

ENGLAND AND WALES / JUDGMENT

Holly, Re

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Neutral Citation Number: [2025] EWHC 465 (Fam) IN THE HIGH COURT OF JUSTICE FAMILY DIVISION Case No: FD24C40365 Royal Courts of Justice Strand, London, WC2A 2LL Date: 28/02/2025 Before : MR JUSTICE KEEHAN

- ----- Between : Kent County Council Applicant
- and – The Mother -and- The Grandparents -and- Holly (A minor acting by their Children’s Guardian) First Respondent Second and Third Respondents Fourth Respondent Rebecca Foulkes (instructed by Invicta Law Ltd) for the First Respondent The First Respondent was not represented and did not appear in person The Second and Third Respondents were not represented and acted in person Henry Lamb (instructed by Creighton & Partners Solicitors) for the Fourth Respondent Hearing date: 30 January 2025
- ----- Approved Judgment MR JUSTICE KEEHAN This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court. MR JUSTICE KEEHAN Approved Judgment Mr Justice Keehan:

Introduction

Re Holly 1. 2. 3. I am concerned with one young person, whose name has been changed in this Judgment to Holly, who was 18 on 8th February this year. Her mother is the first respondent but has played no part in these proceedings. Her father is deceased and prior to his death took no active role in her life. Holly’s maternal grandparents (‘the grandparents’) are the second and third respondents. They have cared for Holly throughout her childhood. At the hearing on 30th January 2025 the local authority, Kent County Council, applied for an extension of the deprivation of liberty order (‘DoL’) previously made in respect of her until 23.59 on 7 February 2025. I refused the application and reserved judgment. The issue addressed in this judgment is the extent to which the local authority met or failed to meet Holly’s welfare needs during the time in which she was accommodated by the local authority and/or the subject of a DoL order made in its favour.

Background

4. 5. 6. 7. The brief outline of Holly's life is that she went to live with her grandparents when she was two days old. A residence order was made in their favour on 2 July 2007, until Holly was 16 years of age, which was extended by the making of a child arrangements order on 9 January 2023 until she attained the age of 18. In early 2022 Holly was diagnosed as suffering from a number of conditions, including autism and foetal alcohol syndrome, and found to exhibit a number of challenging and concerning behaviours, principally self-harming and suicidal ideation. On 29 April 2022, having been admitted to hospital on 14 April, she was made the subject of a DoL order in favour of Maidstone & Tunbridge Wells NHS Trust ('the Trust'). On 20 May 2022, the local authority issued care proceedings in respect of Holly. In the course of these proceedings permission was given for the parties to instruct a psychologist, Dr Bentley, to assess and prepare a report on Holly. The grandparents agreed to Holly being accommodated by the local authority pursuant to s.20 Children Act 1989. On 1 July 2022 the DoL order was extended but was made in favour of the local authority in place of the Trust. In the absence of securing a regulated placement which would have met Holly's needs, she was moved to an unregulated placement at Unit A. In her first report of 22 July 2022, Dr Bentley assessed Holly as having a complex profile and observed that: "a significant proportion of her presentation is able to be explained from her neurodevelopmental vulnerabilities, in respect of her autistic spectrum diagnosis as well as her diagnosis of foetal alcohol syndrome disorder, with problems with her executive functioning where she struggles to control and regulate her emotions and her behaviour". MR JUSTICE KEEHAN Approved Judgment Re Holly She considered that Holly required direct therapeutic intervention in the form of DBT to address her "emotional dysregulation, risk management strategies to address self-harm and self-defeating behaviour, perceptual reasoning, impulsivity and behaviour control, interpersonal effectiveness and relationship building and support to reaffirm her relationship with her grandparents". 8. Her overall opinion was that: "It is in my view that, given the severity of the presentation, the long history, the inadequate intervention to date, the challenges that would be present for the MGP to care for [Holly] with this level of need, that she now needs a minimum 12-month residential placement at a therapeutic establishment such as the Priory. Here she would be offered specific intervention to help her with her emotional and behavioural dysregulation, interpersonal instability and difficulties with building attachments across the board, cognitive control, such as interventions to manage impulsivity, and addressing the risk-taking behaviours. It would be a stable placement, with no recourse to perpetuating the maladaptive behavioural patterns that have not been able to be extinguished to date and need to be." She concluded that Holly presented with: "a severe level of vulnerability and dysfunction, with significant problems in major areas of her functioning: emotional and behavioural control; interpersonal difficulties; identity confusion associated with attachment difficulties; low mood; para suicidal and suicidal tendencies. She is now a significant risk to herself with little insight, skill or adaptive functioning to be able to cope". 9. 10. 11. Dr Bentley noted in positive terms the loving and nurturing environment the grandparents had provided for

Holly and the considerable attachment figures which they were for her. Notwithstanding Dr Bentley's opinions and recommendations, the local authority moved Holly to another unregulated placement, Unit B, on 13 October 2022 without the prior agreement of the grandparents or the consent of this court. She was to remain living in this placement until 30 September 2024. On 15 January 2023 Holly attended her grandparents' home for a family celebration and thereafter refused to return to Unit B. Given that Holly had remained in the care of her grandparents the DoL order was discharged on 23 January. 12. In an addendum report dated 26 January Dr Bentley opined that: "I understand that a health placement has not been able to be identified. The next best thing would be the placement under a MR JUSTICE KEEHAN Approved Judgment Re Holly DoL, with the DBT package in place, and although the placement is reported to have gone well, there has not been a reduction in overall risk, and the DBT is due to start only around now. The key components for [Holly] now in terms of positive behaviour change and reduction of risk are a consistent and positive approach (e.g. DBT) to the management of her behaviour. I cannot make this point strongly enough as, in my view, it is the key to change. So this means the weekly DBT therapy (ideally there would be a group session and an individual session, and that this would continue for a lot longer than 12-14 weeks, a minimum of 6 months)." 13. 14. 15. On 1 February 2023 she took an overdose of paracetamol and was admitted to hospital. During the course of her admission there were a number of incidents, including self-harming behaviour, attempting to leave the hospital and assaulting a member of the clinical staff which required her to be physically restrained. She was discharged and returned to Unit B on 7 February. The final hearing of the care proceedings was listed to be heard on 27 March 2023 but was adjourned to 16 May 2023 when the proceedings were concluded on the basis of Holly remaining accommodated by the local authority pursuant to s.20 of the 1989 Act. In her final report for the care proceedings dated 24 March 2023, the guardian noted that Holly was being provided with DBT by the North East London NHS Foundation Trust ('NELFT') but Holly was struggling to engage with the therapy. She received a limited bespoke education package whilst the search for appropriate educational provision continued and she received ongoing positive behaviour support from Aspen. She also noted that Unit B had indicated a willingness to engage in training and development of their service to be more skilled in their care of Holly. The guardian concluded with the following recommendation: "It is my professional opinion that a therapeutic informed residential placement which in registered and regulated would best meet [Holly's] needs. [Holly] needs relating to her experiences, in-utero trauma and her neuro- developmental diagnoses require a specialist placement with a therapeutic approach and consistency where the risks posed by her distress and impulsivity can be safely managed. Sadly a placement providing the level of care and therapeutic intervention required and recommended by Dr Bentley has not been available since the outset of Local Authority searches some twelve months ago. As a result of the lack of specialist provision [Holly] is residing in a supported accommodation placement with [Unit B], presently unregulated provided [Unit B] are making ongoing efforts to register the provision with Ofsted, as well as making enquiries to upskill their carers to provide a therapeutic approach to [Holly's] day to day care. These efforts should continue." MR

JUSTICE KEEHAN Approved Judgment Re Holly 16. 17. 18. 19. 20. 21. 22. By May 2023 Holly was engaging in weekly DBT sessions and Unit B had obtained DBT training for its staff so that they would be better able to support her in the placement. On 28 July 2023 Stuart Collins, the Director of Integrated Children's Services, authorised the cessation of a search for a residential placement for Holly on the basis that Holly was happy at Unit B and the placement 'appeared' to be meeting her needs. This decision was only revealed to the court and to other parties in the witness statement of the assistant director, Florah Shiringo, which was dated 29 August 2024. It is of note that this decision was made without the consent of or without notification to the grandparents who, unlike the local authority, held parental responsibility for Holly and wished for her to be placed in a residential therapeutic placement. In September 2023 Holly underwent a number of support sessions with a child psychotherapist and then a creative arts psychotherapist which were intended to enable her to reflect on and process her experiences and feelings about her life with the aim of increasing her ability to articulate her thoughts and feelings in a healthier manner. On 17 September 2023 the local authority filed and served its final updated care plan. It is not clear, however, why it took so long to produce this document after the conclusion of the care proceedings four months earlier in May. The care plan noted that Unit B had a live application for registration proceeding with Ofsted and the following further matters:

- a) The Local Authority recognizes the recommendations of Dr Bentley's report and the need for Holly to be in the regulated therapeutic placement for a period of 12 months;
- b) The plan is that she remains at Unit B where staff have completed the DBT training to support her care. They implement the strategies they learn to ensure that they provide the right responses to Holly in line with her needs;
- c) The Local Authority is committed to investing in Unit B to ensure that Holly's needs are being met as recommended by Dr Bentley. This will be led by Holly's engagement and response to therapeutic support. The Local Authority will regularly review and seek assessment of her assessed needs as she engages with support and her needs change; and
- d) The most suited plan for treatment for Holly is a DBT therapeutic approach / intervention. Given Holly's assessed needs, Dr Bentley advises that such a placement / intervention should be given a minimum of 12 months with regular reviews. The Local Authority proposes monthly reviews with a further review at the end of this period to assess and consider progress. By October 2023 Holly has begun to attend a new school but had reported difficulties engaging with DBT therapy. A new therapist was appointed to work with her. On 25 October the court further extended the DoL for a period of six months, notwithstanding Holly's frustration at being the subject of the order and her desire for MR JUSTICE KEEHAN Approved Judgment Re Holly it to be concluded. At the hearing a number of matters were considered and needed to be addressed prior to the court determining any further application to extend the DoL order. These included:

- a) Planning for her transition to adulthood; b) Interventions and support for Holly; and 23. 24. 25. 26. 27. 28. 29.
- c) The need for an assessment of her capacity to make decisions in respect of safeguards for her welfare and well-being. In November 2023 the grandparents undertook family therapy to understand better Holly's difficulties and to support them in their approach to the complex task of parenting her. They worked hard to make best use of these sessions but having attended five of them the balance were cancelled by NELFT. In November and December 2023 there were a number of episodes when Holly self-harmed and an occasion when she threatened to end her life. Similar episodes in early 2024 culminated in Holly being taken to hospital on 10 February 2024 after she had allegedly swallowed a razor blade. Whilst waiting in A&E she became unsettled and left. She was escorted back to the hospital by two police officers. In late March there were reports of Holly having taken overdoses of paracetamol and in early April it was reported that she had swallowed batteries. She was advised to attend hospital, but she refused. From April 2024 Holly refused to attend her school and remained out of mainstream education from that point onwards. On 24 April 2024 HHJ Gordon-Saker refused the local authority's application for a further six month extension of the DoL order and granted an extension for six weeks to enable assessments of Holly to be prepared and for the evidence to be updated, including an updated analysis by the guardian. At a professionals meeting held on 20 May 2024 the guardian expressed concerns about (a) the lack of care and transition planning for Holly, (b) the fact that Holly was no longer engaging with NELFT and (c) was not attending school or receiving any educational provision. On 29 May 2024 the grandparents filed and served their first substantive statement in the DoL proceedings. With a considerable degree of restraint and understatement they carefully set out their understanding of the help and support which had been provided to their granddaughter and their critique of the local authority in failing to make adequate provision for her care and well-being. 30. On 6 June 2024 the guardian filed an analysis in respect of the DoL proceedings. In her report she highlighted eight principal issues: a) the lack of any proposed intervention to reduce the level of risk which Holly posed to herself; b) the need for proper planning about Holly approaching adulthood; MR JUSTICE KEEHAN Approved Judgment Re Holly c) that Holly was not engaging with NELFT; d) the fact that Holly was not in school nor receiving any form of education;
- e) no alternative residential and/or therapeutic provision has been secured for Holly; f) the absence of a capacity assessment in respect of Holly's ability to make decisions about her finances and her future care; g) the necessity for adult care services to undertake an assessment of Holly; and h) the fact that Holly wanted to leave Unit B and maintained her objections to being made the subject of a DoL order. On the same date there was a further hearing in the DoL proceedings at which the judge adjourned the matter for three weeks for a full capacity assessment to be undertaken of Holly by Dr Bentley. The court indicated that the local authority needed to give immediate consideration to Holly's education, the provision of appropriate therapy for her, the need for long term future care planning, and whether proceedings should be commenced in the Court of Protection. A further statement

was subsequently filed and served by the grandparents and a further report was provided by the guardian. Both of these repeated the growing concerns which had previously been expressed about the failure of the local authority to provide for Holly's educational and therapeutic needs and to undertake any coherent care planning for her. On 27 June 2024 there was a further hearing before a Deputy High Court judge at which the court made comprehensive directions for the assessment of Holly and for the local authority to set out its plans for Holly's future care and support. The matter was re-allocated to me. On 18 July Dr Bentley provided her capacity assessment and found that Holly had the capacity to conduct this litigation. On 12 August a care needs assessment pursuant to the Care Act 2014 commenced. In her updating report of 19 August 2024 Dr Bentley concluded as follows: 31. 32. 33. 34. 35. 36. "(a) 'I am very concerned that the placement, although trying to do their best, just are not equipped to handle a child, nearly an adult, like [Holly]. As I said in my first report, and I still stand my this, [Holly] needs a 24-hour 7 day a week consistent response from a DBT framework. This means that every interaction with staff is managed with a huge focus on skills – all the time, it is skills, skills, skills. So, the incident where she was putting herself in danger by being on the road, needs to be met with the implementation of skills, but it wasn't – it was met with confrontation, which I understand, as this was probably all the staff was able to do, but it didn't use the DBT framework to manage risk.' MR JUSTICE KEEHAN Approved Judgment Re Holly

- (b) 'I stand by my recommendation that she has DBT. I don't think she has received this anywhere near the level she requires. She can't tell me about any significant learning from this let alone apply it in practice. As I note above, I can't see that it has been delivered at an intensity of level that is required. [Holly] now meets the threshold for a diagnosis of EUPD. She needs a full course of DBT. Unfortunately, she has become disillusioned, because she can't see it working, and now she refuses to do DBT for this reason. This is very poor because she is now going to be resistant to this therapy. This could be explained to her and she be supported to engage. I don't think a session once a week is going to help [Holly]. As I said in my first report, and I still maintain, she needs a minimum of 6-12 months at a therapeutic residential placement like the Priory or similar. I know this is resource heavy but realistically [Holly] is now going to be a long-term user of social services and adult mental health services, but putting the right treatment in, even if it was very expensive, could turn the tables for [Holly] and give her the chance to build a life worth living. She might refuse to go of course. She needs to understand that she needs intensive therapy to bring about significant change.'
- (c) 'The other option is MBT which is Mentalisation Based Therapy. This is also a good option, in my opinion DBT would help her more in terms of equipping her with skills, but MBT is also within the NICE guidance.'

- (d) 'I suggest that all the options be put to her, when the costing has been done, as to what options are available. In my opinion, the best option is 6 months intensive therapeutic residential while she is still a minor.' Dr Bentley confirmed that Holly has capacity to make decisions about her (i) health and welfare, (ii) finances, (iii) personal relations, (iv) future living arrangements and
- (v) those with whom she wishes to spend time with. 37. On 16 August 2024 the local authority recommenced a search for an alternative placement for Holly for the first time since 28 July 2023. 38. In her position statement of 21 August 2024, the guardian observed as follows: "(a) The Guardian remains extremely concerned that the window for effective intervention with [Holly] is rapidly closing. She is fast approaching adulthood, and she remains a high risk to herself. She is not equipped with the tools that she needs to live independently. In light of the assessment of [Holly's] capacity, it is apparent that there is very limited period of time in which the court will be able to seek to ensure that [Holly] receives the sort of care and support that she urgently requires. MR JUSTICE KEEHAN Approved Judgment Re Holly
- (b) It was stressed that 'Whilst it is well-known that the availability of specialist residential care for adolescents is limited, the Local Authority needs to provide proper detailed evidence of the options for her future care. If residential placements are not available, the Local Authority need to construct a package of support that meets [Holly's] assessed need, even if that requires privately funded therapy. There needs to a proper pathway for [Holly], she needs to be incentivized to engage.'" 39. Holly made a statement which she asked to be brought to the court's attention, she had written: "I am 17 years old and in less than 6 months I will be 18. I have been on a Dols for 2 years now and I haven't seen any changes or anything being done to help me with my mental health. I sometimes see camhs for "therapy" but I don't feel like I'm benefiting from it as it doesn't help change how I feel. I do understand the concerns around removing the Dols, but it's not helping me. I get that sometimes I do need support outside of placement, but I need to be able to start trying to get back to how things were before I was on a Dols. I would like to be able to do stuff by myself like go for a walk , meet friends and travel to see friends and family by myself. I want to start being able to have independence because currently I don't have any outside of placement and it makes me feel so fed up with it because I get the Dols is to keep me safe but I don't feel like it does sometimes it does but not always. I feel like the La just keep requesting to extend it because they think it's easier for them but it's not for me." 40. 41. 42. At the hearing on 21 August 2024, I directed the director of children's services to file and serve a statement setting out precisely how the local authority planned to meet Holly's needs and I indicated that if the court was not satisfied that a clear and realistic plan was advanced by the local authority that the court would be minded to give a public judgment. On 27 August the local authority commenced a nationwide search for an alternative placement for Holly. A witness statement was provided by the assistant director, Florah Shiringo, which did not set out a clear plan. The grandparents filed and served a statement in response which took issue with many of the assertions made by Ms Shingo in respect of the MR JUSTICE KEEHAN Approved Judgment Re Holly actions taken by the local authority in this matter. The guardian observed

that Ms Shiringo's statement had not addressed the key issues in the case. 43. On 30 August 2024 I repeated the order for the director of children's services to file and serve a witness statement, making it clear that this statement was to be made by the director and not by a nominee. I also directed NELFT to file and serve a statement setting out the therapeutic services they could provide for Holly. 44. On 23 September Holly wrote a further letter to the court in which she recorded her concerns about her care and her future: "My Dols is supposed to keep me safe but it doesn't. Why am I still on it if I have capacity to make my own choices? The dols doesn't help keep me safe If it's my choice as to where I live then why am I not at home with my family? I never asked to be dumped in care and treated like I am. If anything since I've been in "care" I've had more problems and more incidents than when I was at home and when I was home I was happy I had family around me and my animals as well as my friends. Since being on the Dols its done nothing to help me stay safe its only made me feel worse and made people treat me like im stupid when im not. I get that I obviously need some form of support but that's not living away from home is it. How would you feel if you had to live away from home away from you family for over 2 years all because you didn't get the right support. How is any of this fair on me? I'm 17 almost 18 it should be my choice nobody else's. Half of the time the people making the decisions about me don't even know me don't know what I look like. Nobody seems to see or understand that all I want to actually do is go home and being in "care" doesn't and will not help me at all. I've made no progress in the last 2 years ive constantly been followed around can't do my own things without being stared at. It's not fair to me. I've had enough of it all I've been asking for for the last 2 years is to go home not be stuck here and expected to magically get better to feel better." MR JUSTICE KEEHAN Approved Judgment Re Holly 45. 46. 47. 48. 49. On 24 September Ingrid Crisan, the director of children's services, provided a witness statement. The following day the grandparents filed and served a statement in response, once again taking issue with many of the assertions made on behalf of the local authority. Holly's placement at Unit B broke down. At an urgent hearing on 25 September 2024 the judge hearing the matter approved Holly's placement at alternate accommodation, extended the DoLs order, albeit in a slightly varied form, and directed the local authority to file a further statement clarifying its plans for Holly. On 30 September 2024 Holly moved to her new residential unit at Unit C. At the hearing on 3 October 2024, I directed that there should be a professionals' meeting to devise a plan for Holly's therapeutic needs which would include the provision of services by the Intensive Home Treatment Team ('IHTT'). Unfortunately, Holly was not made aware that a member of this team would be visiting on 17 October and she refused to engage with them in any meaningful way. At the hearing on 18 October Dr Bentley confirmed to the court that Holly would not presently meet the CAMHS tier 4 threshold criteria for admittance to a residential therapeutic unit and that the proposed therapeutic input currently offered by NELFT/IHTT is appropriate to meet Holly's needs. In light of her opinion, I made the following directions:

- i) An updating statement, to include the availability of Non Violent Resistance training (suggested by NELFT) and Motivational Interviewing technique (suggested by Dr Bentley). ii) A plan for the work to be done with Holly to encourage her to engage with the therapy currently on offer, to include who will be involved with the work and how it will be provided. iii) An update on her educational/vocational training provision, to include any updating risk assessments and timescales for when her education/vocational training will commence. iv) A Plan in cooperation with the Adult Social care team of how Holly's needs will be met up to her 18th birthday and how they will continue to be met beyond her 18th birthday.
 - v) Details of incidents at Unit C, if any, and whether the Deprivation of Liberty order is still required and why and if the present or reduced restrictions are proposed the reasons why.
50. On 22 and 23 October 2024 there were a number of incidents when Holly left Unit C and/or self-harmed. These culminated in a very serious incident on 30 October when she climbed over the rails of a bridge over the M20. This necessitated the closure of a section of the motorway and the attendance of the police to remove her from the bridge. She was taken to hospital for assessment and when there she self-harmed. MR JUSTICE KEEHAN Approved Judgment Re Holly 51. At the hearing on 1 November, I made a number of directions to secure support for Holly because of the deterioration in her mental health. Those directions included:
9. Tier 4 CAMHS are requested to conduct an Access Assessment for [Holly] to assess her eligibility for Tier 4 mental health services and must specifically consider separately her eligibility for residential units including Medium secure services, Low secure services and General adolescent services. The assessment shall be served by the Local Authority within 2 days of receiving it and in any event by 4pm on 29 November
2024. The Local Authority shall liaise with NELFT and/or Tier 3 CAMHS in terms of the need for a referral to be made to Tier 4 CAMHS for the purposes of the Access Assessment and there is permission for this order to be served on CAMHS, NELFT and NHS England.
10. The applicant Local Authority shall by 4pm on 3 December 2024 serve an updating statement setting out the following;
- i) What additional safeguarding measures have been made to keep [Holly] safe following the incidents on 30 & 31 October 2024. ii) What actions have been taken to implement the recommendations from NELFT for Non-Violent Resistance training for the staff at [Unit C] and Motivational Interviewing technique as suggested by Dr Bentley. iii) An update on the search for an alternative placement for [Holly], to include details of the searches undertaken and the responses received. iv) An update on the work being done with [Holly] to encourage her to engage with the therapy currently on offer, to include who will be involved with the work and how it will be provided. An update on her educational/vocational training v) provision, to include any updating risk assessments and timescales for when her education/ or vocational training will commence. vi) An update on [Holly] being allocated a personal adviser from the Adult Social care team and an update in terms of the plans for her to

transition to Adult Social Care. vii) Details of incidents at [Unit C], if any, and whether the Deprivation of Liberty order is still required and why and if the present or reduced restrictions are proposed the reasons why. MR JUSTICE KEEHAN Approved Judgment Re Holly 52. 53. 54. 55. On 19 November the parties were informed that the local authority had re-commenced a search for an alternative placement. It, therefore, became apparent that the local authority had not made any search for an alternative placement for Holly between 30 September and 19 November. Once more, this decision had been taken by the local authority without any reference to the grandparents. On 25 November Holly went missing and was found by the police at a railway station with two empty bottles of paracetamol beside her and in possession of a number of razor blades. She was taken to hospital where she was observed to self-harm. Ingrid Crisan, the director of children's services, authorised the cessation of the search for an alternative placement for Holly on 27 November on the basis that the court had endorsed the local authority's care plan for Holly to remain living at Unit C until her 18th birthday. The court had not endorsed this plan. On the contrary, on 1 November 2024 the court had directed the local authority to file and serve an update on its searches for an alternative placement. On 6 December 2024 the grandparents filed and served another statement which took issue with the case presented by the local authority and in which they asserted that the most recent statement of the social worker contained a significant number of errors and/or misrepresentations of past events, including the actions taken by the local authority to provide and plan for Holly's future needs and welfare. 56. In the guardian's position statement of 9 December two principal issues were raised: a) the placement at Unit C was found after a short search in the context of her placement at Unit B having broken down. It was not the type of provision recommended by Dr Bentley and was merely the only realistic option available at the time; and

- b) over a 72 week period the only active searches undertaken by the local authority took place between 16 August & 30 September 2024 and 19 to 27 November 2024 – a period of 6 weeks 8 days. 57. 58. 59. On 11 December 2024 I adjourned the matter to give a public judgment early in the New Year and gave directions for the filing and serving of statements setting out the planning for Holly, her routines at Unit C and the provision of therapy, education and support for her. On 18 December the local authority recommenced a search for alternate accommodation for Holly. On 26 December Holly was taken to hospital having been found with an empty packet of codeine tablets and having said she had swallowed a battery. She left the hospital and the police were called. She was found and removed from the edge of a bridge over a dual carriageway. Shortly after she was returned to the hospital she attempted to leave again and assaulted a member of the security team. The police was called to assist. 60. Between 27 December 2024 and 2 January 2025 there were five occasions when Holly was taken to hospital or the police were called in relation to her allegedly taking MR JUSTICE KEEHAN Approved Judgment Re Holly 61. 62. 63. 64. an overdose of tablets, having razor blades on her person and/or climbing onto the roof of her accommodation. On 11 January 2025 Holly was taken to hospital having allegedly taken an overdose. She assaulted two members of staff, left the hospital and headed off to the M20 motorway. The police found

her on an overhead bridge at junction 10 of the motorway. Having spent considerable time attempting to persuade her to return to the hospital, the police physically escorted her to their car and took her back to the hospital. She was discharged but then detained by the police under s.136 of the Mental Health Act 1983 and taken to another hospital for assessment. She was not found to be detainable under the 1983 Act and was discharged back to Unit C. In a statement from a service manager dated 15 January 2025 the local authority disclosed to the court, the grandparents and the guardian for the first time that (a) in January 2024 Ofsted had issued a cease and desist notice to the local authority in respect of the use of Unit B and (b) in June 2024 Ofsted had notified the local authority that it had still not received from Unit B an application for registration. On 18 and 19 January 2025 there were further episodes self-harming and/or of emotional dysregulation which required the police to be called on the second occasion. On 20 January the social worker made a statement which reflected on the local authority's care and provision of support for Holly: see paragraph 80 below where an extract from this statement is set out. He also detailed the support and therapeutic provision which would be made available for Holly by the adult care team and a full account of Holly's interests and activities which, where necessary, would be funded by the local authority.

Submissions

65. 66. 67. The local authority took exception to the criticisms of the guardian in respect of the continued placement of Holly at Unit B after the law about the placement of 16 and 17 year olds in unregistered accommodation changed in October 2023 and that the guardian had supported the move of Holly to another unregistered placement in September 2024. It was submitted on behalf of the local authority that there had been long periods of time when Holly was reported to have been settled at Unit B and had enjoyed good relationships with the vast majority of the members of staff. It asserted that since the transfer of Holly to Unit B there had been a marked and positive difference in her presentation and risk-taking behaviours. The local authority had noted Dr Bentley's advice in her updated report of 19 August 2024 that "[Holly] needed 24 hour 7 day a consistent response from a DBT framework and that she needs a minimum of 6-12 months at a therapeutic residential placement like [X] or similar. She further expressed the view that [Unit B], although trying to do their best, just were not equipped to handle a child, nearly an adult, like [Holly]". MR JUSTICE KEEHAN Approved Judgment Re Holly 68. 69. Its search for an alternative placement yielded two placements, one registered but in the north of England and one unregistered ('Unit C') but which could offer positive behavioural support ('PBS'). Dr Bentley supported the latter because "especially given [Holly] refused to engage in DBT, this is now a realistic and hopefully beneficial option, which additionally will provide her some stability also". Unit B terminated Holly's placement on 3 October 2024. The day before Holly moved to her new placement at Unit C. The local authority rightly contended that this was a complex and nuanced case that had required significant multi-agency involvement over a number of years. It asserted that 'extensive placement searches over three years' showed that,

unfortunately what has been recommended for Holly is not the same as what is available for her. The identification of a placement that met the therapeutic requirements set out by Dr Bentley, together with appropriate support for Holly's ASC diagnosis and close to her family had proved impossible. 70. The local authority chose to criticise the grandparents for allegedly seeking to undermine some of Holly's placements by telling Holly that they could not meet her needs or offer her the appropriate therapeutic support. 71. The closing paragraphs of the local authority's submissions noted that: "KCC has recognised that [Holly's] outcomes have been impacted due to a lack of resources and suitable placements available for her. KCC also recognises that the sometimes poor communication of information about [Holly] has not assisted the court and the other parties to properly understand the work being done on the ground to support [Holly]. However, the evidence now filed by KCC shows that [Holly] has been supported at both [Unit B] and [Unit C] to engage in a daily routine and meaningful activities that interest her, and that she has been able to create positive relationships with staff in both placements. The wholly negative picture painted at previous hearings does not accord with the care offered to and experienced by [Holly] as a looked after child." 72. 73. 74. The grandparents have always been closely involved in Holly's life and have striven to give her every opportunity to lead a happy and fulfilling life. They have fully engaged in the proceedings in a wholly productive manner and they have been powerful advocates for Holly. At each stage of these long proceedings they have set out their concerns for Holly and their firm views that her needs in terms of placement, therapy, education and support were not being met by the local authority and that their concerns have not been heard and/or have not been acted upon. In this context I can understand that, at times, their frustration at the lack of any effective progress in providing for Holly's needs has caused them to express their frustration to Holly in terms which have been unhelpful. The guardian did not share the criticisms of the grandparents by the local authority. She considers that the grandparents have been entirely child focussed and powerful advocates for Holly. I agree. MR JUSTICE KEEHAN Approved Judgment Re Holly 75. In the position statement filed on behalf of the guardian for this hearing it was noted that: "Those representing [Holly] are acutely aware of the parlous provision that there is for young people, who have complex needs, in this country. It is acknowledged that there are far too many young people who fall between the gap in terms of eligibility for CAMHS Tier 4 provision and the limited number of therapeutic residential placements open to be funded through children's services. There are too few resources for the young people who desperately need them. The simple truth is that no one has ever doubted the recommendations of Dr Bentley in terms of what intervention is needed, it has just never been implemented. In the allocated Social Worker's final statement in the care proceedings, dated 1.3.23, she confirmed that 'The Local Authority continues to search for a therapeutic placement for [Holly] which will best suit her needs.' As the court is aware, the Care Planning, Placement and Case Review (England) Regulations 2010 require a local authority to assess a child's needs for services and prepare a care plan for promoting the welfare of the child who is being looked after by them. The regulations provide a statutory framework within which local authorities must meet their duty to provide a well- planned

placement which meets the child's needs. The Local Authority has a statutory duty to safeguard and promote the welfare of the child (CA 1989, s. 22(3)(a)). This duty, additionally, includes a specific duty to promote the child's educational achievement. Sadly, not enough has been done by this Local Authority to seek to secure the therapeutic residential placement which [Holly] so desperately needs, or to promote her educational achievement." 76. The guardian highlighted the decision of Stuart Collins, the then Director of Integrated Children's Services, on 28 July 2023 to authorise the local authority to cease searching for alternative placements for Holly. As is recorded in the background above at para 17, the court, the grandparents and the guardian were only made aware of this decision in August 2024 when it was referred to in a statement by the assistant Director, Florah Shiringo. 77. The local authority's response to this decision is set out in paragraph 27 of its position statement: "If it is being suggested on behalf of the guardian that there is a legal requirement on local authorities to consult with holders of parental responsibility when deciding whether to cease (or MR JUSTICE KEEHAN Approved Judgment Re Holly presumably to undertake) a placement search for a looked after child, then that is disputed." 78. 79. I shall avoid passing comment on this assertion other than to observe that it typifies the approach of this local authority to these grandparents who had parental responsibility for Holly. The guardian submitted that notwithstanding that Holly was becoming increasingly unhappy at Unit B in the early months of 2024 and was continuing to self harm with increasing severity, no effective measures were put in place to reduce the risks and no searches were being made for the residential provision which Holly had been assessed as needing. 80. As the guardian noted the only active searches conducted between 18 July 2023 and 11 December 2024 were undertaken:

- a) For 6 weeks between 16 August and 30 September 2024; and
- b) For 8 days between 19 and 27 November 2024. Thus over a total period of 72 weeks, searches were undertaken for just 53 days. The guardian commended the 'more thoughtful and reflective' statement of the social worker which included the following: "The Local authority would like to take this opportunity to acknowledge that there is a crisis regarding the care afforded to young people presenting with complex needs such as [Holly]. The court and the guardian have identified areas of learning for the Local Authority, Health and Education. Unfortunately, there is a cliff edge for [Holly] where no agency has been able to support her the way in which was recommended by Dr Bentley within her initial assessment in 2022. Although, the Local Authority has attempted to manage and support [Holly] it has to be acknowledged that these attempts have not provided the outcome that all professionals, [the grandparents], and most importantly [Holly] would have hoped. The Local authority does not disagree that a therapeutic residential placement offering intensive DBT would have been the most suitable provision, as recommended by Dr Bentley. However, this has not been available, and we acknowledge that [Holly's] outcomes have unfortunately been impacted due to a lack of resources and suitable placements available for her. Whilst we have worked closely with our colleagues at Health, it is quite clear that there is further work to be done for both sectors in ensuring that children and young people like [Holly] are not

left with support that does not meet their needs.” 81. In relation to Holly’s future, post her 18th birthday, the guardian observed that the local authority adult services team is taking steps to explore alternative placements for MR JUSTICE KEEHAN Approved Judgment Re Holly Holly. The local authority had indicated that Holly had said that she wanted to remain living at Unit C. When the guardian raised this matter with Holly she said: “Not particularly, I said I’d stay here if I’m off the dols until they allow me to move closer to mama and papa, to independent living because I’m more capable of doing everything myself like cooking, cleaning, stuff like that”. 82. The local authority set out in their final statement a wide range of measures that are to be taken by the adult services team, the community mental health team and educational services for the therapy services, support and assistance that will be made available to and for Holly. I share the guardian’s sincere hope that these will be provided to Holly because she remains an exceptionally vulnerable young person whose unaddressed and complex needs present a grave risk to her safety and well- being.

Analysis

83. 84. 85. 86. I readily acknowledge that there is an acute lack of provision in England and Wales for children and young people who are very vulnerable and have the most complex needs. They require a considerable array of multi agency resources to enable them to be kept safe, to remain stable and to achieve their full potential in their future lives. There is a particularly chronic shortage of therapeutic residential placements which have the expertise to meet the immediate and longer term needs of this cohort of young people. I also acknowledge the challenges presented to this local authority in attempting to address the needs of Holly in particular her need for a therapeutic residential placement for sustained therapeutic intervention and for appropriate educational provision. On many occasions she failed to engage with and/or refused to accept the offers of services, therapy, education and support offered to her. None of this should have come as a surprise to any professional experienced in dealing with vulnerable young people with complex needs. At other times she appeared superficially to be happy and settled, but behind this outward display of stability lay the emotional struggles and turmoil of an emotionally and psychologically damaged young person. This should never have been accepted as a sign that all was well or that progress has been made by Holly. The history of this case demonstrated that all too often these periods of apparent stability were followed by episodes of serious self harm or risky and challenging behaviours which were most recently seen in December of last year and in January of this year. In this context I was dismayed that a significant part of the local authority’s position statement for this hearing contained such negative and, in my view, wholly unwarranted criticisms of the grandparents and of the guardian. There was little that demonstrated a ‘thoughtful or reflective’ approach by the local authority to its conduct and actions in respect of providing for Holly’s needs over the last three years. This is to be regretted. Having reviewed the substantial number of statements, reports and documents in this case and this court’s involvement in so many hearings over the course of the last year or so, I have a clear sense of this local authority having taken, at best, a reactive rather MR

JUSTICE KEEHAN Approved Judgment Re Holly 87. 88. 89. than proactive response to providing for Holly's needs and supporting her wellbeing. The repeated failure to involve the grandparents in planning for Holly and the failure to consult with them in respect of important decisions about Holly was inexcusable. They were effectively sidelined and it was only these proceedings which gave them a real opportunity to be heard and to be listened to. I recognise and accept that various attempts were made to access mental health and educational services for Holly. However, the searches for appropriate residential placements, especially therapeutic residential placements for Holly were wholly inadequate, having taken place for only 53 days over a period of 72 weeks. The local authority paid lip service to the recommendations of Dr Bentley but never seriously embraced them or pursued them with any vigour. The decision to cease the search for placements in July 2023 which was only revealed to the court, the grandparents and the guardian in August 2024, is truly extraordinary. I was given no explanation for this omission. I can only conclude that this demonstrated a complete lack of commitment by this local authority to providing for the needs of this vulnerable and complex young person. I accept that the proper provision of therapeutic residential placement for Holly with access to mental health services and education provision may not have met or addressed all of Holly's needs and she might well have remained a deeply troubled and vulnerable young person. This local authority denied her the opportunity to take advantage of such a specialist placement or of such specialist therapeutic support to give her the best chance of overcoming her difficulties, to a greater or lesser degree, and to achieving her full potential in her childhood.

Conclusion

90. 91. I refused the local authority's application to extend the DoL for 7 days until Holly's 18th birthday because I saw no purpose to be served in doing so. I regret that this local authority failed to provide this vulnerable young person with complex needs with the care, support and services which she so demonstrably required in her welfare best interests.

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