



Neutral Citation Number: [2020] EWFC 38 (Fam)

Case No: ZW19C00360

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 11/05/2020

Before :

THE HONOURABLE MR JUSTICE HAYDEN

Between :

London Borough of Haringey	<u>Applicant</u>
- and -	
the mother	<u>1st Respondent</u>
- and -	
the father	<u>2nd Respondent</u>
- and -	
A & B	<u>3rd Respondent</u>
(by their Children’s Guardian)	

Mr Alistair Perkins (instructed by the London Borough of Haringey) for the **Applicant**
Ms Anita Guha (instructed by Freeman solicitors) on behalf of **M**
Ms Caroline Budden (instructed by Osbornes solicitors LLP) on behalf of **F**
Ms Gemma Kelly (on behalf of the Children’s Guardian)

Hearing dates: 9th, 10th, 11th, 12th & 13th March 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.

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THE HONOURABLE MR JUSTICE HAYDEN

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.

Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by email and release to BAILII. The date and time for hand-down is deemed to be at 10:30am on Monday 11th May 2020.

Mr Justice Hayden :

1. These proceedings concern (A) who is 14 years of age and his brother (B) who is 12 years. A has complex health and social care needs. The most serious aspect of his condition relates to quadriplegic cerebral palsy. He is fed through a Percutaneous Endoscopic Gastrostomy (PEG), he experiences epileptic seizures and delayed swallowing. He is unable to communicate verbally but can do so in other ways. A has severe cortical visual impairment and significant learning needs. None of this however eclipses his vibrant, gentle and kind personality. It is plain to me that A inspires all whom he comes in to contact with, not least his parents and younger brother. B is also an impressive young man, he is polite and respectful to everybody he encounters and he has been a great support to his mother. I am told that B has a good sense of humour. He enjoys school and is doing well with his studies. It is obvious from his last meeting with the Guardian that he is feeling the strain of these proceedings.
2. I first encountered this family in proceedings instigated by the mother which were motivated to achieve adaptations in the family home which would enable A to live there in a way that promoted his physical capabilities most effectively and respected his dignity. The Local Authority were dilatory in meeting the raft of statutory obligations that require them to address A's needs. The mother was simply not prepared to allow her son to be neglected or marginalised. Though she had tried to care for A, with very little support, she was ultimately physically unable to do so. In consequence A had been placed in a temporary residential unit where he has remained, in an unplanned way, for far too long. He was placed there on 25th September 2017. He became a "looked after child" on 11th October 2017. This unit, is, all agree, staffed and managed by people of outstanding commitment and talent.
3. They have provided a space in which A has been able to blossom and reveal a great deal of his potential. This placement has been complimented by the support of a school which has been equally successful in developing A's talents. A's father, in particular, is fulsome and generous in his praise and thanks for everything the school has achieved for his son. Marvellous though all this has been, A has not been at home. He fervently wishes to be so. He is entitled to be at home, he has a right to be and it is profoundly sad that this has not happened. Much of the delay has been due to the bureaucratic sclerosis that has dogged the Local Authority, a great deal of it relating to the allocation of funding. The mother has been unyielding in her pursuit of adaptations to the home that give A exactly what he needs. In the litigation the mother considered that this court had been helpful to her in achieving her objectives. After a long battle the mother did, finally, achieve the adaptations to the home that she had sought. The mother was, rightly, proud of what she had achieved for her son. The cost of the project exceeded £340,000. The mother was obviously delighted by the outcome indeed, she had invited me to see the home and meet A when he finally returned to them. I had indicated that I would visit and hoped to be able to do so.
4. I should record that the parent's marriage had broken down in circumstances of mutual recrimination and considerable acrimony. Indeed, there were allegations of verbal and domestic abuse which led to the police being called on two occasions. On the second of these, the 16th February 2018, the parents both made allegations of assault against the other. By this time the father had moved out of the home but was visiting to collect B for contact. The father was arrested and interviewed but not charged.

5. It is right to say that the father has recently impressed all those who have met with him to investigate this case. His love for his children is deep and manifest. What I found particularly striking about his evidence was the extent to which A's disabilities were barely considered by the father to be anything other than a practical need. The father sees only his son's personality, temperament and ability. He barely notices A's disabilities. This is not because he ignores them or seeks to wish them away, it is because they are, for him, only a very tiny part of who his son is. I found the father's evidence to be both moving and insightful. It is also obvious from everything else I have read that A's relationship with his father is spontaneous, warm and loving. It is striking, therefore, that the father took no real part in the litigation directed against the Local Authority to provide suitable and necessary adaptation to the home. When the father did appear, on a couple of occasions in the early hearings, he was profoundly angry and to a degree which he could neither conceal nor wholly control. Indeed, his behaviour in court was only just within the bounds of acceptable. That it stayed within those bounds struck me as requiring very considerable effort on his behalf.
6. The father who I have described above and the man who I am describing at the earlier hearings are not easy to reconcile. At this hearing the father was measured, courteous, reflective and, as I have set out, impressive in his insight into A's needs. It is also important to identify that he was equally in tune with B. It became clear that they had an easy, open and warm relationship with each other. This is a relationship that has survived the breakdown of the parental relationship and, it seems to me, reasonable to infer that this is most likely to have been achieved in consequence of the parent's ability to work effectively with each other, on a practical level, following their separation. Both parents are courteous and respectful to each other. They spontaneously pay tribute to each other's strengths and I have no doubt that this is authentic.
7. The father's anger in those earlier hearings undoubtedly stems from his frustration with the Local Authority's delays and shortcomings. There are many occasions when the father's irritations have been ventilated trenchantly and unambiguously to members of the Local Authority staff and in email correspondence. It is easy to understand why the father might behave in this way and by no means difficult to empathise with the depth of his frustration. It does not, however, justify some of his behaviour. It is, in my view, important that he acknowledges this in the future, if only to himself. As the Guardian has pointed out, A will require the support of social services for the rest of his life. That support is only likely to be effectively delivered, if his parents and family are able to work constructively with them.
8. Sometimes it needs to be highlighted that people go in to social work to do good. It is a simple fact that many social workers carry caseloads that are far too heavy; they are sometimes given inadequate guidance by their line managers and they have, particularly in recent years, been operating in circumstances where resources of all kinds have become depleted. Inevitably, they will get things wrong. Some will simply lack the degree of skill and ability that is required but overwhelmingly they do their best. They are entitled, if nothing else, to common courtesy.
9. Unfortunately, the situation here got to such a pass that the social services declined to speak or meet with the father. I am not convinced that was a proportionate response or a sensible one. It created difficulties of a different kind and contributed, in due course, to the Local Authority making some fundamental errors in which they fell considerably short of their obligations to safeguard and protect the children subject to these

proceedings. It is not in any way inconsistent with what I have said above to expect social workers to exercise a degree of robustness with parents who are anxious, distressed and frightened for their child's future. A temporary restriction or cessation of communication, perhaps viewed as a 'cooling off' period, may well have been appropriate but cutting the father out to the extent they did gives the appearance of petulance. It creates the impression that the welfare of the staff is regarded as having greater value than the welfare of the child. It is encouraging that both the Local Authority and the parents recognise the need for independent professional help to achieve better understanding and reconciliation.

10. Though she presents as strong and articulate it has become clear that the mother is vulnerable and deeply insecure. In July 2018 an anonymous phone call was made to the Local Authority informing them that CC was in a relationship with the mother. CC is a Schedule 1 sex offender who, at the time the relationship commenced, had been released on licence, having served the custodial term of a prison sentence for sexual offences relating to his daughter. In addition, CC had been convicted of possession of an indecent photograph of a child (his daughter). The circumstances of the offence are that CC tickled his daughter, pulling down her knickers and tickling her thighs. Forensic examination of a USB stick, discovered at the home of the child's mother revealed indecent images of the girl's vagina, photographed underneath the bed clothes whilst she was asleep. The depositions reveal CC's daughter to have been profoundly traumatised by the betrayal. In addition to his sentence the Court imposed upon CC a 10-year sexual harm prevention order; restricting his use of spy wear equipment; prohibiting any contact with his daughter without the consent of her mother and social services and preventing contact with any children under 16 unless their parent/guardian is aware of the conviction and consents to the contact. The relationship with CC has been the mother's undoing. She has consistently concealed the depth and extent of the relationship and has lied unembarrassedly and convincingly to the social services and to the Court about the extent of her contact with him.
11. It is an alarming feature of this case that the Local Authority failed, in the initial stages, fully to appreciate the significance of the risk CC posed. I regret to say that social services failed in any way adequately to assess the information that was at their disposal, or easily attainable, in order to conduct a professional risk assessment. There appears to have been a collective professional amnesia in respect of the good practice established in evaluating the risk of child sexual abuse, gathered over the last 30 years. Mr Perkins asserts that the deficiencies identified in this team are not representative of practice in this Local Authority's Children's Services more generally. I profoundly hope that is correct. The Guardian was driven to conclude, and I agree, that this team simply lost sight of the most basic of child protection and safeguarding procedures.
12. Ms Kelly, who acts on behalf of the Guardian, invites me to find that the Local Authority has "*failed in its fundamental duties of child protection.*" Frequently, it is unnecessary or unhelpful to review a Local Authority's conduct of a case. In some circumstances that will cast no light on either the threshold criteria in Section 31(2) Children Act 1989 (CA) nor assist in identifying where the children's future welfare interests lie. In this case, however, it would, in my judgement, fail to do justice either to the mother or to the family more generally if I declined the invitation. Indeed, it strikes me as necessary to review the Local Authority's actions in order fully to understand the present realities for this family. Additionally, though child protection

failings of this magnitude are, happily, very rare they require to be identified when they arise. Moreover, the mother's response to CC must also be set in the context of the Local Authority's own supine reaction to the danger all now recognise he presents. Additionally, the Local Authority's failure to alert the father to CC's continued presence has to be understood by those who will be charged with the challenge of resurrecting the social work/parent relationship. In part but only, in my judgement, to a relatively small degree, I consider the mother's ambivalence in her reaction to CC was reinforced by the fundamentally flawed approach taken by the social services. As is, I suspect already plain from what I have said, I am at a complete loss to understand how the Local Authority went so woefully adrift. I encouraged Ms Kelly to explore this and in response to Ms Kelly's examination in chief, the Guardian, made the following observations:

"I think it's happened because of a lack of knowledge how to work this particular case and a real lack of understanding of what safeguarding actually means. A lack of understanding of role of Guardian, because of that also a 'side' mentality and a lack of liaison with me.

I think there was a time the social worker involvement with mother was perceived as going very well and a loss of sight the primary task was safeguarding. I think the social worker was quite pleased with herself that she was able to develop what she saw as a very good working relationship with the Mother and it became collusive.

That was why I was criticised for being patronising and demeaning. I waited until after the formal LAC Review, so the only people there were me, the social worker and IRO. I was very careful to preserve [the Mother's] dignity. That view continues by the social worker, to the real detriment of A. At the next meeting I recall sitting at the table saying "I feel like I am the lone voice in safeguarding". At the meeting on 26th May I also learned very significant people hadn't been informed about the existence of CC. A's physio hadn't been informed and there was a real failure of working together as to very serious risk around this child. I also raised that for the non-subject child, part of my role was to be concerned."

13. At the hearing in July the question of a risk assessment was canvassed. I was, to say the least, surprised that the Local Authority were resistant to such a course and wanted to proceed with the return of A to a home where the involvement of a Schedule 1 Child Sex offender had not been subject to any real professional scrutiny. The Guardian, who was present at the hearing and shared my views, recalls, and I accept her accuracy, that I described the Local Authority's position as a "*dereliction of responsibility*". I do not resile from that phrase indeed, the evidence to support it can now properly be described as compelling. What is also important to emphasise is that the mother heard all this in the court room. She has acknowledged, without any ambiguity at all, that this court unwaveringly impressed upon her the importance of recognising the risk CC presented and what her own responsibilities were.
14. In her evidence the Guardian, Ms Lorraine Hughes noted that the Local Authority had failed to do any "keep safe work" with B. When she volunteered to undertake it herself, the Local Authority resisted. The Guardian recognised that ordinarily this would not be

the responsibility of the Guardian but was alarmed by this fundamental vacuum in child protection. In June 2019 the Guardian had sent an email to the Independent Reviewing Officer alerting him to her concerns. She told me in evidence:

“...There is a significant gap in education and training and also not just in relation to working with sexual harm but in relation how to work with cases in court.

...If you're a social worker with children you should be fully conversant with everything that children require. Gaining a specialism is very good but if you then lose sight of basic child protection and safeguarding then that child is losing out. I've often advocated when children are involved in proceedings that [the Disabilities Team] works in conjunction with other social workers in the Borough and when they've brought proceedings, the reverse. It's not something that ever happened and both sides lose out.”

15. In her closing submissions Ms Kelly has taken great care to set out, in chronological format, what she contends are the Local Authority's failings. They make for depressing reading and I regret to say they are entirely made out. They were foreshadowed in cross examination by Ms Kelly in her questions to, the service manager and the social worker:

a) The Local Authority gave the Mother mixed messages in Autumn 2018 about whether or not it was safe for the children for her to remain in ongoing contact with CC. For example, the written agreements from 17th October 2018 [I97] and 30th November 2018 [G0a] do not require her to have no contact with CC, but rather for her to prevent him from having contact with the children. The Guardian has described finding it very difficult to get hold of the previous social worker, such that there was inadequate sharing of information between professionals.

b) The Local Authority allocated a social worker in April 2019, with no experience in cases involving sexual risk and just after the Mother had been found with CC on 29th March 2019. This was unacceptable given that:

- i. A was at particularly high risk in light of his disability;*
- ii. B was living at home with no child protection measures in place; and*
- iii. No steps were taken by the social worker or management, to bring her up-to-speed with cases involving sexual abuse.*

c) The social worker even in her oral evidence, failed to have properly read what the previous written agreement actually said, wrongly suggesting the Mother had breached it on 29th March 2019 by having contact with CC. So too did her management [see “Management Update” at I134, C&F assessment from June 2019. It is again suggested she had “clearly breached” the agreement].

d) The Local Authority failed to properly assess the level of risk when the Mother was found with CC on 29th March 2019:

- i. The social worker did not, in the C&F assessment, nor in her oral evidence until pushed in cross-examination, accept that the Mother had placed the children at risk. This was because they had not been present when CC was found by the police: “I can confirm that children were not*

put at risk as CC did not come into contact with the children.” [C&F assessment p.24]

ii. The social worker was told on 5th April 2019 that B knew who CC was and had seen him at a community center, but failed to investigate with him how he knew this and what time, if any, he had spent with a sex offender.

iii. The Mother’s response to the incident was taken at face value and no proper risk assessment undertaken: ‘Since this second appearance of CC, the mother has been very frank and open in relation to the reasoning why the relationship started again. She has expressed she was overwhelmed with her caring responsibilities and needed emotional support. The mother has clearly stated that her children are her focus, and is very aware of the consequences if Local Authority were to find out if relationship had continued. She is aware that even if no contact with the children, and relationship continues, she would need to accept a high level of scrutiny/involvement from children services which she ultimately does not want for herself or her children” [p.24]. The Mother was able to “take in” the social worker and this clouded her judgment.

iv. The Local Authority asserted there should be no risk assessment at all at the hearing in July 2019.

v. The Guardian informed the social worker and the IRO that she was very concerned that the Local Authority was minimizing the Mother’s level of insight in emails and at meetings. This was not taken seriously and the Guardian was in fact accused of being over-critical (see below).

e) The Local Authority failed to take appropriate protective measures when the mother was found with CC on 29th March 2019:

i. The C&F assessment recommended a “tight Child in Need plan” (and no strategy meeting), “three weekly visits announced and unannounced” and a further written agreement. Instead, according to the social worker’s chronology which the social worker said would have been accurate, no further written agreement was drafted and the only visits that year undertaken to B were on 16th May (at school), 28th June, 6th November (B was out) and 9th December (when the Mother and B were out) [C7-8, C40]. This was wholly inadequate monitoring and did not even amount to even the standard level of visits, let alone during a critical period.

ii. The Local Authority failed to put in place any work for the Mother, other than recommending counselling for her. The Guardian had recommended Circles South East at the Transition Meeting on 28th May, working with her to guard against future risk from sexual offenders. Circles South East were not instructed, nor any alternative protective work provided, until the hearing over four months later, on 8th October 2019.

iii. The Local Authority failed to put in place any Keep Safe work for B, despite the recommendations of the Guardian, until after the hearing on 8th October 2019.

iv. The Local Authority did not initiate care proceedings for either child until after the Court gave an indication in no uncertain terms at the hearing on 30th August 2019.

- f) Both the social worker and management failed to take seriously the views of the Guardian:*
- i. As a result of failing to implement the recommended work set out above;*
- ii. At the transition meeting on 28th May 2019, she reiterated her views and stated that she felt herself to be “the lone voice in safeguarding”. Again, this was not taken on board in any meaningful way;*
- iii. Instead, the social worker accused the Guardian of being “demeaning” and sided with the Mother as to her reasons for not ending the relationship with CC. The social worker accepted in her oral evidence she was wrong about this.*
- iv. The Guardian’s views were then shared with the IRO on 14th June 2019 (email as provided to the Court), but still no changes were made “[the social worker] spoke at length of the stresses and strains upon mother and that “we are not dealing with robots who can turn their feelings off.” Clearly she does not share my concerns as to risk and may or may not have much experience in working with those who cause sexual harm”. Still no changes were implemented.*
- g) The Local Authority failed to inform the Father until around June 2019 of CC ‘s involvement with the Mother and the risk posed to his children [I120]. The Guardian would support a declaration being made under the HRA 1998 in this respect, as raised at the final hearing.*
- h) The Local Authority again failed to take appropriate safeguarding measures when the Mother was seen with CC on 19th December 2019”*

16. I have worked very carefully through this litany of failure. It is a tribute to Ms Kelly’s industry and skill that it is set out so carefully and concisely. The above paragraphs however, also illustrate the volume and extent of the mismanagement of the case over many months. There is simply no defence to it nor, in their evidence, did the service manager or the social worker offer anything that came close to an understanding or explanation of how things came to go so badly wrong. I am able to accept these submissions so extensively and without revision or amendment largely because no coherent defence or explanation has been offered. In my view, there can be none. In her evidence the social worker sought to apportion blame or responsibility either to her manager (who has since left) or to her legal department. It may be that both share some responsibility for what has happened here. But none of that avoids the inevitable conclusion that there was a root and branch failure of social work.
17. The social work failures are, in isolation, concerning. Cumulatively, they are profoundly troubling. They signal, to my mind, a need for significant retraining. I hesitate to identify any particular failure as being the most grave or indeed the most conspicuous but the failure to inform the father of CC’s involvement in his son’s lives both initially in the late spring of 2019 and again in January 2020 defies comprehension. It is not only a breakdown in understanding of the fundamental principles of child protection, it is active discrimination towards a father. It is disrespectful to him and it is at least arguable that it is inconsistent with the Article 8 rights of either the children or the father. Ms Budden raises this point in her written submissions and is correct to do so. Her objectives were pragmatic, conceived as a tactical effort to address some of the practical difficulties posed by the significant rental arrears on the renovated property which, I note, was formerly the family home. Those considerations have now fallen

away and I do not consider it necessary or indeed appropriate to resolve this Article 8 point, or any question of damages, at this juncture.

18. Serious though these failings are they do not eclipse the mother's responsibility for her own behaviour, Mr Perkins, on behalf of the Local Authority, submits that the mother revealed herself during the course of the hearing to be "*an accomplished liar*" and "*skilled equivocator*". The mother is, all agree, an intelligent and articulate woman. Both before me, prior to this hearing, and in the assessments, she has been very clear in her articulation of the risk CC presents to both children. In particular, she has recognised A's extreme vulnerability. Her consistent deception about her ongoing relationship with CC has to be placed in this context. I agree with Mr Perkins that the mother's assertion that she was encouraged by a previous social worker to seek out CC in order that she could achieve "closure" is highly unlikely. It is undoubtedly the case that the mother lied about her relationship with CC emphatically to the police in July 2018 and to the social services in August 2018. In September 2018, having been driven to acknowledge the relationship, the mother claimed it had "*finished*" and that she had "*no intention of resuming it.*"
19. It is, as Mr Perkins says, troubling that the mother should describe the Local Authority's response to discovering that she was continuing her relationship with CC in March 2019 as "*overzealous*". The mother's description of it in this way is, to my mind, designed to shift responsibility to the Local Authority and away from herself. It is important that the mother appreciates that my criticism of this Local Authority does not provide a safe haven for her to hide from her own manifest failure to protect her boys. A has now lost the opportunity to live permanently at home with his family in a building that has been expertly adapted to enable him to enjoy as much freedom as possible. It is abundantly clear that this is what A wanted most in the world. It is a tragic irony that A's mother, who fought so hard and for so long to achieve this real opportunity is herself responsible for destroying it. This is something she will have to carry with her. She was repeatedly warned by the social services and by this Court as to the danger that CC presented. At a meeting in which her McKenzie friend was present, on 18th April 2019, the mother articulated a clear awareness of the consequences were she to remain in contact with CC.
20. It is important to emphasise that CC's contact with the mother and with both her boys (as is now acknowledged) occurred very shortly after his release on licence. The contact involved CC making a visit with the mother to A's school and later to a hospital at which A was receiving inpatient treatment. Manifestly, there were very vulnerable children in both places. CC is a man who had never been to prison before and who had caused his own daughter the most acute distress. His experience of custody will have been challenging as a sexual offender against children. On any view one would have thought that he would have gone to great lengths to comply with the terms of his release. The arrogance of this breach of licence and its persistence signals, to me, a man who is lacking in empathy and whose actions are entirely inconsistent with remorse. All this indicates to me that CC continues to present a live, ongoing, high risk to the sexual security of any child. Moreover, it is entirely clear that CC was told in unequivocal terms, by his own sister, that his relationship with the mother was not acceptable and in breach of his licence.
21. Following the anonymous referral, which resulted in CC's recall to prison, the mother filed a statement for the Court stating that she had ceased all contact with him. On his

release from prison CC had the mother's first name tattooed on his ring finger. The mother met with CC at a coffee house in late August 2018, she claimed, in order to "achieve closure". In fact, she returned CC's compliment and had his first name tattooed on her wedding ring finger sometime, in my judgement, later that month. To the extent that she contends that this was done before, I reject her evidence as false. She has made no effort to conceal the tattoo or have it removed or altered in any way.

22. It is important to identify a number of key facts:

"1) On 17 October 2018 the mother stated that she was no longer in a relationship with CC and signed a written agreement agreeing 'to ensure that she informs the Disabled Children's Team if her relationship with CC progresses further.'

2) On 30 November 2018 the mother signed a written agreement agreeing 'to ensure that she informs the Disabled Children's Team if her relationship with CC progresses further.'

3) On 18 February 2019 the mother met with the social worker and confirmed that she is aware of the consequences of her having contact with CC and was advised by the judge against the relationship.

4) On 29 March 2019 unannounced visit at the mother's address was undertaken by; a Jigsaw Unit police officer. CC was present in the mother's bedroom within the home. The mother subsequently admitted to a 'sexual encounter' between her and CC on 29.3.19. Neither child was in the home A was residing in his residential placement and B was on a school trip

5) On 18 April 2019 the mother and her McKenzie friend meet with the social worker. The mother indicated that she was 'more than aware of the consequences if she remains in contact with CC'".

6) On 17 June 2019 the mother signed a statement stating, 'she severed all contact with CC in August 2019' but next had contact with him on 24 March 2019 describes the meeting as 'an error of judgement' concluding that 'it will not happen again'

7) On 19 December 2019 at or about 2130 the mother and CC were together in the McDonalds close to where she lived. The mother was talking with CC, rubbing his back both appeared happy and relaxed. After collecting purchases, the mother and CC left together at the same time.

8) On 30 January 2020 the mother attended a prearranged meeting with the team manager at the social services offices. The mother was informed that she was seen in McDonalds on 19.12.19 with CC talking comfortably in each other's company and leaving together by a social worker who knew her. The mother was invited to provide an explanation in light of the long-standing concerns regarding contact with CC. Initially the mother's response was confrontational alleging the local authority were invading her privacy and threatened to make a complaint. She then stated reasons why she would not have met CC. Thereafter she indicated that she could not recall and/or did not recall meeting with CC.

9) *On 30 January 2020 the social worker visited B at his school. B stated to the social worker that on 19 December 2019 (being the last day of the Christmas term) he left school and thereafter went to the park with his friends. He then brought some food even though he knew his mother would be at home arriving home at about 2.30 p.m. He stated that his mother was at “home whilst he was there... She did not leave the house.”*

10) *On 31 January or 1 February 2020, the mother stated to one of the professionals at Circles South East that; she had “seen” CC in McDonald’s but “it was a chance encounter”, she had ‘bumped into CC’s in McDonalds’ and ‘they were civil to each other’.*

11) *On 31 January or 1 February 2020, the mother stated to the same professional that on 19 December 2019 when she was seen with CC, B ‘was with a neighbour’.*

23. Mr Perkins may be correct to have described the mother’s lies as “*accomplished*”, in the context of her deception of the professionals over many months but that word is not apt to describe her dishonesty in the witness box. When her various accounts and explanations, concerning her meetings with CC, were put to the assay in cross-examination her responses were unconvincing and naïve. The mother’s presentation in her evidence was also rather disturbing. As her credibility disintegrated she became rather petulant and childlike. Her criticisms of the social workers were, at times, incoherent. Though she had appeared confident and articulate in the past, she struck me as having very low self-esteem and a preoccupation with her own physical appearance. Most notably and inevitably it was difficult for her to reconcile her account of her relationship with CC as being confined to relatively few meetings or “*encounters*” with the fact that she had his name tattooed on her wedding ring finger. She told me that B had either not noticed the tattoo or chosen to say nothing about it. I think that is unlikely given the close relationship between the two.
24. There was every opportunity and, as Ms Kelly points out, real forensic incentive for the mother to be entirely open and honest about her relationship with CC. However, her accounts were frequently so implausible that I signalled to her, on more than one occasion, that I was struggling to find her explanations credible. Of significance was the mother’s denial that CC had stayed at her home when B was there. This only came to light when cross-examined on behalf of the Guardian at the end of her evidence. Thus, on a point which was absolutely central to the child protection issue at the heart of the case, the mother was deliberately obfuscating on oath, even at this very late stage.
25. Ms Guha, who has represented the mother with sensitivity and skill, asked me if I would permit her to be recalled, she having had an opportunity to reflect on her evidence overnight and having apparently come to the conclusion that she needed to be more frank with the Court. I permitted the application and the mother gave further evidence. I entirely accept the sincerity of her effort but, I am bound to say, that I found this second tranche of evidence equally disturbing, though for slightly different reasons.
26. Though the mother had persistently contended that the social worker who had seen her in McDonalds with CC was mistaken when she said she saw the mother rubbing CC’s back, the mother now relented and accepted that she had done that. Moreover and,

significantly, she told me that the reality was that she had pursued CC and had done so because she was disturbed that he was no longer interested in her. In relation to a meeting when the mother went to Wales with CC for the day, she now volunteered that she had engineered the trip. She also volunteered that she had gone out of her way to invite CC to her house on the night he was discovered by the police officer. In the light of all this and for the avoidance of any doubt, I do not think the discovery of CC in the house on 29th March 2019 was wholly fortuitous, representing an isolated occasion. I think it far more likely that CC visited the home more regularly. Equally, I suspect that the meeting of CC and the mother on 19th December 2019 may not have been an isolated event. I do not consider it would be safe to regard it as such simply because the mother says so. It is self-evident that the mother's credibility is so fundamentally damaged that it would be unsafe to rely on anything she says where CC is concerned.

27. It struck me that there came a point when the mother's evidence had become so distorted that she had no sense of the impression she was creating. Ironically, it was at this point that her evidence was most convincing. Not only did she volunteer that she had pursued CC but she described a continuing "*sexual tension*" between them even extended to the December meeting at McDonalds. It needs to be identified, very clearly, that this is an entirely different position to the one presented by the mother to those who have been assessing her. It also requires to be identified that in the chaotic and disorganised thinking that characterised her evidence when she was recalled, she continued to cling on to some concept of "closure". She was never really able to articulate what she meant by that or why, given the disintegration of her life and her plans for A, it still remained so important to her.
28. As I have stated, I first encountered this mother when she was battling to get her home adapted for the return of her son. It is sadly now quite impossible to contemplate a return of A to his mother's care, in the light of the compelling evidence of her inability to protect him. That failure extends to B who both the Guardian and the Local Authority consider would not be sufficiently protected by her. I agree.
29. The inevitability of this conclusion is essentially recognised by all the parties. The options are limited. One possibility is that B should move in to his father's flat, which is comfortable but too small for both of them on a long-term basis. A would remain in residential care in his present unit and at his present school. The alternative is that the mother should leave the family home and permit the father to live there with B facilitating weekend and holiday visits by A. On this arrangement the mother would be able to visit, with the father sensitively and unobtrusively monitoring her contact. Both the Guardian and the Local Authority prefer this latter option. In his evidence the fathers struck me as enthusiastic about it, though I find the written submissions, advanced on his behalf, rather more cautious, no doubt arising from the anxiety regarding the extensive rent arrears. The mother would prefer a solution, contemplated by Dr Garrett, which envisaged tailored therapeutic counselling work. This would involve an adjournment of these proceedings for six months.
30. The mother has already been extensively assessed in this case by Dr Anna Gupta, Ms Becky Scott and Dr Tanya Garrett. Dr Garrett provided an extensive and thorough psychological report based on having spent 13 hours with the mother. Dr Gupta's assessment of the mother was kindly but heavily dependent on reportage from the mother. To her credit Dr Gupta acknowledged this. She told me that, in her view, the options are so "*bleak*" for A that she wanted to do anything she could to avoid him

“spending the rest of his life in an institution.” Though well motivated this approach is not a satisfactory substitute for the analysis and reasoning that the situation requires. Ultimately, Dr Gupta was attracted to Dr Garrett’s suggestion that there could perhaps be a 6-month structured therapeutic piece of work helping the mother to understand and address her underlying vulnerabilities. Becky Scott also deferred to this suggestion.

31. I regret to say I found Ms Scott’s report to be unhelpful. She considered that CC posed a lower risk to male children though she stated that *“this possibility could not be ruled out”*. Ms Scott considered (notwithstanding the facts set out above) that CC’s behaviour was *“not indicative of a high degree of sophistication or manipulation”* she concluded that:

“information in respect of [CC] would not indicate that his offending included any significant grooming, rather he appears to have exploited situations which presented themselves”

32. Ms Scott expressed the view:

“whilst I cannot be certain it does not appear that CC was grooming the mother to gain access to her children. I would assess that his interests in the mother was genuine”

33. Later, Ms Scott observed:

“The mother has, in my view, demonstrated a good level of understanding and insight in to the ways in which she can protect her children from the risk of sexual harm. She has considered appropriate and realistic safeguards in order to keep her children safe and has put together a robust keep safe plan as outlined above. She is largely able to take responsibility for mistakes but there are ongoing issues in terms of mistrust of professionals and Dr Garrett’s report raises concerns about the mother’s capacity to engage honestly with professionals. Nonetheless, she reports that she has nothing to hide and understands that professional involvement will be ongoing in respect of A’s care.”

34. In cross-examination Mr Perkins referred to CC as a ‘paedophile’. Ms Scott corrected him. CC, she said, was not a paedophile as that expression is only apt to cover those whose sole sexual interest is in children. Ms Scott considered that as CC has a sexual interest in adult women the label paedophile should not be used. The Guardian did not recognise the nicety of this distinction, nor did she accept a diluted risk to male children. The Guardian was plainly unimpressed by Ms Scott’s evidence and the approach to the case in her report. I consider that Ms Scott’s approach was lacking in forensic curiosity. I agree with Mr Perkins that it is very odd that she did not question the mother as to the symbolism and significance of CC’s name tattooed on her ring finger. Additionally, I can see no basis in evidence for such a benign interpretation of CC’s offending. I cannot see on what evidential premise Ms Scott appears to discount CC’s behaviour towards his daughter as unlikely to be grooming nor do I regard the furtive videoing of his daughter’s vagina with a pen camera to be accurately characterised as *“thrill seeking behaviour which is not indicative of a high degree of sophistication or manipulation”*. It struck me that Ms Scott had ultimately been unable objectively to assess the evidence in this case. Accordingly, I am unable to place any reliance on her conclusions.

Moreover, I consider what I regard as a minimising of CC's offending and consequent flawed analysis of risk will have sent confusing messages to the mother. Again, I emphasise that none of this eclipses the mother's own responsibility, she, after all, has been able to articulate the risk CC represents, though she has been unable to disentangle herself from him emotionally.

35. Dr Garrett was, as Ms Kelly highlights in her closing submissions, measured in her conclusions. This was not a case in which she was "*enthusiastic*" about the prospects of therapy but nor did she consider it to be hopeless. As the children's Guardian, pointed out, it would have been interesting to have Dr Garrett's opinion on the mother's evidence. The Guardian was able to give her evidence having seen the mother give hers. Though the Guardian has been vigilant to ensure that the mother got access to appropriate work and help during the course of these proceedings and though I have not the slightest doubt that she remained hopeful throughout that both boys would stay in or return to their mother's care, her assessment of the mother's evidence was clinical and clear. The mother's evidence had led to the Guardian having "*diminished confidence in the mother's protective capacities*", she considered the mother's credibility to have been fundamentally damaged to a degree that was much greater than that which was already evident. The Guardian had no confidence, at all, in the mother's ability to work honestly and openly with the professionals. Crucially, the Guardian did not consider that therapy was likely to have any impact on the mother's capacity to be honest with the professionals. She came to the firm conclusion that there were few, if any, positive prognostic indicators suggesting that an extensive period of counselling would be productive. Delay, by contrast, she considered would be inimical to the welfare of both boys.
36. Both A and B have lived under the shadow of litigation, of various kinds, for three years. It has inevitably had an impact on their welfare. A has been in a temporary placement that has had to adjust to his permanent needs but was, all agree, for a considerable period not what A required. He has also been deprived of the home life that he so manifestly wanted. Though B has been stoic and phlegmatic, I have no doubt that, as the father suggested, these proceedings will have taken their toll on him. Both these boy's interests require a conclusion to these proceedings. If I considered that delay for therapeutic work had any real prospect of being purposeful, I may well have been prepared to recalibrate the balance but I agree with the Guardian that the scale and reach of the mother's dishonesty and her striking capacity to inveigle gullible professionals in to her own distorted belief structure renders this unlikely.
37. Accordingly, I have come to the view that B should live with his father and be joined whenever possible by his brother. Nothing of what I have said about the mother should detract from her achievements or diminish the contribution that she can and ought to make to her children's lives. As it transpired the mother was ultimately, when confronted with the depth of her feelings for CC, unable to prioritise her children's needs above her own. I have no doubt that with the father's careful scrutiny she can make her contact with them a positive and nurturing experience.
38. The evidence in this case concluded on 13th March 2020, the case having overrun. It was not possible to hear submissions and I adjourned for counsel to prepare written submissions. During the course of the adjournment the country went in to lockdown in consequence of the COVID-19 pandemic. Though there was inevitable delay counsel were able to prepare careful and detailed written submissions and the Local Authority

was able to hone and refine its care planning. I am grateful to each of them for their industry and effort.

39. During the course of writing this judgment I received a message from the solicitor for the social care team advising me that the rent arrears are to be written off on the family home and that this will enable the father to return to the home to look after B in suitable circumstances and to welcome A home for weekend visits and holidays. Mr Perkins has addressed me, in writing, on the scope of Section 33 of the Family Law Act 1996. There is no doubt that these provisions facilitate the transfer of the tenancy of the family home, in the circumstances of this case. At the time Ms Budden submitted her closing submissions the position in relation to the rent arrears, which were very substantial, was not known and so the father has not made an application. I anticipate an application being made promptly and I hope it will move forward by agreement.
40. Accordingly, I make a Care Order in relation to A in favour of the Local Authority. I also consider that it is necessary to make a 6-month Supervision Order in respect of B. I have come to this conclusion recognising that the present uncertainties created by the health crisis are likely to render this family more vulnerable and thus in need of Local Authority assistance. The discharge of the rental arrears has made it unnecessary to deal further with any of the ancillary issues raised.

Post Script

Though this judgment was circulated to the parties on 9th April 2020, publication of it has been delayed, in part due to the challenges posed in the early weeks of the social isolation policy necessitated in consequence of the Covid-19 pandemic but also to hear arguments relating to anonymisation. Those arguments and my judgment are to be found at [2020] EWHC 1162 (Fam).