

Corporate Support Centre
Alistair Neill – Chief Executive Officer

To: All members of the Council

our ref: Council - 18 January 2019
contact: Matthew Evans, Democratic Services
telephone: 01432 383690
email: matthew.evans@herefordshire.gov.uk

10 January 2019

Dear Councillor,

You are hereby summoned to attend the extraordinary meeting of the Herefordshire Council to be held on **Friday 18 January 2019** at the Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX at **10.00 am** at which the business set out in the attached agenda is proposed to be transacted.

Yours sincerely



Annie Brookes
Deputy Monitoring Officer

AGENDA

Extraordinary Meeting of Council

Date: **Friday 18 January 2019**

Time: **10.00 am**

Place: **Council Chamber, The Shire Hall, St Peter's Square,
Hereford, HR1 2HX**

Notes: Please note the time, date and venue of the meeting.

For any further information please contact:

Matthew Evans, Democratic Services

Tel: 01432 383690

Email: matthew.evans@herefordshire.gov.uk

If you would like help to understand this document, or would like it in another format or language, please call Matthew Evans, Democratic Services on 01432 383690 or e-mail matthew.evans@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Council

Membership

Chairman

Vice-Chairman

Councillor DB Wilcox

Councillor PJ Edwards

Councillor SP Anderson
Councillor BA Baker
Councillor WLS Bowen
Councillor H Bramer
Councillor ACR Chappell
Councillor MJK Cooper
Councillor PGH Cutter
Councillor CA Gandy
Councillor KS Guthrie
Councillor DG Harlow
Councillor JA Hyde
Councillor PC Jinman
Councillor JF Johnson
Councillor JG Lester
Councillor PP Marsh
Councillor RL Mayo
Councillor SM Michael
Councillor FM Norman
Councillor RJ Phillips
Councillor PD Price
Councillor AR Round
Councillor NE Shaw
Councillor J Stone
Councillor EJ Swinglehurst
Councillor A Warmington

Councillor PA Andrews
Councillor JM Bartlett
Councillor TL Bowes
Councillor CR Butler
Councillor EE Chowns
Councillor PE Crockett
Councillor BA Durkin
Councillor DW Greenow
Councillor J Hardwick
Councillor EPJ Harvey
Councillor TM James
Councillor AW Johnson
Councillor JLV Kenyon
Councillor MD Lloyd-Hayes
Councillor RI Matthews
Councillor MT McEvilly
Councillor PD Newman OBE
Councillor CA North
Councillor AJW Powers
Councillor P Rone
Councillor A Seldon
Councillor WC Skelton
Councillor D Summers
Councillor LC Tawn
Councillor SD Williams

Agenda

Pages

(The meeting will be preceded by prayers.)

1. APOLOGIES FOR ABSENCE

To receive apologies for absence.

2. DECLARATIONS OF INTEREST

To receive declarations of interest in respect of Schedule 1, Schedule 2 or Other Interests from members in respect of items on the agenda.

3. QUESTIONS FROM MEMBERS OF THE PUBLIC

To receive questions from members of the public.

Deadline for receipt of questions is 5:00pm on Monday 14 January 2019.

At extraordinary meetings of Council questions must relate to reports on the agenda.

Accepted questions and answers will be published as a supplement prior to the meeting.

4. QUESTIONS FROM MEMBERS OF THE COUNCIL

To receive any written questions from members of the Council.

Deadline for receipt of questions is 5:00pm on Monday 14 January 2019.

At extraordinary meetings of Council questions must relate to reports on the agenda.

Accepted questions and answers will be published as a supplement prior to the meeting.

5. COURT JUDGEMENTS RELATING TO CHILDREN AND FAMILIES

As corporate parents and having regard to the issues identified in the two court judgements of His Honour Mr. Justice Keehan related to fostering and adoption within the county, to receive a report on the actions taken and planned to deliver the required, and associated or related identified improvements.

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The Public's Rights to Information and Attendance at Meetings

YOU HAVE A RIGHT TO: -

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

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- The Shire Hall is a few minutes walking distance from both bus stations located in the town centre of Hereford.

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- Anyone filming a meeting is asked to focus only on those actively participating.
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FIRE AND EMERGENCY EVACUATION PROCEDURE

In the event of a fire or emergency the alarm bell will ring continuously.

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Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.

The Chairman or an attendee at the meeting must take the signing in sheet so it can be checked when everyone is at the assembly point.



Meeting:	Council
Meeting date:	Friday 18 January 2019
Title of report:	Court Judgements Relating to Children and Families
Report by:	Chief executive

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To receive a report on the actions taken and planned, to deliver the required and associated or related identified improvements, having regard to the issues identified in the two court judgments of His Honour Mr Justice Keehan related to fostering and adoption within the county.

Herefordshire Council was heavily criticised by Mr Justice Keehan in two court judgments in December 2018 that highlighted past failures and recent poor practice. On 18 December the Chairman of the Council received a request from Councillors Bartlett, Bowes, Butler, Chappell, Crockett, Edwards, Hardwick, James and Summers to convene an extraordinary meeting of Council due to the public interest in these matters.

This report provides information about the issues raised in the judgments and how those issues are being addressed.

Recommendation(s)

That:

- (a) the report be received.**

Further information on the subject of this report is available from
 Chris Baird, Annie Brookes, Tel: 01432 260264, Tel: 01432 260605, email: cbaird@herefordshire.gov.uk,
ab1@herefordshire.gov.uk

Alternative options

1. There are no alternatives to the recommendation. It is open to Council to refer any matter to the appropriate body or individual to consider.

Key considerations

2. Herefordshire Council has been heavily criticised by Mr Justice Keehan in two court judgments in December 2018 that highlighted past failures and also recent poor practice. The council accepts that failures have occurred and has taken steps to improve practice as well as undertaking further investigations into the matters once the judgments had been finalised and published.
3. Both judgments were delivered in private. The judge gave leave for versions of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court. The judgments are attached in Appendices 1 and 2.
4. Group leaders and the chair and vice chair of children and young people scrutiny committee have been kept informed of the two cases through a briefing in October 2018 as part of the regular performance challenge sessions which look at different aspects of the performance of services for children, young people and families. A dedicated briefing session took place on 14 November, also in attendance were the chief executive, the deputy solicitor to the council for children and families, and the solicitor to the council. A further briefing was provided on 29 November 2018 as part of the performance challenge session. These were all prior to the judgments being published on 7 December 2018. Following the publication, bespoke briefing sessions were held, open to all councillors, on 20 December 2018 and 10 January 2019. The presentation used at these briefing sessions is attached in Appendix 3 and was the same for both.
5. On 18 December 2018 the Chairman of the Council received a request from Councillors Bartlett, Bowes, Butler, Chappell, Crockett, Edwards, Hardwick, James and Summers to convene an extraordinary meeting of Council to consider the serious issues highlighted in the judgements.
6. There are c.38,000 children and young people under 19 years old in Herefordshire and, of those, 4,500 are designated as having special educational needs. By the end of December 2018 there were 917 early help assessments, the vast majority of which are led by a key worker working in a school, or health service or in the third sector. 228 children at the end of the year were supported through a child in need plan and open to children's social care. This gives an illustration of the different vulnerabilities that some of our children, young people and families experience. At the end of 2018 the council was working with 117 children supported through child protection plans, 326 children who are looked after and c.180 care leavers. From 1 January 2014 to 30 November 2018 there have been 94 adoption orders granted for Herefordshire children.
7. Both Cabinet and children and young people scrutiny committee receive annual reports on Herefordshire's Adoption and Fostering Services that provide an opportunity to understand both areas. The reports illustrate that significant numbers of children and young people benefit from both services. During 2017/18 it was determined that adoption was the appropriate plan for 29 children, 22 Placement Orders were granted, and two

birth mothers gave consent to their child being placed for adoption. 22% of Herefordshire looked after children (LAC) children were adopted from care over 2014-17 compared with the England average of 15%.

8. In relation to fostering, national figures show most councils struggling to recruit sufficient foster carers. Herefordshire Fostering Service has continued to expand albeit at a slower rate of growth over the last year: (2015/16) performance of 15% growth, (131 households) 2016/17 overall growth was 10% (144 households) and 155 households for 2017/18 shows continued growth of 7.6%.

9. As part of Ofsted's inspection of local authority children's services in June 2018 the report noted that

"Foster carers go through an appropriate approval process and receive the right range of training to meet the needs of children placed with them. The local authority is struggling to provide a sufficient number of foster families, and in particular those that meet the needs of sibling groups and teenagers."

10. This is a national and local issue and we are currently refreshing our approach to foster care recruitment to try to address this issue. We do have some children that move placements. It has been increasingly difficult to find suitable placements, both foster care and residential care in a national context where more children are being looked after and the demand for such placements has increased significantly. This has affected children's lives and also meant that Herefordshire has had to spend more for placements when they are found. Finding them is sometimes very difficult with little or no choice for the service and the child.

11. Ofsted also noted that improvements needed to be made in terms of agreement and recording of delegating responsibility to foster carers. Inspectors recorded that

"Children seen are in appropriate placements, and are having their needs met, with the majority developing well and their outcomes improving. The process for supporting stability of placements is effective and help is available early to prevent concerns from escalating further. Access to Herefordshire intensive placement support service therapeutic support is a strength. Case records do not demonstrate that matching takes place at the point of children coming into care, and for some children permanence is not achieved within their timescales."

"For the majority of children for whom the permanence decision is adoption, adoption is achieved in a timely manner. Family finding and matching are strong areas of practice. Families are carefully matched to children, and information sharing is good. Introductions are well managed, with input from the adoption social worker as well as the child's social worker."

"Arrangements for adoptive families to access post-adoption support are good, enabling help and support to be available without delay. The service keeps in touch with adopters, sending out emails and flyers to invite them to tailored training and social events. All adopters have access to a play therapist based in the service "

12. The council works with children and young people and their families in very complex and often challenging situations and can be involved in their lives over a long period of time. Herefordshire Council's aim, along with partners is to keep children safe and enable successful family lives wherever possible, whilst also making alternative family based arrangements if that is necessary.

13. Many children thrive in Herefordshire. A range of education indicators have improved over the past four years so that many indicators are in the top twenty five percent nationally, including achieving a good level of development, a range of Key Stages 1 and 2 results and seeing a range of improvements for vulnerable groups at key points. In autumn 2018 Ofsted noted that for primary education Herefordshire was “strong and improving” and had the largest improvement in national rankings for Key Stage 2. Herefordshire received a positive Ofsted and CQC inspection of special educational needs in 2016.
14. Herefordshire continues to experience relatively high numbers of children and young people who are looked after compared to statistical neighbours. However, there is a national picture of significantly increasing demand for children’s services and it was reported by the County Council’s Network that in the last year councils spent £800m more than they budgeted for on children’s services.
15. In June 2018 Ofsted carried out an inspection of local authority children’s services (ILACs) and was judged as requiring improvement overall for its safeguarding children services, the first time Herefordshire has maintained an overall judgement in this area since the creation of the council. As part of the judgement the council was deemed inadequate for leadership and management in creating the conditions for good social work to flourish. Recruitment and capacity, recording, performance management, quality assurance and quality of practice were some of the areas that were highlighted for improvement. Herefordshire has put in place an Ofsted Improvement Plan, shared with the Herefordshire Safeguarding Children’s Board and children and young people scrutiny committee. This has been submitted to Ofsted and is attached in appendix 4.
16. The issues highlighted by Mr Justice Keehan included for the case concerning adoption are summarised as:
 - A lack of adherence to court approved care plan to pursue foster placement together for three month period
 - A lack of completed and signed social work “together /apart” assessment to inform decision making to separate twins
 - The inappropriate paraphrasing of psychologist report in social work assessment, altering original psychologist opinion on separation
 - A lack of independent review officer challenge to decision to separate twins and ensure adherence to court approved care plan.
 - Poor, delayed case recording, in some instances up to two years out of date
 - A lack of management action to address delay in case recording
 - The apparent deletion of vital information pertaining to children, so not disclosed to prospective adopters in the child permanency report
 - A delay in providing all relevant paperwork to the court.

It is important to note the recognition given by Mr Justice Keehan to the very high quality of care the two children received from their respective prospective adoptive parents.

17. The issues identified by Mr Justice Keehan in the case relating to the revocation of longstanding placement order summarised as:

Further information on the subject of this report is available from
Chris Baird, Annie Brookes, Tel: 01432 260264, Tel: 01432 260605, email: cbaird@herefordshire.gov.uk,
ab1@herefordshire.gov.uk

- A lack of follow through on adoption plan
 - The failure to revoke placement orders as required
 - Poor standard of case recording and chronology, making case history difficult to follow
 - A lack of clarity in decision making, particularly decision not to place sisters together
 - The high number of moves of placement for each sister, detrimental to good outcomes
 - The high turnover of social workers, managers and Independent Review Officers involved with the sisters
 - The particularly poor standard of care leaver accommodation for sister 1 in October 2018.
18. Since a change in senior management earlier in 2018, stronger supervision and decision making arrangements have been put in place across children and family services. Mr Justice Keehan has recognised this in his findings.
19. The following action has also been taken:
- a) The Assistant Director Safeguarding and Family Support and the Director for Children and Families have offered to meet the young people and the adopters in 2019 to offer apologies in person and also to find out what more we can do to improve our services from their perspectives.
 - b) The Assistant Director Safeguarding and Family Support now chairs Placement Panel every Tuesday that reviews individual child cases and also looks at cohorts of children, for example those placed with parents or in kinship care. This includes children who are the subject of placement orders who will be reviewed on a six-monthly basis.
 - c) The agenda for Adoption Reviews has been amended to reflect that the review takes place in the light of the guidance set out in section 1 of the Adoption and Children Act 2002 to establish if the court approved care plan has been changed.
 - d) The legal department holds six-monthly legal review meetings of all children under placement orders. This should ensure that decisions are not made without Adoption Decision Maker (ADM) consideration.
 - e) A sibling separation tool is being introduced for managers to ensure the decision to recommend to separate considers all relevant matters before it is presented to the ADM and is clearly recorded on the Mosaic system. The completed sibling separation tool will be required at panel.
 - f) The current expected practice is not to remove any information from MOSAIC but to update information in a new font. This means that changes are recorded as changes rather than deleting previous information.
 - g) The judgments raised particular concerns about the effectiveness of the council's independent review officers (IRO) service. The primary task of the IRO is to ensure that the care plan for the child fully reflects the child's current needs and that the actions set out in the plan are consistent with the local authority's legal responsibilities towards the child. Their duty is to challenge poor corporate parenting.

- h) We have already taken steps to strengthen the IRO service by increasing management oversight and implementing robust processes to ensure any concerns are raised. We have also arranged for an externally led review of the service as part of our work with Doncaster Council, taking place in January 2019.
 - i) All IROs have been provided, by email and in a laminated hard copy, with legal guidance for IROs on challenging decisions of the Local Authority. The guidance stresses that the individual IRO is personally responsible for activating the dispute resolution process. There is now a clear expectation on IROs to record their work, including any dispute resolution concerns and activity. A more effective escalation process is in place.
 - j) A learning exercise on the cases is underway, some sessions have taken place before Christmas with all involved. The wider learning will be taken to all staff. We will adopt this approach for any cases in the future that we need to get a clear understanding on the presenting issues, what may have happened in the past and what may need to change in terms of current practice.
20. We know there is a tremendous amount of really good work carried out that keeps children and young people safe and changes their lives for the better, and that we have many committed and motivated staff. We also know that there is more to do to improve our practice to ensure that all children and young people in our care are well-supported and this includes recruitment, keeping caseloads at manageable levels, improving performance management and quality assurance.
 21. The children and families directorate has a very open approach to external challenge and support to aid improvement. A number of external reviews have been arranged by the current director and by the chief executive. These included in 2017 and 2018 a local government association (LGA) peer review of cases; a full safeguarding peer review, and a peer challenge on culture. Feedback from these reviews was shared with members, partners and the safeguarding board and have been used to make improvements.
 22. The director and assistant director have quarterly monitoring meetings with the West Midlands Senior HMI from Ofsted as well as an annual conversation with the West Midlands Regional Director that covers the performance of Herefordshire. In addition the Ofsted inspection framework means that for Herefordshire Ofsted will formally review and inspect services every year. Once every three years there will be an inspection of local authority children's services (this took place in June 2018) and there will also be a focused visit and/or a joint targeted area inspection in the other two years.
 23. The director, assistant director and deputy solicitor to the council, children and families also now meet regularly through the year with Judge Plunkett, designated family judge Herefordshire and Worcestershire, to improve how the council can work with the court.
 24. Cabinet has recognised the need to support the children's and legal services with additional investment of £1.6m in 2018. This additional investment has led to an increase in early help support, business support and family support to reduce the need for social worker involvement, and also providing additional agency social workers to fill permanent posts during a very difficult period of recruitment nationally and locally. This has provided the necessary capacity to begin to reduce caseloads, begin to provide more effective management oversight and support and proactively address some of the issues highlighted in the Ofsted inspection of local authority children's services in 2018. The challenge of permanent recruitment is a continuing issue for Herefordshire, as are the increases in demand for services and improving practice within this context.

Community impact

25. Collectively, elected members, council employees and partner agencies stand as corporate parents responsible for providing the best possible care and safeguarding for children and young people who are looked after by the council. Being a good corporate parent means we should accept responsibility for children in the council's care; make their needs a priority; and seek for them the same outcomes any good parent would want for their children.
26. The council's corporate plan has as one of its key priorities to keep children and young people safe and give them a great start in life. In the majority of the council's work this is achieved, however in the cases that were considered by Mr Justice Keehan there were clear failures over a number of years. The actions to improve the service approach will ensure that practice and decision making is improved and that children and young people, including those who are looked after and who are care leavers benefit.
27. In accordance with the adopted code of corporate governance, Herefordshire Council must ensure that those making decisions and delivering services are accountable for them. To support effective accountability the council is committed to transparently reporting on actions completed and outcomes achieved, and to promoting a positive working culture that accepts, and encourages constructive challenge.

Equality duty

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
28. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.

Resource implications

29. There are no resource implications arising from the recommendation.
30. Resource implications for improvements in children and families directorate safeguarding and family support services including to support retention and permanent recruitment, provide a more targeted early help and edge of care offer, and to improve quality assurance and performance management are being considered as part of the budget

setting process for 2019/2020. In June 2018 Cabinet approved the creation of a legal services demand reserve of £200k and resource implications for further improvements in relation to legal services supporting children's social care are also being considered as part of the budget setting process for 2019/20.

31. The council's base revenue budget includes suitable budgets to cover the cost of officer time and external expert advisors to represent the council's interests in court cases. In addition, the council holds an ear marked litigation revenue reserve, the level of reserves are reviewed regularly.

Legal implications

32. The two court judgements summarise the significant failings of the council which resulted in serious breaches of human rights. The failings are described as "extensive and grave" and relate to the whole operation of Childrens Services in Herefordshire.
33. Section 22(3) Children Act 1989 provides the general duty of the council in relation to children looked after by them including the following:
 - a) To safeguard and promote his welfare and
 - b) To make such use of services available for children cared for by their own parents as appears to the authority reasonable in his case
34. This duty underpins all activity by the council in relation to looked after children. This duty has become known as 'corporate parenting', which means the collective responsibility of the council, elected members, employees, and partner agencies, for providing the best possible care and safeguarding for the children who are looked after by the council.
35. The statutory responsibilities are set out in the Children Act 1989, including through amendments made by the Children (Leaving Care) Act 2000, the Children and Families Act 2014 and the Children and Social Work Act 2017.
36. The Children and Social Work Act 2017 made additional provisions for care leavers, extending support until the age of 25 and further clarified the role of corporate parents, including seven corporate parenting principles that councils must have regard to when looking after children in care as follows:
 - To act in the best interests, and promote the physical and mental health and wellbeing of those children and young people
 - To encourage those children and young people to express their views, wishes and feelings
 - Take into account the views, wishes and feelings of those children and young people
 - To help those young children and young people gain access to, and make the best use of, services provided by the council and its relevant partners
 - To promote high aspirations, and seek to secure the best outcomes, for those children and young people

- For those children and young people to be safe, and for stability in their home lives, relationships and education or work; and
 - To prepare those children and young people for adulthood and independent living
37. Both judgements provided at appendices 1 and 2 were delivered in private. Mr Justice Keehan directed that the judgement should be published but took careful steps to redact certain information to preserve the confidentiality and privacy of the children, the adopters and their birth families. Any disclosure of such information may amount to contempt of court. All attending the meeting must be alert to this issue and members will receive advice at the meeting if necessary to prevent such difficulties occurring.

Risk management

38. There are no risks associated with the recommendation. The court judgements identified risks to effective operation of the fostering and adoption service, and the report identifies actions to mitigate those risks and secure improvement. Financial risks to the council arising from potential human rights claims were reflected in both the law and governance and children and families risk registers prior to the judgements and any continuing risks to the council, given the historic practice that has been identified, will be actively monitored and reported in corporate performance reporting arrangements.

Consultees

39. None.

Appendices

Appendices 1 and 2: Approved judgements by Mr Justice Keehan

Appendix 3: Member briefing presentation used on 20 December 2018 & 10 January 2019

Appendix 4: Herefordshire Ofsted Improvement Plan

Background papers

None identified



Neutral Citation Number: [2018] EWFC 76

Case No: WR0086/17 and WR0007/18

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL
Date: 29/11/2018

Before :

MR JUSTICE KEEHAN

Between :

PROSPECTIVE ADOPTERS FOR BT	<u>1st Applicant</u>
- and -	
PROSPECTIVE ADOPTER FOR GT	<u>2nd Applicant</u>
- and -	
COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL	<u>1st Respondent</u>
- and -	
BT AND GT	<u>2nd and 3rd</u>
(Children represented through their Children's Guardian)	<u>Respondents</u>
- and -	
LOCAL AUTHORITY A	<u>1st Intervenor</u>
- and -	
GT'S ADOPTION AGENCY	<u>2nd Intervenor</u>
- and -	
F AND E	<u>3rd and 4th</u>
(through their litigation friend the Official Solicitor)	<u>Intervenor</u>

Ms L Reed (instructed by Bobbetts Mackan Solicitors and Advocates) for the **1st Applicant**
Mr G Noble (Solicitor Advocate) (instructed by Family Law Group) for the **2nd Applicant**
Ms S Hunter (instructed by Herefordshire District Council) for the **1st Respondent**
Mr M Kingerley (instructed by Whatley Recordon Solicitors) for the **2nd and 3rd Respondents**
Ms S Dixon (instructed by A Local Authority) for the **1st Intervenor**
Mr F Wilkinson (instructed by Advocate) for the **2nd Intervenor**
Ms S Pope (instructed by Child Care LLP) for the **3rd and 4th Intervenor**

Hearing dates: 19th - 23rd November

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....

MR JUSTICE KEEHAN

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

The Hon. Mr Justice Keehan :

Introduction

1. I am concerned with two children, BT and GT who are twins who were born in 2010. It is almost impossible to imagine the circumstances in which it would be considered appropriate to separate twins and place them for adoption by different prospective adopters. This is, however, what occurred in this case and I have before me an application by a couple, whom I shall refer to as A and B, to adopt BT and an application by a single carer whom I shall refer to as C, to adopt GT.
2. As I shall set out in some detail, I am satisfied and find that the court is in the position of considering applications to adopt the twins in two separate homes because of the incompetence and serial failings of the local authority, Herefordshire Council, and the egregious behaviour of some of its former staff.
3. The mother of BT and GT is BM. She has played no part in this hearing of the adoption applications and failed to file an application for permission to oppose the making of orders for the adoption of the children. She has attended only one directions hearing on 18 July 2018 in Worcester. The mother had been made an intervenor in these proceedings but because of her failure to engage with the same, I discharged her as an intervenor. The father of BT and GT is BF. He has played no role in these proceedings.
4. BT and GT have three older siblings, F, E and G. They are all under the age of 18. F and E applied to intervene in these proceedings. I granted them permission to intervene on 18th July 2018 despite the opposition of all of the parties. They are represented by the Official Solicitor.
5. BF, the father, is serving a prison sentence having been convicted of multiple offences of abusing children. In 2016, he was sentenced to a term of imprisonment of 21 years. [REDACTED TO PRESERVE CONFIDENTIALITY].
6. The local authority and the children's guardian supported the applications for adoption orders in respect of BT and GT. The Official Solicitor, having considered the evidence and the expert advice, has taken the view he cannot oppose the adoption orders on behalf of E and F.
7. BT and GT have two older paternal half siblings and two older maternal half siblings. The younger of the latter two half siblings was placed for adoption outside of the family before BT and GT were born. They have never met their two paternal half siblings.

The Law

8. Section 47 of the Adoption and Children Act 2002 provides as follows:

"(1) An adoption order may not be made if the child has a parent or guardian unless one of the following three conditions is met; but this section is subject to section 52 (parental etc. consent).

(2) The first condition is that, in the case of each parent or guardian of the child, the court is satisfied —

(a) that the parent or guardian consents to the making of the adoption order,

(b) that the parent or guardian has consented under section 20 (and has not withdrawn the consent) and does not oppose the making of the adoption order, or

(c) that the parent's or guardian's consent should be dispensed with.

(3) A parent or guardian may not oppose the making of an adoption order under subsection (2)(b) without the court's leave.

(4) The second condition is that —

(a) the child has been placed for adoption by an adoption agency with the prospective adopters in whose favour the order is proposed to be made, [which is satisfied in this case] ...

(5) A parent or guardian may not oppose the making of an adoption order under the second condition without the court's leave.

(6) The third condition is that the child is --

(a) the subject of a Scottish permanence order which includes provision granting authority for the child to be adopted, or

(b) is free for adoption by virtue of an order made under Article 17 or 18 of the Adoption (Northern Ireland) Order 1987."

9. The provisions of section 52 provide as follows in subsection (1):

"(1) The court cannot dispense with the consent of any parent or guardian of a child to the child being placed for adoption or to the making of an adoption order in respect of the child unless the court is satisfied that —

...

(b) the welfare of the child requires the consent to be dispensed with."

10. At all times when considering these applications for adoption I bear in mind the provisions of section 1(2) of the Adoption and Children Act 2002 which provides:

"(2) The paramount consideration of the court or adoption agency must be the child's welfare, throughout his life."

11. I also have regard to the welfare checklist set out in section 1(4) of the 2002 Act which provides:

"(4) The court or adoption agency must have regard to the following matters (among others) —

(a) the child's ascertainable wishes and feelings regarding the decision (considered in the light of the child's age and understanding),

(b) the child's particular needs,

(c) the likely effect on the child (throughout his life) of having ceased to be a member of the original family and become an adopted person,

(d) the child's age, sex, background and any of the child's characteristics which the court or agency considers relevant,

(e) any harm (within the meaning of the Children Act 1989 (c. 41)) which the child has suffered or is at risk of suffering,

(f) the relationship which the child has with relatives, with any person who is a prospective adopter with whom the child is placed and with any other person in relation to whom the court or agency considers the relationship to be relevant, including —

(i) the likelihood of any such relationship continuing and the value to the child of its doing so,

(ii) the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the child can develop, and otherwise to meet the child's needs,

(iii) the wishes and feelings of any of the child's relatives, or of any such person, regarding the child."

12. I also, of course, have regard to the Article 6 and Article 8 rights of BT, GT, the parents, the older siblings and both sets of prospective adopters. I remind myself, however, that where there is a tension between the Article 8 rights of parents on the one hand and the Article 8 rights of a child on the other, the rights of the child prevail, *Yousef v. Netherlands* [2003] 1 FLR 210.

13. I have had regard to a number of authorities. The first is the case of *Re W (A Child)* [2017] EWHC 829 (Fam), a decision of the then President of the Family Division, Sir James Munby. At paragraphs 78 and 79 he said as follows:

"There are many illustrations of this principle in the books. *J v C* is, at one and the same time, the classic formulation and the classic application of the principle. I was also referred by Mr Feehan to some words of Lord Templeman in *In re KD* where, shortly after the famous and much-quoted passage beginning, 'The best person to bring up a child is the natural parent,' he said, referring to the facts of the case (page 812):

'In November 1986 the welfare of K required that he should no longer see [his mother] because at the age of 3 years he could not cope with two competing mothers. By November 1986 K had been integrated into the family life of his foster-parents who had become mother and father to him; the family life of K and [his mother] was lost beyond recall.'

79. In YC, para 141, the Strasbourg court said this:

'... once K was placed with a prospective adopter, he began to establish with her new bonds and his interest not to have his de facto family situation changed again became a significant factor to be weighed in the balance against his return to the applicant's care.'

Further at paragraph 233 the President said:

"The starting point has to be W's current reality. As far as she is concerned, Mr and Mrs A are her daddy and mummy. They are her parents, emotionally, psychologically and socially. They and their son are, and, so far as she can remember, always have been, her family. It may be that she has the implicit memory referred to by Dr Willemsen, but she has no actual memory of her birth family or of any other family. She may be familiar with the words 'tummy mummy', but she has no real understanding of what they mean or of their significance. Given her age and stage of development there is little that could be done to prepare her for a move to her father's care, nor would it be possible to explain to her, in a way which would have any real meaning for her, what is happening to her, whether before, during or after the move."

Finally, at paragraph 237 the President said:

"My overall conclusion is that there is a very high probability of fairly immediate, and significant, levels of distress and trauma and a very real likelihood – just how high it is impossible to predict – that the placement would be put under such pressure that it might break down, which if it were to happen would carry with it a more than fanciful risk of catastrophe."

14. In *Re W (A Child)* 2016 EWCA Civ. 793 during the course of giving the judgment of the Court of Appeal McFarlane LJ said at paragraph 66 as follows:

"In a case such as the present, where the relationship that the child has established with new carers is at the core of one side of the balancing exercise, and where the question of what harm, if any, the child may suffer if that relationship is now broken must be considered. The court will almost invariably require some expert evidence of the strength of the attachment that exists between the particular child and the particular carers and the likely emotional and psychological consequences of ending it. In

that regard, the generalised evidence of the ISW and the Guardian, which did not involve any assessment of A and Mr and Mrs X, in my view fell short of what is required."

Further at paragraph 71 McFarlane LJ said as follows:

"The repeated reference to a 'right' for a child to be brought up by his or her natural family, or the assumption that there is a presumption to that effect, needs to be firmly and clearly laid to rest. No such 'right' or presumption exists. The only 'right' is for the arrangements for the child to be determined by affording paramount consideration to her welfare throughout her life (in an adoption case) in a manner which is proportionate and compatible with the need to respect any ECHR Art 8 rights which are engaged."

15. In the case of *Re A and O* [2017] EWHC 1293 (Fam) the President of the Family Division, Sir James Munby said in paragraph 46 as follows:

"Pulling the threads together:

i) The Family Court has jurisdiction to hear this application for an adoption order pursuant to the 2002 Act irrespective of whether A and O are, or are not, habitually resident in England. Likewise, the Family Court has jurisdiction to dispense with the parents' consent in accordance with section 52(1)(b) of the 2002 Act, notwithstanding that they are not habitually resident in England.

ii) The application is properly made in accordance with sections 42(2)(a) and 47(2) of the 2002 Act.

iii) A and O's parents and Dundee City Council are properly joined as respondents in accordance with FPR 14.3: each of the parents as a 'parent who has parental responsibility' within the meaning of the rule and Dundee City Council as an 'adoption agency which has taken part ... in the arrangements for adoption of the child[ren]' within the meaning of the rule.

(iv) The task for the Family Court will be (a) to decide whether adoption is in the best interests of A and O, judged by the test in section 1(2) of the 2002 Act of 'the child's welfare, throughout his life', having regard to the various provisions in the 'welfare checklist' in section 1(4) of the 2002 Act, and applying the principles explained in *In re B (A Child) (Care Proceedings: Threshold Criteria)* [2013] UKSC 33, [2013] 1 WLR 1911, [2013] 2 FLR 1075, and in *Re W (A Child)* [2016] EWCA Civ 793, and (b) to decide whether the welfare of A and O 'requires' their parents' consent to be dispensed with in accordance with section 52(1)(b), as that word was explained in *Re P (Placement Orders: Parental Consent)* [2008] EWCA Civ 535, [2008] 2

FLR 625, para 125: see *Re W (A Child)* [2017] EWHC 829 (Fam)."

16. Finally, I have regard to what the President said in the case of *Re BS (Children)* [2013] EWCA Civ. 1146, namely that the court when considering making an adoption order must make a global and holistic assessment of all the realistic options and consider those against the test for proportionality and must not undertake a linear assessment.

Background

17. The family was known to children's services from 2003 because of the neglect of the three older children, including BT and GT's older maternal half-sister, domestic abuse and parental alcohol abuse. The hospital staff where BT and GT were born expressed concerns about the mother's ability to cope with the twins. Nevertheless, they were discharged from hospital into the care of the mother and father after children's services had undertaken an assessment of the family.
18. The past concerns about domestic abuse, alcohol abuse, poor home conditions, developmental delay evident in all of the children and the poor physical care afforded to the children all persisted.
19. In 2008 the parents separated and divorced. The mother had the sole care of the three older children. By the following year, however, the parents had reconciled and were remarried.
20. On 6th March 2014 all five children were made the subject of Child Protection plans. The maternal half sibling, the eldest of the children, left the family home to live with an aunt. On 6th May 2014 she made allegations against the father, her step-father. On 21st May 2014 BT and GT and their three older sisters, E, F and G were removed from the parents' care and placed in foster care. BT and GT did not thereafter return to the care of either parent.
21. BT and GT were initially placed in foster care with their sister G. This placement ended on 4th August 2014 because of the ill health of the foster carer. BT and GT moved to a new foster placement. There they both remained until 28th May 2016 when GT was moved to a separate foster placement.
22. On 19th March 2015 HHJ Hooper QC made all five children the subject of care orders and made placement orders in respect of BT and GT. Their court approved care plans provided for them to be placed together with a search being made for nine months for an adoptive placement and if the search was unsuccessful the following three months would be devoted to seeking a long-term foster placement for them together. There was no question of the local authority proposing, still less the court approving, a plan for the twins to be separated and placed separately whether in adoptive placements or long-term foster care.
23. On 10th April 2016, however, a team manager made the decision to place the twins separately for adoption. This plan was endorsed by a LAC Review held the following day. I shall return to consider these decisions in greater detail later in this judgment.

24. The local authority then and now records all information about a child on a system called Mosaic. This system created a form of the care plan but not in the format or detail of the care plan approved by the court. The care plan ought to have been uploaded onto the system in the documents. No one, however, was able to persuade me that this uploading of the court care plan of 19th March 2015 in fact occurred.
25. On 28th April 2016, the foster carers of BT and GT gave notice to the local authority in respect of GT's placement as they no longer considered they could meet the needs of both children. Accordingly, on 28th May 2016 GT moved to a different foster placement. GT and BT had twice weekly contact with each other until 16th January 2017 when contact was reduced to one session per fortnight.
26. The allocated social worker undertook a sibling attachment assessment. The report, approved by the then team manager, is dated 7th July 2016: some three months after the decision had been made to place the twins separately for adoption. It is asserted by the local authority that the social worker, whom I shall refer to as D, gave an oral report on this issue but I do not know when nor to whom this oral report was given. Quite astonishingly and wholly contrary to good social work practice, there is no note or minute of the manager's decision made on 10th April. Therefore, I do not know what material he considered when making his decision and I do not know the reasons or basis for the same. Thus, I do not know whether he considered the oral report of D. Moreover, I have had no explanation as to why it took D three months to write up her assessment.
27. I will return to this so-called assessment later in this judgment, but I note in the summary of her report D asserted:

“Having considered the legal, policy, moral and best practice guidance, it is essential that GT and BT have the opportunity of an adoptive family.

GT and BT's care plans have remained to be one of adoption (jointly placed) for a considerable period of time. Over the period of 12 months, family finding attempts have not been successful.”

This does not reflect the court's approved care plan which was for a 9-month search for an adoptive placement together to be followed, if unsuccessful, a by three-month search for a long-term foster placement together. I have been given no explanation as to why or how D in her assessment completely misrepresented the care plan: whether it was deliberate or just an error I do not know.
28. I am satisfied that the prospective adopters were unaware of the flawed decision making process relating to the separation of the twins until these proceedings seeking adoption orders in respect of BT and GT had been commenced.
29. In 2016 the father was convicted of multiple offences of abusing children and was sentenced to 21 years imprisonment.
30. In 2016 the mother pleaded guilty to offences of child neglect and was given a suspended term of imprisonment.

31. On 27th February 2017 H and E had a goodbye contact with BT and GT followed by a goodbye contact with F and G on 1st March 2017.
32. On 10th March 2017 BT and GT had what was termed a 'see you later' contact visit with each other prior to their respective placements for adoption.
33. C and GT were matched together in early March 2017. GT moved to live with C on 28th March 2017 and she has remained living in this placement.
34. A and B were matched with BT on 3rd April 2017. He was placed with them on 10th May 2017 and he has remained living in this placement.
35. They did not then see each other again for seven and a half months until there was a contact visit on 27th October 2017 and then no contact for over four months until a visit took place on 4th March 2018. I do not understand how, why or when the hugely important decision was taken to so severely curtail, indeed deny, the children an ongoing relationship once they had been placed for adoption. For the avoidance of any doubt, it was the local authority which determined this level of contact. I make and intend no criticism of the prospective adopters.
36. In October 2017 the local authority made a decision to end BT's placement with A and B and on 31 October served a notice on A and B pursuant to s.35(2) of the Adoption and Children Act 2002. The prospective adopters challenged the decision and the service of the notice. On 3rd November 2017 the local authority changed its decision and purported to withdraw the s.35(2) notice. I say purported because there is no mechanism or procedure in the 2002 Act for the withdrawal of a s.35(2) notice. In any event it is now accepted that the concerns about the quality of care provided by A and B were entirely misconceived and were without any foundation whatsoever. The local authority had ascribed the cause of BT's challenging behaviours to the care he was receiving from A and B whereas it is now recognised and accepted that the cause of these behaviours related to the past care BT had received from his parents and to the consequential emotional, psychological and developmental harm and damage he had suffered.
37. The application by A and B to adopt BT, dated 3rd November 2017, was later issued by the court. The application by C to adopt GT was issued on 28th February 2018. It was shortly after the issue of this second application that it came to the attention of HHJ Plunkett, the designated family judge for Herefordshire and Worcestershire, that the two applications were linked and had been made in respect of separated twins. He reallocated both cases to me.
38. The adoption agency supporting A and B and the adoption agency supporting C applied to join these proceedings as intervenors. Their respective applications were granted. Both agencies supported the making of adoption order in favour of the prospective adopters.
39. In light of the extraordinary decision by this local authority to separate twins and place them in different adoptive placements, I gave permission for the Anna Freud Centre to be instructed to undertake an assessment. They were instructed to consider a number of issues including:

- i) what were the respective needs of BT and GT and how these needs could best be met;
 - ii) whether BT and GT could be reunited in a single placement whether that be an adoptive placement or a placement for long term fostering; and
 - iii) what harm would be caused to BT and/or GT if one or both of them were moved from their current carers to a new placement or placements.
40. The very comprehensive report of the Anna Freud Centre is dated 15th August 2018.
41. At an early directions hearing before me it was intimated by the children's guardian that in light of the now admitted failings of and by this local authority, consideration was being given to bringing HRA claims on behalf of the children against the local authority. I urged the local authority to achieve a consensual resolution to these claims in terms of admitted breaches and as to the quantum and on the basis that the local authority would meet the children's legal costs of bringing a claim and of negotiating a settlement.
42. By the time the matter was listed for this final hearing claims for HRA breaches had been brought on behalf of BT and GT and by A and B and by C. All alleged breaches were agreed between the parties and the issue of the quantum of damages for each claimant had been settled. I shall return to this issue later in this judgment.
43. At the final hearing all the parties were agreed that adoption orders should be made in respect of BT and GT. I made plain that I was not yet persuaded that these were in the welfare best interests of either child. Accordingly, I proceeded to hear evidence and then submissions.

The Local Authority: Actions and Failings

44. The admitted failings of the local authority which led to breaches of BT and GT's human rights and those of the prospective adopters are set out in Annexe 1 to this judgment. These admitted failings are supplemented by further admissions of failings by the local authority, together with notes of the actions taken by or to be taken by the local authority to prevent, or at least, ameliorate the future risk of such failures of the system and of social work practice occurring. This schedule was prepared by Liz Elgar, the assistant director of children's services and is set out in Annexe 2 to this judgment.
45. The admitted breaches of human rights and the schedule of failings of the local authority are extensive and grave. They relate to the whole operation of children's services in Herefordshire. They are both systematic and the fault of individual social workers, team managers and line managers.
46. This said I commend the approach taken in this case by the new management team of children's services, including in particular the Director, Chris Baird, and the Assistant Director, Liz Elgar, for the open and forthright manner in which they have responded to the divers criticisms made. I am reassured by their expressed commitment to a root and branch reform of children's services in Herefordshire and a commitment to ensure that far more robust systems are in place to ensure compliance with good social work practice.

47. The breaches of human rights may be summarised:
- i) a failure to undertake a thorough analysis of the need to change the care plans for the children and a failure to consider appropriately the consequences of separating the twins;
 - ii) a failure to disclose in full detail the needs of, the challenging behaviours of and the past life experiences of BT or GT to their prospective adopters;
 - iii) a member of the social work team deleting references to the children's challenging violent behaviours from the Child Permanence Reports ('CPR') and the Adoption Support Plans;
 - iv) the wholly unmeritorious decision and issuing of a s.35(2) notice to remove BT from his placement with A and B;
 - v) the undue stresses and strains caused to the prospective adopters by:
 - a) the local authority's flawed decisions; and
 - b) as a result, these prolonged court proceedings which have had an adverse impact on BT and GT's experience of family life;
 - vi) the failure to consider properly the alternative plan for placing BT or GT in long term foster placements and to adhere to the court approved care plans;
 - vii) the failure to hold adoption reviews rather than LAC reviews (adoption reviews have an entirely different mandatory criteria to consider than LAC reviews: see Adoption Agencies Regulations 2005, regulation 36); and
 - viii) the failure of the Independent Reviewing Officer system to take any steps to secure any cogent care planning for the children and/or to protect them from the consequences of flawed and/or ill-considered decisions.
48. The schedule of supplemental failings set out in Annexe 2 may be summarised as follows:
- i) a failure in the original care plans to set out what the local authority would do if a placement together could not be found after 12 months;
 - ii) a lack of management oversight;
 - iii) a failure to follow the court approved care plan to a correct conclusion;
 - iv) a failure in the decision-making process to place the twins separately for adoption;
 - v) the failure to acknowledge the significance of maintaining the legal sibling relationship of the twins;
 - vi) the failure to acknowledge the legal relationship between BT and GT and their older siblings;

- vii) the failure to record the reasons why a manager made the decision to place the twins separately for adoption on 10th April 2016;
 - viii) the failure of the LAC review on 11th April 2016 to consider pursuing a plan of long term foster care or commissioning further expert report(s) on the issue of placing the twins separately;
 - ix) the failure to promote contact between the twins once they had been placed for adoption;
 - x) the failure in applying full and accurate information in the CPRs and Adoption Support Plans including the adoption team manager wrongly and inappropriately deleting information about the twins challenging behaviours;
 - xi) the failures of the IROs to take any steps to oversee and/or challenge the local authority's decisions;
 - xii) the failure of the ADM decision making process, namely to fail to consider the impact on the children throughout the whole of their lives of separating them; and
 - xiii) the failure of the local authority, as a result of poor record keeping, to provide accurate evidence to the court.
49. Most regrettably all these admitted failures were not the end of this long litany of errors and misrepresentations. On the second day of the final hearing the local authority discovered there were documents and records, which contrary to previous orders and/or the local authority's general duty of disclosure, had not been disclosed to the court or to the parties. When the disclosure was made it amounted to some 200 pages. I gave the parties the whole of the following day to read and digest the documents disclosed and to take instructions.
50. It caused the prospective adopters considerable distress to discover that within this disclosed material were matters relating to the children which had not previously been communicated to them by the local authority nor had it been communicated to the adoption agencies supporting the two sets of prospective adopters. [REDACTED TO PRESERVE CONFIDENTIALITY].
51. The emotional pressure on the prospective adopters was great enough without the added burden of having to receive and cope with the new information revealed. I do not understand the explanation offered as to why this material had not been disclosed earlier, other than it resulted from yet another error by an employee of the local authority. I received no explanation as to why the information revealed had not been previously communicated to the prospective adopters or their supporting adoption agencies.
52. It then emerged that the then social worker, D, the author of the sibling assessment had misquoted the opinions of Dr Mair Edwards, a consultant psychologist, who had prepared a report on the children for the purposes of the original care proceedings. The extract contained in the sibling assessment of July 2016 reads as follows:

“Dr Edwards concluded, “If GT and BT were not twins, I would be recommending separate placements for them as GT’s challenging and bossy behaviours do impact on BT’s abilities to express himself and he therefore tends to focus in on his love of mechanical objects and machinery, and withdraws from social interactions...Both GT and BT have significant learning difficulties and developmental delay and will have significant needs throughout their childhoods. Their long-term placement would therefore need to be fully aware of the high level of commitment that will be required, and the ongoing support that the children are likely to require from agencies and services throughout their lives””

It will be noted three dots appear about halfway down the extract indicating some material had been omitted. Counsel for the children’s guardian, Mr Kingerley referred me to Dr Mair Edwards 2014 report. The passage omitted from the above extract reads as follows:

“When observing them together there was very limited interaction (other than GT telling BT to “no talk”), and no real sense of a sibling relationship. However, they are twins, and the sense of loss in later years at being separated would almost certainly be more detrimental to their welfare than placing them together.”

53. The words omitted completely change the import and meaning of the quoted section of Dr Mair Edwards’ report. The social worker was not called to give evidence before me nor has she been given the opportunity to give an explanation. Therefore, I will not name her in this judgment. The prospects of this being an innocent omission are unlikely in the extreme. It is not an opening or concluding sentence that has been missed. It is a passage in the middle of the quoted passage from the report and the deliberate omission of some words was marked by three dots. Given also that the omitted section of Dr Mair Edwards’ report sets out an opinion wholly contrary to the ultimate recommendation of the sibling assessment, the only credible explanation for this omission is a deliberate act to mislead a reader of the assessment to conclude that the recommendation of separate placements for adoption was consistent with the opinion of Dr Mair Edwards. It manifestly was not.
54. I was informed by counsel for the children’s guardian that in another case, some years ago, the self-same social worker was alleged to have tampered with a document. I asked for the issue of the social worker’s role in drafting the sibling assessment to be referred to the Director of Children’s Services and to the Chief Executive of Herefordshire Council. The social worker had left the local authority in March 2018 but had later been re-engaged in some role on a zero hours contract. It was proposed, in the Adoption Support Plans, that this social worker would be carrying out life story work for the twins. The following day I was told by counsel for the local authority that her contract had been terminated with immediate effect.
55. The issue of separating the twins was considered by a child and adolescent therapist with the adoption team, in her report of 12th April 2016. On the issues of separation and

future contact between the twins if the decision was made to place them separately she said:

“Making the decision that twins should be separated is problematic. Although each child’s needs may be better met in separate families, they have been constant companions to date, and will find separation confusing and stressful. In addition they share a common heritage and history. The complexities of these children’s circumstances and individual needs should be considered at length and in detail, so that a decision can be made which will be of most benefit to both the children.

If they are to be separated, it would seem vital that there is ongoing contact between them. Both children would find the separation difficult in the short term especially, and would need the reassurance of frequent contact.

Ongoing contact would rely on two adoptive families both being willing to commit to this. If one child is adopted and one remains in foster care, then contact with the adopted sibling needs to be carefully considered, due to the link to the birth family.

Separation would obviously need to be done with a carefully constructed programme that takes both children’s needs into account.”

56. In light of this clear recommendation I am at a loss to understand why the local authority did the exact opposite. Prior to placement with the prospective adopters the twins had a ‘see you later’ contact session and that over the succeeding eleven months they had contact on just two occasions. The local authority was unable to explain who had made this decision for there to be very limited contact between the twins post placement or why this decision had been made.
57. The catalogue of the local authority’s errors and failings in this case is troubling and hugely lamentable. I do not minimise any of the admitted breaches of human rights and/or the other admitted failures by highlighting what I consider to be the most egregious failures, namely:
- i) the deletion of important and highly relevant information from the CPRs and Adoption Support Plans by the adoption team manager. This could only have been done to mislead the prospective adopters about BT and GT’s respective behaviours and needs with a view to increasing the prospects of them agreeing to a placement of BT or GT with them;
 - ii) the deliberate and misleading selective quote from the report of Dr Mair Edwards in the so-called ‘sibling assessment’. I am satisfied that the social worker began this apparent assessment with the end result, that of separating the twins, already decided and wrote an assessment to support that conclusion. I do not understand why this assessment was written up three months after the decision had been taken on 10th April 2016 to place the twins separately for

adoption or why this decision was not stayed pending the completion of a sibling assessment;

- iii) the failure to give full and frank information about the twins to their prospective adopters and their respective supporting adoption agencies;
- iv) the complete and utter failure of the IRO service to satisfy any of its statutory duties in respect of BT and GT. The IROs and the IRO service did absolutely nothing to protect and promote the welfare best interests of the children and did nothing to challenge the local authority's dreadful and, at times, irrational decision making and care planning; and
- v) the failure for there to be any note or record of the matters considered, the documents read or the reasons for taking the life changing decision to place the twins separately for adoption taken on 10th April 2016. It is astonishing given the highly unusual and momentous nature of the decision.

The Anna Freud Centre

58. The Anna Freud Centre, led by Dr Morris, a clinical psychologist, provided the court with a very comprehensive assessment of BT and GT. Dr Morris and Katherine Mautner, a social worker and play therapist, attended court to give evidence on behalf of the clinical team who undertook the assessment.
59. The assessment of BT concluded as follows:

“BT presents with many of the hallmarks of a child who has experienced inappropriate, neglectful, unpredictable and abusive parenting in his early years. Despite the clinically significant emotional (regulation) and behavioural difficulties he presents with, there is not convincing evidence at this stage to support a diagnosis of any major psychiatric condition; his symptoms are best understood in the context of both specific and general developmental trauma, including neglect, and global developmental delay. His behavioural and associated relational problems serve to protect him from the impact of overwhelming feelings, at the cost of his functioning and development. [REDACTED TO PRESERVE CONFIDENTIALITY].

There are several protective factors in BT's life – he has some clear strengths and is a kind and playful boy with a great sense of humour. He has an emerging sense of self, taking pride in showing us his room, telling us about his likes and dislikes and, at times, asserting his needs. He appears to have made significant progress in his current placement, and the increasingly secure relationship we observed with the prospective adopters is, itself a protective factor. However, as we saw during the course of the assessment, the progress BT has made is very fragile and his strengths and abilities can quickly fall away when he is in touch with even fairly normal feelings of fear or vulnerability and/or traumatic memories.

It is possible that the global developmental delay observed is simply attributable to the neglect and abuse that he received in his early years, rather than a more biological explanation. Given the security stemming from benign but clear boundaries in the context of love in his primary carer relationship, and continued assessment and intensive therapeutic input (described elsewhere in this report), this delay might be expected to catch up in time. Our understanding is that there has already been significant developmental catch up since BT came into his present care setting. [REDACTED TO PRESERVE CONFIDENTIALITY].

60. The summary of the centre's assessment of GT was:

“GT presents with many of the hallmarks of a child who has experienced inappropriate, neglectful, unpredictable and abusive parenting in her early years. Despite the clinically significant emotional (regulation), social and behavioural difficulties she presents with, there is not convincing evidence at this stage to support a diagnosis of any major psychiatric condition; her symptoms are best understood in the context of both specific and general developmental trauma (including neglect) and a global developmental delay. The disconnected way she relates to herself and associated relational problems serve to protect her from the impact of overwhelming feelings, at the cost of impaired functioning and development. Her early history, combined with her current presentation, place her at a very high risk for developing a major psychiatric condition in the future without significant and prolonged intervention (described elsewhere in this report).

There are several protective factors in GT's life – she can be a warm, enthusiastic and playful girl with a quirky sense of humour. She appears to have made significant progress in her current placement and can now sometimes use others to help her understand her own internal experiences. The increasingly secure relationship we observed with her prospective adopter is, itself a protective factor. However, as we saw during the course of the assessment, the progress GT has made is very fragile and she can quickly resort to primitive defence mechanisms such as disassociation to segregate intolerable mental states when she is in touch with difficult feelings or memories. It is likely that such defence mechanisms helped her to survive her early trauma. However, their continued use had led to significant disturbance in the development of a coherent self-construct, as she appears to have an only just emerging sense of self. Lack of a coherent sense of self is a significant risk factor in difficulties in the development of personality.

It is possible that the global developmental delay observed is simply attributable to the neglect and abuse that GT received in her early years, rather than having to evoke a more biological

explanation. Given the availability of benign but clear boundaries in a context of love in her primary carer relationship, an continued assessment and intensive therapeutic input (described elsewhere in this report), this delay might be expected to reduce over time. Our understanding is that there had already been significant developmental catch up since GT came to her present care setting. However, it is impossible to say at this stage to what extent this is likely to occur, and in our view, it is quite likely that GT will retain some level of learning difficulty. At this stage we hypothesise that the autistic type behaviours observed during the assessment are primarily associated with GT's disconnected states of mind and mistrust in the world/others. However, we recommend further assessment in the future."

61. The report from the centre sets out in considerable detail the current and future needs of BT and GT, of how these can best be met, of the support services they and their carers will require and what should be contained in each child's Adoption Support Plan.
62. On the central issue of whether BT and GT should continue to be placed separately or whether they should be reunited in one placement the advice was:

"As mentioned above, while BT and GT's shared experience is important in relation to their identity, as well as their sense of continued connection, it is also marked by trauma and loss. There is some evidence that BT works to distance himself from that in the current contact and there is a history and complex and at times negative dynamics in their relationship with one another. It is likely that this would make living together and sharing resources very difficult for BT and GT and would set up the adults charged with this responsibility, with an extremely difficult task. GT and BT need to be able to regulate their experiences of connection with one another and with their early memories, which would be almost impossible if they were living as part of one family.

Placing the children separately but supporting them to maintain a meaningful and ongoing relationship allows them to maintain their connection and positive relationship with each other into the future, while allowing them to develop their own life narratives and have space away from the trauma they shared. Our assessment of the prospective adopters' ability to support the sibling relationship going forward is positive.

There is evidence that both children have made significant progress in their current placements and are forming positive attachment relationships. To remove them from their current placements would, in our opinion, constitute a further severe developmental trauma and constitute significant harm...

In summary, it is our view that the benefits of placing the siblings together is outweighed in this case by the likelihood that their high level of need could not both be met in one placement, that their separate placement but continued relationship offers them the best opportunity for recovery, and that removal from what the children have come to view over the last 12 months as their parents, their family and their home, would constitute further developmental trauma.”

63. The centre considered the issue of whether BT and/or GT should have contact with their mother and/or their older siblings. They opined as follows:

“In our opinion, BT and GT remain very vulnerable and each child’s emerging sense of safety remains fragile. Direct contact with members of their birth family who they haven’t seen since before they moved into their current homes would likely undermine this progress and of the tentative sense of safety that they are each developing.”

“While it may be that incidents of direct abuse were largely perpetrated by their birth father, the evidence in both children (of their current emotional functioning) suggests that neither parent was able to provide a consistent sense of safety. In addition, it is likely that BT and GT’s memories of their early years are of a bodily/sensory type and perhaps audio/visual but are unlikely to be coherent or autobiographical in nature. As such, there may be things that they would notice about their birth mother (such as the sound of her voice/the way that she smells) that triggers responses related to traumatic experiences, even if these actually belong more firmly to their memories of their birth father.

On this basis, we can speculate that direct contact would likely be a frightening experience. Further, the trust that they are building in their carers to keep them safe and help them to regulate overwhelming negative affect would likely be profoundly undermined by this experience.

We do not recommend that direct contact with the birth mother should be considered until the children are old enough to explore this possibility for themselves (probably in adolescence) and even then, this should be approached with caution. In the meantime, we recommend that annual letterbox contact is appropriate to maintain a link for the purposes of BT and GT’s developing identity.”

“However, our assessment leads us to speculate that GT and BT might be more able to manage direct contact with their older siblings once their primary attachment relationships (with their adoptive parents) and their relationship with one another are more firmly established. This leads us to recommend that twice a year letterbox contact should be set up at this time (to include

photographs if this is safely possible) and that the possibility of direct contact should be revisited in 2 years' time. This contact reassessment should include a review of the quality of letterbox contact in the intervening period; an update on how settled GT and BT has each become in their adoptive families (for example frequency of emotional dysregulation, how they have managed minor difficult experiences or transitions, how they have been able to make and manage new relationship); an update on the circumstances of whichever birth sibling has requested contact (how settled they are in their own relationships, their emotional wellbeing, how close their relationships are with other birth family members and how well they would be able to maintain a level of safe confidentiality for example about the whereabouts of each twin's adoptive family)."

64. Dr Morris and Ms Mautner, with the agreement of all parties gave evidence together. I wished to explore two matters with them:
- i) could BT and/or GT be moved from their current placement to be reunited in a single placement;
 - ii) in any event, would some lesser order meet their needs and have the legal consequence of preserving their status as brother and sister?
65. I am immensely grateful to Dr Morris and Ms Mautner for the clarity of the evidence they gave and for the care and earnest consideration they had obviously given to the issues in this case. At the conclusion of their evidence I was persuaded to accept the recommendations they had made and their reasons for the same.
66. Dr Morris told me that both children were receiving a very high quality of care from their prospective adopters. BT and GT feel 'ownership' of their separate families. Living apart but coming together at regular contact visits offers them the best opportunity to enable them to build a positive and enduring relationship with each other. The recommendation was that contact should occur at a minimum of six times per year with indirect contact by Skype, Facetime and/or letters and cards taking place on a more frequent basis. Ongoing direct and indirect contact is so vital for BT and GT that Dr Morris advised that the court should make a contact order. This is required to make very clear the importance of contact for the twins and not because of any lack of commitment on the part of the prospective adopters. All three of them recognise and accept the children's need for regular and indirect contact and are fully committed to ensure the same occurs.
67. On the issue of removal of BT and/or GT from their current carers Dr Morris and Ms Mautner made a number of important points:
- i) BT and GT have made surprisingly good and positive progress in the care of the prospective adopters;
 - ii) nevertheless, because of the harm and damage they each suffered in the care of their parents they are and will remain for some time fragile and vulnerable children;

- iii) both of them are now beginning to allow themselves, for the first time, to believe they are settled and secure in their family;
 - iv) if one or both of them were to be removed from their prospective adopters they would both suffer a profound sense of loss, it would compound the losses of relationships they have already suffered – in short it would be devastating for one or both of them;
 - v) it would disrupt their current attachment to their carers, it would damage their view of the world and seriously affect their ability to trust anyone in the future: it would be one trauma too many;
 - vi) the children have not yet processed their life experiences to date. They are not able to recognise or regulate their feelings about their past experiences. When placed together they re-experience the past trauma in their lives. Now living apart there has been a shift in the ability of BT and GT to deal with these issues for which they will need professional help and the continued love, care and support of their prospective adopters;
 - vii) the harm and damage suffered by BT or GT consequent to a removal would adversely affect them in the long term and it is unlikely they would be able to recover from the same; and
 - viii) now, it would be impossible for one set of carers to care for both children and meet all of the challenging and complex needs of both of them.
68. In relation to the issue of whether an order short of adoption (e.g. a special guardianship order ('SGO')) would meet the needs of the children, Dr Morris and Ms Mautner agreed it was a very difficult question. They had not previously taken into account that the fact that by being adopted separately BT and GT would lose their legal status as brother and sister (I mention this not as a point of criticism but as a matter of fact). They both reflected. They then gave a very powerful reason for preferring an adoption order. BT and GT will be likely to remain vulnerable into early adulthood. They will need a legal family to provide for and to look after them beyond attaining the age of 18. An adoption would provide this forever family. A SGO, of course, would cease to have effect when they attain their majority. The carers would then have no relationship or connection with BT or GT in law. The only people who would have a legal relationship with would be their mother and their father: the very people who had harmed and abused them and caused them profound emotional, psychological and developmental damage.
69. I found this evidence to be powerful and compelling.

Local Authority Evidence

70. Ms Elgar, the assistant director of children's services, and Ms Leader, the team manager, gave relatively brief evidence. Ms Elgar had been in post from June 2018 and Ms Leader became the team manager in July 2017. They both offered profuse apologies to the prospective adopters for the actions and failings of the local authority.
71. Ms Elgar could not explain how or why the material which had been disclosed at this hearing had not been disclosed at an earlier time or had been 'lost' by the local

authority. She recognised the local authority's serious shortcomings and sought to assure the court that action had been, and would continue to be, taken to resolve the identified and admitted failings of the local authority. She accepted the deletions from the CPRs and Adoption Support Plans resulted from a deliberate and wrongful act by an employee of the local authority.

72. It was Ms Leader who, having heard certain observations by me, checked the electronic records and discovered a considerable amount of material had not been disclosed. She readily accepted the decision to terminate BT's adoptive placement in late 2017 had been wrong and the whole episode had been badly dealt with by the local authority. Mr Noble had noted that some of the documents disclosed in the hearing related to events some months or even up to two years before but had only appeared on the local authority's computer system within days of each other in February or March 2018. When asked why this was, Ms Leader said that the previous social worker, D, had got seriously behind with her administration and had thus spent the last few days of her employment uploading two years worth of notes, records and other documents onto the system. When asked how this could have been allowed to happen, she could give no answer other than to say it was not good practice. This ranks as a masterful understatement and was a completely inadequate response. For the last seven or eight months of the social worker's employment in children's services, Ms Leader had been her line manager and had taken no effective steps to remedy this extraordinary state of affairs.
73. Finally, Ms Leader confirmed that no note, record or document had been found relating to the decision made on 10th April 2016 that BT and GT should be placed separately for adoption.

The Prospective Adopters

74. I propose to say little if anything about the circumstances and background of A and B or of C. These details are not relevant to the issues I have to determine and I would not wish to take the unnecessary step of setting out details about them which might inadvertently lead to their identification by any person. The only material issue is the quality of care and commitment they have and will give to BT and GT if they are to remain in their care.
75. I unreservedly accept the evidence of the Anna Freud Centre, the local authority's assistant director and of the guardian that A and B and C have given and would continue to give great love, commitment and superlative care to BT and GT.
76. No party wished to cross examine either A, B or C. I told counsel that I would be happy to hear from one or more of them if they wished to give evidence but I did not require them to give evidence. Unsurprisingly they did not wish to give evidence. Their witness statements were very helpful and comprehensive.
77. A and B painted the following picture of BT in their first statement:
- “BT is a wonderful boy, full of kindness and enthusiasm. He wants to try everything and loves learning how to do things. He is happy and relaxed with us. We spend many days happily doing normal things that families do. Sometimes we just play and

potter around at home together. Other days we might go out riding on our bikes or visiting family and friends. Sometimes, the court proceedings and conversations with the local authority, make it seem like our family life is constantly strained by BT's behaviour and our ability to cope with it. In fact, this is far from accurate. Whilst BT's behaviour has of course been very challenging, especially in the first months, we have in more recent months actually found most of our time with BT to be the family we wanted and expected it to be when we adopted. We feel that BT is also happy and feels like he is part of a family, living a positive family life.

We think that BT needs and deserves a family life with the permanency and security that only adoption can provide. Over the last year we have developed trust and family life with BT and worked consistently to increase his sense and understanding that his new family with us is forever, and that we will always look after him. BT refers to us as a family, wants family hugs and draws pictures of us all together. He is bonding with, and embracing of, our wider families. He is excited and is starting to understand that they are now his family. BT loves playing with his cousins and chatting with aunts, uncles and grandparents. For example, one of his favourite things to do is to sing along to the radio, especially with his grandmother who he refers to as 'nan'."

But he does present challenging behaviour at times:

"The level of BT's violence was a shock to us and it was not something we were prepared for. It certainly took us a while to learn the most effective ways to respond to it (and we are still learning each day). We have tried to understand BT's behaviours and it causes, appreciating that due to his early years and his unprocessed trauma, that BT is a child who can easily be triggered into a fight or flight response. We have and continue to work hard to make BT feel safe and to distract him and reassure him as needed to reduce the times he triggers. We understand that once in the 'fight or flight' response that BT is no longer using his rational/thinking part of his brain and is lashing out to protect himself, the most basic of instincts.

We have been advised that at these times BT is functioning much more like a toddler having a meltdown and as such needs comforting, cuddling and containing. Where possible we do this with a cuddle and when necessary we wrap our arms around BT in a safe hold that keep BT and us safe. BT had always received from us the robust message that violence is not acceptable and he must not hit. He is very aware that it is not acceptable, the days when he has not hit, he will often at bedtime say 'no hitting today' and seem genuinely proud of himself."

78. In respect of their view of this local authority they said:

“Given the above, we are sad to say that we have very little trust in Herefordshire and feel apprehensive about working with them moving forwards. We are fully aware that so long as BT remains in our care, we will need to work with Herefordshire in the future. We want this to be a positive and meaningful relationship for BT’s sake. However, we think it may be necessary for work to be put into that relationship, including us and the social workers attending mediation or other type of relationship building exercise, before this can be achieved.”

79. They gave the following reasons for seeking an adoption order as opposed to any other sort of order:

“In terms of what decision we want the court to make, we are clear that an Adoption Order is what is best for BT. We have been a family for a year now and our closeness and sense of family increases with each day. We want and have always wanted to adopt BT. Quite simply, he fits perfectly with us. We want to give him that permanent security for the rest of his life. For the first time in his life he has parents who will love and look after him forever. We are clear that only adoption will enable BT to have that. We don’t want BT to miss out on being adopted and having a forever family because of the flaws in other people’s actions. That would have a devastating impact on the rest of his life.

Finally, we would like to make it abundantly clear that we do not consider it to be in BT’s interests to move to a different placement now. We cannot bear the thought of him having to go through another move, and how that would destroy his ability to form attachments and develop trust, and how much he would miss us and how much we would miss him. He is our son and we are his parents.”

80. These are all very eloquent expressions of their intense love for and the commitment they have shown to BT.

81. C described GT in the following glowing terms:

“I am concerned that, in amongst the necessary legal negotiations and discussions, as well as those regarding GT’s needs, something of her personality is getting lost. I would like to take this opportunity to tell the Court about her. GT is not a child who is ‘easy’ to parent, but alongside the challenges is a fantastic, funny, caring, curious girl, who brings a great deal of joy and love into my life.

She has a sunny disposition when she is feeling secure, and likes to see other people happy as well. She enjoys trying new things, and will take herself out of her comfort zone to get such experiences. GT is proud of her achievements, especially when

she had put in a lot of effort, and it was lovely to hear recently that she encourages her classmates to achieve as well.

Although she is sometimes hesitant to interact socially, she loves playing with other children, and frequently makes new friends at the play park. I am immensely proud of her.”

However, life can be difficult at times:

“Once GT was placed with me it became clear very quickly that GT was not a little girl who would throw a tantrum. GT would rage and these rages would last for a couple of hours. She would become physically aggressive and it can be difficult to manage these outbursts. This has resulted in me having to restrain GT, and GT’s shouting and screaming has led to the neighbours raising concerns with child protection agencies.”

82. In respect of A and B, C described their relationship as follows:

“I have only known [A] and [B] for a short period of time but feel we have a good bond and are more than able to communicate with each other in respect of GT and BT. I would consider them friends.

I am confident that this relationship will help us in the future to arrange contacts between our children. My vision for future contact is that contact should be fluid and it should feel like a normal family dynamic. I truly believe in the future [A], [B], BT, GT and I will be a quasi-family and we will be able to make contact arrangements between us.”

83. C gave her reasons for seeking an adoption order in the following terms:

“I believe that an Adoption Order is the only Order which can provide GT with the security and knowledge that I am her parent and this is her ‘forever home’.

It is crucial for GT’s development of trust with me that she feels safe and secure in my care. I feel if GT does not consider this her permanent placement she would not trust me and that her behaviour will destabilise. I fear a result of this would be that GT reverts to her defiant and oppositional behaviour which she has used as her survival mechanism previously.

This behaviour, combined with GT’s continued growth in strength and size will mean I may find it difficult to cope and manage these behaviours in the future.

Due to her learning difficulty and emotional wellbeing, GT is likely to remain a very vulnerable individual throughout her life. I am concerned that an alternative to adoption will not offer

sufficient safeguards or protection from those who have previously caused her harm. I cannot see myself in a position sharing parental responsibility with the birth parents, even if the birth parents' parental responsibility is notional.

For GT her sense of belonging is very important. She identifies as GT [X] which is central to her emerging sense of self and allows her to feel part of a family, our family."

Children's Guardian

84. I am grateful to the children's guardian for his very helpful and thorough report. In his evidence he confirmed his opinion that given the children had been with the prospective adopters for some eighteen months and in light of the recommendations of the Anna Freud Centre, it was in the welfare best interests of BT and GT to remain in the care of their respective prospective adopters. He had carefully considered the issue of adoption against SGOs and had reached the clear conclusion that only adoption would secure the degree of permanence, security and stability which both BT and GT would require throughout the whole of their lives.
85. In relation to E and F he agreed with the recommendations of the Anna Freud Centre that they should have indirect contact with BT and GT twice per year and the issue of some direct contact should be reviewed in two years' time. He had met with E and F on a number of occasions and had been impressed with their attitude on the issue of contact and with their acceptance of the limitations that there would currently be with contact to their younger siblings. He did not consider an order for contact was necessary given the agreement of the prospective adopters to the proposed contact but agreed it would be useful for the local authority to draw up a schedule of contact.
86. There was one issue in respect of contact between BT and GT and F and E, which related to the provision of photographs. F and E wanted to receive regular photographs of BT and GT which they could keep. The prospective adopters did not object to F and E seeing photographs of the children as part of their agreed indirect contact but opposed them taking and keeping the photographs; they asserted these should be held by the local authority.
87. The children's guardian accepted there was a risk that photographs might come into the possession of the parents or might otherwise appear on social media. Given, however, his favourable opinion of F and E, he favoured them being permitted to take and keep any photographs provided.

Discussion

88. I have struggled with the concept that a court could find that it was in the welfare best interests of twins to place them separately for adoption. From the time the case first came before me up to and during the course of this final hearing I was keen to find a route by which BT and GT could be reunited in a single placement. If this proved impossible to achieve, I was keen to find a legal framework, short of adoption, which could afford them the degree of permanence, stability and security which I entirely accept they both so desperately require.

89. For the avoidance of any doubt, as I observed in the course of the hearing, in expressing these views I did not for one moment doubt the love, commitment and care which A, B and C have afford to BT and GT: quite the reverse. I wholeheartedly commend both sets of prospective adopters for the enormous great love and devotion they have shown to BT and GT, for their unswerving commitment to them and for the superlative care they have given BT and GT. It is plain that, notwithstanding the grave harm and damage they suffered in their past lives, they are thriving beyond expectations in the care of A and B and C. The stoicism each of these adults have displayed in the course of these lengthy proceedings has been admirable.
90. Nevertheless, BT and GT are not just simply siblings they are twins. In making adoption orders in favour of two separate sets of prospective adopters, I would sever the legal relationship of BT and GT as brother and sister. Further I would sever their legal relationship with their elder siblings. Whilst the latter is very important, it is the former consequence of adoption that principally troubles me.
91. There is no question of it being a realistic option in the welfare best interests of the children for either of them to return to the care of either parent. The mother manifestly is not capable of caring for them and neither is the father. In any event, he is serving a very substantial custodial sentence and is convicted of offences of child abuse.
92. Is there any other realistic placement together or apart? On the basis of the powerful and compelling evidence presented by the Anna Freud Centre and the most impressive and persuasive oral evidence of Dr Morris and Ms Mautner, supported by the children's guardian and the local authority's assistant director, and the compelling evidence of the prospective adopters, the answer is a resounding no.
93. I am of the view that if this local authority had exercised good social work practice and exercised a modicum of child focused judgment in its decision-making processes, there was, in my judgment, a real possibility that the children could have been placed and lived together for a substantial period of their childhoods. They had, I note, lived together in their foster placement for nearly three years albeit not without presenting their foster carers with immense challenges from time to time. Whatever the possibilities of being placed together, I am completely satisfied that the actions of this local authority denied them the opportunity of this option being properly explored which is, to put it mildly, deeply regrettable and will have an impact, great or slight, for the whole of BT and GT's lives.
94. I am satisfied on the totality of the evidence before me that I cannot now contemplate moving either BT or GT, or both of them, from their placements without causing them serious harm and, potentially, lifelong grave harm. They are well settled with their prospective adopters and are plainly well integrated into what they consider to be their respective families. They are, for the first time in their lives, allowing themselves to believe they have their forever family. If one or other of them or both of them were to be moved, I accept the evidence of the Anna Freud Centre, that one or both of them would be devastated. They would suffer a sense of considerable loss, their behaviour would undoubtedly regress and they are likely never to allow themselves to trust a future carer or others involved in their lives: even if not likely, there is a substantial risk this would be the consequence of a removal.

95. To embark on the removal of the children with all the attendant serious adverse consequences cannot, in my judgment, be in the welfare best interests of either BT or GT. Accordingly, I am now persuaded and satisfied that both BT and GT must remain in the care of their respective prospective adopters.
96. The next question is under what legal framework should BT and GT live with their carers? The only realistic options are adoption orders or SGOs.
97. The adverse consequences of adoption, namely the severing of the legal status of BT and GT as siblings and the severing of the legal relationship with the older siblings greatly troubles me. It weighs heavily in the balance against making an adoption order.
98. My concerns are to some degree mitigated by:
 - i) the advice of the Anna Freud Centre that ongoing regular direct contact is essential to build and maintain a close and warm relationship between BT and GT which will hopefully endure for the whole of their lives; and
 - ii) the prospective adopters' acceptance of this advice and their strong commitment to ensure such contact takes place.
99. I recognise and take account of the fact that an adoption order would sever BT and GT's legal relationship with their mother and father. This is a serious consequence but given their wholly adverse involvement in BT and GT's past lives, it is not a consideration which weighs heavily in the balance.
100. An adoption order would bring considerable benefits to BT and GT. They would, throughout the whole of their lives, be permanent members of their new families. Importantly the order would have effect for the whole of their lives and not just until they are 18. I accept that BT and GT need and crave a permanent family where they will be and they will feel stable and secure in a loving, safe environment.
101. A SGO would confirm BT and GT's placements with their respective carers and would grant their carers parental responsibility for them. It would enable them to determine the extent to which, if at all, BT and GT's mother and/or father could exercise their parental responsibility. This order would not sever the legal status of BT and GT nor affect their legal relationship with their older siblings.
102. The singular disadvantage of a SGO is that would and could only last until the children attained the age of 18. Then the only people with a legal relationship with BT and GT would be the mother and the father (and their older siblings, of course). BT would no longer have any legal connection with A and B nor GT with C. This scenario would not be in the welfare best interests of either BT and GT. They will need to be reassured that they are safe from any future involvement with their mother or father. Such reassurance is unlikely to be engendered by them knowing they have a legal relationship with their birth parents but no legal relationship with the people whom they consider to be their parents and who are their psychological parents.
103. I accept the evidence of the Anna Freud Centre that even when they attain 18 years of age, BT and GT will be vulnerable young people who will still need the reassurance of

having a permanent, stable and secure home with their carers and a legal relationship with them.

104. Taking into account all of these competing factors, I am satisfied that making adoption orders in respect of BT and GT is the only means of securing their future care and are the only orders which are in their welfare best interests. In the circumstances of this case at this time I am satisfied that adoption orders are necessary and are a proportionate response to the overwhelming needs of these children.
105. Neither the mother nor the father consent to the making of adoption orders. BT and GT were, however, placed with their respective prospective adopters by an adoption agency, Herefordshire Council, and under placement orders. The mother and the father have not applied for nor been granted leave to oppose these adoption applications. Accordingly, the second condition of s.47 ACA 2002 is satisfied and I do not need to consider the issue of dispensing with either parents' consent to the making of adoption orders: s.47(4) & (5) ACA 2002. If I had had to consider the issue of dispensing with their consent, I am wholly satisfied, for the reasons given above, that the welfare of BT and the welfare of GT would have required me to do so: s.52 ACA 2002.

E and F

106. E and F were represented by the Official Solicitor. They did not attend court but a statement was filed on their behalf which fully set out their views. I also had the benefit of letters from E and F in which they described their love for both their younger siblings. The Official Solicitor agreed with BT and GT remaining in their adoptive placements and being made the subject of adoption orders in favour of their respective carers. The proposed indirect contact twice per year was agreed together with there being a review of the question of direct contact taking place in 2 years' time and thereafter on an annual basis.
107. The one issue in dispute was whether they should be given and keep photographs of BT and GT. I am in no doubt of the great and sincere love F and E have for their two younger siblings. I accept they are both in stable placements and, as the guardian described, I accept they have demonstrated a significant degree of maturity and insight into the limitations of their future contact with BT and GT. I further accept neither would willingly show any photographs of BT and GT to their parents or place any of them on social media.
108. In these circumstances I accept the guardian's view that nevertheless there must be some risk that these events might occur in the future. Whether significant or small this is a risk which will be borne by the prospective adopters. The consequences of any photograph of BT and GT coming into the hands of the parents or put on to social media could potentially be catastrophic. Accordingly in my judgment the issue of whether F and E should be permitted to take and keep photographs of BT and GT is for A and B and C to decide: it is not for me to impose my assessment of the risk identified upon them.
109. It may well be that once A and B and C have been able to put the distress and pressure of these proceedings behind them and have settled into a routine of indirect contact with F and E, one or both sets of carers will feel able to change their view on this issue.

The s.35(2) Notice of Termination of Placement

110. I have referred in paragraph 3 above to the local authority issuing and then purporting to withdraw the notice in November 2017 in respect of BT's placement with A and B. At an earlier stage in these proceedings an issue was raised as to whether an adoption application could validly be made by BT's prospective adopters in light of the service of a s.35(2) notice. The matter was not pursued by any party at this final hearing. Nevertheless, Ms Reed, counsel for A and B, was concerned that the issue could be raised at a later time in the context of a challenge to any adoption order made in respect of BT in favour of A and B.
111. I shared the concerns expressed by Ms Reed. Accordingly, and to put the matter beyond doubt, with the consent of all parties and sitting as a judge of the Administrative Court, I gave A and B permission to issue a claim for judicial review to challenge the decision to terminate the placement and to issue to s.35(2) notice. I then deemed them to have made an application for judicial review.
112. I considered the decision of the local authority to seek to remove BT from his prospective adopters' care to be so demonstrably unreasonable as to be irrational. This conclusion is reinforced by the local authority reversing its decision and purporting to withdraw the s.35(2) notice just two days after the decision was communicated to A and B and the notice was issued. Therefore, I am satisfied that the decision to remove and the issue of the notice was unlawful and both should be quashed.

The Human Rights Act Claims

113. The HRA claims brought on behalf of the children and by the prospective adopters were made wholly outside of the application for adoption being determined in these proceedings. They are in my judgment wholly unconnected with these proceedings. I make mention of the claims in this judgment so as to ensure it gives a comprehensive account of the circumstances and events surrounding these children and these prospective adopters.
114. As I mentioned earlier in this judgment the children's legal costs in issuing Part 8 claims and negotiating a settlement are to be met by the local authority as are the legal costs of the prospective adopters in negotiating a settlement.
115. The breaches of the human rights of the children are encapsulated in Annexe 1 to this judgment. The breaches relied upon by the prospective adopters and admitted by the local authority are in like terms: they are set out in Annexe 3, in respect of A & B, and in Annexe 4, in respect of C, to this judgment. The breaches are extensive and relate to almost every aspect of this local authority's involvement with the children and the prospective adopters.
116. The damages agreed in satisfaction of A and B's HRA claim were £5,000.00. The same sum was accepted by C in respect of her HRA claim.
117. When considering the infant settlement approval of BT and GT's respective claims for breaches of their human rights I had the benefit of advice on quantum by Mr Kingerley dated 16th November 2018. The local authority offered in settlement of the children's claims the sum advised by counsel, namely £20,000.00 each. I was satisfied in all the

circumstances of this case and having regard to recent authorities on the issue of HRA damages, that these were entirely reasonable damages to offer just satisfaction to both children. Accordingly, I approved the settlement achieved for BT and for GT. Further I made the declarations of the breaches of human rights of BT, GT, A & B and C in the terms agreed and set out in Annexes 1, 3 and 4 to this judgment.

Costs

118. The children's guardian made an application for an order for the children's costs in these proceedings against the local authority: no other party made an application for costs. The local authority did not actively oppose the application but submitted the issue of costs was a matter for the court.
119. When considering this application I have had regard to the decision of the Supreme Court in *Re T* [2012] UKSC 36, affirmed in the case of *Re S (A child)* [2015] UKSC 20, and in particular to the judgment of Lord Phillips where he said, at paragraphs 42 to 44, as follows:

"In the context of care proceedings it is not right to treat a local authority as in the same position as a civil litigant who raises an issue that is ultimately determined against him. The Children Act 1989 imposes duties on the local authority in respect of the care of children. If the local authority receives information that a child has been subjected to or is likely to be subjected to serious harm it has a duty to investigate the report and, where there are reasonable grounds for believing that it may be well founded, to instigate care proceedings. In this respect the role of a local authority has much in common with the role of a prosecuting authority in criminal proceedings. It is for the court, and not the local authority, to decide whether the allegations are well founded. It is a serious misfortune to be the subject of unjustified allegations in relation to misconduct to a child, but where it is reasonable that these should be investigated by a court, justice does not demand that the local authority responsible for placing the allegations before the court should ultimately be responsible for the legal costs of the person against whom the allegations are made.

Since the Children Act came into force, care proceedings have proceeded on the basis that costs will not be awarded against local authorities where no criticism can be made of the manner in which they have performed their duties under the Act. Wilson LJ in *In re J* at para 19 disclaimed any suggestion that it was appropriate "in the vast run of these cases to make an order for costs in whole or in part by reference to the court's determination of issues of historical fact". But, as I have indicated, there is no valid basis for restricting his approach in that case to findings in a split hearing. The principle that he applied would open the door to successful costs applications against local authorities in respect of many determinations of issues of historical fact. The

effect on the resources of local authorities, and the uses to which those resources are put would be significant.

For these reasons we have concluded that the general practice of not awarding costs against a party, including a local authority, in the absence of reprehensible behaviour or an unreasonable stance, is one that accords with the ends of justice and which should not be subject to an exception in the case of split hearings. Judge Dowse's costs order was founded on this practice. It was sound in principle and should not have been reversed by the Court of Appeal."

120. My initial reaction to the costs application was that the conduct of the local authority had been so poor that it amounted to reprehensible behaviour. On reflection, however, this behaviour relates principally to conduct prior to the commencement of these proceedings. Moreover, whilst the failure to make full disclosure prior to this final hearing was deeply unfortunate, to say the least, and for reasons which the local authority has been unable to explain, their stance in this litigation could not be said to have been unreasonable: it has fallen on its proverbial sword.
121. I also take into account that the reprehensible behaviour of the local authority has been marked by the agreement to pay £20,000.00 in damages to each child for serial breaches of their human rights and the local authority has borne the costs of these claims.
122. When considering whether it is just to make a costs order against the local authority I have regard to the competing demands on the limited funds of this authority.
123. Accordingly, whilst the actions and failings of this local authority are utterly appalling, considering matters in the round, I have concluded it would not be just to make an order for costs against the local authority in favour of the children's costs of these proceedings. The local authority's funds would be better spent in securing the reforms that are so urgently needed to be implemented in the children's services' department.

Conclusion

124. I am wholly satisfied, albeit in quite exceptional circumstances, that it is in the welfare best interests of BT and GT to remain in their respective prospective adoptive placements subject to them having regular direct and frequent indirect contact with each other now and for the future.
125. For the reasons I have given, I am also wholly satisfied that only an adoption order will bring the permanence, security and stability that they both now require and are most likely to require throughout the whole of their lives. An adoption order is pre-eminently in the welfare best interest of BT and GT even when taking account of the fact that a consequence of the orders will be to sever the legal relationship between them as siblings and between them and their older siblings.
126. The high importance, indeed the imperative need, for regular direct and frequent indirect contact to take place is such that I will make a contact order in the terms sought. I do not make a contact order because I entertain the slightest doubt about the dedication of these prospective adopters to ensure this contact takes place, indeed, I am

satisfied that the prospective adopters are committed to this contact and recognise that it is in the welfare best interests of BT and GT. I make a contact order (i) to mark for the twins the importance this court places on their ongoing relationship notwithstanding they are adopted separately and (ii) to fortify the adopters in the event that one or other twin is reluctant to attend contact in the future.

127. The mother and the father do not consent to the adoption of BT and GT but the second condition of s.47 ACA 2002 is satisfied and, therefore, the issue of dispensing with their consent did not arise.
128. I make an adoption order in respect of BT in favour of A and B and I make an adoption order in respect of GT in favour of C.
129. I invite A and B and C to continue to reflect on whether now or in the future F and E could be permitted to be given and to keep photographs of BT and GT. As I have said, I consider this a decision for them to make and not for the court to impose upon them.
130. I shall not make an order for costs against the local authority.
131. I am all too aware of the financial constraints imposed on this local authority's children's services and the difficulties encountered in recruiting and retaining social workers. These difficulties do not explain, still less excuse, in this case the actions and failings of the local authority.
132. The failings of this local authority have been utterly appalling. Whilst I accept the assurances of the director of children's services and of the assistant director that significant and substantial reforms will be made and effected, no child should ever again be cared for in the manner BT and GT have had to endure at the hands of this local authority nor suffer the woeful lack of rational care planning. Further no prospective adopter should ever again have to endure the treatment meted out to A, B and C in this case.
133. I shall order that a copy of this judgment shall be sent to the Secretary of State for Education, the Senior Social Worker, Ofsted and the Chief Executive of Herefordshire Council.

Annexe 1

I. The Claimants are BT and GT who are currently the subject of adoption proceedings before Mr Justice Keehan.

II. BT and GT have a right to a private and family life in respect of their family life with one another and with their respective prospective adopters pursuant to the European Convention on Human Rights Article 8 / HRA 1998.

III. BT and GT have established a right to family life with each other and with their prospective adopters, which was established since placement with them, pursuant to the European Convention on Human Rights Article 8 / HRA 1998.

IV. The local authority is a public authority for the purposes of s6 Human Rights Act 2018, and as such any interference by them in the article 8 rights of BT and GT must be lawful, necessary and proportionate.

V. Since BT and GT were placed in the care of the local authority, by way of full care orders and placement orders at the conclusion of public law proceedings in March 2015, the local authority have interfered with the BT and GT's right to private and family life.

VI. The interference with BT and GT's Article 6 & 8 rights was not lawful and / or was not necessary and proportionate either in pursuance of the local authority's duties towards the children or otherwise.

VII. Particulars of Interference

a) In 2016 the local authority failed to give adequate consideration to the need to place the children together (irrespective of type of order) as approved in the care and placement proceedings, or otherwise preserve the family life together, consistent with their welfare and right to family life.

b) Following the making of the placement orders 19.03.15, failed to carry out adequate reviews which complied with the requirements of s36(6) Adoption Agency regulations and in particular failed to ask itself whether adoption remained the correct plan. In failing to do so, the local authority failed to analyse long term fostering versus adoption.

c) In April 2016 the local authority inappropriately concluded a change in a care plan to separate the children (and affected an immediate separation) with:

a. No reference to the care plan agreed by HHJ Hooper QC

b. No formal or approved sibling assessment at the time of separation and the subsequent assessment approved in July 2016 was inadequate.

c. No knowledge as to whether a potential adoptive match for either child was achievable

d. No assessment of the impact of the sibling (physical and legal) separation

e. No assessment of the impact or trauma of separation, reducing interim contact or the long-term contact proposal.

f. Inadequate consideration of the assessment of the children's therapist as to how any separation should be assessed, implemented and managed and monitored.

g. Having separated the children, created an opportunity loss for them residing together thereafter and significantly disrupted their sibling relationship.

d) Failed to follow due process in the adoption matching process in the following manner by:

a. Failing to disclose vital information to prospective adopters (and panel) regarding the range of behaviour difficulties exhibited by the children.

- b. Submitting CPRs which were inaccurate, incomplete and misleading when considered at panel
- c. Failing to disclose the amended CPR's to the adopters following matching panel recommendations
- d. Deliberately deleting reference to the challenging and violent behaviours from the Adoption Support Plans served on the prospective adopters.
- e) Failure to adequately assess, monitor and support the placements to an adequate or equivalent level once BT and GT were placed. This includes a failure to actively consider and meet BT and GT's changing therapeutic needs. This resulted in unnecessary strain on the placements and contributing to the carer's inability to optimally manage BT and GT's distress and behaviour. This breach has continued up to and including the date of this document as the adoption support plans remain inadequate, unapproved and unequal (between the siblings) in breach the Adoption Support Services Regulations 2005.
- f) Failure to provide full information about the BT and GT's backgrounds to their respective prospective adopters, in particular relating to the basis and impact of the separation of the twins, thereby resulting in unnecessary strain on the placements and contributing to the prospective adopter's inability to optimally manage the BT and GT's distress and behaviour.
 - i. In respect of BT his behaviours which became so serious that the local authority considered terminating the placement and exposed him to a distressing and poorly managed child protection investigation and medical examination.
 - ii. In respect of GT this resulted in avoidable referrals which resulted in police welfare visits and an unannounced social work visit (by an unknown social worker) being undertaken, causing additional distress to GT.
- g) Failed to assess advise and support the placements appropriately regarding sibling contact (both prior to placing them and subsequently), resulting in a 7 month break in direct contact, which caused unnecessary distress to both children.
- h) The local authority served notice of its intention to remove, BT, from the care of his prospective adopters. The purported termination of the placement followed a flawed decision-making process and termination would have exposed BT to a risk of further significant emotional harm was not necessary and proportionate in the circumstances, as implicitly acknowledged by means of the revocation of the notice shortly after issue.
- i) The local authority failed to consult with BT's prospective adopters about the decision to serve notice under section 35.
- j) Failure to consider BT's needs in how notice was served, and the fact it required BT to be suddenly removed from his placement, potentially causing him undue trauma and harm.
- k) The purported withdrawal of the S35 notice left BT in legal limbo a loss of clarity as to who held parental responsibility and the status of his placement and exposed his carers to the potential that they had committed offence.
- l) The actions above have caused additional strain on the placement, caused BT's prospective adopters to fear for the security of their family life and have caused

consequential psychological trauma to the perspective adopters. This has impacted on BT's family life.

m) The local authority's poor decision making prior to placement of BT and GT combined with its actions since placement have necessitated protracted and highly stressful proceedings which have further exacerbated the interference with BT and GT's private and family life, including the requirement that they undergo extensive intrusive assessment. This has had an adverse impact on BT and GT and the children's prospective adopters and interfered with the quiet enjoyment of their family life.

VIII. [This paragraph is omitted – it deals with technical legal issues]

IX. BT and GT rely upon in particular, but not limited to:

Concessions made by the local authority in the course of the adoption proceedings on 11 April 2018, in particular;

- i. That the local authority's actions have created a very difficult and complex situation that has caused immense distress to the prospective adopters but more importantly the children.
- ii. That the local authority failed to follow the care plan it presented to the court which would have included searching for foster carers who could care for both children.
- iii. That the local authority made an assumption that if the children were to be placed separately it should be in adoptive placements rather than looking at foster.

iv. That in doing so the local authority failed to properly consider:

1. The likely effect on the child (throughout his life) of having ceased to be a member of the original family and become an adopted person;
 2. The relationship the children has with relatives, and with any other person in relation to whom the court or agency considers the relationship to be relevant including the likelihood of any such relationship continuing and the value to the child in it doing so;
- v. The meeting that recommended separation of BT and GT took account of a sibling assessment that was unwritten at that stage. The meeting may have been led by the foster carers indicating that they could not manage the children together;
- vi. The various meeting that took place appear to have been LAC reviews rather than adoption reviews and therefore failed to take account of the relevant issues.'

b. the report of Anna Freud Centre dated 15 August 2018. In respect of the wrongful serving of the section 35 notice on BT's prospective adopters, paragraph 1.4.27 of the Anna Freud report is particularly relied upon.

c. the concession on 21 September 2018 that that the expert assessment of the Anna Freud Centre is correct and that an Adoption Order is the only order which would provide BT and GT with a sense of stability and security and which would maximise their chances to live within a family environment where they are settled and happy.

Annexe 2

1. Failures in the original court [care] plan

The original care plan dated 19th January 2015 submitted to the court did not look at what the local authority would do if a placement for the siblings together could not be found after the 12-month period. (reference CB45-CB 57 paragraph 4.1)

2. Lack of management oversight

There was a general lack of management oversight of the planning for children in particular around the placement for adoption and consideration of direct contact between the twins.

Action

- a) The local authority have recognised the need for management oversight and have created additional management positions in the form of Managing Practitioners. The LAC team have had a (agency) Managing Practitioner in post since July 2018. Previously there were periods with only one manager providing oversight of the LAC team.
- b) The AD now chairs a panel every Tuesday that looks at cohorts of children for example those placed with parents or in kinship care. This will include children who are the subject of placement orders who will be reviewed on a 6-monthly basis.

3. Failure to follow the court approved care plan to correct conclusion

The Care Plan dated 19th of January 2015 and approved by the court 13th of February stated the BT and GT would be placed together. The plan was to spend 9 months seeking an adoptive placement together and if that could not be found, three months looking for a foster placement together. The authority failed to follow this plan to its conclusion.

The case transferred to another worker and when the care plan presented to the court was then transferred into a LAC care plan on the local authority's Mosaic system that did not reflect the approved court care plan. It did not detail the planning for concurrent long-term foster placement search after 9 months if an adoptive placement had not been found. This was then not featured in any of the subsequent LAC Care Plans.

Action

- a) The authority are considering how to make sure these plans are identical.
- b) Until a) has been resolved Social workers will be asked to file the court approved care plan along with any other documents for the LAC review.
- c) The agenda for Adoption Reviews has been amended to reflect that the review takes place in the light of the guidance set out in section 1 of the **Adoption and Children Act 2002**, attaches the section and asks if the court approved care plan has been changed.
- d) The legal department holds 6 monthly legal review meetings of all children under placement orders.

4. Failure of the decision-making process regarding placing the twins separately for adoption.

Other things went wrong on this case but from my understanding this is the core of the difficulties currently facing the authority and the court.

Action

Where the local authority propose a change of care plan for siblings to be placed separately, this will be presented at panel prior to going to the ADM for final decision making. The completed sibling separation tool will be required at panel.

5. The LA failed to acknowledge significance of maintaining legal sibling relationship between BT and GT.

Action

- a) Herefordshire is introducing a sibling separation tool for managers to ensure the decision to recommendation to separate considers all relevant matters before it is presented to the ADM and is clearly recorded on the Mosaic system.
- b) The new agenda for adoption reviews does the same.

6. The Local Authority failed to acknowledge the legal relationship between BT and GT and their older siblings.

7. Failures of the Local Authority prior to the review on the 11th April 2018

The decision to separate the children was made by a manager (H27N) at a meeting prior to the LAC review on 11th April 2018 and approved at LAC review. The decision was poorly recorded on the Mosaic system and was not well reasoned and was equally based on an unwritten sibling assessment.

The decision should have been ratified by the ADM following the review.

Actions

- a. The six-monthly legal review will prevent decisions being made without ADM consideration.
- b. The AD panel will review children under placement orders once every 6 months.
- c. The decision-making tool will ensure such decisions are made after considering the relevant matters and recorded properly.

8. The failures of the local authority at the LAC Review 11 January 2016 H27A-H27V

The meeting failed to give proper consideration to placing the children in a long-term foster placement and revoking the placement order preferring instead to search for separate adoptive placements.H20

It was unclear whether the review was an adoption or LAC review. This meant the review failed to consider the guidance set out in section 1 of the Adoption and Children Act 2002.

The LA accepts that the review meeting held on 11th April, should have considered following options

- a. Temporary separation of children while further assessment was undertaken
- b. Commissioning an updated assessment from Dr Mair Edwards regarding detrimental of children being separated and impact of this throughout their life
- c. Whether children could have been reunified in an adoptive placement together.
- d. Whether placed in foster care together
- e. Fostering apart

f. Adoption apart.

The local review on 11th April 2016 was ineffective as it ratified the care plan based on erroneous information.

The LAC review relied on a sibling assessment by D which was verbally reported but had not been written up.

Actions

- a) The Adoption Review Agenda will ensure matters are given proper consideration making it clear they differ from LAC reviews.
- b) Herefordshire is introducing a sibling separation tool for managers to ensure the decision to recommendation to separate considers all relevant matters before it is presented to the ADM and is clearly recorded on the Mosaic system.
- c) A new adoption file is created on the Mosaic system once the ADM ratifies a plan for adoption.

9. Failures following separation

The authority failed to stress the importance of sibling contact with the adopters and also respond appropriately when this was raised by the prospective adopters.

The authority failed to promote sibling contact sufficiently.

The authority failed to fully take into account the children's responses from being separated from each other.

The authority failed to fully explore and analyse during LAC visits and LAC reviews the children's contact with each other.

The authority failed to properly assess the impact on the children of being separated.

Action

- a) The 6 monthly legal review will ensure any decisions to separate follow the court care plan and promote contact as set out in the court care plan.

10. Failure in the supplying of accurate information in the Child Permanency

Reports

Prior to BT's placement his adopters were not given sufficient information about BT's behaviours and wellbeing in particular his history of violent outbursts, including physical aggression to his carers and throwing /breaking items. The initial CPR they were given in Dec 2016 did not include this information, and the subsequent version was not provided to them until after panel met on 3 April 2017. Insofar as it did include some further details of BT's behaviour those were not adequate to convey the level of difficulty (CA7 main bundle).

There were references in BT's ASP sent to the adopters on 14 March 2017 to his violence. On querying those references these were removed by Herefordshire. The January 2018 ASP reinstated this information. This misled the adopters as to the likely level of difficulty (CA7 main bundle] The deletion of this information cannot be explained but there is an issue of there being various versions of the Adoption Support Plans on BT's file which makes it very difficult to establish what went wrong.

The authority accepts the Child Permanency Reports recorded on the system are confusing and it is difficult to establish what amendments were made when. The then Adoption Team manager amended the Child Permanency report and in particular section 9.5 dealing with emotional behavioural and social development in the initial CPR dated 19/12/14 on 10/06/16. The Adoption Team Manager deleted information rather than adding information in a different text.

Action

- a) The current practice is not to remove any information but to update information in a new font. This means that changes are recorded as changes rather than deleting previous information.
- b) The authority is amending procedures to ensure tighter version controls on Child Permanency Reports and Adoption Support Plans.

11. Failures of the local authority independent reviewing officers

The Local Authority accept that the:

- a. IRO service did not oversee and challenge the actions of the local authority adequately especially regarding decisions about contact.
- b. The IRO chairing the LAC review did not ensure the sibling assessment had been written up when the meeting ratified the decision to separate the children.
- c. The IRO did not request sight of the sibling assessment.

Action

- a) All IROs have been provided with Legal Guidance for Independent Reviewing Officers on Challenging Decisions of the Local Authority by email and in a laminated hard copy. The guidance stresses
 - i. As corporate parents each local authority should act for the children they look after as a responsible and conscientious parent would act. Effective monitoring and challenge by the IRO service is essential and welcome.
 - ii. The individual IRO is personally responsible for activating the dispute resolution process, even if this step may not be in accordance with the child's wishes and feelings, but may, in the IRO's view, be in accordance with the best interest and welfare of the child, as well as his/her human rights.
 - iii. The primary task of the IRO is to ensure that the care plan for the child fully reflects the child's current needs and that the actions set out in the plan are consistent with the local authority's legal responsibilities towards the child. Their duty is to challenge poor corporate parenting.
 - iv. Where problems are identified in relation to a child's case, for example in relation to care planning, the implementation of the care plan or decisions relating to it, resources or poor practice, the IRO will, in the first instance, seek to resolve the issue informally with the social worker or the social worker's managers. The IRO should place a record of this initial informal resolution process on the child's file. If the matter is not resolved in a timescale that is appropriate to the child's needs, the IRO should consider taking formal action.
 - v. The IRO may bypass any stage and progress the dispute to the level s/he considers most appropriate.
- b) A more effective escalation process is in place.

12. Failure of the ADM decision making process

The LA accept that the recent ADM decision focused on AF report and failed to consider the impact on separating children throughout their life (reasons 19th October 2018 ,CB 1098- CB 1102 (GT))

13. Failure of evidence in these proceedings

The LA accept that in the social worker's and Ms Leader's earlier evidence they referred to the sibling assessment as being completed and presented in time for the meeting and failed to indicate that the sibling assessment that was quoted from was dated July 2016. Paragraph 10.7 and 12.3-12.15 of the statement of 30 Jan 2018 is unintentionally misleading. The statement of 8 March 2018 inaccurately asserted the sibling assessment had been completed in April 2016 prior to the LAC review (CB523 and CB526 pa 5.6 main bundle). These statements quote from the assessment, which is dated July 2016. In March 2018 the LA asserted its decision making had been appropriately made [CB529 main bundle pa 7.00]. These errors were corrected in the 6 April 2018 statement of Chris Baird [CB611 main bundle]. The local authority accept that in the social worker's earlier evidence she referred to the sibling assessment as being completed and presented in time for the meeting. This was based on the LAC minutes and was a mistake. The social worker took the case over after many decisions had been made and the record keeping of previous social workers and Managers was poor. She was trying to piece together information which had been poorly recorded. There was no intent to mislead by the authority as indicated by its filing a statement from Mr Baird correcting the information.

14. Action

- a) The new Adoption review agenda will ensure all relevant matters are considered.
- b) The AD will review children who are the subject of placement orders every 6 months.
- c) The legal review will be minuted and added to the Mosaic file.

Annexe 3

It is admitted by the local authority that it had unlawfully interfered with the A and B's right to private and family life as follows :

- a. A and B are the adopters of BT, who was placed for adoption with them on 10 May 2017 by the local authority.
- b. A and B have a right to a private and family life in respect of their family life with one another pursuant to the European Convention on Human Rights Article 8 / HRA 1998.
- c. A and B have established a right to family life with BT since his placement pursuant to the European Convention on Human Rights Article 8 / HRA 1998.
- d. The local authority are a public authority for the purposes of s6 Human Rights Act 2018, and as such any interference by them in the article 8 rights of A and B must be lawful, necessary and proportionate.
- e. Since the placement of BT in the care of the A and B by the local authority have interfered with A and B right to private and family life.
- f. The interference with A and B Article 8 rights was not lawful and / or was not necessary and proportionate either in pursuance of the local authority's duties towards the child BT or otherwise.
- g. Particulars of interference :
 - i. Failure to adequately assess, monitor and support the placements to an adequate or equivalent level once BT was placed with A and B. This includes a failure to actively consider and meet BT's changing therapeutic needs. This resulted in unnecessary strain on the placements and contributing to the claimant's inability to optimally manage BT's distress and behaviour. This breach has continued up to and including the date of this document as the adoption support plans remain inadequate, unapproved and unequal, with A and B and BT receiving far less support, in breach the Adoption Support Services Regulations 2005.
 - ii. Failure to provide full information about BT's backgrounds to A and B, in particular relating to the basis and impact of the separation of the twins and the extent and manifestation of BT's behavioural difficulties thereby resulting in unnecessary strain on the placements and contributing to A and B's inability to optimally manage A and B's distress and behaviour. BT's behaviour became so serious that the local authority considered terminating the placement and exposed him to a distressing and poorly managed child protection investigation and medical examination which placed further strain on the placement.
 - iii. Failed to assess advise and support claimants appropriately regarding sibling contact (both prior to placing them and subsequently), resulting in a 7 month break in direct contact, which caused unnecessary distress to BT placing additional strain on the placement.
 - iv. Failed to follow due process in the adoption matching process in the following manner by:
 - i. Failing to disclose vital information to A and B and the panel regarding the range of behaviour difficulties exhibited by the children.
 - ii. Submitting CPRs which were inaccurate, incomplete and misleading when considered at panel.
 - iii. Failing to disclose the amended CPR's to A and B following matching panel recommendations

- iv. Deliberately deleting reference to challenging and violent behaviours from the Adoption Support Plans served on A and B.
- v. The local authority served notice of their intention to remove BT from A and B's care. The purported termination of the placement followed a flawed decision making process and termination was not necessary and proportionate in the circumstances, as implicitly acknowledged by means of the revocation of the notice shortly after issue. The manner of notification exacerbated the distress caused to A and B (accidental voicemail).
- vi. The local authority failed to consult with A and B about the decision to serve notice under section 35.
- vii. The serving of notice followed by a purported revocation of the notice combined with earlier flawed decision making placed the legality and status in doubt, to the extent that A and B had to seek orders from the High Court in order to ensure that the placement was lawful, to ensure that their parental responsibility was not in doubt and to ensure that they were not committing a criminal offence as a consequence of keeping BT in their care.
- viii. The actions above have caused additional strain on the placement, caused A and B to fear for the security of their family life and have caused consequential psychological trauma to them. In addition, the local authority's actions has caused A and B financial loss.
- ix. The local authority's poor decision making prior to placement of BT combined with their actions since placement have necessitated protracted and highly stressful proceedings which have further exacerbated the interference with A and B's private and family life, including the requirement that they undergo extensive intrusive assessment. This has had an adverse impact on A and B and interfered with the quiet enjoyment of their family life.
- x. The local authority have failed to be transparent in their actions, decisions, and communication with A and B. This, in itself, has contributed to A and B's insecurity and psychological trauma and thus placed additional strain on A and B and BT's placement with them.
- xi. Having concluded A and B should adopt BT, the local authority have failed to provide adequate commitments of financial support to meet the family's needs and have failed to remedy or ameliorate the additional needs arising from its own conduct (as set out above).

Annexe 4

I. Particulars of Breaches of Human Rights of C :

- a. In placing GT in the care of C the Local authority failed to provide full information about GT's background to C, in particular relating to the basis and impact of her separation from her twin brother, thereby resulting in unnecessary strain on the placement and contributing to C's inability to optimally manage GT's distress and behaviour.
- b. Having placed GT in the care of C the Local authority failed to provide adequate support to C in her care of GT which resulted in unnecessary strain on the placement and contributing to C's inability to optimally manage GT's distress and behaviour. This resulted in avoidable referrals which resulted in police welfare visits being undertaken.
- c. The actions above have caused additional strain on the placement, caused C to fear for the security of her family life and have caused consequential psychological trauma to her. In addition the Local authority's actions have caused C financial loss.
- d. The Local authority's poor decision making prior to placement of GT combined with their actions since placement have necessitated protracted and highly stressful proceedings which have further exacerbated the interference with C's private and family life, including the requirement that she undergo extensive intrusive assessment which has had an adverse impact on C and GT.
- e. Having concluded that C should adopt GT, the Local authority have failed to date provide adequate commitments of financial support to meet the family's needs, and have failed to remedy or ameliorate the additional needs arising from its own conduct (as set out above).



Neutral Citation Number: [2018] EWFC 72

Case No: WR18Z00057

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 30/11/2018

Before :

MR JUSTICE KEEHAN

Between :

**COUNTY OF HEREFORDSHIRE DISTRICT
COUNCIL**

Applicant

- and -

A

1st Respondent

- and -

B

2nd Respondent

(by her Children's Guardian)

- and -

C

3rd Respondent

Mr T Marks (instructed by **Herefordshire District Council**) for the **Applicant**
Ms Judi Evans (instructed by Huw Jones of **Humfrys & Symonds**) for the **1st Respondent**
Ms Judi Evans (instructed by Huw Jones of **Humfrys & Symonds**) for the **2nd Respondent**
The third respondent did not attend and was not represented.

Hearing dates: 11th October 2018

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....
MR JUSTICE KEEHAN

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

The Hon. Mr Justice Keehan :

Introduction

1. I am concerned with two young women A and B. A and B were made the subject of care orders and placement orders on 2nd May 2008 in favour of Herefordshire Council. Neither were ever placed for adoption. A's care order and placement order ceased to have effect when she attained majority on 1st September 2017. The local authority made an application to revoke the placement order in respect of B on 26th April 2018. I revoked the placement order at a hearing before me on 11th October 2018. B attained her majority the following day. I reserved judgment.
2. The care of and care planning for both these young people by Herefordshire Council has, over the last ten years or so, been woeful.
3. The mother of both young people is C. The father of A is D and the father of B is E. They have played no substantial part in their children's lives for many years save C has had occasional contact. Neither C nor D have taken any role in these proceedings. E died on 1st February 2011.
4. At the hearing on 11th October 2018 the local authority conceded that the serial failures in the care provided, or not provided, to either A or B amounted to breaches of their respective Article 8 rights. I urged the local authority to reach an agreement with both young people in short order in respect of:
 - i) the acknowledged breaches of their Article 8 rights; and
 - ii) the quantum of damages which should be paid in settlement of their Human Rights Act claims.

Background

5. The care proceedings were initiated because of the mother's substance abuse, her poor mental health and the number of abusive relationships in which she had engaged.
6. The care proceedings were issued in mid 2003 and both children were made the subject of interim care orders on 14th August 2003. They were placed together in foster care. On 5th April 2004 a s.34(4) Children Act 1989 order was made permitting the local authority to refuse contact between B and E.
7. For reasons I do not begin to understand, it was not until 5th February 2008, over four and a half years after the proceedings had been commenced, that both children were made the subjects of care orders and placement orders. The care plan at this time was for both children to be placed together for adoption with an identified prospective adopter.
8. On 2nd March 2009 the Adoption and Permanence Panel met to consider the future plans for A and B. It was agreed by the members of the panel that the care plan should change to one of long term fostering for both children. I do not know the reasons underlying this decision other than the bald assertion that it resulted from the 'complexities of matching' the children with prospective adopters.

9. The local authority have acknowledged that no consideration was given at this time, nor subsequently, to make an application to revoke the placement orders until December 2016. Yet this application was only made nine years after the children had been made the subject of placement orders in May 2008 and 14 months after these orders had been ‘rediscovered’ by the local authority.
10. In furtherance of the revised care plans A and B were placed with a long term foster carer, Ms. G, on 4th April 2009. It was intended they should both remain in her care until they attained the age of 18.
11. From about 2009 the chronology of events and the explanation for the planning for these children becomes extremely confused and contradictory.
12. In B’s care plan dated 19th September 2018 the explanation given for the plan of adoption not being pursued in 2008/2009 was because the prospective adopter was proposing to relocate to Antigua. Yet in the local authority’s chronology it is asserted that a plan to relocate to Antigua was first notified to the local authority by the foster carer in October 2013.
13. The prospective adopter and the foster carer, Ms G, are one and the same person. Given A and B were placed in her care in April 2009 why was it not as an adoptive placement as per the 2008 court approved care plan as opposed to long term foster placement? I do not know.
14. In the records relating to B the following account of events is given, on 18th October 2013 a strategy meeting was held to discuss the foster carers then recently notified decision to relocate abroad. This was followed by a LAC Review held on 13th December 2013 at which it was decided to place A and B in separate foster placements. I do not know the reasons why this important decision was made nor the evidence on which it was made. A and B were never again placed together. I have no explanation as to why not.
15. In marked contrast a completely different chronology and account is given in A’s records. The notification that the foster carer, Ms G, was going to relocate to Antigua is said to have been given to the social worker on 3rd January 2013. At A’s LAC review on 8th January 2013 it is recorded that Ms G asserted a relocation had always been her plan and she had told previous social workers. Ms G had previously expressed a desire to apply for Special Guardianship orders (SGOs) in respect of A and B. She expressed the view that she had hoped by this time to have adopted both of the girls.
16. A’s records note a conversation between the social worker and Ms G on 17th December 2013 about her intention to apply for a SGO in respect of both A and B. This is the day A left the placement.
17. I have been given no explanation for these utterly contradictory versions of events. It, however, demonstrates the chaotic and irrational approach of this local authority to the care of and care planning for A and B.
18. At the LAC review on 3rd December 2013 A and B made a complaint about the local authority’s failure to make clear plans for their future care. It was to no avail.

19. On 17th December 2013 A was moved to a respite placement after she had, the previous day, made an allegation against Ms G. She then moved to a residential placement in the North of England on 15th April 2014 because she had been a victim of prolific child sexual exploitation in the Bedfordshire area. She moved to other placements in August and then November 2014 before being placed with a foster carer on 10th October 2015.
20. It was not until 14th June 2014 that B moved to her new foster placement.
21. B was then moved to a placement in the South of England in February 2016 because she had been a victim of child sexual exploitation in Bedfordshire and because of her contact with known risky adults.
22. On 19th November 2016 A and B had their first face to face contact since 2014. This has been requested by A who was pregnant.
23. On 12th March 2017 A gave birth to her first child, F. She had no secure or stable accommodation. A whilst pregnant and after F was born had been living in an annexe at her former foster carer's home. In May 2018 A reported to the local authority that she and F had been evicted by her former foster carer and that she had nowhere to go. The local authority's response to the plight of this young mother and care leaver was wholly inadequate. The response was so poor that, the Head of Service, Gillian Cox, accepted that the local authority had failed A and her daughter.
24. In March 2018 B moved to live with her boyfriend and his mother. As Ms Cox has conceded this is an unusual arrangement for a child in the care of the local authority.
25. Over the years they were each in care A and B had maintained some contact with their mother either by indirect contact, telephone contact or direct contact in accordance with their wishes as expressed from time to time. More latterly A has initiated telephone contact with her father D.
26. Between December 2013 and 1st September 2017, when she had attained her majority, A had had at least 5 changes of placement in various different areas of the country. There is no doubt that the instability in A's life during these formative years, including the numerous changes of placement, have caused her significant emotional and psychological harm.
27. Between February 2016 and 6th March 2018 B endured 7 changes of placement in various different areas of the country. The harm suffered by B as a result of these changes in placement in terms of her emotional and psychological wellbeing are incalculable.
28. Between November 2008 and May 2018 A has had 6 different social workers allocated to her case. Between June 2014 and August 2018 B has had 8 different social workers allocated to her case. I accept the reallocation of case in October 2016 to a social worker in the 16+ Team was inevitable. There is, however, no good or cogent explanation for the high turnover of the other social workers which, to put it mildly, must have been unsettling and unhelpful.

29. From the time the children were made the subject of care orders and placement orders in February 2008 until October 2018 this local authority has had eight different independent reviewing officers (IRO) responsible for the oversight of their care plans.

Evidence

30. I was so concerned at the failures of the local authority in respect of A and B that I ordered Ms Cox, the Head of Service, to file a statement setting out an explanation for the same. Her statement is dated 1st November 2018.

31. In respect of A, Ms Cox said as follows:

“In my view our service has failed to support [A] as I would expect since she first became homeless and in particular I would identify the following:

- a. In May when [A] first contacted our team to say that she was homeless we should have offered her supported lodgings accommodation in Herefordshire with [F] on a temporary basis whilst a longer term solution was identified. We should also have pro-actively supported [A] to search for private rented options in Birmingham and made it clear to her that we would financially support her with a bond and act as a guarantor if required.
- b. As time progressed and [A] continued to ask us for help and was not able to obtain suitable accommodation for herself in Birmingham we should have revisited these options and again offered her short-term solutions in Herefordshire and proactively supported her to find private rented accommodation. On the 15th June [A] specifically requested to return to Herefordshire but I can find no evidence of this being responded to which is unacceptable.
- c. The situation should have been escalated through Heads of Service to our Assistant Director and Director who have all asked to be kept informed of any young person who is placed in Bed and Breakfast accommodation. In the turnover of team managers and Heads of Service this expectation was not understood.
- d. On the 18th June [A] was informed that the local authority decision was that we would not pay a bond for her to secure private rented accommodation for her. This was not the case as this was agreed by the Head of Service when she was made aware of the situation. It is concerning that the team lack clarity about the support they are able to offer and did not escalate the situation earlier.

- e. There was a delay of almost a month in authorising a placement request made in July and this is unacceptable. The delay was due to further information not being provided to the Head of Service but in the circumstances the Head of Service should have been more pro-active in gaining the information she required.
 - f. On the 11th October the personal advisor supported [A] and [F] to move from the Travel lodge to Northbrook hostel but did not look around the shared facilities. She described the accommodation as “basic” but did not raise concerns about the suitability of it for [A] and [F]. Having seen the photographs that [A] sent via her legal representative I was appalled by the state of the accommodation she was living in and was very clear that this was unsuitable and she should not have been left there.
4. [A] is currently living in a supported lodging placement in Herefordshire with her daughter, [F]. She moved there on Tuesday 23rd October as an interim arrangement whilst suitable private rented accommodation for [A] and [F] is sourced in Birmingham. I received photographs and an email that [A] had sent her legal representative on the 23rd October and I was appalled at the state of the accommodation that she was living in. I telephoned [A] directly myself and asked if she would be willing to move to a supported lodging placement in Herefordshire if I could arrange that whilst we sorted out a suitable place for her to live in Birmingham. [A] was concerned about moving away from Birmingham but I was able to reassure her that this would be for just a short time. [A] agreed and so I made arrangements for our fostering team to find a placement for her and [F] and for her personal advisor to go to Birmingham to collect her that day.
5. [A] was supported by her personal advisor to view flats in Birmingham on Thursday, 25th October and found a flat that she liked in an area that she is happy to live in. Herefordshire Council has paid 6 months’ rent up front and all relevant administrative fees to enable [A] to move into the accommodation. [A] will pay the housing benefit that she receives to the local authority as she receives it. At the time of writing this statement the plan is that [A] and [F] will move into their new home on Friday, 2nd November.
6. [A] will continue to receive the support of her personal advisor. She is being referred for “floating support” and the most suitable provider for this is being investigated. The local authority will fund this support if [A] is not entitled to receive the support at no cost.”

32. In respect of B, Ms Cox observed in respect of the current placement that:

“[B] continues to live in a supported lodging placement with her boyfriend and his mother. She has lived there since March 2018. She is reported as happy living there although understands it is unusual to be living in the same home as her boyfriend at such a young age and is keen to move to live independently soon after she turns 18. She has been supported to register for housing and in the meantime can remain where she is. [B] will continue to receive the support of her personal advisor.”

33. I was told by Ms Cox that substantial steps have now been taken by the local authority to ensure:

- i) the mistakes and serious errors made in respect of A and B are not suffered nor endured by any other child or young person in the care of Herefordshire; and
- ii) far more robust procedures are now in place to ensure issues are escalated to more senior managers and, where appropriate, to the assistant director and/or the director of children’s services.

34. I was also troubled by the failure of the local authority to apply for revocation of the placement orders when or after the care plans were changed from one of adoption to long term foster care. Further there appeared to be no action having been taken from 2009 by the independent reviewing officers in respect of:

- i) the lack of any coherent care planning for either child; nor
- ii) the failure of the local authority to make applications to revoke the placement orders.

35. Accordingly I ordered the Head of Service, Safeguarding and Review (i.e. the head of the IRO service for this local authority), Cath Thomas, to file a statement. I am grateful to Ms Thomas, as I am to Ms Cox, for providing the court with a statement dated 1st November 2018. I regret to note that the statement contained a number of matters which caused me very profound and grave concern.

36. The statement of Ms Thomas concluded with the final paragraph:

“It is very clear that the issue of revoking [B]’s placement order continued without resolution for a significantly long period of time, both prior to and since the data error was realised in early 2016. This length of delay is absolutely unacceptable and I apologise unreservedly to [B] and her sister. The IRO service failed to fulfil its statutory responsibilities to [B]. I failed to robustly challenge the views of my assistant director at the time, which I recognise I should have done and as head of service I take full responsibility for these failings and apologise unreservedly to the court.”

This is a frank acceptance of a proper degree of responsibility by Ms Thomas. I accept her apology without reservation. Some of her actions or more properly her lack of action may be explained or, at least, put into context by a number of events set out in her statement which I shall now turn to consider.

37. In the autumn of 2008 Children's services in Herefordshire moved from paper files to electronic records. It was not discovered until January 2016 that the placement orders made in respect of both children had not been recorded on their electronic records. This may explain why subsequent IROs did not raise the issue of revocation of these orders, but it does not explain why the IRO at the time the care plan was changed in early 2009 from one of adoption to long term fostering did not do so.
38. Ms Thomas asserted that in an unrelated case an IRO had concerns about a child's case and wished to obtain independent legal advice and/or refer the matter to Cafcass. She said she raised this issue with the then senior lawyer and the then assistant director in January 2017. The response from the assistant director to Ms Thomas was that she was not to seek independent legal advice nor to refer the matter to Cafcass. She was further told that if she did not comply with this 'advice', disciplinary procedures would be invoked. Ms Thomas asserted that this assistant director did not recognise the independent nature of the IRO service.
39. It is not for me to determine the truth of these assertions, not least because I have not heard from the former assistant director. The council's legal department did, however, immediately upon receipt of Ms Thomas' statement invoke a whistleblowing investigation which has been reported to the Chief Executive of the local authority and members of the council. I note that the then deputy county solicitor agreed with Ms Thomas' recollection of events.
40. Ms Thomas asserted that it was because of the 'advice' given by the former assistant director that she did not escalate the case of A and B beyond the Head of Service level, did not seek to obtain independent legal advice and/or refer the matter to Cafcass. As Ms Thomas readily acknowledged this was, to say the least, deeply regrettable.
41. The former assistant director left this local authority in March 2018.
42. I was told by Ms Thomas that new and more robust procedures are now in place including the ability of the IRO service to seek independent legal advice without obstruction and a dispute resolution process.
43. Ms Thomas reviewed the actions of all the IROs allocated to this case between July 2009 to date. There was no robust scrutiny of or challenge to the lack of a clear permanence plan for either A or B. The issue of applying to revoke the placement orders was not raised until the LAC review in December 2016 when the then social worker advised the review that she had prepared a statement in support of an application to revoke the placement orders and had submitted the same to legal services. At the following LAC review in May 2017 the IRO was told that legal services had requested further information from the social worker which she had not been able to obtain and was awaiting a response from the legal department. The IRO made a recommendation that an application to revoke the placement should be made as a matter of urgency. Nothing was done.

44. The IRO raised the issue of a failure to apply to seek revocation of the placement orders with Ms Thomas in October 2017. Despite the best endeavours of the IRO and Ms Thomas in contacting the team manager of 16+ team and local authority's senior solicitor and raising the matter with the Head of Service, the application to revoke the placement order in respect of B was not made until 26th April 2018. By this time A had attained her majority and therefore the placement had lapsed.

Discussion

45. The IRO appointed to the case of any looked after child performs a vital role to ensure the local authority is a good corporate parent, that appropriate care plans are in place and that these are effectively implemented in a timeous fashion: see *A and S v. Lancashire County Council* [2013] 2 FLR 803 and *S (A child Acting by the Official Solicitor) v Rochdale Metropolitan Borough Council and the Independent Reviewing Officer* [2009] 1 FLR 1090.
46. The appointment of an IRO in respect of every child a local authority is looking after is a statutory requirement: s.25A Children Act 1989. The functions of an IRO are set out in s.25B of the 1989 Act which provides as follows:
- “(1)The independent reviewing officer must—
- (a) monitor the performance by the local authority of their functions in relation to the child's case;
- (b) participate, in accordance with regulations made by the Secretary of State, in any review of the child's case;
- (c) ensure that any ascertained wishes and feelings of the child concerning the case are given due consideration by the local authority;
- (d) perform any other function which is prescribed in regulations made by the Secretary of State.
- (2) An independent reviewing officer's functions must be performed—
- (a) in such manner (if any) as may be prescribed in regulations made by the Secretary of State; and
- (b) having regard to such guidance as that authority may issue in relation to the discharge of those functions.
- (3) If the independent reviewing officer considers it appropriate to do so, the child's case may be referred by that officer to—
- (a) an officer of the Children and Family Court Advisory and Support Service;
- (4) If the independent reviewing officer is not an officer of the local authority, it is the duty of the authority—
- (a) to co-operate with that individual; and
- (b) to take all such reasonable steps as that individual may require of them to enable that individual's functions under this section to be performed satisfactorily”
47. These provisions are supplemented by Care Planning, Placement and Case Review Regulations 2010. The relevant regulations relating to the functions and duties of an IRO are set out in regulations 36, 37, 45 and 46 which provide as follows:

“The IRO must—

- (a) so far as reasonably practicable, attend any meeting held as part of the review (“the review meeting”) and, if attending the review meeting, chair it,
- (b) speak to C in private about the matters to be considered at the review unless C, being of sufficient understanding to do so, refuses or the IRO considers it inappropriate having regard to C’s age and understanding,
- (c) ensure that, so far as reasonably practicable, the wishes and feelings of C’s parents, or any person who is not C’s parent but who has parental responsibility for C, have been ascertained and taken into account, and
- (d) ensure that the review is conducted in accordance with this Part and in particular—
 - (i) that the persons responsible for implementing any decision taken in consequence of the review are identified, and
 - (ii) that any failure to review the case in accordance with this Part or to take proper steps to implement decisions taken in consequence of the review are brought to the attention of an officer at an appropriate level of seniority within the responsible authority.

(2) The IRO may, if not satisfied that sufficient information has been provided by the responsible authority to enable proper consideration of any of the matters in Schedule 7, adjourn the review meeting once for not more than 20 working days, and no proposal considered in the course of the review may be implemented until the review has been completed.”

“The responsible authority must—

- (a) make arrangements to implement decisions made in the course, or as a result, of the review, and
- (b) inform the IRO of any significant failure to make such arrangements, or any significant change of circumstances occurring after the review that affects those arrangements.”

“(1) The IRO must ensure that, having regard to C’s age and understanding, C has been informed by the responsible

authority of the steps C may take under the 1989 Act and in particular, where appropriate, of—

- (a) C's rights to apply, with leave, for a section 8 order (residence, contact and other orders with respect to children) and, where C is in the care of the responsible authority, to apply for the discharge of the care order, and
 - (b) the availability of the procedure established by them under section 26(3)(1) for considering any representations (including complaints) C may wish to make about the discharge by the responsible authority of their functions, including the availability of assistance to make such representations under section 26A(2) (advocacy services).
- (2) If C wishes to take legal proceedings under the 1989 Act, the IRO must—
 - (a) establish whether an appropriate adult is able and willing to assist C to obtain legal advice or bring proceedings on C's behalf, and
 - (b) if there is no such person, assist C to obtain such advice.
- (3) In the following circumstances the IRO must consider whether it would be appropriate to refer C's case to an officer of the Children and Family Court Advisory and Support Service—
 - (a) in the opinion of the IRO, the responsible authority have failed in any significant respect to—
 - (i) prepare C's care plan in accordance with these Regulations,
 - (ii) review C's case in accordance with these Regulations, or effectively implement any decision taken in consequence of a review,
 - or are otherwise in breach of their duties to C in any material respect, and
 - (b) having drawn the failure or breach to the attention of persons at an appropriate level of seniority within the responsible authority, it has not been addressed to the satisfaction of the IRO within a reasonable period of time.
- (4) When consulted by the responsible authority about any matter concerning C, or when informed of any matter relating to C in accordance with these Regulations, the IRO must—

(a) ensure that the responsible authority have ascertained and, subject to C's age and understanding, given due consideration to, C's wishes and feelings concerning the matter in question, and

(b) consider whether to request a review of C's case."

"(1) The IRO must be registered as a social worker in a register maintained by the General Social Care Council or by the Care Council for Wales under section 56 of the Care Standards Act 2000(1), or in a corresponding register maintained under the law of Scotland or Northern Ireland.

(2) The IRO must have sufficient relevant social work experience with children and families to perform the functions of an independent reviewing officer set out in section 25B(1) and under these Regulations in an independent manner and having regard to C's best interests.

(3) The responsible authority must not appoint any of the following as the IRO—

(a) a person involved in preparing C's care plan or the management of C's case,

(b) R,

(c) C's personal adviser,

(d) a person with management responsibilities in relation to a person mentioned in sub-paragraphs (a) to (c), or

(e) a person with control over the resources allocated to the case."

48. The government issued guidance for IROs in the form of the IRO Handbook. For present purposes the relevant guidance is set out in paragraphs 1.12, 2.8, 2.10, 2.15, 2.18, 3.39, 3.65, 3.73, 6.3, 6.4, 6.5, 6.13, and 6.14 which provide as follows:

"The IRO's primary focus is to quality assure the care planning and review process for each child and to ensure that his/her current wishes and feelings are given full consideration. To be successful, the role must be valued by senior managers and operate within a supportive service culture and environment. An effective IRO service should enable the local authority to achieve improved outcomes for children."

"IROs then are well placed to assess the quality and effectiveness of local authority planning and support for children. The IRO has a crucial role to play in ensuring that the local authority fulfils its responsibilities as a 'corporate parent' for all the children that it looks after. The IRO should ensure

that the child is offered stable care that is sensitive and appropriate to each individual's personal needs so that the child is able to flourish and achieve. The plan for each child must demonstrate how the services provided have fully taken account of the child's wishes and feelings."

"The primary task of the IRO is to ensure that the care plan for the child fully reflects the child's current needs and that the actions set out in the plan are consistent with the local authority's legal responsibilities towards the child. As corporate parents each local authority should act for the children they look after as a responsible and conscientious parent would act."

"The role of the IRO is a specialist one which stands alone in the local authority. It is a role that may involve challenging senior managers and may require the IRO to seek legal remedies if the local authority fails in its duties."

"The independence of the IRO is essential to enable him/her to effectively challenge poor practice. The Regulations do not prescribe the position of the IRO within the local authority but do prescribe minimum levels of independence"

"The IRO is responsible for setting any remedial timescales if actions have not been taken and there is a risk of drift in the delivery of a plan that will meet the child's needs and planned outcomes within the child's timescale."

"In addition to advising the child of his/her right to make applications to the courts, the review must consider whether there should be any change to the child's legal status. The IRO should read all the assessments that have informed the current legal status, including the core assessment, and be satisfied that the child's welfare continues to be safeguarded and promoted by this status. If the legal status of the child appears to be no longer appropriate, the IRO should request confirmation from the social worker and their manager that the local authority has given due consideration to the issue and if the response to this is not satisfactory s/he will need to resolve the issue through other routes or through implementation of the local dispute resolution process"

"The IRO must identify the person responsible for implementing the decisions and the IRO must alert the accountable manager to any failure to take proper steps to implement decisions"

"The IRO has the power to refer the matter to Cafcass at any point in the dispute resolution process **[regulation 45]** and may consider it necessary to make a concurrent referral to Cafcass at

the same time that s/he instigates the dispute resolution process.”

“The individual IRO is personally responsible for activating the dispute resolution process, even if this step may not be in accordance with the child’s wishes and feelings, but may, in the IRO’s view, be in accordance with the best interest and welfare of the child, as well as his/her human rights.”

“There will be times when the IRO may be advised that obstacles in the way of resolving the issue are outside or beyond the control of the local authority, for example in relation to staffing, interagency or resources issues. However, if these are impacting on the ability of the department to meet the needs of a child as identified in the child’s care plan, the IRO should continue to escalate the issue.”

“Each local authority should have a system in place that provides its IROs with access to independent legal advice. The reason for this is that the IRO works within a complex legal framework, with a number of other professionals and adults who have access to their own legal advice. The IRO may feel isolated and vulnerable in this position. It is essential that the IRO too can access independent legal advice, in addition to seeking the advice and support of the IRO manager. In the past some local authorities have been of the view that Cafcass duty lawyers provide this service. However, Cafcass duty lawyers can only provide guidance, not legal advice. Other local authorities have considered it sufficient for an IRO to seek advice from its own legal department. This is clearly not independent.”

“It is important that this service is easily accessible by individual IROs and that IROs do not have to struggle to access it.”

49. I make no apology for having set out the statutory and secondary legislative provisions and the guidance at such length. Taken as a whole they set out the hugely important function that an IRO performs to ensure that a looked after child is well served and whose needs are met by the local authority as his or her corporate parent.
50. I am appalled at the manner in which and the serial occasions on which the social workers and their managers have failed these two young people. The fact that I have chosen in this judgment to focus on the role and actions of the various IRO’s should not be taken in any way to diminish the failures of the social workers and/or their managers in this case. Rather the failings of the IROs has been so stark and grave that, in my judgment, it was appropriate to focus on the failings of the IROs and the IRO service in this case.
51. Once a court makes a care order it entrusts, as by statute it must, the future care of the child to the local authority. The essential safeguard the court and the public at large

have that a local authority will be a good corporate parent is the function and role of the IRO. Any obstruction of an IRO performing their statutory role or any diminution in an IRO, or their manager, feeling empowered to do so, is a matter of the utmost consequence. For otherwise a looked after child is subject to the vagaries of social work practice and the local authority's different pressures and priorities. The IRO is, or should be, the child's protector or advocate. If the IRO is silenced or pressured not to act as the child's interests demand and require, it is the child who will suffer – just as these children, A and B have suffered.

Conclusions

52. This local authority, as it has accepted, failed both young people in the errors made by its social workers and their managers over a very prolonged period of time.
53. The IROs failed them on a serious and serial basis.
54. I entirely accept and acknowledge that in these straitened financial times all local authorities are stretched. Furthermore I recognise that this local authority, like very many around the country, have difficulties recruiting and retaining social workers. As a consequence many social workers have to carry very heavy case loads, may not have sufficient experience to deal with the more complex cases and/or have limited time to work on a particular case.
55. These difficulties, however, do not begin to explain the wholesale failure of this local authority, in its role as a corporate parent to plan adequately or appropriately for the care of these children. I simply do not know or do not understand why the care plan was changed from adoption to long term fostering in 2009. The explanation given in B's 2018 Care Plan is plainly false or, at best, inaccurate.
56. This means that neither A nor B can now be given a clear and cogent explanation of why they suffered such instability when in the care of this local authority. I find this to be profoundly regrettable.
57. The fact that the local authorities are under financial pressures, and there too few social workers who carry too many cases, increases the importance of the role performed by the IROs. When it is known deadlines may be missed, visits not undertaken, assessments not completed or other actions in furtherance of a child's care plan not addressed, the IROs must take active steps to ensure a child's welfare and future care is not disadvantaged by these omissions.
58. Whatever opposition or obstruction the IRO or Head of Service faced from a local authority, the IROs and their managers must remember that their first and foremost duty is to the children and young people that they serve. If this is ignored or obstructed, it is only the children or young people, who are our future, who will be harmed.
59. The clear message must go out that IROs serve a vital and essential function to ensure that a child's or a young person's interests are met post the making of a care order or other orders. If those functions and roles are not exercised in a clear, robust and untrammelled fashion, the children or young people will suffer.

60. For clear and obvious reasons, I conclude these proceedings by affirming the revocation of the placement order in respect of B as I made on 11th October 2018.
61. The local authority have rightly agreed to pay A and B's costs of these proceedings.
62. My findings in this case merit my judgment being sent to the Secretary of State of Education, the Senior Social Worker, Ofsted and the Chief Executive of Herefordshire Council.

All Member Briefing

Court Judgments

Thursday 20 December 2018

Children and Young People

- 38,100 children and young people under 19 years old
- 49 percent of children aged up to 16 living in rural areas
- 4,500 children with special educational needs
- 326 looked after children 10/12/2018
- 117 children with child protection plans 10/12/2018
- 228 child in need 12/12/2018
- 917 Early help assessments,
- 1 January 2014 to 30 November 2018 there have been 94 adoption orders granted for Herefordshire children.

Case 1

Half sisters, sister 1 and sister 2, having the same mother and different fathers. Made subject of care orders and placement orders on 2 May 2008. Neither were ever placed for adoption.

Justice Keehan judgement states:

“The care of and care planning for both these young people by Herefordshire Council has, over the last ten years or so, been woeful”

Issues highlighted by Justice Keehan:

- ∞• lack of follow through on adoption plan
 - Failure to revoke placement orders as required
 - Poor standard of case recording and chronology, making case history difficult to follow
 - Lack of clarity in decision making, particularly decision not to place sisters together
 - High number of moves of placement for each sister, detrimental to good outcomes
 - High turnover of social workers, managers and Independent Review Officers involved with the sisters
 - Particularly poor standard of care leaver accommodation for sister 1 in October 2018.

Case 2

Twins proposed to be adopted, by different prospective adopters.


Justice Keehan judgement states:

“I am satisfied and find that the court is in the position of considering applications to adopt the twins in two separate homes because of the incompetence and serial failings of the local authority, Herefordshire Council, and the egregious behaviour of some of its former staff.”

Issues highlighted by Judge Keehan:

- Lack of adherence to court approved care plan to pursue foster placement together for three month period
- Lack of completed and signed social work “together /apart” assessment to inform decision making to separate twins
- Inappropriate paraphrasing of psychologist report in social work assessment, altering original psychologist opinion on separation
- Lack of IRO challenge to decision to separate twins and ensure adherence to court approved care plan.
- Poor, delayed case recording, in some instances up to two years out of date
- Lack of management action to address delay in case recording
- Apparent deletion of vital information pertaining to children, so not disclosed to prospective adopters in CPR
- Delay in providing all relevant paperwork to the court

What are we doing?

- Chris Baird and Liz Elgar have offered to meet the young people and the adopters in the New Year to offer our apologies in person and also to find out what more we can do to improve our services from their perspectives.
- Change in senior management earlier this year. Stronger supervision and decision making arrangements have been put in place across children's services. Mr Justice Keehan has recognised this in his findings.
- Liz Elgar now chairs Placement Panel every Tuesday. This reviews individual child cases and also looks at cohorts of children, for example those placed with parents or in kinship care. This includes children who are the subject of placement orders who will be reviewed on a six-monthly basis.
-  Agenda for Adoption Reviews has been amended to reflect guidance set out in section 1 of the Adoption and Children Act 2002, to establish if the court approved care plan has been changed.
- Legal department holds six-monthly legal review meetings of all children under placement orders. This should ensure that decisions are not made without Adoption Decision Maker (ADM) consideration.
- A sibling separation tool is being introduced for managers to ensure the decision to recommend to separate considers all relevant matters before it is presented to the ADM and is clearly recorded on the Mosaic system. The completed sibling separation tool will be required at panel.
- The current expected practice is not to remove any information from MOSAIC but to update information in a new font. This means that changes are recorded as changes rather than deleting previous information.

What are we doing? – Independent Reviewing Officers (IRO) Service

The primary task of the IRO is to ensure that the care plan for the child fully reflects the child's current needs, the actions set out in the plan are consistent with the local authority's legal responsibilities towards the child. Their duty is to challenge poor corporate parenting.

- Independent review of the IRO service by Doncaster LA
- All IROs have been provided with legal guidance for IROs on challenging decisions of the LA, inc. in a laminated hard copy. The guidance stresses that the individual IRO is personally responsible for activating the dispute resolution process.
- Increased management oversight and implementing robust processes to ensure any concerns are raised.
- Established a learning exercise on the cases which will be completed by 31st January 2019 with all involved. We will then take the wider learning to all staff.
- We will adopt this approach for any cases in the future that we need to get a clear understanding on the presenting issues and what may have happened in the past, particularly if the case is possibly going before the court.

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Questions you may have

Are there any other cases?

Deputy solicitor has said that we do not have any others at the moment. However, other issues may emerge including historical practice when a case comes before the court and a judge looks back on the history

How can I be a good corporate parent in light of this?

Being a good corporate parent means you:

- make their needs a priority
- seek for them the same outcomes any good parent would want for their own children.

You can still do this in your role as a councillor; it's really important

Has action been taken with staff?

We have already put in place changes in advance of the judgement. Many of the staff who were involved in the cases are no longer working with Herefordshire. We have begun a whistleblowing investigation into one aspect of one of the judgements. This is being carried out by another local authority. We had a review and learning session this morning to look at what more we can learn and we will put in changes as a result.

Questions you may have

How can I be assured that this will never happen again?

The council works with hundreds of children who are at risk of significant harm, or who are not thriving. We will continue to do so. There are a number that do need our support and protection.

What we are doing is becoming more consistent and better at our work once we become involved. That is what we are focused on.

How can I be assured that what I am hearing is accurate?

Very open approach - external challenge and support.

2017 and 2018 LGA peer review of cases; full safeguarding peer review, peer challenge on culture. Shared the feedback with members, partners and the safeguarding board. Used them to make improvements.

2018 Ofsted inspected our children's services. What they found did mirror what we had said about ourselves.

Actively share our Information at the performance challenge sessions with group leaders, we have scrutiny committee reviewing different aspects of service and we have the Herefordshire Safeguarding Children's Board that also provides independent scrutiny.

Ofsted June 2018

- Rated as Requiring Improvement overall
- No children seen at risk of significant harm
- Concerns raised are dealt with effectively
- Recent examples of improvement in action – Section 20
- Some areas of good practice Early Help, MASH, Children with disabilities, 16+/leaving care, Adoption, Fostering, LAC service, Local Authority Designated Officer, approach to child sexual exploitation, missing, education at home
- Too many children receive a poor service
- Inadequate for leadership and management
 - Creating the conditions for good social work to flourish
 - Capacity at management, social worker, support work levels
 - Management grip

Findings from LGA Peer Review 2017 & 2018

- There has been real and demonstrable progress made on your improvement journey
- Corporate and directorate leaders, and staff, are to be commended for their commitment to driving forward improvement
- All leaders are committed to develop and improve services for children and families, senior council officers and members are open to an invest to save approach and have committed resources to ensure improvement happens and is sustained

LGA Peer Review continued...

- Ensure that capacity and investment at the frontline are matched to current and future demand levels, both across the service and across teams
- Some of your outstanding issues are as much about ensuring consistently good social work practice as new provision
- There has been a focus on managing the flow into child protection and reducing high cost intensive interventions
- We recognise that a lot of good work already exists in Early Help and that new processes and strategies will bring further improvements once fully embedded.
- We believe that to consolidate and help you on the next stage of your improvement journey investment in early help and wrap around services is needed as well as 'one service/integration' across Early Help, Children in Need and Child Protection.

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Performance and Improvement

- Relentless focus on performance information and improvement
- Some significant practice and management culture changes required. Not uniform across the service
- Open about performance:
 - Performance challenge sessions monthly with all group leaders, cabinet member, scrutiny chair, cabinet support member. These sessions were praised by the corporate peer review team in February. These sessions are entirely open – with the standing agenda being that members can request information on presentations on any aspect of children’s services. These sessions deal with difficult information, and do not gloss over performance weaknesses.
 - Scrutiny, including task and finish groups
 - Herefordshire Safeguarding Children’s Board
 - Cabinet and council performance report
 - Ofsted, DfE, Local Government Association
 - Improvement plan submitted and agreed by Ofsted Oct 2018 – monthly monitoring

Performance and Improvement

Some external recognition of improvement – Judge Plunkett, S20:

I wanted to pass on HHJ Plunkett's compliments to the local authority. He remarked on the fact that the local authority has worked extremely hard along with others in the matter, and that given the context of section 20 at Herefordshire Council the local authority has acted most appropriately in bringing the matter to court and seeking judicial oversight of the matter. He thanked the local authority for this sensible and considered approach.

Still challenges about improving practice and management culture

Councillors' Q & A

Do you have any comments or questions?

Children and Families Directorate Ofsted Improvement Plan

The improvement plan sets out the seven key areas for improvement as identified by Ofsted, further areas for improvement are then grouped according to the areas of the Safeguarding and Early Help Development Plan. This plan will be developed further with local authorities identified by the DfE to aid Herefordshire's improvement.

Actions contributing to the delivery of the plan will be reviewed weekly, fortnightly and monthly within the service. Updates will be provided to management board and to Cabinet as part of performance and budget reporting. Children and Young People's Scrutiny Committee will regularly review progress against the plan.

RAGB Status	Indicator / Definition	Actions
Red	"Action" is behind schedule. Performance measure not yet achieved	Director / Assistant Director will review the "Action" to identify the root causes of the red status. Action Plan owners will produce plans to prevent further deterioration and ensure action is back on track – plans will be approved by Assistant Director.
Amber	"Action" has experienced some issues. Delays forecasted. Performance measure unlikely to be achieved on time	Director / Assistant Director will maintain a watching brief over amber "Action/s". Action Plan owners will produce plans to ensure action is back on track – plans will be approved by Assistant Director.
Green	"Action" is on track. Completion date and performance measure is expected to be achieved.	Director / Assistant Director need assurance the "Action" is truly green.
Blue	"Action" completion date and performance measure achieved. "Action" complete/closed.	

Ofsted Inspection of children's social care services 04/06/18 - 22/06/18 - What needs to improve

Ofsted No. 1	Senior leadership urgency in implementing a robust and timely action plan to deliver improvements and to address deficits in social work practice						
RP 51	A leadership team with constrained capacity, lack of stability and, in some areas, poor performance.						
RP 61	Leaders and managers are aware of deficits in practice and service provision, but currently there is a lack of timely action planning to remedy this.						
No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
1.1	Establish specific Service Area Action Plans to address immediate areas for improvement, these to be refreshed at least every 3 months to ensure they drive improvement. These feed into the overall Ofsted Improvement Plan.	31/08/2018	Assistant director safeguarding and family support	Action plans agreed and actions taking place	Improvements in core quality of practice is evident through performance and audit reporting	Action plans in place and actions are being delivered. Monitoring process established.	B
1.2	Develop draft Ofsted Improvement Plan to address Ofsted areas for improvement, building on existing development plan, self assessment and peer review.	21/09/2018	Director for children and families	Draft action plan complete.	N/A	Plan drafted and sent to Ofsted for initial view.	B
1.3	Cabinet sign off Ofsted Improvement Plan following scrutiny by Children and Families Scrutiny Committee.	18/10/2018	Director for children and families	Ofsted Improvement Plan signed off	Scrutiny have reviewed and made their recommendations to Cabinet. Cabinet have agreed the action plan.	Completed	B

No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
1.4	Formally share Improvement Plan with Ofsted.	25/10/2018	Director for children and families	N/A	N/A	Completed - Explained to regional lead that Ofsted improvement plan would be refreshed every 3 months and further plans will focus on quality and embedding change.	B
1.5	Enhance management grip through weekly performance information, including timeliness of visits and assessments, to be used by team managers and heads of service.	from 10/09/2018	Assistant director safeguarding and family support	Visits completed within targets, assessments completed within 45 day timescale	Team managers are actively using the performance information, evidenced by improvements in performance within their teams.	Information produced and being shared. Performance booklet in used from 1/10/2018	B
1.6	Deliver and monitor Ofsted Improvement Plan and Service Area Action Plans using project management approach, fortnightly/monthly review meetings and reports. Quarterly updates to cabinet and children and families scrutiny.	from 10/09/2018	Assistant director safeguarding and family support	N/A	Change is evidenced	Monitoring process and procedure agreed and implemented.	G
1.7	Progress update sent to Department for Education (DfE) for 6 monthly review	01/04/2019	Director for children and families	N/A	N/A	N/A	G

Ofsted No. 2	The sufficiency of social workers and managers with capacity to cope with the need for services and the volume of social worker caseloads						
RP10	Social workers across this service have high caseloads. In addition, and because of delays in transferring to other teams, they are also holding a mixed caseload. This means that social workers are struggling with competing demands and are prioritising their work with child protection and court cases taking precedence. ... Evidence showed that there is effective child-centred practice that improves children's circumstances, but this is not consistent for all children.						
RP 16	Some children benefit from good direct work by social workers they know and trust, but this is not a consistent feature of social work practice. Children in this service experience too many changes of managers and social workers.						
RP 36	Despite this good work, the quality and progress of care planning is compromised for some children because of too many changes in social worker. This also means that it is difficult for children to build trusting relationships with their social workers.						
RP 52	Caseloads are too large, ineffective quality assurance and performance management and continuing difficulties in recruiting good quality social work staff and managers.						
RP 54	Despite this good work, the quality and progress of care planning is compromised for some children because of too many changes in social worker. This also means that it is difficult for children to build trusting relationships with their social workers.						
RP 55	Social workers from various teams are prevented from providing the quality of service they know is required because of excessive caseloads and ineffective deployment of staff. This is further hampered by a lack of robust, clear and timely management oversight and case direction. Senior leaders acknowledge this and now have the early stages of an improvement strategy in place. However, it is too early to see any impact.						
No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
2.1	Cabinet to agree additional investment to support recruitment (£1.6m)	01/05/2018	Director for children and families	Cabinet agreed additional investment of £1.6m.		Achieved	B

No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
2.2	Implement package of measures to support retention of experienced staff	01/08/18 - phase 1 (Market forces supplement, relocation, recommend a friend). 28/12/18 - phase 2 (learning accounts, retention payments). 29/03/19 - phase 3 (corporate employee benefits)	Organisational development business partner	Vacancies levels in Child Protection/Court Team	Child Protection/Court Team is fully staffed and internal movement other than for promotion is reduced to zero	Market forces supplement implemented across social worker roles. Increased relocation payment in place. Drop in sessions held to get staff views on next steps. Proposals drafted for consideration by mini-board. Individual learning accounts for social workers launched week commencing 22/10/2018.	G
2.3	Develop and implement revised career pathways to support professional and personal development	31/10/2018	Organisational development business partner	Number of appointments to social worker from student placements, Step Up and apprenticeships.	We have developed and implemented clear career pathways that staff tell us they understand - via health check and employee opinion survey.	Consultation on career pathway undertaken and first draft produced.	G
2.4	Identify additional routes to recruit and retain permanent employees, including collaboration with the West Midlands region	31/10/2018	Organisational development business partner	A number of new permanent employees in place via agreed routes	We have agreed new routes to recruit experienced people, have a plan of action and have implemented it.	Agreed an approach to increase ASYE's and route to overseas recruited.	G
2.5	Recruit a team of 10 agency social workers into the Child Protection/Court Team to provide six months cover.	22/10/2018	Organisational development business partner	Social workers recruited and team in place no later than 22/10/18	Timely and high quality services are delivered to children and families (frequent change of social worker and drift/delay is avoided). Social work caseloads are reduced and case transfers across the service are enabled.	9 in place in CP / Court teams	A
2.6	Recruit up to 8 newly qualified social workers to the Assessed and Supported Year of Employment programme and retain them within the organisation	from 01/09/2018	Principal social worker	8 Assessed Supported Year of Employment newly qualified social workers recruited		As of 20/09/2018 2 Assessed Supported Year of Employment newly qualified social workers have been recruited; with a further 2 candidates being interviewed on 08/10/2018	A

Ofsted No. 3	Senior manager's interaction with social workers to enable staff to feel listened to						
RP 57	Staff in some teams feel a strong disconnect from their senior managers, which is inhibiting improvement. If improvements are to be made securely, this needs immediate attention.						
No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
3.1	Regular staff briefings on outcomes of Ofsted inspection and immediate steps.	31/07/2018	Director for children and families	Briefings complete and briefing materials distributed to all staff.	Staff surveys illustrate that staff feel engaged/informed/clear regarding areas for improvement and next steps. Staff feel more positive, their views are making a difference and a greater connect to Senior Management.	Briefings provided to staff at range of locations	B
3.2	Rolling programme of regular staff briefings regarding Children and Families Development Plan and underpinning philosophy regarding how to deliver services to children/families.	24/09/2018	Director for children and families/Assistant director safeguarding and family support	Briefings complete and briefing materials distributed to all staff.		Programme in place	B

No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
3.3	Establish a variety of methods of communication, including monthly blog.	30/10/2018	Director for children and families/Assistant director safeguarding and family support	Staff access communication mediums	Staff surveys illustrate that staff feel engaged/informed/clear regarding areas for improvement and next steps. Staff feel more positive, their views are making a difference and a greater connect to Senior Management.	In place including monthly e-bulletin	B
3.4	Assistant director Open Door session to all staff once a month.	28/08/2018	Assistant director safeguarding and family support	Staff attend sessions.		In place	B
3.5	Staff views requested and received on how to improve methods of communication/ engagement.	03/09/2018	Director for children and families/Heads of service	Views collated/established/ embedded.		Carried out during July/August. Review effectiveness Jan 2019. Suggestions implemented at staff conference, drop in sessions, and variety of communications	B
3.6	Implement Cascade Model of information sharing from Assistant director/ Head of service meetings to Head of service /Team manager meetings through to team meetings to embed information flow through the organisation.	10/09/2018	Assistant director safeguarding and family support	Model implemented/embedded.		In place	B
3.7	Senior manager's to increase level of interaction with staff/teams.	24/08/2018	Director for children and families/Assistant director safeguarding and family support and all Senior managers.	Positive feedback from staff at briefings.		Heads of service spending time working alongside staff in different buildings. Assistant director/director have programme of visits with teams. Director establishing programme of shadowing individual workers through the year.	B
3.8	Request staff views regarding changes required to improve social worker experience and implement outcomes.	06/08/2018 Review effectiveness 21/12/2018	Director for children and families/Assistant director safeguarding and family support and all Senior managers.	Positive feedback from staff at briefings.		Business support have taken on additional work and social workers have reported this is helpful and making a difference. Work taking place to enhance use of ICT to make work easier for Social Workers	G
3.9	Distribute Social Work Survey and encourage staff to complete.	30/11/2018	Director for children and families/Assistant director safeguarding and family support, Head of service, Principal social worker and Organisational development business partner.	50% of staff return survey results.		Staff survey launched; target of 50% not met 46 out of 130 surveys returned analysis taking place including reasons for low response	R

Ofsted No. 4 The pace of progressing child protection and child in need plans and the quality of practice with children in need							
RP11	The quality of services and practice for children in need is poor in many cases. Responses to their needs are too slow and lack the focus required to make meaningful changes to their situations. Current arrangements do not provide effective oversight, and while senior managers have developed an action plan to improve this situation, they do not ensure that all children in need are receiving the services they need in a timely way or that their needs are prevented from escalating.						
RP 13	The quality of child protection plans is too variable and is poor in some cases. ... Weaker plans lack sufficient details for families to see clearly what services are going to be offered, who will provide them, their responsibilities and the timescale for them to take particular actions. This makes it difficult for families to understand what needs to change and by when.						
RP 14	Children in need and children subject to child protection plans do not always receive timely visits. Over half of children who are the subject of a child protection plan are not visited the locally defined minimum amount or visited enough times to meet their needs in line with their plans. Children are not always seen alone when social workers visit. This means that children are not always able to develop meaningful and trusting relationships with their social workers. Further social workers do not always have a sufficiently full understanding of children's current circumstances to mitigate risk and to effectively progress the child's plan.						
RP 19	Identification of risk is not routinely followed up by well-coordinated and focused intervention, with the result that there are delays in progress for children. Often, there is too much focus on single issues, rather than understanding how risks relate to each other and then formulating an overarching plan to address this. The impact on children who are living in such circumstances is not well understood by senior managers, and assertive and timely action is not always well coordinated to improve their circumstances.						
RP 56	Too many children in need of help and protection and children in care are receiving a poor service. Practice is not consistently child focused. Planning for children is not always sufficiently robust or purposeful and this is compounded by management oversight that is not effective in addressing this. As a result, some children experience unnecessary drift and delay and their circumstances do not improve in a timely way.						
No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
4.1	Establish accurate data of all open child in need cases	30/09/2018	Assistant director safeguarding and family support	Clear data set of Herefordshire child in need population established	Focused attention on reviewing child in need cases can take place	Data cleansing commenced in July 2018, to date over 200 cases categorised as child in need have been reviewed. We have established a clear baseline. Data refreshed on a weekly basis.	B
4.2	Review all open child in need cases	21/12/2018	Assistant director safeguarding and family support	All child in need cases have been reviewed by a Team manager or Head of service	Appropriate actions identified for children who's child in need plans have been subject to drift and delay	Reviews are now taking place	G
4.3	Review, revise and implement Herefordshire Child in Need guidance	30/12/2018	Assistant director safeguarding and family support	Child in need guidance has been understood and accepted by all social work and family support workforce across the children and families directorate	Children who require a child in need plan receive a consistent, timely and child focused service	Commissioned project manager to lead on child in need arrangements commenced 01/10/2018	G
4.4	A comprehensive action plan will be implemented to raise the standard and quality of child protection plans	30/11/2018	Head of service safeguarding and review	All Independent Reviewing Officer's (IRO's) and Team managers understand and accept principles and practice of Specific, Measurable, Achievable, Realistic, Timebound (SMART) child protection plans	All children who require a child protection plan will have a robust child centred child protection plan	Action plan in place, to date achievements made against timescales including Head of service reviewing quality of child protection plans in every 1:1 on monthly basis.	G

No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
4.5	Targets will be set to measure improvement in timeliness of visits to children in need and children with child protection plans. The performance information will be reviewed on a weekly basis by Team managers, Heads of service and Assistant director safeguarding and family support.	10/09/2018	Assistant director safeguarding and family support / Head of service	Timescales set end of Sept 65%; end Oct 75%; end Nov 85%	Children will receive the service they require and deserve and statutory timescale visits are completed	Targets set. Met September targets for CP and LAC, did not meet target for CIN	A

Ofsted No. 5	The regularity and quality of social worker supervision
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RP 17	Social workers do not receive regular supervision, and when it does take place, it does not provide the necessary support and direction to ensure that all children's cases progress without delay.
RP 54	Leaders and managers have not been effective in overseeing and ensuring that social work practice flourishes. Their lack of grip and direction has resulted in a service where some decision-making is very poor, some staff do not receive supervision and workforce capacity is not at the level required to provide a good-quality service for children and families.

No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
5.1	Recruit additional managers to enable increase in frequency of Supervision.	31/07/2018	Organisational development business partner	Additional managers in post.	We will see the supervision figures increase to target set at 80%	2 Team managers recruited to Child Protection /Court Team and 1 Managing Practitioner recruited to Looked After Children.	A
5.2	Establish fortnightly reporting on Supervision figures/numbers.	01/09/2018	Performance service manager	Figures available		Frequency of supervision data is now being received at end of September there were 43% of case supervisions and 79% of worker supervision being completed.	B
5.3	Undertake an audit of the quality of Supervision provided to Social workers by Team managers	30/12/2018	Heads of service	Audit completed	When the quality of supervision is consistently good.	Observation of supervision has begun in MASH / Assessment	G

Ofsted No. 6	The quality and purposefulness of management oversight and decision making and the existing quality assurance and performance management system
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RP 6	The current arrangements within the MASH are not fully collaborative. Domestic abuse notifications are not triaged prior to them arriving in the MASH, which places additional burden upon the MASH manager. Police notifications classed as medium or standard risk are reviewed by police development officers appropriately and on a daily basis. However, there is no social care oversight of these cases, and, currently, there are no agreed timescales for ensuring that all notifications are reviewed. The consequences of this is that any risks to children might not be identified in a timely way, or they might be missed entirely.
RP 17	Management oversight of frontline practice is not consistently effective. It is not evident in all cases and does not provide the robust challenge and direction needed to urgently progress plans and avoid drift and delay. Social workers do not receive regular supervision, and when it does take place, it does not provide the necessary support and direction to ensure that all children's cases progress without delay.
RP 42	Educational outcomes for children in care are variable across the local authority. The attainment of key stage 4 children in care has been in line with, or above, national levels for the last two years. The attainment of children in care in key stages 1 and 2 has been variable for the last two years. The local authority is aware of this variability and is committed to raising standards further. The electronic system that has been introduced to record children's outcomes does not provide the virtual school with sufficiently detailed information about the children's attainment and progress. As a result, it is not yet possible to fully track outcomes and respond accordingly to any identified issues or trends.
RP 43	The virtual school does not have sufficiently detailed information about the attainment of children in care, and schools report that children in care achieve mixed levels of progress. Targets within personal education plans are not specific or measurable enough to allow professionals to make an accurate judgement about the progress of children in care. This is particularly the case for looked after children and care leavers in secondary and 16-19 provision. Personal education plans do include the views and feelings of children in care.

Ofsted No. 6	The quality and purposefulness of management oversight and decision making and the existing quality assurance and performance management system						
RP 54	Leaders and managers have not been effective in overseeing and ensuring that social work practice flourishes. Their lack of grip and direction has resulted in a service where some decision-making is very poor, some staff do not receive supervision and workforce capacity is not at the level required to provide a good-quality service for children and families.						
RP 55	Social workers from various teams are prevented from providing the quality of service they know is required because of excessive caseloads and ineffective deployment of staff. This is further hampered by a lack of robust, clear and timely management oversight and case direction. Senior leaders acknowledge this and now have the early stages of an improvement strategy in place. However, it is too early to see any impact.						
RP 59	Senior managers acknowledge that their current performance and management information data is underdeveloped and does not provide sufficient accurate detail to support their understanding of what is happening in their service. This requires immediate and robust attention.						
RP 60	Quality assurance processes are undertaken routinely, but they are rendered ineffective because of a lack of follow-through on issues of concern. This is a missed opportunity to improve the quality of social-work practice and a failure of managers.						
No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
6.1	Improve the quality and detail of performance information to enable managers to have a grip on how their teams are performing and take appropriate action where required	31/12/2018	Performance team lead	Accurate performance information is available and practice standards are improved	Managers are using performance information as business as usual and performance measures are improved	Data book has launched; reports on weekly visits and supervision in place. Local authority is working with Staffordshire and Doncaster	G
6.2	Recruit additional capacity into the performance team to improve the performance information and analysis	30/09/2018	Performance service manager	Additional posts are in place	Accurate timely performance data is available to all managers across the service and being used to drive up the quality of social work practice	Children's Service Performance team leader appointed. Further recruitment taking place to provide additional capacity	A
6.3	Review the development programme of Mosaic and establish further enhancements, plan and resources to deliver	30/12/2018	Assistant director safeguarding and family support	Mosaic supports the social work systems efficiently	Performance culture is embedded across the children and families directorate and enables us to take swift and appropriate action for areas that require improvement	Use the expertise from other local authorities via the DfE to support the development of the programme	G
6.4	Produce Performance Overview Report and review at Heads of service/Assistant Director meeting. Risks and highlights identified and reported to Senior management team (SMT) on monthly basis.	31/07/2018	Performance service manager and all Heads of service/Assistant Director safeguarding and family support	Report produced and discussed at monthly meetings.	Leaders at all levels have full understanding and grip of performance across the whole service. Appropriate/ timely actions/intervention is taken by leaders at all levels when performance levels decline.	Implemented on 13/08/18	B
6.5	Ensure schools are set appropriate and rigorous attainment targets for looked after children; including English and Maths	28/09/2018	Head of learning and achievement	Appropriate targets set.	Educational outcomes for children in care will be in line with national or above for looked after children at Early Years Foundation Stage (EYFS), phonics, Key Stage 1 (KS1), KS2, KS4 and KS5 for all external performance measures in 2019 and beyond;	Training for schools took place on 26/09/2018 and included Herefordshire Council expectations regarding: targets, interventions, ePEPs and effective use of pupil premium funding for looked after children. Schools identified that have not shared targets and follow up challenge being undertaken.	A
6.6	Monitor progress towards targets schools set for looked after children.	30/08/2019	Head of learning and achievement	Targets achieved.		National data for external measures in 2018 not yet available.	G

No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
6.7	Develop the Virtual School Team to enable robust conversations with schools regarding the progress pupils are making.	31/10/2018	Head of learning and achievement	Training completed	Gaps will reduce between Herefordshire looked after children and Herefordshire non looked after children	Training was delivered by Marlbrook Teaching School and Head of learning and achievement in the summer term on external progress and attainment measures. Further training booked for 18/10/18.	G
6.8	Ensure effective use of pupil premium for looked after children that enhances attainment and progress.	30/11/2018	Head of learning and achievement	Evidence of pupil premium being used appropriately.		The Virtual School Team is now risk (RAG) rating ePEPs for the quality of academic targets set. In July 238 ePEPs were RAG rated of which 10 were red (of which 7 were school issues) and 58 were amber. The seven schools who had a red risk rating ePEP did not receive pupil premium funding for that term.	A
6.9	Scrutinise data to identify key issues/trends in schools for LAC.	28/09/2018	Head of learning and achievement	Trend analysis completed.			A
6.10	Provide training to school staff regarding effective ePEP writing / how to conduct an ePEP meeting.	28/09/2018	Head of learning and achievement	Training completed.	Meeting structure revised to ensure progress towards all targets is monitored and scrutiny of interventions are in place.	A reviewed ePEP that contains sufficiently detailed information about children's attainment and progress is in from 01.10.2018.	G
6.11	Identify pupils at risk of not meeting targets early and ensure support in place from school's designated teacher for looked after children.	30/11/2018	Head of learning and achievement	Targets identified.	Adequate support is in place for pupils.	Evidence that the virtual school team routinely analyse the ePEPs in order that issues or trends are identified and recorded actions are taken to address any issues.	G
6.12	Ensure care leavers receive good support/careers guidance from 16+ Team.	30/10/2018	Head of learning and achievement	Analysis undertaken.	Pathway plans are more focused/reviewed more frequently.		G
6.13	Report on ePEP targets	30/11/2018	Head of learning and achievement	Report produced and discussed.	Targets reached and attainment improved.	All ePEP meeting minutes and ePEPs demonstrate that staff from the virtual school review and challenge progress towards these targets.	A
6.14	Quality assure ePEPs and provide feedback.	31/08/2018	Head of learning and achievement	ePEPs audited and feedback provided.	Improved standard of ePEP.		B
6.15	Heads of service required to audit 2 cases a month and provide feedback and learning to close the learning loop with individual social workers.	From September 2018	Heads of service	2 cases audited per month. 100% compliance required for all adults completed.	Evidence of cases being audited per month and feedback being provided to individual social workers		A
6.16	Revise audit tool to measure evidence of management grip and oversight in each case that is audited	From September 2018	Head of service safeguarding and review	Audit tool revised and updated and communicated	Evidence proves that management oversight is taking place on each case that is audited	Audit tool in place and audits are taking place.	B
6.17	Quality assurance responsibilities of team managers made explicit with a quality assurance forward plan, requiring them to audit 2 cases per month.	From October 2018	Head of service safeguarding and review / Assistant director safeguarding and family support	Quality assurance forward plan in place. 100% completion rate required.	Evidence of cases being audited per month		B

No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
6.18	Monthly learning briefing circulated from Assistant director safeguarding and family support and Heads of service meeting to all social workers to embed learning	From October 2018	Head of service safeguarding and review	Learning briefing being circulated	Social workers are in receipt of the learning briefing and are able to embed the lessons learnt from the audits undertaken	Now taking place	B
6.19	Quarterly workshops held to improve quality and consistency to audit approach across all Team managers and Heads of service.	From 11/10/2018	Assistant director/ safeguarding and family support	Workshops being held on a regular basis	Workshops have taken place and the quality and consistency of practice improves across the children and families directorate	First workshops held through October	G
6.20	Assistant director to lead quarterly learning event with relevant service area to close the learning loop from the Quality Assurance Team Manager audit activity in service area.	10/10/2018	Assistant director/ safeguarding and family support	Learning events are in place	We are able to evidence that the learning loop is being closed and that the learning is embedded	First learning event took place in October focussing on quality of assessments	G
6.21	Establish a clear action plan to improve frequency and quality of quality assurance activity and establish a mechanism to evidence closure of the learning loop	From July 2018	Head of service safeguarding and review	Action plan in place with appropriate mechanism to close the loop	The frequency and quality of the audits improve and there is an appropriate mechanism in place to ensure closure of the learning loop	Quality assurance manager completed 3 month period of performance improvement activity in the assessment service, including auditing cases, providing feedback, following up on actions, provided workshops and best practice checklist.	B

Ofsted No. 7	The quality of life story work for all children
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RP 41	Too many children do not have life-story work completed and this means that carers do not have a comprehensive and accessible account of a child's life history to enable them to fully support children.						
No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
7.1	Recruit additional staff to carry out life story work	30/11/2018	Head of looked after children	Staff in post and backlog of life story work completed	Backlog of life story work is cleared	Business case approved for additional resource and recruitment underway	G
7.2	Life story work established as business as usual with resource in place to carry this out.	23/12/2018	Head of looked after children	Business plan signed off and recruitment of staff underway.	Life story work is carried out to a high standard and supports carers to share life story work with children	Business case approved for additional resource and recruitment underway	G

DP No.3	Delivering our Permanency Plan for looked after children
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RP 20	Work with families is not always consistently child-centred. Following an initial public law outline (PLO) meeting, in some cases the significance of what happens to a child is lost as the focus shifts on to the adults. Some letters before proceedings are too long and do not assist parents to understand what they need to prioritise and how they are going to be supported to change. Some children experience drift and delay at this stage, and review PLO meetings are not taking place in a timely way.
RP 27	The arrangements for children in private foster care are not well managed. Children do not receive a timely and responsive assessment of their needs or of their carers' abilities to meet their needs. Not all required checks are carried out and not all children have been seen in a timely way.
RP 30	The planning that follows is not always sufficiently robust or purposeful, and, as a result, several children have remained subject to these arrangements for too long. This has resulted in prolonged drift in progressing their care
RP 32	Children's care plans are of variable quality. Some are specific and clear, while others are overly long. In these plans, outcomes are not measurable and actions and timescales are recorded as 'ongoing'. In some cases, this has contributed to drift and delay for children

DP No.3	Delivering our Permanency Plan for looked after children						
RP 37	IRO visits to children are not always recorded on their case files, and so the IRO footprint is not consistently evident. IRO scrutiny and challenge to progressing plans and addressing drift is not always sufficiently robust.						
RP 38	Case records do not demonstrate that matching takes place at the point of children coming into care, and for some children permanence is not achieved within their timescales.						
RP 39	The authority's arrangements for delegating authority to carers is not sufficiently clear and has not been for some time, despite the issue being raised by young people previously. This is an important issue for young people and means that some foster carers are still unable to make appropriate day-to-day decisions on their behalf.						
RP 40	The local authority is struggling to provide a sufficient number of foster families, and in particular those that meet the needs of sibling groups and teenagers.						
RP 47	Not all young people have access to their health information. Inspectors identified this as an important issue for young people and the local community has agreed to take this forward as an area for immediate improvement.						
RP 50	Care leavers are aware of the advocacy service, although they feel that their voices are not always heard or taken account of. Access to mental health services for care leavers is difficult, and to date there is no strategy to improve this situation.						
RP 58	Sufficiency planning lacks effective strategic direction and future needs are not articulated clearly. This is compounded by the current commissioning strategy not being underpinned by a comprehensive assessment of future needs.						
No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
DP 3.1	Head of Safeguarding and Review and case progression officer to review current PLO cases to identify any drift and delay and take appropriate actions to resolve.	09/10/2018	Head of Service Safeguarding and Review	No PLO cases subject to drift and delay.	Decisions on children's futures are taken in a more timely manner	Programme of case reviews now taking place.	G
DP 3.2	PLO letters to be revised regarding attendance/representation of parents and embedded in Mosaic	01/10/2018	Head of Looked After Children	Letters signed off.	Revised letters built into Mosaic and being used appropriately..	Completed	B
DP 3.3	Implement PLO Training	From July 18.	Principal Social Worker/Head of Fieldwork	Training implemented.	Drift/delay reduced. Timeliness in making decisions regarding children's futures improved.	Training commenced, delivered by legal services	B
DP 3.4	Head of service action plan established to improve IRO involvement in planning for children	01/09/2018	Head of Service Safeguarding and Review	Operational action plan is in progress and meeting its targets	Quality of children's care plan improves, every child has a SMART care plan and children are not subject to drift and delay.	Action plan in place and head of service progressing to timescales, including regular reviews of care plans in 1:1s	B
DP 3.5	Establish new panel arrangements which will review all s20 cases on a monthly basis	25/09/2018	Assistant director safeguarding and family support / Head of Looked After Children	Panel in place and operational	All children accommodated under s20 receive a review of their cases to ensure that there is no drift and delay in making appropriate plans for them.	New arrangements in place chaired by Assistant Director Safeguarding and Family Support	B
DP 3.6	Undertake monthly audits to ensure delegation of authority to foster carers is completed at point of admission to care	13/08/2018	Head of Looked After Children	Monthly audits take place and after a period of 4 months compliance can be assured	Fosters carers feel empowered to make appropriate decisions for children/young people in their care.	First audit undertaken on the 13/08/18 and did not evidence full compliance, in August 35% and this improved to 70% in September having delegated authority on file. Head of Service continuing to follow up with social workers on compliance to standards.	R

No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
DP 3.7	Implement named lead links between NHS mental health services and the 16+ care leaver service	01/10/2018	CCG – Mental Health lead	There are named leads for care leavers within mental health services and improved communication between services.	The 16+ care leaver service is confident that it is able to escalate and resolve any difficulties regarding access to mental health services		G
DP 3.8	Ensure that the mental health needs of care leavers are addressed by: developing care pathways for assessment and treatment; developing access to self-referral help and support; and supporting young people to take-up help with their mental health.	01/05/2019	CCG – Mental Health lead	Information available for care leavers on where to go and how to access treatment. Agreed multi-agency care pathway in place. Service measures to be defined as part of the development of service delivery	Frontline services and teams are able to access appropriate support with care leavers. Care leavers report they know how to access support if required and that its delivered at the right time to make a positive difference.		G
DP 3.9	Establish and implement the LAC Permanency action plan to avoid delay in achieving Permanency for children.	31/08/2018	Head of Looked After Children	Improvement in timeliness of achieving permanency for looked after children.	Children's life chances are enhanced by achieving Permanency in their future placements in a timely manner.	action plan in place.	B
DP 3.10	Draft placement Sufficiency strategy informed by LAC population estimates	31/12/2018	Childrens Joint Commissioning Manager	Draft strategy approved through council governance	There are clear expectations on the number and type of bed nights required to meet expected demand, and action plans in place to secure sufficient provision.		G
DP 3.11	In-house fostering recruitment targets and action plan in place as part of Sufficiency Strategy.	31/10/2018	Childrens Joint Commissioning Manager	Recruitment targets and action plan approved by DLT	Carer recruitment and retention rates increase to meet demand. Recruitment targets and performance is reported through CWB scorecard.		G
DP 3.12	Develop an appropriate format for the sharing of information with LAC health to ensure young people have access to their health records when they leave care.	21/12/2018	Head of Looked After Children	Format developed, signed off and implemented.	Health records are accessible to young people when they leave care.		G
DP 3.13	Social work academy to lead on embedding compliance with Private Fostering Guidance	30/12/2018	Head of Looked After Children	Guide embedded and practice is compliant with statutory responsibilities	Social workers and managers are able to identify private fostering arrangements and demonstrate understanding of statutory responsibilities. The needs of children living in private fostering arrangements are met.	This is being progressed and due to be completed by December 2018	G

DP 4 (i) Application and understanding of Herefordshire Safeguarding Children Board (HSCB) thresholds							
RP 2	A significant number of contacts are signposted away from children's social care, which means that too many children are being referred who do not need this level of support. A number of children who would benefit from early help services experience delay because thresholds are not appropriately applied or understood. This is an area that needs to be strengthened so that children and families who might benefit from early help are quickly identified and do not experience any delays in receiving the help they need.						
No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
DP 4(i).1	Raise awareness at Safeguarding Board that too many children are referred to MASH who do not require this level of support - review thresholds.	21/09/2018	Assistant director safeguarding and family support	Issue raised/discussed at meeting on the 11/09/18.	There is an improved understanding of thresholds across the partnership and an improvement in the performance data that can be shared with partners. Contacts into MASH are decreased.	Assistant Director Safeguarding and Family Support has raised at Herefordshire Safeguarding Children's Board (HSCB) executive. Director for Children and Families and Assistant Director Safeguarding and Family Support met partner leads 21/09/2018 and established a partner improvement group.	B
DP 4(i).2	HSCB Policy and Procedures group revise Herefordshire Level of Need document to enhance understanding of thresholds across the partnership	30/11/2018	Principal Social Worker	Greater understanding of thresholds evidenced by decrease of contacts into MASH	There is an increase in the number of referrals that meet level 4.		G
DP 4(i).3	Reconfigure contact and referral process.	28/09/2018	Assistant director safeguarding and family support	Establish what percentage of contacts into MASH convert to referrals.		Process reconfigured, commencing on 01/10/2018	B
DP 4(i).4	Quality and appropriateness of referrals into MASH - improve process to feedback to refers on quality of requests for service.	30/11/2018	Assistant director safeguarding and family support	Process established.			G
DP 4(i).5	Re-establish MASH Partnership Forum meet monthly and ensure referral rates are a standing agenda item.	04/10/2018	Assistant director safeguarding and family support	Forum re-established.		Completed	B
DP 4(i).6	Early Help to be represented in MASH daily to ensure early identification of cases requiring this service.	13/08/2018	Assistant director safeguarding and family support	Early Help in MASH team.	There is no delay in providing early help and family support services to children.	Completed	B
DP 4(i).7	Develop Early Help Strategy 2018 - 2023 and delivery with partners and have in place from April 2019	01/04/2019	Early Help Manager	Strategy in place and owned across Herefordshire services	The Early Help offer is embedded and understood by all partners.	Initial proposals set out. Contact made with other local authority via the DfE to bring in learning from outside Herefordshire	A
DP 4(i).8	Deliver Early Help Assessment training to stakeholders on a monthly basis.	31/12/2018	Early Help Manager	400 Professionals trained.		364 Professionals trained by the 08/08/18.	G

DP4 (ii) Improving quality and consistency of practice							
RP 5	Poor recording in some cases means there is not always evidence in children's records that they have been seen or the extent of the direct work that has been undertaken with children.						
RP 9	In poorer assessments, and particularly where neglect is a long standing issue, social workers do not routinely consider historic concerns and their analysis can be over optimistic. Children are not routinely spoken to alone by social workers as part of their own assessments, and so subsequent plans are not informed by a child's view of their lived experience. In some cases, assessments are overly focused on the needs of adults.						
RP 12	The local authority has invested in graded care profile training to support social workers in dealing with cases of neglect. Despite staff speaking positively about this, no evidence of this training was seen being used with individual children.						
RP 24	The recordings of discussions with children lack analysis, with the result that it is not always clear how the information gathered informs safety planning for children.						
RP 29	Decisions for children to become looked after are not always based on up-to-date assessments. Assessments are not routinely updated to reflect changes in a child's circumstances and needs. Historical concerns are not always fully considered, and this means that some children whose circumstances had not changed should have come into care sooner.						
No.	Actions	By when	Delivery lead	Performance Measure	We will know it's working when	Progress	RAGB Status
DP 4(ii).1	All operational Heads of Service will establish, implement and progress improvement action plans to drive the quality and consistency of practice in their service areas.	21/09/2018	Heads of service	Actions are signed off by Assistant Director Safeguarding and Family Support	Monthly review of action plans evidences progress against targets	Action plans have been developed and being quality assured by the Assistant Director Safeguarding and Family Support	B
DP 4(ii).2	Decision to be made on the most appropriate social work model to be implemented across Herefordshire Children and Families Directorate and appropriate implementation plan established	31/08/2018	Principal Social Worker/Assistant Director Safeguarding and Family Support	Social Work Practice Model implemented and training undertaken.	We can evidence consistency and quality of practice.	Social work model identified. Director establishing support from local authority that has experience of implementing Signs of Safety via DfE improvement lead	G
DP 4(ii).3	Establish clear workforce development and learning plan for the 2018/19.	31/10/2018	Head of Service Safeguarding and Review and Head of Looked after Children	Workforce development plan signed off at Assistant Director / Head of Service group and ready for implementation.	Social work skills will be enhanced across the directorate to improve the quality and consistency of practice		G
DP 4(ii).4	Design/develop and implement 2 year Quality assurance and learning framework (QALF).	31/01/2019	Head of Service Safeguarding and Review	QALF Strategy implemented by 31/10/19.	The authority will have a strong learning culture underpinned by focused, collaborative, quality assurance work. This will provide meaningful learning to enable the organisation to continuously improve.	Revised audit approach including training now in place	G
DP 4(ii).5	Establish a comprehensive assessment improvement approach; to be delivered in all areas across social work practice	From 16/07/2018	Head of Service Safeguarding and Review	All teams have undertaken assessment improvement training	All children who need an assessment will receive a timely child centred, high quality assessment service.	Quality Assurance Manager completed 3 month period of performance improvement activity in the assessment service, including auditing cases, providing feedback, following up on actions, provided workshops and best practice checklist.	G
DP 4(ii).6	Targets will be set to measure improvement in timeliness of assessments. The performance information will be reviewed on a weekly basis by Team managers, Heads of service and Assistant director safeguarding and family support.	10/09/2018	Assistant director safeguarding and family support / Head of service	Timeliness targets set: end of Sept 60%; end Oct 70%; end Nov 80%	Assessment timescale targets are met	Targets not met	R

