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

Case No: SE20C01045

**IN THE FAMILY COURT SITTING IN SHEFFIELD**

**IN THE MATTER OF THE CHILDREN ACT 1989**

**AND IN THE MATTER OF J**

Date: 12 January 2021

**Before :**

**HHJ Lynch**

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**Between :**

**Sheffield City Council**

**Applicant**

**- and -**

**P (1)**

**S (2)**

**J**

**(through her Children's Guardian) (3)**

**Respondents**

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**Hannah Greaves for the Applicant**  
**Sean Bennett for the 1<sup>st</sup> Respondent**  
**Sally Hibbert for the 2<sup>nd</sup> Respondent**  
**Julie Amiss for the 3<sup>rd</sup> Respondent**

Hearing date: 12.1.21  
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**JUDGMENT**

## **Introduction**

1. These proceedings are about a little girl, J. Her mother is P, her father S, and until today only P had parental responsibility for J. The other important people in this case are J's relatives, A and B. Although they are not parties to this case, I invited them to come to this remote hearing today and A did so while B looked after J.
2. This case began because P was sectioned under the Mental Health Act after a significant decline in her mental health which led to J having to go to live with A and B. This was the third time she had been sectioned. The local authority had been involved from before the time J was born due to worries about P's mental health, drug use, and other matters. When P's mental health deteriorated the local authority applied for an interim care order because there was nobody able to make decisions about J whilst mother was in hospital, her mum being the only person with parental responsibility. I made an interim care order at the first hearing and it has been in place ever since.
3. During the early months of this court case, whilst she was sectioned, P's mental health got better and J went to live with her in a specialist unit, when she was about three months old. Not long after that they both moved out to live together with A and B, but P quickly stopped keeping to the safety plan which had been put in place and ended up moving out, leaving J with her great-aunt where she has remained ever since. Her mum has been able to spend time with her on an unsupervised basis but quite often has not turned up for the arranged times.
4. When this court case first began it was not certain who was J's father. S was contacted by P to tell him she believed he was J's father and he made contact with the social worker. DNA testing was done which showed he was indeed her father. Since that time he has been involved in this court case and has been building up his relationship with J, spending time with her initially at the great aunt's home but now he takes her away from there and looks after her for a few hours on a Sunday with support from his own mum.

## **The Issues and the Evidence**

5. J's social worker has considered carefully what would be best for J, where she should live as she grows up. P's mental health, linked to her drug misuse, remains a worry. She has a diagnosis of schizoaffective disorder, a long-term condition which the psychiatrist treating her explained was of a relapsing and

remitting nature which would mean there would be future episodes of mental ill-health. To minimise this P needs to take daily medication, it is advised for a period of at least two years, whilst engaging with the community mental health service to help her to understand her mental health disorder, to be able to see when she is going to relapse, and to put in place strategies to help her cope as and when that happens. She also needs to avoid substance use, particularly cannabis.

6. Sadly, all the evidence is that P has not been able to do what is needed for her to care for J. She continues to misuse cannabis and cocaine, seen in hair strand results in the end of October. She is not engaging with professionals, including the mental health team. She is not turning up regularly when she is meant to be seeing J. The social worker does not doubt that she loves her daughter but says that J would not be safe in her mother's care.
7. I do not know what P wants for daughter. She is not really engaged in this court case and has not told her solicitor what she wants to happen. She has not filed a statement in this court case. Judging by her actions, she accepts J living with her aunt and uncle.
8. S, having learned that he had a daughter, has played a full part in these proceedings, although he was not able to come to court today, and has been assessed by the local authority. That assessment was positive insofar as S has shown a good level of awareness of J's needs as well as an ability to prioritise her well-being. He has shown he is keen to learn the skills he needs to be a hands-on father and planned how he can achieve this. At the beginning he said he wanted to care for J, but he has thought very carefully about this. He works full time and travels as a result of that work, which he realises would mean his daughter been left with different family members when he was not there. He can see how good it has been for her living with her great-aunt and her partner. He has been able to work well with the couple around arrangements for his daughter. After much thought he has decided that what he wants to do is be a key part of J's life whilst acknowledging that the best thing for her would be for her to live with her great-aunt. He has been having regular time with J, arranged informally with her carers, and reached a point where he now takes her back to spend time with his own mum. He has no other children and is having to learn quickly how to care for a child, but he has plenty of support around to help with this.

9. A and B have been committed to J from the start. They were keen to support P in caring for her little girl when she came out of hospital and it is very clear to me they have never sought to take P's place in J's life. However, when it became clear that things were not going well, they were certain that their focus had to be J and they sought to be assessed as long-term carers for her. The local authority has carried out an assessment of them as special guardians and, unsurprisingly from all I have read, reached a positive conclusion. Their care of J has been exemplary and it is clear they are people who will bring her up well whilst ensuring she has a genuine relationship with both of her parents, to the extent that that is safe in the case of P.
10. The local authority proposes that there should be a special guardianship order in favour of A and B. This would give them an enhanced level of parental responsibility for J, whilst maintaining her legal relationship with both of her parents. The local authority invites me to make a declaration that S is J's father, given the DNA test results, which would mean his name could be put on her birth certificate and then he too would have parental responsibility for her. It is proposed that J could have time with her mother, supervised by Grant Haywood, the son of A and B, on a monthly basis. In respect of S, given his clear commitment to his daughter during these proceedings, the proposal is that J spends time with him each weekend. This is currently happening at his mother's home on a Sunday and the idea is that it would build up to there being an overnight stay on Saturday night. It is not suggested that any orders are needed around the time J spends with her parents which can be arranged between her carers and her parents. The local authority has filed a support plan setting out how A and B could access support if they needed it, over and above the financial support which will be available on an ongoing basis although it will be means tested.
11. J's children's guardian, entirely supports the plan for J. She spoke of how hopeful things seemed after P had treatment for mental health difficulties. She cared well for J for the short period they were together in the mother and baby unit, and when the guardian spoke to her on two occasions during that time P was very positive and motivated, happy to have been given the chance to go into the unit and wanting to make the best of it. The guardian notes though that sadly things did not remain positive once P was back in the community, as evident from the local authority's evidence. P's mental health issues, her ongoing use of drugs, and her chaotic lifestyle mean there is a much greater

risk of her relapsing which of course would impact on any child in her care. The guardian says that, given the long-standing concerns, P would need to be able to take up professional support around her mental health and drug misuse, and to demonstrate change for a prolonged period before one could think about her caring for J, and in her view that was not likely to happen within J's timescales given what has happened so far.

12. The guardian has also spoken to S and talked about that conversation in her report. He acknowledged her he was surprised to discover he had a daughter, following a single sexual encounter with P, but he was very happy with the situation in which he found himself. He is learning about what is needed to be a dad in terms of practical matters but has a good relationship with J's carers as well as his own family so has plenty of support in this. The guardian noted in her report that the local authority's parenting assessment of him was positive but that he had reached the conclusion that she would be best off living where she was and that he will be able to work to provide for her. The guardian acknowledged this must have been a difficult decision for him to make but she recognised he was someone who wanted to be actively involved in his daughter's life and have legal recognition of that by way of having parental responsibility for her, something the guardian supports.
13. In her report, the guardian looks at the options for J and agrees that she should remain living with A and B under a special guardianship order. She also agrees that there does not need to be any order keeping the local authority involved, nor does there need to be any order about the time J will spend with her parents. This family are well able to make arrangements without the need for orders to be in place.

### **Today's hearing**

14. Today's hearing was, when it was listed, set up to be a final review hearing but I ordered that it could be used as a final hearing if no one was asking for any witnesses to come to court to be challenged on their evidence. As that was the case, I have made final orders today in the absence of the parents. S has given his solicitor instructions and knows about today's hearing. The solicitor acting for P has sent her all the papers in this case including orders so I am satisfied she is aware this hearing is going ahead. Her not attending court is in line with the approach she has taken since she came out of hospital.
15. In preparing for this hearing, given nobody was arguing about what I should do, I read just the key parts of the written evidence, and I know this case well

because I have been responsible for it all the way through. Nobody has given evidence in court, but I have heard from the lawyers about what people want to happen.

### **Findings on matters in dispute**

16. Although no one is asking me to make any public law orders today, the local authority ask me to make findings confirming the situation as it was when these proceedings began. The findings I am being asked to make have been known to the parties since the beginning of this case. Mr Bennett does not have any instructions from P as to what she says about those facts so I am proceeding on the basis they are not accepted but not opposed.
17. I have considered the written evidence filed in this court case to see whether I am satisfied that the facts as stated by the local authority were indeed how things were when this case began and I am satisfied on balance of probabilities they were. I therefore make the findings sought by the local authority and set these out in full at the end of this judgment.

### **My Decision**

18. I now turn to think about what orders if any are needed for J. Wherever possible, children should be brought up by their parents and if not by other members of their family. I know that J, as well as her parents and her carers, have a right to a private family life. And when I make my decision I must remember that J's welfare throughout her life comes first in my thinking.
19. In my head though I have gone through all the possible outcomes for J and balanced up the pluses and minuses of each. When doing that, I have thought particularly about the list of things in what is called 'the welfare checklist' which can be read in the most important Act of Parliament about children's cases, the Children Act 1989.
20. From what I have read it is evident that J would not be safe in the care of her mother, given her ongoing issues including her misuse of drugs. It is very sad to read how she has disengaged from those trying to help her to be mother I know she wants to be to her little girl. I am not asked to consider the option of her living with her father because he concluded she would be best remaining where she is. I entirely grasp that is not because of any lack of commitment on his part because he has been able to put her first. J is extremely lucky to have A and B in her life. This seems to be a wonderful placement with a couple who are outward looking in terms of family rather than inward looking. I am confident that J will grow up with a proper appreciation of who everybody is

within her family and understanding why it is she lives where she does. They will ensure that she has a good relationship with her dad as well as whatever time she can safely have with her mum. I know I will be speaking for all the professionals as well as J if I thank them for their commitment to J. This is a wonderful outcome for this little girl, the best possible thing if she cannot live with one of her parents.

21. So, looking at the options for J, I do agree that the right thing for her is for her to remain living with A and B and that should be under a special guardianship order. I agree there is no need for the local authority to remain involved, particularly that it does not need to share parental responsibility for J. I do think J's carers should have the enhanced parental responsibility that goes with a special guardianship order. One could anticipate there may be difficulties with P in the future given her mental health issues and ongoing drug misuse and it is important that A and B can if required make those decisions that in J's best interests without her agreement. I therefore make a special guardianship order in respect of J in favour of A and B.
22. In relation to the application for a declaration of parentage, I have considered the DNA test results and am satisfied that S is the father of J. I therefore make a declaration of parentage to that effect. I invite the Registrar to amend the record so his name can be shown on her birth certificate. That will have the effect of giving him parental responsibility alongside P, A and B.
23. I agree that there does not need to be any order in relation to the time J spent with either of her parents. I am satisfied that A and B will ensure that J has a relationship with her mother in a way which is safe. I am also quite satisfied they understand the importance to J of having a good relationship with her father and his family. He is someone who could have cared for J if things were different and there is no need for any restriction on the time J spends with him.
24. There is one further direction I wish to make. I think it is hugely important for children who do not grow up in the care of a parent that they have information available to them, through their carers, so they can make sense of their early life. This judgment, in setting out what I have read and heard in court today, gives at least a summary of that start. I propose therefore to order that this judgment must be given by the Local Authority to A and B so that it is available to J when she is older. That however is on the basis that they should keep it private so apart from looking at it themselves they may only show it to any medical or therapeutic staff working with J or the family; it may also be

released into any private law proceedings regarding J. J, as a party to this case, is also entitled to see the judgment.

25. Finally, I also make the usual order about court costs in this matter.

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**THRESHOLD CRITERIA  
AS FOUND BY THE COURT**

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The threshold criteria set out in Section 31 of the Children Act 1989 are met in respect of J on the basis required for a final order. This is on the basis that at the time the protective measures which led to these proceedings were taken, J was suffering significant harm attributable to the parenting she was receiving not being what it would be reasonable to expect a parent to give. Further, J would be likely to suffer further significant harm which is attributable to the parenting likely to be given to her if an order were not made due to the care likely to be given to her not being what it would be reasonable to expect a parent to give to her. The harm took the form of emotional harm and neglect.

In particular:

1. P was detained under s2 of the Mental Health Act following a significant deterioration in her mental health following the birth of J. This was characterised by multiple and persistent delusional thoughts about the health of the child which caused her to seek unnecessary medical attention on two occasions and to encourage J to cry in order to reassure herself that J was breathing. During this time, she displayed volatile, agitated, unregulated and irrational behaviour that frightened and confused J, causing her emotional harm and placing her at risk of neglect. She did not have the capacity to care for J or to make decisions about her care.
2. P had a history of acute mental health problems, having previously been sectioned under s2 MHA, as well as drug use, unstable accommodation, and a lack of engagement with support services. She was subject to a period of Public Law Outline assessment by the Local Authority in relation to her ability

to care for her child, who was made subject to a Child Protection Plan prior to birth due to the risk that she would not be able to manage her mental health or offer safe, stable parenting.

3. P was both a perpetrator and a victim of domestic abuse with her partner [not J's father] in the early stages of her pregnancy, placing J at risk of future physical and emotional harm.