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Judgment of Omagh Family Proceedings Court

WESTERN HEALTH AND SOCIAL SERVICES TRUST

V

L and M

(Care Order: Drift)

1. All information which might tend to identify the family concerned has been removed from this text, in order to protect the rights of the family and of the children concerned. Where names are still used, they are not the person's real name. This judgment is being distributed on the strict understanding that in any report no person may be identified by name or location, other than as disclosed in this text, and in particular the anonymity of the subject children and of their parents must be strictly preserved.
2. Peter was born in July 2006, his brother Brian in 2008. Their parents are the Respondents, Mr. M and Ms L. Care proceedings were initiated on foot of an Application dated 3rd September 2008, almost 2 years ago, when the boys were 2 years old and 2 months old, respectively. We set out here our reasons for concluding that a Care Order is the only appropriate way in which to provide for their best interests.
3. That it should have taken almost 2 years to reach a final Hearing on the matter can be no source of satisfaction to anyone involved. And that is before one allows for the delays occasioned by any Appeal. As will become clear, it is even more disquieting, in view of the gravity of serial concerns which the Trust was required to address, that an initial 2 years were to pass, the first 2

years of Peter's life, without an application for parental responsibility for the purpose of bringing forward a plan for permanency with Peter safely out of harm's way. The evidence before the court suggests that the time it took to see Peter brought to safety has left him with significant emotional and psychological consequences which may follow him for the rest of his life.

4. It must of course never be forgotten that those consequences arise from the inadequate parenting they received from Mr. M and Ms. L. The primary responsibility is not in question. Nonetheless, The Children (NI) Order 1995 was only the latest in a series of legislative formulations intended by public representatives to hone a system of public services and adjudication processes whereby children found to be at risk of significant harm would be protected from their birth parents and afforded their own chance at a stable and contented life. Where, for example, an infant is grabbed by his father, in flight for his life down a street, with armed relatives out for him, the community is entitled to expect that some agency will step in and pluck the infant from such a chaotic lifestyle. But not in this case. The incident in question happened on or about 18th December 2007. Peter was not actually to be removed from his birth family until 18th February 2009.
5. Professor John Triseliotis provided a Report dated 30th April 2010. To describe the Professor's Report as useful would be an understatement. In these preliminary observations, though, I simply wish to quote the following passages, illuminating the situation in which Peter now finds himself;

From page 17:

Based on the carer's accounts, and from what I observed especially during contact with his parents the next day, he comes across as a troubled and rather anxious child, but not a troublesome one. His rather exaggerated reactions to separations point to significant underlying insecurities.

The circumstances suggest that [Peter] brought with him uncertainty, mistrust and anxieties that have not yet healed [*He was by then in foster care for more than a year*]. The fragmented form of parenting he is reported to have experienced when living at home seems to have taken its toll. Although only hypothetical, any attachments he had formed to his parents would have been

fragmented and insecure with [Peter] presenting as uncertain about his feelings, restless and anxious. Foster care offered him the stability and security he had previously missed but on present evidence strong attachments have not yet been forged with his carer. They appear, however, to be in the process of strengthening. His apparent awareness that his parents are desperate to have him back, and his placement is uncertain, may be holding him back from a fuller commitment.

From page 22;

[Peter] was fine and he talked to his parents and accepted their endearments, but significant emotional connectedness was missing from most of their encounters. Although he came across as restless and rather tense and anxious, I did not detect any "fear" of his father.

My overall view is that currently [Peter] is not strongly attached to anyone.

6. How then does a child end up in such a dismal position - a child, above all, with no attachment to anyone? And what does it bode for the future, both for him and for the community? This judgment can only address the first of these issues.
7. In its Statement One, dated 4th August 2008, the Trust detailed the protracted history which had led it to resolve to seek joint parental responsibility, with a view to formulating a permanency plan. The Statement included considerable details of both the historic and extant concerns.
8. Ms L, the respondent mother, first moved from Town A to Town B in April 2006, along with her two daughters, Theresa and Sara. Those children, then aged 15 and 12 respectively, were already on the Child Protection Register of another Trust, first for a year from September 2001 and then from April 2005 until the matter was, in effect, taken over by a Trust which is now part of the Western Health and Social Care Trust. The grounds for registration since 2001 were those of potential neglect and suspected emotional abuse, arising from the relationship between Ms. L and their father Mr. Y. This was reported to have been characterised by domestic violence and alcohol misuse. When the receiving Trust resolved to enter the names of both daughters on the Child Protection Register in May 2006 it was considered that there had been minimal change in the risks of significant

harm to which these children were exposed since, presumably, 2001. One need hardly add in passing that it is the antithesis of good social work practice to leave children on a Child Protection Register for periods spanning anything like this without an authoritative intervention.

9. Ms L and Mr. Y had separated in September 2005 and, within weeks, Ms L had begun a relationship with Mr. M and was pregnant again in October 2005.
10. Early signs as to the prospects for the unborn child were not good. Quite apart from Ms. L's historic failure, over more than 4 years, to take the concerns of Social Services on board, to make and sustain changes in order to avoid unacceptable risks for her children, her new partner, Mr. M, was found to be a person with an extensive criminal record. His convictions included;
 - 7 theft and similar offences, plus 2 described as being of a miscellaneous nature, between 1997 and 2004
 - 4 offences relating to police/courts/prisons between 1999 and 2005
 - a property offence in 2004
 - a firearms/shotguns/offensive weapons offence in 2004; and
 - 4 offences against the person in 2005
11. In addition, he had used 3 different aliases over the course of this career, making it that more difficult to gauge adequately the level of risk which he represented.
12. This issue was one of those raised by the Trust previously responsible for the children's Protection Plan with the receiving Trust, upon the new family unit's move in April 2005. Other issues which followed them in the Social Services paperwork were;
 - Concerns about Mr. M's behaviour toward Ms. L and her daughters;
 - The fact that the move was either necessitated by paramilitary threats against Mr. M, further threatening the girls' welfare, or that the account of such threats had been contrived by Mr. M to facilitate a supported move;
 - An incident of frank domestic violence which had been captured on CCTV tape, when Mr. M grappled with Ms. L as she tried to use a pay phone, which he then rendered

unusable. This had been in the presence of the 2 girls and, indeed, they got embroiled in it, punching Mr. M.

13. As a consequence of all this, the receiving Trust, for its part, placed the names of Ms. L's 2 daughters on its Child Protection Register under the categories of *potential neglect, suspected emotional abuse, potential physical abuse and potential sexual abuse* in May 2006.
14. I must add, in passing, that I consider it significant, so far as the life story of Theresa and Sarah be concerned, that after 5 years Social Services were unable to identify any actual harm having been occasioned to them - everything remained merely "potential". This suggests that either appropriate assessments had not been carried out or that the Trust was institutionally reluctant to admit the degree of emotional harm already done to the children concerned, because that might compel an authoritative intervention. The Trust evidently preferred to hoist the flags of "working in partnership with the parents", or "supporting the family".
15. Part of the receiving Trust's dilemma is that where children have been allowed to remain within the birth family up to ages of 12 and 15, any effort to remove them from the birth family at that stage is likely to be resisted by the children themselves. In such cases, with timely intervention missed, it then tends not to happen at all, unless and until the working out of entrenched patterns either leads to the child herself explicitly seeking an escape or unless and until her own behaviour then demonstrates dramatic and imminent risk of harm.
16. To depart from strict chronology for a moment, and by way of illustration, one might take a glance at how things worked out for these 2 children, who continued in the care of their mother for another 3 years.
17. On 14th March 2008 both girls were placed in the care of their father in Town A, at a necessarily confidential address, under an interim residence order granted by Master Wells in the High Court. Reasons included;
 - Theresa, at 15, was engaged in a sexual relationship with a 21-year-old male, to her mother's knowledge.

She had stayed in the man's house overnight on at least two occasions.

- Sarah hurt her arm jumping from the back of Mr. M's van on Monday, 18th February 2008. Neither Mr. M nor Ms. L would take her to hospital that night.
- Since the family's latest move to a village across the border in January 2008 there had been clear evidence of neglect (my word) in that both girls were reported to have to wait in Town B until 7.30 pm before getting a bus home from school, both at risk on a daily basis of being in the company of older men, with the concomitant risk of sexual grooming.
- On 13th March 2008 Theresa arrived at Erne Integrated College in the late evening. The Principal called an ambulance because she presented as drunk. She was admitted to hospital overnight. Her stated reason for not returning home was abuse from Mr. M.

18. All this marked closure of 8 years under Social Services' watch. These final episodes demonstrate that Theresa had not been afforded a stable upbringing and manifested a clear deficit in her self-protection capacities in her search for a relationship of her own. Her childhood had been spent under the impact of one relationship of domestic violence and alcohol abuse and had been all but completed within another violent home. At all times, Social Services are to be taken as having considered that it was in her best interests that she remain travelling down an all-too-familiar path. Social Services moved only when she was old enough and competent enough in her own right to refuse explicitly to return to that home. Trusts are not supposed to wait until a child has to make her own break, because by then it will be too late in all too many respects.

19. As their new life together unfolded it became clear that where Ms L had been unable to sustain more than minimal changes in the parenting of her daughters by Mr. Y, Mr. M was unlikely to provide a stabilising and constructive influence so as to assure that history would not be repeated within their new family unit. Indeed, so far as the issue about history repeating itself be concerned, it is significant that both Ms. L and Mr. M were

themselves the victims of unstable family life, each having to be placed in care in their time.

20. One always has to bear in mind that those who have not received good parenting may face difficulties in providing such parenting to their own children. That is not to surrender to determinism, merely to signal that long term support may be required for such a second generation, if the cycle is to be broken. More especially, it also depends upon the parents being willing to accept such support. Sometimes - all too often in fact - the parents' unhappy history leads to an entrenched position that it is Social Services which represent the real threat to family life and that the appropriate course is to dodge them, as with Greeks bearing gifts.
21. To return to May 2006, then, both Theresa and Sarah found themselves once again on a Child Protection Register on the basis of *potential* harm. Ms. L was then pregnant with Peter, who was born in July 2006. He was not to find himself on a Child Protection Register until as late as 10th January 2008, 18 months later, following particularly dramatic developments.
22. On 18th December 2007, the Police contacted the Trust to report that Ms. L's brother and father had broken into the family home of that time, with a gun, with the apparent intention of shooting Mr. M. While they made their way upstairs, Mr. M grabbed Peter and ran out of the house with the toddler in his arms. Mr. M gave evidence that he fled to premises nearby where he knew he would be given shelter. He said the attack arose because of rumours which were circulating that he was a paedophile. There is no evidence that this is the case. Our assessment is that Mr. M genuinely feels he has a grievance that this had been suggested during the case history. On the other hand, whether that actually played any part in the perverse reasons for Ms. L's family coming after him with a gun we are not able to say, despite Mr. M's evidence. The other feature of his account of this episode in court is that he did not seem to recognise just how unacceptable it was that an 18-month-old should be anywhere near a situation in which gunmen are on the scene. (And, again, the response at the time gives one cause for concern as to whether the Trust would have understood what the term "unacceptable" means.) There is no reason whatsoever to suppose that his uncle and grandfather would have done Peter any harm if they found him left behind in

the house when his father took flight. The true significance of the episode is Mr. M's absolute determination to hold onto his son, even if to do so is of itself to put the child at imminent and very serious risk.

23. Another issue which arose out of the Police attendance at the family home on that occasion in December 2007 was that they reported finding evidence of dog faeces and urine on the floor and saw Peter walking through the urine. This was to be contested by each Respondent at hearing, though to somewhat different degrees. Both claimed that the police would only have seen water spilt from a bowl, while Mr. M was more willing to concede the presence of faeces. Dogs were being kept indoors overnight. The Police attendance was early in the morning and he conceded that an accident just might not have got cleaned up by the first one down that day and before the crisis. The court rejects these equivocations; it finds as fact that the Police report is reliable, taking account of the corroborative evidence to the effect that a chronic lack of hygiene was seen to be a feature of Ms. L's home on many occasions down the years. At a home visit by Social Workers as recently as 13th December 2007, for example, the house was cluttered and dirty ("unhygienic") with no improvement on what had been found the previous month. Mr. M's attitude to the fundamental need for hygiene when children were about left a great deal to be desired. He now concedes, at final Hearing, that it was partly his fault for using the house as a store (a factor which does not adequately account for the state of the home, as reported from time to time). On the other hand, he also claimed during cross-examination on behalf of the Trust that the level of untidiness at that time was no more than one would expect on a day-to-day basis. That, of course, raises concerns as to whether he for one would see the present level of tidiness in the house (which is not in dispute) as anything other than a passing tactic. (During an unannounced home visit on 4th August 2008, it was found that "The home environment presented as neglectful and a high risk for [Peter] and for [Brian] upon his discharge from hospital. The kitchen presented as unkempt, filled bin bags, kitchen cupboards were unclean, dishes stacked in the sink, dirty washing in the kitchen, living room had a high level of clutter and no furniture apart from a wardrobe, no flooring in the hall and the bedrooms were also cluttered and unclean." Mr. [M]'s response to the social worker's challenge was

to say that he would keep his home "in the condition it should be kept in.")

24. In the immediate aftermath of this violent attack upon the family home on 18th December 2007, there were meetings within Social Services on 20th and 28th December. It is not clear to us why the situation did not warrant more intensive action by the Trust. However that may be, there was a further issue added at that second meeting, when Mr. M produced written notice from the Police of a threat to his life from dissident republicans, Further, Ms L was advised to avail of Women's Aid, but she would not consider this. At the hearing, Mr. M showed no insight into his responsibility for this. While he now says that, "with hindsight", he should have had Ms L and the kids go to Women's Aid, he also maintains that he played no role in the decision to stay. In the view of this court, his role was that of a domineering partner who had so recently demonstrated that he would go to extreme lengths not to be parted from his son.
25. I want to make it crystal clear that the failure of the Trust to initiate legal proceedings so as to remove Peter from such a complex of very serious risks as at late-December 2007, absent such a decision by Ms. L, is quite indefensible. The chaos into which Mr. M was pulling the family, the 2 daughters included, was completely unacceptable. This was a situation in which the only proper course for the Trust was to insist that Ms. L remove herself, along with her children, or face an Application. In my judgment, an application for an Emergency Protection Order to the family proceedings court would have been entirely proportionate. As appears shortly, the Trust's failure to act merely allowed the Respondents to introduce cross-border complications into the mix.
26. Matters were left to an Initial Case Conference in respect of Peter and an Assessment Review Case Conference in respect of Theresa and Sarah, which took place only on 10th January 2008. The upshot was that the girls remained on the Register under the categories of *potential physical abuse, suspected emotional abuse and confirmed neglect*. It is to be remembered that they had been so registered on a continuous basis since April 2005. Peter joined them on the Register, for the first time, under *potential emotional abuse, potential physical abuse and confirmed neglect*. Just by way of a measure as to how much authority the Trust was exercising by

then, to what degree this was one of those cases in which it might be said that the Trust was "working with the family", neither Mr. M nor Ms. L attended. The Trust was thereby simply suffering itself to be side-lined by the Respondents. The decision should have been to seek a Court Order.

27. Social workers next made a home visit, unannounced, on 15th January, a fortnight later. There had been another change of address which had not been notified to the Trust. The new address was across the border. When the failure to notify was put to Ms. L during that visit, she said that Mr. M would not allow her to disclose the house move. The recommendations of the Case Conference were reported to her, but she made no real comment. She was advised to attend her GP and was still on her anti-depressants. Mr. M arrived. Upon establishing that their visitors were Social Workers (including one newly allocated to the case), his response was "Get the fuck out of my house; you are not welcome."
28. One must never forget the real courage it takes for Social Workers, especially the young and inexperienced, to stand their ground in a situation like that. This Social Worker did so and explained to Mr. M that it was important she discussed the Case Conference outcomes with him, in respect of Peter, but he responded to the effect that he would deal with Social Services in court. He was reported as being very hostile. The Social Worker persevered and raised Parenting Assessments and risk assessments with him. He "clearly stated" that he was not willing to undertake any such assessments. Finally, the Social Worker mentioned that she had spoken to Donegal Social Services "as they will be taking over case responsibility". Mr. M response was, "They will not come near me; I have family living here."
29. I have no doubt that these various remarks by Mr. M were relayed back to more senior management by that conscientious and worthy young Social Worker. In the context which I have already detailed, it is lamentable not to be able to report that field operatives, if I may use that term, found management promptly rolling out the heavy tackle. Mr. M was blatantly calling management's bluff and the only credible response (bearing in mind the risk to all the 3 children of both physical and emotional abuse, plus neglect) would have been an Application for a Care Order.

30. Episodes like this say much about the issue of morale among those, typically young, Social Workers engaged in child care. One cannot expect many to persist in this kind of work for very long without at least an appropriate level of backing from the more experienced, back at base; most do not.
31. Social Services simply could not know what harm was being caused to Peter within that family environment. Matters had reached such a stage that it would have taken a Parenting Assessment, a risk assessment in respect of Mr. M and, probably, a psychological assessment of both parents before the Trust might have cause to believe that there remained time enough to keep trying to persuade the Respondents to change their ways while this highly vulnerable child remained in their care. In such a case as this, where both parents are as explicit as can be that they will not allow the Trust to have those assessments carried out, the only proper course is to seek to have the child removed. Time and again - and the present case is a classic example - one finds that such complete parental opposition evaporates in the face of legal proceedings and, as here, the parents then plead for the very services which they previously spurned in order to show that they can provide good enough parenting into the future. It is imperative, then, that the Trust times the application correctly and does not allow matters to drift before intervening authoritatively. Otherwise it may be too late for the child as regards long term harm to his sense of worth, never mind the parents. Given the effect which proceedings often have upon erstwhile dismissive parents, a more timely resort to the courts might also be considered fairer to them as well.
32. Matters took another route. On 30th January 2008, there was an incident when Mr. M arrived at a bus depot where Mr. Y was waiting to meet his two daughters, Theresa and Sarah. Mr. M assaulted Mr. Y, who told Social Workers that an iron bar was involved. When the Social Worker arrived, M drove off at high speed, with Ms. L and Peter. At Hearing, Mr. M engaged in tendentious efforts to dispute that it would not have been possible for him to leave at high speed, but we found no merit in his contentions. Later, Ms. L arrived back at the depot, having left Peter with his father. Next day, Mr. Y and Ms. L met with the Social Worker and Service Manager to discuss the episode. Ms. L

could not say where Mr. M and her son had been overnight. Quite simply, the child's whereabouts were unknown.

33. Again, Ms. L was given the option of moving to Women's Aid accommodation with her 3 children. Again, she refused. The second option was that she return home with her 2 daughters and, when her partner returned with Peter, put the former out. That it should be considered, in the face of all contrary history, that Ms. L was about to force Mr. M out, that he would ever agree to leave without his son, is hard to understand. In any event, Ms. L gave a non-committal answer. In power terms, it was in fact Ms. L, not the Trust, who was now being left with the initiative. Nonetheless, the Service Manager proceeded, apparently, to solemnly dilate upon the seriousness of the situation, "serious enough to seek legal advice" and that, what was more, there would be another home visit next day. Social Workers did indeed call next day, 1st February. There was no-one at home.
34. Lest the seriousness be missed, Peter's whereabouts and condition were unknown, were quite likely being withheld by Ms. L and both parents were refusing to co-operate. At Hearing, Mr. M claimed that he had simply returned home with Peter after the incident at the depot, prepared the child's dinner and got him ready for bed. We did not believe that. The point is that, wherever the child was, he was a child at risk and it was intolerable that Mr. M and Ms. L should not keep Social Services informed of his whereabouts at all times. This should have been recognised as intolerable to the Trust as well, but evidently was not.
35. This is the point at which the situation concerning Theresa and Sarah also came into sharper focus, leading to them being removed to their father's care. In the process, though, Theresa disclosed to Social Services on 21st February that her mother was in fact pregnant to Mr. M for a second time, but that he had not allowed Ms. L to tell anyone (which would include medical advisors, of course), because he did not want the child to be on the Child Protection Register.
36. On 19th March, Donegal District Court made an Emergency Care Order in respect of Peter. Apparently, service upon Ms. L was effected within the jurisdiction of the Republic, while Mr. M was

within sight, on or near the Northern Ireland side of the border. Ms. L made her way back to his van and he promptly took off, again at high speed, in reverse, into Northern Ireland. Ms. L testified to the court that her partner tore up the Court Order; he claimed that he still has it somewhere, but we do not believe he was being truthful.

37. Mr. M's take on all this at hearing was that Donegal Social Services only made their application on information supplied by the Western Trust (as if to say either that it was therefore unreliable, or that it was unfair not to allow him to build up a fresh account in the Republic). Nonetheless, he was also frank enough to concede that he had moved the family across the border in order to evade the Trust, just as he moved the family into hiding in Northern Ireland after the emergency order had been obtained across the border, to avoid Peter being removed from him. From that date forward, the child's whereabouts were again unknown to all professionals involved, on either side of the border, until Mr. M contacted the Trust on 26th March to advise that they were staying in a Hostel in Town B.
38. The most generous interpretation to put on all of this was that the cross-border element had stymied the Trust's wish to seek such an Order within Northern Ireland in December/January (a moot point), but that it had instead arranged for the appropriate action to be taken by its counterpart in the Republic. If that were the case, though, then one would have expected the Trust immediately to seek an emergency order on its own account, once the family resurfaced within its jurisdiction.
39. The circumstances fully justified an emergency application, even to a District Judge or Magistrate sitting alone, and a Recovery Order under Article 69. Equally, it ought to have been quite unacceptable to the Trust that when Ms. L was offered emergency accommodation with Peter in Londonderry she simply refused to go, following discussions with Mr. M, especially since she then admitted to being five or six months pregnant.
40. This history, by turns embarrassing and disturbing, demonstrates that what was recognised as warranting the urgent removal of a child by both the Donegal Health Authority and the District

Court there, was not so recognised by the Western Health and Social Care Trust.

41. Over the following months the same patterns remained. The Respondents would move home without notifying the Trust, and Mr. M was refusing to discuss Peter's Protection Plan. It surely should not have to be stated that where a care parent refuses to discuss a Protection Plan for any child at risk then the Plan is a mere fig leaf for drift.
42. However, on 21st May 2008 Ms. L and Mr. M appeared to relent. She agreed to complete Parenting Assessments and he a risk assessment. It is the court's view that this change was purely tactical and was directly linked to the upcoming Pre-Birth Case Conference on 29th May, when the unborn child joined Peter on the Child Protection Register under categories of *confirmed neglect, potential physical abuse and suspected emotional abuse*. Nonetheless, unhygienic conditions persisted at home and Social Services found no-one in at a number of pre-arranged statutory visits.
43. Brian was born in July 2008 by caesarean section, four weeks early. On 29th July Mr. M contacted Social Services, for once, to say that there would be no-one at home for the planned statutory visit. He refused to agree another date.
44. These were the circumstances in which the case was finally brought before the family proceedings court on 25th September 2008. With such a case history and no updated Report since that of 4th August, the Panel was more than a little surprised to learn that the Trust proposed to allow both children to remain with the Respondents. However, the fact that the Guardian supported the proposal obviously induced a degree of circumspection. The resulting directions signalled the court's unease;

Trust to draw up and present a written contract to the parents detailing the level of parenting required of them with sufficient particularity as to allow a clear understanding by the parents as to what further omissions, neglect or lack of co-operation will cause the Trust to consider removal of the children. Adjourn to 2nd October for draft contract to be reviewed.

Trust to file an addendum report by 2nd October detailing what behaviour or action by the parents respectively caused the Trust

to resile from their considered position documented as at 4th August 2008 to the effect that the subject children needed to be placed elsewhere.

Short report by the Guardian as to her criteria for judging when an intervention in this family may be required by reference to the matters reported by the Trust or arising from her enquiries. Same by 16th October 2008.

45. The upshot was that a contract was effected. The view of both Trust and Guardian Ad Litem was that there had been at least sufficient change in circumstances in recent weeks to warrant an effort to keep the family unit together. If I concentrate on the Guardian's Report of 15th October 2008,
- the Health Visitor had assessed both children as progressing well;
 - the home conditions had improved to " ... a level which provided a safer environment for the children"
 - the parents had stated their intention to work with the Trust and to remain at their current address for monitoring and assessment
 - Ms. [L] had commenced sessional work on parenting at the Erne Family Centre
46. The Guardian described this as the first indication since Peter's birth that the parents acknowledged that their lifestyle was unacceptable and placing their children at risk. She described it as "a window of opportunity." While all physical signals were good during the Guardian's one home visit, she agreed with the Health Visitor and Child Protection Nurse Manager, in a prescient observation, that "... the potential emotional impact [of the parents' unstable lifestyle to date] was more difficult to measure." If I might point out, it would not have been measured without Peter being removed and adequately assessed.
47. Key areas which would instead necessitate the prompt removal of the children were identified as;
- Any incidents of domestic violence or paramilitary conflict in the area of the home
 - A deterioration in the home situation which places the children's immediate safety at risk
48. One did not anticipate that there was going to be much at issue in respect of threshold, so attention focused from the outset upon the investigations and assessments preparatory to the formulation of a Care Plan for permanency in respect of the

children, whether that be through rehabilitation or otherwise. The Guardian's Management Report, completed in liaison with all parties, provided for Health Visiting Report, the Family Centre Reports upon the Parenting Assessments of Ms. L and Mr. M, a Nursery Report in respect of Peter and a risk assessment report together with a Police check upon Mr. M. In addition there was to be a psychological assessment upon both Respondents by Dr. Pollock. Taking account of all these, the Management Report recommended, and on 27th November 2008 the Court directed, among other things, a Final Report and Care Plan by 1st May, leading to a Final Hearing on 25th June 2009.

49. On 27th May 2009, the Court received a C2 Application on behalf of Ms. L, seeking to have the timetable revised. Dr. Pollock's Report had recently recommended further Family Centre work, a programme with Women's Aid for Ms. L and an Anger Management programme for Mr. M. The Trust's Final Report adopted these proposals, but would seek a Final Care Order on schedule, with a Care Plan based on a concurrent plan, pending outcomes of this additional work. By Direction of 30th April, in extending time for the Final Report and Care Plan, the Court at that point had vacated the timetable for all stages thereafter on the explicit basis that there was already intimation of further enquiries arising from the terms of Dr. Pollock's imminent Report. On 4th June, the Court adjourned to 25th June, accepting the contention advanced on Ms. L's behalf that a Care Plan which merely recited options, either rehabilitation or adoption, dependent upon the outcome of pending enquiries, was not choate. Were the Court to proceed on that basis, it could not say what it was endorsing by way of permanency.

50. Very late in the process, Ms. L then applied in October for an Attachment Report from Professor Triseliotis, to be available prior to Christmas 2009. It was bravely asserted in the C2 Application that, since the Plan had by then become one for adoption, it was deficient in having been settled without any consideration of the children's attachment to their parents. It was contended that this was "purposeful delay". In point of fact, it had been a live possibility since September 2008 that the ultimate plan might not be rehabilitation – more especially since the children had been removed in February 2009 to foster care. The Respondents might have challenged any alternative on the basis that there had been no assessment of such attachment; in other

words, the proposal should have been included in the Management Report of November 2008 for consideration, in order to avoid delay. This might have caused significant difficulty for the fate of so very late an application were it not for the fact that the case was, by October 2009, completely adrift anyway, by reason of the Trust's default. In the final analysis, the decision to accede to the application for such Report from Professor Triseliotis was really on the basis that it would not occasion any distinct delay and that, on reflection, an Attachment Report was indeed apposite, for Peter at least. As already demonstrated here, the resulting Report was in fact to prove of immense assistance to the Court and, one hopes, to the Trust, both here and for future case work. Its treatment of the relevant issues was truly impressive, in the acuteness of its observations and the breadth of authority brought to bear. On the Trust's part, Terri Ms. McSorley, Team Manager at Erne Family Centre, described it as a "key element" in deciding upon adoption as the permanency option. In that, however, the witness was clearly a little confused by the extensive case history; adoption was decided as the sole permanency Plan in September 2009.

51. Meanwhile, the year between 25th June 2009 and 21st June 2010 was "lost" to these children, so far as permanency be concerned, as a direct result of the Trust proving unable to render its Plan sufficiently choate in respect of the adoption route.
52. Drift began with the Trust's C2 of October 2009, whereby, affirming the revised Plan for adoption, it sought to have the Final Hearing deferred to 18th January 2010 on the basis that the case would be presented to the Adoption Panel on 26th November 2009. In consequence, the Court directed a Report on the outcome of the Adoption Panel process on 3rd December 2009. The Court was then advised that there had been a delay and the Final Hearing was again re-scheduled to 15th February 2010. This merely resulted in another Application by the Trust, whereby, on 21st January, the Final Hearing was again delayed, this time to 17th May 2010. On 11th March, however, in the face of yet more news of delay, the Court required a written account from the Director of Women & Children Services on the failure of the Western Health and Social Care Trust to achieve a decision by the Adoption Panel, "pursuant to previous assurances to the court and indeed upon intimation that the matter could not

return to the Adoption Panel at the April meeting but must be delayed further to the Adoption Panel Meeting in May."

53. The ensuing letter from the Director dated 23rd March 2010 gives some insight into the establishment issues at the Western Trust, bearing in mind that the case was supposed to be placed before the Adoption Panel in November 2009. It addressed only the failure to present the case in March 2010 and explained that this was due to staff sick leave. It would not be possible to present the case in April, due to "... outstanding work required to present the case to panel", but the Director assured the Court that it would be so presented on 13th May. The panel minutes would be prioritised and furnished to him, as Trust decision maker, by 20th May. He would make his decision by 27th May, with the final Court report to be filed by 1st June. The Court was given to understand at various directions hearings that the delays prior to March 2010 were likewise due to staffing issues within the Trust.
54. The significance of this drift - for it is nothing else - for both these boys - but more especially for Peter - must not be overlooked. Professor Triseliotis' Report detailed how, in March 2010, Peter was only in the early stages of forming a stable relationship with his current carers. That process will no doubt have continued up to the present time and for some months yet. And then the child who has acquired mistrust and insecurity as features in his psychological make-up will find himself removed to strangers, howsoever delicately that can be managed, to start all over again. Placed in that context, the Trust's experience of staff shortages and sick leave provide no adequate or acceptable reason for having thereby created additional and serious emotional loss for the boy. Staff shortages and sick leave are for Managers to manage while still meeting identified priorities. Peter should have been identified as one such priority.
55. This is more than just a matter of internal management within the Trust - though that is concerning enough. It is also about management's attitude to the courts. The letter of explanation from the Trust's Executive Director of Social Work provides no explanation for the Trust's failure to place the case before the Adoption Panel on 26th November 2009 - doubtless because it was not expressly sought. It provides no explanation as to why the Trust should instruct its representatives to state to a court that it would be so presented on 3rd December 2009 without

management taking steps to ensure that this would be done. Likewise, it makes no effort to explain why the same representatives in court were then put in the position of agreeing a revised timetable for the legal proceedings to include a Final Report and Care Plan by 21st January, nor why, on 21st January 2010, such representatives agreed revised provision for the Final Report by 18th March when, once again, management continued to take no adequate steps to have the case put before the Adoption Panel 11th March. The Executive Director advises only that staff shortages prevented completion of the exercise on 11th March. Then again, it is discretely conceded that the case was never properly being prepared for such presentation anyway and, now that management was bestirred, it was necessary to pass over the April date for the Adoption Panel because one had to start, so the speak, at the start. Thus it is that a family proceedings court can do little more than sit and watch the Final Hearing slip back, first from 25th June 2009 and then, with reference to the Trust's procedural steps particular to an actual final plan for adoption, from 18th January 2010 all the way to 21st June.

56. It is clear from this specimen of the commonplace experience in the family proceedings court that Trust management does not sufficiently value the organisation's reputation so as to ensure that if solicitors are instructed to give an assurance to a court on its behalf, that this can be regarded as reliable. Management knows its own staffing situation from time to time. I ask the Western Health and Social Care Trust to put arrangements in hand to see that any assurance given to a court will be honoured, rather than persisting in this culture of feeding out timescales which so frequently prove to be quite meaningless, organising itself only to cite staffing difficulties as the reason why something promised did not get delivered.

57. To return, then, to that point in September 2008 when the children were to remain with their parents, with the concurrence of the Guardian Ad Litem, under a strict contract with the respondents, things did not go well. In an addendum Report of 27th November that year, the Trust recorded that, whereas it was resolved that Mr. M should produce his driving documents, since he was to be transporting the children, he would not agree to a Social Worker and Police calling to the house for them and instead agreed that he would leave them in with his solicitor. He

later refused to do so. The suspicion therefore arose that he had no such documents.

58. In addition, both Mr. M and Ms. L, at such a critical time, seemed to have diverted from what one might have expected to have been their overriding priority in order to pursue a malicious campaign to hound Mr. Y, with whom Ms. L's daughters had been placed earlier in the year. There was a false allegation made by Mr. M that Theresa had had sex with a 50-year-old man. Investigations established that this was quite unfounded. This had caused considerable distress to Theresa.
59. Shortly afterward, Mr. M raised a complaint that Mr. Y had circulated the Case Conference Report in respect of those same daughters, whereby he expected to come under threat from the Continuity IRA. When advised of his duty to report this to the Police, Mr. M refused to do so, on political grounds, but with obvious implications for his priorities respecting the safety of those children who were then living with him.
60. The update Report from the Trust dated 18th December 2008 signalled further issues. Home conditions were deteriorating somewhat. On the other hand, the children were well presented and being seen to be treated with affection and warmth and Ms. L had completed a Parenting Assessment. However, Mr. M had attended only 2 of the 5 Parenting Assessment sessions thus far. The baseline, though, in the Trust's view, was that the children were not seen to be at imminent risk of harm.
61. A Child Protection medical report from a Dr. Lipscomb dated 3rd February 2009 was also filed. This reported upon the investigation into a burn on Peter's left hand. The alert had been raised by the nursery to which Ms. L had brought him that morning, saying that it had been sustained when he had come in contact with a hot radiator. The examination concluded that the injuries were consistent with the account given, to the effect that he had dropped some keys behind the radiator and had burnt his hand when trying to retrieve them. What is significant, though, is that the Physician reports seeing the Social Worker relaying this back to Mr. M and seeing him react with anger, accusing her of humiliating and slandering him. He then confronted Dr. Lipscomb, demanding to know why he had not reported back to Mr. M directly. When told that the findings were consistent with

- accidental injury, he said he did not believe what non-medical people had told him and added that he was fed up with his family being lied about.
62. This aggression, exhibited in front of his two children, staff and other children in the Children's Ward of Erne Hospital led to a meeting with the Team Manager and the Social Worker on 9th February being convened. Mr. M did not turn up.
63. Further, upon attending the Erne Family Centre on 10th January, Mr. M had declared that he was doing so under duress and felt that such work could not contribute to his parenting. These events led to a Core Group Meeting on 16th February. When efforts were made to engage Mr. M as to what all this, together with findings of unhygienic conditions at home once again, signalled as to compliance with the contract and the risk that his children would have to be removed, he walked out. Ms. L, for her part, was reported as being quite unresponsive.
64. A Core Group Meeting was convened on 16th February. Issues as to hygiene at home and safety issues were considered. For his part, Mr. M was blaming Mr. Y for the risk of removal, a perturbing instance of displacement. All professionals agreed that neither parent, but with particular reference to Mr. M, had complied with the contract signed on 25th September 2008. Upon being told that there was a high risk of removal, Mr. M again walked out, while Ms. L remained unresponsive. In consequence, on 18th February 2009, both children were removed to the same short-term foster placement where, in fact, they have remained to date.
65. Dr. Pollock's psychological Reports upon Ms. L and Mr. M were dated 21st March 2009. Ms. L had been interviewed on 10th March and, at that point in time, singularly, she was presenting as no longer in relationship with Mr. M, stating to Dr. Pollock that they had parted three weeks ago. When Mr. M was seen on 16th March, however, his version was that they had been reunited in recent weeks, following a temporary separation. I have to note that this disparity merely illustrates the difficulty in getting basic facts from the Respondents. In any event, it was a brief separation which would seem to have been on Ms. L's initiative, but she proved unable to sustain her resolve for anything other than a brief period, probably continuing at the

time of her attendance upon Dr. Pollock. It barely features in Trust papers at all.

66. Dr. Pollock was dubious whether Ms. L could consistently prioritise her children's needs and her relationship with Mr. M was " ... a specific factor which is likely to compromise and undermine her ability to prioritise the children's needs in the future." She had limited insight into the children's range of needs with "very limited insight" of risk and threat of harm to the children. She acknowledged that she is subordinate and dependent within the relationship; something Dr. Pollock felt should be targeted during recommended Women's Aid programmes. Her pattern of engagement with professional services, however, did not inspire confidence. Dr. Pollock remained unconvinced that she showed sufficient insight for change.

67. On this analysis, Dr Pollock recommended

- Family Centre work.
- Couple's Work for both parents - Dr. Pollock was implicitly not accepting of Ms. Pettigrew's assertion that they had truly parted.
- Women's Aid Work.

68. Dr. Pollock found that Mr. M "wished to convey that he is committed to change in the best interests of his children and that he feels remorse and responsibility for the present situation." It is interesting that, in testing him for cognitive functioning and abilities, Dr. Pollock records "I observed that Mr. [M] demonstrated very poor motivation and effort when confronted with any of the sub-tests that required educational knowledge or sustained motivation or which challenged his immediate problem solving strategy and he, essentially, failed to engage or attempt answers to these sub-tests when he was confronted by such challenges."

69. Again, "I am of the view that Mr. [M] shows the capacity to prioritise his children's welfare above his own, although I am dubious whether he will consistently sustain this perspective if he is faced with challenging situations in which he feels aggrieved or unfairly treated by professionals or others, whereby he is likely to lose this perspective." Dr. Pollock felt that this same trait impacted upon Mr. M's capacity to work in

partnership with the Trust. The one positive note was struck in respect of the issue about whether Mr. M recognised the need for change and on his ability and motivation to sustain change. Of these, Dr. Pollock remarked that the Respondent's current presentation "did inspire a degree of professional optimism that opportunities exist at the present time to maximise his expressed motivation during programmes of work."

70. With the acquisition of the Reports from Dr. Pollock, the Trust had completed all the agreed assessments, as set out in the Case Management Report dated back on 27th November 2008. The recommendations contained in Dr. Pollock's Reports - the historic fact of such recommendations - has become a core issue in the parents' case, resisting the ultimate Care Plan and seeking further work.
71. The joint letter of instruction to Dr. Pollock listed the questions to be addressed in the Reports including, at point 11,
Please comment on any recommendations regarding continued intervention with Ms. [L], to enhance her capacity to meet her children's needs.
72. Dr. Pollock, of course, was not asked to specify what further interventions should take place before rehabilitation is abandoned by the Trust. That is not his remit. The work listed by Dr. Pollock is work which, if successfully completed, he would expect should enhance Ms. L's and her partner's capacity to meet their children's needs, nothing more. I am not at all sure that I have ever seen a Psychological Report which did not end on a positive note, concerning the kind of steps which might be taken in order to address the subject parent's needs.
73. As previously mentioned, the Care Plan offered with the Final Report dated 21st May 2009 rather fudged the issue. It came up with a Concurrent Plan. Plan A remained rehabilitation, Plan B adoption. The programme of work, reflecting Dr. Pollock's recommendations, was expected to take 6 months. A Final Care Order was sought on the basis that the Trust would choose between those in light of the position following from, or resulting from efforts at such work.
74. I quote the relevant passage which is in identical terms in each Care Plan;

Plan A is rehabilitation if both parties engage at a meaningful level and evidence that they have the capacity to make positive change in their lives and demonstrate awareness of the concerns, not just at a superficial level as noted by Dr Pollock in March 2009.

It is also crucial that both parents demonstrate that they have the capacity to prioritise their children's welfare over their own needs. If in the event that staff at the Erne Family Centre working with Ms. [L] and Mr. [M] believe that both parents are not evidencing any positive change then a decision will be made to terminate the work.

It is also important to note that both parents must attend all appointments, failure to do so will result in the work being terminated.

In the event that there is information reported that Mr. [M] is engaging [in] or connected to any criminal activity the work will be terminated.

If Mr. [M] presents as volatile during work this will result in the work being terminated.

The work will be re-assessed at the LAC Review on the 28th July 2009. As outlined above these are the areas that will be monitored closely and failure by Mr. [M] and Ms [L] will result in the Trust progressing to Plan B Adoption in respect of [Peter]/[Brian].

75. This formulation, I must say, shows every sign of the LAC Review and Trust having failed to "bite the bullet". As a plan for rehabilitation, it lacks credibility. There was no effort to establish, on a hypothetical basis, what the timescale for successful rehabilitation might be, should both parents, more especially Mr. M, actually manage to pass successfully through the pieces of work entailed. Both parents, sadly, are themselves very needy individuals with a complex of issues unresolved since their troubled childhood; that much was quite obvious from any appraisal of their behaviour patterns, over a period of years, quite apart from the detail in Dr Pollock's Reports. I would have had immense difficulty in accepting that either could be expected to undergo a fundamental transformation within anything like 6 months. If they had actually managed to complete these courses "successfully", it would merely have brought the Trust to

confront the issue as to whether it was consistent with permanency planning that one then embarked upon an indeterminate period of trial reunification for the family. With particular regard to the young ages of the subject children and the critical stage of development through which each was passing, it would, in my view, have been open to the Looked After Review to come to a conclusion that rehabilitation was not likely within the children's timescales (nowhere had Dr. Pollock suggested otherwise, nor had he been asked to).

76. There could have been no real question of accepting the Trust's proposal that Final Care Orders be made for each boy, leaving the actual outcome in the hands of the Trust. It was Ms. L who applied to have the final Hearing put back, because the Care Plans were inchoate. One would like to think that it might as easily have been the Guardian.
77. An addendum Report from the Trust dated 20th August 2009 recounted that after Ms. L and Mr. M attended supervised contact between her daughters and the subject children, the Respondents were seen in Omagh in the company of Theresa and Sarah. This was despite the fact that Master Wells, in granting the Residence Order to Mr. Y, had stipulated that there was to be no such unsupervised contact with Mr. M. Ms. L, when challenged, simply queried the need for the restriction.
78. Mr. Cartan of Erne House, tasked to carry out a risk assessment in respect of Mr. M, was advising that, a few months into the project, Mr. M had not improved significantly. On a memorable occasion in March 2009, he had left a session during which he had articulated a strong commitment to change (much as he was to do with Professor Triseliotis) and proceeded to a violent confrontation with a bus driver, resulting in an assault charge. I might add here that the circumstances of that incident were examined at the final Hearing. We formed the view that Mr. M did not give an honest account of the encounter, trying to portray himself as the victim of a vicious attack by the driver. He was in fact convicted of assault in the Magistrates' Courts and had been given a suspended sentence of imprisonment, on foot of a Guilty plea, which, again, Mr. M sought to explain away.
79. Probation Board reported at that time that Mr. M had failed to engage for the purposes of the pre-sentence report. He had been

- "extremely unco-operative" and abusive both on the telephone to administrative staff and in person.
80. A letter from Women's Aid dated 20th August demonstrated that things were going no better for Ms. L. Work had been ongoing since early May 2009. She had missed 5 out of 8 appointments
81. At the first meeting, Ms. L informed the Support Worker that Mr. M had been verbally abusive to her and frightens her. (At hearing, she denied this, saying she had been misunderstood. That is not a credible contention). She also stated that she was only attending Women's Aid because she had to. At a meeting on 11th June 2009, she again refused to consider refuge accommodation. The next meeting she attended was on 29th June, when she remarked that she accepted that her relationship with Mr. M was not in any way equal, but that she would continue to live the way she had been. After that, she simply disengaged despite considerable efforts by the Support Worker to persuade her back. The Support Worker concluded, "[L] is unable to set any boundaries to keep herself safe and therefore remains at risk." By implication, so would the children if in her care.
82. That was the context in which there then arose the question of commencing the parenting work in Erne Family Centre. One would have thought that the matters just outlined would have led to a conclusion that neither Ms. L nor Mr. M, in their different ways, were complying with the conditions set for the continuance of Plan A, rehabilitation. Ms. L was not keeping appointments and Mr. M's volatility was undiminished. Nonetheless, the parenting work at Erne Family Centre was reported to have been deferred for a somewhat different reason.
83. In discussions between the Team Manager and the Domestic Violence Trainer from Bernardos in advance of the scheduled commencement in August 2009, the latter identified risks and also took the view that there were unacceptable gaps in Mr. M's medical notes, criminal and social history. The vague reference to "risks" led to some contention at hearing. Ms. McSorley denied that this was about risks to staff. She remarked that she would hope that risks to staff could always be managed. She went on to explain that there were strategies in place to allow for speedy exit by staff along various routes, should Mr. M become threatening.

Instead, she testified that the risks in question were to Ms. L, which, I may say, the Panel accepts as the true position. Mr. M had been unco-operative in disclosing his full criminal history and the level of risk he posed remained unclear. Likewise for the lack of information available as to his medical history. The Domestic Violence Trainer had considered it unsafe to put Ms. L into close and searching scrutiny of relationship issues with Mr. M when one was not in a position to measure the risk of him becoming violent.

84. Two points arise. First, I find it bizarre, in the context of a rehabilitation proposal, that professional staff should engage in parenting work with anyone in respect of whom they have to set up plans to evacuate the building, should he become threatening. If adults see that level of precaution as proportionate, it is hard to see why anyone would be thinking of exposing children to similar risk. Second, the problem about a narrow issue of access to full criminal and medical records is that it is remediable; the missing records can be supplied, even where they had been refused in the past. In this respect, it is to be noted that the work was "deferred", not cancelled. However, for all the time spent on the point at hearing, the Panel regarded it as a red herring. By that point in time, there was ample evidence of conduct on the part of Mr. M, continuing into 2010, which served to satisfy us that he was not going to be able to resolve his own issues within an acceptable timescale for any rehabilitation plan.
85. The next addendum Report, dated 10th September 2009 reported on a recent LAC Review at which it was resolved that the plan would become that of adoption alone. The case was to be presented to the Adoption Panel on 26th November 2009 for a Best Interests Decision and a revised Final Report and Care Plan would be filed in the week of 28th September 2009. I have already detailed how the Trust then allowed matters to drift with consequential delay in setting a credible date for Final Hearing.
86. The Hearing, when finally convened, was a particularly painful experience for the Panel. For all that has been recorded here about the failure of both these parents to provide adequately for their children, both in terms of neglect and in respect of the children's emotional well-being, in particular, this does not gainsay their strong abhorrence of any suggestion that their children could be removed from them in the long term. The deep

feeling - in Mr. M's case, the passionate conviction - that all deficiencies could be resolved by the Trust being directed to do right by them and simply afford them the services they need in order to look after the children properly was, at times, deeply unsettling. Of course, the displacement entailed here must be named; the subtext is that the basic reason why their children are at risk of being permanently removed is because the Trust did not look after them, the parents, properly. In fact, on the evidence put before it, the Court for its part has no concern about how the Trust looked after the parents, save in one respect.

87. In a gentle question from the Guardian's Solicitor, it was adduced that Ms. L had lost "quite a lot of weight" in recent months. In fact, she looked utterly gaunt. One can only imagine the agonies of mind through which she had been going through while this case dragged on for an inexcusably long time; if ever there was a case for dealing expeditiously with the central issue, once court proceedings had been launched, this was it. The Trust owed the parents, as well as the children, that much.

88. For all that, Ms. L gave her evidence calmly, clearly and, if anything, with a degree of detachment. So much so, that one formed the impression that she had gone over and over the points she wished to convey to us so often that the affective engagement had quite dissipated. Mr. M, in contrast, gave his evidence in a manner which did not allow anyone to miss the depth of his feelings about his sons and the pain he felt in being put into this last desperate encounter with officialdom on the issue. It was poignantly obvious that he knew not to lose his temper and therefore, while he had to deal with suggestions, always put in measured and respectful terms, which he clearly found provocative, he did answer them. That clearly took considerable effort on his part and it was quite obvious that he was prepared to suffer this only because the stakes were so high this time. Nonetheless, as questioning continued, he showed himself to be intensely querulous. Ultimately, virtually every question was answered merely with a question back. I have already illustrated that he did make concessions on occasion; the overriding feature, however, was - like Ms. L - that he would not give a frank answer on certain core issues. Neither was, or ever has been, prepared to take the risk.

89. Ms. L testified that she totally accepted the propriety of any professional visiting her home. She engaged well with the Family Support worker. The Health Visitor was out on a weekly basis and she took everything on board. There were never any times when she did not let the Health Visitor in. There was never any domestic violence; she had been through that for 16 years in her previous relationship and would never get into that situation again. Her new life partner was the one who helped her with her confidence and self-esteem. There was never any verbal aggression. She only said to Social Services previously that she got frightened when he was verbally aggressive to others; that was due to her own past history. On such occasions, she would lift the boys and ignore what he was saying. She accepted that Mr. M would be aggressive (to third parties) in front of the boys. She accepted that this would have impacted seriously on their well-being. She has refused services in the past, but that has changed. She felt she was now able to meet the boys' basic needs and to protect them. To this, she added that she needs more help and support from Social Services. She would be very willing to undertake a Parenting Assessment from the Family Centre and knows she would benefit from it. Contact with the children is absolutely brilliant. Both children totally enjoy being with their parents and both she and Mr. M have a close bond with them. There are problems when contact ends. Peter gets very distressed, he screams, he self-harms when he gets back to his carers because of being separated from his parents and suffers from separation anxiety.
90. Ms. L complained that Social Services had not been out to visit her current home of two years past, to see that it was now suitable for having the children back. She later conceded in cross-examination that they have never been invited out either. She defended Mr. M's temperament. Sometimes Social Services were correct when there was a confrontation, she conceded, but implicitly there were times when her partner was right.
91. On the occasion when her father came to attack Mr. M, she did not see any gun. She denied she was offered Women's Aid as a refuge that night. She was happy to stay in the house. The Police said they would remain in the area for 48 hours and Mr. M was happy with that.

92. As to the fight with Mr. Y, her version was that Mr. Y attacked first. The van did not leave at high speed. Mr. M was completely calm by then and she had asked him to take Peter on with him as she had to return to the depot; the girls were in "a bad state" from what they had witnessed. She told the Trust next day that she did not know where Peter was because she had no money in her mobile phone and could not contact Mr. M (His evidence was to be that he and Peter were at home all this time, so that Ms. L would in fact have spent the night with them). They had to move house on occasion because they were receiving a lot of threats. Twice they gave no forwarding address because Social Services were not giving them any help or support.
93. As to the attack upon the bus driver, in respect of which Mr. M, it will be recalled, subsequently pleaded Guilty to a charge of assault, the driver had come flying down the road, stopped and gave Mr. M a lot of abuse. When Mr. M asked him what his problem was, the bus driver told him to go back to his own country. He then closed the bus doors on Michael's legs. The boy's legs were hitting the ground. Mr. M spat to get released from the doors. They did not press charges against the bus driver; they did not want to get embroiled in such things while the procedures were in hand about their children being in care. They had no problem explaining the incident to Social Services.
94. I could go on with much else in the same vein (for example, Mr. M was not hostile to any Social Workers on 8th December 2009 or 10th February 2010). In short, Ms. L, sadly, was still not accepting of the extent of Social Services' concerns. She still saw no risk for the children from Mr. M and she persistently gave false and self-serving versions of several key episodes which showed that she remained, as found in the Reports, incapable of recognising what would have been needed to change in order to allow her the care of her youngest children. In addition, there was no perception that she might have to make a choice between Mr. M and her children.
95. Ms. L simply denied the realities as to Mr. M's more public behaviour and falsely asserted that he was never even verbally aggressive behind their closed doors. In the court's view, there is no prospect of the children being kept safe from domestic violence by Ms. L and she has only partial insight into just how chaotic her lifestyle was in the relevant period. We found no

reassurance in her evidence that there would not be a reversion to entrenched patterns, should the children be returned to her care. We had no doubt that she would quickly revert to being dismissive of Social Services interventions and would regard the court's finding as validation of her contrived history of events.

96. Mr. M began his evidence in confessional mode. Social Services were right to have concerns. It was right that the children were taken into care when they were. There was no relationship with Social Services at all. He refused to do what was asked of him. He blamed himself. He was aggressive. It had to do with his childhood. He described his way of carrying on as "disgusting". He had changed, however. He could benefit from more work, on parenting, anger management and the like. The incident with the bus driver did not help, but that was over a year ago and he had pleaded Guilty at the first opportunity. Both Dr. Pollock and Professor Triseliotis found that he had a basic acceptance of Trust's concerns. He agreed that it would not be in the children's interests if it took too long to show that he had changed. He simply wanted the chance to do that. He was sorry for having being so abusive, but just wanted the chance to show that he could look after the kids. All this was elicited in the course of his evidence-in-chief. It reflected his presentation to both Dr. Pollock and Professor Triseliotis. When it came to cross-examination, though, he became significantly more defensive.
97. Social Services were initially involved over Ms. L and her two girls. He accepted that he was being aggressive. He accepted that he had been recorded on CCTV grabbing Ms. L round the stomach. He accepted that the house could have been kept to a better standard and that he could have given Ms. L more help in this. The general cleanliness, though, was what one would see on a day-to-day basis. There were no dog faeces to be seen when the Police attended in December 2007. The dogs slept in the house at night and water could have been spilt. Whoever saw it first in the morning would have cleaned it up. But someone had come to his house that day to injure him. He had also received a death threat from the Continuity IRA, because of allegations that he was a paedophile. Then again, maybe there were dog faeces; he could be mistaken about that. As to the girls, kids will still be kids in keeping the place tidy. It's a matter of give and take.

98. At the time of the gun attack, Social Services did advise Ms. L to go to Women's Aid. With hindsight, he should have had her and the girls go, but he played no role in the decision to stay.
99. Mr. Y had called him a lot of names at the bus station and had then grabbed him by the throat. In self-defence, he had fought him off. He did not hang around to wait for the Police. He drove off, but there was no tailspin, no high speed. He simply brought Peter home, fed him and got him ready for bed. He was living in Donegal at the time. He got the papers from Ms. L and still has them to this day. He did not think he drove off in a reckless way.
100. With the bus driver, it was a 50/50 matter, so far as blame be concerned. He could guarantee that he had not just come from a session from a therapy session with Mr. Cartan.
101. Since then, his relationship with Social Services was a lot better. It has been vastly improved. Things happen if you have never been given a chance. Then again, if you don't take the help. . .
102. As to an aggressive incident just the month before Hearing, when he called the Police for back up in order to insist that his son be taken for X-ray in respect of alleged injuries, this was quite different to what had happened in the past. He had a sensible and friendly conversation with Social Workers on the issue. (The evidence from the Trust, which the Panel accepted as true, was radically different.) He made no demands. By the same token, a Parenting Assessment would have shown him a better way to deal with the matter.
103. As already recorded, while keenly aware of the passion with which Mr. M invested his plea to be allowed the chance to raise his sons, he is a man, in our estimation, who is quite aware that his aggression is wrong, but he has not got past simply blaming it on his upbringing and handing the package, as it were, over to others to sort out. Hence, his fix upon the fact that the Parenting Assessment did not proceed, as rationale as to why matters have not been resolved.
104. In point of fact, Mr. M flatly and brusquely refused to engage in any services offered to him throughout the material period. While asserting verbally that he had changed, there was,

as already noted, a palpable sense throughout his evidence of a ticking clock. One could not escape the conclusion that, under any other circumstances, he would not have held himself in check when challenged. He was prepared to make concessions about his past behaviour, but it was very much for him to make them and when others probed for elaboration, his frustration was manifest. In short, he was not a credible witness on the facts.

105. Ms. Carole Harvey, the Guardian Ad Litem was unequivocal in her evidence. She dealt robustly with the sustained efforts by counsel for Mr. M to draw a distinction between verbal rowing, to which Mr. M made some admission, and violence, contending that there was no evidence of her client ever being physically violent (bar that CCTV incident, of course). Ms. Harvey pointed out that she spoken of domestic violence in the proper sense of the term and that it included controlling behaviour and verbal aggression. She stuck to her position that this was a case of domestic violence, irrespective of how many incidents of physical violence were on record.

106. In this context, one might point out that in *Policy on Prosecuting Cases of Domestic Violence* (2005), the Home Office defined domestic violence as "any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality."

107. The Parenting Assessment was not feasible, partly because of the "protective issues around Ms. [L]" and, secondly, the absence of evidence that Mr. M had become able to control his tendencies. The meeting in Erne House on 4th August 2009 was a very structured affair, with the Police outside, in view of its potential to become aggressive. That raised a lot of issues about the perceptions of this man (Mr. M). Ms. L was very vulnerable. The services of Women's Aid were crucial, but she had managed only three attendances. That was only the tip of the iceberg and the fuller service would have addressed protective issues. The historical records from 2003 and 2004, when she had attended a course at Quaker Cottage, found that she normalised domestic violence within her relationships. Her threshold for abuse seemed higher than it should be for protecting children. When she saw Dr. Pollock she claimed to be no longer in relationship

with Mr. M and was critical of him, about his way of acting toward professionals in front of the children. She was now back in that situation and Ms. Harvey would question what changes she had made. She talked of Mr. M shouting in front of the children.

108. As for Mr. M, he was given the opportunity to attend Erne House Family Centre in January and February 2009 and had in fact attended only two out of eight sessions. During both, he questioned his need to be there and on one occasion left the building. In March of that year there was the serious incident with the bus driver. His history was as a violent and difficult individual. A Parenting Assessment would have assisted, in theory, but the people who would have carried that out were the very people with whom he would typically get involved in confrontational situations. Last December, there had been a considerable deterioration on home circumstances; there was a fluctuating picture as regards the home environment. In January 2010 there were serious incidents around the home. He was arrested and had to live in a bail hostel. At a risk assessment meeting, the Police described him as involving himself in criminal activity. There were a lot of incidents, giving the picture of a petty criminal in conflict with professionals and experiencing troubled relationships. Ms. Harvey questioned whether a Parenting Assessment would be useful, even if it could be carried out safely. She had spoken with Mr. Cartan, a Social Worker engaged in therapy sessions with him. Mr. Cartan had described Mr. M as a likeable rogue who could talk the talk but might well lack the capacity to act accordingly. In the period during which, after initiation of these proceedings, she had supported the proposal that the children remain at home, there proved to be a lot more negatives than positives.

109. In light of all the foregoing, the Panel concluded, without any real hesitation, not just that threshold had been met, but that a Care Order, with a plan for adoption, was in the best interests of both subject children. We had every sympathy for these hapless parents in their loss, but there could be no credible basis for setting aside all that they had each said and done - or not done - over the past 4 years and instead conclude, on their parole evidence, much of which betrayed a lack of frankness, that they had each changed since February 2009 and that therapeutic services, if afforded to them now, could see each of them capable

of providing adequate parenting to their sons within a timeframe commensurate with the children's needs. They are each very needy people, but it is not the function of this court to provide for those needs. The court is concerned with the needs of the children and those children need to be placed in a stable and loving placement without further delay. For Brian, there is still the hope that he can form a genuine attachment to his long term carers. For Peter, it is probably too late to expect that much, but his need is to be spared continuing anxiety and insecurity, in the hope that he will at least be able to find a nurturing relationship with his carers.

110. In closing, the court must also voice its particular concern about the risk of yet another abduction of these children by the Respondents, in the aftermath of this determination. Without treating the evidence in any detail here, we are satisfied, notwithstanding the contrary assertions by each Respondent, that they have been engaged already in a process of scoping the current placement and we have little doubt that the notion of undertaking a desperate course of action in the event that the court proceedings proved negative will have been very much in Mr. M's mind. We approve the phased decrease in parental contact, down to once per month, but would trust that Social Services will keep the issue of security very much in mind for the time being.

111. In reaching our conclusion, we have been mindful of both the human rights issues and the welfare checklist, but I do not propose to adumbrate these here.

Dated this 4th August 2010

Judge John I Meehan
District Judge (Magistrates' Courts)
Omagh Family Proceedings Court