

1 (Care Proceedings, placement with family member or in foster care.)
2

3 **Mr. Jones** for the **Applicant Local Authority.**

4 **Mr. Murray** for the **Mother.**

5 **Mr. Taylor** for the **Father of C.**

6 **Ms. St. Matthew-Daniel** for the **Father of E and J.**

7 **Mr. Stott** for the **Father of JB.**

8 **Ms. Gibbons** for the **children.**

9 (By their Children's Guardian **Ms. Diane Clarke.**)

10
11 Hearing dates: 7th. 8th. 9th. 12th. 13th. 14th
12 and 16th. January 2015.

13
14 Draft judgment sent out on 15th. January 2015.
15 Judgment handed down on 16th. January 2015.

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18 **Judgment**

1 **Her Honour Judge Brown sitting at Milton Keynes.**

2
3 **I heard evidence over 5 days and heard submissions on the sixth day. By the end**
4 **of the hearing the agreed position of all the parties was that C should remain**
5 **living with his father and that final care orders must be made in respect of E and**
6 **J. In respect of JB it was agreed by all that his proceedings would have to be**
7 **adjourned and further assessments undertaken. The key issue was whether in**
8 **the interim, JB should be placed with his father or placed with his brothers E**
9 **and J in foster care pending the final hearing. In that case, I must determine the**
10 **level of contact between JB and his father. Having heard all of the evidence, I**
11 **made an interim care order in respect of JB and he was moved on 14th. January**
12 **2015 with his brothers E and J to foster care. These are the reasons for my**
13 **decisions.**

14
15 This is the final hearing in respect of four children, C now aged 11, E now aged 9, J
16 now aged 7 and JB now aged 5. Their mother is M who I shall refer to as mother
17 throughout this judgment. The father of C is D who shall be referred to as Mr. D. C
18 has resided with Mr D since 23 July 2014 and he holds parental responsibility for C.
19 The father of E and J is AM who shall be referred to as Mr. M. He holds parental
20 responsibility for E and J and he was married to the mother. He has not had contact
21 with his two sons since September 2008. The father of JB is B and he shall be
22 referred to as Mr. B. He has parental responsibility for JB. The children are all
23 represented through the Children's Guardian Mrs. Diane Clark. They are represented
24 by Ms. Georgia Gibbons. The three younger children have remained in mother's care
25 pending the outcome of this final hearing.

26
27 The Applications

28
29 I say at once that the issues in the case have substantially narrowed and I am grateful
30 to all advocates and the parties for their assistance and cooperation which has led to
31 this. In setting out these reasons I have focussed only on the outstanding issues.
32 There is a wealth of evidence before me and I have considered all of the evidence. It
33 would be a long and cumbersome judgment to rehearse all of the arguments and the
34 reasons for the agreed positions of the parties on so many issues. Given that I must
35 send out this draft judgment within the next 24 hours I have limited my reasons only
36 to those outstanding matters.

37
38 Within these proceedings, the key change of stance has been by mother. With a very
39 heavy heart and no doubt a great deal of distress, mother has taken the painful but
40 realistic step of accepting that none of the children can remain in her care. This has
41 narrowed the range of issues considerably and therefore shortened the hearing.
42 Mother has therefore been in the very difficult position of having to return home
43 every evening after court to her three younger sons knowing that at the end of these
44 proceedings they will be removed from her care. This must have been unimaginably
45 difficult for her and the children. Throughout this hearing, mother has behaved very
46 properly and through her Counsel has informed me that she will do everything in her
47 power to make the transition to the boys' placement as easy as possible, including
48 ensuring that the children's belongings are moved with the children. Mother has
49 offered Mr. B, JB's belongings and his bed to enable JB to settle into his home if
50 indeed that is where JB is being placed. I commend and thank Mother for this stance

1 and whatever the problems of the past, I am extremely grateful to her for the way she
2 has conducted herself throughout this hearing.

3
4 The first key issue for the court is whether the threshold criteria have been met in
5 respect of each of the four children. Once again I am grateful to all concerned for
6 their assistance and the threshold criteria have been agreed.

7
8 The threshold criteria have been agreed as follows:

9 *At the relevant date all four children were suffering and were likely to suffer*
10 *significant harm and that harm or likelihood of harm was attributable to the care*
11 *given to them or likely to be given by to them being not what it would be reasonable*
12 *to expect a parent to give to them.*

13
14 *The relevant date is the date of issue proceedings, namely 18 July 2014.*

15
16 Particulars of harm

17
18 *Domestic violence.*

- 19
20 1. *Throughout their lives the children have been exposed to incidents of*
21 *serious domestic violence between the mother and various partners which*
22 *has caused them to suffer or be at risk of suffering physical and emotional*
23 *harm. On 9.12 13 P M assault the mother which E became aware about. C*
24 *has vivid memories of violence against his mother [C13 paras 41, 43]*
25
26 2. *The children regularly present with cuts, marks and bruises and the mother*
27 *is unable to account for them. In particular*

28
29 (1) *On 9th January 2014 X School made a referral about JB in*
30 *respect of a bruise on his buttock [C15]. He told the school*
31 *that he slept too long and his mother punched him. The*
32 *mother denies this.*

33 (2) *E was seen with bruises on his arms and neck and J was*
34 *seen with a carpet burn on his back on 13th May 14 [C16].*

35 (3) *On 30th June 14 year J had a bruise on his neck [C16 para*
36 *56]*

- 37
38
39 3. *The children have disclosed being physically hurt by C left when left in his*
40 *care most recently on 10.6.14. [C14 para 49]*

41
42 *Emotional harm*

- 43
44 4. *E has to be regularly restrained by 2 to 3 members of staff at school and has*
45 *reported that he wants to kill someone or kill himself [C14 paras 44-46]*

- 46
47 5. *Leading up to the issue of proceedings E and J's behaviour had drastically*
48 *become more volatile and was bordering on being unmanageable [C14 paras*
49 *44-48]. Wendy Franza of CAS concludes that E and J have suffered*

1 *significant emotional harm [C80 para 5.1]*
2

3 **6. C has witnessed violence between the mother and her various partners [C14**
4 **para 43]**

5
6 **7. J has told his teacher that PM, the mother's partner, used to hit her [C13**
7 **para 41]**

8
9 **Neglect**

10
11 **8. The three younger children regularly present as dirty and smelly at school.**
12 **[C17, para 61, C67 para 66]**

13
14 **9. All four children regularly reported that they had had nothing to eat and**
15 **were hungry at school [C17, para 61, C18 para 67]**

16
17 **10. The children's medical needs were being neglected. E and J regularly wet**
18 **themselves and E has ongoing problems with diarrhoea causing him to be**
19 **smelly. All of the children's clothes smelt [C17, para 61]. The mother has**
20 **failed to address these problems appropriately. [C18 para 68-71, C18 para**
21 **74]**

22
23 **11. The mother is a chronic alcohol user. On 4.11.14 6 cm hair samples were**
24 **collected from the mother. The report of Alere Toxicology strongly suggests**
25 **chronic excessive alcohol consumption by the mother. The segments**
26 **represent the period from 4.4.14 to 8.10.14. [E68-80]**

27
28
29 **Risk of physical or emotional abuse**

30
31 **12. The children have been left with babysitters who were booked from the**
32 **internet or not known to the mother and are not CRB checked. On 13.5.14**
33 **the mother was advised not to use unregistered baby sitters.**

34
35 **13. E has disclosed that a ghost comes into his room and gets into his bed**
36 **leaving white slime which has raised a suspicion of sexual abuse [C19 para**
37 **77]**

38
39 **14. All four children are at risk because of the mother's chronic alcohol use.**

40
41
42 **Lack of insight**

43
44 **15. The mother has denied the extent of her difficulties and lied about her**
45 **alcohol use and the impact which this has had upon her parenting. Her level**
46 **of denial has impacted upon her insight into the children's needs.**

47
48 I accept these concessions and find that the section 31 threshold criteria are satisfied
49 in respect of each of the four children on this basis.

1 **The Position of the parties by the conclusion of the hearing and the remaining**
2 **issues.**

3
4 The situation now is that all relevant parties support a Child Arrangements Order
5 being made in respect of C in favour of Mr and Mrs. D. There remain outstanding
6 issues in respect of contact. The local authority applies for Care Orders in respect of
7 E and J. These applications are not opposed by mother and Mr. M and they are
8 supported by the Children's Guardian.

9
10 The position of JB is the most difficult. At the start of the hearing the local authority
11 sought a final Care Order in respect of JB with a care plan to place JB with his two
12 brothers E and J. The local authority has identified a short and medium term foster
13 placement for all three boys. The foster carers are both in their sixties and therefore it
14 is felt that they are not suitable carers for all three boys for the long term. The local
15 authority will endeavour to find a long term foster placement for all three boys
16 together but if that is not possible, JB will be placed separately in a foster placement
17 with E and J remaining together.

18
19 During the hearing Dr. Green (a psychologist who had undertaken an assessment of
20 Mr. B) attended at court to give evidence. It emerged that he had not seen Mr. B's
21 medical records. Ultimately the decision was made that Dr. Green would attend court
22 on a different day to give evidence having read the records. Dr. Green was then
23 unexpectedly taken ill and was unable to attend court. That meant that I could not
24 complete the evidence in respect of the case concerning JB. That however left the
25 issue of interim placement live. I should also say that by the end of the local authority
26 evidence it was clear to me and indeed to the local authority that further assessment
27 was needed in respect of Mr. B's ability to care for JB before I would approve a care
28 plan for long term foster care and removal of JB permanently from the family. The
29 issue therefore became whether pending further assessments, JB should be placed
30 with Mr. B or placed with his brothers in foster care and if placed in foster care, what
31 should the level of contact be between JB and his father. The local authority
32 supported by the Children's Guardian applied for an interim care order being made in
33 respect of JB with staying contact between JB and his father and further assessments
34 pending a final hearing.

35
36 Mr. B opposed the interim care plan for his son and continues to oppose any
37 suggestion that JB be placed in foster care even for a short period of time. His case is
38 that he has a good relationship with his son and he can resume full time care of JB
39 immediately. Whilst mother is distressed about the three boys being separated, on
40 balance she supports J being placed with Mr. B. At the beginning of the hearing the
41 Children's Guardian cautiously supported the placement of JB with his father.
42 However, the Guardian's position now is that she supports an adjournment of the final
43 hearing and placement of JB with his brothers in foster care pending further
44 assessment of father and his partner Ms. M.

1 The Remaining Issues.

- 2
- 3 1. Should JB be placed in foster care under an interim care
4 order with his two brothers E and J pending further
5 assessment of Mr. B and Ms. M or should he be placed
6 immediately with father and Ms. M pending further
7 assessments?
- 8 2. What assessments should there be?
- 9 3. What level of contact should there be between mother and
10 each of the four children in the short, medium and long
11 term?
- 12 4. What level of contact should there be between Mr. M and
13 his two sons?
- 14 5. If JB does not live with Mr. B what level of contact should
15 there be between JB and his father pending further
16 assessment?
- 17 6. What inter sibling contact should there be in the short
18 medium and long term?
- 19

20 Therefore the agreed positions of the parties are as follows;

21 A Child Arrangements order in respect of C in favour of Mr and Mrs. D.

22 Care Orders in respect of E and J approving a care plan of long term fostering.

23 An adjournment in respect of the proceedings relating to JB with further assessments
24 required.

25

26 The local authority proposals in respect of contact are as follows;

27

28 Local Authority proposals

29

30 **Phased reduction in contact for mother with E, J and JB.**

- 31
- 32 1. first four weeks
33 Weekly supervised contact for one hour after school at contact centre
34
- 35 2. next six weeks
36 Fortnightly supervised contact for one hour after school at contact centre
37
- 38 3. Then one further contact after three weeks
39 Supervised contact for one hour after school at contact centre
40
- 41 4. Then one contact after four weeks
42 Half day/3 hours supervised contact in the community
43
- 44 5. Then contact four times per year – once in Easter and Christmas holidays
45 and twice in the summer holidays – starting in summer holidays
46 Half day/3 hours supervised contact in the community
47

48 **Inter-sibling contact**

49

50 Twelve times per year

1 All parties agree that the four siblings should have monthly inter sibling contact
2 wherever they are placed.

3
4 In respect of the local authority's proposals for reduction of contact between the
5 children with mother, they are agreed by all relevant parties until the stage when
6 contact reduces from monthly to four times a year. Mother and the Children's
7 Guardian supports there being ongoing monthly contact between the children with
8 mother. At first the Children's Guardian's proposal was that monthly contact should
9 continue until a permanent placement is found for the children. I suggested to Mrs.
10 Clarke that one way forward may be to put a time limit on contact taking place on a
11 monthly basis and that after for example 12 months, contact between mother and the
12 children should reduce to four or six times a year. In evidence the Children's
13 Guardian supported this. In her report Mrs. Clarke had supported a reduction of
14 mother's contact to a minimum of six times a year and in evidence Mrs. Clarke
15 suggested a minimum of four times a year. By the end of the hearing Mrs. Clarke's
16 position is that she does not feel strongly about whether contact is placed at a
17 minimum of four or six times a year but stressed the importance of constant review of
18 contact looking at the particular needs of the children rather than simply applying a
19 generic formula with which professionals feel comfortable when looking at a long
20 term fostering situation.

21
22 In respect of the position of Mr and Mrs. D, their proposal is that they fully support
23 monthly inter sibling contact. They support mother joining 6 of those contacts and in
24 addition they would organise 4 contacts between C and mother in X town, supervised
25 by Mr and/or Mrs. D. If I were to order that mother has monthly contact with the
26 children as part of the monthly inter sibling contact, it may be that the extra four
27 contacts for mother are not arranged. The local authority does not wish to stand in the
28 way of these private arrangements for C.

29
30 In respect of JB there is a difference of professional opinion about the level of contact
31 between JB and his father. The local authority recommended that on the days that JB
32 has contact with his mother on a Friday he returns to the foster carers' home with his
33 brothers and then goes to his father on a Saturday morning and remains with his father
34 until school on Monday morning. However as contact decreases, the local authority
35 accepted that JB should be picked up by his father after school on Friday and remain
36 with his father until Monday morning. The Children's Guardian supported JB going
37 straight to his father's home every Friday (either after contact with mother or if no
38 contact straight away) rather than return to the foster placement (although she
39 recommends that JB has some time - possibly 15 minutes - with his foster carer after
40 contact to ensure he is happy and settled after the contact with mother.) One of the
41 reasons for this is that the foster placement is a one and a half hour journey from Mr.
42 B's home. The local authority and Children's Guardian support JB being placed with
43 Mr. B for half of the half term holiday starting on 13th. February 2015.

44 In respect of contact between E and J with their father, there is agreement that the first
45 indirect contact between E and J should be within the next three months. The
46 Children's Guardian and Mr. M would thereafter like there to be monthly indirect
47 contact. Counsel on behalf of Mr. M argued that I should order this indirect contact to
48 take place and that I should also at the least order a review of this indirect contact
49 expressly to consider whether direct contact can start. It was strongly argued that the

1 position of Mr. M is likely to become sidelined unless an order is made to focus the
2 mind of professionals in the future.

3
4 I heard evidence from Dr Sarah Helps, the social worker Ms. Amanda Haydock, Mr.
5 B's partner Ms. M, Ms. Wendy Franza worker with the court assessment team, father
6 Mr. B and the Children's Guardian.

7
8 Dr. Helps has prepared a report in respect of mother and the four boys. I accept the
9 evidence of Dr. Helps together with the evidence of the social workers and the
10 Children's Guardian that mother is unable to meet the needs of any of her four
11 children. I have read the report of Dr. Helps with care and it is clear to me that
12 mother had a very difficult childhood due to her own mother's mental health
13 difficulties. This no doubt is at least part of the cause of mother's alcohol abuse
14 problems. Given mother's acceptance of her difficulties and her acceptance that she
15 cannot care for her children I need not detail the evidence in this regard any further.

16
17 However, in my judgment Dr. Helps's report was very helpful to understand the
18 difficulties of the boys. In my judgment it is worth reciting Dr. Helps's summary of
19 the three younger children.

20
21 In respect of E Dr. Helps writes,

22 "E is an eight year old boy who has some speech and language difficulties, although
23 the background notes do not give a great deal of information about his conflictive
24 profile. He currently attends a specialist school for children with learning difficulties.
25 The CAHMS view as expressed in their correspondence is that his difficulties are in
26 large part a function of his negative experiences. He has been diagnosed as having an
27 attachment disorder. Parent-child work and individual therapeutic work were
28 recommended to try and treat these difficulties but it is not clear whether the
29 individual therapeutic work for him was ever offered or accepted. At this point in
30 time I am not convinced that individual child psychotherapy is the most appropriate
31 treatment intervention to address his current difficulties. Mother continues to believe
32 that E has something called social attachment disorder. This is not a recognised
33 diagnostic term. CAHMS correspondence confirms that this is not a term they have
34 used. I think she may have become confused over time about professional views
35 about the nature of E's difficulties given the number of professionals he has seen and
36 perhaps a difference of opinion between professionals and between her ideas about
37 the cause of E's difficulties and the views of professionals. However it is clear that he
38 has complex needs which are currently affecting his developmental progress and
39 which are not entirely social/emotional in origin."

40
41 In respect of J, Dr. Helps writes,

42 "J appears to be a typically developing seven year old boy who has significant
43 attachment difficulties stemming from his experiences to date. I do not think J fulfils
44 the criteria for a diagnosis of attention deficit hyperactivity disorder. I think he has
45 tremendous difficulty in regulating his emotions and exists in a state of constant
46 hyper-vigilance, most likely as a result of his experiences. I think that his difficulties
47 can most effectively be described as significant attachment difficulties. I am
48 concerned about how he and the other boys constantly apologise to their mother.
49 While she denies ever shouting or hitting I am mindful of the comments made by C
50 and do not rule out the possibility that there have been times when she has lost control

1 and either shouted in a frightening way or hit the children in an attempt to get them
2 what she wants them to do.

3 J has ongoing toileting problems for which he is receiving some intervention. I think
4 that more intervention needs to be put in place for example giving him very clear
5 rewards for successfully using the toilet when he needs to go.”

6
7 Of JB Dr. Helps writes,

8 “JB seems to be a typically developing five year old boy who made good eye contact
9 and who seemed to be the least emotionally damaged of all three boys. I do however
10 note that his needs tend to get a bit “lost” given the presentation of the older boys. I
11 was concerned that he, like his brothers, was so tuned into his mother’s emotions. No
12 concerns about his development or emotional well being have been expressed by
13 professionals who know him well although he is also to be seen by CAHMS and by
14 Helping Hands service.”

15
16 In my judgment a particularly important comment by Dr. Helps is the following,
17 “The four children have been exposed to many frightening and physically abusive
18 interactions between mother and her male partners. I think that this has made them
19 hyper-vigilant and has contributed to their significant difficulties in regulating their
20 emotions and behaviour.

21 The children have been exposed to their mother’s fragile mental psychological state
22 which I think has also significantly negatively affected them and has affected their
23 ability to make and form a meaningful, secure attachment relationship with her. This
24 is less the case of JB and C than for E and J and it may be that the oldest and youngest
25 boys have been afforded a certain amount of “protection” given their relationships
26 with their fathers. I have not seen the assessment of JB’s father or E and J’s father so
27 cannot comment specifically on the quality of the nature of these relationships or
28 indeed the ability of his father to meet his needs.”

29
30 In her oral evidence Dr. Helps stood by her reports. Regrettably the one key issue I
31 would have liked her assistance upon was Mr. B’s ability to care for JB but Dr. Helps
32 had not been asked to carry out an assessment of him. Dr. Helps confirmed that JB
33 was the least damaged of all of the children. Dr. Helps sees the three younger
34 children as a tightly knit sibling group and that the three boys should be kept together.
35 However, it was pointed out to her that if a placement for all three boys could not be
36 found it would be JB who would be placed in a separate foster placement on his own.
37 Dr. Helps was extremely concerned by that prospect.

38
39 Asked about contact Dr. Helps told me that it is always a balancing exercise but that
40 in general inter sibling contact is less disruptive than contact with birth parents.

41
42 Dr. Helps took the view that a “reasonable level” of contact for the boys placed in
43 foster care would be four times a year. Asked about contact between JB and his father
44 Dr. Helps told me that one needed to be very clear about the purpose of contact.
45 Would it be with a view to a possible placement in the future. If JB is to be placed in
46 long term foster care the level of contact must be set at a level whereby JB can see his
47 father but he can also settle in a placement. Dr. Helps made the point that the boys
48 are used to two of the children having contact with their fathers and having different
49 levels of contact. Dr. Helps thought that the individual relationships C and JB have
50 with their fathers is very important. Dr. Helps told me that she would not want the

1 relationship damaged between JB and his father and was even prepared to accept
2 fortnightly contact between JB and his father as long as JB's life in foster care was not
3 disrupted, for example, JB could join in with holidays with his foster parents.

4
5 Dr. Helps confirmed that as soon as life story work commences for the children in
6 particular E and J, it will be to their benefit.

7
8 Asked about indirect contact between E and J with Mr. M Dr. Helps told me that the
9 boys may not have memories of their father that they can put into words but they may
10 have "bodily feelings" about him which were received when they were "pre-verbal."
11 Her concern about the introduction of direct contact between Mr. M with E and J is
12 that they may see him as some sort of "saviour" who will take them out of care and
13 "the way forward" when in fact this may not be possible. However Dr. Helps was
14 very clear that "it is much better to know and be able to process information about
15 one's parents than to have a black hole about them." They may have some very
16 difficult questions for Mr. M in the future including why they cannot live with him
17 and what happened between Mr and their mother.

18
19 Dr. Helps was asked about moving JB straight to his father's house and she was clear
20 that it would be better to have one move than two.

21
22 In re- examination Dr. Helps was asked about contact with Mother and the boys in
23 foster care and she told me,
24 "I wouldn't be averse to 6 times a year."

25
26 It is important to record that Mr. B is a registered sex offender. He was convicted of
27 two counts of assault and one count of digital penetration against his second wife in
28 2007. These offences arose out of Mr. B finding his wife with another man with
29 whom he believed she had a sexual relationship. Mr. B pleaded guilty to these
30 offences at the first hearing and was given a 9 month prison sentence suspended for
31 two years. His name has been placed on the sex offenders register for 10 years. He
32 sees his probation officer every six months. Mr. B has not been convicted of an
33 offence since that date save for a drink driving conviction in 2009. There have been
34 reports of two instances of domestic violence since that time between Mother and Mr.
35 B with Mr. B alleging mother is the aggressor. There have been no reports of
36 domestic violence between Mr. B and his current partner Ms. M.

37
38 I then heard from the social worker Ms. Haydock. Ms. Haydock has filed 4
39 statements and has been responsible for the children's care plans. Ms. Haydock is a
40 newly qualified social worker. She has set out at some length her concerns about
41 Mother which have in the main been accepted. She is critical of Mr. B. In her final
42 statement at C219, Ms. Haydock sets out her concerns about Mr. B. Her main
43 concern is Mr. B's lack of engagement with her and the local authority. She writes,
44 "Mr. B has been unwilling to engage with the local authority. It has been difficult to
45 get hold of Mr. and meet for assessments and visits." Ms. Haydock sets out her
46 attempts to engage with Mr. B. At times Mr. B has been defensive with her and
47 unwilling to book further appointments. He questioned the need to see her again. On
48 17th. September 2014 Mr. B was involved in a road traffic accident. Ms. Haydock is
49 concerned that the details of the accident as put forward by Mr. B are not consistent
50 with the details held by the police. The police account is that Mr. B left the scene of

1 the accident. Ms. Haydock described difficulties, confirmed by solicitor on behalf of
2 the children, in getting Mr. B to appointments with Dr. Green.

3 Ms. Haydock has observed JB with his father on 26th. November 2014. She writes,
4 “It was clear to see that JB felt comfortable at Mr. B’s home and interacted well with
5 his partner.”

6 Ms. Haydock is particularly concerned that Mr. B has not recognised or accepted the
7 concerns about Mother’s ability to care for JB. This is a particular concern for Ms.
8 Haydock because of the severity of Mother’s alcohol abuse problem and her concerns
9 about Mr. B’s failure to protect JB. She writes,

10 “Mr. B shows little insight into the needs of his son. Mr. B appears to understand the
11 basic care needs such as getting him to school, feeding him and providing him a
12 home. However in relation to JB’s emotional needs Mr. B overlooks this and appears
13 to believe J has not been affected at all.”

14 Ms. Haydock was very concerned that Mr. B had not contacted JB’s school, had not
15 attended parents’ evenings and had not spoken to any of JB’s teachers about any
16 concerns they may have had for JB.

17 Ms. Haydock has been unclear about Mr. B’s personal arrangements although Mr. B
18 explained that he was spending time at Ms. M’s home and hoped to move in with her.
19 Ms. Haydock is critical that father suggested JB moving into foster care pending him
20 being able to make suitable arrangements, ironically the very solution now argued for
21 by the local authority.

22 Ms. Haydock finds it extremely difficult to understand why Mr. B has not been more
23 proactive in seeking to care for JB and has not had JB for staying contact during the
24 proceedings. She is also concerned about how new the relationship is between Mr. B
25 and Ms. M. This is an untested relationship and to put into the mix a five year old
26 child when Ms. M has no children of her own is a concern to her.

27 In my judgment all of the concerns raised by Ms. Haydock are entirely understandable
28 and legitimate and must be taken into account by the court. However I am concerned
29 about this local authority evidence due, in my view, to a lack of analysis in respect of
30 the section 1 (3) factors and section 1 (5) of the Children Act 1989. Ms. Haydock sets
31 out in a balance sheet the positives and negatives in respect of each placement. Under
32 cross examination by Mr. Stott, in my judgment it became obvious that the welfare
33 analysis of the benefits of JB being placed with Mr. B as opposed to long term foster
34 care was inadequate. In stating this I do not want Ms. Haydock to feel disheartened
35 by any criticism. I assess her to be a professional who has tried very hard to discharge
36 her duties in one of her first cases. I accept her analysis of risk insofar as she was able
37 to make one. It is the analysis of what is in the best interests of JB that I am
38 concerned about. Mr. B has not assisted the local authority in carrying out a thorough
39 analysis of the welfare considerations in respect of the different placement options
40 and Ms. Haydock understandably has felt frustrated by what she sees as his lack of
41 co-operation. However I accept the points ably made by Mr. Stott that the analysis set
42 out at C232 – 234 is inadequate and does not reflect the many positives which in my
43 judgment there are in placing JB with his father. Nor does it recognise the risks to JB
44 of the local authority care plan.

45
46 I have also read the evidence of Ms. Wendy Franza in particular in respect of Mr. B.
47 Ms. Franza carried out a first and then addendum assessment. Ms. Franza is also
48 concerned about the apparent difference of account in respect of the road traffic
49 accident that Mr. B was involved in September 2014. Ms. Franza is concerned about
50 the effect on Mr. B of the serious head injury which he sustained in 2003 after he hit a

1 wall in a cycling accident. It was Ms. Franza who recommended the assessment by
2 Dr. Green.

3
4 Ms. Franza sets out that Mr. B has a good relationship with his four children from his
5 first marriage and that he has continued to have contact with them. As she writes,
6 “Mr. B has a positive relationship with his four older children. His ex-wife reports
7 that he has always had a consistent relationship with them, that he is reliable and has
8 had contact with them every other weekend throughout their childhood. This
9 demonstrates that Mr. B has a commitment to his children and prioritises his contact
10 with them. Mr. B is reported to have a positive relationship with all four of his older
11 children and JB has also met them several times. Whatever difficulties Mr. B has had,
12 he has worked hard to maintain contact with all five of his children even though there
13 is a considerable distance between him and his four eldest. He has taken them out
14 every weekend and juggled the needs of four children at once. According to the
15 children’s mother, Mr. B has a positive and loving relationship with each of his
16 children.”

17
18 Ms. Franza views Ms. M as a “positive factor” and “she could potentially be a
19 protective factor for JB.”

20
21 Following on from that assessment the court sanctioned an assessment of Mr. B by
22 Dr. Green who is a chartered clinical psychologist and who undertook a
23 neuropsychology assessment of Mr. B. Dr. Green reports,
24 “I believe that Mr. B has cognitive functioning that is of a good enough standard to be
25 able to recognise difficulties were dangers in the care of his children either from
26 himself or from others present. This will include in my view from the mother of the
27 child.”

28 “Mr. B was open and straight forward in clinical interview about the change in his
29 personality following his brain injury. Mr. B from his description as well as collateral
30 information available to me. Appears to have sustained some damage to his frontal
31 lobes. This is an area of the brain associated with what is called executive functioning
32 which describes an individual’s ability to regulate mood, problem solve. Inhibit
33 themselves from inappropriate behaviour. Whilst Mr. B has had the history of
34 damage to this area it appears that he has engaged and responded well to rehabilitative
35 strategies. He does openly and honestly admit to “mood swings” following the
36 incident but these appear to have decreased in recent years. It s encouraging that both
37 he and his partner with whom he lives, recognise the potential for aggression but
38 neither report any violent outbursts. Therefore whilst it is likely that Mr. B has
39 experienced a change in his personality such that he has become more irritable and
40 possibly aggressive, this would be seen in any individual who had a similar brain
41 injury. It is to Mr. B’s credit that he has worked well with Dr. W and others to learn
42 to control his tendencies towards these phenomena. In my opinion it is likely
43 therefore that given his good start with this set of behaviours, Mr. B will be able to
44 sustain non violent well controlled behaviour in future.”

45
46 After this assessment was completed Ms. Franza completed an addendum report.
47 This was a negative report. Ms. Franza relied upon concerns about the recent car
48 accident in September 2014 and conflicting accounts, continued lack of engagement
49 by Mr. B with JB’s school, lack of acceptance of the concerns arising from Mother’s
50 care of JB, father’s mood swings which occur as a result of his head injury in 2003

1 and a lack of certainty about his plans for caring for JB. There is again real criticism
2 of Mr. B suggesting that JB be moved into foster care pending Mr. B settling his plans
3 to care for JB. Ms. Franza writes,

4 “There are too many risks to consider that Mr. B could provide JB with a safe and
5 stable placement throughout his childhood.”

6 In oral evidence Ms. Franza stood by these concerns but accepted that there was merit
7 in further assessment. Ms. Franza told me that when she had observed JB with Mr. B
8 she saw nothing of concern about that contact.

9 Again whilst I understand and accept Ms Franza’s concerns, there was no analysis on
10 her part of the risks to JB in respect of the local authority care plan. I accept that her
11 role was limited to assessing Mr. B.

12
13 I heard Ms. M give evidence and I have read her statement. Ms. M presents as an
14 intelligent, capable, likeable, organised and disciplined lady. She has an excellent
15 work record and holds down a responsible and relatively well paid job. She is 40
16 years old and has no children of her own. She lives in a one bed roomed, privately
17 rented flat with her cat. She has known Mr. B for three years, has been in a
18 relationship with him for 6 months and allowed him to move in with her at the
19 beginning of January 2015. She was present throughout Mr. B’s assessment by Dr.
20 Green and seemed aware of Mr. B’s background. She has met JB and Mr. B’s 4
21 children in Bristol. She made it clear that she is willing and prepared for JB to come
22 and live with her and Mr. B. She accepted the constraints on space within the flat but
23 told me, “It can be made to work.” She felt she knew JB “fairly well” and described
24 the contact she has had with him on Sunday afternoons. She thinks her relationship
25 with him is “very good” and she will sit with him and cuddle him as they watch
26 television together.

27 Asked about Mr. B’s irritability Ms. M told me that “generally he is fine” but that he
28 “is aware he can lack patience” and that he will become quiet. Ms. M can recognise
29 when Mr. B is not “feeling great” and they will talk about it straight away.

30 Sometimes he can be “quiet” for 2 – 3 hours but he will take himself off for a walk
31 and then he is fine. This can happen up to once per week.

32 Ms. M was not able to tell me whether she would be able to rent a larger property. It
33 seems unlikely that there would be any state assistance because of Ms. M’s income
34 level.

35
36 Ms. M told me that she had accompanied Mr. B down to Y town to see his other sons.
37 She spoke fondly of these children and of their completely different personalities.

38 Ms. M told me that she had never seen Mr. B lose patience with any of his children
39 and that he does not have this “quiet time” phase when with the children.

40 Ms. M told me that she would endeavour to create a “calm warm peaceful structured
41 routine for JB with good food.”

42
43 I heard Mr. B give evidence. He was adamant that JB should be placed with him
44 directly. He is very emotional about the thought of JB of going into foster care. He
45 told me of his difficulties in gaining employment. These are a combination of being
46 on the sex offenders register, of being a plumber without formal qualifications, of
47 being in the accident in September 2014 and now of having to consider child friendly
48 hours. Asked about why he had not had JB for staying contact he could not really
49 give an answer save to say “I cannot dress that one up, I guess selfish.”

1 Mr. B told me about his four sons in Y town, of their personalities and of one
2 occasion when they all stayed in his one bed roomed flat. The sitting room was
3 turned into one big, “den.” During the course of his evidence he admitted that he is an
4 occasional cocaine user, “getting his gear with friends before going to the local pub.”
5 He has recently taken cocaine. He has not disclosed this information to Ms. M or to
6 any of the child care professionals.

7
8 He assured me he would tell Ms. M of this revelation and the next day I received a
9 statement from Ms. M in which she set out her disappointment in this behaviour,
10 stated in no uncertain terms she did not support it but remained committed to Mr. B
11 and JB.

12
13 Mr. B told me about his personal life in 2014 and it is clear to me that he has been in
14 transition from his long term girlfriend N to this new relationship with Ms. M. His
15 one bed roomed flat is being rented by a friend of his “S” and he is unclear whether he
16 will be able to transfer his tenancy to this friend. He does not think he will get any of
17 his deposit back.

18 He was very positive about promoting contact between JB and his brothers if JB were
19 in his care and would have no difficulty in arranging contact between JB and C
20 directly with Mr and Mrs. D.

21
22 The last witness I heard from was Mrs. Clarke. I say at once that she is an extremely
23 experienced Children’s Guardian and that experience shone through in her final report
24 to the court. Faced with professional evidence ruling Mr. B out as a carer, Mrs.
25 Clarke cautiously supported him. Her report was fair and balanced and undertook the
26 requisite balancing exercise of recognising all of the risk factors in placing JB with
27 Mr. B but also looking at the whole picture, applying the welfare checklist and asking
28 what would be in JB’s best interests. I commend her for her work and her approach.

29
30 Mrs. Clarke summarises the positives and risk factors in placing JB with his father as
31 follows;

32
33 1. *As I see it, there are a number of positives and negatives to Mr B’s case to have*
34 *his son live with him. I would summarise these as follows:*

35 a) *On the one hand, as reported by Ms Franza at C130 “Mr B has made the*
36 *effort to be there for his children and I can see that he and JB have a good*
37 *relationship with each other”. There is one report that I have seen of some*
38 *ambivalence from JB when asked by Ms Franza if he liked seeing his Dad,*
39 *and he made a “so-so” gesture (C118).*

40 b) *There is the concern about lack of proactive contact with the School.*

41 c) *There is the concern about lack of proactive contact with the Social Worker.*
42 *Mr B has explained/ accepted this to a degree but perhaps could accept a*
43 *greater responsibility in this regard. However he feels that the Local*
44 *Authority failed to properly inform him of events early enough at the Child*
45 *Protection planning stage, despite him having PR for JB.*

- 1 d) *There is concern from the Social Worker and to a lesser degree perhaps Ms*
2 *Franza about Mr B' demeanour during meetings (C256- the Social Worker*
3 *describes Mr B as follows: "aggressive in his tone and his body language*
4 *showed that he was frustrated with me and was very confrontational with*
5 *me". However Ms Franza initially felt that although Mr B could be "quite*
6 *defensive" (C130)....at C131, she reports her view that "when Mr B feels*
7 *that he respects and trusts somebody, it is possible to be much more*
8 *challenging with him without him reacting negatively". She confirms he*
9 *developed a positive working relationship with him.*
- 10 e) *There is concern about lack of awareness of the Mother's difficulties with*
11 *alcohol and I have already dealt with that issue in paragraphs 49-50 above.*
- 12 f)*He has a good relationship with the Mother and this is concerned a strength*
13 *and a potential weakness by the Local Authority.*
- 14 g) *There is the Social Worker's statement that says that whilst suggesting the*
15 *Mother needs a break, at the same time, Mr B has not taken the opportunity*
16 *to have JB to stay with him overnight, which would have reduced the*
17 *number of children the Mother had to care for at least for a night. I note his*
18 *accommodation is less than ideal, but I am not sure what Mr B would say in*
19 *response to this.*
- 20 h) *There is the concern that Dr Helps states that JB requires far better than*
21 *good enough parenting because of his attachment difficulties and what he*
22 *has been exposed to at home. I do not have a crystal ball but on the evidence*
23 *before me currently, I am not persuaded that Mr B is not able to provide*
24 *good enough care and I believe he has the potential to meet JB's needs in*
25 *the future to a good standard, from my observations of him with his son and*
26 *in my assessment. It should be noted that his needs are less serious than his*
27 *brothers but clearly I would agree with Dr Helps that he needs assistance*
28 *from CAMHS. I also note Mr B' willingness to undertake any courses*
29 *recommended by the Local Authority.*
- 30 i)*There is the concern about housing and benefits which I have already*
31 *addressed above.*
- 32 j)*I note Dr Green mentions that in the past, Mr B had used "weed" and cocaine*
33 *but not for some considerable time. There is also the drink driving offence in*
34 *July 2009.*
- 35 k) *The relationship with Ms M is very new and to some extent therefore*
36 *untested for obvious reasons. She has disclosed to Dr Green that Mr B "gets*
37 *proper strop about twice a week", which can last around 30 minutes or*
38 *could be a whole day. During my discussions with the couple, they discussed*
39 *how Mr B manages these feelings for example going for a walk and this*
40 *seemed appropriate. Caring for a young child on a full time basis of course*
41 *brings its own pressures and how Mr B, with Ms M's support, will manage*
42 *this is unknown. I believe that JB should not be denied the opportunity to*
43 *live with his father rather than in foster care, because how the situation will*

1 *pan out in reality is unknown. I am cautious but I am more optimistic than*
2 *the Local Authority are.*

3 *l) I note that there seems to be a suggestion that there was a degree of overlap*
4 *between Mr B' relationship with his former girlfriend of 3 years, N and the*
5 *relationship with Ms M. I cannot comment on this. However of concern is*
6 *that at F51, J is reported to have been upset by the break-up. JB exhibited*
7 *warmth in his interactions with Ms M when I observed them. JB has*
8 *experienced more changes in the partners to both his parents than one*
9 *would ideally hope for.*

10 *m) Although not much weight, if any, is placed upon it, the Court will be aware*
11 *of the criminal record of Mr B and in particular the conviction for assault*
12 *by penetration (H69) and ABH. Mr B' account is set out at C43-4. There is*
13 *a summary by KB of Thames Valley Police at H87 and the conclusion is that*
14 *the overall risk rating is Medium but that there is no information that Mr B*
15 *presents a risk of harm to his son or other children.*

16 *n) There have been two reports of domestic violence between Mr B and Ms*
17 *mother (I40 and I60), one with Mr B as the alleged perpetrator (alleged*
18 *grabbed throat) and one with Mother as the alleged perpetrator (Mr B seen*
19 *by Probation with bruised eyes – C11). At C43, Mr B denies any physical*
20 *violence between them although he accepts there were arguments. However*
21 *the Social Worker states that Mr B says he was assaulted to Probation and*
22 *that Mother confirmed it at the time (C11). It is reported that Mr B*
23 *successfully completed his IDAP programme where he apparently learnt a*
24 *lot of skills in dealing with issues that could lead to Domestic Violence.*

25 *o) Mr B' sister Ms H has reported concerns at C172 that Mr B was violent to*
26 *his ex-wife and that his eldest son was traumatised by what he witnessed.*
27 *She also suggested that Mr B would not cope with caring alone for JB full*
28 *time. To Ms Franza, Ms H described how her brother's behaviour changed*
29 *dramatically (after his head injury in 2003): "he became volatile,*
30 *aggressive, his mood changes were dramatic, and he also lost his sexual*
31 *inhibitions. Ms H informed me that these behaviours were completely out of*
32 *character for Mr B". However she acknowledged she had had little contact*
33 *with her brother for the last five years, since leaving the Jehovah Witnesses.*
34 *I am not clear that the Local Authority have spoken to any of Mr B' elder*
35 *children but they have spoken to his ex-wife who has reported on his*
36 *behaviour changing (C119) but also his commitment to the children (C122).*

37 *p) Lack of insight or awareness regarding concerns about Mother's parenting*
38 *– already dealt with above. It seems to me that Mother was not always open*
39 *with Mr B and Local Authority in Buckinghamshire should have involved*
40 *Mr B earlier on but equally I am concerned that at times Mr B has not*
41 *sought to avail himself of the relevant information, for example by*
42 *responding promptly to requests to contact the Social Worker, or contact the*
43 *school. Furthermore it should be borne in mind that he first met Mother's in*
44 *September 2007 or possibly earlier March 2007. When they moved to the Y*
45 *town area in March 2008 with the three children, the children were subject*
46 *to Child In Need plans in August 2008 due to Mother's moving into the area*

1 to flee domestic violence and concern about her being in a relationship with
2 a registered sex offender. When they were living in Y town, she was
3 receiving parenting support from a Children's Centre and there was then a
4 section 7 report prepared in the private law proceedings with Mr (154 –
5 12th February 2010), and a report from Dr G, Psychiatrist (135-30TH Sept
6 2011). I am not sure exactly when Mr B says that he and the Mother
7 separated- in his statement at C41 in July 2014 he says it was 3-4 years ago.
8 When Dr G saw the Mother on 12 July 2011, he refers to her "present
9 relationship" and I am not sure if this refers to Mr B or not but it is noted
10 that Mother and Mr B moved from Y town in February 2010. The
11 relationship seems to have lasted for 4 years and so Mr B has lived with all
12 the boys for a large part of their lives. The difficulties the Mother has
13 experienced are not new but may well be masked and hidden at times, to a
14 degree.

- 15 2. I have considered very carefully the impact upon JB for the rest of his life, of the
16 decisions the Court has to make. I have thought very carefully about what my
17 recommendation should be, given the complexities of this case and in my view,
18 it is a finely balanced decision that I have to make. I have made it clear though
19 my Solicitor that I wish to hear the evidence of the relevant parties including Dr
20 Green before giving my final view. However at this stage, on balance and with
21 some caution, I support JB moving to live with his father with a Supervision
22 Order in place."

23 This is exactly the sort of balancing exercise which is needed. I understand why local
24 authorities are increasingly risk averse. Being a front line social worker is a difficult
25 job and in my view social workers must be supported in their invaluable role.
26 However section 1(3) and 1 (5) are part of the Children Act 1989 for very good reason
27 and they must be applied.

28
29 In her evidence Mrs. Clarke told me that she now has greater concerns about Mr. B
30 having heard the evidence, than she did when she wrote her report. However, she
31 remained of the view that further assessment of Mr. B was required before the local
32 authority care plan could be approved. She recommended every weekend staying
33 contact from Friday evening to Monday morning for JB with Mr. B. She
34 recommended that JB stay with Mr. B for half of the February school holiday. She
35 did not recommend that JB be placed directly with Mr. B as she felt that the risks
36 were too high including the recent revelation of drug use, the untested relationship
37 between Mr. B and Ms. M, lack of clarity about long term accommodation plans and
38 Mr. B's lack of engagement at times with professionals
39 Mrs. Clarke was clear that she had observed a very positive contact between JB and
40 Mr. B. With hindsight about her visit to Mr. B she felt Mr. B may have felt under
41 stress as he seemed to engage in cleaning whilst she was there and given the evidence
42 she had heard she felt this may have been a stress reaction. Mrs. Clarke also told me
43 that she had never had a problem contacting Mr. B and he had co-operated fully with
44 her.

45
46 Mrs. Clarke would like Mr. B to be assessed by Dr. Helps and for him to be tested for
47 cocaine.

1 In terms of her other recommendations, Mrs. Clarke supports monthly contact
2 between the four siblings with mother being present for some of that contact on a
3 monthly basis. Mrs. Clarke could see the sense in monthly contact reducing to four or
4 six times a year after 12 months but subject to review. Mrs. Clarke supported the
5 private arrangements suggested by Mr. D for C. She recommended that the first
6 indirect contact for E and J with Mr. M be within three months and so as not to “lose
7 the momentum” she would support monthly indirect contact with a specific review to
8 see if direct contact could be commenced albeit on a limited basis for E and J with
9 Mr. M.

10
11 **Analysis and orders.**

12
13 I will turn firstly to the issue which I have found the most difficult namely whether JB
14 should be placed immediately with his father.

15 In short the arguments for are;

- 16 1. JB has a right to be placed with a birth parent before any
17 other placement.
- 18 2. This is the only placement which will give him a permanent
19 family life. There is no suggestion of a Placement Order
20 being applied for.
- 21 3. JB has a good relationship with his father and observation
22 of that contact by the social worker, Ms Franza and Mrs.
23 Clarke is of a warm and appropriate relationship.
- 24 4. Having seen Ms. M in the witness box she appeared to be
25 an intelligent, insightful, disciplined and hard working
26 individual who told me she is totally committed to JB living
27 with her and Mr. B.
- 28 5. Having seen JB and Ms. M together, Mrs. Clarke took the
29 view that JB has a good relationship with Ms. M and
30 appears to have known her for some time.
- 31 6. JB would retain a relationship with his four half siblings in
32 Y town who have a good relationship with Mr. B.
- 33 7. Mr. B has a positive attitude towards promoting contact
34 between JB and C, E and J.

35
36
37 My concerns about Mr. B are as follows;

- 38 1. He has not co-operated with professionals as I would have hoped and
39 expected. It is clear that he has not been easy to contact at times although that
40 is not the experience of Mrs. Clarke.
- 41 2. Mr. B has had a private life which has been somewhat in flux over the last 12
42 months. He was with a partner called N. He started a relationship with Ms. M
43 in July. This relationship has strengthened and the couple “officially” started
44 living together at the beginning of January 2015. On any view, although Mr.
45 B may have known Ms. M for three years, this relationship is new and
46 untested.
- 47 3. One of my key concerns is the level of contact which Mr. B has had with JB.
48 JB has remained living with his mother. He has not been in foster care until
49 14th. January 2015. I find it of concern that father has not had staying contact
50 with JB throughout these proceedings. Mr. B told me that he used to have JB

1 to stay before these proceedings and for one overnight stay right at the
2 beginning. He has therefore only had weekend visits until very recently, he
3 has had one or two overnight stays. Mr. B could not really give me any
4 explanation for this save to say that he had been, "selfish." It may be that Mr.
5 B was trying to sort out his own private life but given the severity of these
6 proceedings his inaction and failure to prioritise JB is deeply concerning. I
7 entirely understand why Ms. Haydock in particular was left perplexed by Mr.
8 B's lack of activity and organisation in seeking to have a much greater level of
9 contact and involvement in JB's life at this crucial time.

10
11 However, I am extremely concerned by the local authority care plan that will be put in
12 place for these three brothers, namely into foster care in a placement for all three
13 boys. If one cannot be found JB will be placed on his own in a foster placement away
14 from both parents, and all his brothers. The local authority care plan for JB in respect
15 of contact is at a rate of 4 times a year for each parent. There is no evidence before
16 the court about the likelihood of a placement for all three children being found. In
17 my judgment the local authority will encounter difficulties in finding such a
18 placement for three boys, in particular when considering E and J's special needs. In
19 my judgment there is a very real possibility that JB will find himself on his own in
20 foster care at the age of only 5 or 6 years old. Nowhere in the local authority evidence
21 are the risks to JB's emotional and psychological wellbeing set out if this care plan
22 comes to fruition. That is a significant lacuna in the evidence and demonstrates to me
23 that the balancing exercise as to what is in the best interests of this child has just not
24 been properly assessed. This is particularly so when one considers that JB has a good
25 relationship with his father.

26
27 I would like to remind all the professionals in this case of the dicta of **Hedley J** in the
28 case of **Re L (Care; Threshold Criteria [2007] 1 FLR 2050** as follows,

29 *"What about the Court's approach, in the light of all that, to the issue of significant*
30 *harm? In order to understand this concept and the range of harm that it's intended to*
31 *encompass, it is right to begin with issues of policy. Basically it is the tradition of the*
32 *United Kingdom, recognised in law, that children are best brought up within natural*
33 *families. Lord Templeman, in Re: KD (a minor ward) (termination of access) [1988]*
34 *1AC806, at page 812 said this:*

35 *"The best person to bring up a child is the natural parent. It matters not whether the*
36 *parent is wise or foolish, rich or poor, educated or illiterate, provided the child's*
37 *moral and physical health are not in danger. Public authorities cannot improve on*
38 *nature."*

39 *There are those who may regard that last sentence as controversial but undoubtedly it*
40 *represents the present state of the law in determining the starting point. It follows*
41 *inexorably from that, that society must be willing to tolerate very diverse standards of*
42 *parenting, including the eccentric, the barely adequate and the inconsistent. It follows*
43 *too that children will inevitably have both very different experiences of parenting and*
44 *very unequal consequences flowing from it. It means that some children will*
45 *experience disadvantage and harm, whilst others flourish in atmospheres of loving*
46 *security and emotional stability. These are the consequences of our fallible humanity*

1 *and it is not the provenance of the State to spare children all the consequences of*
2 *defective parenting. In any event, it simply could not be done.”*

3 JB has a right to be placed with his father if at all possible. I accept that Mr. B has not
4 helped himself in the months leading up to this final hearing and he could and should
5 have done a lot more to organise his life to present himself as a committed parent who
6 can meet the needs of JB. I accept that fathers can sometimes feel in a difficult
7 position if professionals are involved, they don't know what is expected of them and
8 Mr. B may have been unsure how to approach mother who will have been feeling
9 particularly under stress in the months leading up to the hearing. Whatever the
10 reasons, the time for excuses is over. I want JB to be placed with Mr. B if it is
11 consistent with his welfare. I am very concerned about the future for JB in foster care
12 but that may be the care plan I have to approve if Mr. B cannot demonstrate his ability
13 to care for JB in the long term. He needs really to think about his plans, his
14 relationship with Ms. M, whether these two adults are committed to each other and
15 JB, what accommodation plans they have, how JB will get to school. Mr. B must
16 prioritise JB. He must refrain from any drug use. He must focus. He must
17 communicate with professionals. The future of his son lies with him. I have no doubt
18 he genuinely adores JB. I sincerely hope he does not let him down.

19
20 I found the decision as to whether to place JB in foster care or with Mr. B extremely
21 difficult and finely balanced. I accept that a further move for JB will be disruptive
22 and potentially traumatic and JB may find a move to foster care very hard to
23 understand when he knows his father wants him with him. However, on balance the
24 uncertainties and risks to JB of a premature placement with his father, for it only to
25 break down at this stage, is in my judgment too much of a risk for JB and not in his
26 best interests. Mr. Stott urged me to apply the test for interim removal and if I did so I
27 would be driven to place JB with Mr. B. I have gone back and read **Re K and H**
28 **[2007] 1 FLR 2043 and Re L-A [2010] 2 FLR 283.**

29
30 I am removing JB from mother not Mr. B. JB will suffer significant harm if removed
31 from his mother and placed with a father who through lack of organisation, drug use,
32 mood swings or relationship breakdown cannot care for him and he is placed in foster
33 care in an unplanned way. Mrs. Clarke in particular is concerned that JB would at
34 that stage not be placed with his brothers and the very care plan which I am most
35 concerned about would occur. Mr. Stott argued the case exceptionally well but in my
36 judgment, the risks are too high for immediate placement.

37
38 However, my focus is firmly on a realistic assessment of JB with Mr. B. I know that
39 JB will be placed with foster carers on 14th. January 2015. I order contact between JB
40 with Mr. B on Sunday 18th. January 2015 for between 2 – 3 hours and I hope Mr. B
41 and Ms. M can go into the foster home for 30 minutes to see E and J and settle JB
42 after the contact. Thereafter JB is to have contact every weekend from after school or
43 after mother's contact on Friday until school on Monday morning. JB is to spend
44 from the Friday before the half term until the second Saturday morning with Mr. B
45 and be returned to the foster placement by 12 noon on that Saturday or in accordance
46 with the plans of the foster parents. Unless there are clear and compelling reasons to
47 the contrary, JB is then to spend every Thursday after school until Monday morning
48 with his father. Mr. B will be responsible for ensuring JB attends school on time

1 when he is in his care and I will look closely at how JB presents at school when I look
2 again at this case.

3
4 I will determine the exact ambit of any further assessments at the directions hearing
5 on 16th. January 2015.

6
7 In respect of C, I respect and accept the unanimity of the expert evidence in respect of
8 Mr and Mrs. D's care of C. They have provided a safe home for C which has seen
9 him flourish and his anxieties and fears decrease. They have promoted contact with
10 mother which C now enjoys. They have facilitated fortnightly contact which they
11 supervise. I can only commend, congratulate and thank Mr and Mrs. D for their
12 ability to assist C at this very difficult time. I therefore approach any suggestion made
13 by them with the utmost respect.

14
15 I approve of their plan but ask that it be implemented from January 2016 for reasons
16 which I will set out below.

17
18 In respect of contact with the four children and mother, I approve the reduction plan
19 as set out by the local authority until the decrease is from monthly to 4 times per
20 annum. In eloquent and heartfelt submissions, Mr. Murray asked me not to fall onto
21 the time honoured formula which is put forward for almost all children in foster care
22 but to consider these particular children in these particular circumstances. He rightly
23 emphasised the remarkable attitude of this mother who has consented to her children
24 being removed, who has prepared these boys, packed their bags and fully supported
25 their placement in order to minimise their distress. She has offered to transfer any
26 belongings and offered Mr. B, JB's bed. She has commenced life story work and
27 provided information and photographs of the children for that work to begin. She has
28 given Mr. M a photograph of E and J. She wishes to go to the foster home with her
29 boys to help to settle them. In short, whatever the mistakes of the past she has done
30 all she can to mitigate the inevitable distress. She has co-operated with Mr and Mrs.
31 D for the benefit of C. Again I thank and commend her.

32
33 I have listened to all of the arguments in respect of contact. In my judgment this is a
34 very difficult issue because this mother appears to be supporting the children's
35 placements. I am particularly concerned about E and J. They are the most damaged
36 children of the four and they have the most to lose. Their father is not currently
37 actively involved with them. This may add to their sense of rejection. There is no
38 prospect of a permanent placement within their birth family.

39
40 I take into account that these boys have only been removed from their mother this
41 week. They have not had a chance to settle into foster care for a period of months as
42 one so often sees within care proceedings. They need a period of adjustment. The
43 example of C shows that these boys can settle with regular contact with this mother
44 who has tried so hard in her contact with C.

45
46 On balance and having considered all of the arguments, in my judgment it would be in
47 E and J's best interests for mother to have contact as per the proposed reduction save
48 that the contact will reduce to monthly contact until December 2015. In November
49 2015 there must be a thorough review of mother's contact with E and J (and possibly
50 JB depending upon where he is placed.) I sincerely hope that contact between E and J

1 will not reduce below 6 times a year for E and J with mother and there needs to be
2 clear and compelling reasons before that contact is reduced below 6 times a year. I
3 expect mother's monthly contact to take place on the same day and as part of the
4 monthly sibling contact.

5
6 In respect of C, I anticipate that C will see mother during the monthly contacts which
7 will also be the monthly inter sibling contact which is agreed by everyone. Once
8 mother's contact is reduced to 6 times a year in January 2016, Mr and Mrs. D may
9 wish to implement their plan which is to promote four extra contacts between C and
10 mother in X town supervised by themselves. I will hear any further submissions on
11 this point in due course.

12
13 Turning to Mr. M I have read the history and understand that E and J have negative
14 views of their father. This in part is due to the recollections of C. I have read the
15 social work evidence and it appears to me that Mr. M's life has moved on in a positive
16 way and he has tried hard through private law proceedings to have contact with E and
17 J. In my judgment it is in E and J's best interests to have at least indirect contact with
18 Mr. M. They are aware that their brothers have a good relationship with their fathers.
19 In my judgment the following is required,

- 20 1. Active life story work with E and J to explore their feelings in
21 respect of Mr. M.
- 22 2. Preparation of E and J each to receive a letter from their father no
23 later than 16th. April 2015.
- 24 3. Thereafter monthly indirect contact by way of letter or card
25 between Mr. M and E and J with E and J being encouraged to
26 respond to their father. J's birthday is on 24th. May and Mr. M
27 will be permitted to send a birthday card to J and a small gift to
28 each boy. Mr. M will be permitted to send a Christmas card and
29 a small gift to each boy.
- 30 4. In November 2015 there must be a review of Mr. M's contact
31 with E and J and real thought given as to whether direct contact
32 should be introduced. There should not be an assumption that it
33 should not be introduced. These boys have lost enough and they
34 need to know their father cares about them and supports them.
- 35 5. After this review Mr. M must be permitted to send no less than
36 four indirect contacts per annum whether or not direct contact
37 has commenced, subject to any further agreement between Mr
38 Miles and the local authority.
- 39 6. Telephone contact between E and J with the paternal grandfather
40 and step grandmother shall be promoted and real thought given
41 to direct contact commencing. This may be a good way to
42 introduce direct contact with Mr. M.

43
44 My decision in respect of Mr. M's contact will be in the form of an order.

45
46 All parties are agreed that there should be Skype and telephone contact between the
47 children.

1 Mr and Mrs. D should be assessed for the possibility of having E and J to stay with
2 them. If JB is to be placed permanently with Mr. B I hope Mr. and Mrs. D can
3 communicate directly with each other to promote contact.

4

5 I would like there to be a sibling contact for all four siblings before the end of January
6 2015.

7

8 I will hear further submissions at the directions hearing on 16th. January 2015 on any
9 of the issues I have not dealt with in this judgment. I know there are several other
10 directions which the parties require. I will permit disclosure of agreed documents to
11 Mr and Mrs. D in order that they can put forward their views about C's contact with
12 JB depending on the care plan.

13

14 My thanks to all the parents in this case for their constructive attitude. My thanks to
15 the social work team and to Mrs. Clarke. My thanks to the advocates.