Neutral Citation No: [2025] NIFam 13 *Judgment: approved by the court for handing down (subject to editorial corrections)**	*Ref:* **McLA12873** *ICOS No:* **24/49665 & 01 & 17/126785/02 & 03** *Delivered:* **24/10/2025**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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FAMILY DIVISION

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Between:

WESTERN HEALTH AND SOCIAL CARE TRUST

Applicant

and

A MOTHER AND A FATHER

Respondents

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Mr Magee KC with Ms Casey (instructed by DLS) for the Trust
Ms Smyth KC with Ms Devlin (instructed by McGeady Molloy Solicitors) for the Respondents
Ms McGrenera KC with Ms McHugh (instructed by Kelly & Corr Solicitors) for the Guardian ad Litem

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McLAUGHLIN J

Introduction

[1] The court is concerned with applications by the Trust for care orders in respect of two children, together with orders freeing the children for adoption. The older child is a boy, born in October 2021 and now four years of age ("the boy"). The younger child is a girl and is now aged 16 months ("the girl"). In respect of each child, the Trust seeks a care order, based upon a care plan for adoption and an order freeing the child for adoption, with dispensation of parental consent on the ground it has been unreasonably withheld. In order to protect the identities of the children, I have referred to them throughout this judgment as "the boy" and "the girl" and I have referred to the parents as either "the mother" or "the father."

[2] The children are respectively the seventh and eighth children in a sibship of eight children, born to the same biological parents. Care orders have previously been made in respect of the third child (15 April 2024) and also the second, fourth,

fifth and sixth children (4 December 2024). The eldest child of the family is over 18 years of age.

[3] In respect of the third child, the care plan at the time of the care order was for a kinship placement with extended family. At the time of the order, she was almost 15 years of age. She no longer wished to have contact with her parents but did wish to have contact with her siblings. The care plans which were approved for the remaining four children were for residential care for the second child and long-term foster care for the fourth, fifth and sixth children. Those children have remained as looked after children since that time.

[4] An interim care order was made in relation to the boy on 9 November 2023, at the same time as interim care orders for the second, fourth, fifth and sixth children. The girl was born on 4 June 2024 and an interim care order was made in respect of her on 7 June 2024. She was therefore placed with foster carers upon discharge from hospital and has never resided with the parents or her siblings. At the time that the application for care orders for the second, fourth, fifth, sixth and seventh children came on for hearing in December 2024, the Trust proposed different care plans for the children. The plan for the boy was for adoption and the plan for the remaining children was for either residential accommodation or long term foster care. At that time, the girl was approximately six months old and a final care planning decision had not been taken. The court therefore did not make any final order in respect of the boy or girl at that time and gave further directions for those applications to be determined at a later time. These proceedings now determine those applications.

[5] Following the making of the interim care order in respect of the boy in November 2023, he spent approximately three weeks in Trust foster care. He was then placed with a different foster carer until September 2024. He then moved to his current carers and has remained with them since that time. They have been assessed by the Trust against fostering and adoption standards. Following her birth and discharge from hospital in June 2024, the girl was placed with a foster carer. She remained in that placement until February 2025, when she was moved to the same foster carers as the boy. She has remained in that placement since that time along with her brother. Both children therefore currently reside together and the current foster carers have committed to providing a home for both children and also to making an adoption application in respect of both, in the event that a freeing order is made.

Legal principles

[6] In the recent case of *A HSC Trust v A Mother & A Father* [2025] NI Fam 6, I considered the statutory provisions and case law which apply to applications for care orders, with care planning for adoption and applications for freeing orders, in the absence of parental consent.

[7] In summary, applications for care orders are made pursuant to Article 50 Children (NI) Order 1995 and involve a three stage process: (i) fact finding; (ii) threshold and (iii) welfare. At the threshold stage, the court is required to determine, in light of the facts found, whether, at the date of Trust intervention, the child or children are at a risk of significant harm (as defined in the Order), by reason of the care provided to them, not being care which it would be reasonable for a parent to provide. The focus at the threshold stage is upon the risk of significant harm to the child or children. At the welfare stage, the court must decide what, if any, order it should make. Applying the "no-order principle", the court should only make an order where it is satisfied that to do so would be better for the children than making no order [Article 3(5) of the 1995 Order]. In deciding whether to make an order, the court must also take account of the welfare factors set out in Article 3(4) of the 1995 Order; namely:

> "(a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
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> (b) his physical, emotional and educational needs;
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> (c) the likely effect on him of any change in his circumstances;
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> (d) his age, sex, background and any characteristics of his which the court considers relevant;
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> (e) any harm which he has suffered or is at risk of suffering;
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> (f) how capable of meeting his needs is each of his parents and any other person in relation to whom the court considers the question to be relevant;
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> (g) the range of powers available to the court under this Order in the proceedings in question."

[8] In making a decision at the welfare stage on whether to make a care order or other order, the court will scrutinise carefully the Trust's care plan for the child. The level of detail within the care plan will depend upon the circumstances of the case and the extent and nature of any uncertainties which exist about the future care of the child.

[9] The application of the statutory powers and principles in this jurisdiction were explained by Gillen J in *Re R&D* [2003] NIJB 229. They have also been examined on two occasions recently by the Supreme Court in *Re B (A Child) (Care Proceedings: Threshold Criteria)* [2013] 1 WLR 1911.

[10] Where the court is considering any course of action in relation to the adoption of a child, the court has a separate and similar statutory duty under Article 9 of the Adoption (NI) Order 1987 to regard the welfare of the child as the most important consideration. Insofar as it is practicable to do so, the court must first ascertain and give due consideration to the wishes and feelings of the child, having regard to his age and understanding **(Article 9(b)**). It must also have regard to all of the circumstances of the case, with "full consideration" being given to:

> "9(a)(i) the need to be satisfied that adoption, or adoption by a particular person or persons, will be in the best interests of the child; and
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> (ii) the need to safeguard and promote the welfare of the child throughout his childhood; and
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> (iii) the importance of providing the child with a stable and harmonious home."

[11] An adoption order in relation to a child may only be made where a court has first made an order that the child should be free for adoption (**Article 16(1)**). A freeing order may be made with the agreement of both parents (**Article 17(1)**) or where the agreement of one or both parties is dispensed with on one of the grounds set out in Article 16(2). In this case, the relevant ground relied upon by the Trust is that the parents are withholding agreement unreasonably (**Article 16(2)(b)**).

[12] In *Re B*, the Supreme Court made clear that a decision on threshold did not amount to an interference with the Article 8 ECHR rights of either a parent or a child. However, a decision to make an order at the welfare stage would amount to an interference. Accordingly, the order must be justified and must be both necessary and proportionate to the welfare of the child (Lord Wilson at para [29]). The test of proportionality was explained in more detail for cases involving a care plan of adoption. In substance, it is insufficient to justify a care order if a court was to conclude that it would be better for the child to be adopted, rather than remaining in parental care. A more exacting analysis of the child's welfare interests is required. (Lord Wilson at para [34]).

[13] The correct approach to proportionality in assessing a care plan for adoption was explained by the Supreme Court in *Re H-W (Children)* [2022] 1 WLR 3243:

> "47. … The judicial task is to evaluate all the options, undertaking a global, holistic and … multi-faceted evaluation of the child's welfare which takes into account all the negatives and the positives, all the pros and cons, of each option … 'What is required is a balancing exercise in which each option is evaluated to the degree of detail

> necessary to analyse and weigh its own internal positives and negatives and each option is then compared, side by side, against the competing option or options.'"

[14] The Supreme Court held that this approach represented "*the accepted standard for the manner in which a contemplated child protection order must be tested against the requirement that it be necessary and proportionate*" (at [47]).

[15] The leading decision in this jurisdiction is *A Health Trust v A Mother and Father* [2022] NICA 63. The court affirmed and applied the approach to proportionality, which required the court to analyse and weigh-up, side-by-side all of the care planning options for the child, including pros and cons. In an application for a freeing order, the court also confirmed the need for separate consideration for whether parental consent should be dispensed with, pursuant to Articles 18 and 16(2)(b) of the Adoption (NI) Order 1987. In *A Health Trust v A Mother and Father* [2022] NICA 63 the Court of Appeal also confirmed that the test set out by the House of Lords in *Down and Lisburn HSCT v H and another* [2006] UKHL 36 (at [67]-[70], per Lord Carswell) remained the correct approach.

[16] The test for whether consent has been unreasonably withheld is an objective one, but which has subjective elements insofar as it takes account of the individual circumstances of the parent and asks whether a reasonable parent in their position would provide consent.

[17] As appears clear from the above, Article 8 will be engaged both at the welfare stage of an application for a care order and also when a court is considering whether to make a freeing order. In both cases, the order may only be made where the court is satisfied that the order is necessary and proportionate in furtherance of the aim of establishing the permanent living arrangements for the child, in light of the extent of the interference with Article 8 rights. For this purpose, the best interests of the child is the guiding principle, and the welfare of the child is the paramount consideration. In every such case, the court should explain its decision, having regard to Convention requirements. A failure to do so may amount to a sufficiently serious error to justify appellate review (see eg *A Health Trust v A Mother and Father* [2022] NICA 63 (at [41]).

[18] The duties upon state authorities under Article 8 ECHR have been considered by the ECtHR in a number of cases such as *KA v Finland* [2003] 1 FCR 201; *R&H v UK* [2011] 2 FLR 1236 and *YC v UK* [2012] 55 EHRR 967.

[19] The key principle which emerges from the ECtHR case law is that any decision to take a child into public care amounts to an article 8 interference, which must be justified. The relevant public interest against which the proportionality of the measure must be measured is the welfare of the child. This requires consideration of the strong public interest in maintaining natural family ties in relationships, alongside the need for the child to grow up in a safe environment. As

the period of public care continues, the state authorities have a positive obligation under Article 8 to take steps necessary to facilitate the possibility of family reunification. However, achievement of reunification is not an obligation in itself. Rather, the state must take only those steps which are necessary in the circumstances to facilitate the possibility of reunification. The state is not obliged to make "*endless attempts*" at reunification.

[20] In summary, the state welfare authorities are entitled to take the view that an appropriate period of time has been reached after which the best interests of the child may be met through a safe and secure alternative placement, free from the risk of harm and not to have the child's situation changed again. Any order made by the court must be necessary and proportionate to the achievement of those public interests, as determined in the individual circumstances of the child. A freeing order is the most intrusive form of interference and therefore requires particularly careful scrutiny of the circumstances and a clear justification. The best interests and welfare of the child are the primary considerations. Justification requires something more than merely an assessment that it would be better for the child to be adopted than to remain with the parents. The focus must be upon the harm to which the child is likely to be exposed if returned to parental care, as identified at the fact finding and threshold stages.

[21] In Northern Ireland, the approach of HSC Trusts to decisions on permanence for Looked After Children is contained in the HSC Regional Operational Permanence Policy 2017-2021. The policy explains that the central aim of permanency planning for Looked After Children is to ensure that they move quickly from an uncertain care placement to the security of a safe and stable permanent family either with their birth parents, in a kinship placement or with other carers. The guidelines state that a permanence plan should be confirmed "*at the latest by the third Looked After Children Review*" [para 13.1]. The policy provides in relevant part as follows:

> "13.5 Attempts at rehabilitation should be based on clear objectives and contracts with parents and must be carefully monitored and recorded if sufficient changes are to occur to facilitate the child's return home. Comprehensive assessments and interventions should be completed so that a firm plan for permanence is confirmed by the time the child is in placement for 9.5 months (ie. time of the third Looked After Child review).
>
> 13.6 Of equal importance is that rehabilitation work should not continue past the stage where there is no realistic possibility of success. Getting the balance right is sometimes difficult, but it is important for the well-being of children that

situations are not allowed to drift, perhaps more in hope than expectation."

[22] The Regional Permanence Policy is therefore consistent with the ECtHR case law summarised above and applied by the Court of Appeal in *HSC Trust v A Mother and A Father* [2022] NICA 63. Namely that upon taking a child into public care, the authorities have a positive duty to facilitate the possibility of rehabilitation to parental care, but it is not necessary to make endless attempts at family reunification if this is not in the child's best interests. The obligation upon a Trust is to take all necessary steps that can reasonably be demanded to facilitate reunification of the child with its parents. However, with the passage of time since the child was taken into care, the interests of the child not to have a stable and secure placement disrupted, can sometimes override the child's interest in facilitating family reunification.

Background to Trust involvement with the family

[23] There have been a total of nine periods of social work involvement with the family, to a greater or lesser degree each of which is summarised below. At the hearing of the Trust's applications, the parents did not contest that, at the time of the Trust's intervention for both children, the statutory threshold requiring a risk of significant harm to the children had been reached. Nor did they challenge any of the Trust's evidence, as set out in the multiple reports before the court. The case proceeded on submissions only, to include the personal witness statements of the mother and the father. The background set out below is, therefore, based upon the undisputed written evidence.

Period 1: 01/03/04 – 10/11/06

[24] The mother was herself a Looked After Child and removed from parental care into the care of social services. She commenced her relationship with the father aged 14 years, when he was aged 17 years. The first child was born in March 2004, when the mother was aged 15 years. The mother lived with her first child with her foster carers. She received parenting support from a variety of public sector sources during this period. She moved out of her foster placement to live independently in the community in November 2006.

Period 2: 18/10/10 – 16/05/11

[25] The mother presented to social services seeking help, with assistance from her former foster carers. She had returned from England following a serious incident of domestic violence involving the father. She was observed as being "*covered in bruises*" and as having "*lost a lot of weight*." The father had allegedly been ordered to leave Northern Ireland on account of suspected involvement in drug dealing. The mother had moved to England to be with him along with their second and third children. The first child had remained with grandparents. The father allegedly

refused to allow the third child to return to Northern Ireland with the mother but ultimately did so when she was collected by her grandparent. The Trust supported the mother in her resettlement with the children in rented accommodation. She initially stated that she remained in a relationship with him and wished to visit him in England but later stated that she had no plans for reconciliation. Subsequent positive reporting about her care of the children, together with the existence of a support network resulted in an end to social work involvement.

Period 3: 17/11/11 – 24/01/12

[26] Social services again became involved with the family after the father's return to Northern Ireland and the resumption of his relationship with the mother. The mother assured social services that she would not remain with him if domestic violence resumed. The Trust had concerns during this period about the presentation and development of the children. Home conditions were regarded as basic. Presentation and attainment levels in school for the children was notably poor. Assessment did not reveal concerns about exposure of the children to domestic abuse. Social work involvement therefore ended.

Periods 4, 5 & 6: 26/04/13 - 09/12/13

[27] Further individual referrals were made regarding the family. Each of these was closed relatively quickly as the family was deemed not to require further assessment or input.

Period 7: 10/11/14 – 15/03/16

[28] This period of involvement commenced when the fourth child was aged one year and six months, and the first child was aged ten years and eight months. The referral was made by NIHE contractors who had been engaged to assess and carry out repairs to the family home. The parents greeted the contractors upon their arrival, and the three younger children were present. Sometime later that day, both parents were found by the contractors to be unconscious in the home and unable to be roused. A strong smell of cannabis was detected in the house which was extremely cold and without electricity. The PSNI were called, and the contractors remained at the home to look after the fourth child. Social services assessed drug misuse by the parents at this time to be chronic as opposed to episodic. The parents refused permission for social services to complete unsupervised individual work with the children, but the eldest child conveyed concerns about parental fighting within the home. The children were added to the Child Protection Register. Difficulties were experienced during this period securing co-operation and engagement by the parents with offered services, including alcohol and drugs services. At a child protection case conference on 02/09/15, the decision was taken to remove the four children from the Child Protection Register, notwithstanding the backdrop of parental obstruction, ongoing concerns about school attainment, unresolved concerns about drug and substance misuse and poor engagement with

services. The decision appears to have been taken based upon some ongoing family support arrangements. However, following de-registration, the parents disengaged from social services.

Period 8: 15/02/17 – 27/10/22

[29] Child protection procedures were again instigated in 2017, and the children's names were added to the Child Protection Register. At this time, the fifth child was approximately one year old, and the sixth child was born in July 2017. The catalyst to the intervention was a combination of longstanding concerns including parental substance misuse; parental criminality; domestic violence; parental capacity for violence and aggression; poor supervision of children and maternal mental health difficulties. The Trust initiated court proceedings in December 2017 which resulted in a Supervision Order dated 26 September 2019. All six children were the subject of an interim care order between December 2017 and September 2019. The supervision order expired after 12 months in September 2020. The order was not extended by the Trust, but the family remained open on the Family Intervention Service until 27 October 2022, when the case was finally closed. The children's names were removed from the Child Protection Register in June 2020. It was a condition of the supervision order that the parents engage with educative work identified by the Trust together with individual work identified by the Trust for the parents to address domestic violence effects upon the children and family life.

[30] During this period of intervention, the father was referred to and completed the Promoting Positive Relationships Programme (20 June 2018 – 19 December 2018). On concluding the programme, he reported extensive learning; that he had the skills necessary to enable his relationship with the mother and the children to progress and that he would be able to apply the skills learned. In particular, he identified triggers to abusive behaviour such as alcohol, drug misuse and easy agitation. He acknowledged past behaviours to have been unacceptable. Notwithstanding these positive expressions of recognition and reform, further episodes of domestic violence were reported. On 2 December 2020, police responded to a 999 call from the mother requesting that the father be removed from the home, following an assault upon her. She alleged that the father had "lost the plot" when their daughter left home without telling him. The mother made no formal complaint to police, and no admissions were made by the father. On 3 March 2021, police responded to a further complaint of domestic violence at the family home. The mother was found to be "extremely shaken." The father had lost his bail address, and she complained that he had assaulted her when she refused to accompany him to the shop. She referred to the father as her "ex-partner." She applied for and obtained a non-molestation order which had effect until 20 March 2021. It is unclear whether the order was renewed. She did not make a formal complaint to police, and no further action was taken.

Period 9: 24/03/23 – present

[31] Within six months of cessation of the previous intervention, the family were referred again to social services in March 2023. The referral was made by the children's primary school, concerning poor school attendance. On Monday 27 March 2023, two referrals were made in respect of the couple's third child. She was then aged 14 years. It was reported that on Friday 24 March 2023, she had left the family home and that her whereabouts were unknown. The mother reported her missing on Sunday 26 March 2023 and she was ultimately located by her maternal uncle and his partner. She advised that she did not wish to return to the family home and was frightened to do so on account of a physical assault which she had suffered at the hands of her father two weeks previously. She initially advised that the mother had not been present during the assault but later told the Trust that her mother had been present. The third child was voluntarily accommodated by the Trust with the consent of her parents and placed with her maternal uncle and partner. Limited parental contact followed. The third child did not wish to have contact with her parents and they did not wish to have contact with her. The father denied the allegation of assault. He was subsequently charged with assault on his daughter. As set out below, he was convicted in the District Judge's Court and sentenced to a term of imprisonment. He appealed his conviction but in August 2023 he withdrew the appeal against conviction. A restraining order was made against him, and his sentence of imprisonment was suspended. He is recorded by the Trust as having called his daughter "*a liar.*"

[32] During what appears to have been a difficult Child Protection Case Conference in July 2023, the mother directed some abusive and forceful comments at her daughter in front of staff. The unchallenged Trust record is that the mother's comments included "*you can keep her, I don't want her anyway*." The parents refused to work with Trust officials during this period and communications continued through the mother's social worker and solicitor. The parents threatened to withdraw consent for the third child's current placement. The Trust therefore applied for an interim care order in respect of the third child on 7 July 2023. A final care order in respect of the third child was ultimately made with the consent of both parents on 15 April 2024. The care plan at that time was for the third child to remain in the kinship placement with her maternal uncle and his partner. I understand that this placement subsequently changed and that she is currently accommodated by the Trust elsewhere.

[33] In October 2023, the fifth and sixth children made disclosures to teachers about serious parental physical abuse. At that time the children were aged six and seven years. They indicated that they did not wish to go home, that their "*mammy and daddy treat me badly at home*." They stated that the parents hit them all the time and that they do it to annoy them. Both children expressed fear of their parents while at home, that their parents insulted them by making faces and that they had called one of the girls a "*dick*." They reported physical beatings of the older children and stated that the parents were "*mean to the baby*" (namely the seventh child, then aged two years). The children stated that the parents left them scared as they

shouted at each other, that they sometimes hit each other and that they fought, calling each other bad names.

[34] These disclosures were raised with the parents who refused consent for the children to be placed voluntarily away from parental care. The Trust applied for an emergency protection order for all children except the eldest child and the third child (who by then was already living in a placement). The application for an EPO was refused as the parents agreed to move out of the house and for the children to be cared for by the paternal grandmother and the first child. This arrangement broke down after three days when the grandmother indicated that she was no longer in a position to care for the children. The grandmother also stated that the fifth and sixth children who had made the recent disclosures of physical abuse and parental fighting were nothing but liars. The second child was placed in Trust accommodation and the fourth, fifth, sixth and seventh children were placed in Trust foster care. An interim care order in respect of all of these children was made on 9 November 2023. At that time, the parents had withheld sibling contact with the third child since April 2023.

[35] On 21 June 2023, Trust staff arrived at the family home for a statutory monthly visit. The father arrived at the gate in a disheveled state. A strong smell of cannabis was noted emerging from the house. The mother arrived a short time later and was abusive to staff, refusing entry. Both parents indicated that they would no longer be working with social services and that everything would "go through their solicitor." The Trust requested PSNI to carry out a welfare check on the children. After being initially refused entry, this was ultimately permitted.

[36] In July 2023, the second, fourth, fifth, sixth and seventh children's names were added to the Child Protection Registrar under the category Suspected Neglect.

[37] On 9 January 2024, the mother advised Trust staff that she was pregnant, with an expected delivery date of late June 2024. Two days later, the Trust staff arrived at the house to collect the mother to bring her to a health appointment with one of the children. The mother presented to the door after some delay and in a disheveled state with a strong smell of cannabis, requiring staff to lower the car windows. The mother denied drug use.

[38] During April 2024, both parents underwent parenting assessments, which are addressed in more detail below. The father refused to undergo hair follicle testing on two occasions in April and May 2024. The mother attended for testing and denied any current or ongoing drug use. On 15 May 2024, the results of the mother's test returned as positive for cocaine. The advice note stated "*the analytical findings of cocaine and its metabolites meet the criteria to definitively prove the use of cocaine*." At the time of testing, the mother was pregnant at seven months gestation.

[39] An interim care order was made in respect of the girl on 7 June 2024, three days after her birth. At the time of this order, the Trust had completed assessments

of both parents relating to their capacity to parent the girl safely and their ability to change. The Trust's Court Report dated 3 June 2024 which was filed in support of the application for an interim care order summarised the history of social work involvement and concerns, summarising them as follows:

> "9.1 ….. Since 2010, the Trust have held significant concerns in relation to [the father], following a referral to Gateway following [the father] carrying out significant assault on [the mother]. Eight distinct periods of social work involvement followed, with recurring themes of disguised compliance, drug misuse, domestic violence, physical chastisement and non-engagement.
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> Throughout this pregnancy and assessment period, neither parent has been able to demonstrate capability, motivation and insight needed to attempt to progress the changes required from them. Given the presenting situation, the Trust continuing to intervene with the family under Child Protection policies and procedures cannot be considered a safe option. An authoritative intervention, through the initiation of court proceedings, is the only appropriate recourse left available to the Trust that would allow [the girl] to be adequately safeguarded.
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> There needs to be an immediate and dramatic improvement in [the mother's] and [the father's] motivation and commitment to effecting the changes required that will be evidenced and sustained over time. The Trust is clear that, if there continues to be no progress in respect of the issues of concern, then permanency decisions for [the girl] will commensurate with the Regional Policy on Permanency Planning…"

Threshold: Article 50(2) of the Children (NI) Order 1995

[40] For the purposes of the care order application in respect of the second, fourth, fifth and sixth children in December 2024, the parents agreed that threshold had been established at the date of the Trust intervention in October 2023. As set out above, care orders were made in relation to each of those children. For the purposes of these proceedings, all parties agreed that, at the date of intervention for both the boy (November 2023) and the girl (June 2024), the statutory threshold under article 50(2) of the 1995 Order was satisfied. By agreement, I was invited to adopt the threshold facts which had been agreed in December 2024. Those facts accord with those set out in more detail above and which appeared in the uncontested Trust reports.

[41] The December 2024 threshold statement, incorporated similar agreed threshold findings in relation to both the 2019 proceedings which led to the Supervision Order and to the separate proceedings in relation to the third child, which had an intervention date of 5 July 2023. A composite summary of the key facts in the agreed documents is as follows:

(i) There was a significant history of social work involvement with the parents and the children during the periods of time from the birth of the first child until the present proceedings (approximately 20 years).

(ii) The mother had adverse childhood experiences which adversely impacted upon her own parenting capacity. The father had anger management issues. He was violent towards the mother, and the children have been exposed to this violence and significant instability at the home. The father was convicted of a physical assault upon the third child, occurring in March 2023. In October 2023, the fifth and sixth children disclosed that the parents were violent to one another and towards the children. Both of those children subsequently retracted the allegations. Both children disclosed to social workers that they did not feel safe at home. The parents believe that the third child influenced the fifth and sixth children to make these allegations in the first instance.

(iii) At the time of intervention in 2019, home conditions were poor and inadequate to meet the children's needs.

(iv) The parents have both misused drugs, and the children have been exposed to the after-effects of this misuse. A hair follicle test on the mother in April 2024 was positive for cocaine use. A blood and urine sample collected from the father in May 2024 also detected the presence of cocaine metabolites. In witness statements prepared for these proceedings, both parents admitted to taking cocaine in October 2024.

(v) The parents did not work fully in cooperation with social services during the periods of intervention, they did not engage with all services offered to them to address the deficits in their parenting. More recent engagement with offered services is set out below.

(vi) The parents had breached a previous safety plan agreed with social services for the purpose of keeping the children safe while the father stayed in the family home.

(vii) The father had spent periods of time in custody during which he was unable to provide care for the children.

(viii) Both parents lacked insight into the physical and emotional needs of their children and how to meet those needs. Following the disclosures by the third

child of physical assault by the father, the mother sent text messages to the third child which caused her hurt and distress. She spoke to the third child in derogatory terms on 4 July 2023 during a Trust meeting which caused upset. Both parents confirmed that they did not wish to have the third child returned to their care.

(ix) On 13 April 2023, the names of the second, fourth, fifth, sixth and seventh children were added to the Child Protection Register under the category of Suspected Neglect and this registration was renewed on 4 July 2023.

(x) On 26 October 2023, the children were made the subject of a Police Protection Order, following the allegations of assault made by the third child. Thereafter, the children were voluntarily accommodated when placed with their paternal grandmother.

(xi) During pre-birth planning for the girl, the parents did not fully engage with the social work assessment offered to them.

(xii) Despite the longstanding concerns of the Trust about domestic abuse, both the father and the mother deny that physical abuse was a current factor in their relationship and/or their parenting of the children.

[42] In light of the agreement reached between all of the parties and based upon the above facts, it is clear that the statutory threshold was reached at the date of intervention for the boy (27 October 2023) and for the girl (7 June 2024). While the agreed facts do not state explicitly the risks of significant harm to which the boy and girl are likely to be exposed, if returned to parental care, those risks are patently clear. They include the risks of exposure to physical harm by means of assault and/or physical abuse by the father; emotional and psychological harm in the form of exposure to domestic violence between the parents; neglect in the form of poor home conditions; exposure to parents engaged in drug taking and misuse of substance, thus rendering themselves unable or incapable of parenting the children to a safe and acceptable standard; an inability and/or unwillingness of the mother to protect the children from physical abuse by the father and an inability and/or unwillingness on the part of both parents to institute change by availing of services and/or support from the Trust, thereby exposing the children to a continued risk of all of the above forms of significant harm.

[43] For the purposes of care planning, it is necessary to consider relevant events since the dates of intervention.

The mother

[44] The mother had an extremely difficult childhood experience. She was one of four siblings and was exposed to both domestic violence and parental alcohol abuse. Parental supervision and boundaries remained a problem in her childhood. While

her parents met the physical needs of the children, they struggled to understand emotional and safety needs. The mother was subject to multiple episodes of child protection registration. At age 14 years, she became a Looked After Child and was placed away from parental care.

[45] In 2018, she was assessed by Dr Philip Moore, Consultant Clinical Psychologist, during a period of prolonged Trust involvement with the family. He found that she had low-average IQ, but no specific learning disability. She was functionally non-literate with a specific learning difficulty in verbal comprehension. He found she had very little insight into many of the key concerns held by the Trust, but regarded them as overblown. She denied domestic violence in her relationship, despite reports to the PSNI. She considered harm perpetrated upon her to have been accidental. She was dismissive of concerns about home conditions and her apparent lack of concern about the likely effect upon her children of volatile parental behaviour, appeared to be the product of a lack of insight into its importance. She was considered to be "highly dependent" upon the father and that she would function more optimally if he was fully cooperative with the Trust. For the purpose of court proceedings from 2017 onwards, the mother has been regarded as lacking litigation capacity and has had the assistance of the Official Solicitor.

[46] In addition to her learning difficulty, the mother suffers from poor mental health, poor functioning and substance misuse. These have impacted upon all aspects of her parenting ability.

[47] The mother has little insight into the concerns of the Trust and considers that it has interfered excessively and unnecessarily in her life. This has engendered mistrust. She considers that her relationship with the father is very strong, healthy and positive. She sees no fault in their parenting capacity and wishes for all of her children to be returned to her care. She considers her role as a mother to be the central and most important aspect of her life.

[48] As part of the pre-birth assessment of the girl, the Trust carried out a Capacity and Ability to Supervise and Protect Report (CASP-R) dated 7 May 2024. It was therefore completed prior to the birth of the girl. The report follows a structured and recognised methodology. The mother attended three of the seven sessions offered. It included analysis of her internal capacity (ie aspects of her background and experiences which cannot be changed, and which influence her outlook and behaviours); her insight into the safeguarding concerns of the Trust; her parenting capacity (ie the ability to parent in a good enough manner in the long term) and her resilience to undertake the role as a protective carer, including coping strategies and support networks. The report concluded that the mother does not have the capacity and ability to supervise and protect the second, fourth, fifth, sixth and seventh children in the way that they now require and in the future. It also recommended that alternative care arrangements should be confirmed at the earliest opportunity. The report recorded the following:

> "… [The mother] is overly reliant on others, particularly [the father]. As such, [the mother] is unable to critically appraise her relationship with [the father], identify risk in respect of domestic abuse or substance misuse consequent to the relationship, or meaningfully consider the impact of the same on herself or her children.
>
> [The mother] has repeatedly acted to protect and sustain her relationship with [the father] over the safety and well-being of the children and has resisted working to effect the positive change required. [The mother] cannot accept that such change is required as doing so would undermine [the mother's] identity as a good mother and [the father] as a good partner and father. The psychological consequences of the same for [the mother] cannot be underestimated. It is within this context and the absence of a positive support network, that maladaptive coping mechanisms in the form of substance misuse and dissociative seizure activity have developed, with difficulties further compounded by the presence of mental ill-health and emotional difficulties reactive to the current situational crisis.
>
> The level of need experienced by the children requires a significant level of parenting resource, one which is not available to [the mother] due to vulnerabilities identified."

[49] The report made a number of recommendations which may be summarised as:

(i) Appropriate access to therapeutic support to address issues in her life, onward referral for appropriate therapeutic service by a GP.

(ii) Continued engagement with GP services for mental health.

(iii) Professionals need to communicate and engage with her in a manner commensurate with the needs identified by Dr Philip Moore.

(iv) Access support from Women's Aid including educative work and completion of "Journey to Freedom" programme.

(v) Educative work to understand how the children's experiences have impacted upon them.

(vi) Referral to drugs and alcohol service, abstinence required in the event of positive screening tests (this transpired to be the case). Any future self-report of abstinence to be corroborated by forensic testing.

The father

[50] The father is 39 years of age. He is unemployed. He left school aged 16 and describes himself as self-educated. He commenced his relationship with the mother when aged 17 and she was aged 14.

[51] In addition to his August 2023 conviction for assaulting the third child, he has a total of 20 convictions for criminal offences. These comprise driving offences (seven convictions); possession of Class A and Class B controlled drugs (three convictions); theft (one conviction); disorderly behaviour (three convictions); assault/obstructing police (two convictions); common assault (four convictions). In May 2021, he was sentenced to three months' imprisonment for common assault.

[52] Throughout the extensive periods of social work involvement with the family, issues of domestic violence and drug/alcohol misuse by the father have been the source of recurrent and repeated concern to the Trust. The father has repeatedly and consistently denied that he is the perpetrator of physical abuse. He denies all incidents of domestic abuse, save one incident in 2017 which was directed towards the mother and which both parties stated was accidental. He has continued to deny the assault on the third child, notwithstanding his conviction and notwithstanding the withdrawal of his appeal against conviction. Despite previously completing the Promoting Positive Relationships Programme in 2018, further incidents of domestic violence have been reported by both the mother and the children.

[53] Drug and substance misuse have also been a continuous concern to the Trust. The father has declined to undergo hair follicle testing on several occasions in recent years. During the period of pre-birth assessment of the girl, blood and urine samples collected in May 2024 tested positive for cocaine metabolites. In his witness statement he also admitted taking cocaine in October 2024.

[54] During April 2024, the Trust commissioned a Risk and Capacity to Change Assessment of the father. He attended three of the seven sessions, leaving one prematurely due to heightened agitation levels and an inability to sustain engagement. He declined hair follicle testing on two occasions during the assessment period (25/04/24 and 30/04/24). He also confirmed that he commenced using cannabis at age 11 years. During the subsequent 28 years, he achieved sustained periods of abstinence on two occasions (once for three years and once for two years). He reported a relapse lasting one month, following his arrest in March 2023 for assaulting the third child. He did not consider his use of cannabis to be problematic or that it had any impact upon his parenting ability or the children. At the time of the assessment, he admitted to having used cocaine on three prior

occasions. However, in addition to the May 2024 positive test, he also returned positive tests for cocaine on three occasions during the previous proceedings (March 2018, August 2018, November 2018). The father did attend addiction services between February-May 2019 pursuant to a probation order and was reported to have engaged positively.

[55] In addition to the allegations of domestic violence made by the mother, and the 2023 allegations by the third, fifth and sixth children, the fourth child made allegations of domestic violence against the mother in 2017. Both parents refused to allow PSNI or social services to speak to him. During the May 2025 assessment, the father appears to have attributed these allegations to the third child.

[56] The father described an idyllic type relationship with the mother and envisaged them remaining together for the rest of their lives. He did not consider there to be any fault in the parenting or care provided to his children. He expressed a sense of grievance at the current situation and the involvement of the Trust, with limited insight into how it arose.

[57] The assessment ultimately concluded that if there was any change to the existing care arrangements for the children, there were a number of factors which would increase the likelihood of significant harm, namely his propensity for drug taking and violence together with his inability to work with services. The prognosis for change was poor and the assessment report concluded as follows:

> "7.7 Given the contents of this assessment, it cannot be concluded that [the father] is a viable option for permanency for [the second, fourth, fifth, sixth or seventh children] at this time; and, based on the evidence to date, he is unlikely to make the changes required within the timescales for the children…"

[58] It was recommended that alternative arrangements were confirmed at the earliest opportunity for the care of those children to meet their needs and to keep them safe.

[59] Recommendations were made including:

(i) Full engagement with drug and alcohol services with a view to achieving and sustaining abstinence from illicit substances and a coherent plan to prevent relapse.

(ii) Abstinence to be sustained and evidenced over time with ongoing drug screening and testing.

(iii) A programme of educative work in relation to substance misuse and its impact upon parenting and the children.

(iv) A referral to the Promoting Positive Relationships Programme.

(v) A possible programme of educative work in relation to domestic abuse and its impact on partners and children.

(vi) Continued liaison with GP services in respect of mental health and emotional well-being.

(vii) Completion of work with Children's Services with a view to increasing his understanding of the children's care plans.

Additional assessment work

[60] In addition to the May 2024 parenting assessments of both the mother and the father, some additional assessments/interventions have been offered by the Trust:

(i) ***Women's Aid***

Between February-May 2025, the mother completed the Journey to Freedom course offered by Women's Aid. The mother initially refused to undertake this course, insisting that she was not a "battered woman" and that she was not a victim of domestic violence. It was also clear that her motivation for completing this course was the ongoing proceedings and prospects for reunification with the children. Her participation in the programme was also extremely belated and does not appear to have resulted in any change in her mindset or her views about either the presence or significance of domestic violence within her relationship with the father or parental relationships with the children. She indicated no willingness to separate from the father and strongly denied any violence, abuse or other coercive control within the relationship.

(ii) ***Promoting positive relationships (father)***

The father did attend an initial appointment in April 2024 for potential admission to this programme. He denied any responsibility for any unhealthy behaviours in his relationship with the mother or the children. He denied any physical or other domestic abuse. He denied the assault on his daughter and complained that she was full of lies, a drunk, and lives with other family members with whom he did not enjoy a good relationship. In light of his denial of abusive behaviour, the father did not meet the criteria for admission to the programme, and he was discharged.

(iii) ***Drugs and alcohol service***

The father was referred to the Trust's alcohol and drugs service. He ultimately attended for an assessment in May 2024, which resulted in the blood/urine test which proved positive for cocaine metabolites. The father explained he had taken cocaine once watching a boxing match. He attended one further session with a key worker. He missed three further sessions and was discharged for non-engagement. Between January-March 2025, he also self-referred to the ASCERT programme for alcohol misuse and was reported to have engaged positively. He stated that the last occasion on which he had used drugs was when the Trust did a drugs test (ie. May 2024).

(iv) ***Court ordered hair follicle testing: May and June 2025***

The court ordered hair follicle testing of both the mother and father to take place in May 2025. The test was scheduled for a Monday morning. Unfortunately, both parents missed the test as they had been in Donegal the previous weekend and their transport arrangements unexpectedly fell through. At the conclusion of the hearing of these applications, I allowed an application by both parents for hair follicle testing to take place in June 2025. These tests proceeded and the results were returned in late June 2025. The mother and the father both tested positive for cocaine metabolites with results very significantly in excess of thresholds required to prove use. The period of detection was March 2025-June 2025. In the case of both parents, the test result indicated "*repeated use within the period of detection*." In the case of the mother, additional traces of cannabis were identified at a much lower level and found to be "*indicative of occasional drug use, historical drug use, frequent contact with or environmental exposure to drugs*." For the purposes of these proceedings, both parents signed witness statements dated 30 May 2025, in which they stated that they last took cocaine in October 2024. Both of those witness statements were therefore either at best incorrect or at worst dishonest.

The parents' case

[61] The parents explained their own unfortunate circumstances and experiences in childhood. In particular, the mother had particularly poor experiences and was herself, a Looked After Child, who was removed from parental care as a result of concerns of domestic abuse and substance misuse. She was separated from her siblings, had disrupted educational experiences, had low intellectual functioning (but not a learning disability), was functionally illiterate and she became a mother at age 15.

[62] The parents also explained the nature of some of the previous periods of Trust involvement. The earlier periods were either short lived, related to specific issues or intended to support the mother following the birth of the first child. In relation to the Trust's involvement between November 2014 and March 2016, they pointed out that this resulted in a unanimous decision by the Trust to remove the names of the

children from the Child Protection Register. In relation to the prolonged period of involvement between 2017-2022, the parents maintained that tight monitoring of the family took place, progress was made, that risks were managed at home and the proceedings commenced by the Trust resulted in a supervision order, rather than a care order. The parents maintained that the Trust's concerns about drug use and domestic violence were live at that time and that the current evidence was not materially different. Hence, they maintained that this did not demonstrate their inability to parent the children safely.

[63] The mother also maintained that the positive drug test in May 2024 for cocaine when seven months pregnant was the result of an opiate based pain killer prescribed to her during an emergency attendance at hospital as a result of a seizure. No further independent evidence was adduced on this issue. This was surprising as it ought to have been a straightforward matter for the mother to obtain copies of the relevant medical records to support this explanation. The mother admitted one further incidence of taking cocaine, namely in October 2024. She relied upon her witness statement in support of her contention that she had demonstrated recent periods of abstinence. As the June 2025 hair follicle test has demonstrated, that witness statement was incorrect, if not dishonest. It was also maintained by the parents that the Trust managed the family under a Supervision Order, notwithstanding the father's three positive tests for cocaine in 2018.

[64] The parents also pointed to the fact that the Trust chose not to extend the supervision order when it expired in September 2020. Instead, the Trust managed the family until 2022 without any formal court order. During this period, the father's two sisters and his own father maintained regular contact with the family and exercised a supervisory role. Direct communications also took place between the Trust and those parties, who also had kept a notebook recording relevant events, and which had been made available to the Trust. The parents also highlighted various entries within the discovery materials such as contact records which they maintained evidence of their loving affection for the children and positive engagement with the Trust support workers

[65] The parents pointed out that, following the allegations by the third child in April 2023, the Trust took no action in relation to the other children until September 2023. They also highlighted that the third child has also indicated that she now wishes to re-establish relationships with her parents and to obtain a variation of the restraining order imposed following the father's conviction.

[66] The mother did not consider that the Trust official who completed the CASP-R report had been fair minded or independent. This belief was based upon prior engagement with this individual during earlier periods of Trust involvement with the family. The mother contended that he had previously told her that she was a good parent, but later said something different in a Trust meeting. She therefore considered that he was pre-disposed against her. The parents also pointed to the fact that they did engage with the assessment process and that the assessors had

sufficient information to complete their task, even if their engagement had been incomplete.

[67] The parents also contended that they have complied, to the extent possible, with the recommendations made in the assessment reports. They pointed out, in particular, to the failure by the Trust to provide educative work following May 2024.

[68] The mother points to her completion of the "Journey to Freedom" course with Women's Aid and the father refers to his self-referral to the ASCERT drugs and alcohol service. He explained his non-participation in the Promoting Positive Relationships course on the fact that he maintained his denials of abuse and the fact that he had completed the course in 2018. Even if he had taken up the opportunity to complete the course again, there was a long waiting list, and he was uncomfortable with the number of people expected to be on the course at the same time.

[69] The parents contended that the quality of contact they enjoyed with the children was good and that both the Trust and Guardian had made positive comments about the sincerity of their affection to the children and the quality of their engagement.

[70] Ultimately, the parents wished to be reunited with all of their children. They contended that the risks currently relied upon were those which existed in 2019, and they consider that any risks should be managed in the same way, namely by ongoing Trust support, possibly under a Supervision Order. They emphasised the seriousness of severing sibling relationships and requested further time to demonstrate completion of recommendations and provide further evidence of parenting capacity. In this scenario, they would consent to the current foster carer arrangements continuing. They contended the children will be safe under this option as both the boy and the girl are with the same foster carers who are duly approved by the Trust.

[71] The parents also criticised the Trust's proposed care plan, including reduced contact. As set out below, in the course of the hearing, the Trust provided an amended care plan with alternative contact arrangements. I analyse this separately. In particular, they contended that the sibling contact plan was insufficiently detailed, was supported by insufficient reasoning and was inchoate. They contended that it failed to provide a rationale for different contact arrangements as between the boy and girl and were particularly critical of what they considered to be an unduly short period of thirteen weeks for reducing parental contact post freeing. They also criticised the plans for sibling contact which were not clearly formulated and were dependent upon a future assessment. All of these criticisms were directed at the Trust's original care plan. In the course of the hearing, an amended care plan was submitted following Ms Smyth's submissions on behalf of the parents. I address below the issues relating to the care plan and contact arrangements.

The Trust's case

[72] The essence of the Trust's case was that it had been involved with this family for over 20 years, that the issues of current concern have been present throughout that entire period (eg domestic violence, substance abuse, neglect and lack of cooperation with authorities). It contended that every possible effort had been made to assist the family but that the parents had neither insight into the Trust concerns, nor the motivation or capability to make improvements in their parenting or change their lifestyle. The Trust pointed to the experience of the older children in respect of whom care orders have been made. All measures previously attempted by the Trust had been unsuccessful. It had been accepted by the parents that the threshold for Trust intervention had been met in respect of the boy and the girl and that the agreed threshold facts reflected all of the concerns outlined above which had been ongoing for many years. In light of the parental attitude and the Trust's previous experiences of engagement with the family, its prediction for the future of these two children was a childhood exposed to neglect; the risk of physical and emotional harm and parents who prioritised their own interests, lifestyle and relationship over the needs and well-being of the children. The Trust's case may be summarised by the following extracts from its final court report:

> "… This is a case where all that can be done has been done, including considering various forms of intervention tailored to their needs, high in support and visibility. Despite the 20 plus years of Trust involvement which has spanned the full lifetime of [the older children], the adult behaviours are pervasive and engrained and have continued to adversely impact the children's lives. Neglect, drug abuse and domestic violence are serious concerns that can have profound and lasting impacts on children's physical, emotional and psychological development. This is already evident in the older children's complex profiles, their emotional presentation and their physical health. When applying a trauma informed lens to the children's experiences to date, they have already been exposed to multiple adverse childhood experiences in the form of physical abuse, emotional abuse, living with a parent who abuses substances, having a parent incarcerated and being exposed to domestic abuse and neglect… By refusing to fully accept concerns related to neglect, drug abuse and domestic violence, these parents demonstrate a disregard for the well-being of their children and may perpetuate harmful situations. Whilst it is positive that both parents have shown some recent motivation to engage in services… it has taken years of social work involvement to get to this point. Moreover, both parents minimise substance

misuse being an issue, leaving the opening for relapse high if, indeed, there has been abstinence.

The issue with substances is not in itself the only concern, the basis parenting and insight is poor, and a clean hair follicle test does not resolve these issues. Alongside this, the primary concern that led to the most recent period of social work involvement is in relation to the physical chastisement of the children, to include a serious assault by [the father] on [the third child] which [the father] continues to deny and has also not engaged in any service in order to support him in this… These behaviours contribute to a home setting where fear, anxiety and instability could become features of [the boy and girl's] life. If this were to be the case, it is likely they would suffer the immediate effects which could hugely compromise their physical safety and relating patterns long into their adult life. Chronic exposure to such forms of stress can lead to children within [their] developmental timeline, suffering delay, weakened immune systems and future social difficulties… To prevent repetition of such patterns [of the older children] the same overview and forecasting should now be applied to the girl and the boy's circumstances so that they do not suffer in the same way… Returning them to the care of parents who are unwilling to address the history and be accountable for the past is highly likely to expose them to ongoing harm and trauma… Psychologically, exposure to neglect, drug abuse and domestic violence can have detrimental effects on children's development. This is already seen in [the older children] who each have required multiple dental extractions, chronic headlice infections, poor toileting hygiene, poor emotional regulation and limited ability to engage with education, to name but a few of the impacts. Chronic stress resulting from living in unsafe and unstable environments can impact the children's brain development, cognitive abilities, emotional regulation and overall well-being which can, if not disrupted, have a lasting impact long into adulthood… for this reason, the Trust strongly recommends that a return to parental care would be an unsafe option."

[73] The Trust acknowledged that parental and sibling contact with the boy and the girl had been positive, but it did not consider that contact in the controlled and supported environment provided by the Trust provided a realistic measurement of

either the parent's ability to meet the children's emotional needs across developmental milestones throughout their childhood.

The Guardian ad Litem

[74] The Guardian ad Litem supported the entirety of the Trust's case, both for care orders and freeing orders. They acknowledged the likelihood of significant harm arising to the children on account of domestic violence, parental conflict, drug abuse, poor quality parenting and neglect. The Guardian's analysis contains the following conclusions:

> "6.41 It is apparent that in the absence of positive lifestyle changes, if rehabilitated to [the parents'] care at this junction and relying solely on the current information before the court, the children's experience of home life would be characterised by chronic neglectful parenting, combined with an absence of nurturance, stimulation and a chance to engage in what would be typified as normal childhood activities.
> …
>
> 6.44 The Trust has clearly evidenced the thinking regarding the children's future and provided a chronology of decision making to date. I feel every endeavour has been made to engage [the parents] but they have been unable to effect positive, sustained change.
>
> 6.45 [The parents] have not demonstrated motivation/commitment to instill positive change and as such, I feel, the proposed care plans for adoption are appropriate. It is crucial that [the boy] and [the girl] are enabled to experience a warm, nurturing home environment and the proposed care plans are the most appropriate way to secure their stability and security."

Options analysis and conclusions

[75] The court is concerned with applications for care orders and freeing orders for the boy and the girl. They are the seventh and eighth children in this sibship. The boy is four years of age and has resided with foster carers for almost two years. The girl is nearly 17 months and has lived with foster carers since birth. She has resided in her current placement with her brother for approximately eight months. Both children are young and in the case of the boy, the period of time he has spent in the care of his parents has been short, when compared to the duration of his childhood. This was also a period when he was an infant, and his needs do not reflect the range

of physical and emotional needs which he will have throughout his childhood. In order to assess the current options for their care and permanence, the most reliable guide will be derived from an understanding of what has gone before; an understanding of the lived experiences of the older children while in the care of their parents and the evidence of parental change since they were removed from their parents' care.

[76] Like the court which made care orders in respect of the older children, I consider it to be overwhelmingly clear that if the children were returned to the care of their parents, it is likely that they would suffer significant harm and that the care which would be provided to them is not that which it would be reasonable to expect a parent to provide. The concerns of the Trust which provide the foundation for this application have been apparent within the family from the earliest times of Trust involvement, even if not the entirety of the children's lifetimes. In my opinion, it is clear on the balance of probabilities that the father is a man who has difficulty controlling his temper and who has a propensity for unjustified and unlawful physical aggression and violence towards all of those persons within his family. This includes not only the mother, but also his children. The recent conviction of the father for a serious assault on the third child represents only a small part of the cumulative evidence of the father's propensity for aggression and violence. The numerous reports of physical violence by the mother over many years, his other convictions for assault and the reports of assaults against third parties which did not result in criminal prosecution or conviction, all provide substantial support for the existence of this propensity.

[77] For present purposes, it is not necessary for me to adjudicate upon whether previous assaults did or did not take place, nor to decide the circumstances of the incident in 2017 in which the father admits he used force against the mother, albeit accidental. I wish to make clear that I am not making any factual findings about the circumstances of any of those incidents. The issue for this court is whether the children would be at risk of significant harm from the father. I consider it to be overwhelmingly clear that a significant risk of physical harm in the form of assault or use of unlawful violence would exist. Even if the children were not themselves the victims of such violence, it is clear that a significant risk of exposure to violence directed towards the mother or other persons in the home would exist. The emotional and psychological damage which can flow to children in such an environment is both self-evident and explained in detail within the Trust and Guardian reports, which were not challenged in evidence.

[78] In addition to the risk of harm from exposure to physical violence, it is clear that the children would be at risk of significant harm by exposure to parental substance misuse. The evidence to the court is overwhelmingly clear that both parents appear to be habitual drug takers who are either dishonest about their consumption of illegal drugs, who have normalised in their own minds the acceptability of drug taking or who simply lack insight into the risks which such behaviour poses to children. Not only does it pose the risk of neglect through

parental incapacity and an inability to provide safe parenting, but it exposes them to the risk of additional significant harm through a lack of boundaries, passive exposure and a greater likelihood that they may themselves become involved in drug use. Both parents have repeatedly minimised the extent and consequences of their drug taking and denied doing so. This was most startlingly evident by the witness statements filed for these proceedings in which both parents denied drug taking between October 2024 and May 2025 and requested court ordered hair follicle testing in June 2025. The test results demonstrate unequivocally that both parents participated in the regular consumption of cocaine over a three-month period between March and May 2025. I consider this to have been a brazen act of defiance on the part of both parents. Both of them must have known what the test were going to show, but they persisted in the request, and they maintained their denials in their evidence. When considered against the background of other evidence of drug taking, this behaviour should perhaps come as no surprise. However, the fact that the unequivocal positive tests followed upon repeated and strong parental denials provided the court with the most stark illustration of their lack of insight and their inability to prioritise the welfare of their children. However, from the perspective of the welfare of the children, perhaps even greater significance, was the positive drug test returned by the mother in May 2024. At that time, she was pregnant with the girl at seven months gestation. She appeared unwilling or unable to consider the possible harm to her unborn and defenceless child which could be caused by the exposure to cocaine. Instead, she chose to prioritise her own short term desires and lifestyle, without apparent concern for her unborn child. The unchallenged evidence before the court reveals the potential serious long-term physical consequences for an unborn child who is exposed, in utero to cocaine. It remains to be seen whether the girl will suffer life-long consequences from this inexplicable act of indulgence by the mother.

[79] When the above risks are considered alongside the demonstrable inability or unwillingness of the parents to recognise the harm to which they have exposed their children or to address the underlying behaviours, it is clear to me that the May 2024 assessments of both parents remain accurate insofar as the parents have not demonstrated themselves to be capable of providing their children with a safe, warm, nurturing and healthy environment, free from the risk of significant harm.

[80] For all of these reasons, it is clear that the option of rehabilitation of the children to the care of their parents is not in their best interests and should be excluded. For that reason, I am also satisfied that the best interests of the children precludes the option of making no order.

[81] The remaining options which are available to the court are either continuing the current arrangements through long-term foster care or alternatively approving the care plan for adoption.

[82] The parents have contended that, as an alternative to rehabilitation, the court should continue the current foster arrangements with a view to enabling them to

demonstrate capacity. Clearly, continuing the current arrangements would enable both parents to have the opportunity to have ongoing contact with them and to have shared parental responsibility for them. The children would be able to get to know their parents and their birth family identity to a much greater extent, thereby promoting their family ties and biological identity. The parents would also retain parental rights and responsibility for the children, which would be exercised alongside social services. The children would retain their existing surnames and have a demonstrable symbol of their birth identity.

[83] The disadvantage of foster care is that it would remain in place until the children were 18. They would be subject to involvement by the Trust in their lives throughout their entire childhood at every major milestone. As they grow older they are likely to develop a dual sense of identity and place, which can be confusing and destabilising. The parents would also retain rights to make court applications, to exercise parental responsibility over the children and, thus, potentially alter or destabilise foster placements. In this case, that risk is significant. There is evidence that the parents have at times attempted to undermine the foster placements of some of the older children. For example, the Trust records refer to private whispering by the parents during contact, the parents telling the children that they will be returning home and also providing them with false reassurance. In some instances, the Trust has recorded concerns that the parents told the younger of those children that they should leave their placement and attempt to return home, which two of them did in the early days of the foster placements. Long term fostering can also create uncertainty for the children beyond their 18th birthday insofar as they would enter adulthood with a dual sense of identity and possibly a sense of stigma from having been a looked after child. The children will require a sense of permanence, security and family attachment during adulthood, as well as childhood. The prospect of such uncertainty could, itself, serve to undermine a foster placement and a relationship between foster carer and child. Even if the children were to remain with their current carers, they are less likely to feel fully integrated into the family with whom they reside, which would be exacerbated by ongoing statutory visits by the Trust and respite periods. There is also a risk that the lack of certainty may even serve to undermine the commitment of the foster carers in future years, which would be damaging to the children if the placement broke down. These uncertainties, coupled with shared parental responsibility and involvement of the parents, can lead to further court hearings, disagreements and conflict, which can be damaging to the psychological and emotional well-being of the children. The children require and deserve safety, security, permanence and a lack of conflict throughout their childhood years.

[84] Kinship options are not available for these children and have not been identified since the Trust intervention in late 2023. The only option which has ever been put forward was for care by the paternal grandmother. However, this was tried in 2023 and broke down within a matter of days. It has never been put forward as an alternative in respect of the youngest two children.

[85] The option of adoption would provide the boy and the girl with an option for permanence in a safe, loving and secure home with an opportunity to fully integrate into that family. It would be underpinned by the permanent legal relationship of parent/child and the termination of parental responsibility for the parents. The possibility of adoption also arises at a point in time when the children are still young and therefore have the potential to grow and develop a full parent/child relationship with a new family in which they would be fully integrated legally, socially and emotionally. This would be a lifelong commitment which would provide permanence, and which would minimise the risk of disruption by the parents. The children would no longer have the same level of social work involvement in their lives. Adoption would only take place with carers who have been fully approved and who the court can, therefore, be satisfied would provide the children with a home and environment in which they were free from the risk of harm by reason of the care provided to them. All of these consequences may also be viewed as negative from the perspective of the children insofar as they would experience a very significant reduction if not total loss of the possibility of an ongoing relationship with their birth parents and their biological identity. In light of the unique family circumstances in this case, a significant deficit of adoption would be the impact upon relationships with other siblings and the reduced ties to their broader birth family.

[86] In the course of the hearing, the parents criticised the Trust's original proposals for contact under the care plan. The Trust originally proposed that, in the event the court made a freeing order, post-freeing parental contact would reduce over a 13-week period, and did not have any clear plans for sibling contact. As set out above, following the parents submissions, the Trust put forward revised proposals for post-freeing contact. Under the revised plans, the concerns of the parents have been recognised. The revised plan is for a detailed programme of post-freeing contact reduction extending over a 28-week period. This includes parental contact with each child, individually or collectively, full family contact, sibling contact in person and via FaceTime with reducing periods of hours. Towards the end of the programme, some weeks will have no contact. Overall, it represents a comprehensive and reasoned programme of reduction, to assist the children to adapt, in the event of a freeing order. After the end of the 28-week period, contact would take place bi-monthly. The plan also makes provision for the possibility of post adoption contact to support the children's developing sense of identity and help maintain links with their origins in a way which is safe. The plan for post adoption contact would be direct contact once per year with the mother for one hour, supported by Trust staff and the adopters. In addition, annual letter box contact with the possibility of photograph exchanges. Similar contact arrangements will take place with the father.

[87] Sibling contact proposals have been informed by the difficulties experienced by the Trust and family during full family time contacts, which resulted in sibling contact being split into smaller groups. It also reflects the current arrangements with the children split amongst different carers. Full sibling direct contact is therefore

proposed on a quarterly basis for a duration of two hours during the post-freeing period. Following adoption, it is proposed that this would reduce to once annually for one hour. This would be offered on the same day as parental contact to enable the possibility of full family time contact. These arrangements would be kept under review depending upon the prevailing circumstances of the children and parents at the relevant time.

[88] Considering all of the evidence and factors set out above, it is my clear view, taking account of all of the welfare criteria, the best interests of the children, the article 8 rights of both the children and the parents and the need to ensure the safety and stability of the children throughout their childhood, that I should make a care order for the children and to approve the care plan for adoption. I consider that these children require a home which is free from the risk of harm, and which offers a nurturing, safe and secure environment in which they have the best opportunity to achieve their potential. I consider the care plan to be choate insofar as it provides for a detailed and prolonged period of reduction in contact, but which preserves the possibility of contact with both parents and siblings. It also makes provision for the possibility of future contact in the event of adoption which will enable the children to retain their sense of birth identity and the possibility of relationships with their siblings which form such a unique and core part of their origins.

[89] In deciding to approve the care plans and make a care order, I must also consider whether I should make a freeing order. I recognise that the possibility of adoption represents the most extreme form of interference that may arise in care proceedings. Nevertheless, I consider that it is the necessary and proportionate outcome in this case. The risks to these children in the event of rehabilitation to their parents' care are stark and significant. The parents have demonstrated insufficient insight, capacity and motivation for change that there is, in my view, no realistic prospect of such change occurring within the timeframe which the interests of the children require in order to achieve permanence, or even at all. I agree with the assessment of both the Trust and the Guardian that the parents have been afforded every opportunity and every possible intervention over an extremely prolonged period of time to demonstrate their capacity for safe parenting. Regrettably, I am of the view that change is unlikely to occur either within a sufficient period of time or to a sufficient degree to provide any realistic alternative. The best interest of these children is to secure permanence by way of safe parenting by individuals who are committed to the welfare of the children and who are in a position to provide the high level and demanding parenting which their needs require. I do not consider that it is necessary for the Trust to await further time or to conduct further assessments and that it is appropriate to reach a final decision on permanence at this time. In light of the expressed commitments of the current carers, I am also satisfied that it is likely that an application for adoption will be made.

[90] In light of all of the above evidence, I consider that it is unreasonable for the parents to withhold consent to adoption and that a reasonable parent in their

position would consent, in light of the clear welfare advantages and benefits which are likely to accrue to the children through adoption.

[91] For all of the above reasons, I therefore make a care order in respect of the boy and the girl, I approve the care plans for adoption, as amended, I dispense with the requirement for parental consent, and I make freeing orders in respect of both the boy and the girl in the terms requested by the Trust.