead to the identification of their location will have to cease and F will have to ensure that they are filming themselves in a neutral setting and sending messages, which are not likely to identify or divulge their location at home, at school or at play.

118. Notwithstanding the risks to their safety of identification of their home and location the boys are entitled to have some contact with their mother, even if it is not safe for them to see her during direct contact as they would want. It is necessary for them and in their best interests that they are able to see their mother is well and hear what she is doing in her life. Steps are to be taken to ensure that they do not unwittingly provide information which could lead to either M or those acting on her behalf or in support of her cause to identify where the boys are and to take further action to intrude, attempt abduction or harm them. To further protect the children there is to be no retention by

M of any video messages sent by the children. This exchange of videos messages is to be limited to 3 times each year and is to coincide with the school holidays each Winter, Spring and Summer. The primary purpose of the video messages is to provide reassurance to the children of their mother's wellbeing so that they are not concerned for her, and for the exchange of news. F can, as before edit the messages. Exceptionally, and because of the high risk of further harm, M is to be supervised when she is to see the video message from the children; she is to have no control over it at all to eliminate any possibility that she could copy or retain any images that could later be disseminated by her, her family or her associates. The exchange of video messages will need to be overseen and supervised by an independent agency; the court is satisfied that the LA can perform this function and it has agreed to do so.

119. The previous reasons given for the need for the RRO have not changed to any degreed nor has the real likelihood of intrusion into the lives of these children and their father which would, in turn, compromise the safety and well-being of the children been ameliorated in any way since the orders first came into force. Indeed, the findings made by the court are further evidence which supports the continuation of the RRO. The distress shown by the older child, in being marked out as different, has been set out in this judgment and will become more acute when he moves to secondary school. There is to be a continuation of the RRO until the younger child is eighteen this is a proportionate response to protect the children from probable harm and further intrusion into their lives should their circumstances be further publicised or disseminated. The children must be enabled to grow up in safety, allowed to reach their potential and reduce the harm that would be the result of continued intrusion into their privacy.

120. Public interest will be served by an anonymised judgment placed on Bailii; after the conclusion of any criminal proceedings.

121. The children are to commence with therapeutic support, to be followed by life story work without further delay as recommended to this court by the court appointed expert.

122. There is to be a s91(14) CA 1989 order which will remain in place until after the younger child has ended his first year at secondary school; for the reasons set out in paragraph 115 above there is no evidence capable of supporting further applications by M in the short to medium term. The imposition of a s91(14) order, on the facts of this case, is proportionate. The continuing risks to the children posed by their mother and those with whom she chooses to associate herself are unusually high and serious and the restriction on her freedom to litigate imposed by s 91(14) while a barrier is not absolute; M can apply to the court for permission throughout this period. There is a need to strike a balance between the need to protect the children from further litigation and the distress it would cause, the limited likelihood of success and the right of M to have access to the court in the circumstances of this case the balance is just and proportionate. Should M avail herself and use her some of her considerable determination to learn to understand and support the children in what are saying, to accept the findings of the courts and to reduce the risk she poses any application she may make in the light of such change would be likely to receive a favourable hearing.

123. This is my judgment.