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*Judgment: approved by the court for handing down (subject to editorial corrections)**	*Delivered:*	**11/06/2025**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION
(OFFICE OF CARE AND PROTECTION)

Between:

NHSCT

Applicant

and

1. **A (Mother)**
2. **B (Father)**

Respondents

Ms McGrane (instructed by Business Services Organisation) for the Applicant
Ms Ramsay KC and Ms Lisa Douglas (instructed by James Ballentine & Son, Solicitors) for the Respondent A
Ms Suzanne Simpson KC and Ms Laura Clarke (instructed by John McAtamney, Solicitor) for the Respondent B
Ms Moira Smyth KC (instructed by Sara Edge, Solicitor) for the Guardian ad Litem

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McLAUGHLIN J

Introduction

[1] This is an application by the Northern Health and Social Care Trust ("the Trust") pursuant to Article 50 of the Children (NI) Order 1995 ("the 1995 Order") for a care order in respect of three children ("the children"):

(i) C, born January 2019

(ii) D, born January 2019

(iii) E, born December 2022.

[2] The respondent mother and father are respectively 28 and 26 years old and are the married parents of all three children. The twin girls C and D were born in January 2019, and their third child E was born in December 2022. Prior to the events leading to this application, they lived as a family in their home in County Antrim and had never come to the attention of social services or police.

[3] Ms McGrane appeared for the Trust, Ms Suzanne Simpson KC and Ms Laura Clarke appeared for the father and Ms Ramsay KC and Ms Lisa Douglas appeared for the mother. The Guardian ad Litem was represented by Ms Moira Smyth KC. I am grateful to all counsel for the constructive and helpful manner in which the case was both conducted and presented.

[4] At the outset of the hearing I was informed that a large measure of agreement was had been reached between the parties and I was provided with two documents for consideration:

(i) A proposed threshold document containing a series of facts and conclusions which had been agreed between the parties and which I was invited to adopt as the foundation for determining the application. These are set out in full below.

(ii) A series of agreed proposed amendments to the Trust's final care plans for each of the three children.

[5] As a result of the above developments, none of the parties adduced any oral evidence and the Trust's application proceeded on the basis of submissions from each party. A summary of the position adopted by each party is as follows:

(i) The Trust commended the proposed agreed facts to the court, together with the proposed amended care plans. It contended that the evidence was sufficient to demonstrate that E had already suffered serious harm and that all three children were likely to suffer serious harm which was attributable to the care previously given to the children and likely to be given, not being care which it would be reasonable to expect a parent to provide. It therefore contended that the court should be satisfied that the statutory threshold criteria under Article 50(2) of the 1995 Order had been established in relation to all three children and that it was in the best interests of all children to make a care order.

(ii) The Children's Court Guardian supported the position of the Trust and also contended that it was in the interests of all three children to make a care order.

(iii) The father consented to the making of a care order for all three children.

(iv) The mother neither consented nor objected to a care order and invited the court to reach its own conclusion on the Trust's application, subject to the continuation of contact arrangements described below.

[6] Since the mother did not consent to the court making a care order, it has been necessary for the court to determine the Trust's application on the basis of its own assessment of the evidence, taking account of the extent of agreement which has been reached between the parties and the proposed amendments to the care plan. The court's decision and its reasons are explained below.

Medical evidence

[7] The history of events set out below derives from a combination of the following medical reports and reports prepared by the Trust. None of the parties raised any dispute about any aspect of these materials, save that amendments to the final care plans have now been proposed:

(i) Report of Dr J L Hughes, Consultant Paediatrician, Antrim Area Hospital, dated 27 February 2023, following examination on 26 February 2023 and further assessment on 27 February 2023.

(ii) Report of Dr Roisin Hayes, independent Consultant Paediatric Radiologist, dated 25 November 2023.

(iii) Dr Daphne Primrose, independent Consultant Paediatrician, dated 31 January 2024.

(iv) Dr Stephen Ong, independent Consultant in Obstetrics and Material Fetal Medicine, dated 6 December 2024.

(v) The notes of an examination conducted by Forensic Medical Officer Dr Diana Choo, dated 28 February 2023 and a witness statement dated 28 March 2023.

(vi) Initial social worker statement of Aaron Martin dated 28 March 2023 in support of an application by the Trust for an interim care order.

(vii) Initial care plans also prepared by Aaron Martin for each of the three children, dated 23 March 2023.

(viii) Amended final care plans prepared by Ms Cloe Backus for each of the three children, dated 23 May 2025.

(ix) Witness statements of the father and mother, dated 12 May 2025 and 8 April 2025, respectively.

[8] Shortly before lunchtime on Sunday 26 February 2023, E (aged two months, 25 days) was presented at the Accident and Emergency Department of Antrim Area Hospital by her mother. She was examined in the Emergency Ward by Dr Hughes, Consultant Paediatrician and found to have a swollen left leg. It was flexed at the hip with external rotation and no active movement of the left leg, but normal movement of the right leg. Dr Hughes also examined her face, abdomen, ears, mouth, eyes, cardiovascular and respiratory systems, all of which were unremarkable. E tolerated the examination provided her left leg was not moved. Any movement of the left leg caused great distress, including lifting her from the car seat to the examination couch. No examination was therefore conducted of E's back, sides or the skin of her chest at that time. Dr Hughes also noted a small brown bruise measuring 0.5 x 0.5cm on the centre of E's forehead.

[9] X-ray examination of the left femur was carried out that day and revealed that E had suffered a comminuted oblique fracture of the distal end of the left femur. There was evidence of significant soft tissue swelling and no evidence of fracture healing. A full leg cast was applied, which had to be reapplied on several occasions. E was then admitted to the ward, at which time a further examination of her skin was conducted by Dr Maguire on the evening of Sunday 26 February 2023, followed by a further examination by Dr Hughes on the morning of Monday 27 February 2023. As between the two additional examinations, the following bruises and marks were noted on E's body:

(i) A 0.5 x 0.5cm brown bruise in the centre of the forehead. Her mother gave an explanation that it may have been caused by one of her twin girls kissing her forcefully on the forehead.

(ii) Dr Maguire had noted a 1 x 0.5cm yellow mark on the left aspect of the forehead, which had not been noticed by Dr Hughes on admission or during her examination on 27 February. It was also not visible in photographs taken on admission.

(iii) A yellow/brown mark inferior and medial to the right nipple, in keeping with a bruise. No explanation was provided for this mark.

(iv) A 2.5 x 1cm bruise on the left flank. It was suggested that this may have been caused by a bouncer strap.

(v) A 1 x 0.5 cm mark in the middle of the back to the right of midline. This was not visible to Dr Hughes on 27 February but was visible in the photographs taken on admission.

(vi) A 0.5 x 0.5cm circular purple mark on the right side of the lower back.

[10] Dr Hughes directed a series of further investigations, the findings from all of which were normal.

[11] A full skeleton survey with CT scan was performed on 28 February 2023, with repeat images on 14 March 2023. These revealed that in addition to the left femoral fracture, E had suffered an undisplaced fracture involving the left distal tibia.

[12] There was also evidence of minimal deformity on the anterior aspect of the left sixth and seventh ribs, consistent with the possibility of fractures. The follow up images on 14 March showed evidence of healing in the femoral and tibial fractures.

[13] A Forensic Medical Officer, Dr Choo attended the ward on 28 February 2023 and completed a further assessment of E during which further information was obtained from the mother regarding E's care and events during the days preceding her presentation to hospital. Dr Choo also spoke with Dr Hughes, who informed her that she had consulted Mr Jim Ballard, Consultant Orthopaedic Surgeon regarding the left femoral fracture. His opinion was that it had been caused by a direct blunt force injury to the area.

[14] In a report dated 25 October 2023, commissioned by the Children's Court Guardian, Dr Roisin Hayes, Consultant Paediatric Radiologist, could not be certain about the existence of rib fractures but confirmed the presence of the tibial and femoral fracture. She was of the opinion that they had occurred within seven days of presentation at Antrim Hospital on 26 February. E's bones were otherwise normal, with no evidence of predisposition to fractures. She was of the view that the leg fractures were caused by trauma, either accidental or non-accidental in nature. She considered that the comminuted femoral fracture would have required considerable force, such as a fall from a height or an impact with a heavy or blunt instrument. The tibial fracture could have resulted from less force, such as pulling or twisting of the limb. In her opinion, a baby suffering these injuries could be expected to be off form due to pain and discomfort, with particular irritability upon handling, which would have been evident to any adult caring for the baby.

[15] In a further independent report dated 31 January 2024 also commissioned by the Children's Court Guardian from Dr Daphne Primrose, Consultant Paediatrician, a similar conclusion is offered regarding the cause of injury. She states that fractures do not occur spontaneously, nor through normal handling. Considerable force is required to cause a femoral fracture, even in a small baby, with a comminuted fracture requiring severe trauma. A typical mechanism is a direct hit or blow to the thigh or indirect force transmitted through the knee. She stated that an injury of this nature would be "agonisingly painful" when sustained, "glaringly obvious to any caretaker" and would result in "much distress" to the baby, with pain easing when immobilized, as was apparent during Dr Hughes' initial examination. Similarly, a tibial fracture required the application of force. She described the typical cause of a tibial fracture in ambulant children to be the application of force to the knee while

the leg is extended. Clearly, it could not have been the cause of this fracture since E was non ambulant. The mechanism for any rib fracture would have been blunt force trauma and/or compression.

[16] Dr Primrose also provided an analysis of the bruising observed and photographed following admission to Antrim Area Hospital. She noted that bruising is the most common presenting feature of physical abuse in children. While not uncommon in older ambulant children, it is rare in immobile infants. She considered that it was "simply not tenable to suggest that bruises on multiple body sites, occurring as a result of blunt force trauma somehow appeared out of nowhere and that no one has any real idea how they occurred." She considered that any mark or injury should have been apparent to the caretaker during clothing changes, with the bruising on the left flank particularly apparent during nappy changes.

[17] Dr Primrose ruled out any natural causes for the bruising such as: a bleeding disorder (particularly in light of the absence of bruising since removal from the parents); a dermatological condition; self-infliction; rashes associated with viral infection or a connective tissue disorder. Overall, her opinion was that, in the absence of any other explanation or plausible account, the fractures were likely to have been caused by blunt force trauma and that consideration should be given to the possibility that they were inflicted injuries.

[18] Dr Choo is somewhat more definitive in her opinion. She considered that the clinical findings were consistent with physical abuse and "inconsistent with medical diagnosis or accidental cause."

[19] In a report dated 6 December 2024, which was commissioned by the father from Dr Stephen Ong, Consultant in Obstetrics and Fetal Medicine, he concluded that the mother's labour and delivery were uncomplicated and that there was nothing within the events surrounding E's delivery which could explain the injuries.

Account of the respondent parents

[20] In the course of her examination of E at Antrim Area Hospital on 26 February 2023, Dr Hughes obtained some information from the mother about E's care and about the family's movements during the days prior to E's presentation at hospital. The mother also provided additional information to the FMO - Dr Choo - during her subsequent examination of E on 28 February 2023. Dr Choo's findings and a witness statement were recorded shortly after the examination and were later made available to Dr Primrose. All of these details are summarised in a combination of Dr Hughes' report of 27 February and Dr Primrose's report of 31 January 2024. Read collectively, it is clear that the mother was unable to provide any credible explanation for E's significant injuries to the doctors who examined her in Antrim Hospital.

[21] A summary of the key aspects of the mother's account is as follows. From approximately Tuesday 21 February, the mother noticed that E's oral intake of milk had reduced from 5oz to 3oz, every four hours. On the evening of Tuesday 21 February, the mother visited the cinema between 20:30hrs and 22:30hrs, leaving E in the care of her father. E was reported to have been settled during this period. On the morning of Wednesday 22 February, a health visitor attended at the family home to carry out routine post-natal checks. The mother's initial recollection had been that the health visitor had attended on Thursday 23 February 2023. However, it has since been clarified that the visit occurred on Wednesday 22 February 2023. According to the mother, E was suffering from slight constipation and the health visitor showed the mother some light leg exercises for E by holding her ankles and doing cycling movements with the legs. The mother reported that during the visit, E's hip extension was checked by the health visitor which caused E to cry briefly but she was easily consoled. No report of injury was made by the health visitor as result of that visit. The conduct of the leg exercises was the only event which the mother could identify which might have explained E's injuries. In the opinion of Dr Hayes, the leg exercises carried out by the health visitor are "highly unlikely" to have caused the leg fractures.

[22] On Friday 24 February, the mother consulted her GP on account of E's reduced feeding during the previous days and was prescribed Lactulose. I have no evidence of any report to the GP about any other symptoms.

[23] On closer examination, the evidence which has been made available to me and which was not contested illustrates a number of differences and/or inconsistencies in the accounts which have been provided by the parents regarding events during the days leading up to E's presentation in Antrim Area Hospital.

[24] I have identified four separate areas where the account provided by one or other parent raises either an inconsistency or cause for further inquiry.

(i) Health visitor

[25] As mentioned above, the mother appears to have been confused about the date of the health visitor's attendance. The mother initially thought that it took place on Thursday 23 February, however it is now agreed that it took place on Wednesday 22 February.

[26] In her initial discussion with Dr Choo, the mother is recorded as having stated that the health visitor showed her leg exercises involving holding the legs by the ankle and moving the legs in a bicycle motion. However, in her witness statement Dr Choo makes clear that she questioned the mother for further details about this visit and she has recorded being told by the mother that the leg exercise demonstration took place while E was on the scales and that the health visitor had pushed her hips up and outwards and spread her legs apart. While the mother

appears to have given additional details to Dr Choo, they are not inconsistent with the initial account that the health visitor showed her leg exercises.

[27] However, I have also been provided with a record of a meeting of professionals which took place by Zoom on 6 March 2023 in order to discuss the case. The notes from that meeting were made available to Dr Choo who has commented upon them in her witness statement of 28 March 2023. The minutes record that the meeting was attended by the health visitor and also by Dr Hughes. The health visitor informed the meeting that it was the mother who had undressed the baby, placed her on the scales and taken her weight and that this was "all that she did with the baby." This raises a question over whether it was the health visitor who demonstrated the leg exercises on E, or whether it was the mother who did so under the supervision of the health visitor. However, more importantly, the health visitor informed the meeting that her note of the visit was that E was bright, alert and happy. The minute of the meeting (at which Dr Hughes was present) also records that if the injury had occurred prior to this visit, the leg would have been externally rotated, bent and not moving. It is highly unlikely that a health visitor would not have observed this presentation. The recorded demeanor of E during the visit is also inconsistent with the view of Dr Hughes that touching E's leg while broken would have caused her to have screamed or cried.

[28] The minutes of this meeting therefore cast considerable doubt upon any suggestion that E's injuries could have occurred prior to or during the visit on Wednesday 22 February, whether as a result of the actions of the health visitor or those of the mother.

(ii) Events on Saturday 25 February and Sunday 26 February

[29] In her initial report Dr Hughes records the mother as having told her that E was in her company all day on Saturday 25 February 2023, as the father was at work, returning home at 17:30 hrs. The mother is recorded as having told Dr Hughes that E slept downstairs in her moses basket, was settled and not noted to be in any pain, with her paternal grandmother ("F") calling to the house that evening for a brief visit. The mother said that E woke at 07:30hrs the following morning, without being distressed or unsettled, prior to being brought to church. E travelled to church by car in her car seat and was then transferred to a pram. She told Dr Hughes that during the service, E was unsettled, that she had lifted her from the pram and that she had not been entirely consoled by a bottle. Dr Hughes has recorded that E was nursed by another member of the congregation after the service but was not considered to be unsettled at that time.

[30] Dr Primrose records a different account which was provided by the mother to Dr Choo on 28 February and which has been referred to by Dr Choo in her witness statement of 28 March 2023. Dr Choo states that she was told by the mother that she took the children to the park on Saturday 27 February and that E was "very

unsettled that day and night." She also states that the mother told her that E was brought to church the following morning between 10:30 and 12:00 hrs but was "very unsettled and was brought home." She states that the mother then brought E to her paternal grandmother's house as she was unable to settle her. During a nappy change, the swelling on E's left leg was noticed and her grandmother advised that she should be taken to hospital. The mother is also recorded as having told Dr Choo that E had been settled that morning during a nappy change and that she had not noticed the swelling until the later nappy change with the paternal grandmother.

[31] There is a clear disparity between the accounts which the mother provided upon arrival at the hospital on 26 February and to Dr Choo on 28 February about E's demeanor and presentation during the course of Saturday and Sunday.

(iii) Date when E first became unsettled

[32] In her report, Dr Choo observes that the paediatric notes record a history of E becoming unsettled on Friday 24 February.

[33] However, Dr Choo has also recorded in her own notes of her examination on Monday 28 February that the mother told her E became unsettled following the attendance of the health visitor.

[34] The father appears to have given a similar account to PSNI on Sunday 26 February, namely that E became unsettled following the attendance of the health visitor. The record of his account is based on the following. On 26 February Dr Hughes made a referral to both PSNI and Social Services, following her initial examination of E. A detailed report of events that day was prepared by Ciara McKillop, duty social worker. She records that PSNI attended the family home that afternoon and spoke with both the father and his mother F. The father and his mother are recorded as having told PSNI that E had been unsettled since the health visitor's attendance on Wednesday 22 February. Clearly, this is at variance from the paediatric records which were based upon the mother's history. Further detail provided by the father is addressed below, which gives rise to the fourth area of inconsistency.

[35] I have not seen the paediatric notes referred to by Dr Choo and am therefore dependent upon her analysis of them. If that record is accurate, it represents a further inconsistency in the account provided by the parents about when E first demonstrated discomfort and became unsettled.

(iv) Bicycle leg exercises

[36] Ciara McKillop's record of discussion with police on 26 February also reveals a further potential inconsistency between the account of events provided by the father to police on 26 February and the account provided by the mother to Dr Choo

on 28 February. Ciara McKillop's note records that the father told police that E had been unsettled since the health visitor had attended earlier that week and had demonstrated leg exercises. It is recorded that the father told police that he had been completing bicycle exercises with E, as directed by the health visitor in order to relieve wind.

[37] Two days later, the mother is recorded as having given a slightly different account to Dr Choo, which is set out by Dr Choo in her witness statement. The mother is recorded as having agreed with the views of the father and his mother to the effect that E's behaviour was noticed to have changed from settled to unsettled since the attendance of the health visitor. Dr Choo also records that the mother told her that during the visit, E had cried for about 10 minutes during and after the leg exercises and took longer than normal to settle. She then stated that she had tried the exercises with E on only one occasion after the visit, but that E had cried and that no further exercises were done. Clearly, this is at variance with the father's apparent account to police which implies that he had been carrying out the bicycle exercises on a more regular basis since the health visitor's attendance.

[38] Viewed cumulatively, it is clear that there are inconsistencies in the history which had been provided by one or other parent about the timing of the change in E's presentation relative to the attendance of the health visitor, the role of the health visitor during the visit and the observations/actions of the parents towards E during the following days. Even if plausible explanations could be provided about the apparent inconsistencies, it is entirely clear that neither parent has been able to provide any plausible explanation for how E could have suffered such serious and traumatic injuries during this period.

Condition of the family home

[39] On foot of the report to social workers by Dr Hughes, PSNI attended the family home on the afternoon of 26 February 2023. The father and the twins were at his mother's home nearby and they both spoke to the officers. The paternal grandmother, F confirmed to police that she had direct care of E during previous days. It is perhaps for this reason that F was recorded by Ciara McKillop as being within the pool of potential perpetrators.

[40] A walkthrough of the house was carried out by PSNI using body worn cameras, in the presence of the father and a social worker Mr Anderson. The house was described by police as a "complete tip" and "completely chaotic." They described it as extremely disorganized with clutter everywhere, including clothing, boxes, paper, books located around the house. The bathroom was also full of clothes with wet towels lying on floors. Some of the rubbish was recorded as being more than three months old. There was fresh food in the fridge but no clear work surfaces in the kitchen. Potties full of urine were found in the twins' bedroom. The condition

of the home was captured on body camera, including E's moses basket, changing mat and bouncer.

Account of the respondents

[41] The parents have not provided any additional possible explanation, whether accidental or non-accidental for the serious injuries suffered by E, over and above those provided to medical staff at Antrim Hospital or to police. These appear to be limited to the conduct of "bicycle exercises" on E's legs as a possible explanation for the femoral fracture. This is discounted by Dr Hayes as "highly unlikely." No explanation has been offered for the tibial fracture. The explanation offered for the bruising on E's forehead was a forceful kiss by one of the twins. The explanation for the bruise on the left flank was the strap of a bouncer. In Dr Primrose's opinion, "no real explanation" had been offered and the explanation for the bruising to the flank was described as "highly improbable."

[42] In her report Dr Choo makes express reference to slight differences in the account provided by the mother about events during the health visitor's attendance. She also noted a lack of concern by the mother when asked about the bruise on E's forehead. Initially, the mother is reported to have said that it had been present since 21 February. However, a photograph of E taken on Friday 24 February appears to have been available which showed no visible bruising on her forehead. The mother does not appear to have had an explanation for this inconsistency or for her earlier account.

[43] The record of a LAC review held on 15 March 2023 contains a detailed record of discussions which took place separately between social workers and each of the parents during which they provided a description of events during the days leading up to E's presentation in hospital on 26 February. While this document provides some additional detail about the movements and activities of the parents during that period of time, it contains no explanation for the injuries.

[44] In her witness statement of 8 April 2025, the mother has not made any reference to the events leading up to her attendance at Antrim Hospital with E on 26 February 2023 and has offered no new or additional explanation for the injuries.

[45] In his witness statement of 12 May 2025, the father has noted the medical consensus that "the injuries sustained by baby E were non-accidental in nature and there is no other feasible explanation for same." He expressly denies that he "caused any non-accidental injury to E." He confirmed that this has been his position from the outset and that it remains his position. The statement offers no potential explanation for any of the injuries and does not expand upon the possibility of an accidental injury. His denial is limited to non-accidental injury.

Trust intervention and application for Care Order

[46] Based upon the information which became available to the Trust following E's presentation at Antrim Hospital, it considered the injuries to be non-accidental in nature. The Trust made immediate arrangements for the care of the children other than by their parents.

[47] The twins were placed into the voluntary care of the paternal grandparents and have remained in a kinship placement with them on a voluntary basis since that time. Initially, the grandparents felt unable to look after E. However, they subsequently agreed to do so on a voluntary basis, after other kinship options were discounted and the Trust was considering stranger foster care for E. E has therefore remained with her twin sisters in the voluntary care of her grandparents since her discharge from hospital.

[48] While these arrangements were being put in place, there was some uncertainty whether it would be possible to agree an arrangement for voluntary care for all three children. At a LAC review meeting on 15 March 2023, the Trust decided to apply for an emergency protection order, which was issued on 16 March 2023. On 28 March 2023, the Trust applied for an interim care order. In the event, satisfactory voluntary care arrangements were agreed with the paternal grandparents for all three children and neither application proved to be necessary.

[49] The interim care order application has therefore remained underdetermined since that time and all parties were agreed that it was appropriate for it now to be treated as an application for a final care order and I have proceeded on that basis.

[50] The care order application has also proceeded in parallel with the PSNI investigation. I was informed that the parents were arrested on 2 March 2023 on suspicion of causing grievous bodily harm with intent. The court does not have access to the PSNI investigation materials and is unaware of any account which has been provided to the PSNI by the parents. However, as set out above, both parents have remained resolute in their position to the Trust that they did not cause the injuries sustained by E and that they do not know how they could have occurred. The parents were bailed by police following interview on conditions including a prohibition upon any unsupervised contact with any child under 16 years. The practical effect of that condition was to preclude any possibility of a return of the children to the parents for so long as the condition remained in place. I was informed in the course of the hearing that the parents are no longer subject to any bail conditions, but that they have consented to the continuation of the current voluntary arrangements insofar as they have not sought to enforce the return of the children. Throughout this period, contact arrangements have been in place between all three children and their parents with the agreement of the Trust and all contact is supervised by the paternal grandparents. The current contact arrangements are as follows:

(i) Monday 1.5 hours of contact with all three children.

(ii) Tuesday 1.5 hours of contact with E only.

(iii) Wednesday 1.5 hours of contact with all three children.

(iv) Thursday 1.5 hours of contact with E only.

(v) Friday Contact with all three children from 6.30pm until bedtime.

(vi) Saturday No formal arrangements, with any contact to be recorded.

(vii) Sunday Contact with all three children between 1 – 3 pm.

[51] In March 2023, the Trust prepared initial care plans for each of the three children. These appear to have been prepared in support of the proposed applications for an emergency protection order and interim care orders, which were not pursued. At that time, the proposal was to rehabilitate the children to the care of their parents, subject to the outcome of the police investigation and if future assessments indicated that this would be safe and in the interests of each child. In the event that rehabilitation did not prove to be possible, the original care plan was for longer term foster care within the current kinship arrangements. A timescale of 6–12 months was anticipated to be necessary for parenting assessments to be carried out.

[52] On 21 April 2023, Dr Kennedy, Consultant Forensic Psychiatrist carried out a capacity assessment for the mother. She was found to be suffering from an adjustment disorder at that time and was also diagnosed with long term cognitive difficulties described as a "mild disorder of intellectual impairment or alternatively of borderline intellectual functioning." Since that time, she has received assistance in these proceedings from the Official Solicitor.

[53] In April 2024, the Trust applied for and was authorised to obtain a psychological assessment of both parents prior to the commencement of any assessment of parenting capacity through the Family Centre. These were undertaken by Dr Philip Moore, Consultant Clinical Psychologist in November 2024.

[54] In relation to the mother, Dr Moore found that she was entirely dedicated to her children but was profoundly emotionally affected by an incident of childhood trauma which affected and continues to affect her own familial relationships, particularly with her parents. Dr Moore felt she lacked some awareness of her children's wider emotional needs as opposed to their physical safety. She demonstrated anxiety about the potential for the children to return home, in case something may happen to them while in her care. In the longer term, he felt that she

was not strong enough (emotionally or cognitively) to cope without more defined parental roles and responsibilities and formalised social supports. In order to address the sources of her distress, he recommended counselling utilizing cognitive behavioural methodologies, to bolster coping methods and low self-esteem. I have been advised that by the time of the hearing she had already commenced a counselling program and that only two sessions remained outstanding.

[55] In relation to the father, Dr Moore found that he was suffering from chronic social anxiety and significant levels of distress, disturbed by low mood, self-deprecating feelings and negative thoughts. He was also suffering from a longstanding physical health condition related to his bowel, which has interfered with other activities and responsibilities. The father's mental health needs and his self-focus on those needs were such that Dr Moore felt that they may compromise his ability to protect his children and to prioritise their needs over his own. He considered that he needed to begin to address the sources of distress in his life and to improve his coping ability before undertaking a comprehensive parenting assessment in order to determine the potential feasibility of the return of the children. He recommended the following steps for the father:

(i) Seeking the advice of his GP in order to secure treatment to manage his irritable bowel syndrome.

(ii) Seeking a referral to Health Psychology within the Trust unless community mental health recommended otherwise.

(iii) Undertaking either cognitive behavioural therapy or narrative therapy.

(iv) Seeking a referral to community mental health to assess mental health needs and therapeutic options and that any therapeutic work should be initiated prior to any comprehensive parenting assessment.

[56] There appears to have been some delay in commencing the work which was recommended. From his witness statement, the father appears to have been under the impression that the Trust would take the initiative in facilitating and funding these referrals, whereas the Trust appears to have had the expectation that the father would secure the relevant referrals through his GP or otherwise by his own initiative. A referral was ultimately made by the GP to the community mental health team, which was declined for reasons which are not apparent. Recommendations were then made for referrals to counselling services run by charitable organisations and he is on the waiting list for in-house basic counselling provided through the GP's surgery.

[57] Finally, I have been advised that in November 2024 the PSNI submitted its investigation file to the PPS, with a recommendation that both parents should be

prosecuted for GBH with intent. To date no decision has been taken by PPS and I was not provided with any clear timeline for a decision on prosecution.

Threshold – Article 50 of the Children (Northern Ireland) Order 1995

[58] I have set out above in some detail the factual history of events leading to the Trust's intervention in February 2023 together with the medical and other evidence which has been gathered since that time from the doctors, medical experts, Trust officials and the parents.

[59] At the outset of the hearing, I was provided with a document by the Trust which set out a number of propositions and proposed conclusions which was agreed by all parties, and which resulted in none of the parties adducing further evidence. The document reads in relevant part as follows:

> "1. On the 26th February 2023 [E] was admitted to Antrim Area Hospital, then aged 8 weeks old, presenting with the following injuries:
>
> (a) a comminuted oblique fracture in her femur involving the distal end of the left femur, with minimal anterolateral displacement. A significant force would have been required to cause comminute femoral fracture.
>
> (b) A minimal undisplaced fracture involving the distal left tibia, with minimal periosteal reaction along the medial aspect of the tibial shaft.
>
> (c) The fractures occurred within a period of approximately 7 days up to the time of clinical presentation on the 26th February 2023
>
> (d) During examination by Paediatrics when she was first presented 6 bruises were noted.
>
> (i) Yellow bruise measuring 1 x 0.5cm on the left aspect of the forehead.
>
> (ii) Yellow brown bruise measuring 0.5cm x 0.5cm on the right chest inferior and medial to the right nipple.
>
> (iii) 2 petechiae on anterior left shoulder

(iv) Yellow bruise measuring 2.5 cm x 1cm on the left flank. (The mother suggested this may have been caused by bouncer straps).

(v) A mark measuring 1 x 0.5cm in the middle of the back at the upper lumbar area slightly right of the midline.

2. The respondent mother and father are in the pool of perpetrators regarding the above injuries and neither parent were able to provide an explanation consistent with how the injuries occurred.

3. On the balance of probabilities, the fractures and bruises are not explained by an accidental event recorded and are evidence of inflicted injury in an immobile infant.

4. Expert opinion confirms no genetic or organic factor explains E's injuries, or any susceptibility to such injuries, in this case.

5. The respondents were arrested for Grievous Bodily Harm with Intent and causing or allowing significant harm to be caused to a child. The police investigation is ongoing.

6. On the 26th February 2023 the PSNI visited the family home and described poor home conditions which were unsuitable for young children.

7. By virtue of the foregoing, the children are likely to suffer harm if they were to remain in the First and Second respondents' care."

[60] Notwithstanding the agreement of the parties to the above proposed conclusions, I have considered all of the evidence in the court papers and conducted my own assessment.

[61] It is very clear to me from the evidence that baby E has suffered two very serious fracture injuries to her left femur and tibia. The clear and undisputed evidence is that these were likely to have been caused by blunt force trauma, whether deliberately inflicted or due to some accidental cause such as a fall from a height. The possibility of genetic or organic cause for the leg fractures has been excluded and E suffers from no abnormality of her bones which might have rendered her more susceptible to injury.

[62] It is clear to me from the available evidence and from the information which has been provided by the parents that during the period of days preceding her presentation at the Antrim Area Hospital, baby E was under the care and supervision of one or other of the parents for the substantial majority of this period. Both parents are therefore within the pool of potential perpetrators and E was clearly within their sole care during the substantial majority of the time when the injuries could have been sustained. The clear and obvious inference from the available medical evidence is that E's injuries were caused by trauma which in turn was either inflicted by a person responsible for her care, or they were sustained accidentally by reason of a lack of appropriate care, whether by ensuring that E was securely held or was otherwise secured using the baby devices, such as the moses basket, bouncer or car seat which were identified during the police home visit and referred to by parents in their respective accounts.

[63] One of the obvious potential causes of the injuries is that they were inflicted, either in one or more assaults on E. This issue is currently under investigation by police, and I have been informed that a recommendation has been made to the PPS for prosecution of both parents for causing grievous bodily harm to E. I have not been provided with the evidence available to police and cannot comment upon the matter further. Suffice to say that if this is proven to be the cause of E's injuries, the risk of significant harm to E and the twins, if returned to the sole care of their parents, could not be clearer. It is difficult to conceive of a greater danger than allowing the children to be in the care of a person who is capable of applying such significant blunt force trauma to a defenceless baby.

[64] As noted by Dr Hayes, it is also possible that the blunt force trauma which caused the leg injuries could have been inflicted as a result of a fall from a height or an impact with a heavy or blunt object. It is therefore possible that E's injuries were sustained accidentally. For example, E could have been mishandled or dropped accidentally. She could have fallen from a height if she had been left unsecured. There could even have been an unforeseen accident as a result of some item falling upon her. There may be other accidental explanations. However, whatever the cause, it is clear that the aftermath of such an incident could not have gone unnoticed. The uncontested evidence of Dr Primrose is that the injury would have been "agonisingly painful" when sustained. Any movement would have caused "much distress" and the fact of injury would have been "glaringly obvious" to any reasonable person caring for her. It may be that the parents genuinely have no idea how such serious multiple injuries were sustained by a non-ambulant two-month-old baby. If that is the case, it gives rise to an obvious inference that the children are at risk of significant harm due to a simple lack of parenting skill and/or an inability on the part of the parents to protect their children and to provide them with a safe environment in which they can live. Alternatively, it is possible that one or more of the parents do have a greater level of knowledge about how the injuries are likely to have been sustained but, for unknown reasons, feel unable or are

unwilling to disclose that knowledge. It may be that one or both of the parents have difficulty admitting to the existence of what would be dangerous conditions within the home environment. It may be that, on the part of one or both parents, there was a short-lived lack of attention, distraction or that E was left dangerously unsecured, and the responsible parent has difficulty admitting to their lack of care. It may even be that one of the parents has a sense of loyalty to the other which, to date, has inhibited them from disclosing their knowledge of events. The court is simply not in a position to speculate.

[65] Whatever the reasons may be, it is absolutely clear to the court that if there was an accidental explanation for the injuries, the overwhelming likelihood is that one or other of the parents should be in a position to provide additional information about how these shocking injuries were sustained by their child. Accordingly, even assuming that the injuries were sustained accidentally, their continuing inability and/or unwillingness to do so, for whatever reasons, would mean that that there is a lack of co-operation with professionals dedicated to providing health and social care to the children and that one or both parents have chosen to prioritise their own interests over those of their children. If this is the case, it points to the obvious conclusion that, for so long as it continues, the parents are unwilling or unable to protect their children or to prioritise their needs. Accordingly, there must be a continuing risk of significant harm to both E and to the twins, if returned to the care of the parents at this time.

[66] As set out above, it is clear that E was in the sole care of one or both of her parents throughout the substantial majority of the time during the days prior to her presentation at Antrim Hospital. It is for this reason that they are within the pool of perpetrators. However, I am aware from the note prepared by the duty social worker Ciara McKillop on 26 February, that PSNI made inquiries with the father and his mother F while E was at the hospital. It is recorded that they confirmed that F had "direct care of E over the last few days." There is no other evidence of the amount of time during which E was in her care, the other persons who may have been present or how E was handled during this period. While the possibility of involvement on the part of F cannot be excluded, the evidence suggests that it is unlikely she was a cause of injury or that the injuries occurred during any such period on account of a lack of care by her. The period of time when she had care of E appears to have been limited. If such a serious accident occurred during this period, it seems obvious that there would have been a change in E's presentation and is highly likely to have been noticed upon return to her parents. While possible, it seems unlikely that the parents would attempt to cover up any accident during a period of F's care but yet consent to her continuing to care for all three of their children. It was also F who appears to have noticed E's swollen leg and advised the mother to take her to the hospital. The children have now been in her full-time care, without incident for over two years. As set out below, the Trust could scarcely have been more complimentary about the standard of her care during this time, and they

support the continuation of the current kinship placement with her and her husband.

[67] Aside from the health visitor, the only other evidence of a third party having contact with E during this period was the member of the church congregation who nursed E during the service on 26 February. While the evidence of this contact is very limited, it appears to have been of a very short duration and consisted of nothing more than one person holding E as part of an ordinary and normal engagement with a new baby in the congregation, within the curtilage of the church, where other witnesses can be presumed to have been present. There is no evidence to suggest that the mother was not in the immediate vicinity throughout and certainly is likely to have noticed a change in E's presentation upon return to her care, if injuries had been sustained during this brief period.

[68] For all of the above reasons, I am therefore entirely satisfied that the threshold conditions set out in Article 50 of the 1995 Order are met in this case. Whether the cause of injuries is intentional or accidental, there remains a likelihood that the children are at risk of significant harm on account of the care which was provided to the children or would be provided to them in the absence of an order and that this care would not be reasonable to expect from a parent.

Whether an Order under Article 50 should be made?

[69] Having considered all of the evidence and the matters set out above, I am also entirely satisfied that the best interests of the children require that I should make an order rather than no order and that those interests require that I should make a care order rather than the alternative of making a supervision order.

[70] The current kinship arrangements under which F and her husband care for all three of the children and supervise parental contact are voluntary. In the absence of any order, F and her husband would therefore be entirely free to return all of the children to the care of their parents without legal restriction. Such an outcome would be wholly inconsistent with the risks of exposure of the children to significant harm which I have identified and described above. While the court has no evidence to suggest that there is any intention on her part to take such a course in the absence of an order, nor has it any evidence that there has been any attempt to undermine the current arrangements for care and contact. It therefore appears to the court to be highly likely that the current voluntary arrangements have continued precisely because these proceedings have been ongoing. The conduct of all parties has therefore been constrained by the possible prospect that the Trust may to seek to place the children elsewhere if those arrangements had not been followed assiduously.

[71] In addition to the need for an order to prevent the inappropriate and unconstrained return of the children to the care of their parents, it is necessary for

the Trust to have parental responsibility for the children and to have an involvement in taking decisions for their welfare in the future, pending resolution of the long term future of the children, which is likely not to be settled until the conclusion of the current criminal investigation. In light of the risks to the children associated with them remaining in the sole care of their parents at this time, it is not appropriate for them to be the sole parties with parental responsibility. While in the care of the Trust, the children will be subject to regular LAC reviews and any therapeutic interventions which may be necessary for their welfare.

[72] I am also satisfied that a supervision order would not be an appropriate alternative since it would not allow the Trust to have parental responsibility for the children and hence unable to take decisions in their interests.

Welfare of children and amended care plans

[73] In deciding to make a care order, I have also had regard to the welfare of the children as the paramount consideration, which in turn is linked to my consideration of the amended care plans for each of the three children.

[74] The amended care plan sets out the plan of the Trust once a care order is in place. The original care plan for each of the children was for ultimate reunification of the children with their parents. However, in light of the uncertainty arising from the ongoing criminal investigation and the outstanding work to be undertaken by the parents (primarily the father), this plan has been amended. The objective of the amended care plan is now for all three children to remain in a kinship placement with their paternal grandparents in the long-term, with the supervised contact arrangements described above, remaining in place.

[75] It is clear from the final report of the Trust that each of the three children are receiving a high quality of care from their grandparents under the current arrangements. The grandparents also have an appropriate support network, in the event of a difficulty or interruption in the current arrangements. The physical health of all children is good, with all of them meeting milestones and attending necessary health appointments. In particular, E is reported to have made a full recovery from her injuries and is otherwise meeting developmental milestones. All of the children have a very good attendance record at school and are settled in their education. Contact remains positive and the Trust have no concerns with F's ability to supervise contact appropriately. The twins have received narratives explaining their current circumstances and are described as having a positive understanding of why they are living with their grandparents. The twins have expressed the view that, while they enjoy living with their grandparents, they would prefer to return to live with their parents. The amended care plan includes provision for further narrative work with both twins. In the event that the paternal grandparents are no longer able to look after the children, the intention of the Trust is to explore the possibility of a further kinship option and if this is not possible, to seek a foster placement.

[72] I am entirely content with the proposals for the care of the children set out in the amended care plans.

[77] In addition, the amended care plans seek to address the difficulties and delay which the father has experienced in accessing the therapeutic and assessment work which was recommended by Dr Moore. In particular, the Trust has adopted a modified approach to the sequencing of this work. The mother is to complete the counselling work which is currently underway and was recommended by Dr Moore. The father is to engage in counselling work through LINKS or Turning Point if there is further delay in accessing counselling through his GP. He is also to refer himself to the Recovery College and engage with the course of work which they recommend. A referral to the Family Centre has been accepted in order to conduct the parental assessment, which will not commence until the father feels mentally and emotionally able to do so. The Family Centre will be provided with the recommendations of Dr Moore and will take these into account when conducting the assessment. Some of the work will be carried out separately with the parents, some of it will take place together to assist in understanding the dynamic of the relationship. Upon conclusion of the assessment, the Trust will undertake a non-scheduled LAC review to consider the next steps in the children's future.

[78] All of these steps and the most recent amendments are entirely appropriate and constitute a choate plan for the future care of the children and decision making in relation their long-term care.

[79] For all of the above reasons, I therefore allow the Trust's application and will make a care order in relation to all three children and approve the amended care plans for each child.

[80] In reaching this decision, I have conducted my own assessment of the evidence, the facts of the case and the amended care plans of the Trust. However, in doing so, I wish to record that my conclusions are the same as the independent advice and recommendations of the Children's Court Guardian, whose report I have read in detail and for which I am very grateful.