Neutral citation number: [2026] EWCOP 33 (T2)

IN THE COURT OF PROTECTION SITTING AT OXFORD

HEARD ON 20th to 22nd July 2026

HANDED DOWN ON 24th July 2026

Before

HER HONOUR JUDGE OWENS

Between

OXFORDSHIRE COUNTY COUNCIL

Applicant

- and -

P
(by her litigation friend, the Official Solicitor)

First Respondent

-and-

G

Second Respondent

JUDGMENT

Representation:

For the Applicant: Mr Day, Counsel (instructed by the Local Authority)
For P, First Respondent: Ms Fox, Counsel (instructed by Miles and Partners)
For G, Second Respondent: Mr Harrison, Counsel (instructed by Reeds)

1. This judgment is being handed down on 24th July 2026. It consists of 35 pages and has been signed and dated by the Judge. The Judge has given permission for the judgment (and any of the facts and matters contained in it) to be published on condition that in any report, no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by name, current address or location [including school or work place]. In particular the anonymity of P and the members of their family must be strictly

preserved. All persons, including representatives of the media, must ensure that these conditions are strictly complied with. Failure to do so will be a contempt of Court. For the avoidance of doubt, the strict prohibition on publishing the names and current addresses of the parties will continue to apply where that information has been obtained by using the contents of this judgment to discover information already in the public domain.

2. These proceedings commenced in January 2025. I have anonymised the participants more than is usual in a COP case to avoid the risk of jigsaw identification. The use of the letter 'P' for the person who is subject to these proceedings should not be taken in any way to diminish her central importance.. P was born in 2001. She has various diagnoses including a learning disability and has limited verbal communication. She has experienced significant childhood trauma, functions well below her chronological age, and requires a lot of emotional support to avoid becoming dysregulated. Social services have been involved with her since the end of 2002 so for nearly all of her life. She has experienced a number of changes to her living arrangements over the years, her parents separating in 2003, initially living with her mother before moving to live with her father in 2008, then moving to live with her grandmother (G) where she remained for a significant number of years, until she moved to respite care in 2024 as a result of G's ill-health. P does not currently have a relationship with either of her parents and has not done so for some years.

3. On 16th January 2025 the Court made interim orders authorising P's move to a supported living placement and authorising a deprivation of liberty there. She moved on 17th February 2026 to supported living and has remained there since.

4. The timetable for these proceedings was initially delayed due to issues with the Official Solicitor being able to accept the invitation to act as Litigation Friend for P, those issues relating to securing funding for these s16 proceedings.
5. Prior to these proceedings, on 28th October 2024, Dr B completed an assessment of P's capacity to make decisions in the domains of residence, care and support. He concluded that she lacked capacity in these domains (B74).
6. P's allocated social worker (ASW) completed a further capacity assessment in December 2024 and concluded that P was unlikely to regain capacity to make decisions in the relevant domains (B79).
7. At the end of October 2025, the case was timetabled to a contested hearing before me on 5th to 7th May 2026, however at a Pre-Trial Review (PTR) on 23rd March 2026 I agreed with the respondents that further evidence was required to enable me to make final decisions. The case was therefore re-timetabled to this hearing, with a PTR listed on 7th May 2026. At that PTR this hearing was confirmed as effective.
8. On 5th June 2026, the solicitor for the Local Authority emailed me seeking participation measures for the allocated social worker. The email was not copied to the COP Administration Hub or anyone else in the case. Aside from the inappropriate and unhelpful nature of this attempt to correspond privately with a judge in relation to a case, no detail was provided of what precisely was sought, and there seemed to have been no consideration of how any measures sought may impact on either the advocates' preparation for or conduct of their cross-examination, nor how this may affect the timetable for the hearing. I directed on 5th June 2026 that a formal COP9 application should be made on notice to the other parties to give them an opportunity to respond. The application was not received until 26th June 2026, served by the Hub on the parties the same day. What was

sought was still unclear or how this might affect the hearing timetable, but responses were awaited from the other parties. By 9th July 2026 no responses had been received, but the Hub chased these. On 10th July 2026 those who represent the respondents replied to confirm that they had received the application but had understandably raised a number of queries with the Local Authority regarding the proposed measures and the potential impact on the hearing. An Advocates' Meeting (AM) took place on 15th July 2026. This fortunately clarified things and it was confirmed that the case could still conclude within the time available. It would, however, be necessary to conduct a short Ground Rules Hearing (GRH) prior to the commencement of the hearing to deal with the participation measures sought, especially since the measures sought were not fully agreed at the AM. I gather that the previous solicitor for the Local Authority has now left their employ but would point out that applications for participation measures should be made on notice to those involved in the proceedings, especially if they may require adaptations to the way in which cross-examination is conducted. Applications should also be made promptly to allow them to be properly considered and for the witness to know in good time how they are to be supported to give evidence. Participation measures are supposed to maximise the quality of the evidence from a witness. Dealing with them in disarray and haste, without sufficient information about what is sought or time to properly consider them by all concerned, as well as an opportunity to allow them to be properly implemented, risks that outcome. In this case the application could and should have been made much earlier in the proceedings and certainly prior to the PTR.

9. No party disputes that P lacks capacity in the relevant domains in this case. I have previously determined that P lacked capacity to make decisions about the contact

that she should have with G and made a s15 declaration accordingly (A75). The issues for this hearing are:

a) Applying the considerations in the recent authority of ***Reference by the Attorney General of Northern Ireland of a Devolution Issue under Paragraph 34 of Schedule 10 to the Northern Ireland Act 1997 [2026] UKSC 16*** (***AGNI***), is P deprived of her liberty either in her current placement or if she were to return to live with G?

b) Is it in P's best interests to remain in her current placement or to move to live with G for a trial period with a package of care and support (those being the only two available alternatives for this court at this point)?

c) If P remains in her current placement, what is in P's best interests in respect of the care and support plan with regard to her contact with G, including how quickly contact between P and G should be progressed at P's home?

d) Should the proceedings conclude if P remains in her current placement, or should there be a period of further review to monitor progress with contact?

e) If P is deprived of her liberty as a result of the care arrangements authorised by the Court, who should be appointed as rule 1.2 representative for her?

10. During this hearing, I have read the Bundle, had a more substantial Disclosure Bundle, a separate supplementary statement from the ASW (unfortunately omitted from the main bundle), a separate bundle of activity records, and heard evidence from the allocated social worker and G.

11. The positions of the parties at this hearing are as follows:

a) The Local Authority case is that final declarations can be made about capacity in the relevant domains and it is in P's best interests to remain living in her current supported living placement and a move to live with G for a trial period

is not in P's best interests. It is not in P's best interests to prolong proceedings in any form, the professional evidence being that the continuation of proceedings is itself having an adverse impact on her. The Local Authority accepts that P's current living arrangements are likely to still amount to a deprivation of liberty applying the multifactorial test in ***AGNI***.

b) The Official Solicitor also accepts that final declarations about capacity can be made. She also contends that it is in P's best interests to remain living in her current placement given the complexity of her needs which cannot be as effectively met in G's home. It is also her case that P is deprived of her liberty in her current placement, but it is less clear that she would be deprived of her liberty if she were to return to live with G. The Official Solicitor notes that P may be likely to validly consent to those arrangements which may mean she is not deprived of her liberty, but this would require review after any move by P to live with G.

c) G also accepts that the evidence about P's lack of capacity is clear and that final declarations can be made. G's case is that it is in P's best interests for her to move to live with G for a trial period. It is also her case that P remaining in her current placement is against P's express wishes and will involve an element of coercion, imposed by the State, and therefore capable of amounting to a deprivation of liberty. G's case is that if P were to return to live with her this is unlikely to amount to a deprivation of liberty applying the ***AGNI*** test. However, she accepts that if this option is determined to be in P's best interests no final determination about deprivation of liberty could be reached before there had been a review of P's presentation and response to care arrangements at G's

house following the move. This is because whether P indicates consent or opposition to those arrangements is an important part of the test.

12. The relevant legal considerations for this case are uncontroversial. Where a person is unable to make a decision for themselves, there is an obligation to act in their best interests (s1(5) of the Mental Capacity Act 2005, (the MCA). The Court, when determining what is in a person's best interests, must apply the considerations set out in s4(6) of the MCA. The views of anyone engaged in caring for the person or interested in their welfare must also be taken into account (s4(7) MCA). The Court of Protection (COP) is often a highly fact-sensitive jurisdiction, and cases such as ***RB v Brighton & Hove City Council [2014] EWCA Civ 561*** emphasise the need to apply the statutory framework to decision making rather than comparing decisions taken in different cases. In the case of ***ITW v Z, M and Various Charities [2009] EWHC (Fam)*** Munby J made clear that there is no hierarchy between the statutory factors to be considered and, although sometimes some factors may be more magnetic than others and P's wishes and feelings will always be a significant factor to which the Court must play close regard, the weight to be attached to P's wishes and feelings will always be case-specific and fact-specific.

13. As was made clear in ***Aintree University Hospitals NHS Foundation Trust [2013] UKSC 67***, an individual's wishes and feelings are not necessarily determinative, nor is it always possible to ascertain an individual's wishes and feelings. As noted above, ***AGNI*** is relevant to considering whether or not a person is subject to a deprivation of liberty. ***AGNI*** has fundamentally changed the legal test from that set out in earlier jurisprudence, and the test is now "multifactorial"

with no single factor being determinative, though valid consent will be a powerful factor in the assessment.

14. The Court must ultimately consider whether decisions about P can be as effectively achieved in a way that is less restrictive of her rights and freedoms applying s1(6) of the MCA. However, as submitted by Ms Fox for the OS in her position statement for this hearing, whilst it is expected that those involved in caring for a person who lacks capacity will strive to achieve the least restrictive outcome, it is not a foregone conclusion that meeting the legal test for deprivation of liberty will determine what option is in P's best interests.

15. In terms of capacity, as I noted above, the evidence about this is not challenged by any party and it is overwhelmingly clear that P lacks capacity and will continue to lack capacity in the relevant domains (B73-B76 Dr B capacity assessment, and B78-B85 ASW capacity assessment). I have already made (on 23 March 2026) section 15 declarations that P lacks capacity to make decisions about where she should live, the care and support that she should receive including details about contact arrangements with G if she remains in supported living, to enter into a tenancy agreement and to manage her finances.

16. The first issue I have considered is whether P's current or future living and support arrangements amount or would amount to a deprivation of her liberty. Factually there is little dispute about the arrangements and restrictions placed on P in her current placement or, in fact, if she were to move to live with G. Her current placement is supported living rather than a secure residential unit, but still involves locked external doors, sensors on the front door and bedroom doors, window restrictors and P is not free to leave unless accompanied by one-to-one support which she requires for all outings, appointments and journeys (B271, B273, B274).

She can perform some basic tasks for herself within the placement, such as getting herself breakfast at times, and does not need waking support overnight but overall, her needs are such that she requires 35 hours of one-to-one support each week. As was submitted by Ms Fox for the OS, it is arguable that the current placement allows P some sense of relative normality because she can go on regular outings and attend local clubs. Physically the property also has an appearance of relative normality a world away from a prison facility (B87-B91 photographs of the placement). However, I agree with Ms Fox's summation that P is, in reality, subject to ongoing supervision and unable to leave the placement without support in place. To some extent, that overall position would be little different at G's house. Locked external doors are not uncommon in private residences at night or even during the day sometimes, and G's evidence to me was that she accepted that P would need support to leave her home beyond going into the garden and, even then, G would check on her. Sensors are not present at G's home as far as the evidence shows, nor are there window restrictors in place at present, though the risk assessment by the ASW in the shadow care and support plan were P to return to live with G notes that these would be required (B632). There is thus a minor qualitatively lower level of environmental restrictions potentially in place at G's house for P.

17. Neither placement option requires any level of chemical restraint nor physical restraint of P. However, objectively P is not free to leave either her current placement or G's house when she chooses and would be subject to a high level of supervision in either placement as evidenced by the proposed package of support in the shadow care plan. These are factors which would point towards the conclusion that she is not able to exercise her autonomy freely in either placement and thus may be deprived of her liberty notwithstanding that both placements are

further removed from the paradigm of a prison cell identified in ***AGNI***, and thus closer to relative normality.

18. As highlighted by both Mr Harrison and Ms Fox, and the subject of much of the contested evidence in this case, the main issue about deprivation of liberty is P's consent or lack of consent. Her wishes and feelings are disputed and I will come on to consider those later in this judgment, but it is clear from the professional evidence before me that there is considerable doubt about the extent of P's understanding of 'home', and she has consistently stated that she wants to live with various family members or even her advocate rather than expressly stating that she wants to remain in her current placement. The Supreme Court in ***AGNI*** was very clear that where there is doubt about whether someone is validly consenting to their arrangements, no inference of valid consent should be drawn. Given this doubt and the overlap between the subjective and objective elements of the test, it seems clear to me that it is very likely that P meets the objective element of the test and is confined at her current placement but subjectively there is considerable doubt about whether she is consenting to that. However, as all parties have acknowledged, it is less clear what P's reaction would be to any return to live with G, and thus I am unable to draw a final conclusion about that and what it may mean in relation to the subjective element of the test. As was submitted by Mr Harrison and Ms Fox, should P settle with G she would be likely to be validly consenting to those arrangements and therefore it is probable that she would not be subject to a deprivation of liberty there. If I conclude that returning to live with G is in P's best interests, all parties accept that this would need to be for a trial period and to review whether P had settled there and thus may be taken to be validly consenting to those arrangements.

19. The next issue is whether it is in P's best interests to remain in her current placement or to move to live with G for a trial period. P's wishes and feelings are part of this by virtue of s 4(6) (a). G's case is that P has clearly and consistently expressed a wish to return to live with her, however this is disputed by the Local Authority and the OS. No party disputes that there are numerous references to P saying that she wants to go home to live with G, both during telephone calls and in person. However, P has also made numerous references both to G and to professionals about wanting to live with her parents or with her advocate, again factually not disputed by G. The dispute is that G advances a case, as Ms Fox outlined in closing, that when P says to G that she wants to come to live with her that is an expression of her true wishes and feelings which can be relied upon but, when P provides a confused answer to G or anyone else that cannot be relied upon. Both Mr Day and Ms Fox pointed out that this could be regarded as a convenient interpretation by G since it supports her case that P wants to come to live with her. Having carefully considered G's evidence about this, it seemed to me that she was saying that she knows P best and is able to interpret what P is saying when she gives muddled answers. Again, going back to the evidence overall not just what P has said to G, the evidence is very clear that P has said lots of different things to different people at different times, and not always in a context specific way, about whom she would like to live with. She has also referred to different places as 'home' at various points and to different people. I did not find G's evidence clear or compelling about why her interpretation of what P has said should be preferred and taken as proof that P has clearly and consistently stated a wish to live with her. As Ms Fox noted in closing, G's evidence in answer to her questions about whether P saying "I think so" or "I don't know" was sometimes P

processing but at other times was actually P saying “yes” was itself confused and lacking in credibility. It seemed to me that G clearly loves P and wants her to live with her again, and that perhaps this desire has coloured the interpretation that G has put on what P has said to her, as Ms Fox submitted in closing. It is not even as if P has been consistent in what she has said to G about where she wants to live, I note. P has repeatedly told G that she wants to live with her parents as well as saying she wants to live with G, though G attempted to explain this discrepancy by saying that P knows this is not possible. With the greatest of respect to G, the evidence of P’s capacity and understanding does not support a clear conclusion that P does know this in my view. On balance, the evidence before me supports a conclusion that P has some awareness of where she is living and where she has lived, including in the past with her parents, but otherwise overall she is consistently confused about where and with whom she wants to live and her wishes and feelings are, as described by the ASW, “muddled”. I cannot therefore find that P has clearly and consistently expressed a wish to return to live with G, but I do note that this does not in any way diminish the undoubted bond between the two of them nor that G cared for P for the majority of P’s life on the evidence before me. This means that the beliefs and values that would be likely to influence P’s decision if she had capacity (s4(6)(b) include placing a high value on that bond, I find. However, although Mr Harrison submitted that P’s wishes and feelings could be regarded as a magnetic factor in the best interests decision, given the lack of clarity and consistency that I have found exists it would not be appropriate for me to regard what P has said to G about wanting to live with her as a magnetic factor in this case.

20. Moving on to consider the other factors that P would be likely to consider if she were able to do so, it is not in dispute that P has complex needs and that G is not capable of meeting those needs on her own without a package of care and support. The extent to which G has insight about P's complex needs and can work with professionals to ensure those needs are met are, however, key areas of dispute in this case and very relevant to the best interests decision. There is a very good and succinct summary of P's needs set out by the ASW in the shadow care and support plan at B631-B632: *"P requires support in the following broad areas:*

- *Emotional regulation and reassurance*
- *Support with daily living tasks (as required)*
- *Support to access the community safely*
- *Monitoring of wellbeing and escalation of concerns*
- *Consistent routines and support from familiar staff*
- *Positive Behavioural Support (PBS) to manage emotional distress*
- *Support to seek, arrange and attend medical appointments*
- *Assistance with medication management and prescriptions (if and when required)*
- *Support to develop and maintain friendships and family relationships*
- *Guidance and supervision for household tasks and maintaining a safe home*
- *Support with managing finances and benefits*
- *Safety measures in place (eg window restrictors) to manage risks in the home".*

21. The ASW was very clear in her oral evidence to me that P has complex needs and that it is in the area of her emotional needs that this complexity primarily arises. It

is also not in dispute that P requires consistency from those caring for her and that considerable professional support would need to be provided for anyone caring for P, something that G acknowledged in her evidence to me as well. Given the written and oral evidence before me it is abundantly clear that P has complex needs, and those needs require the support identified by professionals in this case. The concern of the Local Authority and of the OS is whether G has enough insight into those complex needs and would be willing and able to consistently follow professional guidance and support if P were to return to live with her. The factual disputes about whether G has said things to P or in her presence at times that have caused P to become distressed are relevant to this, as well as the issues around the extent to which G has appropriately sought and received support for G in her care, as is the evidence from G to me about the PBS support plan for P.

22. The contact between P and G on 3rd July 2026 was extensively explored during this hearing. The Local Authority sought to prove that this was an example of G failing to comply with expectations about not discussing court proceedings or inappropriate subjects in the presence of or with P. I have the full notes of this contact in the supplemental activities bundle, and the written and oral evidence of G about this. The ASW accepted that she was not present for this event so was reliant on the record. It is not in dispute that P was happy and excited to be going to spend time with G and that the contact started with P smiling at G. Nor is it in dispute that the picture of contact overall is mixed with, for example, extremely positive contact taking place on 16th July 2026.

23. G did not dispute that she spoke to staff supporting the contact on 3rd July about someone saying that she smelt of alcohol during a previous contact session. I am not sure why G thought that it was either necessary or appropriate to raise this with

the care workers during time that was supposed to be about contact with P, but the recording that G asked the support workers to put *"on the record"* that she *"could not smell of alcohol as I do not drink"* is not disputed. It seems from this as if G's concern was in setting the record straight and I can understand her concern about this, but it does not seem to be acting in P's best interests to have raised this when she did. Even if P did not hear what she said as G contended, G told Mr Day that she was 'wound-up' and anxious about court this week and it was possible that this may have come across in her body language, as she accepted when I asked her about this in clarification. It is not in dispute that P finds people becoming emotional in her presence a 'fast-trigger' as set out in the PBS support plan. However, G does not accept that she mentioned court at the end of July in P's hearing and then turned to P to say, *"then you can come home"*, again something that the PBS support plan specifically identified as fast triggers for P. G's evidence about this was that whilst she accepted there had been a discussion with the support workers along the lines that was initially recorded, P could not have heard this but did then become dysregulated and ran towards the gate before running back to the swings. G also did not dispute that P clapped loudly in front of her face, grabbed both of G's wrists and pushed her away and became very red in the face, was very agitated and raising her voice, saying some of what appear to be her 'stock phrases' (as the ASW and G both put it at times though, as is noted elsewhere in the evidence the technical term for these is 'echolalia'). G accepted that P then calmed down before there was a second period of dysregulation which culminated in P asking *"Can I go home now"* repeatedly (appearing to refer to her current placement as she got into the car), and the level of distress exhibited by P was such that the contact had to be terminated early.

24. G's evidence about this incident was, I am afraid, confused and lacking in credibility. She said that the second period of dysregulation was prompted by her asking P to take a layer of clothing off because it was hot (P over-dressing for the weather is an accepted issue) but refused to accept that P might have heard anything about the first conversation to trigger the first outburst, instead saying that this was possibly caused by P being jealous of her speaking to other people. The key aspect of G's evidence that Ms Fox rightly highlighted as concerning was that G refused to accept that anything she had said could have been a trigger.

25. G's credibility was further undermined by her evidence to me that she had never been told by any professionals not to mention court to P. As Ms Fox submitted in closing, this is simply wrong when one looks at the written evidence before me where there is indeed a consistent message that referring to court or the judge may cause P anxiety or upset (for example B164 para 7, and B175 para 38). B174 para 36 sets out a summary of what the PBS plan identified as necessary practices to support P, in particular when she starts to use echolalic phrases and questions during telephone calls with G. At B175 para 37 the ASW acknowledged that it may be difficult for G to respond to P in a different way to the way she was used to and made some specific suggestions about what G could say in line with the PBS plan. On balance, I am satisfied that the record of what happened on 3rd July is correct and, although G may have thought that P could not hear what she was saying to the support workers at first, she did go on to mention court and going home and that this triggered the reaction from P. It seems more likely that P remained dysregulated after the first reaction despite going to sit back down on the swings with G (as indicated in the record in the activity bundle), and P ultimately returning to the car and wanting to go back to the current placement was a continuation of

her distress. Whilst I don't discount the possibility that P was also wearing an additional layer of clothing, it is very unlikely that such a detailed note of this contact would have failed to note G asking her if she would like to remove that and this prompting further dysregulation and, in any event, it seems more likely that P became dysregulated overhearing what G first said and then having G directly reference court and going home, and that P remained in a heightened emotional state even when she returned to sit on the swings with G.

26. Returning to the issue of whether G is willing and able to follow professional guidance and support, the issues about the PBS support plan and G's evidence to me about this were concerning. G initially said that she had not seen the later version of the PBS support plan which, to be fair, was only dated a month ago so I suggested that she be taken to the earlier version dated 1st September 2025. She was taken to the page at B291 which sets out slow and fast triggers for P including G saying to her that she was going home in the latter category. G accepted that she had seen this earlier version but had "discarded it" because she had not done anything that it identified as problematic. When I asked her if there was anything in that plan which might be helpful for P, she said that she had not seen anything in there which might help P. As Ms Fox submitted in closing, it is concerning that a plan created with input from a specialist PBS practitioner was simply 'discarded' by G. G also told me when asked by Mr Harrison in re-examination what she would do if she again fell ill and needed help, that she would call her sister in law but would not call professionals as they had "failed" her so many times in the past. I have also noted the evidence from the Local Authority and G about P having been prescribed anti-depressants by her psychologist, but G decided not to give them to P (B25 and oral evidence to me). G was clear in her evidence to me that she would

do the same again. I am afraid that all of this evidence does raise a legitimate concern about the extent to which G actually accepts that P's needs are complex and that a high level of support is required to ensure that they are met, as well as support a conclusion that G may struggle to follow and implement professional guidance to ensure that this high level of support is provided if P were to return to live with her.

27. G's case is also that she has not been provided with necessary and timely support for G despite asking for this in the past and what is now proposed for the future (if P were to return to G's home) should be compared with the previous care arrangements. G says she would still be caring for P if further support had been in place. No party disputes that during the Covid 19 pandemic there were unfortunately delays that affected the provision of Local Authority services, and Mr Harrison was clear that this was not part of G's criticism of the Local Authority when he cross-examined the ASW. There is a chronology of professional involvement with P in the run up to P moving to respite care in July 2024 set out in the first statement of the ASW between B2-B10. The ASW was only involved from 2022, but her evidence relies upon Local Authority records as well, whereas G's evidence is reliant on her recollection which inevitably will have been affected by the passage of time. It is apparent from the ASW evidence that Local Authority records show that the progression of assessment and provision of support for P in the care of G was not helped by P's father and G failing to attend planned meetings at points, and an ongoing theme of support only being sought in crisis (B7).

28. G's evidence about lack of support in her first statement is at B150 para 18 and appears to relate to when P was a teenager, which would mean that this related to the period from around 2015 onwards. As the ASW set out at B3 onwards, in June

of that year the Local Authority first became aware that P was living with G, and at para 14 B4 the school assisted with a referral to CAMHS but expressed concern about G's willingness to progress this since she had expressed mixed views and *"felt their input would be unsuccessful".* Ultimately in 2017 a MASH referral was received from Dr G, Consultant Paediatrician, advising that G required respite provision for P, and that same year it was noted that Dr M, Clinical Psychologist from the Learning Disability CAMHS team, had prescribed P low-dose anti-depressants. These are the anti-depressants that G accepted she chose not to give P as I noted earlier. From this point to May 2019 it seems as if support was being considered but, as the ASW noted this initially *"was minimal due to P's age" (B10 para 25)*, and at this point Local Authority records show that G was *"inquiring (sic) about Supported Living and whether it would be considered for P's future".* G accepted in her third statement at B647 that she did not ask for help from the authorities for many years and she did not dispute the chronology set out in the first ASW statement that I have noted above. Comparing this with the ASW evidence, including her supplementary statement dated 12th June 2026 (not in the bundle), it does seem that the Local Authority sought to progress support for P as requested by G and despite initial problems with lack of engagement by P's father and G. However there was an unfortunate combination of difficulty in matching provision to P's needs, availability of suitable carers and then the impact of the Covid 19 pandemic, followed by delays caused by needing to progress support at a level that met P's needs, culminating in G then cancelling an introductory visit with a potential carer which led to a delay in that meeting until April 2023. That carer then withdrew in June 2023, before ultimately overnight residential respite provision was put in place for the end of 2023 (para 21). It is not, therefore, that

the Local Authority did not progress requests for overnight respite as G alleged, but that this took time partly due to resource constraints but also partly due to the complexity of P's needs, as the ASW set out at para 23. The picture is therefore far more nuanced and complicated than G sought to portray it and, as the ASW set out at para 27, I am satisfied that *"the local authority was actively working with the family to explore and develop support, rather than holding a fixed position that no further provision was required".* Given that complexity and nuance, I am not persuaded that G has established that she would still be caring for P without issue if she had had adequate support earlier.

29. The issues around G's direct contact with P once she moved to live in her current placement are also relevant to whether G can put P's interests first despite what may be her best intentions and love for P. There is no factual dispute that, after P moved to her current placement, direct contact between P and G ceased for over a year and has not long re-started. The reason for this is also not in dispute, namely that G chose not to see P in person, though G contends that this was putting P's interests first as she feared that P would become upset and want to come home with her if she visited her in person. The Local Authority and the OS do not accept that this was a decision that was taken in P's best interests. Looking at the evidence about this, it seems clear from the ASW statement dated 3rd October 2025 at B166 para 11 that professionals were very supportive of contact taking place and acknowledged that there were some practical issues with G simply travelling to visit P. However, G told the ASW that she would only agree to meet with P if the ASW were present so that she *"could see how [P] is in her presence".* The statement goes on to explain that support was offered from another professional well known to G, recognising that G may find the

reintroduction of face to face contact emotional, but G continued to insist that she would only meet P if the ASW was present. I did not find G's evidence that she failed to take up the offers of direct contact sooner because of a desire to put P's interests first to be credible. I find that she, perhaps without meaning to, put her own needs first, specifically to be 'seen' to be able to spend time with P without issue and driven by her worry about any distress from P at the end of contact. This all adds to a picture of lack of insight and rigid thinking on the part of G, which I find is not in P's best interests.

30. There is an odd factual dispute between G and the Local Authority about whether G asked for P to move to supported living in the past. I say odd because G herself accepts that this first potentially would have been some years ago in 2019, and later in 2024 she was very ill and both aspects would be bound to have affected her recollection, as Mr Harrison pointed out in closing. The ASW was quite clear in her initial statement at B3-B9 that there was a lengthy and troubling chronology of concerns about P at two MASH referrals during this period. At B5 para 21 she noted that the records showed concerns being raised on 17th January 2019 about the ability of G to manage P's emotions and provide safe supervision. At B10, the ASW set out evidence of receiving a telephone call from G on 2nd April 2024 in which G expressed a desire for P to move to supported living. G's evidence about this, both in her written evidence and to me in the hearing, was that she only "enquired" about supported living and did not ask for it, but did ask for respite. The chronology set out by the ASW shows that respite care had in fact commenced in November 2023 at a placement which now forms part of the shadow care plan if P were to return to live with G. It is therefore odd and lacking credibility that G would have asked for respite care when it had commenced, I note, though by the point

that G was very unwell in early July 2024 it was understandably emergency respite care that was organised (B10-B11 para 44). On balance, it is more credible that the Local Authority records and the evidence of the ASW about G asking about P moving to supported living at various points from 2019 onwards and then again in early 2024 are correct and I find it is simply that G has misremembered what she said and when she may have said it in light of the lapse of time and her ill-health.

31. Mentioning G's previous ill health brings me onto another aspect of this case that is not agreed. G has given written and oral evidence which outlines that she has a number of chronic and potentially serious health conditions, at least one of which she states is exacerbated by stress, and that her ill-health was the trigger for her seeking help from the Local Authority and P moving to respite care in 2024 before moving to supported living in early 2025. She does not dispute that she was observed to be extremely unwell in early July 2024 as noted in the ASW statement at B10-B11, and that she was admitted to hospital as a result but discharged soon after. A letter from a doctor at her GP practice (albeit not her own GP) is in the bundle at B56. It is a very short letter and provides no detail whatsoever about the nature of G's diagnoses, treatment or prognoses. Despite being directed to file evidence addressing this, the only other medical evidence that G has filed is at B155 from her GP which again does not provide any detail about diagnoses, treatment, medication or prognoses. It does purport to offer an opinion that G is physically capable of caring for P, but I note the GP's opinion about this is not admissible as she is not a Court appointed expert and may not be fully aware of the necessary information about what is required to meet P's needs. As the ASW noted at B461, G did agree to the Local Authority having access to her health information via the Health Information Exchange, however this is limited to

summary information as the ASW confirmed in her supplementary statement at para 66. It seems from G's own evidence to me that she takes medication for her various conditions and that is currently controlling those conditions, but she is not under the care of a consultant for pain management despite having at least two conditions which are likely to cause her pain, and there is no evidence about the potential impact of stress on any of her health conditions nor any steps that may be required to mitigate this impact so as to prevent future exacerbation.

32. As both the Local Authority and the OS submitted during this hearing, G's age may be a potential limiting factor in terms of how long she can care for P. Age alone is not necessarily an indicator of inability to care for P, and there are many family members caring for younger people where inevitably carers will be outlived by those they care for, but the combination of G's age with her health conditions does support a conclusion that she is less likely to enjoy a prolonged period of physical fitness compared to someone younger without such health conditions. In turn, I find that does raise a concern about the sustainability of arrangements for P living with her in the long-term. However, the more significant aspect about sustainability for those arrangements is not G's long term health and fitness, but more the potential for those arrangements to break down considering their complexity and uncertainty about future provision.

33. The complexity of the care and support arrangements for P should she live with G is apparent from the fact that it involves three separate providers, one of which provided respite care for P in the past and has stated that they have only offered dates on a provisional basis (B467). Their involvement would also mean P returning to a respite placement that she found extremely challenging in the past, and where the provider has clear concerns about the potential impact of P's

behaviour on other residents given her previous presentation in the setting (B467 para 88). There is also the question of how sustainable these arrangements may be if G continues to struggle to accept and follow professional advice. The ASW also told me that long term provision of support cannot be guaranteed because it has not been commissioned long term as it would be subject to review, and would also depend on whether the commissioned hours remain viable for a provider too. It is also very clearly dependent on how P responds to that provision as the risk assessment evidence in the bundle from one of the providers noted that P may become significantly distressed during contact with G, and they have assessed her as having a high client risk profile by virtue of her complex presentation and needs (B820 and B803).

34. The safeguarding concerns about P's uncle are also relevant to consideration of whether it is in P's best interests to return to live with G. There is no factual dispute that his presence in the property when P lived with G seems to have caused P distress and gave rise to significant safeguarding concerns on the part of police and professionals. He was investigated and arrested in connection with suspected fraud by inappropriately accessing P's money. He was granted conditional bail not to have contact with either P or G and was found at G's home and later present outside P's current placement potentially in breach of that conditional bail. He was also observed to be under the influence of alcohol by professionals and is an alcoholic. None of these facts are in dispute. What is in dispute is whether there is a risk of him seeking to visit G's home when P is there, the extent to which G is capable of acting protectively towards P in relation to him, and the extent to which G accepts that he poses any risk to P.

35. G said in her statement at B657 para 76 that she accepted it would not be in P's best interests to see her uncle, and at B651 para 36 that she was unaware of the bail conditions when he was found at her property and that she thought he had been arrested because of issues arising from his ex-partner. She repeated this in her oral evidence to me, as well as offering assurances that he would not attend the property when P was there and that he had stopped drinking in September last year. She also accepted that she had driven to P's placement with him in the car, knowing by that point that there were bail conditions to prevent him having any contact with P or with her. Her evidence about this was that he stayed outside and did not come into the placement, but this rather overlooks the fact that the bail conditions may have been breached by indirect contact with P and also meant that he should not have had any contact with G, and G was risking him being arrested as a result. More significantly, it completely ignored the potential impact on P if she had happened to be leaving or entering the placement when he was sitting in the car outside. Why G felt that it was necessary and appropriate to drive him to P's placement remains a mystery because she has not provided any explanation. Although he now has his own home it is not that far from G's home and, although she told me that he does not drive, it would not take much more than around half an hour to walk from the distance she outlined. It is also comparatively early for an alcoholic to have consistently demonstrated an ability to remain sober if he only ceased drinking in September last year. Whilst G did offer an undertaking not to allow him to attend her property when P was there, she was quite clear that she saw no problem with him being there when P was supposed to be elsewhere. Given P's presentation and the potential for outings to end early for a variety of reasons that nobody can predict or necessarily control (including bad weather or P

simply wanting to return home from a trip in the community), her uncle being at G's property at any point when P is living there even if P is ostensibly out for a period does give rise to a risk that P may see him and be distressed by this. Given G's past history in relation to his bail conditions by taking him to P's placement (though not necessarily when he was found at her house if she was not then aware of the conditions), and her history of failing to follow professional guidance, as well as her clear and understandable desire to support her son, I am not satisfied that she would be able to ensure that P's uncle did not come into contact with P at her property, nor that she would be able prioritise P's needs and act protectively if he were to turn up at the property unannounced and potentially intoxicated.

36. Finally, the other aspects of the proposed arrangements if P were to return to live with G that have caused the professionals concern are the risk of inconsistency purely because of the number of people involved, and the risk that P would not be able to access social and community activities in a way that meets her needs. In terms of the first concern, this arises from the number of agencies, professionals and simply 'moving parts' to the plan, as Ms Fox set out in her position statement, explored in cross-examination, and submitted in closing. The professional evidence is very clear that P needs consistency and reacts very badly to inconsistency, and G accepts this. A package of care and support at G's home would involve many agencies and people, as well as input from G, and would require all involved (including G) to act in a way that reduces the risk of inconsistency. The extent to which G would be able to comply with this expectation is questionable, I find, given that I have also found G struggles to accept and follow professional guidance. In saying this, I accept, as both the Local Authority and the OS accept, that this is not because of any malicious intent on G's part but is driven

by her clear belief that she knows what is best for P because of her love for P, as well as by her limited insight into what P needs. I note that the plan for care and support at G's home also inevitably involves a lot of transitions for P on a daily and weekly basis and that this is inevitably going to make managing this in a way that does not lead to P becoming dysregulated more challenging. As I have noted earlier, it also involves P returning to respite provision that she previously found extremely challenging. I find the likelihood of P becoming dysregulated because of that, as well as because of inconsistencies between individuals and transitions from one place to another, is high. On a practical level in terms of consistency for P, it also appears accepted by G from her evidence to me that her grandchild would be sharing a bedroom with P at times. G did say that was not new for P and that her grandchild (who is only 14) seems to have adopted a motherly role towards P, but all of the professional evidence demonstrates that P values her private space and, as the ASW set out at para 53 B179 there is a risk that some of the things that P sometimes talks about may pose a potential risk to the child concerned and may cause her to become distressed. All of which may mean that this is another potential inconsistency that would not be in P's best interests to have to navigate if living with G.

37. The aspect of access to the community and wider social activities in a way that meets P's needs is again one that has uncontentious and disputed aspects. It is uncontentious that G cannot travel very far by car on her own, and that where she lives has no public transport. This means it is more challenging for G to be able to take P further afield for social and community activities. Whilst the Local Authority would assist with transport for P, this cannot extend to G as the ASW made clear in her evidence to me. It is striking that, as an adult, P has been able to participate

and enjoy a wider range of activities and trips whilst in her current placement than when she lived with G. As the ASW told me, she would not have predicted that P would be able to happily participate in trips to big cities by train and yet P has done this without becoming overwhelmed by crowds and noise. This may very well be an illustration of the importance of adhering to the PBS plan, I note, since that is designed to prevent and de-escalate dysregulation by P in those sorts of circumstances amongst others.

38. G has sought to advance a case that P has not been "thriving" in her current placement as the ASW told me and set out in her more recent written evidence. G was particularly concerned that P is noted to have had toileting accidents since January this year and recently to have been observed not cleaning herself appropriately after going to the toilet. It appears from the disclosure records that P had issues with toilet accidents in June and October 2025, then in January, February and June this year. No distress is noted to have been associated with those instances. It is noted that P may have simply failed to go to the toilet during the night when she needed to and, although G said she never used to do this at home, P told staff that she used to do this when she was little and that it was associated with seizures (A359 disclosure bundle). Given the complexity of P's needs, which includes assistance with personal hygiene at times, it is perhaps not surprising that she may occasionally have accidents, and I find that it does not show a marked deterioration in her presentation in the way that G sought to establish. It is also impossible to link these instances to any clear trigger on the evidence before me. In relation to the second issue, there are some instances of her being prompted by staff to wash her hands after toileting in the disclosure documents, but these appear to be infrequent and there is only one recent instance

of her appearing to not clean herself after going to the toilet on 10th July 2026. This appears to have been during a period of intense heat when she had been observed to be struggling at night the day before and it is noted that G had been due to call P the previous evening but did not do so. G also told me that she was concerned about the amount of time that P has been spending in her room at the placement and that this showed that P is not happy there and not thriving. As G accepted in answer to a clarification from me, P's behaviour does fluctuate and there will be times when she is dysregulated and times when she is not dysregulated. P also has diagnoses of depression and anxiety both of which may mean that there will be times that she is less likely to want to engage with others at her placement. The professional assessments of her also note the importance of P having her own space. Of course, although G did not accept this when she was questioned by Mr Day and Ms Fox about the 3rd July contact, I have found that P was also aware of this court hearing after 3rd July too and this is a trigger for her so may have led to P struggling after that contact. Issues around P's hygiene after toileting may be part of that as well.

39. At B777-B781 the ASW produced a document that compared care records for P between June and December 2025, and then between January and June 2026. Overall, also having carefully read the full disclosure bundle and activity records bundle as well as the core bundle, this evidence does correctly identify that P has made a *"clear progression toward greater emotional stability, engagement and independence within her current placement" (B778)* and that P is predominantly settled and calm. Whilst the evidence acknowledges that P does still have periods of emotional distress, this lasts for shorter periods and resolves more quickly. As Ms Fox for the OS highlighted in her position statement, this also correlates with

the evidence from the ASW about contact between P and G at B788 onwards, which notes that *"contact with G remains emotionally significant for P, both during face-to-face contact and through ongoing phone contact" (B790),* and that *"following contact, staff have consistently recorded short-term emotional responses, including reassurance-seeking and heightened emotional expression; however, these responses are described as time limited, with P consistently able to regulate with staff reassurance, familiar coping strategies, and predictable routines, and to return to her baseline presentation thereafter" (B790).*

40. The other aspect of dispute about the available options for P is around whether it is in her best interests for there to be a trial of her returning to live with G and thus for these proceedings to continue. G accepts that P returning to live with her would need to be tested. The Local Authority, as directed, has produced a shadow care and support plan and a transition plan for this option which are in the bundle at B631-B634 and B807-820. The ASW was quite clear that the uncertainty of this option would not be in P's best interests. She was also clear that there was a high risk of this option breaking down. The ASW's earlier written evidence throughout the case consistently identified uncertainty as a trigger for P and adverse to her best interests since she requires consistency in care, stability and routine (see for example B185). She has also credibly and consistently highlighted in her written and oral evidence that P experiences significant distress related to the ongoing legal proceedings, something else that those who are caring for P told the solicitor for the OS (B832). P's advocate has also expressed her concern at the adverse impact on P of the ongoing proceedings (B234). Given this evidence, I am clear that it would not be in P's best interests for these proceedings to be prolonged

further before final decisions are taken about where it is in P's best interests to reside.

41. There is a linked issue about the contact that P should have with G and whether this is sufficiently clear to enable the Court to make final decisions since Mr Harrison raised this on behalf of G. I note that I have not been asked to consider whether P has capacity in this domain at this hearing because I have previously made a final declaration about P lacking capacity in this regard (A70 and A75). Contact arrangements have been and will be an inextricable part of the care and support arrangements for P if she remains in her current placement and it is necessary to consider what is in P's best interests in this regard too. Mr Harrison submitted that it would be necessary for the Court to retain judicial oversight of those arrangements for a period given the lack of agreement about the detail of the contact plan, in particular about when contact should progress to taking place at G's home and that I should list the case for one more review hearing after that to ensure accountability. He also submitted that this would enable both G and P to retain representation but that in any event proceedings should not conclude until the contact plan had been fully updated with sufficient detail to ensure that it was clear what mechanism and aspirational date would be envisaged for P to visit G at home. The latest iteration of the contact plan, complete with comments from those involved, was provided to me mid-morning on 23rd July 2026 whilst writing this judgment. It appears from that document that the placement does not currently consider either weekly or weekend contact viable given the amount of support that is required from the placement's management before, during and after a session. The plan as currently drafted sets out that contact will take place every fortnight. As I have said, I am being asked to consider whether the proposed contact plan is

in P's best interests, in the event that I conclude that it is in her best interests to remain in her current placement. I will therefore return to this when I have reached a conclusion about placement.

42. In terms of the available placement options, as I noted at the outset of this judgment there are only two in this case, for P to remain where she is or to return to live with G. Either would involve a significant amount of support, and the former would clearly amount to a deprivation of liberty though it is not clear that the latter would since that would largely depend on P's reaction if she were to move there. Remaining in her current placement is therefore more restrictive than returning to live with G per se but, as I also noted earlier in this judgment, living with G would also involve some elements of supervision and control as well as not being able to leave whenever she wanted, and would also involve professional support and supervision for a significant part of P's waking hours. It is not therefore clear that it would be significantly less restrictive than her current placement, and in particular that it would not involve the deprivation of her liberty.

43. Returning to live with G would be a return to somewhere that she has lived for a significant period before, and to the care of G who clearly loves her and whom P also loves. It would enable her to maintain her local family and community connections, and she could engage in some social and community activities. However, balanced against this are the issues of concern about this being in P's best interests considering my earlier findings. G has not always been able to prioritise P's best interests over her own concerns, though I accept that this is not malicious. I am satisfied that there is a real risk that G would repeat past behaviours of not accepting or following professional advice about how best to support P and meet her complex needs. I am also satisfied that there is a high

likelihood of placement breakdown with G, and the inevitable instability and uncertainty of this as a necessary trial is contrary to P's best interests since it would be highly likely to lead to her becoming dysregulated. It would also mean that her current placement would cease to be available once the 28 day notice period had expired. Whilst the ASW accepted that this could be managed during the transition period by careful timing of the notice being served, the 28 day period relates to the placement then expecting that P's place can be made available to other potential residents as the ASW confirmed to me. If the placement with G were to fail after the 28 day notice had been served it is therefore uncertain that P would simply be able to return to her current placement long term and likely that she would have to move to another placement.

44. Remaining where P is currently would mean that she is in a place that she has become familiar with over the course of the past 17 months, with care and support from staff and with residents that she now knows too. Her relationship with G will still be promoted through regular contact. Though the precise frequency of this may not be as high as G would like the plan does set a reasonable minimum frequency as a starting point with limitations that are due to resourcing and practicalities rather than professional opposition to G spending time with P, it seems. The placement provides P with a high level of structure, stability and support with consistency of staffing and routines. She has access to an MDT who can also ensure that her complex emotional needs are met. The placement will continue to provide P with structured support to enable her to not only access social and community activities but also to potentially widen the range of her experiences, as the ASW noted in her best interests analysis at B626 and confirmed in her oral evidence to me. This will enable P to potentially improve her independence skills and could ultimately mean

that P is able to move to a less restrictive environment. Whilst this placement does come with a high level of restriction and supervision and a deprivation of P's liberty, on balance I am satisfied that this is in P's best interests and necessary and proportionate in light of P's needs at this time.

45. It is not necessary or appropriate to prolong these proceedings. I am satisfied, in fact, that to delay a final decision to monitor the implementation of contact arrangements as Mr Harrison submitted would risk harm to P given the evidence about how these long-running proceedings have impacted on her. Aside from the fact that it is not appropriate to continue proceedings simply to ensure that parties retain representation, as Mr Day noted in response, this would not be complying with the expectations of the overriding objective in rule 1.1 of the Court of Protection Rules but, more fundamentally, would not be in P's best interests.

46. In conclusion, I have found that it is in P's best interests to continue to live in her supported living placement. It is not in her best interests for there to be a trial of her returning to live with G. I approve and endorse the contact and contingency plan as part of her care and support arrangements in principle, although note that this is still being discussed and finalised by the parties in the hope that agreement can be reached. I will authorise the deprivation of P's liberty in relation to her residence, care and support arrangements for a period of 12 months. I was also asked to consider who should be rule 1.2 representative for P if the outcome of this hearing was that she remained deprived of her liberty. I will need to hear if there are any additional submissions from the parties about this in light of my findings, but would ask them to consider that, although I am clear that G loves P deeply, my concerns about G's ability to prioritise P's needs and accept and follow professional

advice do raise a concern for me about her suitability to act as rule 1.2 representative for P.

HHJ Eleanor Owens
24th July 2026