SHERIFFDOM OF LOTHIAN AND BORDERS AT EDINBURGH

[2026] SC EDIN 114

EDI-AD19-25

JUDGMENT OF SHERIFF WENDY A SHEEHAN

in the cause

APPLICATION FOR A PERMANENCE ORDER WITH AUTHORITY TO ADOPT

under Section 80 of the Adoption and Children (Scotland) Act 2007 in respect of the child

H (born 23/08/2024)

Petitioner: Trainer advocate, Moir solicitor
Respondent: Party

EDINBURGH, 5 June 2026

The sheriff having resumed consideration of the cause, finds the following facts to have been admitted or proved:

Findings in fact

1. The respondent is the mother of four children, three sons: A (born 17.12.2008), L (born 02.10.2010), M (born 14.10.2022) and a daughter, H (born 23.08.2024).

2. TF is A and L's father. NS is M's father. The identity of H's father is not known. Nobody other than the respondent holds parental rights and responsibilities in relation to H.

3. A lives with his paternal grandparents and has done so since 2010. L was in the care of the respondent up until Summer 2016 when he was accommodated and placed into foster care. Following his removal from the respondent's care, a significant improvement was observed in his health and wellbeing. Both A and L were removed from the respondent's

care due to concerns regarding her ability to care for them. She has no contact with either of them.

4. A child protection order in relation to M was granted immediately after his birth. Save for a short period following his birth in hospital, he has never been in the care of the respondent. Grounds of referral were established in relation to M at Edinburgh Sheriff Court on 25 May 2023, which established that he was likely to be exposed to a lack of parental care due to physical and mental health concerns in relation to the respondent and concerns in relation to domestic abuse in the relationship between the respondent and NS. Direct contact between the respondent and M was terminated by the children's hearing in June 2023. She has not exercised indirect contact with him since then. A permanence order was granted on 28 November 2023. An adoption order has now been granted in relation to M which has no provision for any ancillary orders in relation to contact with either respondent or NS.

5. The petitioner's social work department became aware of the respondent's pregnancy (with unborn baby H) due to a referral from Maureen Scott, midwife, in February 2024. Such referrals are made automatically when expectant mothers have other children who have been accommodated. The respondent was unhappy that the referral had been made and that confidential information from her NHS and social work records had been shared between professionals. She made a formal complaint to NHS Lothian. At the respondent's request, a new midwife, Carole Downie was allocated.

6. In March 2024 the petitioner allocated Justyna Mankowska, a social worker who had no prior involvement with either the respondent or any of her older children, to be the allocated worker for H. She was instructed to undertake a pre-birth assessment.

7. In February 2024 the respondent advised Maureen Scott, midwife, that NS was H's father. In April 2024, the respondent self-referred to Edinburgh Women's Aid. She told a case worker that she had been in a relationship with NS and reported a history of abusive behaviour by him. She also told the case worker that he was H's father.

8. An inter-agency referral discussion between social work, police and NHS Lothian was held in May 2024. One of the primary child protection concerns identified was the risk of domestic abuse perpetrated by NS. The respondent repeatedly reported allegations of physical, emotional and sexual abuse to police officers and social workers.

9. During Ms Mankowska's first meeting with the respondent on 14 May 2024, the respondent told her that she was in a relationship with NS and that he was H's father. She said that NS had been supportive during the early stages of her pregnancy and that she hoped that they could bring up her baby as a family unit.

10. On 5 June 2024 the respondent sent a detailed text message to a group social work number stating that she had sought assistance from a domestic abuse support worker and medical attention immediately following "severe mental, emotional, verbal, financial and child abuse to the pregnancy from NS, the father of unborn daughter". She sought advice from social workers and police officers regarding a non-harassment order. In the lengthy message, she stated that NS had been kind, affectionate and caring and that his aggressive episodes were related to the consumption of alcohol and the influence of his peer group. She found it heartbreaking that she required to protect herself and her pregnancy by distancing herself from NS but that she wanted to be honest with professionals and to seek the appropriate supports. During a meeting at her home on 6 June, she discussed this situation in detail with Justyna Mankowska and Carole Downie. She was given clear advice

that she should not resume her relationship with NS and that she should minimise all contact with him.

11. Ms Mankowska offered NS appointments on 28 May, 5 and 6 June 2024 to facilitate his involvement in the pre-birth assessment. He failed to attend or to respond to correspondence or to telephone calls. During a previous assessment relating to his son M, NS had made it clear to social workers that he could not care for a baby. He denied all allegations made in respect of domestically abusive behaviour and declined to discuss issues further. In June 2024 Ms Mankowska concluded that the assessment should proceed without his involvement. She did not contact NS thereafter. As NS was noted on social work records to be H's father, he is likely to have received correspondence regarding child protection measures, children's hearings and LAAC reviews. He also had ongoing contact with M's allocated social worker, Cassie Leese, during 2023 and 2024. The respondent believes that said correspondence caused stress to NS which prompted him to communicate with her and exacerbated his abusive behaviour towards her.

12. H was born on 23 August 2024. She was initially cared for in hospital by the respondent under the supervision of medical professionals. The petitioner applied for a child protection order in relation to H on 26 August 2024 based on concerns regarding the respondent's capacity to parent her three older children, recent allegations of domestic abuse made by her against NS and her refusal to acknowledge historical concerns or engage meaningfully with professionals prior to H's birth. The order was granted on 26 August 2024 and included a measure that contact between H and the respondent should take place a minimum of three times per week on a supervised basis.

13. On 3 September 2024, a week after H's birth, the respondent told Susan Rattigan, social worker that she had not seen NS for several months and that she may not record his

name on H's birth certificate when registering her birth. She also said that she was unsure whether he was H's father as she had a sexual encounter with a friend of NS around the time of conception, that NS was unaware of this and believed that he was H's father. This was the first occasion when the respondent advised social work that NS may not be H's father. No father is named on H's birth certificate. The respondent has since suggested that another man may be H's father but that she will not disclose his details as he does wish to have contact with social workers.

14. On 1 October 2024 the respondent told Susan Rattigan, social worker, that she had spent the weekend with NS and that they had resumed a sexual relationship, before referring to him as H's father.

15. On 6 November 2024 the respondent disclosed to Justyna Mankowska that NS had behaved abusively towards her and assaulted her by placing his hands around her neck. Ms Mankowska repeated her advice to avoid contact with NS in order to protect herself from further emotional or physical abuse. The respondent appeared ambivalent to this suggestion saying that she wanted to have a happy family unit.

16. On 20 November 2024 the respondent sent a text message to Ms Makowska accusing her of alienating NS from her by sharing information from social work records with him and controlling every area of her life so that she would be "stripped of everything, isolated and alone". On 22 November 2024 the respondent participated in an assessment carried out by Ms Mankowska designed to assess the risks of harm/domestic abuse. The assessment produced a graph demonstrating a high level of emotional, financial, physical, and sexual abuse, threats and intimidation. Despite this, the respondent did not agree that NS presented a risk to herself or her baby or that the relationship was an unsafe and unhealthy one. She expressed the view that NS loved her, that he was less abusive than he had been

previously and expressed the wish to reunite with him contrary to social work advice. On 29 November NS assaulted the respondent in a pub in Leith. This incident was reported to the police and resulted in NS being charged.

17. In January 2025 the respondent sent a text message to Ms Mankowska stating that NS was a nice man and that she had been successfully helping him to address his issues until social workers had shared confidential information with him and had told him that he was not H's biological father without her consent. She also confirmed that due to the operable bail conditions at that time, she was not in touch with him at that point. Following a criminal trial in the summer of 2025, the respondent resumed regular contact with NS, meeting him in public places and going to his home. In September 2025 the respondent wrote to Lucy Mackenzie, social worker stating that NS had not committed any form of domestic abuse, that he had treated her with "much love, openness and kindness" and that he had been "wrongfully excluded from his fatherly role". She went on to state that any aggression exhibited by him had been because of the actions of social workers/the children's hearing over a prolonged period. During a children's hearing on 9 September 2025, the respondent confirmed that she was continuing to spend time with NS.

18. The respondent has continued to maintain contact with NS in 2026, albeit on a less frequent basis and primarily by way of meetings in public places.

19. The respondent has engaged with Edinburgh Women's Aid at intervals over several years attending both one to one sessions and participating in group work during which she received trauma informed support and has undertaken work to assess risk and develop safety planning measures. Whilst she has been able to undertake this work and to follow some of the advice offered (evidenced by her choosing to meet NS in public places and distancing herself from him after episodes of abusive behaviour) she has failed to fully take

this on board. She continues to idealise the relationship, to gloss over/reframe abusive behaviour and to hold the view that in an ideal world, she would be in family unit with NS. There is a risk that she may reconcile with him and that further episodes of abusive behaviour may occur. This risk is heightened by the fact that both the respondent and NS deny/minimise any issues or risks and refuse to work with professionals to address matters. The respondent has been involved in other abusive relationships. She has demonstrated a lack of insight and an inability to impose appropriate boundaries. This presents a risk that H might be exposed to domestic abuse were she to be in the respondent's care. That would be seriously detrimental to her welfare.

20. Social workers and other professionals attending multi-disciplinary meetings observed issues with the respondent's communication style, apparent difficulties in her reading of social cues and the way she appeared to process and to retain information. It was thought that she may have a learning difficulty or neurodivergence. It was considered that a formal assessment may enable social workers and other professionals to make reasonable adjustments and to communicate more effectively with the respondent and better support her parenting capacity. The respondent initially agreed to be referred to the petitioner's Community Learning Disability Team at a core group meeting on 12 November 2024, but when contacted by the team in December 2024 she then refused to engage with the assessment. This was the second occasion when the respondent has been referred to the same department for assessment and has refused to engage.

21. There are no entries in the respondent's medical records which record a diagnosis of any learning disability or neurodivergence. The respondent was assessed by Dr Christopher Burke, clinical psychologist in February 2023 in the context of an assessment of her capacity to parent her son M. Dr Burke did not assess her to have a learning disability. The

respondent is resistant to assessments of this nature as she believes that social workers are trying to identify deficits or to label her as neurodiverse to bolster their case to remove H from her care. The respondent's brother, her son M and her nephew have all been diagnosed with autism. The respondent does not consider that she has autistic traits. She considers that her ability to obtain a college qualification in art and design and the completion of on an online paralegal qualification are inconsistent with such a diagnosis. Whilst certain difficulties which the respondent has exhibited in failing to read and respond to H's cues during supervised contact, and in her presentation during court proceedings may be consistent with a diagnosis of autism or other neurodivergence, no professional assessment of neurodivergence has been undertaken or diagnosis made.

22. Whist the respondent has experienced trauma and suffered from stress and anxiety, her medical records do not disclose any diagnosed mental health condition or prescribed medication. The respondent has no issues with either alcohol or substance misuse.

23. The respondent does not keep good health and suffers from particularly poor health at times of stress. In 2018 she was diagnosed with functional neurological disorder, a condition which causes chronic pain, weakness, episodes of paralysis, tremors and non-epileptic seizures. This is a treatable condition which can be impacted by stress. In January 2024, Professor Stone, consultant neurologist, confirmed that this condition should not be regarded a child safety issue and that, in any event, the respondent was no longer symptomatic. The respondent had requested an appointment to assess the accuracy of her initial diagnoses but was told that this was not a service which the NHS could offer. The respondent continues to suffer from joint pain, episodes of gastritis, digestive and urinary issues, hormonal imbalance and gynaecological pain. She believes that she is suffering from

endometriosis as some of her symptoms are consistent with this condition. A diagnosis has yet to be made.

24. An initial child protection meeting took place in relation to unborn baby H on 18 June 2024. H was placed on the child protection register due to concerns in relation to the respondent's capacity to parent her. This followed from an assessment completed by Dr Christopher Burke in relation to her capacity to parent M undertaken in February 2023.

25. Between 23 August 2024 and January 2025, a parenting capacity assessment (5/3/10 of process) was undertaken by Justyna Mankowska. The assessment was based on the observations by various professionals of the respondent's contact with H, direct sessions undertaken with the respondent, information shared by other professionals involved in H's care plan and information from social work records and assessments.

26. Justyna Mankowska and her team leader, Stephen Gibson undertook a restorative meeting with the respondent on 18 July 2024. The respondent was supported by an advocacy worker. The purposes of the meeting were to allow the respondent to voice her concerns regarding past social work involvement and decisions made regarding her older children and to enable social workers to raise their concerns about the respondent's parenting deficits in a gentle and constructive manner with the aim of putting in place strategies, supports and referrals to address them. The respondent was defensive, hostile and unwilling to engage with this process. She refused to meet or engage with social workers afterwards. It was concluded that she was unable to take on board concerns or to engage with professionals to address them. This informed the conclusion of Ms Mankowska's assessment that the respondent could not offer or provide safe and secure care for H.

27. During her pregnancy the respondent had three allocated midwives. Changes were made twice at her request following letters of complaint regarding Maureen Scott and Carole Downie. During the last few weeks of her pregnancy the respondent missed some scheduled medical appointments, a scan and minimised contact with her allocated midwife. This occurred following a Core Group meeting on 18 July 2024 after which it became apparent to her that professionals were sharing information and working collaboratively. The respondent also understood that that Carole Downie had supported the social work decision to apply for a child protection order when H was born. The respondent was very distressed by this and suffered from poor health. Despite this, she re-scheduled and attended all key medical appointments and co-operated with a home visit shortly before the birth.

28. During her pregnancy the respondent was referred to an organisation called "Bump Start" and was allocated a wellbeing practitioner Louisa Heaney. Ms Heaney is a qualified midwife who works with pregnant women and mothers who have babies under 6 months old, offering tailored one to one support, group work and baby massage. The respondent initially engaged well with Ms Heaney and attended the first three of eight baby massage sessions offered after H's birth. Once the respondent realised that historical information regarding her older children had been shared with Ms Heaney by social work, that Ms Heaney was in touch with Ms Mankowska and a referral to an organisation called "Sparrow" (who offer support to parents who have children in care) was made, the respondent decided that she did not want to engage further and ceased contact with Ms Heaney.

29. Following H's birth, the respondent's contact with her was regulated by way of a series of interim compulsory supervision orders granted by the children's hearing. The

pertinent orders were as follows: that of 5 September 2024 which provided for supervised contact three times per week for 90 minutes; 11 April 2025 whereby contact was reduced to twice a week for 2 hours; and 28 July 2025 whereby was contact reduced to once per week for 2 hours.

30. Grounds of referral were established in relation to H on 19 August 2025 at Edinburgh Sheriff Court which established that H was likely to be exposed to a lack of parental care due to a lack of engagement by the respondent with social work and health professionals and a lack of acceptance of guidance around parenting during contact. The grounds also established H was likely to have a close connection to a domestic abuser, namely NS.

31. A children's hearing took place in relation on 9 September 2025. The decision of the hearing was to reduce the respondent's contact with H from one occasion per week on a supervised basis to one occasion per month for 1 hour on a supervised basis. Contact has taken place on this basis since then.

32. Supervised contact largely took place at Craigmillar Library. The respondent attended reliably and cancelled any visits which she was unable to attend ahead of time. She was well prepared and brought blankets, play mats, toys, snacks and everything needed to change H. She was able to feed and change H and to meet her basic physical needs but tended to be rigid and repetitive in her approach to care, having little intuitive sense of H's needs or ability to anticipate them. There were occasions when she was unable to adapt to H's changing developmental needs/to assess these correctly (eg an incident when H fell backwards and bumped her head as she was too young to sit unsupported and another when H was running whilst holding pencils as the respondent had not appreciated her level of mobility). The social work assistants supervising contact were concerned about the respondent's inability to pick up on H's cues, to respond to her needs and to form a

reciprocal bond with her. They tried to model effective communication using tone of voice, gestures and animation but the respondent was not receptive this and resented the interventions. Activities such as baby massage were organised to promote more positive interaction and bonding. The respondent preferred to involve H in the group activities taking place in library designed for parents with young children (Book Bugs and Rhyme time). Whist these activities enabled the respondent to feel less isolated and stigmatised by supervised contact, H was too young to engage and was either over stimulated or became withdrawn. The respondent was calm, kind and affectionate with H. She brought many toys with her and did her best to play with her. She struggled to pick up on H's cues as to what held her interest, to engage in child led or imaginative play. H sometimes accepted physical affection from the respondent but more commonly pushed her hands against the respondent's chest, arched her back or looked over her shoulder to minimise this. There was little eye contact, reciprocal affection or any discernible emotional bond between them. H seemed subdued and withdrawn compared to how she was in her placement. She did not display any excitement to see the respondent or distress on parting from her.

33. The respondent suggested alternative explanations when H was withdrawn or out of sorts such as her having missed her nap or teething. She tried to medicalise issues unnecessarily and made unwarranted criticisms of H's foster carers, both directly to them and via complaints to social workers: that H had persistent and untreated nappy rash, repeated colds, that a bout of bronchiolitis was left untreated and that H was suffering from absences or seizures. H's health visitor offered to speak to the respondent several times, at the instigation of social workers, in order to provide information about H's wellbeing, to discuss her concerns and to offer reassurance. The respondent chose not to engage with this.

34. The respondent sent many messages to social workers which were concerning both in terms of their content and tone, such as those calling Ms Mankowska "sinister and abusive" and calling Lesley Scott, social work assistant, "evil, abusive and deeply malicious".

35. The respondent's criticisms of professionals and foster carers and the hostile messages sent by her were most prolific following negative assessments of made of her by professionals or adverse decisions being made at meetings. The respondent's complete lack of insight, pervasive use of denial and externalisation as coping mechanisms together with her complete mistrust of professionals were significant barriers to addressing concerns regarding her parenting capacity.

36. Following the present application for permanence being lodged with the court, the petitioner instructed Dr MacKinlay, chartered clinical psychologist, to prepare a parenting capacity and contact assessment. The respondent refused to engage with the proposed assessment and refused to attend a contact session with H which was due to be observed by Dr MacKinlay on 3 March 2026. Dr MacKinlay undertook an assessment (5/2 of process) based on interviews with professionals, meeting H with her foster carers and reviewing the social work records. Dr MacKinlay concluded that the order sought by the petitioner would give H lifelong stability and emotional security. She also considered that direct contact between the respondent and H may undermine the stability of a future placement, given the respondent's attitude towards professionals, H's foster carers and having regard to the terms of recent correspondence from the respondent to Dr MacKinlay in which she set out her views regarding the prospective adopters. Dr MacKinlay recommended two-way letterbox contact which will support H to understand her life story in a safe and managed way.

37. H's foster carers are very experienced, having fostered children under 2 for over 20 years. They have provided an exceptional standard of attuned care. The foster carers' ages and personal circumstances mean that this placement is not viable in the medium and long term.

38. H is a happy, healthy child who is meeting all her milestones. She demonstrates an age-appropriate independence, curiosity and level of social engagement. She is well placed to transition to another placement. It would be in her best interests to do to before she reaches her second birthday to give her the best chance of coping with the loss of the relationship with her foster carers who are her primary attachment figures, and of forming a healthy attachment to new carers.

39. A placement move will be disruptive and distressing for H. It is important that this is well managed and insightfully supported by those with prior experience of managing this situation for a child her age. It is in H's best interests to go through this process only once and to form secure and lasting attachments in her next placement.

40. H is well placed to be adopted. A prospective placement has been found for her which is a good match in terms of ethnicity, religious affiliation and the experience required to support her transition to a new placement and will provide a family home where her needs will be met and her development supported.

41. H is too young to express a view in these proceedings.

42. It is not in H's best interests for an attempt to be made to rehabilitate her to the care of the respondent. The respondent is unable to satisfactorily discharge her parental rights and responsibilities in relation to H and is likely to continue to be unable to do so.

43. There is no viable kinship care option for H.

44. Contact is being maintained between H and her brother M.

45. The respondent has behaved in a manner which has caused distress and anxiety to H's foster carers. She has made unwarranted complaints about them. She has demonstrated her capacity to undermine a placement. The respondent is strongly opposed to adoption. She has formed a negative view of the prospective adopters matched with H. It is unlikely that she would have the capacity to support an adoptive placement, to refrain from providing H with a counter narrative or from criticising her carers/adoptive parents. That would not be in H's best interests and may undermine the process of her forming secure attachments in a new family unit.

46. It is in H's best interests to grow up with a sense of her identity and her life story, to be reassured that her birth mother loved her, is in good health and wishes her well. This would be best achieved by bilateral letterbox contact. The quality of direct contact, the absence of a reciprocal bond and the risks that such contact may undermine H's next placement mitigate against direct contact in future, other than in the short term to allow for an adjustment period following the disposal of these proceedings and final visits to take place.

Findings in fact and law

1. The respondent is the only person who has the right to have H living with her or otherwise to regulate her residence, and residence with the respondent is likely to be seriously detrimental to H's welfare.

2. A permanence order will safeguard and promote H's welfare throughout her childhood, and it would be better for H that a permanence order be made than that it should not be made.

3. The respondent's consent to the making of an adoption order should be dispensed with on the ground that she is unable satisfactorily to discharge her parental responsibilities and exercise her parental rights and is likely to continue to be unable to do so.

4. H is likely to be placed for adoption.

5. An adoption order would safeguard and promote H's welfare throughout her life, and it would be better for her that authority to adopt be granted than that no provision be made for authority to adopt.

6. Having regard to the need to safeguard and promote H's welfare throughout childhood, ancillary provisions should be made vesting in the petitioner the parental responsibilities mentioned in section 1(1)(a), (b)(i) and (d) of the Children (Scotland) Act 1995 and the parental rights mentioned in section 2(1)(b) and (d) of that Act; extinguishing the parental responsibilities and parental rights of the respondent insofar as vested in the petitioner; and regulating the respondent's parental responsibility and parental right of contact such that there shall be no direct contact between the respondent and H, but that there shall be indirect letterbox contact twice a year;

7. If a permanence order is made in respect of H, with authority to adopt and ancillary provisions of the nature mentioned above, the compulsory supervision order will no longer be necessary.

Interlocutor

Edinburgh, 5 June 2026

The sheriff, grants the prayer of the petition and makes a permanence order in terms of section 80 of the Adoption and Children (Scotland) Act 2007 in respect of the child H, born 23 August 2024, with the following provisions:

1. Pursuant to section 81 of the 2007 Act vests the petitioners:

   (a) with the parental responsibility mentioned in section 1(1)(b)(ii) of the Children (Scotland) Act 1995, namely, the parental responsibility to provide guidance to the child in a manner appropriate to the stage of development of the child until the child reaches the age of 18: and

   (b) with the parental right mentioned in section 2(1)(a) of the Children (Scotland) Act 1995; namely the parental right to regulate the child's residence until the child reaches the age of 16;

   all in terms of section 81 of the Adoption and Children (Scotland) Act 2007;

2. Together with the following ancillary provisions:

   (a) vests the petitioner with the parental responsibilities mentioned in section 1(1)(a), (b)(i) and (d) of the Children (Scotland)Act 1995 namely, the parental responsibilities:

      (i) to safeguard and promote the child's health, development and welfare;

      (ii) to provide direction in a manner appropriate to the stage of development of the child;

      (iii) to act as the child's legal representative until the child reaches the age of 16;

   (b) vests the petitioners with the parental rights mentioned in section 2(1)(b) and (d) of the Children (Scotland) Act 1995; namely

      (i) to control, direct or guide the child's upbringing in a manner appropriate to the stage of development of the child; and

(ii) to act as the child's legal representative until the child reaches the age of 16; all in terms of section 82 of the Adoption and Children (Scotland) Act 2007.

3. Extinguishes the parental responsibilities and rights in relation to the child held by the child's mother, with the exception of the parental responsibility in section 1(1)(c) and the parental right mentioned in section 2(1)(c) of the Children (Scotland) Act 1995; namely, to maintain personal relations and contact with the child on a regular basis; orders that there be two further direct contacts, each of 90 minutes, at intervals of 2 months, arranged by and under the supervision of the petitioner's social work department, that thereafter, there shall be no direct contact and that there shall be indirect contact by way of bilateral letterbox contact on two occasions per annum at 6-monthly intervals, said contact to be supervised by the petitioner's Adoption Services Team, to be initiated by way of letter from the respondent and responded to by way of an update on the child's welfare and development provided by her carers;

All in terms of section 82 of the Adoption and Children (Scotland) Act 2007.

4. Includes in the order provision granting authority for the child to be adopted in terms of section 83 of the Adoption and Children (Scotland) Act 2007;

5. Dispenses with the consent of the child's mother, on the ground that she has parental responsibilities and parental rights in relation to the child other than those mentioned in sections 1(c) and 2(1)(c) of the Children (Scotland) Act 1995 and is unable satisfactorily to:

(i) Discharge those responsibilities; or

(ii) Exercise those rights; and

(iii) Is likely to continue to be unable to do so, in terms of section 83(3) of the Adoption and Children (Scotland) Act 2007.

6. Revokes the child's compulsory supervision order in terms of section 89 of the Adoption and Children (Scotland) Act 2007.

Note

[1] The petitioner seeks a permanence order with various ancillary provisions, and authority to adopt in respect of a female child, H, born on 23 August 2024. The petition is opposed by the respondent who is H's mother.

The evidence

[2] Evidence was heard over 7 days. The petitioner's witnesses largely gave their evidence by the adoption of affidavits or reports. The respondent, who was unrepresented, encountered difficulties in formulating and posing questions in cross-examination. With the agreement of the petitioner's counsel, to focus and expedite matters, to ensure that the respondent's case was put fairly to the petitioner's witnesses and to ensure that she received a fair hearing, I helped the respondent to ask questions. This case does not turn on the reliability and credibility of the petitioner's witnesses. I do not intend to summarise all the evidence detailed in my findings in fact but have set out an outline of the petitioner's witnesses' evidence (and a summary of the issues raised with them in cross-examination) and an outline of the evidence given by the respondent and her father.

Social work evidence

[3] Justyna Mankowska was the allocated social worker between May 2024 and August 2025 (when she took parental leave). She adopted her affidavit (20 of process). Lucy MacKenzie was the allocated social worker between August 2025 and the date of

proof. She adopted her affidavit (21 of process). Stephen Gibson is their team leader/supervisor and has acted as such not just since H's birth but also during proceedings in relation to H's elder brother M (born 18 October 2022). He adopted his affidavit (22 of process). Lesley Scott and Samantha Ure are social work assistants who supported the respondent's family time/supervised contact. They each have over 30 years' experience working with children. They adopted their affidavits (23 and 24 of process).

[4] The respondents' questions put in cross-examination to the petitioner's witnesses and the evidence given in response (which I accepted) can be grouped into various clear themes:

(i) **In circumstances where the findings made in relation to the respondent's care of her elder children are contentious, why was this information used as a baseline for the assessment of her parenting capacity in relation to firstly, M and then, more pertinently, H? Why was the respondent not given a clean slate when assessing her ability to parent H?** Justyna Mankowska was deliberately chosen and allocated as H's social worker because she was someone who had no prior involvement with the family. A pre-birth assessment and a fresh parenting capacity assessment (5/3/10 of process) were undertaken by her. The parenting capacity assessment was a holistic one. Ms Mankowska assessed the respondent's circumstances during her pregnancy and, with input from her colleagues who were assessing family time/supervised contact after H's birth, assessed the respondent's capacity to parent her. Whilst she endeavoured to be independent and fair, she could not ignore significant historical information regarding the concerns which had resulted in the respondent's older children being accommodated. Past

parenting behaviour may be an indicator of future parenting deficits.

Ms Mankowska tried to be supportive, being of the view that all parents make mistakes and have the capacity to learn and grow. Whilst an initial denial of past concerns was not necessarily a complete barrier to a positive assessment, some capacity for reflection, taking on board concerns, receptiveness to advice and professional input were essential elements. Several strategies were deployed to help this process to evolve gradually. That included referrals to other voluntary agencies who may have been better placed to engage with the respondent (given her understandable reticence and cynicism regarding social workers). Referrals were made to Stepping Stones/Bump Start and Doulas Without Borders. A restorative meeting took place on 18 May 2024. Justyna Mankowska and Stephen Gibson attended. The respondent was supported by an advocacy worker. The purpose of this meeting was to enable discussion regarding the respondent's older children, to allow her to share her views and concerns about what had happened, to allow the social workers to raise their concerns regarding possible parenting deficits, and to identify strategies and possible supports to address them. This meeting did not go well. Ms Mankowska and Mr Gibson tried to approach the issues constructively, sensitively and from the perspective that these were problems which could be solved and issues which could be addressed. The level of defensiveness, denial and hostility exhibited by the respondent made this process unworkable. The respondent sent several hostile messages to social workers after this meeting, placed barriers in the way of further engagement and then withdrew from

professional contact. It was concluded that the respondent was unable to take on board concerns or to engage with professionals to address them.

(ii) **Why was the respondent's health relied upon as a barrier to H being in her care? Whilst she had missed some ante-natal appointments during the later stage of her pregnancy, she had attended on alternative dates and had all key scans and checks. Despite her health issues, she had attended and actively participated in most supervised contact sessions. So, why was this raised?** Social work evidence referred to a few missed appointments with healthcare professionals during the latter stages of the respondent's pregnancy and a lack of engagement at points, but ultimately but this was not material. The evidence regarding the respondent's non-attendance at appointments was relevant to her pattern of failure to engage with professionals after criticisms of her were made or difficult meetings had taken place. The evidence was that following the CPM on 18 June 2024 and the restorative meeting on 18 July 2024, the petitioner's engagement with social workers significantly declined. She expressed concern regarding the sharing of historic information between professionals. The respondent suffered from anaemia and other health problems during her pregnancy. Some appointments were missed. However, the respondent did attend the alternative appointments offered. H was born at healthy weight with no developmental concerns. The respondent had shown a considerable commitment to contact and had attended reliably. It was not contended by the petitioner that the respondent's health presents an impairment to her parenting capacity such that it would be seriously detrimental to H's welfare were she to reside with her.

(iii) **Why did social workers repeatedly ask the respondent to undergo an assessment for a learning disability or neurodivergence when there are no entries in her medical records to highlight this and no other circumstances to justify it? Were social workers simply trying to label or stigmatise the respondent as means of gathering evidence to bolster their case?** The pertinent findings in fact are 20-21. I did not find this latter proposition (which was put to Justyna Mankowska and Stephen Gibson) to be in any way credible. The evidence was that several professionals observed issues with the respondent's presentation, her ability to read social cues, to process and retain information and to interact with others. They had concerns when observing her interactions with H during supervised contact. I accepted the evidence that the referral for this assessment was well intentioned and had the dual aims of ascertaining whether any aspects of parenting capacity could be bolstered/improved with targeted interventions (relating to any undiagnosed neurodiversity or a learning issue) and/or allowing reasonable adjustments to be made and communication improved between the respondent and the professionals working with her. The respondent's cynicism regarding this was perhaps understandable, given her experience of previous assessments, but was nevertheless misplaced.

(iv) **If it was accepted that no concerns arose regarding the respondent's care of H in hospital during the first 3 days after her birth and that she would never deliberately harm her baby then how could it be concluded that there would be a significant risk of harm were she to be discharged from hospital into the respondent's care?** The petitioner's witnesses accepted that the respondent

loves H and that she had not, and would not, deliberately harm her. It was considered by social workers, midwives, and ultimately by the relevant court, that a risk of significant harm did arise from the deficits in the respondent's parenting capacity and the risks posed by her relationship with NS such that a child protection order was granted.

(v) **Why was the respondent 'punished' for being a victim of domestic abuse? Why did social workers involve NS in their assessment and repeatedly contact him? Why did they encourage her to maintain a relationship with him? Why has credit not been given to the respondent for the work which she had undertaken with Women's Aid and the steps which she had taken to safeguard herself and her unborn baby?** The relevant evidence, which I accepted, is set out in findings in fact 7-18. There was no credible evidence to support the contention that social workers encouraged the respondent to stay in a relationship with NS. Quite the contrary, the evidence was that they had repeatedly advised the respondent to recognise the abusive nature of the relationship and to distance herself from him. The evidence was that Ms Mankowska contacted NS on three occasions at an early point in her involvement. Her attempts to contact him could not credibly be linked to his episodes of abusive behaviour. Social work concerns related to the abusive nature of the relationship, the respondent's failure to recognise this, her repeated reconciliations with NS, her desire for him to live in a family unit with her and to co-parent H coupled with her inability to take on board professional advice, to put in place appropriate boundaries and to safeguard herself and H from the risk of domestic abuse.

(vi) **Why was the supervised contact so restrictive? Craigmillar Library was a sterile environment where the respondent was isolated from family, friends and other parents with young children. Why was the respondent prevented from participating in groups such as Rhyme Time and Bookbugs with H. Would more natural contact in the local community not have been better? Why was no genuine attempt to rehabilitate H to the respondent's care, in her own home, not made?** Susan Rattigan, Lesley Scott and Samatha Ure supported the supervised contact. The evidence was that following H's birth, the primary objectives of contact were to promote bonding between her and her mother and to assess the respondent's interaction with H, her ability to read her cues and to respond to her needs. It was thought that this was best done in a supported one to one environment. Whilst group activities with other parents and babies normalised the situation for the respondent and provided support and social interaction for her, H was too young to participate in such groups and appeared either over stimulated or disengaged. It was thought that activities such as baby massage and support from professionals who modelled how to read H's cues and to engage with her would be more suitable and helpful to the respondent. The quality of contact did not progress to the point where it was appropriate for it to take place in the respondent's home or in the community. The social work assessment was that an attempt at rehabilitation was not viable and would not be in H's best interests.

(vii) **Was it accepted that no criticism was levelled at the respondent regarding her ability to feed, change and soothe H – effectively regarding her ability to meet her needs as a young infant?** This was accepted.

(viii) **Was it accepted that the respondent attended most supervised contacts, that when she was unable to do so that she cancelled ahead of time, that she brought blankets, play mats, snacks, everything required to change H and bags of toys - effectively that she was reliable and well prepared for contact?** This was accepted.

(ix) **Was it accepted that the photographs lodged in process by the respondent showed H smiling, contented and putting her hands up to be picked up cuddled by the respondent, and that this evidenced positive and affectionate interactions and good quality contact?** The evidence of social workers, social work assistants and Dr MacKinlay was that the photographs were snapshots of moments in time and were of limited evidential value as a record of the overall quality of contact. There were equally periods of time when H had been withdrawn or distressed and when her needs were not being met during contact. Whilst the respondent was affectionate and well-intentioned, professionals observed a lack of emotional attachment and a lack of parenting capacity to read, observe and meet H's emotional and developmental needs. The respondent struggled to adapt to H's changing developmental needs and to provide age-appropriate stimulation. H had sometimes accepted physical affection from the respondent or had put her hands up to be picked up when the respondent reached out to her but more commonly, she pulled away, arched her back, pushed her hands against the respondent's chest or looked over her shoulder rather than make eye contact with the respondent. Whilst the respondent undoubtedly loves H, no reciprocity of attachment was observed by professionals.

(x) **The assessments of the quality of contact were unfair as H's needs had been met during supervised contact. She was safe, fed, changed, smiling, playing with age-appropriate toys and enjoying a warm and affectionate relationship with the respondent**. Some of these descriptors were accepted but this line of questioning was responded to by witnesses explaining what was observed to be missing from the contact: H's eyes lighting up in recognition and acknowledgment, her seeming excited to see the respondent and being spontaneously affectionate towards her, her seeking comfort or reassurance from her, good eye contact, reciprocity, child-led play and social engagement, appropriate stimulation and distress when separating from the respondent at the end of contact. None of these were observed by professionals.

(xi) **Why had contact been undermined by unnecessary and unwarranted interruptions by social work assistant and by H missing her naps so that she was over-tired?** The evidence did not support these contentions.

(xi) **Why was the respondent not given contemporaneous feedback during contact to enable her to respond or take comments on board? It was 'sneaky' and dishonest for professionals to smile and say nothing during contact and then write reports full of criticism. Did that not undermine the credibility of those criticisms?** The evidence of the social work assistants/ social workers was that they had repeatedly tried to model, advise and help the respondent who was defensive and unwilling to accept this or take it onboard. The respondent tended to respond by offering other explanations for H's demeanour/behaviour such as teething, tiredness or health issues. After the first few months, the respondent made it clear that she did not want to meet

with social workers or to receive any negative feedback. The opportunities for feedback became limited and relationships with professionals were strained.

Carole Downie (Midwife) and Louisa Heaney (Bump Start)

[5] Carole Downie adopted her affidavit (26 of process). The initial referral to social work was made by the then midwife Maureen Scott (something which happened automatically in relation to a pregnancy where the mother has elder children in care). The respondent was unhappy that this had occurred, made a formal complaint and deselected Ms Scott as her midwife. Carole Downie became the allocated midwife on 30 April 2024 when the respondent was 22 weeks pregnant. She was subsequently deselected by the respondent and replaced by her colleague Linn Elder who was allocated during the latter weeks of the respondent's pregnancy. The respondent made several complaints about midwives. These arose in large part as result of her resentment that information was shared between social work and healthcare professionals who appeared to her to be working collaboratively. Questions were put to Ms Downie regarding alleged failures to address the respondent's medical problems during her pregnancy. The evidence did not support such findings. Ms Downie also gave evidence regarding missed appointments/withdrawal from healthcare professionals during the latter stages of the respondent's pregnancy. This evidence was relevant to a general finding that respondent tended to initially engage with professionals before withdrawing/declining to engage when she feels unfairly criticised. The evidence did not support a finding of any significant neglect of the respondent's health/the progression of her pregnancy such that there was any serious detriment to H.

[6] Louisa Heaney is a family wellbeing practitioner with a third sector organisation Stepping Stones. She is a qualified midwife and works with Bump Start which is a service

for pregnant mothers and for mothers with babies under 6 months old. Ms Heaney offers tailored one to one support, baby massage sessions and participation in groups. She adopted her affidavit (25 of process). Her evidence followed a similar pattern in that the respondent engaged well and with some enthusiasm initially. She participated in three of the eight baby massage sessions offered. Once the respondent realised that social work has shared information with Ms Heaney and felt that this coloured her view of her and the nature of the support being offered, she began to withdraw. It was put to Ms Heaney that she had offered sessions at an address very close to NS' home, thus putting the respondent at risk. She responded that, if so, then this was inadvertent and that an alternative venue could easily have been provided.

KC – Foster carer

[7] KC and her husband have been foster carers for 20 years and have fostered more than 20 children. They are approved as carers of two children under two and as providers of an emergency placement. They have cared for H since she was discharged from hospital on 26 August 2024. KC is 72 years old. The placement is not a long-term one. KC and her husband are H's primary attachment figures and the only parents she has known. Any move from this placement will need to be carefully and sensitively planned and supported. KC has previous experience of that process and keeps in touch with many of her foster children. She adopted her affidavit (28 of process). Her evidence was that H is a healthy, happy child who is meeting all her milestones and who is a joy to care for. KC met the respondent at an early stage. Relations were initially good. Mobile numbers were exchanged and updates provided. Relations then deteriorated. The respondent used the communication book, which went back and forward between her and the foster carers at

contact, to write criticisms of them. She made complaints to social work about H's foster carers, alleging neglect. The issues she raised were largely medical: repeated colds, an untreated episode of bronchiolitis in late 2024, persistent nappy rash, teething and (following an incident when H fell backwards from a seated position and bumped her head during contact) suggesting that H had absences or seizures which should have been investigated. KC's evidence was that she became anxious and upset as result of the tone, level and nature of the respondent's messages and complaints. She decided to cease all direct contact with her at family time/supervised contact pick up and drop off and to avoid indirect contact via phone calls and messages.

[8] KC also gave evidence about H's contact with the respondent. This has happened at various frequencies throughout the placement. KC's husband usually takes H to Craigmillar Library. Handovers are undertaken by the supervising social work assistant. H can be subdued, particularly at drop off, but reverts to her usual happy self shortly after pick-up. She is sometimes over stimulated or tired after contact, but no major issues or distress were reported. KC also supports contact between H and her brother M.

[9] KC and her husband have met the prospective adopters identified for H and are happy to work with them to facilitate the transition of H's care to them. The prospective adopters have adopted an older child and have experience of supporting a child through this transition and helping them to settle into a new family unit. KC stressed the importance of this transition happening soon, given H's age and developmental stage. The longer H lives with them, the harder the separation will be for her.

[10] **Carina Herkes, H's health visitor,** adopted her affidavit (27 of process) and gave evidence regarding these issues. Ms Herkes has been the allocated health visitor for all the children fostered by KC and her husband and so she has seen H very regularly throughout

her life. She has absolutely no concerns about H's health or wellbeing. All minor ailments had been appropriately treated. Ms Herkes met the respondent at meetings, provided her contact details and encouraged her to ask questions and seek information about H's health and wellbeing by contacting her directly. She has never done so. On 1 April 2025, Justyna Mankowska contacted Ms Herkes and asked her to speak to respondent who had raised a number of concerns about H's wellbeing: that she had suffered from nappy rash for an extended period, had constant colds, had issues with her sleep routine (she was being kept up before contact so that she slept during visits). She was also concerned about H having absences or seizures. It was alleged that the foster carers were neglecting H. Ms Herkes did not share any of these concerns. She tried to contact the respondent without success. She reported on H's health and wellbeing to the LAAC review meeting on 8 April 2025. The respondent did not attend. The respondent's concern that H may be suffering from absences or seizures was not shared by her foster carers, Ms Herkes, her GP or other professionals.

Sally Lang, social worker, Adoption Services Team

[11] Ms Lang has practiced as a social worker for more than 30 years. She is the allocated social worker for the couple who have been matched as prospective adopters for H. She has known them for several years as she supported the family when they adopted their elder child in 2020. The prospective adopters both work with children. They have experience in supporting a child through placement transition and forming secure familial attachments. They are a good match for H. They are of Eastern European heritage but have lived in Scotland for a long time. (By coincidence, NS is from Lithuania). They are active members of a church community. This has also been part of the respondent's life and something she

thinks is important for H's development. The prospective adopters were not involved in the proof. Their views and circumstances were spoken to by Ms Lang. They have experience of adoption and are committed to helping H to understand her identity and life story. They are happy to engage in bilateral letterbox contact but have reservations about direct contact. They fear that this may undermine the placement or disrupt H's sense of security in her new family unit.

[12] The respondent's questions to Ms Lang largely focussed on the fact that the information given to the prospective adopters regarding her was likely to have been critical, "defamatory" and inaccurate and that as such, it was unlikely that they had a positive view of her and would portray her positively to H. Ms Lang did not accept this.

[13] Ms Lang described H as a healthy, happy, playful and emotionally expressive child who is meeting all her milestones and is well placed to be adopted. She is securely attached to her foster carers, and has the best chance of coping with a change in her placement and developing a secure attachment to prospective adopters if she moves before her second birthday. This transition is auspicious as both the prospective adopters and the foster carers have experience of navigating this. The alternative options for H are significantly less attractive. There are no kinship care options. Should a permanence order be granted without a provision authorising adoption then the placement with prospective adopters would be lost. H cannot stay with her current foster carers in the medium or long-term. She would be likely to face more than one change in her placement with no settled family unit, ongoing LAAC reviews and possible further litigation during her childhood. Were the permanence order to be refused by the court then H would remain subject to a compulsory supervision order, and which would be subject to regular review by the children's hearing. The hearing would require to regularly review H's foster placement, and to consider her

contact with the respondent and whether rehabilitation to the respondent's care might to be a viable option. That seems unlikely given the overwhelming evidence in this case and previous decisions made by the hearing. It is in H's best interests to be part of a settled family unit with parents who are well placed to meet her needs and to provide nurturing care throughout her childhood and beyond.

Dr MacKinlay

[14] Dr MacKinlay has practiced as chartered clinical psychologist for more than 20 years. She is registered with the HCPC and has BPS expert witness certification. She is a highly regarded expert who has provided over 150 reports for the Scottish courts. She was an impressive witness whose evidence I accepted.

[15] Her report, dated 2 February 2026 (5/2 of process), was instructed by the petitioners. Dr MacKinlay was instructed to assess the respondent's psychological presentation and to assess whether she had the capacity to meet H's emotional and physical needs and to safeguard and promote her welfare throughout her childhood. She was also instructed to identify any risks, to identify measures to ameliorate those risks and to recommend whether H could be rehabilitated to the respondent's care. If this were not to recommended, Dr MacKinlay was asked for her opinion on post permanence contact. The respondent declined to participate in this assessment. She also cancelled the planned supervised contact on 3 March 2026 which had been due to be observed by Dr MacKinlay (per the addendum to her report, 5/5 of process). Dr Mackinlay adopted her reports and gave evidence that she had intended to spend 8 hours with the respondent exploring her perspectives, understanding her views, assessing her capacity for change, undertaking psychological tests, visiting the respondent's home and observing contact/ assessing the respondent's parenting

of H. That would have enabled her to undertake a more comprehensive and balanced assessment. Dr MacKinlay acknowledged that it was not uncommon for a parent who has experienced repeated child protection interventions and assessments to refuse to participate in an assessment. That was often not simply a matter of non-cooperation but may stem from relatable mistrust of professionals or even a reflection of past trauma. Dr MacKinlay caveated her report, saying that it should be interpreted with caution as her methodology was restricted to consideration of written materials and interviews with professionals.

[16] Dr MacKinlay was aware that Dr Burke's assessment had concluded that the respondent does not have the psychological capacity to be emotionally available to her children. She did not have the opportunity to assess this first hand for herself. Dr Burke's finding was consistent with the information Dr MacKinlay gleaned from interviews with professionals who reported working with the respondent and H; namely, that the respondent had a rigid and repetitive approach to parenting, demonstrated limited attunement to H's cues and an inability to adapt to her daughter's growing, developing and changing needs. The respondent struggled to provide appropriate interaction, stimulation, boundaries and routines. Whilst the respondent is clearly loving and well-intentioned, what was described by those observing contact was a profound lack of emotional attunement, a lack of capacity to meet H's emotional and developmental needs, and a lack of reciprocal attachment.

[17] The respondent's photographs of contact were put to Dr Mackinlay in cross-examination. She responded that these recorded split-second moments which were subject to selection bias and offered little by way of evidential value. Whilst some pictures depicted physical closeness or engagement, more often they depicted a lack of emotional engagement and H looking at toys or at the camera rather than at the respondent. The

photographs did not demonstrate the core features of attachment, such as H seeking comfort when distressed, using the respondent as a secure base from which to explore, displaying distress on separation from the respondent and relief on reunification with her. None of these aspects were noted by those observing contact.

[18] The evidence of the respondent's complete lack of insight and pervasive use of denial and externalisation as coping mechanisms, together with a complete mistrust of professionals were significant barriers to addressing any concerns regarding her parenting capacity. She was unable to accept advice support or adapt her parenting style and was also unable to internalise feedback and reflect on it. This would make any collaborative work with professionals or therapeutic intervention almost impossible. In such circumstances, any attempt to rehabilitate H to the respondent's care would be unlikely to succeed and was not in her best interests. The exploration of this option would only have been a viable in circumstances where the respondent was able to open up her life and her home to professionals, to be receptive to working with them and able to take on board their advice.

[19] Dr MacKinlay considered that H's interests would be best served in a settled family unit providing continuity of care, emotional security and opportunities for development. At this point, H's primary attachment figures are her foster carers. She demonstrates age-appropriate independence, curiosity and social engagement. She is well placed to transition to an adoptive placement, and this would be the best option for her. It would not be in her best interests to face uncertainty and repeated placement changes.

[20] Dr MacKinlay's assessment of the information provided to her was that the quality of the interaction between H and the respondent during contact did not suggest that future direct contact would be in H's best interests or would promote her wellbeing. Her presentation was noted to be markedly more relaxed and animated when with her foster

carers than during contact. There was no evidence of a reciprocal bond let alone a secure attachment between H and the respondent. Furthermore, there was a high likelihood that direct contact would be emotionally disruptive for H and may undermine her sense of security in her adoptive family, as the respondent lacks the capacity to support the placement. Dr MacKinlay's opinion was that H's best interests would be served by the granting of a permanence order with authority to adopt and an ancillary order providing for bilateral letterbox contact managed in a safe way. This would enable H to maintain a sense of her life story and her identity whilst secure in her adoptive family.

The respondent's evidence

[21] The respondent lodged and adopted a written statement (31 of process) and inventory of productions (55/56 of process) at the start of her evidence. She went through these documents methodically, remaining calm and composed throughout. The respondent is a gentle, loving and reliable parent who has never harmed H. She feels that she has simply never been given a chance by social workers. It is her dearest wish to have H rehabilitated to her care. Her evidence was that she had done everything asked of her prior to H's birth in terms of getting her home ready and engaging with professionals. She gave birth to a healthy baby and met her needs during the 3 days following her birth. Professionals accepted that she had fed, charged and cared for H in a hospital setting. She could not understand the basis for a child protection order having been granted.

[22] The respondent considered it important to lead evidence regarding historical issues relating to her older children, A and L, as social workers had used this as a baseline for their interventions with M and H at birth. She believes that historical decisions were made based on inaccurate information. It was unfair for social workers to pressurise her to accept

findings of past parenting failures and to criticise her when she refused to do so and tried to challenge them. The respondent struggled to accept that the court could not re-open findings in fact made in previous children's referral and permanence proceedings. Whist a degree of latitude was given to her by allowing some evidence of this nature to be led, it was made clear to the respondent that findings in fact regarding these issues would be unlikely to feature in this judgment which requires to focus on H.

[23] The respondent's evidence was characterised by a pervasive use of denial and externalisation/blaming others for various issues. She exhibited rigid thinking and seemed entirely unable to take on board alternative perspectives, to reflect or to adapt her approach. A pattern emerged of her initially engaging with professionals who she perceived to be giving her a fresh start, before sending them hostile messages, submitting letters of complaint and then disengaging either when she was criticised, when historical information was referred to or where professionals appeared to be sharing information or working collaboratively. The points in time when the respondent made unfair criticisms of H's foster carers, raised unwarranted health concerns and sent hostile messages to social workers can be loosely correlated to the times when the respondent's parenting capacity was criticised by professionals or when adverse decisions were made at meetings. The respondent demonstrated a repeated pattern of deflecting, seeking alternative explanations, externalising and withdrawing from difficult situations apparently as coping mechanisms. Whilst one can feel some empathy for the respondent's distrust of professionals, given her past experiences, her inability to navigate these situations in any other way and this repeated and entrenched pattern of behaviour inevitably resulted in professionals reaching the conclusion that they could not undertake any reflective work with her, offer her advice

that would be taken on board or help her to address the deficits in her parenting capacity. This continues to be the situation at the date of proof.

[24] It is against this context that a referral for an assessment of any learning difficulty or neurodivergence was made. Having observed the respondent in court over 8 days, I shared the impression of social workers that respondent's presentation, her difficulty in reading social cues and her apparent inability to process and respond to information may be indicative of neurodivergence. I am not qualified to assess the respondent and heard no evidence which would enable me to make a finding in fact regarding this issue. The respondent was indignant that this issue was raised. She pointed out that her paralegal qualification, the completion of a college course in art and design and her ability to navigate these proceedings as a party litigant were clearly indicative of a level of intellect. Intellect and neurodivergence may, of course, be two entirely different issues. I consider that an assessment of this nature may not only have assisted the court, but may also have helped social workers to understand the barriers to effective communication with the respondent, to make reasonable adjustments, to glean insight into the challenges to her parenting capacity and to identify how best to help the respondent to attune to H, to read her cues, to interact with her in a developmentally appropriate way and perhaps, to develop emotional reciprocity.

[25] The respondent video recorded most of the supervised contact sessions and printed off a huge volume of photographs from those films. Her evidence was that these photographs show H smiling, happy, affectionate during contact and then distressed when visits came to an end. The respondent adores H, has shown considerable commitment to contact and came to visits prepared with everything which her daughter might need. The photographs do show some happy moments and positive interactions. Overall, I preferred

the evidence of the social work assistants who supervised contact, and that of Dr MacKinlay, insofar as the overall quality of contact was concerned. The respondent was doing her best to tell the truth when giving evidence about contact. She genuinely failed to understand the issues regarding her parenting capacity which the petitioner's witnesses were setting out and simply did not share their perspective. It is unfortunate that the respondent has been unable to take on board feedback about these issues, to seek and follow advice, to copy the behaviour modelled to her and to learn from the professionals who were genuinely trying to help her. In the absence of an assessment regarding neurodiversity, it is difficult to conclude whether the respondent was simply unwilling, and perhaps unable, to accept professional help and input. Regardless, given the length of time which has passed and the extent of efforts made to help her, one can only conclude with sadness that either way, she simply lacks the capacity to address these issues and to meet H's needs.

[26] I did not accept the respondent's evidence that she had never been given a chance, or that had contact taken place in less restrictive settings, perhaps supported by foster carers rather than social worker and perhaps, in the respondent's home and with a view to rehabilitation, that everything would have been different. Whilst such contact may have been a more relaxed experience for the respondent and would have resulted in her feeling less stigmatised and isolated, the evidence that this would have improved the quality of contact was not persuasive. Whilst any parent seeing a toddler once a month may struggle to immediately adapt to their developmental changes and to maintain an emotional connection with their child, the criticisms of the respondent go far beyond this. I accepted the evidence of the social work assistants that one to one contact, modelling behaviour, baby massage and well-intentioned interventions offered the best opportunity to help the respondent to connect with H and to respond to her needs.

[27] The respondent's evidence about her relationship with NS lacked credibility. Her narrative was internally inconsistent and was, at points, inconsistent with her father's evidence. She said that she had never told professionals that NS was H's father. However, it was abundantly clear from the evidence of Justyna Mankowska and Carole Downie, backed up by contemporaneous entries in the SWIFT records (which included reports made by the respondent to Women's Aid and text messages sent by her to social workers) that the respondent had repeatedly told professionals orally and in written messages that NS was H's father and that she wanted to raise her in a family unit with him. It was only after H's birth that any alternative father was mentioned. The SWIFT records clearly record the respondent's conversation with Susan Rattigan on 3 September 2024 when she suggested that a friend of NS may be H's father. During the proof the respondent said that she believed another man "Robert" was H's father but said she would not provide more details as he did not want to become involved in court proceedings or with social workers. Her evidence about how she knew Robert and his circumstances was not consistent either. It was apparent from the respondent's evidence that at intervals throughout H's life, and indeed even at the date of proof, that she has harboured and may continue to harbour hopes of a reconciliation with NS and a wish to bring up H in a family unit with him.

[28] Whist the respondent's evidence regarding her engagement with Women's Aid and the steps which she took to distance herself from NS after he behaved abusively towards her was unchallenged and was to her credit, it was equally clear that she continues to minimise, gloss over and reframe his behaviour. Her revisionist narrative that NS's episodes of abusive behaviour could be attributed to the stress caused by repeated contacts from social workers or ongoing children's hearings and court proceedings did not bear scrutiny. Equally, her belief that the episodes of abusive behaviour were in the past and that things

would be different in future simply demonstrated her naivety, her inability to recognise the abusive nature of this relationship and the risks posed to her and H, should H reside with her. The respondent was untruthful about the extent of her contact with NS. It was clear from her evidence that a reconciliation between them could not be ruled out. The respondent has been involved in previous relationships which were characterised by domestic abuse. She presents as a vulnerable individual who struggles to impose boundaries and to keep herself and her children safe. It is more probable than not that were H to reside with her then there would be a risk of H being exposed to domestic abuse.

[29] The respondent is vehemently opposed to adoption. She described this as catastrophic and something that she simply could not contemplate. She cannot accept that this may the right path for H and considers that the court should not do anything to jeopardise her parental rights and responsibilities. Her perception of Sally Lang's evidence is that the prospective adopters have been given a false narrative and false impression of her, and that sharing this with H would be detrimental to her welfare. Her evidence was that when the respondent calls herself "mama" during contact, H will repeat this. They have a close bond, and H would be distressed if direct contact were to be reduced. She thought that the decision to proceed to permanence and ultimately adoption was premature, having been made by social workers when H was only 6 months old. She had simply never been given a chance. Rehabilitation had never been attempted. Social workers had failed to give her any credit for the things she had done well and had unfairly labelled and criticised her.

[30] The respondent did not give evidence regarding any alternative to the order sought other than H remaining in the children's hearing system and being subject to a compulsory

supervision order in terms of which rehabilitation to her care could, and should, be explored.

[31] It was impossible to explore the option of post permanence contact with the respondent in her evidence as her mind was so set against this outcome that she could not contemplate this even from a hypothetical perspective. It was apparent that she would struggle to ever accept that this may be right path for H and that she may be unable to refrain from giving H an alternative narrative during contact which would be likely to undermine H's sense of security in an adoptive placement.

K A

[32] The respondent's father is 75 years old and shares a home with her. He has supported her at various meetings and has observed many supervised contacts. He shared his daughter's view regarding the unfairness of social workers' conduct and their unwarranted criticisms. His impression was that the respondent had done a great job of looking after H immediately following her birth and had done an excellent job of caring for H during supervised contact. The social work assistants have done all that they could to make contact a sterile and stressful experience and had deliberately isolated and picked on the respondent. He believes that a meaningful attempt at rehabilitation would be in H's best interests and that this would demonstrate that the respondent could look after her "no bother". He gave positive descriptions of contact. Whilst he demonstrated some insight and concern regarding NS' episodes of anger and alcohol misuse, comparing these to his own father's PTSD, he showed a worrying lack of concern for the respondent's safety were she to reconcile with him. His evidence supported a finding that a future reconciliation should be a distinct possibility. He also sought to minimise past abusive behaviour, saying that things

had been much better over the last year and the episodes of abuse had been exacerbated by the actions of social workers.

The legal framework

[33] The threshold test for granting a permanence order is set out in section 84(5)(c)(ii) of the Adoption and Children (Scotland) Act 2007:

> "(i) that there is no person who has the right to have the child living with the person or otherwise to regulate the child's residence, or
> (ii) where there is such a person, **the child's residence with the person is, or is likely to be, seriously detrimental to the welfare of the child."**

[34] In the recent Outer House decision in *City of Edinburgh Council, Petitioner*, 2026 CSOH 1, Lord Braid summarised the various principles which can be derived from the progression of Scottish authorities in relation how the provisions in the 2007 Act are to be interpreted and applied. The principles he referenced are as follows:

> "a. First, section 84(5)(c)(ii) which requires the court to be satisfied that the child's residence with a parent is or is likely to be seriously detrimental to the child's welfare, imposes a threshold test which must be satisfied if a permanence order is to be made. (*West Lothian Council v MB*, 2017 SC (UKSC) 67, Lord Reed at [16]; *Glasgow City Council, Petitioner* [2019] CSOH 25, Lady Wise at [137]. It follows that if that test is not satisfied, no permanence order can be made.
>
> b. Second, the serious detriment test must be considered as at the date of the decision, rather than at some earlier time: *City of Edinburgh Council v GD*, [2019] SC 1, paras [30] &
>
> c. Third, a 'likelihood' of serious detriment means that there must be a real possibility of same: *City of Edinburgh Council v GD*, [2019] SC 1, para [31].
>
> d. Fourth, in determining whether the serious detriment test is satisfied, the judge is acting as a primary decision-maker. It is not the judge's function to determine whether a local authority acted reasonably in harbouring suspicions or taking certain action: *West Lothian Council v MB*, 2017 SC (UKSC) 67, para [18]. Of significance to this case, it follows that just as it is irrelevant to the serious detriment test that a local authority acted reasonably (as the Lord Ordinary had found in *West Lothian Council v MB*), so, too, it would be irrelevant to find that a local authority

> acted unreasonably if the judge is otherwise able to find that the serious detriment test is satisfied.
>
> e. Fifth, in deciding whether residence with a parent will be likely to be seriously detrimental to a child, the court is entitled to take into account, as a factor, the impact on the child of removing them from the environment which the child currently is in: *Fife Council v M*, 2016 SC 169, para [54] (albeit that was not the only factor in that case)."

[35] Having established, on the balance of probabilities, the facts which upon which a conclusion of serious detriment may be made, the court must then decide whether that is likely if the child lived with the relevant adult. While the court's primary focus is upon the quality of care which a parent can provide, as Lord Braid outlined, serious detriment may also be established by the perceived effect of removing the child from a settled placement**.**

In *West Lothian* v *B* [2017] UKSC 15 it was held;

> "There is a serious though unquantifiable risk that any attempt to rehabilitate the children, or even one of them, to her care would end in failure. That would cause enormous disruption to their lives at a very vulnerable time. Their present placements, where they are settled in and very happy, might well not be available to them. In those circumstances I am satisfied that returning the children to live with their mother is likely to be seriously detrimental to their welfare."

In *Midlothian Council* v *CMP* 2013 CSIH 71 the Inner House endorsed the approach of the Lord Ordinary who had held:

> "In my opinion it cannot be concluded that there would be no serious risks in rehabilitating the child to the respondent's care. If it was tried, but failed, the serious damage to the child is obvious"

[36] If the threshold "serious detriment" test is satisfied the court moves on to consider the welfare test in section 84(4) and the minimum intervention principle in section 84(3). At para [18] of *City of Edinburgh Council, Petitioner* above, Lord Braid set out:

> "In doing that the court must consider all realistic options for the care of the child and conduct a 'global holistic evaluation' of the benefits and disadvantages of each option: *North Lanarkshire Council v KR*, above, at paras [64]-[70]. That means more than a 'tick box' exercise but involves an assessment of the whole merits and demerits of the various options: *ibid* at para [65]. Only having carried out that

> exercise will the court be able to conclude whether a permanence order (with or without authority to adopt) is the option which best safeguards and promotes the welfare of the child throughout childhood. The final decision is not one of the exercise of discretion: the court must do what the welfare of the child demands. If the exercise is carried out this way, the requirement of proportionality will be met, and the approach will be ECHR compatible: *Glasgow City Council, Petitioner*, para [139], referencing *North Lanarkshire Council v KR* 2018 at para [69]."

Authority to adopt

[37] The effect of section 83(1)(c) is that authority to adopt may only be granted if the respondent consents or the court dispenses with their consent. The grounds for dispensing with consent are contained in section 83(2) and (3) of the 2007 Act and in the circumstances of this case, the ground relied upon is set out in subsection (3):

> "(3) This subsection applies if the parent or guardian—
> (a) has parental responsibilities or parental rights in relation to the child other than those mentioned in sections 1(1)(c) and 2(1)(c) of the 1995 Act,
> (b) is, in the opinion of the court, unable satisfactorily to—
> (i) discharge those responsibilities, or
> (ii) exercise those rights, and
> (c) is likely to continue to be unable to do so."

In this context, **"**likely to be unable to do so" means in the foreseeable future**.** In *S* v *City of Edinburgh Council* 2013 Fam LR 2 the Inner House found at paragraph 29:

> "Absent any reliable evidence (which the sheriff accepted) demonstrating a change in the pattern of behaviour which had caused the concerns in the past, it is our opinion that the sheriff was entitled to base his assessment of the future upon the substantial body of evidence relating to the present and to the past."

[38] The court must then have regard to the terms of section 14. Section 14(3) requires the court to be satisfied that adoption is not merely desirable or reasonable but necessary to safeguard and promote the child's welfare throughout their life: *S* v *L* 2013 SC (UKSC) 20 at paras [30] - [34]. If that exercise, too, is properly carried out, then a decision that the child should be adopted will likewise satisfy the requirements of necessity and proportionality and will be ECHR complaint, para [43]; City *of Edinburgh Council, Petitioner* para [18].

Section 14(4) requires the court to have regard to the child's religious persuasion, racial origin and cultural and linguistic background. Section 14(4)(b) requires the court to consider whether the child is of sufficient age and maturity to form and express a view.
Section 14(3A) requires the court to have regard to any risk of prejudice to the child that a delay in the proceedings would pose.

Alternative orders

[39] Where the child about whom a court is considering whether to make a permanence order is the subject of a compulsory supervision order, the court can only revoke the compulsory supervision order under section 89 of the 2007 Act if it makes a permanence order and not if it declines to do so. Should the court decline to make a permanence order the compulsory supervision order remains in place and the exercise of any parental rights or responsibilities is subject to the conditions attached to the compulsory supervision order which will be subject to review by the children's hearing.

Submissions

Petitioner

[40] The petitioner moved the court to make the following orders:

a. To make a permanence order in respect of H with ancillary provisions vesting parental responsibilities and rights in the petitioner and extinguishing the parental responsibilities and rights of the respondent other than the parental responsibility and parental right of contact;

b. To make an ancillary order entitling the respondent to indirect letterbox contact with H twice yearly whereby the respondent shall be entitled to provide a letter

or card for H to the petitioner, to be passed to H's carers. Following receipt of correspondence from the respondent, the petitioner will provide her with a response on behalf of H. Should the respondent fail to send a letter or card, no correspondence on behalf of H will be provided by the petitioner;

c. To include provision granting authority for H to be adopted;

d. To terminate the compulsory supervision order currently in place in relation to H.

Submissions on the evidence as relevant to the undernoted propositions

Proposition (a) That H's residence with the respondent is likely to be seriously detrimental to her welfare

[41] The court is required to consider the present positions of both the respondent and H. Evidence of past events informs the "likelihood" of serious detriment occurring in future. There are a variety of factors which, it was submitted, should cause the court to conclude that H's residence with the respondent is likely to be seriously detrimental to her welfare.

[42] The respondent has limitations in her parenting capacity which have been detrimental to her relationship with H. Whilst the respondent does not accept any responsibility for the removal of her elder children from her care, she has been assessed in the past as lacking the capacity to parent them satisfactorily. Whilst the petitioner, in commencing work with the respondent pre-birth, made a conscious and concerted effort to ensure H's care plan was considered afresh, previous concerns regarding her parenting capacity could not be ignored and could not be left unaddressed. Unfortunately, the respondent's unwillingness to even discuss past events has contributed to the ultimately

negative outcome of the parenting assessment conducted by Justyna Mankowska in relation to H, completed in January 2025.

[43] Given the extent and duration of supervised contact, there has been ample opportunity to assess the respondent's capacity to care for H. Whilst the respondent was observed to be well-prepared, engaged and able to meet H's basic needs as a young baby during contact, there were features of her parenting style and communication with H which led to a conclusion that she was not able, and will not be able as H grows older, to meet her emotional and developmental needs. She was observed to be rigid and repetitive in her parenting style, not to pick up on H's cues and instead to be effectively going through learned motions and processes rather than reacting specifically to the situation she faces with H at the time. Such rigidity and inflexibility would have an increasingly detrimental effect as H grows older, learns to speak and socialise and requires more emotionally attuned parenting. The social work witnesses who observed contact were all able to provide working examples of their observations of the respondent which showed areas they considered to be of concern. Those specific examples in isolation may seem insignificant or trivial but when taken together they create a picture of what is missing in the respondent's interactions with H compared to her interactions with other adults. Various witnesses spoke about H's presentation with her current carers and other adults she interacted with, compared to her presentation with the respondent. H was observed to be happy, smiley, a baby who kicks her legs and was very expressive when interacted with in an engaged way by adults. Such reactions have not been consistently observed in interactions with the respondent, with the relationship being described as lacking reciprocity and with H being described as seeming "flat" during contact.

[44] The respondent has been provided with feedback by contact supervisors in relation to how best to engage with H but has not been observed to have taken on that feedback in changing her interactions. Her attitude to feedback has been challenging for professionals, as she continues to believe professionals are falsely finding deficits in her parenting to achieve a desired outcome for H's long-term care. This has resulted in the respondent being unwilling to engage with professionals to receive feedback or discuss alternative parenting strategies.

Proposition (b) That the respondent has been unable to safeguard herself from domestic abuse and is likely to make decisions which place H at risk of exposure to domestic abuse in future

[45] The respondent has reported serious and sustained domestic abuse towards her perpetrated by both the father of her elder children, TF, and the father of M, NS. She has been involved in a relationship with NS between 2020 and at least January 2026. The current status of her relationship with NS is unclear. The respondent has not been a reliable narrator of the timeline of her relationship with NS, nor her description of the relationship, to various professionals. The respondent's position in her own evidence surrounding her relationship with NS was concerning. She lacks any insight into the risk NS' behaviour poses to her and would pose to H. She has been entirely unwilling and unable to take any responsibility for her own role in the continuation of the relationship. She has demonstrated that she cannot make decisions which appropriately safeguard herself and would be unlikely to make decisions in the future which safeguard H. Her behaviour in this relationship may be a pattern of behaviour which also existed in her previous relationship with TF, and which is likely to continue in future, if not with NS, then with future male partners. This pattern is not conducive to safeguarding H from future abusive conduct.

Proposition (c) That the respondent has been unable to consistently engage with professionals, access support services and take on advice and feedback in relation to her parenting such that any plan to transition H into her care could not be implemented safely

[46] The respondent has had a difficult relationship with each of the allocated social workers of her older children. Whilst it is acknowledged and accepted that any parent is likely to find interactions with the social work department challenging in circumstances where a child is removed from their care, the respondent's mistrust of professionals and conspiratorial view of the world around her is unusual even in terms of a parent faced with her situation, such that it merits exploration when considering the serious detriment test. The respondent has, throughout the duration of this case, attributed all decisions made in relation to H to mistakes and falsehoods perpetuated by the social work department. That is a position which she has taken throughout H's life and during her pregnancy with H. That position has caused the respondent to disengage with social workers and support services at times when decisions have been made in relation to H which she perceives to be unfair or wrong, the most notable periods being the months following July 2024 and the months following January 2025. Her conduct demonstrates a pattern of behaviour insofar as she is unable to set aside her own views and attempt to listen and respond to professionals for the benefit, or perceived benefit, of H. Almost exclusively, professionals who have worked with the respondent perceive there to be a peculiarity in the way she communicates and in the way she processes and responds to information. She has twice been referred to the community disability learning team of the petitioner for assessment and refused to participate.

[47] A similar stance was taken by the respondent in relation to engagement with Dr Mackinlay. Dr MacKinlay's evidence was that such a stance is indicative of a general inability to work and engage with professionals in circumstances where doing so is essential to any proposal that a child be placed in that person's care. The respondent has not been able to demonstrate the capacity to change the pattern of disengagement evidenced.

Proposition (d) That the effect of making a permanence order on H would be to safeguard and promote her welfare for the duration of her childhood

[48] The granting of a permanence order would allow H to transition into a placement which is likely to be a safe and secure home for the duration of her childhood. Her current carers are of an age whereby they cannot care for H on a long-term basis, albeit they are able to continue to care for her until such time as a decision is made regarding her long-term care. H has been observed to have a secure attachment to her current carers and that, in turn, means she is likely to be able to transfer that attachment to future carers successfully. The sooner that transition happens, the more certainty and stability can be provided for H.

[49] The court must consider the potential outcomes for H if the order is refused. H would remain in the children's hearing system. A decision regarding her future care arrangements will require to be made there. That would require a further legal process for H, which will take further time to arrange and implement. Such delay is not in H's interests. H is almost 20 months old. The sooner certainty is provided in relation to her future care arrangements, the better the chance that her transition to long-term carers will be successful.

Proposition (e) That it is better for H that a permanence order is made than that it is not made

[50] There is a duty on the court, and on the petitioner, to consider alternatives to a permanence order for a looked after child. No viable kinship care options have been identified. H is a young child who has the opportunity of being cared for by an adoptive family rather than in a permanent foster care setting. She has been matched with a family who are suitable and well matched to her care needs. An adoptive placement would allow H to be claimed as part of a family rather than within a foster care setting in which other children transition in and out of the home. Transition to that adoptive placement would best be supported in the first instance by the granting of a permanence order in favour of the petitioner.

[51] Should the order be made, the petitioner seeks for H's compulsory supervision order to be terminated. This would mean H would no longer be the subject of children's hearings. It is not in her best interests to continue to be subject to the children's hearing system. Continued disputes surrounding her care arrangements are likely to cause uncertainty and apprehension for her in advance of each review hearing.

Proposition (f) That the ancillary order for letterbox contact sought would safeguard and promote H's welfare for the duration of her childhood

[52] H exercised a high level of contact with the respondent until 9 September 2025, when contact was reduced to one occasion per month by the children's hearing. The respondent comes prepared, engages with contact and shows love and affection towards H during contact, all of which is recognised by the petitioner. If it was considered that contact could continue in a way which was safe and beneficial for H, then the petitioner would seek an order with ancillary provision for contact to continue. However, in the circumstances of this

case, the petitioner submits that continued contact between the respondent and H in an instance where a permanence order is granted, is not likely to be safe or beneficial for H and is not therefore in her interests.

[53] The respondent cannot conceive of or consider a situation where a decision is made that H remain outwith her care on a long-term basis. This position mirrors the position she held in relation to her elder children with whom she now has no contact. She is unlikely to ever accept a decision which places H outwith her long-term care. She has indicated already an intention to appeal any decision should that be the outcome of these proceedings. She does not, and has indicated that she will never, accept that H should be cared for by alternative carers.

[54] Dr MacKinlay's evidence was that for direct contact with a parent to be maintained after a permanence order is made, a parent would need to be seen to support (even if they do not truly support) the child's placement with their permanent carers. Doing so is the only way for the contact to benefit the child whilst still allowing them to feel safe and secure in their placement. The respondent does not have the capacity to do this. She has been openly critical of the care that H has received by her current foster carers and has expressed a view that she believes the adoptive carers identified by the petitioner to be inappropriate carers for H. The respondent is likely to continue to raise unjustified concerns regarding H's care if contact continues. As H grows older and becomes articulate, the respondent is likely to present a narrative to her that is in keeping with the narrative she has vociferously presented within these proceedings, within previous court proceedings, and at all possible junctures to professionals. That narrative, that she has been the victim of injustice in relation to decisions made regarding each of her children, is likely to be harmful and disruptive if repeated to H.

[55] An order for indirect letterbox contact is proposed which is in keeping with the evidence given by Dr MacKinlay regarding the best way to promote H's sense of identity and background as she grows older. The respondent has presented herself as a very articulate individual throughout these proceedings. Whilst she has not felt able to engage with indirect contact in relation to her elder son M in the past, it is hoped that the evidence of Dr MacKinlay and the support of the permanence and adoption team of the petitioner may allow her to consider writing to H in the future. Such contact will allow H to have information about the respondent and the rest of her maternal family. Should the respondent feel able to engage in such contact, it would be of benefit for her to receive an update or response about H to ensure that letterbox contact can continue to be meaningful and engaged as H grows and develops. Such an update would not be appropriate if the respondent decides not to engage in letterbox contact.

Proposition (g) That H is likely to be placed for adoption

[56] H was matched with prospective adopters at a matching panel convened by the petitioner on 22 January 2026. The prospective adopters are a couple who have already adopted a child previously cared for by foster carers. They have prior experience of managing the transition of a child into their care and will have the support of their own social worker during this process. They are appropriate carers for H. The placement, should it be able to progress, is likely to be successful and result in an adoption application being made by the carers in relation to H in the future.

Proposition (h) That the consent of the respondent to the making of an adoption order in respect of H should be dispensed with

[57] The respondent has not been able to satisfactorily discharge her parental responsibilities or exercise her parental rights in relation to H and is likely to continue to be unable to do so. She has been unable to make decisions which prioritise H's welfare. The petitioner relies on the submissions made in relation to serious detriment in this regard. However, an important further example is the respondent's position on the paternity of H, which is likely to have important and far-reaching consequences for H's identity and the life-story work to be undertaken with her in the future. The respondent has presented differing narratives to various professionals and organisations at different times, presumably to portray what she considers to be the most advantageous position to her at any particular time. Doing so, it is submitted, has not been a mistake, realisation or oversight on her part, but has been a conscious decision by her to present information in this way. The fact that another individual may be H's father is information which was first presented to professionals in September 2024, after many months of the respondent advising social workers that NS was H's father. The respondent has not been forthcoming with details about that individual. The changing and uncertain narrative she has presented will make it difficult to conduct meaningful and honest life-story work with H when she is at an age and stage where that becomes important. This is an example of the respondent prioritising her own position rather than presenting information honestly and candidly to protect H's welfare in the future.

[58] The respondent opposes H being placed for adoption. It is not in H's interests for matters to be relitigated in future adoption proceedings. The court is required, by virtue of section 14(3A) of the 2007 Act, to have regard to any risk of prejudice to the child's welfare

that delay in proceedings would pose. Should the respondent's consent to the making of an adoption not be dispensed with, that is likely to result in unnecessarily delayed and protracted proceedings for H in the future.

Proposition (i) It would be better for H that provision granting authority for her to be adopted should be granted

[59] H has been cared for by the same temporary foster carers since she left hospital following her birth. Those carers cannot continue to care for H on a long-term basis. The transition to prospective adoptive carers is more likely to be successful if it is progressed soon. Granting provision for authority for H to be adopted will provide a stability and certainty for her which has been absent in her care plan thus far.

Respondent

[60] The respondent submitted that she has effectively exercised her parental rights and responsibilities to safeguard and promote H's health, development and welfare and has provided care in line with H's growing stages of development. She cared for H in the days following her birth without any need for professional intervention. She attended most of the supervised contact visits, coming prepared with all the necessary items to meet H's needs at various stages in her development. The feedback given to her during the early months of H's life was positive and indicative of the fact that she was attuned to her needs.

[61] The respondent loves H. H has shown signs of knowing who she is by calling her "mama". H seeks affection, comfort and reassurance from her. The evidence points towards a reciprocal bond between them.

[62] The evidence did not warrant a finding that it would be seriously detrimental to H's welfare to reside with her. There was no evidence of neglect or shortfalls in her parenting capacity. She has carried out her parental rights and responsibilities effectively insofar as social work have allowed her to do so.

[63] The respondent would be able to take on board advice and to work with professionals providing that that they are fair to her. She acknowledged that there had been difficulties in her working relationships with Justyna Mankowska, Stephen Gibson and Lesley Scott. This was because they had pressurised her to accept unfair criticisms and had repeatedly referred to historic findings regarding her older children which were untrue and unfair. They had refused to allow her to challenge or explain these alleged facts and had insisting on working from a baseline of false information which they pressurised her to accept. She had not been given a fresh start or a real chance with H. Despite these difficulties, she had accepted and tried to follow some of the advice given (such as age-appropriate toys for H). Feedback was no longer provided to her during or immediately after contact sessions. It was disconcerting when professionals said nothing at the time and then wrote reports full of criticism. This made it difficult to engage or engender trust. The respondent could work with professionals who gave her a fair chance, who were more constructive, and who did not seek only to find fault. She could work with H's foster carers. She should be given the chance to exercise contact in more relaxed settings and a genuine attempt to rehabilitate H to her care should be tried. Were she to be given a chance, it would become apparent that she has the capacity to meet H's needs and that it would not be seriously detrimental to H's welfare to reside with her.

[64] The respondent had tried to form positive working relationships with professionals such as the midwives or Louisa Heaney and those had initially worked well. Her trust and

confidence were undermined when information was shared by social workers and the false narrative repeated. This impacted on how she was viewed and damaged relationships. This situation deteriorated further when she realised that those professionals had attended multi-disciplinary meetings with social workers whose agenda was simply to gather evidence to support H's removal from her care. She could work with people who gave her a fresh start and assessed her purely on her current actions and circumstances.

[65] Justyna Mankowska and Lesley Scott had deliberately isolated her and had tried to undermine her relationship with H. Their evidence was not a true reflection of the quality of her contact with H. It was difficult to work with professionals who did not acknowledge positives and repeatedly unfairly criticised her.

[66] It was apparent to the respondent that Dr MacKinaly had been given a significant amount of historical information, much of which she judged to be inaccurate, when instructed by the petitioner. The respondent thought that Dr MacKinlay would have a preconceived idea of her before they even met and given her experience of Dr Burke's assessment (which she assumed that Dr MacKinlay had read) she considered that it was unlikely that her assessment would be an impartial one. She considered that the real purpose of the report was simple to assemble more evidence to bolster the petitioner's case, and so she decided not to participate. Having heard Dr MacKinlay's evidence, she recognised that may have not been the right decision.

[67] The court should accord weight to the photographs of contact which demonstrated good quality contact, positive interactions and reciprocal affection between her and H. H was usually energetic, smiling and making eye contact. Her evidence, supported by these photographs, should be preferred to the evidence of the social work assistants.

[68] The court should not conclude that there would be any risk of H being exposed to domestic abuse if she were to reside with the respondent. The last alleged assault was in late 2024. A line had been drawn after the criminal trial in summer 2025. In an ideal world, NS would act as father figure to H, but she understood that for this to happen, he had to make changes. She had tried to support him to do just that. She had demonstrated the capacity to safeguard herself by engaging with Women's Aid, distancing herself from NS and meeting him in public places when she did have contact with him. She would prioritise H's welfare if she were to reside with her. Social work had been unfair to her and seemed to be punishing her for being a victim of domestic abuse.

[69] It was not in H's best interests for a permanence order to be granted and for her to be moved to an adoptive placement with prospective adopters who had been given a false narrative about her, would not promote a positive image of her to H, and would not support ongoing contact. The decision to seek a permanence order had been made prematurely. No attempt at rehabilitation had been tried. It is in H's best interests to be cared for by her mother and for their loving relationship to be nurtured and maintained. It would be better for H if the court refused the permanence order. If H remains subject to a compulsory supervision order, then an attempt at rehabilitation could be made under the supervision of the children's hearing.

[70] The respondent could not contemplate the dispensation of her consent to adoption and submitted that she had and would satisfactorily discharge her parental rights and responsibilities, and it was neither necessary nor in H's best interests for their bond to be severed.

[71] The respondent did not make a submission regarding the option of post permanence contact. This was simply too challenging for her to contemplate, even in abstract. It was apparent from her evidence that she wished her direct contact with H to continue.

Decision

The threshold test – section 84(5)(c)(ii)

[72] The respondent undoubtedly loves H and would not deliberately harm her. However, there are material deficits in parenting capacity. Whist the respondent was able to feed and change H as a young infant, she tended to care for her daughter by adopting a rigid approach to set interventions. She lacks the ability to be flexibly and to respond to H's changing developmental needs as show grows. She is unable to read H's cues, to understand or anticipate what she needs or to respond to situations as they arise. This is likely to become increasingly detrimental to H as she grows older and requires increasingly more developmentally appropriate and attuned parenting. The evidence regarding the respondent's response to various situations: such as her suggesting that H had an epileptic absence/seizure when she fell backwards and bumped her head, when in fact she was simply too young to sit unsupported, her delayed response to seeing H walk for the first time and her delay in removing pencils from H when she was running around illustrate this. Each of these incidents may seem minor when viewed in isolation but collectively they form part of a bigger picture. The respondent's repeated raising of health issues not shared by professionals and attributing these to H's being withdrawn or upset is also part of this picture. Despite repeated modelling by professionals supporting contact regarding the appropriate use of tone of voice, gestures, animation and eye contact to help the respondent to engage and build rapport with H, she was unable to do so. The respondent is unable to

provide appropriate stimulation, to respond to H's cues or to engage in child-led play. Dr MacKinlay's assessment of the information given to her by those supporting contact was that it showed a profound lack of emotional attachment between H and the respondent and that the respondent lacks the capacity to meet H's emotional and developmental needs.

[73] The respondent projects her own feelings on to H. She does not appreciate that H's failure to sustain eye contact with her, her lack of excitement to see her or of distress on parting from her, her subdued demeanour and her reluctance to accept physical affection (by pushing her hands against the respondent's chest or arching her back to pull away) are all indicative that there is no reciprocal bond between them. Professionals note marked differences in H's demeanour during contact when contrasted with how she is in the care of her foster carers. The reality is that despite a significant level of contact over a period of almost 2 years, there is no reciprocal attachment or emotional bond.

[74] The respondent's difficulties may arise from neurodivergence, such as autism. The actions of social workers when referring her for assessment were well intentioned and were aimed at identifying whether this might enable more focussed support to be provided. Her continued resolute refusal to engage with any such assessment precludes such work being undertaken.

[75] The respondent's elder children A, L and M were all accommodated. Similar concerns arose in relation to the respondent's capacity to parent them. L was in the respondent's care for a longer period than his siblings. Some of the issues now noted regarding H mirror those which were observed regarding her care of L, who thrived once he was accommodated. Equally, there are parallels with assessments of the respondent's capacity to parent her son M during her supervised contact with him and the evidence established in the context of permanence proceedings relation to him. Whist the court

requires to consider serious detriment in relation to H at the time of proof, the established evidence regarding the respondent's lack of capacity to parent her older siblings may be indicative of present and future lack of parenting capacity. Put more simply, it is more probable than not that the issues which arose in relation to the respondent's care of her elder children, resulting in them being taken into care, will manifest in relation to H were she to reside with the respondent.

[76] Concerns about the respondent's capacity to parent H are further underlined by attitude to professionals. Justyna Mankowska made every effort to offer the respondent opportunities to gain insight into the issues of concern and approached the situation with a genuine belief that there was scope for change and to help the respondent to address her parenting deficits in her parenting capacity. The respondent's persistent refusal to take on board any concerns raised, to reflect on anything said to her and her lack of receptiveness to advice or professional support stymied this. There has been a repeated pattern, over several years observable with many professionals, whereby the respondent initially engaged before exhibiting denial, hostility and withdrawal from engagement when criticised. Dr MacKinlay described this as "a complete lack of insight and a pervasive use of denial and externalisation as a coping mechanism together with a complete mistrust of professionals". The evidence of social workers, and Dr MacKinlay, was that the respondent does not have the capacity to change.

[77] Any attempt to increase the level of contact in order to further assess the respondent's parenting capacity, let alone explore the option of rehabilitation of H to her care, would require her, as Dr MacKinlay put it, to open up her life and her home to professionals and to be receptive working with them. The evidence in this case that the respondent is entirely unable and unwilling to engage with social workers to such an extent

could not be clearer. This is clear not only because of her failure to do so thus far but also because of the pattern of her withdrawal from engagement with professionals whenever challenging feedback has been provided and her inability to accept, take on board and apply advice given, instead deflecting, externalising and acting with hostility towards those trying to help her.

[78] H is approaching her second birthday. She has no emotional attachment to the respondent. Her primary attachment is to her foster carers who have cared for her since she was a few days old. It would be deeply distressing for her to be removed from the only home she has ever known to reside with the respondent for an attempt at rehabilitation to be attempted. The evidence is that the likely success of such an exercise would be vanishingly small and that it would be potentially traumatic for H. It would be seriously detrimental for her welfare for this to be attempted. H's foster carers' age and circumstances mean if that she was to be removed from her current placement for this to be attempted then this may not be available to her again should it fail. Further delay, uncertainty and instability is not in H's best interests.

[79] When considering whether H's residence with the respondent would be likely to be seriously detrimental to her welfare, consideration must also be given to the risk of her being exposed to be domestic abuse in that setting. The respondent has been a victim of sustained and serious domestic abuse in more than one relationship. She has not been a reliable narrator of her relationship with NS, to professionals or in her evidence to the extent that it remains unclear whether he is H's biological father. Her revisionist narrative, lack of candour regarding the extent of her contact with him and her continued idealistic view of a possible reconciliation are concerning. She is a vulnerable woman who has struggled to safeguard herself from domestic abuse or to impose appropriate boundaries, despite

support from Women's Aid and social workers. It is more probable than not that were H to reside with the respondent, she would be exposed to future episodes of domestic abuse and the consequent impact which that would have of that on the respondent's physical and mental health and her parenting capacity.

[80] Accordingly, for all the foregoing reasons, I conclude that the threshold test is met and would be likely to be seriously detrimental to H's welfare to reside with the respondent.

Dispensation with consent to adoption

[81] Before carrying out the exercise of what order H's welfare requires, it is appropriate to consider the requisite test for dispensing with the respondent's consent to adopt. The respondent is a parent who has parental rights and responsibilities in relation to H. Section 83(3) requires consideration of whether the respondent is unable satisfactorily to discharge those responsibilities or exercise those rights and is likely to continue to be unable to do so. Those parental responsibilities include the responsibility to safeguard and promote H's health, development and welfare throughout her childhood.

[82] Much of the evidence pertinent to the assessment of serious detriment is also applicable in this context. The respondent's inability to read H's cues or to understand, anticipate and respond to her needs, lead to a finding that she has been unable to satisfactorily safeguard and promote H's health, development and welfare. The evidence was that as H grows, develops and requires more complex and emotionally attuned parenting, this is not only likely to continue but to worsen. The respondent's inability to engage with a range of professionals including midwives, health visitors, social workers, those from the third sector and indeed a chartered clinical psychologist are equally relevant. The respondent is unable to accept any perspective other than her own or to take on board

advice. Her clear pattern of withdrawal from engagement with professionals, who would otherwise monitor and help her, when challenged or criticised, is a significant barrier to her satisfactorily exercising her parental rights and responsibilities as there is no pathway to address the issues which will inevitably arise. This combination of the respondent's inability to understand and to respond to H's needs and her refusal to engage with professionals who might otherwise help her, lead to inescapable conclusion that the respondent has been unable and will continue to be unable to satisfactory safeguard and promote H's health, development and welfare and to exercise her parental rights and responsibilities. I am satisfied that her consent to adoption should be dispensed with in terms of section 83(3).

Welfare: the options

[83] When applying the provisions in section 14, the court must be satisfied that adoption is not merely desirable or reasonable but necessary to safeguard and promote H's welfare throughout her life. In undertaking that exercise, the court must evaluate the benefits and disadvantages of each option and conduct a holistic evaluation to assess whether the order sought will best promote H's welfare thought her life.

(i) No order

If the court were to refuse this application, then H will continue to be subject to a compulsory supervision order which will be reviewed and monitored by the children's hearing. It would be open to the respondent to ask the children's hearing to consider rehabilitating H to her care. Given the preponderance of evidence in this case, and the decisions of the children's hearing to date, this seems unlikely. Decisions regarding *inter alia* H's foster placements, health,

nursery, schooling as well as simple issues such a holiday travel would require to regulated by the children's hearing. It is more probable than not that issues concerning the respondent's contact with H would continue to be subject of contentious hearings and appeals to the court. As a child in care, H would subject to periodic LAAC reviews. Her current placement is not viable in the medium or long-term. The placement with prospective adopters would be lost. She may face multiple placement moves. She would not have the option of a permanent home or settled family life. She would have to contend with uncertainty, insecurity, upheaval and distress. Whilst the respondent advocates this option as the only one which preserves per parental rights and responsibilities, it is not difficult to conclude that this would be a very unattractive option for H which would clearly not be in her best interests.

(ii) Permanence order with no authority to adopt

This would lead to permanence in a sense, in that the respondent's parental rights and responsibilities would be extinguished and would vest in the petitioners. The order would regulate matters until H's 16th birthday. She would continue to be a LAAC child and subject to regular reviews. Her current placement is not viable in the medium or long-term. It is possible that settled placement may be found for her but would be more difficult to find in circumstances where adoption is not a viable path. Issues concerning the exercise of parental rights and responsibilities relating to H's health, education and welfare would be made by the petitioner rather than those caring for H. She may face multiple placement moves. A permanence order would largely

terminate on her 16th birthday. This option would not provide H with a permanent home, membership of a family, or a settled life. A permanence order may be subject to variation. The respondent may continue to litigate the issue of contact causing further anxiety and uncertainty and may undermine the foster placement. Such an order would not safeguard and promote H's welfare throughout her life.

(iii) Permanence order with authority to adopt

If a permanence order with authority to adopt is granted, then H is likely to move from her current placement to live with the prospective adopters matched to her. She would become part of a lifelong family in a settled home. The prospective placement is a good match in terms of H's ethnicity, religious persuasion and her age and stage. The prospective adopters have already adopted an older child. H would develop a sibling relationship. The prospective adopters have experience of helping a child H's age to cope with moving from a foster placement in circumstances where the child's primary attachment is to their foster carers, and helping them to settle into a new family unit. H's foster carers also have experience of supporting a child through that process. H has the best chance of coping with this significant change and developing secure attachments to an adoptive family is she moves before her second birthday. Section 14(3A) requires the court to consider the risk of prejudice to H's welfare if a decision about her future care were to be delayed. The loss of both her current foster placement and this prospective adoptive placement, and of the auspicious circumstances which align to support the best

possible transition now would cause significant prejudice to H's welfare. Whist H is not of a sufficient age and maturity to express a view, her primary attachment is to her current foster carers and her placement is not a long term one. Her best interests would be served by having the opportunity to live in a stable family unit which will serve her welfare not just during her childhood but beyond. I am satisfied that it would be better for H that a permanence order with authority to adopt be made that to than none shall be made and consider that this is the best option for her. In all the circumstances of this case it is both proportionate and necessary that such an order be granted.

Post permanence contact

[84] The petitioner does not crave an order extinguishing the respondent's parental responsibilities and rights as set out in sections 1(1)(c) and 2(1)(c) of the Children (Scotland) Act 1995, to maintain personal relations and contact with her. The respondent has been unable to contemplate the granting of a permanence order whereby the option of rehabilitation to H to her care is effectively ruled out. She has chosen not to exercise contact with her older children when such an order was granted. The respondent exercised a high level of contact with H until 9 September 2025 when contact was reduced to once per month by the children's hearing. She adores H. Contact has been important to her, and she has shown a significant commitment to it.

[85] I accept Dr MacKinlay's evidence that for contact to operate in H's best interests after the granting of a permanence order, the respondent would need to be seen to support (even if she does not truly support) H's placement. In circumstances where the respondent repeatedly referred to herself as "mama", provided a counter narrative as to why H was

accommodated, refused to accept the nature of the order granted and openly undermined the H's placement then H's sense of safety in her placement and ability to develop secure attachments to her adoptive family would be undermined. The respondent has been repeatedly, openly and unfairly critical of H's foster carers. She does not believe that the matched prospective adopters are suitable. They, in consequence, are understandably anxious about the prospect of direct contact in such circumstances. Furthermore, the lack of reciprocal emotional attachment between the respondent and quality of contact mitigate against this continuing. It would not be in H's best interests for this to continue in all the circumstances of this case.

[86] It is in H's best interests to understand her identity, her life story, to be reassured that her birth mother loves her, wishes her well and is in good health. This would best be achieved by bilateral letterbox contact twice a year. Given the respondent's previous failure to engage with such contact, the petitioner's submission that the best way to manage this would be for the respondent to initiate contact and H's carers/adopters to send a progress report on H by return, all supported by the Adoption Services Team.

[87] At the conclusion of the proof the respondent asked whether, should a permanence order be granted, she would simply receive an interlocutor from the sheriff clerk and then never see H again. Given the extent of the contact exercised to date, that does not seem to be either proportionate or in H's best interests. Accordingly, I have made an order which provides for two final direct contacts at 2-monthly intervals to support and manage the transition to letterbox contact.

Expenses

[88] As submitted, I have found no expenses due to or by either party.