



Neutral Citation Number: [2020] EWHC 3840 (Fam)

Case No: SD19C01384

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 27/11/2020

Before:

Mr Justice Williams

Between:

A County Council

- and -

Mother

and

Father

and

R (The Child)

(by his Children's Guardian, Samantha Ryall)

Applicant

Respondent

Ruth Webber (instructed by **A County Council**) for the **Applicant**
Chris Barnes (instructed by **Bindmans Solicitors**) for the **1st Respondent**
Nasstassia Hylton instructed by **Freemans Solicitors** for the **2nd Respondent**
Katie Phillips instructed by **Goodlaw Solicitors** for the **3rd Respondent**

Hearing dates: 11th - 13th, 16th - 20th November 2020

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.

.....
MR JUSTICE WILLIAMS

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.

Williams J:

1. On 11th December 2018 I allowed an appeal by the father against an order of HHJ Thorp made in July 2018 by which he had ordered that the child should live with the mother and should have no contact with the father. In order to understand the full background to this judgment one has to read my Judgment on Appeal and HHJ Thorp's Judgment. I hope that the mother, father and child will forgive me if I refer to them as such which I do only to assist in maintaining their anonymity. I am very much aware of their identity as individuals which as will be seen are central to understanding what has happened in this family and how the Gordian Knot into which they have tied themselves might be unravelled.
2. The essence of the reasons why I allowed the appeal are these,
 - i) One of the findings made by the Judge was that the child had suffered significant emotional harm as a result of the actions of the mother and was likely to suffer further significant emotional harm as a result of the actions of the mother. This particular finding was contrary to the local authority's conclusion that the threshold for public law intervention was not met. Having made that finding, prior to finally determining the private law applications and in particular the contact application, the parties and the court should have reflected upon that finding and what further role the Local Authority might have been required to play in fulfilment of their statutory obligations to the child.
 - ii) The evidence of the clinical psychologist was that efforts to reinstate contact should be pursued. The effect of her evidence was that the child would suffer significant harm if his relationship with his father was lost. She considered that the harm he would suffer in his mother's care could be ameliorated by undertaking therapeutic work to enable the mother better to meet the child's emotional needs. She considered that if the mother did not make progress in her capacity to meet the child's emotional needs the harm, he may suffer in her care could outweigh the harm that would be caused by removing him from her care. The decision to terminate contact and to end the proceedings without further investigation carried with it the inevitable consequence that the child would remain in the care of his mother and be exposed to the risk that Dr Duprey identified. The combined benefits of facilitating the re-establishment of contact and addressing the mother's capacity ought to have led to the conclusion that further enquiries were required to address those issues. The court placed insufficient weight on the medium to long term harm that the child might suffer as compared to the short-term harm that he would suffer by the continuation of the proceedings or further work on contact.
 - iii) Although no party had put before the court evidence of the therapeutic resources that could be deployed to address the risks identified by the psychologist it is clear that there was a gap in the enquiries made as a result of the parties not having been in a position to pursue to a conclusion the enquiries the psychologist recommended. In those circumstances the court should not have proceeded to a final determination that there should be no contact as there were still potential steps that could be taken to promote contact. The end of the road had not been reached.

3. I ordered a re-hearing and decided that it ought to remain with me. I gave directions for the preparation of a further Expert Report, Dr Duprey was unavailable for personal reasons. Unfortunately, the process of obtaining an Expert Report was dogged with problems and when it was obtained the expert had focussed not on the issues which I had determined but rather on what the expert identified as defects in the previous assessments. A year had passed. Cafcass had also arranged a Child Contact Intervention to re-establish the child's relationship with the father but although this began promisingly when the crunch point arrived contact could not be achieved. We were back to square one. Indeed, square minus one because further concerns had emerged in particular in relation to the child's school and I felt it necessary to make an interim care order. By happy chance, with the arrival of the Local Authority on the scene and the availability of Legal Aid, the parties then made applications for other experts. At a hearing in January 2020 I explored the possibility of those experts being moulded into an inter-disciplinary team and granted permission for the experts to be instructed on that basis. Despite the intervention of the Covid Pandemic and the further delays that created the inter-disciplinary approach, it seems to have begun to bear fruit and the Gordian knot is beginning to be disentangled.
4. At one stage prior to this Final Hearing there had been the possibility of one or more of the parties seeking an order that would have removed the child from the mother's care. With the benefit of the information I have now that would have probably been like pressing the nuclear button with mutually assured destruction following. However the creativity, sensitivity and child-focussed approach of the experts, parties, and their lawyers have created a bespoke proposal for a Team Around the Family comprising therapeutic work for the parents, the child, parenting support and a monitoring of the review process which all concur and provides the best hope for reconstructing the relationships, repairing the damage done by the breakdown and conflict of the last few years. Apart from some issues as to the precise details of the plan all the parties were in agreement with the overall structure. It might have been possible to determine the case on submissions or very brief evidence and to have ended the case with an order with some short recitals. However, having decided against that approach I am re-assured that it was the correct course; I gained great assistance and understanding from hearing the experts and parties (including the social worker and guardian) give evidence, from hearing submissions and from observing the parents and the process of communication with the mother. At the conclusion of the hearing I was as satisfied that the proposal did indeed represent the best possible option for the family with the greatest possibility of success. Of course, no one has a crystal ball and we are all reliant on the parties continuing sincerely to engage and to put the child's needs before their own. However my belief is that they can and will do that and whilst the ultimate outcome cannot be predicted I have no doubt that with the assistance of Dr Baker and Ms Rickman and the support of the Team Around the Family put in place by the Local Authority that the child, his mother and father will have the best possible chance of remedying some of the problems that have beset them, and developing positive relationships with each other which could endure and operate to their benefit for many years to come. As everyone, in particular the experts acknowledged, the current situation is not promoting the child's welfare to anything like the extent it could and indeed is damaging him in various ways. Preventing further erosion of his well-being and that of his parents, repairing some of the damage and creating a structure which will promote the family well-being is essential and indeed the only beneficial option on the table. Any other

course would require one to contemplate long-term, possibly life-long damage to the child and to his parents and this is simply unthinkable. Happily, the parties have now reached the point where they have begun to reflect on the past with a view to the future. The trust that both the mother and father have in the process and the individuals, in particular Ms Rickman and Dr Baker, has been key to them reaching that point. Whilst I am not complacent it does seem to me that the future indeed is now looking as rosy as it has for years and I very much hope that this family can work together to re-shape their future and in particular to prepare the child for his life as a young man and adult.

Executive Summary

5. I consider that the proposal for therapeutic work with the mother and father (individually and together) with Ms Rickman and Dr Baker, and for Dr Baker's work with the child as representing the best opportunity this family has or has had for building trust and cooperation to enable the parents to support the child in his journey from childhood to being a young man and into adult hood and beyond. Together with the additional support in relation to parenting, education and access to other resources along with the ongoing support from a social worker and the team around the family this represents a tremendous opportunity for the family.
6. I am satisfied that the mother and the father both genuinely want to make this process work, want to put the child's needs before their own and want to reach a position where the child is able to benefit from both of their input into his life. Neither represent any physical risk to the child. The risks in this case relate to their ability to meet the child's emotional needs and their capacity to meet those needs is heavily dependent on their understanding of him in all his facets; as a 14-year-old boy, as a train and football enthusiast, as a young person with autism, as a CODA and as a young person who has experienced parental separation and conflict. They will need support in understanding all those and how they into link with each other and shape the child's personality.
7. I am satisfied that both the mother and the father have so much to offer their son. Very different they maybe but experience of diversity or difference is surely an advantage to the child. If they can develop a way to trust each other and work together, within which effective communication is absolutely key, I believe they will be able to overcome the past and promote the child's future development.
8. Both the mother and the father need to put considerable effort into this process, which I am satisfied they will. I think they both need to give very careful thought and indeed dedicate some considerable time and effort into improving their understanding of the personality of the other and most importantly their ability to communicate with each other. This may require some considerable investment in time to acquire greater skills whether in BSL for the father or in written English for the mother
9. I see the whole of the proposal for helping this family as a form of scaffolding which will be in place whilst the mother and father and the child rebuild within its supportive embrace. In legal terms I'm satisfied that this is best provided by a care order because in this case it represents the most effective way for the state to help in

caring for this child and this family. I see it very much as a positive contribution by society; if society cannot offer support to a family which needs it, can it truly define itself as a society? I do not think that the process of repairing the structure of this family will be short-term. This is not a quick paint job where the scaffolding can rapidly come down. This is a much more careful project of restoration more akin to restoring Notre Dame; it requires skill, determination and will take place over the medium to long term. Perhaps more aptly from this family's point of view it is more like restoring a steam locomotive which has languished rusting and neglected in some remote siding. If it is to be restored to its former glory it will take considerable effort and time.

10. The careful work done by the experts, the parties and their legal teams has enabled me to see this family's history rather differently now to how I did in December 2018. The complexities and nuances created by the interlinking of the relationship breakdown, the communication difficulties, the child's autism and Coda status and the lengthy legal process have become more apparent, even during the hearing itself. I certainly underestimated the impact of them in my initial thinking about the shape of the case.
11. The importance of effective communication cannot be underestimated. It is of course central to human relationships in any context but in this case the complexities identified above have been exacerbated in my view by failures in communication created both through issues of trust but also in the mechanisms for communication that were available. It is as important outside the court arena as it is inside the court.
12. I have had the huge advantage of experienced interpreters and an intermediary combined with the insight delivered by the insightful reports of Dr Baker, Ms Rickman and Ms Robinson and Mr Beckwith. Although that insight does not lead to a wholesale or even partial rewriting of the past it does result in me being able to view and understand this case in a light delivered through a different prism.
13. I'm satisfied that this plan will deliver effective support to the mother and father and the child; to help the child with his anxiety; to help the mother and father rebuild trust communication and cooperation, to help them understand what they need to do to promote the child's journey through adolescence into adulthood and to rebuild a family dynamic in which the child can benefit from his mother's family and from his father's family with all that each can bring to the table.
14. I very much hope that I will not need to deal with this case again because I very much hope that the team around this family will deliver genuine and significant benefits to the family. However, I will reserve this case to me if the courts are needed. I wish the child well in all that he wants to achieve in the future; although that does not extend to his team beating Arsenal in any encounter.

The Parties Positions

15. Each of the parties had filed position statements in advance of the hearing which set out their position in respect of the issues the orders they then invited the court to make. Those did not alter significantly following the evidence although there was some adjustment perhaps most significantly in respect of the mother's position in

respect of whether the proceedings should conclude with a Care or a Supervision Order.

16. The Local Authority's position was that the Threshold was established on the basis of the document at A102, but they accepted that a more summary formulation would lay a better foundation for the therapeutic approach which formed the core component of the care plan. The principal risks identified were in relation to the mother's capacity to promote a positive picture of the father so that the child could resume contact and her capacity to promote his independence from her. That Care Plan [D12-32] provides that the child should remain living at home with the mother and that a detailed package of therapy and support be provided with the aim of reducing his anxiety, promoting his independence and development through adolescence into adulthood and to promote the re-establishment of his relationship with his father. The package would be led by therapeutic work conducted by Dr Baker and Ms Rickman in the form of one-to-one sessions between Ms Rickman and the parents, in joint sessions with Dr Baker, Ms Rickman and the parents, and in sessions between Dr Baker and the child. The work would take place over approximately 6 to 9 months. An apparent gap is between the fees estimate provided by Dr Baker and Ms Rickman and that which the Local Authority were prepared to fund was bridged on the last day of the hearing and the Local Authority committed to a budget of £16,800 odd; subject to the therapy continuing to demonstrate progress. In parallel with and supporting that therapy would be what was ultimately described as a 'team around the family' (but technically would be characterised as A Child In Need Plan) which would comprise social work support, access to parenting work, liaison with the school and other agencies available through the Local Authority Local Offer and 4 weekly review meetings of the relevant professionals. His EHCP would remain under review. The Local Authority submitted that the appropriate order for the delivery of the care plan was a supervision order in conjunction with A Child in Need Plan. The supervision order would remain in 12 months and if necessary, could be renewed on application thereafter. As a default position the local authority accepted that if the court considered a higher degree of scrutiny or support was required, they would implement the care plan under a supervision order together with A Child Protection Plan.
17. The Local Authority relied on the following arguments in support of their position;
 - i) A Supervision Order was both the least interventionist option but also the most likely to progress the therapeutic work with the parents and carried with it the least risk to that work. The Local Authority's identification of a Supervision Order as the appropriate legal umbrella for the implementation of the care plan was based not on resource linked issues or on a mindset that viewed care orders as inappropriate with a child placed at home, but rather on its merits. It mattered not whether in the hierarchy it was viewed as a step down from an interim care order, what was key was the care plan and how best to implement it.
 - ii) The evidence of Dr Baker and Ms Rickman identifies the vital component in the child's future welfare as the work with the parents. That work is the key to making progress. Dr Baker and Ms Rickman identify a Care Order as carrying with it risks to the therapeutic process.

- iii) One of the key aims of the therapy is to enable the parents to develop a relationship which enables them to exercise Parental Responsibility. The experts recommended that a neutral third party was needed to promote that work but should be able to withdraw when appropriate. A Supervision Order was consistent with this; a Care Order was not. Dr Baker said the work would be promoted by a benign pressure in the form of the parent's realisation of the need to effect change rather than a more overt pressure in the form of the existence of a Care Order.
- iv) A blockage to the therapeutic process would be an order which increased the child's anxiety. A Care Order carried with it that risk as the child may catastrophise the existence of a Care Order into something to fear.
- v) Dr Baker and Ms Rickman identified the removal of Parental Responsibility or the exercise of it by another as being potentially detrimental to the therapeutic process. If the central aim is to encourage the parents to co-operate and to exercise Parental Responsibility together the sharing of Parental Responsibility with the Local Authority is counterproductive. In particular it risks disempowering the parents who might be tempted to abdicate responsibility to the Local authority were they to encounter obstacles or that they would seek to get the Local Authority on their side
- vi) Further, the Local Authority are not able to identify any area in which there is likely to be a need for them to exercise Parental Responsibility in the future; schooling in particular is now not an issue due to the acceptance by the mother of a Prohibited Steps Order in relation to changes of school. Nor is removal an issue or foreign travel something which requires the Local Authority to exercise parental responsibility. With the parents seeking to work together there is no role for the local authority in exercising Parental Responsibility
- vii) The Care Plan should not be amended to refer to a Plan B, in particular a Plan B which involves the removal of the child. All are agreed that this would be very damaging for the child and that in many ways his mother's care is good. It needs supplementing not replacing. Nor should a specific timetable be imposed as Dr Baker and Ms Rickman are clear that this could be counterproductive. Whilst goals or objectives and general timeframes are identified by them in their latest document and these may be appropriate, imposing deadlines is likely to build up pressure which will delay progress.
- viii) The Local Authority will deliver the services under the Care Plan and a care order is not required in order to achieve that. The Local Authority will not walk away at the expiry of a supervision order. The social worker and manager see the need for support in the short and medium term and are committed to them
- ix) A Care Order is essentially a safeguarding tool which is not required. Even if it is made the local authority must keep it under review as must the IRO and ensure that the child is in care no longer than necessary. If the parents achieve the goals, a Care Order will not be necessary and would fall to be discharged.

- x) The leaving care provisions should not be necessary if the parents achieve their goals. The existence of a child in need plan or a child protection plan might also provide the benign pressure that Dr Baker spoke of. That would fall in the middle ground between a supervision order and a care order which is the hybrid that the court might consider as necessary.
18. The mother's overall position is that she fully endorses the transition from a court-based process into a therapeutic process. At the commencement of the hearing she aligned herself with the supervision order as being the appropriate legal umbrella under which the Care Plan should be delivered. In the course of the hearing her position has become more fluid; she is recognising that the care order and supervision order options both carry with them benefits and potential risks. In support of her position Mr Barnes emphasised 10 points.
- i) The nature and magnitude of the communication requirements in the case. The linguistic and cultural impacts were important in understanding how we arrived at the present position and in recognising what the consequences of failure in communication would be.
- ii) The circumstances of this case illustrate the nature of the efforts and resources required to ensure that a deaf litigant can fairly participate. It is resource intensive and even in a well-structured and managed hearing the process in court places considerable pressure on the litigant and interpreters.
- iii) The mother accepts that the threshold must be established and the aspects which relate to the absence of any functional contact, the failure in communication, the development of the child's anxiety, his problems with school attendance all properly feature in a summary threshold which identifies harm and risk of harm arising from the parenting that the child has experienced.
- iv) The process that has been undertaken since 2018 has given the court and others far greater insight into the complexity of this case. That has grown as the case has progressed. It allows a far more nuanced understanding of how we reached this position and how the court should now evaluate where the child's interests lie. Ms Robinson and Mr Beckwith have not absorbed that information and understanding in the way that they might have.
- v) The Stage that the proceedings have reached and the conclusion which is essentially agreed upon by all the parties looks cautiously positive. Both the parents are clearly committed to what is a well-constructed plan created and led by the experts. That all are agreed that the child should remain living with his mother, and that he should be given help with his anxiety and in achieving independence in association with an expectation that he will rebuild his relationship with the father and the paternal family is a significant agreement. The judgement of the court can play an important role in nurturing the plan. At a time of resource pressure, the devotion of considerable resource commitment from the local authority is significant.

- vi) The focus of this hearing which has been cooperative and forward-looking is a positive and it has helped to move the case forward. The court's adoption of the unusual step of limiting the parent's evidence in accordance with FPR 22.1 has to be recognised as a further contribution to the development of a cooperative environment for the parents.
 - vii) The mother recognises the dichotomy which exists between what a care order and what a supervision order (including a child protection plan) represents. She sees the benefits in both but emphasises that the key is that the order should support the therapeutic work. She acknowledges that a care order carries with it potentially significant future resource for the family. However, there is also the issue of the potential for disempowering the parents as against empowering them which is central. With the right management of a supervision order that should ensure the plan works. Ineffective management of a Care Order would be worse. On balance Dr Baker and Ms Rickman were inclined against a Care Order.
 - viii) If the court makes a Care Order, the court should establish clear messaging around it which is supportive of it being properly received by the parents and by the child so that it does not adversely impact on the therapeutic plan. The court should rule out the possibility of removal and any timescales should be no more rigid than those which the experts advise.
 - ix) In respect of schooling Dr Baker and Ms Rickman will assist the parents and the local authority in addressing which option is best for the child in the light of Dr Baker's updated assessment. If a supervision order is chosen this issue can be dealt with by a Prohibited Steps Order.
 - x) In respect of the child's passport and foreign travel the court should not be concerned about the risk of abduction. The mother is in agreement with giving details and notice of any holidays. If a supervision order is chosen, the mother should have a Lives with Order.
19. The father was fully behind the implementation of the care plan and invited the court to adopt a more robust approach in various respects. First of all, he submitted that the court should make a care order. Secondly, he submitted that the care plan should be amended to make explicit the parenting support that Dr Baker, Ms Rickman, Ms Robinson and Mr Beckwith had identified as being necessary. Thirdly he submitted that clearer timeframes should be identified for the achievement of various goals. Fourthly he submitted that the court should clearly identify in the care plan a safety net in the form of a last resort removal of the child were the plan to fail. In support of those submissions Ms Hylton emphasised the following points;
- i) The father is grateful to all involved in the process for the stage that has now been reached. Although he is sad that contact is not restarted, he hopes the current plan will result in its re-establishment alongside reducing the child's anxiety and assisting his development into adult hood.

- ii) However, the history of the case suggests that whilst one can be optimistic one should not be complacent. The re-emergence of obstructive behaviour, or a failure on the mother's part to work positively with the professionals would lead to significant concerns. It is clear that if the process were to be derailed the consequences for the child would be dire. Dr Baker in particular emphasised how precarious his position was at the moment and how urgent was the need for remedial action.
- iii) The father supports the formulation of the threshold as contained within the threshold document but is content with a summary formulation which will support the therapeutic process.
- iv) In support of his argument that a Care Order is the appropriate legal umbrella, the following points are significant;
 - a) Since 2018 there has been an increasing concern about The child's welfare which would make it inconsistent to adopt a step down in the legal framework. The issues with school refusal, the increase in his anxiety and the concerns over his independence and ability to manage life as an adult mean there is a need to promote stability and security.
 - b) There is a significant benefit in the Local Authority sharing Parental Responsibility. The father hopes they will be able to co-parent but if the Local Authority share Parental Responsibility they will in a general way be able to support the parents in their exercise of Parental Responsibility, but may also be able to exercise it in specific ways either to remove minor sticking points or if a crisis were to develop in a more significant way. There is no real danger in the father abdicating responsibility; he has always wanted to exercise it. A care order will also enable the local authority to assist the parents in their communication.
 - c) A Care Order will promote stability and security. The history shows that the previous supervision order did not work. His honour Judge Thorp noted [F260#131] that the local authority sought to withdraw its application for a supervision order because it had concluded the mother was resistant to working with professionals and there was nothing further, they could do. A Care Order results in an obligation on them to continue to remain involved for the child's welfare.
 - d) A Supervision Order which expires in 12 months' time will result in further proceedings coming onto the horizon at around the nine-month mark. This may be a critical time when the therapeutic process may be coming to an end and the parents are transitioning into a less supported environment. The possibility of further court proceedings at that stage would be unhelpful in the making. Even if the matter were dealt with on paper, the prospect of court proceedings might encourage the parents to seek a court resolution rather than their own.
 - e) A Care Order will allow the local authority to remove the child if they feel that his welfare is at risk of significant harm as a result of a failure

of the process. This should remain openly on the table and be recognised as a plan B in the care plan. Although the father's position is that the child should remain with the mother and that removal would be a remedy of last resort, it should be recognised that this is an option.

- f) This is a complex plan which has strained every sinew of those involved to reach. Unexpected events have required a quick and dynamic response, and this is likely to persist in the future. A care order allows a rapid response.
 - v) The Care Plan should incorporate parenting work explicitly and should be commenced as soon as possible. This was recommended by the Guardian a year ago.
 - vi) There should be some timescales identified in the plan in relation to indirect or direct contact. There is nothing which commits to that at present. The father invites the court to conclude that at about month four or five within the therapeutic process, mother and father should be addressing this issue. The Guardian identifies 10 important specific outcomes in her report which the local authority can gauge progress by. The father invites the court to endorse these.
 - vii) If the court opts for a supervision order the father does not object to a Lives with Order but seeks a Child Arrangements Order for the child to spend time with him, a Prohibited Steps Order in relation to schooling and holidays and seeks a mechanism by which the child's passport is retained.
20. The Guardian endorsed the care plan but also and firmly supported the making of a care order to ensure the delivery of the plan. In making those submissions Ms Phillips emphasised the following points.
- i) The child's identity as a CODA and as a child with autism are significant and bring a complexity to the situation which is significant. The unanimous view is that there is a critical need for change now. Dr Baker emphasised the extent to which the child's anxiety is having a detrimental impact on his life saying that he would not want to be where the child is now. If it isn't correctly addressed now it will have long-term consequences and these reach far beyond contact. This is not a situation which can be viewed in the short-term but rather is one where the medium and long-term consequences must be factored in.
 - ii) Although there is optimism now and the Guardian identifies the child's attendance at school with a friend as being a positive step forward, this has to be tempered with realism given the history.
 - iii) The years of litigation, the father being unable to effectively exercise parental responsibility over many years, the previous failed local authority intervention, the fact that Prohibited Steps Orders were required, the failed child contact intervention and the many layers of communication difficulties all illustrate how complex the past issues have been and that this work is in its infancy. Now is the time for robust scaffolding to convert the optimism into reality

- iv) A Care Order should not be viewed in a negative light. The local authority has used the parental responsibility sensitively over the last year rather than punitively. It can be effective and responsive, but it does impose an obligation to proactively manage the child's needs. The benefits it brings in a wider sense including that of the Independent Reviewing Officer are very valuable.
- v) A Care Order should not be counter-productive given the mother's evidence to the court which was in effect a game changer. She is open-minded about it rather than resistance. As Dr Baker emphasised both for the parents and for the child it is about positive messaging. A narrative about removal or extremes is not helpful; it is the wrong conversation. The court cannot predict what the plan B will be.
- vi) The duration of a Care Order is a benefit rather than a detriment. The expiry of a supervision order in 12 months' time would be unfortunate in opening the door to further court action.
- vii) The child's holistic needs are the key to unlocking the solution. As he grows and changes so the therapeutic work will change. The focus now will inevitably change as we look into the medium and long term. The extra support a care order brings will be invaluable.
- viii) Some sort of timescales are likely to be needed in order to ensure forward momentum. One does not want to reach the end of the therapeutic process and then to rush to complete aspects of work. Setting goals is not inconsistent with what the experts recommend.

The Legal Framework

21. In order to make a Care or Supervision Order, the court must be satisfied that the situation justifies the intervention of the state. This means that the local authority must establish the statutory threshold set out in s.31 (2) of the Children Act 1989, and so I only have the power to make a Care Order if I am satisfied that the child was likely to suffer significant harm and that the likelihood of harm was attributable to the care likely to be given to him, not being what it would be reasonable to expect a parent to give. The relevant date is the date of the ICO. In this case, the threshold is accepted by the mother and the father.
22. If the threshold is satisfied so as to give the court the power to make a Public Law Order, the court, in deciding whether to actually make a Care or Supervision or no order must treat the child's welfare as the paramount consideration and must have regard to the Welfare Check List in s.1 (3) of the Children Act. The judicial task is always to evaluate all the options and to undertake a non-linear and global or holistic evaluation of the child's needs. I have to take account of the Article 6 and Article 8 rights of the child and of the parents, and of other significant family members affected. In determining what order to make, to the extent that it infringes the Article

8 rights of the mother and the father, the court must be satisfied it is necessary and proportionate and must take the least interventionist approach.

23. The parties have helpfully agreed in tabular form the differences as between a care order, supervision order and a child protection plan.

The Evidence

24. The documentary evidence was made available to me in a bundle on case lines. I was able to read much of that prior to the commencement of the oral evidence. Dr Baker, Ms Rickman and Ms Robinson and Mr Beckwith gave evidence remotely. It seemed to me that this worked reasonably well, allowing for the usual Wi-Fi connectivity problems. The interpreters, the intermediary and the mother were able to develop a fluid communication method which enabled them to interpret for the mother and to swap every 20 minutes or so in a way which enabled the evidence to proceed in an efficient way. The advocates needed to tailor their questions so that neither the interpreters or the intermediary or mother were overwhelmed. Inevitably developing this technique took some time and it seems to me that time spent in advance familiarising oneself with the difficulties of the process was time well spent. It seemed to me that the process was in many ways quite different to that which is possible with a different oral language. For the evidence of the father and the mother a hybrid hearing was undertaken with both the mother and father and their teams present in court with me whilst the local authority and the Guardian attended remotely. I limited the areas of oral evidence in respect of the mother and the father both in chief and in cross examination. We reverted to a remote hearing for the Guardian's evidence and Submissions were given remotely.
25. My summary of the evidence below, if such a lengthy document can truly be called a summary, cannot hope to reflect the breadth and depth of the enquiries which have been undertaken by the experts instructed in the case. Nor can it reflect the extent of the parent's evidence contained in their witness statements. In part that is because it is simply not possible or helpful to set it out at length but also because the transition from an adversarial court process to a therapeutic process, I think would make it unhelpful to rehearse controversial matters of history. The background is contained both within the findings of HH J Thorp and his judgment and my judgment on the appeal. The evidence that seems to me as relevant for the purposes of explaining my decision is contained in this Judgment and that is but a fraction of the totality of the evidence that has been available to me and all of which ultimately has assisted in the formation of the conclusions that I reach.
26. Having allowed the appeal in December 2018, I had concluded that it was necessary to obtain a further psychological assessment in order to inform the decision on what further work could be undertaken to promote the re-establishment of the relationship of the father and the child. The psychologist instructed undertook an assessment but did not take on board the findings of HHJ Thorp or the conclusions of the appeal and thus all the parties considered that the assessment had not progressed the case. That led to applications for the instruction of three different categories of experts;

Psychology, Psychotherapy and Independent Social work. Having considered each of those applications it seemed to me that no single expert was appropriate to cover the entirety of issues that needed consideration. In fact, it appeared that each could bring something of considerable value to the process and ultimately, I considered that it was necessary to instruct all three to work as an interdisciplinary group to provide reports. In particular Dr Baker and Ms Rickman's were very closely entwined whilst that of Ms Robinson whilst it interlinked with the work of Dr Baker and Ms Rickman, was more self-contained. The written reports disclosed some divergence of approach and thinking, the experts meeting suggested a difference and the oral evidence when given, emphasised the divergences in approach. However, as I shall return to, they were all of considerable value in their own way.

27. The experts met on 14 October 2020. It was a lengthy meeting. The questions they were asked to address were;

i) When, how and by whom the child should be informed of the findings that his father has not harmed him?

Conclusion:

When and by Whom: By his mother and by his father having built some trust through therapy and by agreeing a narrative. His mother's role is huge in changing his view; if he doesn't hear it from her, he won't take it on board.

How:

We all work together and write a transition plan. So, the mothers supporting the child and the father is supporting the child, to help the child to reach adulthood and achieve the best that he can. So, then we're going ahead working with a team around the family, with bringing professionals together so my hope also I guess is, I think is positive prognosis through that process is that within that, although I can't say the timescales, that there would be a very constructive way of having a different narrative and the child beginning to feel safe with his dad and letting go of this narrative that he's holding onto which is far more complex than just about his dad anyway.

The child's belief is a product of the mother's anxieties regarding the father. Mother and father need further therapy to develop trust and to help both understand better how the child functions. Issues of communication between mother and the child and mother and others are very important. At present because of difficulties in clear communication (for instance in relation to The child believing he has been bullied at school) mother tends to take The child at his word in terms of what he experienced (which is not objectively sustainable) and has a tendency to reinforce his belief by her response which is to protect him. This needs to be addressed in relation to school by means of communication but in relation to the harm issue by trying to unpick some of these muddles of people's understanding, of people's intentions or the parent's intentions with each other and how the child might have experienced some of these events that have polarised them and set them against each other. It is not just about mother correcting his view but is more complicated.

- ii) In light of the work carried out to date, and planned prior to the final hearing, what tangible steps can be taken to help the child to have a relationship with his father? Will the mother promote this positive relationship and how can she be supported to do so?

Baker: The work needs to continue; both parents are thinking about the child; it may need to turn into something else, but the prognosis is positive, and it can be seen to lead onto the child starting to meet his father, go out and stay over. Dealing with the child's anxiety is the key thing, but we are a long way from identifying tangible steps which the mother and father will probably identify in therapy. The mother will promote a positive relationship as she sees the benefits for the child and herself.

Ms Rickman: A tangible step is an updated assessment of the child's anxiety and autism; work with Mum and the child on how she can help relieve anxiety; continuing sessions with parents to develop a strategy which eventually involves the child; M needs a deaf interpreter for interactions with school; a goal of work for M to be able to communicate with F so he be an intermediary with the school; a Team Around the Family involving the children with disability team. The mother is really child focussed; the parents have very different views of how to achieve the aim of helping him grow up. It is positive she has engaged with us. I think there's lots to do to get them on board and lower some of the defences and build trust between them, between them and professionals and to get out of conflict, I guess.

Robinson/Beckwith: No observations as they needed to know more about how the sessions were going. Mr Beckwith expressed a concern that in their meeting M identified that F needed to change not herself. Dr Baker and Ms Rickman identify that the process of counselling/therapy is a long one and that the together sessions and individual sessions are helping the parties to communicate and understand each other's position better, including whether they are on the same page in terms of the nature of the child's autism but that is also to get the professionals on the same page with an updated assessment. Both M and F need help with understanding the child's condition and the anxiety and how to stretch him not just shield him from things that might make him anxious.

- iii) What are the advantages and disadvantages of the independent social worker's proposals that there be respite care, (a) how would this work practically; and (b) could it used to support contact with the father?

Ms Robinson/Mr Beckwith: M said it often happens and she would benefit from some time and space for herself. It would stretch the child's experiences and give new opportunities. His social functioning at present will not lead him into adult life, so he needs more normalisation. The child has all the power in the home. Something needs to change but it will be very traumatic for the child and whilst it is easy to identify something needing to change how we get there

is harder. It should be one part of the jigsaw and be sold in a big way to him and M. In terms of supporting contact with F it is early days but, in a few months, they might help facilitate that. M would really need to support it.

Dr Baker: It would be a good thing for both the child and M but would need to be an autism-aware respite because "he doesn't see the world in the same way that most neurotypical people, people who don't have autism, do. He needs support to do that because he can't develop on his own because of his autism, his social abilities, his ability to understand other people and adapt and be flexible. just doesn't work so he needs help for that, and the mother needs help for that as well and so does the father." They need to take a positive behavioural support approach. It could support contact with F.

Ms Rickman: Respite may be counter-productive now – it could be really good "But I think as a first step, I would just like to deal with what's going on in the home and put in the resources and focus on that, but I could be wrong. maybe just relieving a bit of tension could be helpful so I'm inconclusive."it just feels like it's all too much for him rather than how do we step by step work with the parents to equip them to help the child get through difficult things and to have those building blocks first, then let's think about contact with his dad, let's think about respite because that could be really helpful too, certainly in terms of preparing him for leaving home and things like that, I think it might be a good idea.

- iv) "Please discuss the advantages and disadvantages of the child's current care arrangements with his mother and consider the long-term impact on the child. How can any harmful aspects be alleviated or addressed?"

Dr Baker: It's not working very well but this would arise with any single parent with a child with autism and they are struggling on. The harm is the gradual increase in isolation of the child, M and F. All 3 need support, the child needs support with his anxiety and then other things will slot into place. Having something like a team around the family would be really important because of what we've just talked about, we're going to try and keep the different plates spinning and that needs coordinating by somebody, by a team of people, everybody needs to be on the same sheet and sharing ideas because you'll have autism specialists, you'll have deaf specialists, they need to be talking together.

Ms Rickman: Agrees; in terms of helping M develop parenting skills anybody coming in with a parenting skills package has to be people who work with deaf parents and CODAs, not the hearing culture, otherwise they just won't get them, and I think they'll miss a lot then. Yes, in principle, I think that's what we hope to do is get people together round the table in the context of a transition plan Local Authority Local Offer, it looks like there's lots of really helpful resources that can be brought in.

Ms Robinson/Mr Beckwith: the status quo can't continue, M needs some help also around parenting (preferably delivered by a deaf person or someone skilled in working with deaf parents) and how to cope with the child's

behaviours as well as the work Dr Baker and Ms Rickman are doing over conflict.

- v) "What role can father and his family play in alleviating the ongoing risk of emotional harm, as identified by the independent social worker, to the child?"

Mr Beckwith: *The paternal family are positive about the child and about M. There are good experiences. They want to move forward.*

Ms Rickman: *They can help support F who is doing well. The work though needs to help M understand how things got in a muddle and that F doesn't want to hurt the child and to understand how she might have got the wrong end of the stick and then when she trusts, and her anxiety is reduced she can develop some strategies to help with the child's anxieties*

Dr Baker: *The problem is the child is anxious, which M finds very difficult to manage and she makes it worse. She needs parenting support to help with that and M and F can then talk about they can help the child's anxiety*

Ms Robinson: *M also needs help with presenting F's indirect contact to the child rather than just accepting his position. She needs to present it positively. She needs to be able to detach her own views (we might never change the way she thinks about F) and think about the child's interests and practical ways of recalling positive memories (photos)*

- vi) "What are the advantages and disadvantages of the independent social worker's proposal that removal is considered in six to nine months' time?"

Beckwith: *We got the impression that from mother's perspective nothing needs to change, her parenting is perfect and it's the father that needs to change. Now, hopefully she's moving through that process but from our point of view, and this isn't intended to sound like a threat, but mother needs to know the seriousness we got the impression that from mother's perspective nothing needs to change, her parenting is perfect and it's the father that needs to change. Now, hopefully she's moving through that process but from our point of view, and this isn't intended to sound like a threat, but mother needs to know the seriousness. Some children including autistic children thrive with a change. The school don't see the behaviours mum gets. I am pleased to hear M is moving on, but she needs to move on quickly.*

Dr Baker: *I think we're all hoping that things will change within six months. We've already seen some change in the parents being able to talk together and agree and have some common ground on helping the child have a better quality of life, so I'm hoping we'll never get to that point in six months' time where nothing has changed because I think things have changed already. I do*

think removal would make things worse for the child. I think if things haven't changed in six months' time, he would be very similar to some other children with autism who have high levels of anxiety and challenging behaviour and have a single parent. It's not very good but I think removing him from his mother, I don't think there's actually more point in talking about it actually because I really just don't think it's going to happen. Does that make sense, because I think there's been movement already, so things have changed already so we're talking about a different question, a different answer to a different question.

Ms Rickman: We haven't seen M as so polarised and she is changing. I hope that having a professional network, a team around the family, and a plan that will keep everybody on track with enough checks and balances that it won't revert back to previous positions.

Ms Robinson: M was very resistant to the suggestion that she needs to change, that she is part of the difficulty. Dr Baker and Ms Rickman are optimistic of her ability to change – we didn't see that.

- vii) "What are the advantages and disadvantages of continuing or further proceedings?"

Ms Rickman: In court both of them are in the position of making their case against each other which I think is counterproductive for where we're trying to get to, so if there is enough of a safety plan and security within a CiN plan and a transition plan and DCT then I think that might support the work better but obviously that's a decision for the court to make.

Dr Baker: Agree with Ms Rickman

Mr Beckwith: I think the child should be subject to a care order, there is an independent review process and it needs to be in the LA plan that they may pursue all options which should include removing the child. The LA need to have control.

Ms Robinson: Agree with Mr Beckwith but if there is some change being seen slightly more optimistic.

- viii) "If the child were to move away from his mother's care, please consider (a) what placement would be required; (b) what recommendation would you make in respect of contact, frequency and supervision; and (c) what support would need to be available to the child, his mother and his father?"

Ms Robinson: I think it's really important that any placement has a really good understanding of the child's needs as an autistic child. I think realistically to get a placement where you've got foster carers who are very experienced in autism and also can use sign language is virtually impossible, I think you're looking at a needle

in a haystack, certainly one that's local is going to be extremely difficult. So, for me the priority would be about understanding the child as an autistic child.

Mother might require referral to adult social care either for signposting or for day to day support.

Mr Beckwith: the child would need to be reassured that his mother is okay and that could be done virtually on a daily basis by use of Skype video call. I would recommend that the child would need a little period of time in placement to settle and maybe not see his mother for the first ten days to two weeks to enable him to settle but in that time, there should be video calls. The most important thing is that, as I made the point earlier, that mother gives the child permission to be away from her care and not to undermine any placement if it came to that. Hopefully, frequency of contact if the child was permanently removed could develop to a weekly basis. I would say that the same should apply to the father.

Contact with M and F would need to be supervised and with an interpreter with M. the child should remain in his school and have support from his SW/befriender. F wouldn't need any specific support other than what he needs in understanding the child's autism.

I do believe that the local authority should start either recruiting specifically for the child or a foster carer with an interest and a specialism and knowledge of autism so that if things haven't improved in six to nine months' time, they have a placement available for him. I think that's crucial because we can't just keep delay and delay and delay. plans need to be put in place as a matter of urgency if things don't work out.

Ms Rickman: We need to have the child's autism assessment before we even try to think of the question. I think some of the risks are so high I really think that we need to get some more information and understanding of the child's anxiety, is there a carer in the immediate locality who could (1) facilitate contact and allow the child to stay at the same school otherwise it's going to mean huge amounts of travelling or him leaving this school anyway, if he's settled there. There's just so many consequences that I think just trying to... so if he reaches the threshold for a care order, then the requirement to exhaust all possibilities of doing work clearly haven't been done yet so I think that's where we should just stay focused.

I just think we need to stay with the plan rather than trying to think about that next step although I certainly appreciate the intention is to say enough is enough, this is not okay. this child is suffering, and we need to do something differently. I really do appreciate that and I agree with it and I agree to work with, it's important to work towards contact with father and the paternal family and really think the mother needs a lot of support to help her with a transition plan to help the child get to independence and I guess that's all built into the plan which I hope that people can accept or add to, develop, it's not that it's all right or comprehensive or that other bits can't change in it, not least from the parents' input. Anyway, that's my thoughts on that question.

Dr Baker: I'm finding it really difficult to think through the answers to some of these questions because we don't really know enough about the child at the moment. I think that's why we are here actually....I think to think about what placement would be required to help the child is really difficult, almost impossible to do, because we don't

know the child well enough at the moment. And I think we might do in six- or nine-months' time when things haven't progressed although, as we said before, we think they will progress, so again I'm finding that really difficult. Recommendations in terms of frequency and supervision, I really don't know. I think that assessment would have to be made at the time when the placement is seriously being considered, and like Chrissie said, that would only happen once all other avenues have been exhausted so I can't really answer that now either.

28. Those views drew upon and were further explained or clarified in their oral evidence. Following the completion of their evidence it seemed to me that an issue was emerging to which I was not sure I had a clear answer from Dr Baker and Ms Rickman. This question was;

Please could you confirm whether or not you would still be willing to provide the therapeutic work if timeframes with proposed outcomes were required or whether you see it as so counter-productive that you would not be willing to work under such conditions?

29. The question generated a longer and more detailed answer which essentially drew together much of the written and oral evidence they had given. It seems to me the critical points which emerge from it are these;
- i) Whilst they do not object to timeframes and objectives, they can be counter-productive, particularly specific timeframes. Objectives can be identified for the therapy but predicting how progress is made towards them is difficult to estimate.
 - ii) They would feed back to the monthly team around the family meetings and would explain or describe what progress was being made and/or the blocks to progress.
 - iii) They would estimate that in six months the parents would be in agreement about the progress they had made. Objectives of the progress would be the parents continuing to develop a shared understanding about each other and how they can cope parent the child and secondly the child's anxiety becoming less of an interference with his and his parents lives.
 - iv) Their first goal is the plan to help address the child's anxiety and understand his autism which would be achieved by
 - a) Completing the assessment, provision of information to parents school and social care, the agreement and implementation of a plan to support the mother to work with the child's anxiety by late December early January, the school agreeing to communicate with an interpreter and the father undertaking work to understand parenting a child with autism (December 2022 March 2021).
 - v) The second goal is to achieve better communication between the parents.

- vi) The third goal is restorative practice with the parents to look at the impact of past misunderstanding on the child's anxiety and working towards good co-parenting in the future.
 - a) The parents to continue to transition from courtroom to therapy room; the test being their continued willingness to be curious and to reflect.
 - b) To identify progress and a feeling of achievement by the end of February 2021
 - c) By end April 2021 we would expect the parents to be able to agree on the progress they have made and the impact on him his anxiety and his relationship with his parents.
- vii) The fourth goal is the child's transition plan;
 - a) In December a team around the family meeting is to be called with parents and relevant professionals the membership and the purpose would be agreed.
 - b) A smart plan is created with the mother, father and the child to support him achieving independence offering appropriate and available resources. This would take place between December and February.
 - c) A formal plan such as a child in need plan, transition plan and an educational healthcare provision plan.
 - d) The transition plan continues to be reviewed through to the child's adulthood.
- viii) The fifth goal is education where the school professionals and parents think about which educational setting would best meet his needs. This to be done by January 2021.
- ix) The six goal would be in relation to social care and the child keeping his current social worker.
- x) The seventh goal would be the withdrawal of Dr Baker and Ms Rickman.
- xi) They identify a number of features which would indicate progress was being made either by the parents or by the child.
- xii) Progress between the parents would be made in the couple's sessions. Progress in terms of the child's anxiety is not currently subject to a well-defined plan.
- xiii) They identify that both parent's participation in sessions, their focus on the child and his needs and their desire to better understand his autism are hopeful prognosticators.
- xiv) They identify unhelpful matters as including anything that increases the child's anxiety, parents entered objectives, ongoing parental conflict, and taking away parental responsibility and decision-making from the parents.

30. In respect of Dr Baker his evidence is contained in his report of 20 July 2020, his answers to questions dated 25 July 2020 and 2 August 2020, The Progress Report of Dr Baker and Ms Rickman of 19 October 2020, his updating report of 8 November 2020 and the oral evidence he gave to me on 11 November 2020. He is due to complete a formal assessment of the child's autism by 30 November 2020.
31. In his updated report of 8 November 2020, he made the following points.
32. In his most recent report Dr Baker recommends that;
- i) *Given that the child's responses to anxiety are becoming maladaptive and restricting his development, I recommend that both parents and the child are offered both support and an intervention to help the child manage his anxiety. Mother has already been asking for support to do this.*
 - ii) *In the context of the court case, enabling the child to manage his anxiety more effectively will enable him to eventually receive direct communication and meet with his father.*
 - iii) *Any support and intervention will need to be holistic and take into account the child's ASC and his CODA identity, together with support for his mother as a Deaf woman who uses BSL, and his father who has not spent time with the child for three years. It may not be possible to provide an intervention to the child directly, given his history of refusing to engage with professionals in relation to the court case. However, it may be possible, and indeed more effective, if Mother is supported to provide the intervention to the child.*
 - iv) *The intervention and support are more likely to be successful if based on a recent and holistic assessment that would include the following:*
 - a) *Autism: a clear understanding of the child's abilities to process sensory information, social imagination and social communication (i.e. the triad of difficulties that make up an ASC diagnosis).*
 - b) *Functional Adaptive Behaviour: a description of the child's abilities and difficulties in functioning, highlighting areas in which he is beginning to struggle (in comparison with peers of his age), and suggesting interventions and support for him to develop in these areas. Some areas of his functioning may be directly affected by ASC (e.g. socialisation, leisure activities), and some are likely to be affected by his current avoidance of anxiety.*
 - c) *Intervention adapted for a family with a child with ASC and anxiety: such as the CUES approach, or other therapeutic intervention, that has been adapted and shown to work with children with ASC and extreme anxiety.*
 - v) *I have agreed to provide the assessment outlined in point 1 and 2 above. This will provide clear recommendations for a proposed intervention (3).*

- vi) *I can provide such an intervention, either directly with the child and his parents, or through his parents. The family and school may also want to consider whether they can refer the child to a local CAMHS clinical psychologist for the intervention and support, to whom I can offer consultation for the aspects of CODA, Deafness and sign language. However, the waiting list may be lengthy, and the child may not agree to see another health or social care professional given his recent rejection of several visits of professionals to his home during the court case.*

33. Important points which I draw from his evidence are as follows;

- i) The experiences of Deaf people ("Deaf" refers to the psychological, social and cultural aspects of experiencing life as a deaf person) vary, but many share similar experiences that signify the importance of communication, access to information, poor literacy, inclusion-rejection, a visual culture and a sense of interdependence rather than independence. Consequently, the expectations and behaviour of Deaf and hearing people are often different. Mother communicates using BSL but with reduced vision she is prone to miss aspects of signing. The learning opportunities for Deaf people throughout childhood both formally but informally in what they absorb from their environment (parents and others) often result in a reduced range of knowledge and vocabulary and so limit their communication skills.
- ii) The provision of a BSL interpreter does not solve all difficulties in communication and understanding. Some of the previous engagements with the mother whether by professionals or the court may not be wholly reliable because there does not appear to have been a full appreciation of the limitations on her ability to communicate. Conclusions that she has fixed thinking, that she does not understand the child's needs and that they have an enmeshed relationship may be impacted by communication issues.
- iii) The mother is not currently experiencing clinical levels of depression or anxiety. Her levels are elevated. He considered she was a woman with a somewhat resilient character who is resourceful and outgoing, who has a support network and there is some evidence that she is able to adapt, reflect on herself and to learn through a variety of mediums accessible to a deaf person. She has no intellectual disability, significant mental illness or thought disorder.
- iv) The child is fluent in BSL and communicated in both BSL and English. BSL is his first language. He demonstrated traits which were consistent with autism. On the day trip his behaviour and the way he managed the trip are typical of someone with ASC. However, he did cope with the trip and this provides some evidence of him being able to manage uncertainty within a specific context. He was visibly anxious when asked about his thoughts and feelings relating to his father. He said he was being bullied every day at school and that he didn't really want to see his father. He said he was not interested in his father's letters. He said he wanted to go to a specialist autism school and to move away from Horsham linking it to his father's presence in nearby Crawley. He

became clearly anxious showing physical signs of arousal which led Dr Baker to distract him and calm him down by changing the subject.

- v) The child's diagnosis of autism means that he has some significant difficulties in social communication, social imagination and some limited or stereotyped behaviours or interests. The impact of his autism will have a significant effect on his development if adaptations are not made to reduce their effect. His identity development as the child of a deaf adult is also important. Hearing children of deaf adults often grow up with a sensitivity to both hearing and Deaf communication and behaviour which can at times be conflictual. This is relevant to the child's specific situation as he has grown up in between the two worlds of his Deaf mother and hearing father. His understanding of how hearing people may misunderstand his mother and his own identification with a deaf identity are relevant when considering the relationship between the child and his mother. He had been doing well in school being predicted in summer 2019 to get grade fours. (I note that the recent email from the school from November 2020 identifies a deterioration in his predicted grades due to his absence from school during lockdown and is restricted interaction with teaching in the autumn term). The further assessment will address anxiety in the context of his autism but also issues relating to the difficulties he has with his mother, father and the school. One cannot necessarily separate all of the issues. Applying normal developmental assumptions to a child with autism is problematic. They process things differently.
- vi) The father is a level 2 sign language speaker which would indicate he is able to hold a basic conversation on a limited range of topics but is not able to cope with fluency, ambiguity and abstract ideas. Aspects of the previous assessments which considered that the father had lower than average reflective functioning, but he is set in his ways, had found it difficult to meet the child's emotional needs, and was not aware of the difficulties in their marriage until the mother and the child left should be considered in the context of a man marrying a deaf woman and caring for a son with autism who is a child of a deaf adult with BSL as his first, preferred language. He does not have any psychiatric disorder which limits his everyday functioning.
- vii) He may have struggled to understand the mother's experience and to be able to ameliorate the potential difficulties within that family unit. He may have experienced that as oppression, rejection or abuse by the mother. He may have felt rejected from the close mother-child bond and his status as a hearing person and the child's identification with his mother might have positioned the father as an oppressor towards his deaf mother and by extension to himself. The father will need further support to negotiate any relationship with the mother and the child both of whom require others to adapt their communication and behaviour towards them.
- viii) Both parents have the capacity to meet the child's needs but are not currently able to exercise it. The mother has been protective of the child which has been good but now is unhelpful as it prevents him developing the ability to deal with situations himself. Both demonstrate areas in which they can provide good parenting but the complexity of the situation, between them, M being a Deaf adult and with the child's autism and his being CODA make it much

harder for them to acquire the skills to deal with the particular situation that now exists. The mother in particular needs help to access information and support about parenting the child as an autistic child of a deaf adult; in particular in relation to his transition from a child to adolescents and adulthood. The father would benefit from greater understanding about her experiences as a deaf woman and greater understanding about the child and the impact of his ASC. Both parents would benefit with exploring how the current disagreements and behaviour could produce anxiety and internal conflict in the child. It is not just about mother but about both parents contributing.

- ix) Having considered each member of the family, my opinion of the family dynamics is once again contextualised within the observation that their communication and behaviour are negotiated through different languages and cultural identities. The cultural identities are Deaf and Hearing, which describe behaviour and expectations related to the different experiences of growing up deaf with a visual language and hearing with a spoken language. It is important to recognise that this occurs within the dominance of a majority hearing culture. For the family, issues of power, communication, and inclusion-rejection can be better understood within this context.
- x) In order to determine an effective intervention, it is more effective to focus on a description of the behaviours and historical context of the family system rather than use a diagnostic framework that places a focus for difficulties within an individual (i.e. "implacable hostility" and "alienating parent") (Polak & Saini, 2015). This approach is more successfully taken in a wide range of psychological interventions and will be the approach I will take in forming an opinion about future support for the family to improve the family dynamics.
- xi) The mother continues to disagree with the two findings that she lied about any of the allegations about the father or that she has primed the child to say things. She attributes the findings to communication difficulties. She is not against the child having contact with the father providing there is no risk to him and that he agrees. Dr Baker considers that regardless of the conflict between the mother and father she would support the child to have contact if the child agreed and felt safe.
- xii) The mother is aware of the implications of the child not having contact with his father but considered that the father did not provide good parenting to the child. She said ideally the father would have good communication and be aware of spending quality time with the child and making him happy. She said the father should be kind, respectful and supportive and said he could be aggressive, non-communicative excluding and did not understand the child and his difficulties.
- xiii) The child finds it very difficult to talk about his attitudes towards his father and doing so generates a high level of anxiety. The mother has kept the letters in a box. The child's behaviour may not be solely due to him having negative attitudes about his father as he has previously enjoyed contact with him. His attitudes are either variable or not related to the father's behaviour. His position is highly dependent on him feeling safe about discussing contact or having contact. His anxiety about various issues is currently the dominant

feature of his presentation. He needs to be assisted in understanding his anxiety and developing strategies to manage it and to develop tolerance to uncertainty and perceived threat. His current responses to anxiety are becoming maladaptive and restricting his development. Both his parents need support and intervention to help the child manage his anxiety. Once that has been achieved it may then be possible to address the issue of contact. He also needs to be helped by a psychologist psychotherapist or counsellor to develop positive ways of thinking about himself as a teenager with autism and a CODA identity. This will assist in promoting and developing his independence from childhood to adolescence and adulthood. This is the most important aspect of the work to be done.

- xiv) The intervention and support for the child and his parents needs to be holistic taking account of his ASC and his CODA identity, support for his mother as a deaf woman who uses BSL and for his father who has not spent time with him for three years. The intervention needs to be based on an understanding of his autism, of an assessment of his current functional adaptive behaviour and to be adapted for a family with a child with ASC and anxiety.
- xv) The child's anxiety is currently the dominant feature. The reasons for it are complex but his experience of anxiety is complicated by his ASC and treatment for it is not the same as treatment for people without ASC because the psychological processes are different. It is therefore more of a challenge for the mother and father to understand how to cope with it. Issues relating to communication between the child and the mother, the mother and others and the child and the father have all played some part in its development to the problematic level it is currently seen at and which affects his home and school life.
- xvi) At present the combination of the child's anxiety and his need to develop into a teenager and then on to adult hood in a healthy way are reaching a crisis point. There needs to be a change as it is reducing his quality-of-life and preventing him developing the skills needed for adult hood. His quality-of-life is currently decreasing. The issue of the child's contact with his father is secondary now, albeit that is what led to the case being in court. Unless the child is able to learn to manage his anxiety and to develop his independence, he will not be able to make a successful transition to adult hood. Addressing those issues of anxiety will assist in the question of contact though.
- xvii) It is not possible to predict what should occur in the event that progress is not made through the programme that has now been agreed. There are significant concerns about the child's development in his mother's care but his autism and identity as a CODA are significant factors in predicting the impact on him of being removed from his mother's care. Without a full assessment of the child's autism, it is not possible to give an opinion on the impact on him or where the balance of harm might fall. The arguments for the child not residing with his father still stand in particular the issues over his understanding of the child's condition and his ability to cope with the child's emotional responses or contact with the mother.

- xviii) At present it is not possible to discuss his understanding of the findings that were made that the father does not pose a risk to him. Further time in a therapeutic and trusting relationship needs to be spent before that subject could be opened. Both parents need to move on in their positions in order to help the child. The development of trust between them would help the child feel safe. The responsibility for this does not lie solely at the mother's door but the father can contribute to how he can influence the mother's attitude towards him. The mother also needs support in understanding the child and in the advantages to him of having a relationship with the father.
- xix) The work that Dr Baker and Ms Rickman have done is in its infancy. He has not commenced therapeutic sessions with the child as yet. There is 6 to 9 months of work in order to make good progress. Over that period, one would expect to see the parents engaging positively with the process, to developing trust in each other, to developing some form of communication and being able to show some understanding of the others position. Both parents have engaged well so far, and we have seen some, albeit limited progress in building trust although we have not solved the communication problem yet. They both see positives in the process so far. The mother accepts that the father has the child's best interests at heart and vice versa. They both clearly want what is best for the child and to help him overcome his anxieties, to succeed at school and to make a transition into adult hood. Addressing the previous findings is not currently productive. We are looking forwards not backwards. When progress has been made in developing trust and communication the parties may come to understand how the findings came about. If the parents leave sessions or refused to come back next time that would indicate that progress has stalled, and we would report that to the team around the family for weekly meetings. That might lead to consideration of further support that might need to be brought in or to looking at alternatives including whether the child should be removed from the mother's care. That is impossible to predict at the current time.
- xx) Having undertaken the assessment with the child, the parents will need to be involved in doing some of the work so it will help the mother to manage his anxiety and in due course the father will be able to as well. That will be parallel with the work the mother and father are doing with Ms Rickman. When the child has learned to manage his anxiety conversations about his father, may then be possible. The mother is supportive of him and she wants him to be independent and not anxious, but she also wants to protect him, and she does not currently have the knowledge and skills to adapt her way of managing him.
- xxi) The complexity of the current situation with its various different components requires quite a complex package to be in place. The work of Ms Rickman and Dr Baker is one component of that but it requires support from and for his school, it requires better communication for the mother with everyone involved including the father, it would benefit from some neutral third-party coordinating and overseeing it all to keep all of the components working together with the aim of reaching the point where the parents are able to exercise parental responsibility together. This is what we have called a team

around the family approach. This needs to be coordinated so that everybody is working on the same basis. Some pressure, benign pressure is a good thing.

- xxii) Making progress with the child is harder to predict. Objectively he has missed out, but he does not see it that way at the moment. I think the father has struggled to develop his awareness of autism and how it affects the child as he develops. Many families struggle with autistic children. This is not unexpected particularly when families separate. Over six months we would have looked at addressing his anxiety and would hope to have talked about the father and his understanding of the position relating to his father. His anxiety prevents him being able to talk about or think about his father. Putting deadlines in place does not help address the anxiety. He should not be under that pressure. There can be a plan to make progress without imposing deadlines. An automatic change of care if progress is not made will be unhelpful; the pressure that it will create will impede progress.
 - xxiii) The local authority sharing parental responsibility under a care order is not a block to the therapeutic work; it can be presented and framed to the child as a positive thing. His problems are more to do with his immediate response to the unexpected but there is a risk; it depends on how it is presented.
34. Ms Rickman's other evidence is contained in her report of 27 August 2020, her answers to additional questions of 22 September 2020, the progress report of 19 October 2020 and her oral evidence. Important aspects of that evidence include the following;
- i) The parents have worked well together so far. In terms of the couple's she has worked with these parents are at the much better end of the spectrum of cooperation and engagement. They engaged in the assessment to the best of their ability although neither present as naturally psychologically curious. Both have enough reflective functioning to undertake therapeutic work and are motivated by wanting the best for the child although disagree about what that looks like. They're focused on the child and finding solutions to address his needs. They are beginning to make the transition from the courtroom to the therapy room. In the therapy room they are required to work together to unpick previous misunderstandings with the benefit of new knowledge. It takes time to build trust after being in conflict for so long. She did not think either parent was being manipulative or deceitful.
 - ii) They have been able to discuss the child's autism with the father gaining information and insight from the mother and the mother being able to communicate that to the father. Both parents would like the child to become independent but have different views on how to achieve that. This is a discussion the parents of any autistic child would need to have. They need support to gather information and discuss the issues around this including education.
 - iii) Poor communication has been important in the development of the conflict between the two as each misunderstood the other and they were unable to resolve these misunderstandings due to the communication barriers. Neither did the parents have sufficient information about the child's difficulties and

they could not problem solve together. They struggled to communicate enough to work through the complexity of the child's needs and their different values. The breakdown of the relationship left a legacy of mistrust exacerbated by gathering evidence against each other through protracted court proceedings. They are beginning to work together and have covered significant ground.

- iv) It emerges that like the parents some of the professionals have differing views of his level of autism which requires an updated assessment. His anxiety also needs assessing.
- v) The triangle of challenges the child faces is the interplay between his experience as a child caught in parental conflict and family breakdown in conjunction with his autism and his experience as a child of a deaf adult with a bilingual/bicultural family. Those involved with the child need to have an integrated understanding of those difficulties. The three aspects are interwoven and potentially heighten the child's anxiety at times of stress as well as increasing the risk of confusion and misunderstanding in his parents. The child is capable of working through his fears and difficulties in doing so would potentially build his resilience and his sense of mastery and skills to manage life. A step-by-step plan for reintroduction to the father can be followed but introducing a specific timescale would result in counter-productive pressure.
- vi) The parents are exploring how they can communicate more effectively. Communication is core to understanding the problem between them. Whilst the father can sign it is insufficient to deal with nuance, complexity and abstract concepts which parenting and being a couple involves and in particular dealing with a child with autism will involve. This communication breakdown also involved the child as neither parent really understood what was going on with him and how he experienced things. His autism was not diagnosed until he was 10 years old.
- vii) Over about six months the child has been at the heart of the work the mother and father have done. Further work with the child is needed to understand how his responses to feelings of anxiety function to keep him safe. His responses have become maladaptive and more restrictive for him and his family which requires intervention. At present he thinks very rigidly about his relationship with his father because of the anxiety. When he is not in that rigid box of thinking it will be easier to get him to see his father. That part is likely to be easier than the part they are currently undertaking.
- viii) The mother accepts that she needs help with her parenting of the child and has been in contact with Dr Baker and Ms Rickman on several occasions to ask for such help. Focusing on the mother's non-acceptance of the facts found by judges will be less productive than reflecting on the mother's understanding, her intentions and the impact of her actions on the child.
- ix) It is essential to bring together all the elements of the family's experience so that one aspect is not seen in isolation. The parents need to have a clear understanding of how the child may continue to suffer significant harm unless there are major changes. This will help both parents understand what needs to change and what progress needs to be made.

- x) The team around the family should be initiated to bring together a network of professionals and parents to assist in understanding and keeping in mind all the elements of the child's experience and development and the work that needs to be undertaken. They will report back to the team around the family both progress but also concerns.
 - xi) The future work would involve fortnightly sessions for the parents and weekly one-to-one sessions together with therapeutic work between Dr Baker and the child. This would take place over approximately six months. The programme for the parents is called restorative practice which builds trust and safety in contrast to the court process which has exacerbated hostility and mistrust. Both of the parents will find it difficult at times. With the end of the court case and the development of communication and working together this should contribute to The child managing his anxiety better. If it is not addressed, it will get worse and impinge upon his ability to develop educationally and socially. The sort of work which is being proposed was some years ago.
 - xii) In the meantime, a transition plan to support the child with services into adult hood should be developed.
 - xiii) There are disadvantages to supervision orders in their lack of teeth but a Care Order which allows the Local Authority to share Parental Responsibility might affect the mother's position in terms of working together. A Care Order will also mean the social worker changes which will not help. A Care Order could undermine the empowerment of the parents of working to exercise Parental Responsibility together. If progress stalled the local authority would be able to make an application if they thought that was necessary. What is needed is caring supportive pressure. The comprehensive plan which has been developed is more important than the legal framework under which it is delivered. The benefits of an Independent Reviewing Officer need to be balanced against the undermining effect of a Care Order.
 - xiv) Incorporating into the care plan some default provision for a removal of the child from the mother's care would be counter-productive and the impact on the child and the mother would be devastating.
 - xv) At present she did not see the benefit of respite care. It might give him an experience of being independent, but it might also raise the question of whether he is being punished. Essentially it is a sleepover with strangers.
35. Ms Robinson is a social worker of 34 years' experience. She worked together with Mr Andrew Beckwith also a social worker of 34 years' experience. They were instructed to undertake a full parenting and social work/risk assessment of the mother and father. The 88-page report reflects an extensive process of enquiry and assessment. The following points seem to me to be key to understanding their evaluation.
- i) There are two major issues in the case; firstly, the issue of contact between the child and the father and how this could be facilitated and secondly the parenting skills of the mother.

- ii) The child is deemed to be at risk of significant harm as a result of the threshold criteria being met. The significant harm relates to the emotional care that the mother affords him. Their analysis needs to focus on what changes can be made to improve the parents ability to ensure that the child receives the emotional care he requires for the remainder of his minority
- iii) They did not find evidence that the mother was reflective or had the ability to be so. She does not accept the findings of the court. The mother does not appear to promote a positive image of the father to the child and is unable to move away from her own narrative of abuse and discrimination by the father. Her own childhood leads her to a view that the child does not need a father in his life. It is not clear whether the mother is deliberately sabotaging attempts to present the father in a positive light or that her understanding of his importance is limited, and she does not have the skills to present him in a positive light. Her status as a deaf person is likely to have limited her acquisition of knowledge and information throughout her childhood and her life. She does not have the toolkit to move the child on into a place where he is accepting of his father. The work of Ms Rickman is hoped to go some way towards addressing this.
- iv) The mother's personality is not reflective but rather places responsibility on others. Her childhood and the lack of communication between herself and other family members has affected her own social and emotional development. She sees herself as an excellent mother. To some extent she is a good mother. However, she is failing in relation to the emotional harm that the child is suffering either because of deliberate actions in relation to his relationship with his father and his development or because of her lack of knowledge and understanding of appropriate parenting. Her minimisation of concerns and propensity to blame others is worrying and leads to an extremely poor prognosis for change.
- v) The mother emphasises the child's autism rather than seeking to normalise his behaviour. Her approach to his autism magnifies it. He does respond to appropriate structure and boundaries as demonstrated by the school's evidence. The mother needs to develop her understanding of child development to help the child move to the next milestone and to reach maturity having developed the necessary skills to live independently. Currently she infantilises the child and does not promote his independence. The case is not just about CODA and autism but about the mother's attitudes.
- vi) It could be that the mother wishes to foster a relationship with the child whereby he is dependent upon her which would meet her needs.

She does not encourage him to develop his identity in the hearing world and the enmeshed nature of their relationship and his acute anxiety surrounding the father and his rejection of him are extremely concerning. Children of deaf parents do have a tendency to feel protective of their parents but the child's relationship with his mother goes way beyond that of a normal CODA/parent relationship. We would see him more as a 14-year-old who needs to be transitioned into adult hood rather than a boy with autism who is CODA.

- vii) Overall, the mother provides good basic care to the child; a stable home environment, meeting his physical and medical needs and putting him at the centre of everything she does. Her weakness and our concerns relate to her ability to allow the child to grow and develop into an independent adult and maximises his potential. Her inability to put her own feelings about the father to one side and to promote a relationship with the father is another concern.
- viii) The mother's deafness makes it likely that the mother experiences barriers to parenting on a very frequent basis particularly when she needs to liaise with professionals. Her ability to communicate in email or by writing and otherwise mean she can misunderstand situations.
- ix) The mother needs to develop similar strategies to those developed at school to manage the child's anxiety rather than to make concessions which exaggerate his differences. She needs to take more control and remove it from the child. This affects the power dynamic in their relationship and places too much responsibility on his shoulders.
- x) The mother has a strong support network of deaf friends and receives some support from her mother.
- xi) We have concerns about the mother's understanding of the current proceedings, the risks of harm and the possible outcomes. She became extremely upset and agitated when they discussed the fact that the child is on an interim care order and when she was asked what she needs to do to change. She does not like being challenged or criticised. She is stuck in her narrative.
- xii) Any services offered to the mother must be accessible. This would best be done by a deaf person using a BSL interpreter. This is also an issue in that the mother is more likely to buy into services if delivered by a deaf person. However, it is also necessary because specialists are more likely to understand the mother's starting point, her gaps in knowledge and to be able to explain concepts in a culturally deaf appropriate way.
- xiii) The father seems to appreciate that the child has some special needs but not to the extent the mother suggests. He recognises the child is a CODA but finds it hard to understand that the child will reply to him in BSL. He recognises he may need guidance in relation to the child's autism. He recognises the lack of contact will have impacted upon his relationship and that it will need to be rebuilt slowly and should not be rushed.
- xiv) He could adequately meet the child's physical needs and provide stimulation. We are unable to give an opinion on his ability to meet his son's emotional needs. He has a supportive network of family. The father has the capacity to develop.
- xv) The father identifies the concerns as relating more to the mother than himself. He does not want to enter into a battle.
- xvi) The child could not successfully be placed with his father at this time. Contact would need to be re-established. It would also assist in promoting the re-

establishment of contact if the parents could resolve some of their differences. Conflict resolution is key and both parents need to actively engage in the work proposed by Ms Rickman. The mother needs to give her permission for the child to have a relationship with the father.

- xvii) The current situation cannot be allowed to continue. Contact is now a secondary issue. If it does the child will be ill-equipped emotionally and developmentally to enter the adult world. It is essential he develops a sense of independence as soon as possible. The nature of the mother son relationship needs to change dramatically otherwise he will remain totally dependent on his mother in adult life. It is emotionally harmful to him at the moment. This change will take time. The mother requires bespoke training around autism and parenting training and both parents need to commit to the work recommended by Ms Rickman and Dr Baker. The window of opportunity is narrowing.
 - xviii) Consideration should be given to the child having respite care. That may assist in changing the nature of the relationship between the child and the mother. His school should remain unchanged.
 - xix) Contact should only commence when it is appropriate and guided by the work of Ms Rickman and Dr Baker. the child's anxiety is one of the major issues in the case. Achievable goals should be identified and form part of a schedule of expectations.
 - xx) If there are no positive changes in 6 to 9 months the Local Authority should consider removing the child from the mother's care. A Care Order is appropriate. We are more pessimistic than Dr Baker and Ms Rickman. The Local Authority should be able to intervene on issues; as 1/3 party who have opinions, they can help the parents make decisions. The absence of change over the last four years shows there needs to be a change and there needs to be local authority oversight. There needs to be a lot of scaffolding and support to this process. Being looked after will give the child priority on resources which may not come without a Care Order.
36. Ms St Clair the social worker also gave evidence in support of the Local Authorities position. She has clearly dedicated considerable time and effort to the child's case and to helping to put together the care plan. She accepted that a supervision order and a child in need plan might not be sufficient and that a child protection plan would involve a higher degree of monitoring. She acknowledged that the legal umbrella under which the plan was implemented was difficult but on balance she was convinced that a supervision order was the least risky way of implementing the plan.

37. Given that the mother and father in particular but also the Local Authority and the Guardian had agreed that the most productive way forward was for the mother and father and the child to undertake therapeutic work with Dr Baker and Ms Rickman and given that a central component underpinning that work was to transfer from an adversarial court based process to a therapeutic trust based process the question of the parents giving evidence arose.
38. Both Dr Baker and Ms Rickman considered that the parents giving evidence had the potential to setback the progress that had already been made and to make future progress more difficult if doing so led to the reopening of old wounds that were just beginning to heal. It became apparent in the course of questioning of the experts that there were some areas which were highly susceptible to that sort of damaging result; exploration of the mother's acceptance of the earlier findings, her position on the potential benefits of a father and the father's position on his and the mother's role in the development of the current situation are just three examples.
39. Having heard the parties submissions on the issue, it was primarily Ms Hylton on behalf of the father who wished to explore the minefields more extensively, I concluded that whilst there were some narrow areas in which I would be assisted by hearing from the mother and father, that the areas which might have been thoroughly explored had the parties not been in agreement on a therapeutic way ahead should be left unexplored.
40. Thus, the parties gave evidence only briefly. They did so in the courtroom with the other present. They were sensitively questioned. It was very helpful to me to hear them give evidence. The interpreters and Mr Flynn were invaluable in conveying the mother's evidence and to some extent her character. Importantly for me in gaining some insight into the past and how we arrived at this position was how communication with the mother happens. The mother is of course physiologically deaf. She is also culturally Deaf. Her vision is impaired and she in effect sees only out of one eye. For an individual who receives communication visually rather than aurally this is a further significant disability which as Dr Baker and Ms Robinson identify creates a risk that the mother will not see all of the aspects of any signing that is being communicated to her. Ms Ridgeway explained to me that the structure of BSL is different to English and that the signing involves many components including the face (eyebrows forehead and mouth) and the hands and arms including the shape of the hands and fingers. Dr Baker in particular observed that he considered one of the causes of the breakdown in the relationship (by that he was not referring to the marriage but rather their ability to trust and cooperate with each other) between the parents was the limitations on their ability to communicate. Ms Robinson made the same point emphasising that negotiating the difficult areas of how to parent a child with autism and their personal relationship as husband and wife was complicated by the fact that the father's ability to communicate in sign language was limited and the mother's ability to communicate in written form was likewise limited. Thus, complex concepts, nuance, sensitive emotions would be difficult to convey between the mother and the father. There were occasions during the short period of time during which the mother gave evidence that it became clear to me that even with the most expert BSL interpreters and with the benefit of an intermediary difficulties arose in ensuring that the mother fully understood the question. On occasions Mr Flynn assisted the interpreters in conveying more complex questions. If there is scope for

miscommunication even in the controlled environment of a courtroom with questions being framed by counsel trained in the art and with highly skilled interpreters and an intermediary how much greater is the scope for miscommunication between the mother and father during an emotional domestic scene, in a busy school environment or elsewhere.

41. It seems to me to be key to the progress of the proposed plan that effective communication is maximised between the mother and the father, and the mother and any professional with whom she is working. When the mother spoke of her trust in Dr Baker and Ms Rickman and how that had emerged from their ability to communicate clearly with her and to understand her, It seemed to me that was heartfelt. Ms Robinson noted that many people who are Deaf feel excluded from society because of the difficulties in them conveying and receiving communication. Inevitably this must impact on their ability to trust and work effectively with others. If one does not feel understood inevitably there is a risk not only that one will withdraw but that the other party may interpret that as being uncooperative. If one does not understand or is not understood inevitably one does not gain the benefit of the communication.
42. Both the mother and father came across as genuine and sincere individuals. They both spoke fondly of the child, of his interests and his future. Neither made any disparaging asides about the other; I accept the opportunity to do so was limited but I have little doubt that other individuals in similar cases would have taken the opportunity. Both I accept are invested heavily in the opportunity that the therapeutic work with Dr Baker and Ms Rickman represents. Both see it as an opportunity to improve the child's position although I think rightly both see benefits in it for themselves as well.
43. I found their limited oral evidence to be of real benefit in illuminating their characters. Their written statements conveyed something of them as individuals, but the structure and language of their statements was more lawyerly than that of the individual. To be clear that is not a criticism of the lawyers or of the parties but does perhaps reflect how differently parties can present themselves when in litigation as opposed to speaking from the witness box about matters that are dear to their heart. I think this difference in presentation would be evident also in therapy and in assessments. That will of course be a function of the environment, the personalities of the other parties and the subject matter. I am satisfied that the dynamic between the mother and Ms Robinson and Mr Beckwith resulted in her presenting differently to them than how she does to others.
44. The mother is clearly anxious to be understood and I thought took care to understand the question and consider her answers. I did not think this was to enable her to craft or manipulate her answer to create a good impression but rather was because she was seeking to be frank and to give a sincere answer. For instance, when talking about communication between her and the father she did not jump to agree to Ms Hylton's suggestion of the frequency of communication but gave an answer that she clearly thought was sensible in the reality of the situation that exists. The mother's answers suggested she was not rigidly attached to positions; she frankly accepted that she did not really feel able to express a clear view on whether a Supervision Order or Care Order was better for the child because she was not able to see how all of the competing factors fitted together. Having said that her tendency would I think be more cautious than might objectively be needed but not obstructive. Her experience of growing up without a father and her views on the role of fathers which must arise

from it are clearly of some relevance to how she approaches contact. Her description of how one of the child's friends' fathers was a good role model was rather idealised. The fact is the father is as he is, but he is the child's father. The therapeutic process will hopefully give the father some more insight into the child's condition but also who the child is and more insight into how to communicate better with the mother but ultimately, he is who he is. The mother's experiences of him do not define him as the child's father and she will hopefully come to see that although he may have flaws (as does she and as do we all) that he has much to offer the child as he is. The mother clearly has a sense of humour, a commitment to others (running a marathon for charity) and a desire to live her own life as well as protecting and promoting the child. She remains close to her mother and has a social network and would like to work again.

45. The father was also clearly anxious in giving his evidence and I thought tended to convey an impression of confidence and certainty which is not matched by his underlying personality which I think is more uncertain and anxious than he would want others to believe. He tended to answer questions immediately which whilst honest sometimes did not convey fully the information that he wanted to get across or demonstrate the thinking process or emotional underpinning which accompanied the content. I got the impression that whilst with the mother one would need to take time to ensure that she understood the question and that you understood the answer, that with the father one would need to take time to scratch away at the initial, perhaps impulsive, answer in order to get to the heart of his position rather than accepting his first response at face value. To do so might give a partial or misleading impression of his true view. To be clear this is not to suggest that he is untruthful or dishonest but rather that his outwardly confident demeanour and his keenness to engage might overlay a more complex character or obscure a more nuanced position. His approach would tend to focus on the practicalities rather than to consider the emotions which were in play. I was a little surprised that his answer to my enquiry about what stood out for him from the expert's reports was to the effect that mostly he was aware of it all before. I am not sure whether this was because the question was a surprise and he was unable to process it rapidly enough to identify what did stand out or whether he has not yet really immersed himself and processed it. Ms Rickman observed during her evidence that when she read the father's statement, she said it felt like he hadn't taken on all the things they had discussed in their sessions. Of course, some of the content requires him to re-appraise his understanding of the history and that may be quite difficult. The tenor of the father's statement which is of course prepared for the court where arguments are deployed to achieve a goal may have contributed to what appeared to Ms Rickman to be a lack of insight but I do think the father will need to continue to reflect on the reports and what is to be learnt from them in terms of understanding the breakdown in communication and the loss of trust that contributed to the current situation. In contrast to the mother's more cautious approach his would be to be overly optimistic about what was achievable. His approach to the resumption of communications was to see no reason why the mother could not respond immediately to a request on 10th November to know whether the child was in school that day. In practical terms of course the mother might have been able to video record a response and send it but that would be to overlook both her focus on the hearing and getting the child to school but also the emotional issues surrounding it. This I think is an aspect of his personality – he is practical – but it does also suggest that he needs to think more deeply about some of the emotional dimensions of the position and to put

himself in the child's shoes and the mother's shoes more. The father needs to develop a greater tolerance of other's positions; he may not agree with aspects of the mother's parenting or attitudes because they do not coincide with his but that does not mean they are wrong. There is plenty of scope for differing approaches which are entirely valid. Separated parents often encounter difficulties over parenting styles – with a child with autism these become even more problematic – but it seems to me that as the mother needs to see the father as a good father, despite his flaws and their differences, that so does the father need to see the mother as an essentially good mother despite her flaws and to understand more fully that some of her flaws are a product of her life experiences as a Deaf woman. The father clearly has a work ethic, is community minded (he is involved in the scouting movement) and has a strong sense of family remaining close geographically and I think emotionally to his parents and brother. He has much to offer the child.

46. Ms Ryall's evidence contained in her reports and oral evidence confirmed and expanded upon the submissions made by Ms Phillips. She endorsed the programme of work that was proposed and was hopeful that it would work, particularly as she identified a significant shift in the mother's position, but also emphasise that the history of the case demonstrated both the risks of it not succeeding but also that this was a medium to long term process going well beyond 12 months and probably into his adult hood. Ultimately, she was in no doubt that a Care Order was the appropriate vehicle for delivering the plan. She of course had the advantage of seeing the mother's evidence about how she would perceive a Care Order which as Ms Phillips noted was potentially game changing. She took the view that a Care Order could be messaged positively to all involved and that it provided a supportive environment rather than a penal environment. She did not think that the child needed to know very much about it in terms of the legal consequences. Although she was not able to identify any particular issue on which she could predict that the Local Authority would need to share Parental Responsibility she was clear that she thought their ability to step in either to take some action such as taking the child to school or by helping the parents to avoid obstacles by making a decision was an advantage. She identified the benefits that the ICO had delivered in terms of getting the child back to school after the initial lockdown. She was equally clear that neither parent had shown any inclination to abdicate Parental Responsibility to the Local Authority but rather that they were keen to exercise it themselves. She was concerned that a supervision order and the involvement of the current social worker provided some short-term guarantee but given her identification of the need for medium to long term support, that a Care Order with the statutory responsibilities that brought was clearly more beneficial. She considered that greater clarity was required in relation to the parenting support work that would be given to the mother and that this would probably need in due course to include the child as normal parenting intervention would help the parent to learn skills but would then assist them in implementing that knowledge with the child himself. She considered that it was harder to identify what the timescales for that work were, but that Ms Rickman and Dr Baker could assist in identifying when it would be appropriate to start that work having regard to the areas that they were addressing in the therapy. She thought that the issues of the mother's parenting needed addressing as soon as possible. She also thought some greater clarity on timescales was helpful and this was now more clearly identified in Dr Baker and Ms Rickman's recent answer to questions and that the identification of goals with timescales ought to be incorporated in the care plan.

Evaluation

47. My involvement with this case began when I heard the father's appeal against the order of HHJ Thorp. At that time and for understandable reasons HHJ Thorp had concluded nothing further could be done to re-establish the child's relationship with his father. It appeared at that time to be a complex but essentially private law dispute over child arrangements. However even then there was in the background and issue over the mother's ability to promote to the maximum the child's independence and his development into adult hood. The passage of a year whilst Dr Cornes undertook his assessment and whilst a child contact intervention was attempted resulted in little if any progress. Indeed by the end of that year the situation had deteriorated to the extent that I felt it appropriate to make an interim care order on the basis that there were grounds to believe that the child was likely to suffer significant harm as a result of the parenting being given to him not being what it was reasonable to expect.
48. The expert reports and the work that has been done by Dr Baker, Ms Rickman and Ms Robinson has reframed the case. The additional contributions of the social work team, Ms Ryall and the work done by the parents themselves has added to that process of reframing. From a position where the prominent features were concerns over the mother's attitude to the father and her rejected allegations of abusive behaviour and her apparent inability to promote the child's independence the axis of the case has tilted in a most significant and positive way. From a position where consideration of removal of the child from his mother's care seemed to be growing in prominence, we are now in territory where the parents have taken the first steps down a path which if followed to its logical destination should lead to the redevelopment of some degree of trust and cooperation between them, their acquisition of greater insight into the child and his needs and into each other's characters, the reduction in the child's levels of anxiety and the promotion of his independence to enable him to make a success of the transition from adolescence into adult hood. That seems to me to be a remarkable change in direction of travel. Whilst it is of course early days the soil in which these positive seeds have begun to take root would seem to be a fertile one given my assessment of the sincerity and capacity of each of the parents to avail themselves of the benefits of therapy and of the further support encompassed within the care plan.
49. The impression that I have of the parents from all that I have read of them and heard about them from the experts and from themselves is that they are both fundamentally decent and good people who are capable of being good parents to the child. Although it is impossible for them to entirely set aside the negative feelings, they have for each other I am satisfied that they both want what is best for the child. Their view of what is best for him may differ in some respects or in how to achieve it but that I think is capable of discussion and agreement (including by compromising) within the framework which is being put in place. Ultimately, I'm satisfied that both parents are able to put aside their fight in order to search for solutions for the child.
50. Each of the parents have much to offer the child to develop his character and to help him on his journey through adolescence and into adulthood. A focus by each parent on the other positives will do much to help the child. Both need now to look to the future rather than to dwell on the past and the hurts that each of them have sustained in the course of the deterioration, breakup of their marriage and the aftermath. Given that both of them appear to be at base positive characters who live their lives not just for themselves but for others I feel confident that they should be able to achieve this

particularly with the support of Dr Baker, Ms Rickman and the surrounding framework. Their personalities provide a contrast to the child. Although over the last few years the combination of their personalities has not worked for the child and has generated a noxious atmosphere around the three of them as a family unit. I think with the intervention of Dr Baker and Miss Rickman together with the other supporting structures that these are capable of neutralising the unhealthy atmosphere and enabling a more beneficial environment to be created around the child. The development of some trust built on a belief that the other parent sincerely wants what is best for the child rather than a belief that they are seeking to hurt the other parent either directly or via the child is central to the process. The development of a means of communication which actually allows a reliable exchange of views and information between the parents will also be important. However equally important is the promotion of the mother's ability to trust the others who she is working with and central to the development of that trust is communication which the mother has confidence in. With such trust and good communication each should be able to better understand the other's position and to empathise with it. From that they should be able to cooperate in the exercise of Parental Responsibility and in the implementation of the steps which are needed to reduce the child's anxiety, to promote his development of independence and to enable him to re-establish a relationship with the paternal family.

51. The way in which the reports of Dr Baker, Ms Rickman and Ms Robinson and Mr Beckwith have contributed to the tilt in the axis of the case seems to me to arise in a variety of ways but for me at its heart lies the light which has been cast by them on the issues of communication and understanding and on the particular complexities created by the combination of the child's autism and anxiety, his status as the child of a deaf adult, his mother's status as a deaf adult, his and his parents experience of parental conflict and lengthy litigation.
52. Although one detected a sense of the difference that existed between the approach of Dr Baker and Ms Rickman and that of Ms Robinson and Mr Beckwith from the transcript of the experts meeting it became far more evident in their oral evidence. Ms Robinson and Mr Beckwith carried out a parenting assessment which was built firmly on the foundations of the previous findings of HHJ Thorp and the Judgment I delivered on the appeal. In doing so they were adopting absolutely the correct approach. They adopted a robust approach to the assessment of the mother which was understandable in the context of those previous findings. To the extent that their evidence felt out of sync with the rest of the case it seems to me that this was purely as a result of the case having transmuted by the time it reached court into one which was about leaving the court process and adversarial approach is behind and moving into a therapeutic one where the development of trust and the setting aside of past conflict including past positions was essential. It was for the court to consider the consequences of the assessments of Dr Baker and Ms Rickman. In fact the different approaches to assessment which were evident between Dr Baker and Ms Rickman on the one hand and Ms Robinson and Mr Beckwith on the other illustrated very clearly to me how the means by which the mother was approached and the dynamic between her and the individuals was of critical importance in how well the mother engaged with the process that was being undertaken and the impression that the experts got of her. As Ms Robinson and Mr Beckwith noted in their own report some professionals see her as a good mother who is cooperative and reflective whilst others see her as

hostile and obstructive. It seems to me that a significant component in her ability to engage with others is how they communicate with her and how trusting she is of both the communication and the communicator. Her engagement with Dr Baker and Ms Rickman as compared with her engagement with Ms Robinson and Mr Beckwith is as different as could be imagined in the context of this sort of case and at its heart lies that issue of the mother's trust in the communication and the communicator. I saw the mother that Dr Baker and Ms Rickman saw. I suspect His Honour Judge Thorp saw the mother Ms Robinson and Mr Beckwith saw.

53. Of course, in many cases this might be interpreted as manipulation; that the mother was agreeable with those who agreed with her and disagreeable to those who disagreed with her. However, in this case I'm satisfied that this would be to misinterpret the position. The light shed by Ms Robinson and by Dr Baker on the mother's life experiences both in particular but also in general as a deaf and Deaf woman and mother enable one to see the mother not as a one dimensional obstructive and hostile mother but as a complex and vulnerable woman whose childhood provided her with shaky foundations for adulthood in a hearing world and who like many other Deaf adults face a constant struggle to understand and be understood and to overcome challenges which for the vast majority are no more than a small pothole in the road of life, but which for a deaf adult may either be or appear to be, a chasm which will take immense effort to bridge. Combined with the small or large acts of discrimination that the mother will undoubtedly have faced, navigating daily life can be seen as a far more significant challenge than it might otherwise appear. That the mother has achieved what she has is a credit to her. Understanding the mother in these terms of reference it seems to me has allowed everybody involved and in particular myself to approach the case rather differently. The mother's attitude to the father, to the findings and to all involved in the case needs to be reassessed in the light of this understanding. This is not to say that the mother's Deaf status provides an excuse for poor parenting; Ms Robinson is right in that. What it does allow one to evaluate more fully and fairly is how the mother came to reach her beliefs about the father and why she has not been able to help the child better make the transition into adolescence and to independence from her.
54. The additional insight that I have gained into the case from learning more about the child and the complex interweaving of his autism, CODA status and parental conflict in litigation has also tilted the axis of this case. the child is plainly not just a child who has been influenced by his mother's hostility to his father but is a product of the whole of his complex life and all that he has experienced with the added dimension that the end product is then also filtered through the prism of autism. As Dr Baker explained applying assumptions about neuro typical children to children with autism is fraught with potential for misinterpretation or misunderstanding. the child's status as a CODA where his first language is BSL and understanding what I do about the impact on a CODA child's attitude to his Deaf parent provides me with far greater insight into why the child is so closely aligned with his mother. An understanding of his autism and how that impacts upon his ability to communicate and to understand communications, perhaps in particular with his father illustrates another dimension to the case. Dr Baker identified that many parents of autistic children would struggle to understand their condition and how to adjust their parenting to accommodate it. He also identified that separation of parents of an autistic child provided fertile ground for disputes and misunderstandings to emerge.

55. The combination of factors in this case have plainly contributed in significant measure to the stasis that had developed by 2018. The efforts of all involved since including those of the parents but in particular the experts instructed now appear to have provided a possible solution to that stasis and a means by which the child's anxiety, his delayed development and independence and his relationship with his father can be constructively addressed. The package proposed by Dr Baker and Ms Rickman with both the parents and with the child is a central plank of it, but it is not the only part. The access to parenting support for the mother provided preferably by a deaf person, perhaps guided to some degree by Dr Baker's insight into the child's autism and his anxiety, the work that the father will also do and the other elements of the supportive structure provided by a team around the family will all play a role.
56. If all of the relevant components are in fact available this is a unique package and indeed a unique opportunity to redress some of the harm that has been done to the child as a result of the breakdown in the parent's relationship and its consequences. It is reassuring that the work which is now being proposed is, as Ms Rickman identified, similar to that which Dr Duprey identified some three years ago. Ms Rickman described how she and Dr Baker prepare for the meetings with the interpreter and debrief afterwards. It is a very thorough process and that must have contributed to the relative success that the process has achieved so far. The thoroughness of the process has undoubtedly in my view contributed to the mother's faith in the process in particular but also that of the father. Both Dr Baker and Ms Rickman are conspicuously professional, even-handed and non-judgemental. Whilst they have formed their assessments and carry out their work with a knowledge of the past, their work is essentially forward-looking and recognises that some elements of the history of this case are simply not capable of constructive engagement at the present. Their hope, and indeed expectation if the work is successful, is that issues which currently appear insoluble will either evaporate or become capable of untangling.
57. With the expertise of Dr Baker and Ms Rickman and the willing engagement, trust and faith that the mother and father are putting into the process it seems to me that the foundation are constructed for a more positive future.
58. Whilst there are subtle but important differences between the parties as to the care plan all are agreed on its essential elements. With the resolution of the funding gap, the work of Dr Baker and Ms Rickman is secure; assuming they continue to report positive engagement and progress. They themselves now identify loose timescales and goals which appear to me to be sensible and which strike the balance between too much definition and too little. I entirely accept Dr Baker's evidence that setting a deadline for contact between the father and the child would be entirely counter-productive and divert the focus from more important work. I accept his Assessment that helping the child cope with his anxiety whilst the parents develop a greater degree of trust and cooperation will in due course open the door to a conversation with the child about his relationship with his father and to his beliefs as to what may have happened in the past.
59. I do not believe that it is possible to identify a plan B for inclusion in the care plan at this stage. Both the father and Ms Robinson/Mr Beckwith advocated in favour of a plan B in the form of a last resort removal of the child from the care of mother. This was described variously as a safety net in the event of the failure of the current plan. However, this might be perceived more as the sword of Damocles hanging over the

mother than as a safety net waiting to catch the child. Dr Baker and Ms Rickman, the social worker and the Guardian did not believe that it would be either helpful to the therapeutic process or sufficiently predictable to include. The difficulty with identifying alternative options in the future is that there are so many variables in play that it becomes a matter more of speculation than sensible prediction. What may be appropriate in the future will be a complex function of what has happened to the child and to his parents over the period of time which passes between now and any future re-evaluation. Dr Baker noted that he was unable to give an opinion on the impact on the child of removal even at this stage given he had not yet completed his assessment of the child's autism. What will be appropriate for the child in the event of any breakdown in this process is almost impossible to predict. One might as easily incorporate in the care plan the conclusion reached by His Honour Judge Thorp namely that all efforts at contact should cease. One might speculate that the removal of the child into some sort of boarding school or residential unit might be plan B. None of them are capable of being sensibly predicted or formulated. It seems to me that if the current plan does not progress in the way envisaged that the response to such a failure will depend upon the nature of any progress that has been made, the situation of the mother, the father and most importantly of the child at that time.

60. The principal issue upon which the parties were not in agreement was the legal framework under which the care plan should be implemented.
61. Whether a supervision order or a care order is made there is acceptance that the threshold for public law intervention is established. All parties accept that a summary formulation of threshold which will support the therapeutic process is more appropriate than a detailed dissection of the failures of the past. I am therefore satisfied that the child has suffered and is at risk of suffering significant harm in the form of a breakdown in his relationship with his paternal family, the development of significant anxiety and a failure to develop towards independence throughout his adolescence. That arises from the parenting that he has experienced not being that which it would be reasonable to expect from his parents. Although the main focus has been on the mother and indeed, she has been responsible for his care almost exclusively for the last three years, it is a failure in parenting collectively as well as individually that has led to the harm. I do not think either parent recognised fully the complexity of the situation that they were in or were sufficiently equipped emotionally or informationally to deal with the consequences of the breakdown of their relationship and the repercussions for the child. The mother in particular since has perhaps retreated somewhat into a bunker both in respect of the father and in respect of how to respond to the child's autism and failure to develop. Whilst the situation she faces as a Deaf adult has contributed to this, she also is the child's primary carer and bears a responsibility for it.
62. As both parents are at heart, good people who want the best for their son and who have considerable skills or capacity to meet his needs, the descent into conflict and rupture of the father son relationship suggests both that very considerable support is needed to help rebuild and that the process of rebuilding will be a lengthy one. This is not the re-erection of a portacabin but rather the reconstruction of a fallen temple.
63. I fully accept that the local authority's support for a supervision order in tandem with a child in need plan is their sincere evaluation of what will best promote the success of the plan. I accept that it is not inhibited by a cultural reluctance to have in place a

care order whilst the child remains at home or that it is resource linked. The resources which the local authority have already dedicated to this case and which they are prepared to invest in the reconstruction process, particularly in a hard-pressed local authority in the current climate, would not support a resource driven decision.

64. One obstacle, which the local authority properly identified, and indeed which Dr Baker and Ms Rickman identified was that sharing of Parental Responsibility, the parents would be essentially counterintuitive to the process of encouraging them to exercise parental responsibility jointly. The experts identified the removal of Parental Responsibility from the parents as a negative. The Local Authority were concerned that the parents might abdicate responsibility or might seek to sign up the local authority to their point of view. I do not consider this to be a risk of any magnitude in this case. Both parents have demonstrated a real desire to exercise their Parental Responsibility in the past and my assessment of them as individuals is that they are not people who look to others to take decisions for them but rather prefer to take responsibility for their own lives. I therefore do not think that this issue presents any real obstacle to the making of a care order.
65. Another concern was there was no identifiable issue at the present time where the local authority might need to share parental responsibility or to exercise a priority in parental responsibility and decision-making. Whilst it may not currently be evident where the local authority might be called upon to exercise Parental Responsibility one cannot disguise the fact that for the last six years there has been obvious difficulty in the joint exercises Parental Responsibility. Whilst the therapeutic process has got off to a positive start one cannot be complacent that the process will lead to complete agreement on all issues between the parents. Mr Beckwith in particular along with Ms Robinson noted the risks of over optimism. Given the long history and the fact that a further four years will pass before the child reaches his majority, the ability of the local authority to exercise Parental Responsibility in the event of either an acute failure of the process or in respect of relatively minor issues which might escalate if there is no means by which a resolution can be reached other than by court action or by unilateral action provides a valuable safety valve.
66. Another, and perhaps the most significant component in their thinking is the issue of how the making of a Care Order will be perceived by the mother and whether it will undermine the therapeutic process. Dr Baker and Ms Rickman were both concerned about this, although they were not black and white and considered that there were more nuances. What they had not had the benefit of was hearing from the mother herself as to her attitude to a Care Order and her willingness to contemplate either. As Ms Phillips said her evidence was in a sense a game changer as it opened the door far more widely to the possibility of a Care Order. Had the mother perceived a Care Order as threatening removal of the child or as some other significant criticism of her or punishment that would have represented a brake or block on the therapeutic process. However, she did not see it in that way and considered that if it was the best way of supporting the child it would be a positive thing. That possible obstacle to the success of the therapeutic process was therefore removed.
67. In respect of how the child might perceive the making of a Care Order Dr Baker seemed clear that it would be to do with messaging. Given that the mother, the most important immediate conveyor of messaging, would be positive or at least neutral about it there's no reason why the child should perceive it as something to be fearful

of or anxious about. Dr Baker, the social worker and others will be able to convey the message if a Care Order is made that it is a positive for him, and advantage.

68. It is curious that a Care Order carries with it in the minds of many an essentially negative connotation implying removal of the child from the family. As Ms Robinson and Mr Beckwith emphasised in their view a care order can and in many cases should be viewed as an essentially positive order from the child's point of view in particular. The word care in this case in particular can and should be viewed as supportive and nurturing rather than malign and overbearing. It is important to see a care order holistically in this case with all of its facets contributing in various ways to an environment which cares for the child, which supports his parents, and which promotes his development. If one were to choose an analogy I would prefer to see a care order not as a safety net into which the child might fall but rather as the scaffolding within which the edifice of his parents relationship and their ability to care for him is reconstructed from the currently damaged structure which has fallen into disrepair as a consequence of the conflict between the parents, the father's absence from the child's life and the inability of the mother to fully meet the child's needs. That scaffolding will enable the structure to be rebuilt, renovated or extended as necessary. That process of reconstruction of the parent's relationship and the delivery of help to the child is likely to be a protracted one which will require the scaffolding to remain in place for some time to come. In due course hopefully the scaffolding of the care order can be taken down and the structure which will then be revealed will be one where the parents are able to cooperate in their parenting and the furtherance of the child's development and where he himself will have acquired the tools to manage his anxiety and to make a successful transition into adult hood.
69. I acknowledge that one disadvantage of the making of a Care Order would be the disappearance of Ms St Clair from the scene as the case would transfer to a different team. That is unfortunate given the valuable role that she could play in ensuring that the care plan remains on track and coordinating between the various players. She has a relationship with the child. She understands the case as she has been involved in it for a year and understands what has happened in court and the penumbra of thinking which will surround the eventual care order and its implementation. A new social worker will simply not be saturated with knowledge in the way that she is. I think Ms St Clair also has some personal investment in the child and his family's future which will be difficult to replicate. However, Ms Sinclair may not remain the child social worker in any event; her life extends far beyond her responsibility for the child likewise her manager. If it is at all possible, I would urge the local authority to allow her to remain involved in the child's case to ensure that the translation of the care plan from paper into day-to-day reality takes place. With a Care Order comes in Independent Reviewing Officer who has an individual responsibility for the oversight of the care plan and the child's welfare, and I'm satisfied that this will be a valuable part of the process to ensure that words become reality.
70. Another valuable part of the care plan is the fact that it is in place until the child reaches the age of 18, unless discharged earlier. It may assist in him accessing the wider range of resources which form part of the team around the family approach. It may assist him as he approaches 18 with the deployment of further resources under a pathway plan. It also avoids the possibility of the reignition of litigation at a crucial moment. A Supervision Order can only be made for a period of 12 months and this

would result in it falling for consideration of renewal at around the nine-month mark. It is at the 6 to 9 month mark that the process of therapy will be coming to its apex and it would be potentially damaging to that process for the parties to be distracted by the thought of extension of the Supervision Order, discussions in meetings of how it was to be approached with the small but significant risk that a bump in the road at that stage might tempt one of the parties to reconsider litigation as a better alternative. All of that would be wholly counter-productive. A Care Order will not carry with it the same element of risk. It will of course be open to a party all the Local Authority to apply to discharge the care order and indeed the Local Authority is under a statutory duty to review the need for the child to remain on a Care Order. However, given that I have identified the resolution of the complex issues of risk and their solutions as being at least medium if not long-term a 12-month Supervision Order is inconsistent with those sorts of timeframes; even allowing inclusion of the possibility of renewal. Although it is a relatively minor point, I also note that a Care Order will involve fewer statutory visits by a social worker to the child which may be an advantage in allowing Dr Baker and the child to develop their rapport as they seek to make progress in relation to the child's anxiety and his relationship with his mother and father.

71. I'm therefore satisfied that a Care Order is the appropriate legal order. It is the order which will best promote the child's welfare and I'm satisfied that it is both necessary and proportionate in this case and ultimately is the least interventionist order that is consistent with the promotion of the child's welfare. I see it as an essential element of scaffolding to the rebuilding work that will be going on between the mother, the father and the child. It will support that process and enable them to undertake that process with the greatest security and stability. Anything less it seems to me would be uncomfortably flimsy and thus less helpful.

Conclusion

72. I will therefore make a care order within which the care plan, suitably tweaked to reflect the changes in funding, commitment to parenting support, goals and loose timeframes, will be implemented. The care order is the best support that the state can provide to this family in fulfilment of our society's obligation to support those who are vulnerable and in need of a helping hand.
73. This is my judgment.