

Case No: NE15C00146

**In the FAMILY COURT at
NEWCASTLE UPON TYNE**

**The Quayside
Newcastle upon Tyne
NE1 3LA**

17th November 2015

B E F O R E:

HIS HONOUR JUDGE SIMON WOOD

Re S

Judgment

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His Honour Judge Simon Wood :

1. The court is concerned with the welfare of C, a boy born on 20th March 2015, so who is now eight months old. Newcastle City Council, on 24th March 2015, issued proceedings seeking a care order and now presents a plan of permanence, to be supported by a care order and a placement order, a plan supported by his Children's Guardian, Mrs Sylvia Aitcheson, but opposed by his parents, M and F.
2. The concerns that caused proceedings to be issued are numerous but can be summarised as arising from M's lifestyle, which in turn is a reflection on her extreme youth, her own dysfunctional family and impoverished upbringing. M was born in November 1998, she is 17 next week. She was just 15 and a half when she became pregnant to, it is now agreed, F, the father, who was then 24 years old. Although the parents say that they are separated and have been since September, an issue throughout the case has been the status of the relationship which the local authority characterise as an abusive one, with F featuring in the ongoing police investigation into child sexual exploitation, known as Operation Sanctuary, the police having sought disclosure from these proceedings and been invited to attend this judgment today.
3. At different times, the parents have presented separately or together. It is M's case that she seeks to be C's sole carer, a position supported by F, albeit he offers himself as a back up. In fact, having joined the proceedings late and had his paternity confirmed by DNA testing and, at the date of the issues resolution hearing on 28th September, which he did not attend, saying through his solicitors that he intended to attend to give evidence in support of M, he did not attend this final hearing, being described by his solicitor as "agitated and upset" when spoken to on the telephone. He has, today, appeared for this judgment, but otherwise has been absent throughout the key parts of the litigation. No application was made to adjourn the final hearing. It would inevitably have failed, given what appears to have been F's withdrawal from the litigation without good reason.
4. A further factor to mention at the outset is that M is again pregnant. Her second child is due in mid-February 2016, just three months from now and less than eleven months since C was born. M says, and F confirms, that he is again the unborn baby's father. It is a very significant and complicating factor in the decision that I have to make.
5. It has been clear from the outset that this is a case very much about welfare rather than threshold, which M concedes is crossed. I will summarise what is agreed later in this judgment. It is, however, necessary to set the scene with the background, as the local authority says that this directly informs the welfare decision. It is in fact very well detailed in the parenting assessment prepared by the key and consistent social worker, Rachael Jackson, and is not in significant ways in dispute.
6. As I said, M was born in 1998. She first became known to the local authority in 2002, with concerns regarding the domestic violence between her parents, that is to say the maternal grandparents, MGM and MGF. There were also

concerns around her parents' substance misuse, reports of physical chastisement and a lack of parental control in respect of their children's behaviour, particularly M's sister, MA, and M herself. Given an inability to meet their emotional needs, they were made the subject of a child protection plan in October 2009, although discontinued in 2010, the girls continued to be supported with a complex child in need plan in respect of each and, in late 2010, the concerns regarding MA and her risk taking behaviour were such that the cases were reopened, leading to a core assessment. In mid-2011, the concerns reduced temporarily. MA was accommodated by the local authority and her son, born in 2013, was cared for by MGM, becoming the subject of a special guardianship order to her in January 2014.

7. Further concerns continued regarding the family in general and M in particular, certainly from 2014. A further initial child protection conference was convened on 7th March 2014, due to M going missing, her associations with older males, her aggressive behaviour and her drug use. Then on 26th August 2014, the decision having been made to support her with a further complex child in need plan, the Royal Victoria Infirmary made a notification to the local authority because M, having presented there with abdominal pains, was discovered to be 13 weeks pregnant. The ensuing section 47 enquiry identified numerous concerns, as well as identifying the high level of monitoring that would be required going forwards.
8. It seems to the court that ten enduring concerns during the pregnancy were:
 - (i) M's very limited engagement in the assessment. She attended two out of seven of the sessions;
 - (ii) her continued use of cannabis and alcohol, as well as smoking throughout her pregnancy;
 - (iii) toxicology tests which showed that she was also taking cocaine, something she has always denied;
 - (iv) her denial of any intimate relationship with F, in the face of evidence highly suggestive to the contrary. In fact, she named a 17 year old boy with whom she said she had slept twice as the father, as part of the denial that F was the father;
 - (v) her exclusion from education, by reason of her behaviour, that is to say her attitude, engaging in physical fights, with a refusal to engage in alternative provision put in place;
 - (vi) despite identifying her parents as sources of support, their inability to safeguard her, the difficult relationship she had with MGM in particular and the volatility of the relationship with both parents and her sister were all factors;
 - (vii) her offending and placing herself in risky situations, for example, at 20 weeks being in a car with F and another male, being attacked by them, including being kicked in the stomach, refusing to give the police a statement and having the appearance of being under the influence of some substance;
 - (viii) her going missing, for example, on 14th February 2015 she was found in a hotel with F and with class A drugs, as a consequence of which F was issued with a harbouring notice;

- (ix) her apparently being subject to domestic abuse, direct violence, at F's hands;
 - (x) her own upbringing, the domestic abuse I have referred to, sometimes frank fighting between the parents, drugs, her sister having self-harmed as well.
9. All these factors pointed to the extreme vulnerability of this very young, expectant mother. A plan was formulated whereby, on the birth, both M and child would go to a mother and baby foster carer for a 12 week period. Some thought was also given to the use of a provision known as Elizabeth House, provided by the charity Aquila Way that is well known to the court. The social worker said that the local authority felt that it would not give her the support she would need initially, so the mother and baby foster placement was considered the best option as a prelude to being supported and monitored in semi-independent living, at a location such as Elizabeth House.
10. Two possible placements were identified. Unfortunately, both were out of the area and, in the event, that at Blackhall near Peterlee was selected. M and C went there on 25th March. A very clear, positive emerged. She was able to demonstrate that she could meet C's basic care needs very well. She sought and acted on advice from the foster carer and the health visitor. She was seen to be very confident in her entirely appropriate handling of C. She responded well to C when he cried. She demonstrated warmth and good eye contact. She took full responsibility for feeding and bathing, ensuring that bottles were clean and sterilised; she regularly changed him and she attended to a rash and an episode of dry skin. She was also attentive to C during the nights. Both his and her clothes were washed regularly. Thus the pre-birth anxieties about her ability to meet such needs were confounded. Indeed, nothing has happened since that time to alter that view.
11. However, M found herself to be lonely and socially isolated in the placement. On 16th April, just three weeks later, she left, complaining that she was unhappy about being away from her family and she refused to go back. For a while, she missed contact on at least half of the occasions on offer and she was, in any event, always late for it. She did not take responsibility for C's care at that stage, once even asking the foster carer to bath C whilst she herself took a bath. The initial contact concerns, however, resolved, when it was moved to an office local to her home, C remaining in his placement to date, where, as I say, there have been no basic care concerns at all and the contact since the issue of the geographical location were resolved, have been loving, caring and have met his needs. The social worker describing "lovely interaction".
12. Contact aside, however, lifestyle issues resurfaced and I noted eight specific factors.
- (i) The consistent request for regular drug testing, that was raised at court at the very first hearing and every hearing thereafter, was thwarted by her refusal to register with a general practitioner. There were no drug tests at all from C's birth until the middle of September, a period of almost six months.

(ii) Consistent with what she says, she now is seen to test positive for cannabis and negative for cocaine, but the cannabis remains a concern. It has continued now throughout her second pregnancy, despite advice for the second time to the contrary. She has told the social worker that she uses it to cope and the social worker therefore asks how this mother would cope with the full time care of a young baby without it.

(iii) The relationship with F continued, certainly until September. The local authority regard it as abusive. M says that she now recognises that it was, but the steps taken to address it have only very recently been taken, arguably from about the middle of September, a full six months since C's date of birth.

(iv) She has, for significant periods, had no home. She fell out with MGM and led a nomadic life, between MGF, F, or friends. There came a time when she said that she and F were looking for somewhere to live together. She now is living with MGM but is hoping to get some supported accommodation, such as might be available at a place called Jubilee Court.

(v). For most of this period she has had no access to benefits.

(vi) Her relationship with her parents has remained volatile, with periods when relations with MGM broke off altogether. As recently as 22nd September, in support of positive change she prayed in aid the fact that she was living with MGF, but by 23rd October was living with MGM, which she attributes to the fact that F is aware of his address, but not aware of MGM's address. But despite that, she was exposed to a serious incident at MGM's home on 12th October, in which a fight broke out, when MA assaulted MGM and M's intervention cost her a kick in the stomach and a trip to hospital, which fortunately confirmed that the baby was unharmed.

(vii) Isolated from young people, out of education, she has not accessed mother and baby groups, until recently seeking out F's support, losing her temper quickly on being challenged.

(viii) She was herself reportedly assaulted in May, allegedly, she said at the time, by a neighbour, declining contact with C because of the injuries which were said to include a black eye, a sore back and a possible fractured arm. On that occasion, despite declining to indicate where she was, and F's mother allegedly trying to conceal her and mislead the local authority, F's father disclosed that she was in fact in their house and the police attended. She refused to follow the advice of her own social worker to go to MGF's home, or to seek medical attention. She declined to make a complaint, because she said she had been drunk at the time that she was assaulted. A reference to a MARAC followed.

13. Thus, the updated pre-birth assessment continued to conclude that she could not keep C safe, because of her chaotic lifestyle, her extreme vulnerability, as well as her lack of openness and honesty.

14. The only witness for the local authority was Rachael Jackson. As I said, she became the social worker at the outset and has been a consistent presence. She told me that despite recent signs of change on M's part, for which she unhesitatingly gave M credit, her plan remained unchanged. Her headline concerns were:
- (i) The stability of her placement, citing the recent and, until then at any rate, unexplained move from MGF's to MGM's, without discussion or explanation.
 - (ii) The concerns as to the relationship between M and MGM, which she characterised as "fragile and volatile" with many periods when they do not talk and that had been quite an extensive period in the time that this case has proceeded.
 - (iii) The concern that MGF describes MGM as "undermining" the relationship between him and M, generally causing difficulties for all.
 - (iv) The violent incident at MGM's home on 12th October, a reflection on MGM and M who had no concept of having put herself at risk.
 - (v) M's plan to live alone. That is something she has never done before.
 - (vi) Her only very recent engagement with agencies such as Barnardo's, at which she had had two sessions, domestic violence work. After a false start she has had an initial assessment. The general difficulty that workers have described in making and keeping in contact with her.
 - (vii) There is a lack of certainty, in the social worker's mind at any rate, as to the finality of the separation between the parents, despite there being no evidence of sightings between them.
 - (viii) The continued use of cannabis as a coping mechanism for stress. She makes the point that M has never cared for a child independently, she has never lived independently and she has a baby on the way. The scope for stress is therefore self-evident.
15. Of a proposal put to her of a four to six week further period in order to build trust and confidence, she questioned just how much the local authority could learn from that. She said it was not so much the issue of basic child care, it was M's lifestyle that the local authority felt would continue to place her and her unborn baby at risk, particularly living at MGM's home. The issue of placement in Elizabeth House, which was raised as a suggested way forward, she felt would not offer the level of monitoring and support necessary against that background. She said there were no alternatives to C being cared for by either M or the local authority plan. F was ruled out on assessment and, despite disagreeing with the assessment, had taken no steps to challenge it, not even seeking to participate in the final hearing. Despite many family members being put forward by each of the parents, each of whom was assessed in a screening process, none was found to be suitable. In each case that decision

was not challenged by either parent or by any of the individuals assessed, as well they might, had they felt that the assessments were in any way wrong.

16. Cross examined, whilst she agreed that Elizabeth House would offer parenting skills, some emotional and practical support, as well as monitoring with concerning information being passed on to the local authority, all of which would be beneficial, it had not been considered a suitable option from the time that the mother and baby foster placement was chosen, because of M's failure serially to work with the local authority, register with a general practitioner, undertake domestic abuse work and hence there was no confidence in M, despite the very recent late engagement which she said is what the local authority had wanted to see many months ago.
17. She agreed that in addition to recent engagement, there was evidence of improvement in her presentation. Her default response which was much less concerning in that there were not outbursts of aggression at potentially challenging issues, such as last minute changes to contact arrangements. There was some evidence of her trying to take control of her life, apparent from the report of M's own social worker. The accommodation that M proposed was a suitable long term aim, but would not offer the support that M would need with children in her care. What she felt that M in fact needed was 24 hour support, not least because of the lack of confidence in her truthfulness. In her view, the improvement that she had noted had only become apparent over the course of the last six weeks. (I note parenthetically that we are now in week 33 of this case, so seven weeks beyond the statutory 26 week period, in which the case should have been resolved).
18. The social worker had no knowledge of M's assertion that she had reduced her use of cannabis, although there was recently no evidence of cocaine, as there had been in her pregnancy with C. But noting that there is a six month gap in the testing, M had in fact told her that she had stopped taking cannabis altogether. It was good if she was engaging with her general practitioner and the midwifery service, but the social worker felt that she would need a specialist service, such as Plummer Court, to address her now quite significant drug use in terms of time and so whilst what she had done was good, it was not enough and it was worrying that it was so late.
19. Elizabeth House, she said, was not in her view suitable at present. It would have been a staging post from a successful mother and baby foster placement, but it would not be safe or viable to place C with his mother at present in such a place. She felt that what was needed would be three to six months of sustained cooperation, allied with lack of concerns, but within that time her baby will be born, which is a further stress and so C could not be placed before then and after that there would be two babies to care for. So looking at it, she felt that a period of six months hence, the period within which the local authority had hoped to see the change when these proceedings commenced, more than seven months ago.
20. She knew nothing about the circumstances of MA being at M's house in October, but from it doubted whether any written agreement would suffice to

regulate that type of behaviour and to ensure safety, noting how MA, who is 19, is very volatile. In summary, it was her considered view that it was not too soon to consider what she acknowledges is a plan with complete finality – adoption – she maintained that it was the right plan and it was underpinned by her lack of confidence that the early change, now reported, would be sustained.

21. In answer to questions from Mr Flower, on behalf of C, she really confirmed her concerns about the issues I have already mentioned, explaining how, when in the mother and baby placement and that broke down, there was an alternative plan to which I will come, but again M did not engage. Reiterating that Elizabeth House had been the type of place to be the next step after that initial twelve week assessment, she had lost, the social worker felt, the best chance to care for C and it was her view that caring for C on her own was some way off, because of the concerns she had enumerated. That was the local authority evidence.
22. M gave evidence at some length. I take account of the fact that she is still extremely young. As I have said, she is about to become 17. I also am mindful of her extremely difficult life experiences to date and the fact that she is pregnant. She was obviously extremely anxious, and understandably so, to secure placement of C with her. She has had to deal with some very difficult issues. I acknowledge the witness box is a lonely place. I bear in mind Macur LJ's warning not to assess her solely by reference to her presentation in that place and I emphasise that I do not. In many ways she was a direct, forthright and straight forward witness. She spoke up. She was well able to convey her point of view. She was appropriately upset at times. She did not lack any determination. She came across, despite all the difficulties to which I have alluded, as an attractive and appealing young person. I do not for a moment doubt the sincerity of her intentions.
23. She had filed two statements; the first on 22nd September, when she disclosed the ending of the relationship with F, she said permanently, two or three weeks before. She said she was then living with MGF, having left F, who had been threatening, verbally and physically, and she said that it was not a health relationship; it had been characterised by much argument. She described one frightening incident in September 2014 when she was seriously assaulted by one of his friends when she was pregnant, necessitating an emergency scan - the event which resulted in F discovering her true age, she having misled him about that. Nevertheless, the relationship continued and C was then conceived. She accepted that professionals had many concerns about her lifestyle, the relationship and the pregnancy. Wanting a better life for her baby than she herself had had, she had found the mother and baby foster placement difficult. She missed her family. She found it difficult to settle and she challenged the notion that, in coming back to Tyneside, she had put F before C. She said she was addressing her lifestyle. She was living with MGF, pending obtaining her own home. She had registered with a doctor and a dentist. She was using cannabis but would like help in relation to that and she asked for the chance to care for C.

24. She made a further statement on 23rd October, a month later. By then, she said she was living with MGM, the move not explained at all. But she went on to accept that in taking control of her life, she knew that she needed more work in relation to domestic abuse, reducing cannabis, working with her own social worker, Suzanne Lui. She was committed to contact and she emphasised the fact that she persisted with it, despite a number of last minute cancellations. She was critical of the social worker, Rachael Jackson, who she felt had not provided her with the emotional support she needed, but nevertheless was doing her utmost to prove that she could care for C, hence the need and request for more time.

25. She developed this in her evidence, emphasising the support that MGM had been. That was now restored, given that the relationship with F was over. MGM had never liked F and told her that, but as she put it:

“I never agreed with her at the time.”

26. She told me that she had stopped using her own phone, to prevent F contacting her. She had moved to MGM’s house, because he did not know where she lived. She was bidding for property near by, with the help of a housing officer, and she would just be a ten minute walk from MGM. She was managing her many appointments. She was working with the midwife who had given advice about drug reduction and strategies to avoid using drugs and had referred her to a drug and alcohol worker. She had very recently sorted out her benefits and had received her first payment. She said that she had managed the changes to contact without causing any argument with the local authority and, indeed, now had a good relationship with the original foster carer who, as she put it, had brought C up really well.

27. The incident in MGM’s home on 12th October had resulted in a restraining order being made against MA, to protect her and MGM. She said:

“I want the chance to show that I can maintain the changes.”

28. Cross examined, I heard a good deal more about F. He was described as “violent” and “controlling”, such that it made him very difficult to leave. He had been violent in September 2014, when she was pregnant. She later said that on 16th April, when she left foster care, he had actually held her prisoner for two nights, preventing her from leaving his home, aided and abetted by his mother, who would not call a taxi. She felt unable to tell the social worker that she had been threatened. She felt unable to tell the police and she felt that he had the capacity to carry out the threats he had made and she was frightened of him.

29. She was asked about an assault by F on her in July when he grabbed her around the throat, hit her in the face; an assault which she reported to the police, contained in a statement, which she then went on to retract. Asked why, she said he said he would send people to MGF’s door, as well as “loads of other things”. She did not want to risk that so she felt she should retract it.

“Police and court don’t stop F.”

30. She said he was back at her door every time he was arrested. He had told her he would pay people to do things. She told me about another incident in May when she cancelled contact because of her visible injuries.

“He hit us a lot. He was on drugs. When he’s on drugs, he’s not the kind of person to be with.”

31. Whilst that incident was just before she became pregnant with her current pregnancy, the July incident of course occurred when she was already pregnant.

32. Of drugs, she was insistent she had reduced her intake. All we have, her word aside, are the hospital tests from September to now which are positive for cannabis, but of no assistance as to the levels of use. She denied any use of cocaine when pregnant; she said that the tests that showed that she was positive for cocaine with C, was wrong. Recent testing is negative for cocaine, but as I say she failed to submit to testing from April to September, despite repeated court orders, because of the fact that she felt that the previous doctor had been wrong and because of the difficulty of registering with a new doctor. Saying that she has reduced from the two spliffs a day that she was taking to one a week, she said were she to have C with her, she would have no need to take it at all.

“I don’t feel like I need to smoke it when I have him.”

33. She acknowledged that she has only just started to engage, although struggled to explain why she did not go straight to MGM, rather than take a risk at MGF’s. Were she to get accommodation nearby, she emphasised the support that would be on hand. Acknowledging that the relationship with MGM was up and down she said that all the falling out had been over F, she now knows what kind of a person he is, that he is not good for her and so would take measures to keep him away.

34. She called MGM who filed a statement on 23rd October, confirming much of what she said. She made her disapproval of F plain and when she could not persuade her daughter that he was abusive, “grooming her”, as she put it, she felt the need as she put it “to step back and let nature take its course”. She cares for MA’s son, who is three and so she has other responsibilities to attend to. The circumstances of MA being at her home in October were exceptional; she said that it had actually come at the request of MA’s own social worker, following a recent complaint of a sexual assault made by MA. Whilst the outcome had been unfortunate, she had nevertheless taken decisive action to ensure it was not repeated.

35. M meanwhile had started to make significant change in her life and so she supported her. She told me that she began living with her at the beginning of September and would support her for as long as was required. She said that in her own life there had been violence with her husband; it had been a very

difficult relationship. The violence had possibly been seen by their children, it had certainly been heard by them, or they had heard arguments and she had moved area to get away from that, but had had to litigate over their son who, at 14, had been living with her, but was now living with his father. She disapproved of drug use:

“My boundaries were different to MGF’s. The children are aware of them and that is what keeps them away from us.”

36. Nevertheless, it was the support that she offered with the removal from an area where F might find them, that had brought M back home and, as she said:

“She did listen to us eventually.”

37. Finally, M served a statement from her social worker, Suzy Lui. She took over responsibility for M in September on a case transfer. No one required her to give evidence, but I will comment on what she said shortly.

38. I mention F briefly. As I say, he dropped out of this case at the issues resolution stage. Although he filed statements he did not attend at a time when he was expected to. He was assessed as posing too great a risk for contact at the outset and he never asked for that to be revisited. He says that many of the allegations made against him were false. They were made by M in the heat of the moment and then retracted. He confirms that he ended the relationship in September, having known no later than February 2014 that she was under the age of consent. He said he is addressing his drug use. He is working with the mental health crisis team. He denies that he would pose a risk to C, were he to be in M’s care and says that if she cannot care for him, the court so finds, he would like to do so instead.

39. Sylvia Aitcheson is a very experienced Children’s Guardian. Her initial analysis flagged up the concern that there was little evidence of lifestyle change on M becoming pregnant, but she pointed to the positive of M’s agreement to go to the foster placement, warning that it would not provide evidence of lifestyle change and pointing out that she had twelve weeks to address the concerns. The necessity of being open and honest was highlighted as a pre-requisite to building confidence with professionals. In her final analysis, she pointed to the failure of that foster placement:

“Prioritising the relationship over and above the needs of C”

as well as the failure of drug testing, the delayed medical help regarding the pregnancy, despite telling her that she was pregnant as long ago as July and the minimal involvement with services. That report was written on 17th September and none of it was challenged. She expressed her extreme concern about F, who told her that he had been “demonised” unjustly by the local authority. She noted that each parent had but limited and inconsistent family support M, in particular, lacking a positive role model. She identified the key to success would be M’s ability to accept the need for change. Mindful of the fact that adoption was the last resort, in a careful analysis she concluded it was

one of those exceptional cases. Whilst she was ready to credit what M had done in the six weeks or so since that report was written, it was not enough, in her view, to warrant a change of plan.

40. She had no concerns about the ability to manage practical care, or the immediate emotional needs, but she had wanted to see far more significant progress in working with the local authority than has been apparent. Acknowledging her immaturity, and the relationship with F, albeit M had reported things such as the false imprisonment which had never been heard before her oral evidence, she said that the timescales were made clear at the very beginning of this case. So, of Elizabeth House, that, she felt, could have been part of the plan, after the twelve week foster placement, but she failed to meet the requirement for that and, in her view, there was insufficient change to have any confidence that would justify reactivating it now. There is now a baby due in February to be factored in. It was very difficult therefore to put timeframes on how things might develop, but she emphasised that C needs a decision now.
41. Care proceedings involve two principal questions. First, are the threshold criteria for making a care order under section 31 of the Children Act satisfied? Secondly, if so, what order should the court make? The court may only make a care order if it is satisfied that the child concerned is suffering, or is likely to suffer significant harm and that that harm, or the likelihood of such harm, is attributable to the care given to the child, or likely to be given, if an order were not made, not being what it would be reasonable to expect a parent to give him.
42. In this case, it is not disputed that the threshold criteria, under section 31, are satisfied. Thus, in a modified response to the threshold, as drawn:
 - (i) It is accepted that M's childhood was adverse, with extensive local authority involvement, affording her a poor idea of what is required from a parent.
 - (ii) It is accepted that M was exposed to family arguments, as well as violence from MA. In fact, although it was only accepted that she had been exposed to parental argument, I am satisfied on the evidence I have heard that she was exposed to a great deal of parental discord and violence.
 - (iii) M accepts having lived a chaotic life. I find she is extremely vulnerable, by virtue of her lack of education, stable home, drug use, including whilst pregnant twice, and having entered into a very concerning relationship which was frankly abusive. M emphasises the steps that she has now taken to address that.
 - (iv) The allegation of poor coping mechanisms and an inability to engage is met with the response that she was immature and reliance is placed upon the recent change. An allegation that M permitted F to have contact, in breach of a child protection plan, has not been pursued as a separate issue.

(v) F readily admits the use of drugs and the misuse of alcohol. He undoubtedly becomes violent in such circumstances. There is no convincing evidence that he is addressing such issues.

(vi) C was conceived as a result of child sexual exploitation by F; M was 15; F was 25. It was nothing less than a statutory rape. Despite knowing her age from 14th February 2014 at the latest, he pursued that relationship and C was conceived.

(vii) The source of M's drugs was not separately pursued, but it is plain that she potentially has other sources, if the relationship with F is over;

(viii) It was an abusive relationship and included actual and threatened violence, including violence against M when she has been pregnant.

(ix) M accepts that she was unable to recognise or act upon the risk that he posed and she lied, the court finds, to conceal that.

43. Those findings lead inexorably to the conclusion that, on the date when these proceedings started, shortly after C's birth, there was a likelihood that he would suffer harm, were he to be placed in M's care. So the hearing has concentrated on the second question as to what order the court should make. In answering that question, well established legal principles are applied. The court has regard to the rights of M and C under Article 8 of the European Convention to respect for family and private life. Under section 1 of the Children Act, C's welfare is my paramount concern in the care proceedings; under section 1(2) delay in making decisions concerning his future is likely to prejudice his welfare; and sub-section 3 provides the checklist of factors to be taken into account, when determining where his welfare lies and what order should be made.

44. In this case, the particularly elements are C's needs, the capacity of either of the parents to meet those needs, his background and any harm he is at risk of suffering. On the application for a placement order, the court applies section 1 of the Adoption and Children Act 2002. My paramount concern is C's welfare throughout his life and that Act also requires me to take into account the fact that delay in reaching a decision is likely to prejudice his welfare. There is another checklist of factors to be taken into account and the important factors here are C's needs, the likely effect on him throughout his life of ceasing to be a member of his birth family and becoming an adopted person, his background, the harm he is at risk of suffering, his relationship with his birth relatives and particularly M and the value of those relationships continuing as well as M's ability and willingness to provide him with a secure environment to meet his needs.

45. The court may not make a placement order unless satisfied the parent has consented to the child being placed for adoption, or that his or her consent should be dispensed with. In this case, neither parent consents to the making of a placement order. The court may dispense with consent if the welfare of C requires the consent to be dispensed with.

46. All these provisions have been subject to analysis in a number of important decisions by higher courts in recent times, most particularly by the Supreme

Court in *Re B (A Child)*[2013] UKSC33 and a series of decisions in the Court of Appeal, culminating in *Re B (A Child)*[2013] UKSC33 and *Re W [2013] EWCA Civ 1227*. I have had those decisions firmly in mind throughout this hearing. In *Re B* the Supreme Court reminding itself of the European Law reiterated that the test for severing a relationship between parent and child is so strict that in the words of Baroness Hale:

“It should occur only in exceptional circumstances and when motivated by overriding requirements pertaining to the child’s welfare. In short, where nothing else will do.”

47. As Lord Neuberger observed:

“Making a child subject to such a plan should be a last resort, where no other course is possible.”

48. That interpretation was emphasised by the President in the case of *B-S*, noting that:

“The statutory language imposes a stringent test, it is the child’s welfare that has to be shown to require parental consent to adoption to be dispensed with.”

49. The President identified that:

“Whenever a court is called upon to approve such a plan, there must be proper evidence from both the local authority and the Guardian, addressing all the options realistically possible, with an analysis of the arguments for and against, as well as an adequately reasoned judgment..”

citing the observations of McFarlane LJ in *Re G (A Child) [2013] EWCA Civ 965*, in a holistic way, rather than a linear way, in order to decide which of the options best meets the duty to afford paramount consideration to the child’s welfare.

50. In this case, there are only two realistic options: rehabilitation of C to M, which it is agreed would inevitably involve delay, or adoption. I do not regard F’s proposal to act as a back up as worthy of any consideration in view of the serious nature of the findings made against him, the lack of any evidence of engagement or change and his unwillingness to engage to the point of not turning up at the final hearing. No kinship placement has been identified. In theory, long term foster care would be an option, but no one has suggested it. It would not be realistic for a child of C’s age. No one, not least M, argued that the local authority evidence, or the Guardian’s analysis, was in any way deficient. The options are therefore stark. The extreme one would, of course, be a last resort and the court will only take it if satisfied that nothing else will do.

51. The first option for which M argues strongly is for a return of C to her. It is not suggested to be an immediate return: she recognises that it would be too soon for that. The four to six weeks she initially suggested via counsel was

modified in closing to two months of work. That takes her to the final phase of her pregnancy, something that Ms Sweeting, counsel on her behalf, acknowledged would be “a very big ask”. But taking into account her youth, her immaturity and the abuse to which she was exposed, it is said that this is a chance that should be taken. She has reconnected with MGM; she is engaging with a range of services; she has developed the insight to see what was wrong and the ability to address it. If it is criticised as too little, too late, that has to be set against the extreme nature of the plan. C is safe and secure where he is, so he is well protected. If M continues to make the progress she has now shown, that delay would therefore be necessary, because the greater harm would be to remove him entirely from his family.

52. It is acknowledged that it is a plan that is not without risk, but that is a risk, it is said, that is justified and should be taken. It is said that M will cooperate, would consider supported accommodation with a greater degree of scrutiny and monitoring, such as Elizabeth House and Ms Sweeting invites the court to use its powers, under section 42(2)(b), of the Children Act, to put orders in place against F to prevent any disruption by him.
53. By contrast, the local authority, with whom the Guardian associates herself, whilst not standing in the way of an argument that time should be given where appropriate, says that there has to be a degree of confidence in the outcome that would justify taking that step. It was therefore argued by Mrs Taylor, on the local authority’s behalf, that there is no such confidence. She points to the seriousness of the findings, which include the extreme nature of the abuse in the relationship: the sexual abuse was unlawful; there is the drug use and the violence, including the allegation made from the witness box that it included false imprisonment. Then there is the poverty of her upbringing, which was dysfunctional, domestically abusive and denied her a proper role model. Finally there is the issue of openness and honesty, which the local authority maintains to this day is still apparent with elements of M’s evidence.
54. So the local authority suggests that whatever sympathy there is for M, and that is not in short supply, a dramatic change in lifestyle against that background, in a person on the verge of their 17th birthday, is unlikely to occur in a consistent and sustainable way. Whilst everyone hopes that the recent engagement will continue, significant concerns remain, regarding the lack of stability in her lifestyle and where she lives; the volatile difficult relationship with MGM, whose own evidence pointed to attempts to impose boundaries, which themselves lead to estrangement. On the Guardian’s behalf, this change that was advanced was all characterised as embryonic.
55. On any view, the consideration of this option has been thorough and comprehensive, as the social worker and the Guardian point to the various positives and negatives of rehabilitation. The positives under this head would include:
 - (i) the opportunity for C to be cared for by M;
 - (ii) the maintenance of links with his birth family thereby being assured;

- (iii) the positive sense of identity, as part of that family, that C would gain;
- (iv) M's obvious love and affection for C, which, when available, translates into the good quality provision of care, whereby his basic needs will be well met;
- (v) her positive engagement in contact, at least from the time immediately after the initial break down of the foster placement.

56. Set against that, it seems to the court that there are a number of negatives.

- (i) this young mother has only recently escaped an extremely abusive relationship which was, in her case, addictive. It was abusive on numerous levels; sexually, violently and drugs, and it has proved very hard to break from;
- (ii) M has had a very difficult start to life, with difficult relationships between her parents and between her parents and her that has rendered her vulnerable and denied her the type of role model she needed;
- (iii) each of those two concerns fed into the failure of the mother and baby placement as well as her risk taking behaviour, especially drugs and alcohol, which have put her in risky situations and contributed to her chaotic and unstable life to date;
- (iv) the risk to C from all or any of those factors give rise to a significant concern that C's needs would not be met consistently, safely or at all;
- (v) although M has recently indicated signs of engagement and a determination to change it, it is very late and arises at a time when there is no confidence in her having found either stability or a complete escape from an abusive partner. It is set against a background of concern as to just how open and honest M is and it occurs at a time when, within three months, she is due to give birth to another baby;
- (vi) there is therefore a considerable issue whether the change is sufficiently solid to warrant what would constitute significant delay in the decision making for C.

57. The second option would be to place C for adoption, which carries these advantages and disadvantages. The positives include:

- (i) The likelihood that C's emotional and physical needs would be fully met in an adoptive placement;
- (ii) he would be placed with a carer or carers who would have been comprehensively assessed as having the capacity to look after a child and be specifically matched as suitable and equipped to meet C's needs;
- (iii) there is no likelihood that C would suffer significant harm in the care of an adopter or adopters. He would be safe and secure and thereby avoid exposure to the risk of harm arising from the risks that have been identified in respect of M;

- (iv) as a consequence of being provided with stable consistent care he would have a good chance to live a normal life in which he could develop into a balanced and emotionally stable person;
- (v) C is now eight months old. At his relatively young age he will be able to manage the transition from foster care to adoption without suffering undue emotional harm.

58. But the disadvantages of such a placement would be:

- (i) the loss of the direct relationship with M, who plainly loves him, can meet his physical needs and is desperate to care for him;
- (ii) C would lose the potential of relationships with his maternal and paternal family and possibly his, as yet unborn, sibling. Such relationships are of course extremely valuable to a child, even where the family cannot all live together;
- (iii) he would lose his identity as a member of his birth family and the court knows that a sense of identity is extremely important, as part of any person's development as they grow up;
- (iv) although most adoptions succeed, a not insignificant number break down with the result of further emotional harm to the child in question.

I am reminded again that adoption should only be considered when absolutely necessary and in a child's best interests. It really is the course of absolute last resort.

59. I am in no doubt that this case fully complies with the requirements of the Court of Appeal that I have referred to and the options have been comprehensively analysed and I accept the analysis of the local authority and the Guardian. The central plank of Ms Sweeting's argument, both in cross examination and in submission, is that M has changed and the professionals, whilst entitled perhaps to be cynical at its timing, have failed to recognise sufficiently:

- (i) M's extreme youth.
- (ii) The nature of the abuse to which she was exposed.
- (iii) The efforts that M has made to address the concerns, by her admittedly late engagement.
- (iv) The importance of the support that MGM can now offer, given that the impediment to that support, the continued relationship with F, has been removed.

60. In the court's judgment, those factors have been given sufficient weight, notwithstanding the starkness of the options. It is, in fact, difficult to see what more the local authority could have done to have given M the best chance of caring for her baby. The mother and baby foster placement, a sadly scarce resource, was without doubt the best that could be offered, and it was offered as part of a stepped process. That chance has now been lost and in submitting

that M and C could move to the next stage without having completed that first stage, against the background of concern, underestimates just how worrying those concerns are.

61. The relationship with F could hardly have been more abusive. That M was vulnerable to it is part of her overall vulnerability. She was in every sense a victim. But, in the court's judgment, she has barely begun to recognise that, still less address it. Evidence of the relative lack of recognition was still evident, despite her protestations. I am quite satisfied that the reason that the placement broke down in April so comprehensively was because she was drawn back to F. Whilst her complaint of being separated from her family was taken at face value, she in fact went straight back to him and not her family. Indeed, she now reports for the first time that she was falsely imprisoned by him.
62. The local authority recognised the difficulty of M being so far from home, but she was well supported there and the period was time limited to just twelve weeks. The local authority was even prepared to contemplate a move to a mother and baby foster placement in Newcastle: one was due to become available within eight days of the failure of the Peterlee placement, but M effectively closed the door to that by refusing to return, refusing to take up the contact that was freely made available, declining to stay with either of her parents and by failing to demonstrate that she could show some stability in her life.
63. I prefer the Guardian's evidence to that of M, that there was no offer of an alternative, and that the thinking behind M being given permission to stay with her family, when she came home for a night, was to address those issues. Not only did she not do so, nor mention her intention of going to F, but she thereby threw away the chance of support from either of her parents. In my judgment, in denying the availability of this option, M was re-writing the history in a way that was not correct. It conveniently ignores the fact that just six weeks later she was seeking a joint assessment of her and F as a couple and was thereby confirming the choice that she had made in April to prioritise her lifestyle and him over C.
64. Thus, the cycle continued, which included next more drug use. At every single hearing she was warned about the need for testing and the need to demonstrate that she was addressing this. She serially failed for six months and has continued to take cannabis despite her further pregnancy; notwithstanding the risk to her second baby's health. The importance of that was underlined time after time. There can have been no illusions about it. Although on one view it is historical now, the only available explanation for positive cocaine testing is the ingestion of cocaine. M's denials cannot be accepted in the circumstances. They are simply no explanation and are doubly concerning when there is now a six month period when there was no testing at the time when proceedings were up and running and testing was emphasised to be central to that. That M has started to address cannabis use is only evidenced by her own assertions, which include her statement that she does

not feel the need for it when she is with C, which is hardly a solid basis for accepting that the problem is resolving.

65. The court is also deeply concerned about the continued exposure to violence. That began principally with what appears to have been a vicious assault on her as late as 25th July of this year when she says she was grabbed by the throat by F, the allegation that she retracted, thereby denying herself police protection. It emerged that the assault that she had reported in May, which left her visibly injured, such that she could not go to contact, despite her claim at the time that it had been an assault by a neighbour, had in fact been perpetrated by F. She lied about it at the time and she had not disclosed what she now says is the truth until I asked her in questions at the very end of her evidence.
66. A third violent incident has occurred since C was born, this time in MGM's home, at the feet of MA, in which her unborn baby was at the risk of harm, just as C was before he was born.
67. Beyond an initial assessment with a domestic abuse worker, M has not started to address this at all.
68. I turn then to the nomadic existence, because this has continued with the court and the local authority being misled in September, despite M now saying that she recognised, by living with MGF, the risk that F posed. I am unpersuaded that we had the full story, even if the statement was signed long after it had been prepared. By the time she came to court for the issues resolution hearing on both her and MGM's evidence she was no longer living with MGF. The court was simply misled.
69. That brings me to parental support and I have to say I am extremely doubtful about this, having heard from MGM. Her past response was summed up by her statement that she had "stepped back to let nature take its course". Bearing in mind that M, aged 16, is six months pregnant with her second pregnancy, that does not sound to the court like any recognisable exercise of parental responsibility for a vulnerable girl. Furthermore, I am quite satisfied that MGM minimised just what M and her siblings were exposed to, particularly when the social worker reported, unchallenged, that the volatility that still exists between the grandparents is such that they cannot even be in the same room as each other at contact.
70. Ms Sweeting submitted to me that MGM is a force for good. In the court's judgment, she will only be thus for so long as M agrees with everything she says. She did not, in the long time from the conception of C in mid-2014 until very recently, and the harm that M has suffered in the meanwhile has been incalculable. The court has no confidence, particularly in the unsatisfactory circumstances of M's change in living arrangements as recently as the end of September, that such a significant and long term failure is to be replaced by durable, appropriate support. Certainly over such a short time as has passed since this came about.

71. That brings me to consideration of M's plan or proposal and just how realistic it is. Having engaged so late and in truth achieved so little, it is difficult to have any confidence that a corner has been so completely turned. It troubles me that M's own social worker, Suzy Lui reported that, as recently as 18th September, M told the midwife that she was in a relationship with F, who was the father of her new baby. Consistent with F's assertion that he ended the relationship, M told her social worker that if he had not she might have gone back to him. Her initial failure recently to go to the domestic abuse assessment was based on a reluctance to relive the past, as she explained to Ms Lui. M's shock that her first scan in September demonstrated that she was 18 weeks' pregnant, thus too late for a termination, in circumstances that she plainly knew that she was pregnant and indeed told the Guardian that she was pregnant in July, is evidence of another failure to access proper services in a prompt and appropriate way. It seems to the court that there is no sufficient confidence in her assertions, however well intentioned they may be, and it is in those circumstances very difficult to regard her proposals as having solidity.
72. Finally, there is the question of delay. This case has already lasted far longer than it should have done. There would have been no prospect, in the court's judgment, of C being placed with M before her new baby is born. No one knows how that is going to play out. In practical terms, it condemns C to living the first year of his life exclusively in foster care, a start that no one would wish on any child, unless the prospects of a return to M were good. I am brought back to the Guardian's siren warning, issued at the very beginning of this hearing, in mid-April, where she said at paragraph 19:
- "M has 12 weeks in which to prove to professionals that she is able to meet the needs of C and address professional concerns. As a starting point, I would suggest that she needs to be open and honest in her dealings with professionals so as to inspire confidence to build a positive working relationship. M must accept that C is a young baby who cannot wait indefinitely for M to make the necessary changes to her lifestyle."
73. I am afraid she did not take that opportunity. Even then there was another chance in April. We are now 22 weeks beyond that 12 week period having ended and are, at best, at the starting block, the position infinitely complicated by the need to focus and prepare for the arrival of another baby. It is not enough to demonstrate that she can meet C's needs well in contact: she has failed to demonstrate that she can address any of the concerns which remain very similar to those at the outset and, if she wants to have a good chance of keeping her second baby, she is going to need to devote all of her energies to doing just that in the few weeks that remain. Her lifestyle would pose a serious risk to any child in her care. If belatedly she has developed insight, to adjourn to permit a further testing out would, in the court's judgment, amount to an experiment in which it has no confidence that she can build successfully in a timescale that is commensurate with C's needs, despite the starkness of the alternative.
74. The scale of issues identified goes beyond Ms Sweeting's suggestion of court orders to protect her from F in the circumstances that I have described and, so far as F is concerned, by his abuse and unlawful behaviour as well as his

disengagement in this process, he has demonstrated comprehensively his complete lack of suitability to be C's carer and I need say no more.

75. The Supreme Court reminded us that adoption is the last resort. Whenever possible, children should be brought up by their natural parents. But I have concluded that there is no realistic prospect of C being safely returned to M's or F's care and that his needs for stability and permanence can only be met in an adoptive placement. Having regard to the Article 8 rights of C and his parents, as well as consideration of the welfare checklists, with particular reference to the risk of harm, despite the high price of lifelong separation from his birth family, I am satisfied that the only order that meets C's needs are a care order and, having concluded that his welfare requires me to dispense with M's consent to his being placed for adoption, I make a placement order authorising the local authority to take that step.
76. This is, of course, a desperately sad case so far as M in particular is concerned and her family and there is little by way of consolation that I can offer her other than that C will have the best opportunity to grow up without the many disadvantages that she has suffered and I urge her not to lose heart and to continue the work she had belatedly started while she concentrates on her expected delivery in February.

End of judgment

We hereby certify that this judgment has been approved by His Honour Judge Simon Wood.

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