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IN THE FAMILY COURT

Case Number:
WD20C00556

25th February 2021

Before His Honour Judge Middleton-Roy

Between:

A Local Authority

Applicant

- and -

Mother

1st Respondent

Father

2nd Respondent

**The Child 'B'
through his Children's Guardian**

3rd Respondent

Miss Ahmed, Counsel, instructed by the Local Authority

Miss Adeniran, Counsel instructed by Hepburn Delaney Solicitors for the First Respondent

Miss O'Connell, Counsel instructed by Bretherton Law for the Second Respondent

Mr Lafazanides, Solicitor, Fahri Jacob Solicitors for the Third Respondent

Hearing dates: 22nd to 25th February 2021

JUDGMENT

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His Honour Judge Middleton-Roy:

Anonymity

1. I have made sure that the names of the child, the adults and the Local Authority have not been recorded. That is important because it protects the child. It follows guidance given by the President of the Family Division. Putting personal information about the child in public could be harmful to the child. It is very important that the names of the child and members of the family must be kept private. Everyone, including the media, must make sure that this is strictly complied with. Failure to do so will be a contempt of Court and may result in a sentence of imprisonment.

The Application and Background

2. I will refer to the child in this case as 'B'. He is almost 10 months old. He lives with his mother and father.
3. The mother in this case has a learning disability. In this judgment I have tried to use simple language. I have tried to make sure that information is broken down into small parts. I have tried not to use legal language. That approach is based on recommendations from the experts in this case.
4. Both parents have had a troubled past. The mother has been diagnosed with Emotionally Unstable Personality Disorder. In the past, she has been known to act on impulse.
5. The father suffered physical abuse in his own childhood. He was not receiving any support for his mental health. He was not even registered with a GP. There were worries about an imbalance in the parents' relationship. It appeared at times that the father was controlling of the mother. He has used class 'A' drugs in the past. He was using drugs at a young age. In the past, he suffered from drug-induced psychosis. This resulted in him making violent threats towards family members and attacking them. He too has acted on impulse. He has struggled to control his emotions. He has also struggled to manage his anger.
6. Both parents have long criminal records. The mother has been to prison eight times. Her criminal record includes possessing a knife and making threats to kill. She also threatened to bomb a police station. The father has a history of violent crimes, including actual bodily harm, assaulting police officers and thefts. He has spent around ten years in prison in total. His offending was mostly drug related. The parents met through a probation course.
7. The Local Authority has been worried that the child, 'B' may come to harm in the care of his parents. The Local Authority has a legal responsibility to keep children safe. The Local Authority also has a legal responsibility to promote the welfare of all children within their area who are in need. In carrying out that responsibility, the Local Authority must promote the upbringing of children by their families. Local Authorities must provide services appropriate to the needs of children who are children in need.
8. As soon as 'B' was born, the Local Authority brought this case to Court. It told the Court that it was worried that 'B' was at risk of suffering significant harm from his parents, including physical harm, emotional harm and neglect. A Judge of this Court made an Order placing 'B' in the care of Local Authority foster carers, as soon as he left hospital, when he was only a few days old. The Local Authority had planned at first for 'B' to move with his parents to a residential unit. However, the residential unit could not offer the family a place, as the risks were thought to be too high to manage.

The Judge made Orders to gather independent expert evidence and other information necessary to decide the case.

9. The mother and father both made very real progress over the following months. The parents engaged with professional support and guidance. The father made real efforts to stop his drug use. In September 2020, the Local Authority thought that the progress made by the parents was good enough to consider 'B' safely returning to live with his parents. The parents were then, and still are, living with the child's paternal grandparents, who are providing support.
10. The Local Authority asked the Court to approve the plan of rehabilitation of 'B' into the care of his parents. It was planned that family support workers would come into the home regularly to provide support. This was to reduce the risks to 'B' of suffering harm. The Guardian did not agree with the Local Authority plan for the rehabilitation of the child to the care of his parents. The Guardian believed that the risk of harm was too great. The Guardian thought that the parents and baby should have an assessment in a residential unit. No application for such assessment was made. Looking at all the information that was then available, I agreed with the plan put forward by the Local Authority. Over a three-week period, 'B' was returned to the care of his parents. Although there were risks, the Local Authority was confident that the risks could be managed through professional support and guidance.
11. The case should have concluded in October 2020. The length of the case was extended by a further four months. This was to allow 'B' to return to his parents' care, for the professionals to provide support to the family and to make sure the transition was best supported. This involved a Local Authority support package which consisted of, amongst other things, 42 hours of support over seven days a week from a care agency.
12. Happily, on all the information available, 'B's transition back to his parents' care was a success for 'B'. There is evidence that, together, the mother and father have been able to meet their son's basic care needs in the day and night-time including bathing, changing, feeding, stimulating him and preparing him for going out the house, with no concerns of a significant nature. The mother is reported to have grown in confidence and ability. She is able to take on parts of her son's routine independently. There has been a lot of evidence of warm and loving interactions between 'B' and his parents. The parents are also attempting to take more of a role within the home, including tidying up, preparing meals and washing.
13. The Local Authority asks the Court to make a final Order, allowing 'B' to remain living with his parents, with the Local Authority's continued supervision for one year. The Local Authority tells the Court that both parents have shown that they can meet 'B's' basic care needs, without any major concerns. Both parents have been fully committed to 'B' and they both love him dearly. The parents are on a waiting list to be housed in supported accommodation. Although the Local Authority recognises that there are still risks and that the parents still need support to provide consistent care to 'B', the Local Authority is confident that those risks can be managed under a Supervision Order and under a Child Protection Plan. Under that plan, the father will continue his work to deal with domestic abuse. The father will receive support from a mental health practitioner. Under the plan, the mother will complete work in respect of Healthy Relationships. It is planned that more work through the family centre will support the mother taking 'B' out into the community and help the mother to continue to learn how to keep 'B' safe outside the home. A Written Agreement sets out what is expected of the parents in continuing to work with the Local Authority.

14. The parents agree to the Local Authority's plan.
15. The Guardian does not agree with the Local Authority. The Guardian thinks that the case should be postponed for another six months. The Local Authority and the parents do not agree to a six-month adjournment. They all wish for the case to end now. The Local Authority recognises the Guardian's concerns about the risks. The Local Authority tells the Court that the risks can be managed. This would allow 'B' to remain with his family but still be monitored. There would be meetings every three weeks. There would then be a review after three months and then six months after, reviewed by an independent professional.
16. At this Final Hearing, I have read all the information given to me. Everyone agreed that it was not necessary for me to hear from the witnesses directly. Everyone agreed to me hearing submissions from the lawyers. Due to the pandemic (Covid-19) the Court decided that it was best for everyone to take part by video and everyone agreed. The mother was very helpfully assisted during this Final Hearing by an intermediary and the Court is very grateful for the intermediary's help.
17. As a Judge, I must make an independent decision. That means, I must look at all the information in the case and reach my own decision about what is best for the child. The law tells me that I can only make a decision about the child if the circumstances of the case are serious enough. That is often called the "threshold" test. If I find that the threshold test is met, I must then make a decision about the child that is in his best interests. The law tells me that the welfare of the child is the most important consideration for the Court. The law tells me also that my decision should be guided by a list of factors that I need to consider, often called the 'welfare checklist.' Making an important decision about a child of this type would affect his human right to a private life and to a family life. It would also affect the rights of his parents and his wider family members. The law tells me that I must only make a decision that is in proportion to the risks the child may face.

Threshold

18. Dealing first with the seriousness of the case ("threshold"), no one in this case disputes that the threshold test is met. The child has not suffered actual harm. He was removed from his parents shortly after he was born. There is no dispute that the facts of the case show that at the date when the Local Authority began this Court case, the child was *likely* to suffer significant harm. The likelihood of harm was because of the care likely to be given to him by his parents, not being what it would be reasonable to expect a parent to give (section 31, Children Act 1989).
19. The specific concerns of the Local Authority are set out in a document, headed 'Final threshold'. I have considered carefully all the information before the Court. All the information leads me to reach the conclusion that the concerns recorded by the Local Authority in its 'threshold' document have been proved. I make findings of fact, as set out in the 'threshold' findings, which I record at the end of this judgment, in Appendix 1, marked 'Threshold Findings.'

Welfare

20. The mother was assessed by Dr Liverton, a Psychologist, in February and March 2020, before 'B' was born. Dr Liverton assessed the mother's IQ as within the range where her parenting capacity is likely to be affected. She will require intensive family support and professional support to meet the child's needs. Dr Liverton recommended that the mother should engage in healthy relationship work.

21. The father was also assessed by Dr Liverton in April 2020. Dr Liverton recommended that the father engage in psychological therapy to address his childhood experiences and to manage ongoing difficulties. He recommended therapy ('DBT'). He recommended that the father should have his mental health monitored and discuss this with his GP. He recommended that the father should continue working with local drug support services to lower the chances of drug relapse. He also recommended that the father may be helped by domestic abuse/healthy relationship work to help to control his behaviour towards the mother.
22. Dr Parsons, Consultant Forensic Psychologist, was appointed by the Court as an independent expert. Dr Parsons produced a report in respect of the mother and the father. He told the Court that the mother has a moderate learning disability. In Dr Parsons' opinion, the mother meets the criteria for Emotionally Unstable Personality Disorder of the borderline type. Dr Parsons noted that the mother has had longstanding difficulties controlling her emotions, since adolescence. Dr Parsons also noted evidence in the past of violent behaviour. In Dr Parsons' opinion, there is also evidence of impulsive seeking personality traits.
23. Dr Parsons told the Court that the father does not meet the criteria for a personality disorder. In Dr Parsons' opinion, the father's profile suggests a number of impulsive seeking personality traits and he may be erratic and/or unpredictable. Dr Parsons noted that the father claimed to last use illicit drugs in January 2019. The father described to Dr Parsons that since he stopped using drugs, he now does not *'Go off the rails as quick...I regulate my emotion quite well now...I will talk to someone about my problem.'*
24. In Dr Parsons' opinion, the levels of 'maladaptive' behaviour engaged in since the father stopped using substances are now not at the level where they could be described as being a personality disorder. Dr Parsons told the Court, that the father, *"no longer would meet the criteria to be said to be experiencing a personality disorder and since ceasing to use substances, his behaviour has become far less maladaptive and far more adaptive."* Further, Dr Parsons told the Court, that the risk of the father relapsing into drug use, *"is now low...I would point out that this is a particularly significant observation, given that his more severe mental health difficulties and a lack of ability to regulate his emotions, occurred whilst he was using substances."*
25. Dr Parsons noted in his report that the father, *"does appear to have learned adaptive strategies in order to manage his emotions and it is highly significant that he has been able to cease to use substances which, even without personality difficulties, is an extremely challenging task for any individual to undertake and by definition, shows an ability to regulate his emotions and manage his anger."*
26. Dr Parsons also noted that the father, *"shows evidence of planning how to regulate his emotions and an ability to reflect and have insight into the reasons for his behaviour."*
27. Dr Parsons noted that the father, *"showed a very marked ability to engage in reflective functioning which... is indicative of an ability to mentalise and is associated with a secure adult attachment style."*
28. Dr Parsons was asked specifically to give his expert view on the issue of whether the father's behaviour towards the mother amounted to coercive control. Dr Parsons told the Court, *"this is in fact a very difficult question to address...the couple acknowledge that [the mother] will ask [the father] to take a lead and that [the mother] will seek [the father's] assistance in undertaking some aspects of everyday life. [The mother]*

herself described this when she reported that [the father] can better express himself than she can.” Dr Parsons told the Court, “In my opinion, although this could be seen as coercive control, it is in fact very important to see this behaviour in the context of [the mother’s] learning disability.”

29. Dr Parson’s went on to tell the Court, *“It is adaptive and not maladaptive for an individual with a learning disability to be able to recognise aspects of their life and daily functioning that they have problems with and then to seek help and support. It is also adaptive that such help and support is sought from a partner. Therefore, the behaviour that [the mother] and [the father] describe is not necessarily maladaptive and in fact, it may well be adaptive...the fact that [the mother] relies to some extent upon [the father’s] support and seeks that support, including at times allowing [the father] to speak for her, is not necessarily maladaptive.”* Dr Parsons cautioned, *“it probably would not be possible for this to be determined solely from a psychological assessment. Further observation of behaviours is required by social services and other professionals.”*
30. Dr Parsons’ expert evidence is thorough and balanced. It has not been challenged by any of the parties and no written questions were put by any of the parties to this expert. I accept Dr Parson’s independent expert evidence.
31. Dr Ratnam, Consultant Forensic Psychiatrist, was also appointed by the Court as an independent expert. Dr Ratnam completed a psychiatric assessment of both parents. Dr Ratnam was of the expert opinion that the mother meets the criteria for a diagnosis of recurrent depression. The mother is reported to have begun hearing voices in 2017 and she had a psychotic episode. In Dr Ratnam’s opinion, it is premature to make a diagnosis of a personality disorder but the mother’s presentation suggests she has an emerging emotionally unstable personality disorder, with difficulties managing frustration and emotional regulation along with impulsivity. Dr Ratnam noted that the mother’s learning disability impacts on her ability to cope with frustration. Dr Ratnam noted that the mother has complied with taking medication. She recommended that the mother continues to take her medication. She would also benefit from six months of therapy to help her manage her emotions.
32. Dr Ratnam explained that when depressed, a parent can present to their child as an emotionally remote figure due to being preoccupied with their negative thoughts. Depression can also impact on the ability to attend to daily activities. At the time of assessment, though, neither parent was depressed. Dr Ratnam noted that there appears to be a greater degree of stability in the mother since May 2019.
33. Dr Ratnam was of the expert opinion that the father also meets the criteria for a diagnosis of recurrent depression. Dr Ratnam was of the opinion that the father has insight into his symptoms of depression and anxiety and he is able to identify the triggers. Dr Ratnam noted that the father’s symptoms of Attention Deficit Hyperactivity Disorder (‘ADHD’), reported in childhood, have decreased naturally with age.
34. In respect of his drug use, Dr Ratnam is of the expert opinion that the father meets the criteria for a diagnosis of ‘polysubstance misuse.’ Dr Ratnam explained that the use of illicit drugs can impact an individual adversely and contribute to offending in states of intoxication and also in an attempt to fund further drug use. Crack cocaine is associated with irritability and can contribute to conflictual interactions. In states of intoxication, a parent is unable to focus on a child’s consistent need for safety. Dr Ratnam noted that the father had been using heroin since the age of fifteen and he also used crack cocaine. In 2017 the father assaulted his sister when under the

influence of crack cocaine and he experienced hallucinations. He had attempted suicide in 2017 when under the influence of alcohol, crack cocaine and heroin.

35. The father has been abstinent from drugs since January 2019, for two years now. He is prescribed methadone. The father accepted to Dr Ratnam that drug use would have a “massive” impact on his parenting. He explaining to Dr Ratnam that when he was using drugs, he was unable to look after himself. He told Dr Ratnam that his aim is to remain abstinent. He has managed to do so during these Court proceedings, despite the stress of being in Court. He told Dr Ratnam that he recognised that, “*You’re recovering always*”.
36. Dr Ratnam noted that the father has insight into his former drug use and the triggers for that drug use. He is engaging with substance misuse services, where he engages in one-to-one sessions and is prescribed methadone. He was able to identify triggers for use and he aims to remain abstinent. Abstinence of one year, Dr Ratnam told the Court, suggests change and the father has been abstinent for longer than this. The risk of relapse has to be borne in mind but the father has developed coping strategies and he has coped with the stress of the Court proceedings without relapsing
37. Dr Ratnam noted that the father had been diagnosed previously with Emotionally Unstable Personality Disorder at a time when was still using heroin and crack cocaine. In Dr Ratnam’s expert opinion, the father’s previous use of drugs increased his emotional instability and lowered his tolerance to frustration. Dr Ratnam noted that there has been a significant decrease in symptoms since the father has been abstinent from drugs. He no longer meets the criteria for a personality disorder. Further, Dr Ratnam is of the opinion that the father will not meet criteria for mental health services for therapy but suggests a referral to the Local Authority in-house psychological team, as recommended by Dr Liverton, for a minimum of six month’s work to address the risk of emotional instability and impulsivity at times of stress.
38. Dr Ratnam was asked to provide an expert opinion about the risks the mother and the father pose to the child, based on the psychiatric assessment. Dr Ratnam told the Court:
“With regard to [the mother], risk in the context of depression is currently managed. With regard to her emerging personality disorder, my view is that whilst the relationship with [the father] is stable and [the mother] feels secure, then the likelihood of maladaptive behaviours is low, as can be seen by her presentation since May 2019. Re-emergence of such behaviours will be related to a change in the dynamic of the relationship. In addition, there is a possibility that [the mother’s] personality will mature with time. However, her ambivalence about therapeutic input could impact on her engagement and on her ability to learn adaptive patterns of behaviour and management of emotions, which are associated with a risk of emotional harm to a child.”
39. With regard to the father, Dr Ratnam told the Court:
“[The] risk with regard to substance misuse is managed through abstinence, engagement with substance misuse services and compliance with replacement therapy...[his] presentation in terms of his personality traits has significantly stabilised but he can still be impulsive when under significant stress, although this is not a consistent presentation. [He] was ambivalent about engaging in therapeutic intervention but was not entirely dismissive to it and if he engages in such intervention, it will address the issue of emotional risk associated with exposure to a parent’s emotional dysregulation and impulsivity.”

40. Dr Ratnam's expert evidence is full and detailed. It has not been challenged by any of the parties and no written questions were put by any of the parties to this expert. I accept Dr Ratnam's independent expert evidence.
41. The Court has received independent evidence about the father's drug use. The father provided negative hair strand test results for cannabis, cocaine and opiates covering the period eight month period from March 2020 to November 2020. He has worked with local drug services since 2013, including one-to-one keywork sessions. He was also working effectively with the offender management unit.
42. The social worker completed a community-based parenting assessment of the parents as a couple. This concluded that there was some evidence that the parents could meet their child's needs but they would need help to do so. The report noted that there were gaps in the parents' knowledge, which they needed help with.
43. The parenting assessment highlighted that the mother found it difficult meet all of 'B's basic care needs independently. The parenting assessment recommended that it was important that the mother does not provide sole care for 'B' but that she is supported by a trusted adult. The assessment recognised that this could change, as the mother gains confidence, knowledge and experience. A full support package was put in place by the Local Authority to help to support the parents.
44. An updating assessment was then completed in January 2021, after 'B' had been at home with his parents for just over two months. The updated assessment recommends that 'B' remains in the care of his parents, with professional support. Overall, the parents were found to have made significant progress. They were assessed by the social worker to be able to meet 'B's basic care needs. They still need help. The mother still needs help to provide safe and consistent care for 'B'. This would be especially important if the father returns to work and she has to care for him on her own. The parents will need help to be able to live independently. They will need help to manage household tasks and to care for 'B' without the daily support of the grandparents. The father still needs help to manage his reactions to certain professionals and certain situations. He is noted sometimes to present as defensive. He is noted sometimes to present as oppositional, when advice is given which he does not agree with. The conclusions of the Local Authority parenting assessment have not been challenged.
45. The Court takes note that viability assessments were undertaken of other family members, none of which were positive. Those assessments have not been challenged.
46. In her final analysis, the Children's Guardian expressed the professional opinion this case falls into the category of 'extremely high risk'. The Children's Guardian noted that, whilst there are positives, in her opinion, there are significant gaps in the evidence and in the assessments. The Court is told that the Children's Guardian cannot agree with the Local Authority Care Plan. The Children's Guardian does not agree that the Court proceedings should conclude. The Children's Guardian is of the opinion that there is no level of support she could recommend now that could lessen the risks, if the case concluded now and the child remained placed with his parents in the community. The Children's Guardian recommends to the Court that the case is adjourned for a further period of six months for further assessment to take place. There are no applications before the Court from the Children's Guardian for further assessment of any nature.

47. The Children's Guardian's concerns were set out helpfully and fully in a document prepared on her behalf by Mr Lafazanides, which I will not repeat. The Children's Guardian identifies the risks in the case as including substance abuse, violence and criminal behaviour, the parents' psychological/psychiatric profiles, the parent's relationship dynamics featuring coercion and control, uncertainty and instability around the child's future living arrangements, the father's 'intimidation' of professionals and the ability of the parents to work openly with all professionals.
48. The Children's Guardian further identifies what she perceives to be gaps in the evidence, which are summarised to include the risk assessment of the father by the domestic abuse practitioner not being complete, the father's engagement with domestic abuse work not having been tested, the mother's engagement in healthy relationship work not having been tested, the father not having yet engaged meaningfully with mental health and therapeutic services, a need for more detailed assessment of the parents' relationship dynamic, the father's understanding of the mother's difficulties and his willingness to accept advice, an absence of assessment of the parents in the community, as they have never lived alone with the child without the support of extended family, further clarity regarding the roles of the wider family in supporting the parents and the child in the community and more detailed analysis by the Local Authority of the risks posed to the child by the mother's diagnosis of emotionally unstable personality disorder and by the personality style of the father. The Children's Guardian also expressed concern that the Local Authority plans to change the social worker at the conclusion of the case.
49. Respectful as I am to the professional opinion of this experienced Children's Guardian, I do not agree with her analysis of risk nor with her analysis that there are significant gaps in the evidence.
50. There is no dispute between the Local Authority and the parents that the child should remain in his parents' care. The Children's Guardian's position is that, the lack of concluded assessment as she perceives it, means that she feels she does not have a proper evidence base to reach a final view. The matter for the Court is whether the Court should make a final Order today, at the end of this case, or extend the proceedings by another six months.
51. This is a case that has already gone almost four months beyond the 26-week period within which the Local Authority application must be disposed of by the Court (s.32(5) of the Children Act 1989). That time period was extended to allow assessment of the parents with the child in their care, after a planned, supported and monitored transition from foster care. The Local Authority is confident that the child will continue to be protected under a Supervision Order for twelve months, together with a Child protection Plan, supported by a detailed and robust support package.
52. The parents' housing situation has not yet been clarified, in that they have not yet been offered permanent housing. No real certainty can be given about timescales, through no fault of the parents. The parents are waiting for an offer for supported accommodation and the Local Authority is helping them as best it can. I accept that the housing situation is a fluid one. It will resolve at its own pace. There is no certainty that the situation would be any clearer at the end of the six-month adjournment period recommended by the Children's Guardian. In the meantime, the parents and child continue to live with the paternal grandparents.
53. The Local Authority has set out a detailed plan setting out the support the Local Authority will put in place. This includes continued support from specialist support

workers going into the family home on a very frequent basis to support the parents in caring for their son.

54. The father's case remains open to the domestic abuse practitioner. The father is willing to continue with that work, which has not progressed for reasons outside his control. Such work will be an expectation of the Local Authority under the Supervision Order and Child Protection Plan.
55. The father will be offered mental health intervention through the Local Authority in-house therapist. The father has expressed natural concerns about confidentially associated with a Local Authority in-house therapist, given the nature of the therapeutic relationship. The Court is told that he understands that any safeguarding concerns in respect of the child would have to be reported by any therapist and he is agreeable to engage. He is able to pursue therapy through his GP and he has told the Court he is willing to do that. The Local Authority will provide family centre intervention, to encourage the mother's confidence and independence. There will continue to be universal services support through the child's GP, the Health Visitor and through ongoing Social Worker visits. Further, the mother will continue to be offered healthy relationships work and work through the family centre to support the mother in learning to keep 'B' safe outside the home.
56. There will be continued management under a Child Protection Plan. That is unusual where a Local Authority is seeking a final Supervision Order. It reflects the Local Authority's acknowledgment of the need for ongoing support. This will involve regular reviews, with the first conference to be convened in three weeks, followed by a review after three months and six months.
57. I accept the Local Authority submission that all matters together provide a structured and robust plan to safeguard this child.
58. In my judgement, the expert evidence points clearly to positive changes in both parents since mid to late 2019. Dr Ratnam spoke of the likelihood of maladaptive behaviours in the mother as being low, as can be seen by her presentation since May 2019. Her depression is managed appropriately now by medication. Dr Parsons spoke of the risk of the father relapsing in terms of his drug use as now being low and that, significantly, the father's more severe mental health difficulties and a lack of ability to regulate his emotions have improved since he ceased using illicit drugs. The social worker concludes that the parents have the ability to provide safe consistent care to the child living independently in supported accommodation, having regard to the progress made. There is no evidence to lead the Court to consider that removal of the child from his parents' care is necessary. In the professional view of the social worker, the identified concerns are manageable and the Local Authority plan sets out how they can be managed.
59. The risks to the child must be considered in light of all the evidence, including evidence from the parents, the social worker, the independent experts and the Children's Guardian. The Local Authority acknowledges that the plan is not without risk. I am satisfied that the Local Authority has its eyes wide open in respect of those risks. The social worker noted the risks as including a concern regarding the father's reactions to certain situations where he can present as 'snappy and irritable'. He can present as authoritative towards members of the household and this has also been seen in some aspects of his approach towards parenting his son. He is noted to like to be in control of situations. He finds it difficult to accept another viewpoint if it is different from his own. He can appear to undermine family members and professionals with his views. 'B' is described as a content and smiley baby, who does not often appear distressed. There

is a concern that as he grows and develops and as he explores his surroundings, tests his boundaries and develops a more active personality, there is a possible risk that this will distress and upset the father and test his patience. There remains a worry about the mother's parenting capacity and the level of responsibility she has for her son, although she is noted to have made some real positive progress in caring for him, which the social worker notes, "should absolutely be commended."

60. *Coercive or controlling behaviour*: I have considered the Children's Guardian's concern about coercive or controlling behaviour. It is widely recognised that such behaviour between people who are in or have been in a relationship is a form of domestic abuse. "Controlling behaviour" is defined in Practice Direction 12J to the Family Procedure Rules 2010 as meaning, "an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour."
61. "Coercive behaviour" is defined in PD12J as meaning, "an act or pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim".
62. This Court is fully cognisant of the potentially devastating impact of domestic abuse. In *JH v MH (Rev 2) [2020]* EWHC 86 Russell J set out further guidance on the Court's approach to addressing domestic abuse by reference to PD12J: "*Domestic abuse can inflict lasting trauma on victims and their extended families, especially children and young people who either witness the abuse or are aware of it having occurred. Domestic abuse is rarely a one-off incident and it is the cumulative and interlinked physical, psychological, sexual, emotional or financial abuse that has a particularly damaging effect on the victims and those around them.*" This Court explicitly bears that guidance in mind.
63. Dr Parsons' observed that the parents both acknowledge that the mother will ask the father to take a lead and the mother will seek the father's assistance in undertaking some aspects of everyday life. The mother feels that the father can better express himself than she can. The mother recognises aspects of her life and daily functioning that she needs help and support with. The behaviour the mother and father describe was considered by Dr Parsons as not being maladaptive and in fact, it may well be adaptive. Looking at all the evidence, including the social work evidence, and looking at the behaviour in the context of the mother's learning disability, I find no sound evidential basis to reach a conclusion that coercive or controlling behaviour is a feature of these parents' relationship.
64. *Disguised compliance*: At the Final Hearing, the Children's Guardian raised, seemingly for the first time, a suggestion that there may be disguised compliance on the part of one or both of the parents, filing a document for the Court on this specific subject. It was not an issue raised by the Children's Guardian in her final analysis or at any stage previously in the proceedings. Disguised compliance involves parents appearing to co-operate with professionals in order to allay concerns and stop professional engagement. It is well understood that it is important for social work professionals to be able to recognise disguised compliance when gathering evidence about what is happening in a child's life. It is well understood that parents may minimise concerns raised by professionals or deny that there are any risks facing children. Parents can develop good relationships with some professionals, whilst criticising or ignoring others, which can divert attention away from the parents' own behaviour. Parents displaying disguised compliance may manipulate professionals and situations to avoid engagement or intervention. Some parents may say what they think are the right things

to say or engage 'just enough' to satisfy practitioners. Some parents regularly miss or cancel appointments, promising to reschedule but not attending. Sometimes, professionals can be overly optimistic about parents' progress and ability to care for the child or their promises to engage with services. Professionals might rationalise parents' behaviour, such as seeing a failure to engage with services as a matter of 'parental choice' rather than non-compliance, accepting information from parents at face value without displaying appropriate professional curiosity or investigating further.

65. The social work involvement with the family has been at a level that can be described as intense. There have been practitioners attending the family home on a daily basis with a focus on the child's lived experience rather than simply the parents' and carers' actions. In my judgement, there is no evidential basis to conclude that disguised compliance is a feature in respect of these parents.
66. What is clear from all the evidence is that the parents both have work still to do, to reduce the risks further. In my judgement, there is solid evidence to conclude that the parents are both committed to continuing that necessary work. Further, there is solid evidence to conclude that both parents will be able to maintain such commitment. The Local Authority has set out a clear road map of work over the course of the proposed 12-month Supervision Order in parallel with a Child Protection Plan and Written Agreement. In my judgement, that is a robust plan that is proportionate to the risks. The plan rests on the willingness and the ability of parents to engage with the recommended work. I share the Local Authority's conclusion, based on all the evidence of the progress made by the parents to date, that there is a real prospect of both parents continuing to work in cooperation with the Local Authority for the benefit of their child.
67. The Children's Guardian expressed a concern regarding the proposed change of social worker at the conclusion of the proceedings. The Local Authority plan in this respect is not an unusual one. It is entirely a matter for the Local Authority. The Court is informed that the family will have the benefit of continuity from the Team Manager who will oversee the work with the family and who has knowledge of the case.
68. In my judgement, a further, lengthy adjournment of the proceedings as sought by the Children's Guardian, would serve no purpose. The work with the domestic abuse practitioner, the therapeutic input for the father and the ongoing work to support the mother around healthy relationships can all be achieved during the life of the Supervision Order and Child Protection Plan. That is against the background of there being no evidence of any incidents of domestic violence between the parents, no loud arguments and no police visits to the home. This is also against a background of Dr Parsons' expert evidence that the concerns about coercive control must be assessed in the context of the mother's learning disability, wherein the behaviour described by the professionals may be adaptive or enabling behaviour. In short, I find no merit in the Children's Guardian's proposal to delay the proceedings further. There is no application before the Court from the Children's Guardian for further assessment of any nature and no challenge to the comprehensive expert evidence. A further delay of the type sought by the Children's Guardian would be an extreme delay for the child and an unnecessary one. In my independent judgement, this Local Authority has adequately assessed the risks in this case and can be trusted to manage the case under the proposed Supervision Order and Child Protection Plan. The Local Authority and parents are aware that, in the event that difficulties arise that cannot be managed, the Local Authority can seek to change its plan or return the matter to court on a further application, including an application to extend the length of the Supervision Order.
69. The Local Authority is confident it has an understanding of the risks and the measures to further ameliorate those risks safely. Both parents accept the need for the proposed

work and express their willingness to engage. I find no reason to depart from the professional conclusions of the social worker. Indeed, in my judgement, the approach taken by this Local Authority in the circumstances of this case is commendable and is in accordance with the its legal duty to provide support to parents, particularly in the context of one parent having a learning disability.

70. *Parenting with support*: It is a well-established principle that Local Authorities need to enable children to live with their parents, as long as this is consistent with their welfare, by providing the support the children and their families require. This accords with the general duty of Local Authorities under section 17(1) of the Children Act 1989 to provide a range and level of services to safeguard and promote the welfare of children in need and their upbringing by their families, insofar as it is consistent with their welfare. A need for long-term support does not mean that parents cannot look after their children. A parent with a learning disability will not see their cognitive impairment go away but they may learn how to do things. In the same way that someone with a physical impairment may need assistance for the rest of their life, a person with a learning disability may also need assistance with daily living, particularly as new situations arise and as the needs of the child change as the child grows and develops.
71. The essential question is whether the parenting is good enough, if the right support is provided. As was made clear by Sir James Munby, then President of the Family Division in *D (A Child) (No 3) - Parenting with Support* [2016] EWFC 1, the concept of 'parenting with support' must underpin the way in which Courts and professionals approach parents with learning disabilities. People with a learning disability are individuals first and foremost and each has a right to be treated as an equal citizen. Courts must make sure that parents with learning disabilities are not at risk of having their parental responsibilities terminated on the basis of evidence that would not hold up against parents without such difficulties. To that end parents with a learning disability should not be measured against parents without a disability and the court should be alive to the risk of direct and indirect discrimination. Multi-agency working is critical if parents are to be supported effectively and the court has a duty to make sure that has been done effectively. The Court should not focus so narrowly on the child's welfare that the needs of the parent arising from their disability, and impacting on their parenting capacity, are ignored. Courts should be careful to ensure that the supposed inability of the parents to change is not itself an artefact of professionals' ineffectiveness in engaging with the parents in an appropriate way. Parents with a learning disability need to be supported and enabled to lead their lives as full members of the community, free from discrimination and prejudice, with assistance, to be able to bring up children successfully, supported by professionals trained to recognise and deal with parents with learning disabilities, without unacceptable delay in carrying out assessments and establishing what support was needed, so as to avoid a conflict with the children's timescales.
72. In my judgement, this Local Authority has done precisely as is required of it by law. The Local Authority has identified the positives in the parents, including their willingness to engage with and accept help and support. The Local Authority has identified that the parents have a good enough understanding of the changes needed to be made, what the parents need to do and has assessed the prospects of the parents achieving real and necessary change as being solid. In my judgement, the Local Authority is not overly courageous in its ambitions. The Local Authority is not blind to the risks nor has it approached the risks naïvely. It has approached its task consistent with the well-known passage from Hedley J in *Re L (Care: Threshold Criteria)* [2007] 1 FLR 2050, that, "*society must be willing to tolerate very diverse standards of parenting, including...the barely adequate and the inconsistent...it is not the provenance of the State to spare children all the consequences of defective parenting.*"

73. The fundamental analysis at the heart of the case is a familiar and simple one. Whether there is a package of support that could keep 'B' safe in his parents' care in the long-term. This Local Authority recognises that the risks in the case are multifactorial. The Local Authority considers that the parents together have the ability to acquire and develop the parenting skills in order to make the necessary changes to meet 'B's developmental needs and wellbeing in the immediate and long-term future. The Local Authority is satisfied on all the evidence that the parents are able to provide their son with good enough parenting, with the right level and degree of support they need.
74. I must come to my own view on the totality of the evidence. I find no reason to disagree with the careful and considered evidence from the Local Authority.
75. I have considered each of the factors set out in the welfare checklist (section 1(3) Children Act 1989). I respectfully adopt the analysis set out in the final statement of the social worker in respect of those factors at (a) to (d) of the checklist.
76. In respect of s1(3)(e), 'B' has not suffered any significant harm at any point in his life. He has had all the necessary safeguards and support in place since his birth. His needs have been met through a combination of professional care and care from his parents. His parents, with support, have met his basic care needs. He has made attachments to his parents and warmth and affection has been observed to be provided to him by his parents and grandparents. The risk of future harm to 'B' in his parents' care has been highlighted by the social work evidence. There remain areas where his parents require ongoing support. There remain areas where his parents, individually, need to complete further work, as identified by the professionals. In the professional opinion of the social worker, the future risk of harm to 'B' is at a level that is manageable, with the ongoing professional support and family support identified. Having regard to all the evidence, including all the independent expert evidence, I find no reason to disagree with the conclusions reached by the social worker.
77. In respect of s1(3)(f), the evidence before the Court makes clear that both parents have worked together as a team to make sure that the plan for 'B' to return to the care of his parents could be put into effect, with the oversight of the Court and all the professionals involved in the Court proceedings. Since his return to their care, the parents have both continued to provide care for 'B' to a good enough standard, in the opinion of the social work team. The Local Authority concluded that the parents have demonstrated that they are mostly able to meet the basic care needs of their son during the day and throughout the night. The mother's confidence has grown, which has enabled her to take a more active role in providing care for her son. She is now able to complete some aspects of his care independently, with the support of care workers and the paternal grandparents. The Local Authority evidence identifies further areas of work needed. The Local Authority has undertaken 'delicate consideration' of all the evidence, including the independent expert evidence. The Local Authority is confident that the parents have the ability to provide care for their son with ongoing help and support. I find the social worker's evidence to be fair, balanced and considered. I find no reason to disagree with those conclusions.
78. Placement of 'B' at home under a Care Order is a possible option open to the Court but not one advocated by any of the parties. It would mean that 'B' would remain as a Child Looked After for the rest of his minority. Although he would live at home with his parents, the Local Authority would retain parental responsibility until 'B' was eighteen years old. He would remain subject to all the Child Looked After processes including reviews, health assessments, having an allocated social worker and an Independent Reviewing Officer. The Local Authority would continue to act as his corporate parent

assisting with decision making in his life. With this parental responsibility, should any concerns arise in the future the Local Authority would be able to remove him swiftly and promptly into a place of safety in order to limit any harm suffered. The Local Authority recognises that this would not provide the family with the self-confidence needed to demonstrate the positive progress they have made and exercise their parental responsibility effectively. A Care Order at home could be deemed as oppressive. I am not satisfied on the facts as they are presently that this option is in the best interests of the child.

79. A Supervision Order will allow the Local Authority to remain involved with the family for twelve months with the option to apply to extend. A Supervision Order allows the Local Authority to continue to advise, befriend and assist the child and his parents. It will allow the Local Authority to make sure that any emerging risk is identified promptly and challenged. Should concerns escalate, the Local Authority has sufficient means to safeguard the child promptly if necessary; either through the police exercising Police Powers of Protection or seeking from the Courts an Emergency Protection Order to move 'B' to a place of safety. The Supervision Order would reflect the many positives highlighted by the Local Authority, balanced with the ongoing work necessary, and recognising the hope of the parents for a future private family life.
80. In my judgement, a Supervision Order, with a parallel Child Protection Plan and written agreement of expectations is a necessary Order and is in the best interests of the child. Further, the outcome for the child is the proportionate response, having regard to the risks.
81. In conclusion, the Court puts the child under the supervision of the Local Authority for a period of twelve months. The Court endorses the Local Authority care plan.

HHJ Middleton-Roy
25th February 2021

Appendix 1 - Threshold Findings

AGREED FINAL THRESHOLD

1. The relevant date in these proceedings is 30th April 2020 when the local authority issued its application for care, interim care, supervision and interim supervision orders. The local authority contends that at the relevant date 'B' was suffering, or was likely to suffer, significant harm and that this harm was attributable to the care being given to him, or likely to be given to her, being not what it would be reasonable to expect a parent or carer to give. The Local Authority relies on the following:
 2. Physical Harm
 - a) The Father has a significant criminal history. The Father's last conviction is recorded in April 2019 when he was convicted of ABH and assaulting a police officer, the offence having been committed in October 2018. On 8th April 2020 there was a physical altercation between the father and the maternal uncle which resulted in the police being called, but no arrests were made. The mother and father subsequently moved out of the maternal family home.
 - b) The Mother has a significant extensive violent history between 2017 and 2019 including possessing a knife in a public place, making threats to kill and harm the police and Court staff and she has made a threat to bomb [a] Police Station on more than one occasion.
 3. Neglect
 - a) The Mother meets the criteria for a Learning Disability and may struggle without support and training to retain information and adjust her parenting as the child develops.
 - b) The Mother is diagnosed with an Emotionally Unstable Personality Disorder which the Mother discloses causes her to act on impulse which led to her self-harming behaviour whilst in prison. Ms Mother has made several malicious threats to kill and carried knives in public places. Ms Mother has served custodial sentences for these offences with the most recent offence in May 2019.
 - c) The Father has a long history of Class A drug use which has prompted drug induced psychosis, self-harm and suicidal behaviour. The Father has not taken drugs since January 2019 and has produced a number of negative Hair Strand Tests in these proceedings.
 - d) At times the Father has been prone to impulsivity, has struggled to regulate his emotions and manage his anger.