

The judgment was handed down by the Judge at a hearing and by circulation to the parties' representatives by email on 30 September 2024.

IMPORTANT NOTICE This confidential judgment was delivered in private. The judge has given leave for this version of the judgment to be shared with legal representatives, parties and relevant professionals on condition that (irrespective of what is contained in the judgment) the anonymity of the children and members of their family must be strictly preserved. All persons must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Re Bella (placement with kinship carers)

Neutral Citation Number: [2024] EWFC 303 (B)

Case No. OX23C50046

IN THE FAMILY COURT SITTING AT OXFORD

IN THE MATTER OF THE CHILDREN ACT 1989 AND IN THE MATTER OF [BELLA]

Date: 30 September 2024

Before: HHJ Vincent

Between:

OXFORDSHIRE COUNTY COUNCIL

Applicant

and

[EMMA]

First Respondent

and

[LUKE]

Second Respondent

and

[BELLA]

(via her Children's Guardian, Nandi Sutherland)

Third Respondent

Cecilia Barrett for the Applicant local authority
Rebecca Franklin instructed by Boardman, Hawkins & Osborne LLP for the respondent mother
Anne Davies, of Reeds solicitors, for the second respondent father
Alice Darian, instructed by RWK Goodman, solicitors for the child

Hearing dates: 24, 25, 26 and 30 September 2024

Approved Judgment

*This judgment was uploaded to the National Archive at the same time as the judgment in the linked case **Re Felix (combined fact finding and welfare)** [2024] EWFC 302 (B).*

The names of the parties have been changed. Key:

Bella:	subject child
Felix:	Bella's half-sibling and subject of earlier fact-finding and welfare hearing
Emma:	mother of Bella and Felix
Luke:	Bella's father
Sam:	Felix's father
Sean:	Emma's ex-boyfriend
MG:	social worker
MGM:	maternal grandmother
Ms G:	Luke's grandmother
P:	mother's new partner
A and B:	kinship carers

Short judgment

1. [Emma] has two children, [Felix] and [Bella]. She loves them both very much. They love her too.

[Felix]

2. When [Emma] and [Luke] were together, looking after [Felix], he was badly hurt. The doctors found nine different broken bones in his body. He was only four months old.
3. [Luke] caused [Felix]'s injuries.
4. [Emma] and [Luke] were left on their own at [the placement] and they should have had more support.
5. [Emma] is also responsible for a lot of the problems at [the placement].
6. She was not always able to put [Felix]'s needs first. She was sometimes more focused on her social life than on [Felix]. She was not always able to think about how [Felix] might be affected by her choices. Often what she wanted to do came first and [Felix]'s needs came second.

7. This was dangerous for [Felix] and put him at risk of harm.

8. In my first judgment, I listed the main worries about [Emma]:
 - She did not always tell the truth about what was going on with her and [Felix]. This makes it hard for social workers to know what life was like for [Felix]. That made it hard for social workers to know how to protect [Felix], and how to give [Emma] the support she needed;

 - If [Emma] doesn't like a social worker she won't want to work with them. She has to be able to get on with the people who are trying to help her and [Felix];

 - [Emma] has anxiety and sometimes feels overwhelmed. She has not yet learned how to manage her feelings. She can make impulsive or bad choices. An example of this is the fake messages she sent;

 - She does not always understand how her choices have affected other people, particularly [Felix];

 - [Emma] can form friendships and relationships that can quickly become very intense. But then she can have lots of arguments. She often gets caught up in relationship dramas. This can mean she gets distracted and loses sight of [Felix]'s needs;

 - [Emma] and [Luke]'s relationship became very serious very quickly. She trusted him completely and did not think how that might affect [Felix]. She did not think that [Luke] could have been dangerous for [Felix]. She did not think what it might be like for [Felix] to get to know [Luke] but then have to say goodbye if her relationship with him ended.

9. These are the reasons that [Emma] could not take care of [Felix]. That is why he lives with his dad.

[Bella]

10. Because [Luke] caused [Felix]'s injuries, it would not be safe for him to care for [Bella]. He needs to do some work to show he accepts responsibility for what he did. He needs to learn what happened to make him cause the injuries so that he can stop himself from getting in that situation in the future. This should help him be able to have a safe relationship with his daughter in the future.
11. Since [Felix]'s case, [Emma] has carried on seeing [Bella] twice a week. She has been seeing [Felix] every two weeks. The contacts go well. [Emma] can look after her children's basic needs well.
12. [Emma] has done a course about domestic abuse. She has been to twenty sessions of therapy. She did not see why she should do these sessions, but she did it for [Bella]. The therapy has been helpful and she says she feels different.
13. [Emma] has her own place now. She would like [Bella] to come and live with her.
14. [Emma] has done well to do the domestic abuse course and the therapy.
15. [Emma] has some strengths as a parent, but all the difficulties that made it not safe for her to parent [Felix] are still there. It would be the same for [Bella]:
 - [Emma] still needs a lot of help with her anxiety, and managing her emotions. She can still become overwhelmed;
 - She is not always being able to put her children's needs before her own needs, particularly when it comes to relationships with partners. This is one of the reasons it is a worry that she has not shared information about her partner [P];
 - she does not think there would be any problems with caring for [Bella] on her own. But she does need a lot of help just to manage the contacts twice a week. She has help to get up on time, to get dressed and get her

breakfast and be taken to contact. Her mum gives her a lot of help by showing her how to care for [Bella];

- If [Emma] does not think she needs help, she will not ask for it. That would put [Bella] at risk;
- If [Emma] does not think she has anything to learn, or thinks she does not need to make any changes, then she won't get the help and support she needs to be the best mum she can be to [Bella];
- [Emma] does work well one-to-one, but if she doesn't get on with someone or they don't agree with her point of view, she is not always able to work with them. For [Bella], [Emma] needs to be able to put her own feelings aside and work with professionals;

16. She would not be able to look after [Bella] on her own all the time. She would need someone with her nearly all the time to help her.

17. [Emma]'s mum would do almost anything for [Emma], but it is not fair to ask her to be with [Emma] all the time to help her care for [Bella].

18. [Emma] and [Bella] living with [Emma]'s parents is not a good plan. There would likely be a lot of arguments with [Emma] and her dad and [Q]. It would not be good for [Bella] to be in that situation. It would make life hard for [Emma]'s mum.

19. It will take [Emma] time to work through her difficulties. She would have to be living with her parents for a very long time before it might be safe for her to care for [Bella] on her own. That would cause difficulties for all of them. We don't know how long it would take. That is not good for [Bella]. [Bella] needs to know now where she is going to live. She cannot wait to see if [Emma] is going to be able to make the changes she needs.

A and B

20. [A] and [B] are good, kind people who believe that [Bella] should have the chance to grow up in her own family. They have already got to know [Bella].

They are ready to take care of her and make her one of their family. [A] and [B] believe it is important that [Bella] grows up knowing her mum and dad. They will make sure that she spends time with [Luke] and with [Emma].

My decision

21. I have decided that [Bella] should go and live with [A] and [B]. The interim care order will remain in place for the time-being. If [Bella] settles well with [A] and [B], then the Court can discharge the interim care orders and make [A] and [B] [Bella]'s special guardians.

Contact

22. [Luke] will see [Bella] six times a year. Because [A] is his aunty, it may be that sometimes he sees [Bella] more often at family events.

23. [Bella] should see [Emma] once a month.

24. This would be better than whole day trips only six times a year.

25. [Emma] has a closer relationship with [Bella] than [Luke] so she should see her more often.

26. Whole days is a bit much for both [Bella] and [Emma]. [Bella] and [Emma] will get more out of the contacts if it is more often - once a month - and is for about two hours at a time.

27. [Bella] is still very young. Her needs will change as she becomes older. [A] and [B] will keep checking that the contact arrangements are working for [Bella] and for [Emma]. They will change them if needed.

HHJ Joanna Vincent
Family Court, Oxford
30 September 2024

Long judgment

Introduction

1. [Bella] is just over a year old.
2. Her mum is [Emma]. She is going to be twenty in November.
3. Her dad is [Luke]. He is going to be twenty-two in November.
4. [Emma] and [Luke] were in a relationship between October 2022 and January 2023.
5. In January 2023 [Felix] was removed from [Emma]’s care because he was found to have suffered fractures to his right elbow, ribs left knee and left wrist. There were nine fractures altogether. After a lengthy court hearing in December 2023, I found that it was [Luke] who had caused those injuries.
6. I found that [Emma] could not have known that [Luke] caused the injuries, and she could not have prevented them from happening. But I did find that [Emma] had failed [Felix] in not seeking medical treatment for him.
7. I also found that [Emma] had created false messages that she pretended had been sent by ex-partners, including [Felix]’s father, which she sent to herself and other people. The messages contained significant threats. This led to the police being called, for [Luke] and other people living with [Emma] to feel frightened and stressed. Her ex-partner was arrested, kept in a cell, and questioned by the police. The home [Emma] and [Felix] were living in had to be put on lockdown. [Emma] did finally admit to sending some (not all) of these messages at the final hearing, but she did not show any understanding of the effect of her actions on all those other people.
8. There were a number of other areas of concern about [Emma]’s ability to parent [Felix] safely. I summarised those concerns in my judgment (which provides a context to these proceedings), as follows:
 - (i) *She is not always able to give a truthful picture of what is going on, sometimes under-reporting, sometimes over-exaggerating, and sometimes not giving the full picture. This makes it difficult for professionals to understand what is going on, and this affects their ability to understand and assess risks for [Felix], and give her the support she needs;*
 - (ii) *She can work openly and honestly with some professionals, but if she doesn’t get on with them so well, she tends not to go to appointments, or chooses not to be open and honest with them. For example, she said that she did not get on with [MG], and so did not feel the need to share information with her. In the future,*

professionals would need to know that she could work with them, whatever her own feelings about who she was working with;

- (iii) [Emma] can often feel overwhelmed. She can use unhelpful coping strategies to manage her anxiety, and make impulsive decisions or bad choices. An example of this is the fake messages;*
- (iv) She has limited capacity to reflect on her own situation or to understand the perspective of others. She is not able to see the consequences of her actions on others. This was shown very clearly when she was asked to think about the consequences of fabricating the [Sean] messages. The guardian described the risk as ‘a significant concern, as it indicates that [Emma] is willing to draw her children into her attempts to gain attention and/or meet her needs. This could be extremely traumatic for any child in her care.’;*
- (v) There are a number of elements in the threshold document that highlight [Emma]’s difficulties with understanding and being able to prioritise [Felix]’s needs. She has sometimes been more focused on her social life than on [Felix]. Often what she wanted to do came first, and [Felix]’s needs came second. This was the case when she delayed in getting medical treatment for him. If she sees [Felix]’s needs as being the same as hers, then she can see things from his point of view, but she is not always good at separating his needs out from hers;*
- (vi) [Emma]’s inability at times to see things from [Felix]’s perspective, and to put his needs before her own is a continuing risk to him if he were to return to her care now. An example given by Mrs Carty was a concern that [Emma] did not consider how it might have felt to [Felix] to be swaddled daily in such a tight swaddle that he was unable to move. It seems that [Felix] was swaddled much more often than just at night time, and that swaddling was used as a means of controlling and settling him, indeed [Luke] told the police that [Felix] seemed to have learned that placement on the blanket for swaddling was a cue for him to stop crying and stop wriggling. [Felix] was responding to the demand of his carer to settle, because that is what his carer wanted. His carer was not curious about what [Felix] might have needed;*
- (vii) [Emma] has in the past formed intense friendships and relationships very quickly but then struggles to manage those relationships. She can get very caught up in the drama of a relationship and this can cause her to get distracted and lose sight of [Felix]’s needs;*
- (viii) [Emma] formed her relationship with [Luke] when [Felix] was only a couple of weeks old. She was completely trusting of [Luke] from the outset, and did not seem to think much about the impact on [Felix] of introducing someone completely new into his life when she could not have known whether the*

relationship was going to last in the long-term. There is a risk that if she had [Felix] in her care, she might once again form a new relationship very quickly and involve that person in [Felix]'s life, without stopping to consider the risks-both in the short term, if that person represents a danger to [Felix], and long-term, if that person is one of a number of people who come in and out of [Felix]'s life;

- (ix) [Emma] has had three unplanned pregnancies very quickly (sadly her first pregnancy ended in a miscarriage). She has not shown a good understanding of the risks of getting pregnant following birth, and at the moment it remains a risk that she may be pregnant again, which may take away her focus from the work she needs to do if she is to have the best chance of maintaining her relationships with [Felix] and [Bella]. (I appreciate that each of her partners could also have taken responsibility in this regard);*
 - (x) [Emma] has started to show some signs of engaging with professionals, but she is still presenting as very immature;*
 - (xi) [Emma] was indicating her willingness to engage with help but the ability to engage remains unknown. There is a difference between wanting to do everything that is asked of her in order to have the best chance of getting her children back, and recognising and understanding the need for work to be done.*
9. As a result of these concerns, it was not considered safe for [Bella] to be discharged to her mother's or father's care after she was born. [Bella] has lived with her foster carer [name redacted] since shortly after her birth.
10. Since the final hearing in [Felix]'s case, in February 2024, there has been an updated parenting assessment of [Emma] by Mrs Nicola Carty. [Emma] has done a domestic abuse course for six months with [Ms E]. She has completed twenty sessions of therapy with [Ms G]. [Emma] says that her friends and family have seen a difference in her, and she feels different. She has recently moved into a one-bedroom flat of her own and has been in a stable relationship since December 2023 with a partner [P], who stays with her every weekend. [Emma] has shown her love for and commitment to her children by attending contact sessions with both [Felix] (fortnightly) and with [Bella], (twice a week).
11. [Emma] asks the Court to trust that it would be safe for [Bella] to come and live with her in her flat. In the alternative, she suggests that she returns to live with her parents so that she can have a higher level of support with [Bella]'s care, and then move to her flat a bit later, when the local authority think it safe.
12. The local authority commends [Emma] for the work that she has done over the past six months or so. There is no doubt that [Emma] loves [Bella] and [Felix] very much.

However, the local authority does not consider that [Emma] has made sufficient progress to enable her to care for [Bella] on her own. The local authority does not consider a plan for [Emma] and [Bella] to live with [Emma]’s parents to be realistic.

13. The local authority has assessed [Luke]’s aunt, [A], and her wife [B] as long-term carers for [Bella]. The assessment is positive. [Bella] has spent time with them over the summer, progressing to staying overnight at the weekends. The local authority asks me to approve a change to the current interim care order, enabling [Bella] to move to the care of [A] and [B] straight away so that there can be a brief ‘testing-out’ period of the placement, in accordance with the guidance in respect of kinship carers with whom a child has not had a pre-existing relationship. The local authority then asks for the matter to return to court for a final hearing in a couple of months, at which they hope to be in a position to invite the court to make special guardianship orders to [A] and [B], and to bring these long-running proceedings to an end.
14. Both [Luke] and Ms Sutherland, [Bella]’s guardian, support the local authority’s plan.

The law

15. In every care case the Court must ask two questions; (i) is the threshold for making public law orders crossed; and (ii) if so, what, if any orders should be made to meet the child’s welfare?
16. The Court may only consider whether to make a care or supervision order if satisfied that the threshold test is passed, as set out at section 31(2) of the Children Act 1989:
 - (a) *that the child concerned is suffering, or is likely to suffer, significant harm; and*
 - (b) *that the harm, or likelihood of harm, is attributable to –*
 - (i) *the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give him; or*
 - (ii) *the child’s being beyond parental control.*
17. If satisfied that threshold is crossed for making public law orders, I must then consider what, if any, orders I should make, having regard to the matters set out at section 1 of the Children Act 1989.
18. In reaching my decision, [Bella]’s welfare is my paramount consideration (section 1(1) Children Act 1989). There is a general principle that any delay in determining the question of her upbringing is likely to prejudice her welfare (section 1(2)). I must have regard to all the circumstances, and in particular the factors set out at the welfare checklist at section 1(3) Children Act 1989.

The evidence

19. The first day of the final hearing had to be adjourned because unfortunately the Court office had told the intermediary, who had been booked to support [Emma], that they were not required.
20. We reconvened on the second day. [Emma] did not attend, reporting that she was suffering from ill health due to a suspected ectopic pregnancy. I reviewed the medical evidence she had submitted and having heard submissions from all parties, refused the application made on her behalf for an adjournment. [Emma] chose to stay at home for the remainder of that day, but the intermediary stayed and with her barrister Miss Franklin, ensured that she was fully updated on the evidence that was given by Mrs Carty, the independent social worker, and by [Bella]'s social worker [MG]. To her credit, [Emma] did then come to Court the following day to give her evidence. I then heard from the guardian Nandi Sutherland.
21. [Luke] attended every day of the hearing. It cannot have been easy for him to come back to the Court where he had experienced episodes of heightened anxiety. He is to be commended for staying for the hearing and listening to all the evidence carefully. As his position is to support the local authority, he did not give evidence.
22. I have read all the documents in the bundle.

Nicola Carty, independent social worker

23. Mrs Carty carried out the parenting assessment in [Felix]'s proceedings. She continued to have a good professional working relationship with [Emma] as she assessed her in relation to [Bella]. Her conclusions are set out in two documents; a parenting assessment dated 7 March 2024 and an addendum dated 18 July 2024.
24. As before, her evidence was clear, balanced and fair, and supported by a wealth of evidence obtained by her from her own discussions and observations of [Emma] in contact, and discussions with [Emma]'s parents.

[MG]

25. [MG] has been working with [Emma] since October 2022.
26. The local authority's decision to place [Emma] and [Felix] at [the placement] did come in for some criticism by me in my previous judgment, as did the set up there. This decision was made before [MG] was involved. I did suggest there was a lack of curiosity from the local authority as to what was actually happening in the placement. It was [MG]'s view that [Emma] had not been open and honest with her about what was happening. At the time, [Emma] didn't see that there were any problems, and so

naturally did not report anything of concern to the local authority. All this is explored in much more detail in the earlier judgment, and there is no benefit in repeating it here. However, I mention it to give some context.

27. [Emma] says that she does not get on with [MG], which has caused some difficulties because [Emma] is quick to think badly of [MG]. For example, when asked why she had not wanted to share information about her new partner with [MG], [Emma] said she thought [MG] was ‘just being nosey’. I consider this to be unfair. [MG] has good reasons for wanting to talk to [Emma] about her new relationship. [MG] has worked extremely hard to try and support [Emma], and is acting only with the thought of doing what is best for [Bella], as she was when she was [Felix]’s social worker.
28. [MG]’s final evidence shows a comprehensive understanding of the issues in the case. She does acknowledge that [Emma] has made progress and continues to have strengths in her fundamental caring skills, she explains why she does not feel that [Emma] is in a position to care for [Bella] on her own, or in her parents’ home.

[Emma]

29. It was brave of [Emma] to come to Court and give evidence, particularly when she was not feeling well. She was helped by her intermediary.
30. There is no doubt that [Emma] loves [Bella] very much and desperately wants to be given the chance to care for her. However, I am afraid that the evidence she gave only confirmed the views of all the professionals in this case, that very sadly, she is a long way from being able to make the changes that she would need to make to be able to parent a child, either on her own or with support.

Nandi Sutherland, children’s guardian

31. As at [Felix]’s hearing, Ms Sutherland’s evidence was clear and well-reasoned. Her final analysis, and the evidence she gave orally to the court, showed that she has an insightful and comprehensive understanding of all the issues. She has gone over and beyond in meeting with the proposed special guardians at a weekend, so that she could see [Bella] with them. Her professional opinion takes into account all the evidence and is balanced and fair.

Threshold findings

32. The large part of the document is based on the findings made in [Felix]’s proceedings.
33. [Luke] accepts that findings have been made that he caused the injuries to [Felix] and failed to seek medical attention for him.

34. Despite us having had a number of issues with the threshold pleadings in [Felix]’s case, the threshold document for [Bella] presents difficulties. It is very hard to follow. The local authority (in line with often repeated guidance¹), does attempt to link the facts relied upon with its case on threshold i.e. the need to demonstrate why, as the local authority asserts, facts A + B + C justify the conclusion that the child has suffered, or is at risk of suffering significant harm of types X + Y + Z. However, this is done in a disjointed and confusing way.
35. [Emma] accepts that findings were made that (i) she failed to seek medical attention for [Felix] after he was injured; (ii) in some respects [Felix] was neglected in her care; (iii) she was not able to focus on and prioritise his needs. She accepts that the court made findings that (iv) her previous relationships have featured allegations and cross-allegations of abusive behaviour; (v) her relationships had become serious very quickly; (vi) she struggled to cope when her relationships ended; (vii) she sent the fake messages, creating an unnecessary atmosphere of drama, stress and fear for those around her; (viii) she has had mental health issues including self-harm and thoughts of suicide; (ix) she has complex interpersonal issues, complex emotional needs and a high level of unmet emotional needs including a diagnosis of autism, an underlying attachment difficulty, and clinical levels of anxiety that are pervasive, deep-rooted and long-standing.
36. I find all these facts proved, and find that together, they establish that, at the time protective measures were taken, the parenting that [Bella] was likely to receive if she remained in her mother’s care, would give rise to a risk of significant harm.
37. At paragraph 2(i) it is pleaded that *‘there is a risk of significant neglect of [Bella], affecting her physical and emotional development, if exposed to like care by her mother. For example, the mother still prioritises her lifestyle choices.’* A reference is then made to a paragraph in the parenting assessment.
38. At paragraph 2(ii) it is pleaded that *‘the mother continues to struggle to prioritise her child’s needs such that [Bella] would be at risk of neglect if in her mother’s care. Examples include the fact that she has not attended contact proactively and ready to care for [Bella] e.g. by attending late or with McDonalds for herself to eat during the session or in her pyjamas.’*
39. Both these statements are muddled, do not relate to issues at the time proceedings were issued, and do not add anything to the previous threshold findings. A statement that the mother ‘still prioritises her lifestyle choices’ is meaningless as a threshold pleading.
40. [Emma] has attended all the contact sessions with her children, supported by her own mother. Issues with being late (not a persistent problem) or stopping for breakfast on the way may feed into the overall welfare assessment, but are not sensibly matters to be

¹ View from the President’s Chambers: the process of reform: the revised PLO and the local authority [2013] Fam Law 680 (June 2013); and *Re A (a child)* [2015] EWFC 11

pleaded in the threshold document. I cannot see how [Bella] could be put at risk of significant harm by her mother wearing pyjamas to contact.

41. Paragraph 3(i) refers clearly to the risks of significant emotional harm and neglect to [Bella] arising out of the findings relating to her relationships, prioritising those relationships over her child's needs, not assessing the risks those relationships may pose. It is asserted that the mother does not accept responsibility for, and has not shown insight into, the antagonistic messages she has sent and the fake messages. Having regard to the evidence I have heard and read I find this allegation proved.
42. It is accepted that [Emma] entered a brief and abusive relationship in December 2023.
43. It is alleged that [Emma] has concealed a further relationship, *'having advised in May 2024 that she had been in a relationship since December 2023. The mother has refused to provide any details of her new partner to enable checks to be undertaken demonstrated a continuing inability to act protectively and prioritise [Bella]'s needs.'*
44. I find this proved to the standard of a balance of probabilities.
45. [Emma] gave evidence that she does not see a need to provide any details about her new partner unless and until a decision is made that [Bella] is to live with her. She says it will be for her to decide when she feels able to trust him to spend time with her daughter, and at that time, she will give information to the local authority for them to carry out checks. [Emma] does not seem to understand the reasons why the local authority needs to understand more about her current relationship.
46. She told me in evidence that she and her partner [P] have been together since December 2023. She says that he has a three-year-old child who he does not see. [Emma] has apparently accepted without question that this is all the fault of the child's mother. She has not shown any curiosity about what the reasons might be. She said that [P] knew that her children did not live with her, and he knew that [Luke] had hurt [Felix], but did not know that [Bella] was in foster care, and did not know anything about the findings the court had made about her. One of the reasons she did not want to give his number to the social worker was that she did not want [MG] telling [P] all about her and about the court proceedings.
47. [Emma] said that she had 'done Clare's law' with her domestic abuse worker, and it 'was all clear'. I did not find this convincing evidence, it is not supported by any information from Ms E, and [Emma] has not produced any documents to corroborate what she says. Given she doesn't accept there is in fact any need to investigate [P], I find it unlikely that she did make the 'Clare's law' enquiries she says she did.
48. I find that [Emma] has withheld information about this relationship. This is a risk to [Bella]. This is not just because there may be some reason to investigate whether [P] is a safe person to be around small children. It suggests that [Emma] has not yet learned

an important lesson from what happened to [Felix]. A parent who is introducing a new partner to a child needs to think carefully about how to make that introduction. They should be wanting to find out as much information as possible to reassure themselves that it will be safe for their child. Of course they will want to trust the partner that they love, but at the same time, they must always put their child's needs first and be curious and prepared to ask awkward questions.

49. That [Emma] doesn't want [MG] talking to her partner about the proceedings shows that she is wanting to protect herself first. She is putting her need for her partner to think well of her before the need to ask questions about whether he is a safe person to be around [Bella].
50. At 3(iv) it is pleaded that [Emma]'s mental health issues, complex interpersonal issues, complex emotional needs and a high level of unmet emotional needs, together with her lack of insight about these issues present a risk to [Bella]. I have found this to be the case in the earlier judgment. It is pleaded that [Emma] has limited understanding of the strained relationships within her own household or her need to create drama and the effect that would create on [Bella]. This is in line with previous findings made, and is supported by the wealth of professional evidence in this case. I find it proved.
51. Paragraph 4 pleads that the mother has failed to engage with professional support such that she has made no significant changes since the instigation of proceedings. I find this allegation should be removed from the threshold document because it relates to matters after the time protective measures were taken for [Bella], and perhaps more significantly, because it is not proved. [Emma] has engaged with professional support since the instigation of proceedings and has made some changes to her life as a result.

Welfare analysis

52. The threshold for making public law orders is crossed. I must now turn to consider what, if any, orders are required to secure [Bella]'s welfare.
53. I have had regard to all the circumstances of the case and each of the factors on the welfare checklist.
54. [Bella] is too young to express her own **wishes and feelings**. It can be assumed that she would wish to be raised in a loving and happy home, where all her needs are met. She loves her mum and maternal grandmother and it can be assumed that she would want her relationships with them to be nurtured and protected throughout her life. Her knowledge of her father is less secure, as their contact has been far less frequent. However it can be assumed that she would wish to grow up knowing him and having a relationship with him, providing that it was safe.
55. [Bella]'s **physical, emotional and educational needs** are the same as any child of her age and stage of development.

56. There are **no additional particular characteristics** which are relevant to the decision on welfare.
57. Considering the **impact of any change of circumstances**. [Bella] has been the subject of care proceedings for her whole life. She is thriving in the care of her foster carers but cannot stay with them long-term. It will be very hard for her to leave them and she will be confused and will miss them. It is important that when she moves, as much as possible she is moving to a place where there can be confidence she can stay for the long-term. It would not be good for her to have further significant changes or uncertainty. She needs her future to be settled now so that she can be in a place where she is supported to manage the loss of her foster carers, and encouraged to feel safe and secure in a placement that is intended to last throughout her childhood
58. [Bella] would be at **risk of harm** if she were to be placed in her father's care. He has been found to have caused a number of very serious injuries to her half-brother.
59. What happened to [Felix] was terrible, but it should be acknowledged that [Luke] was very young, completely inexperienced at caring for a baby, and trying hard to support [Emma] in very difficult circumstances. He was evidently feeling under a lot of pressure. I hope that he will in time be able to find the support he needs to move past what happened and to be able to develop a meaningful relationship with his daughter.
60. Whether that can happen at the moment is unknown. I do not have a clear idea of what his response is to the findings I have made. His engagement with these proceedings has been patchy. There are continuing worries about his cannabis use and his mental health. He has not yet completed any therapeutic or other work that would show he has been able to take responsibility for his actions, to understand how he found himself in a situation where he caused the injuries, and to take steps to make sure that the risk of something like that ever happening again can be minimised. For the foreseeable future, his time with [Bella] must be supervised and limited.
61. [Bella] is **at risk of suffering harm if she were to return to his mother's care**. This is by virtue of the threshold findings made against her.
62. As with [Felix], there is a lot of evidence showing [Emma] providing loving, warm and attentive care to her daughter. She can feed her, change her, play with her and soothe and settle her. She has come to contact sessions twice a week. She has recently managed to move into her own flat and has confidence that she can provide all that [Bella] needs.
63. However, the weight of the evidence is I am afraid, overwhelming. Mrs Carty's assessment of **[Emma]'s parenting capacity** is thorough, balanced and fair, and her conclusions have been reinforced by the evidence that I have heard and read throughout this final hearing, from [MG], the guardian and from [Emma] herself.

64. Underlying this is the evidence from Dr Bues about [Emma]’s psychological make-up and the support that she needs in order to develop insight and understanding of her own experiences and functioning, the impact on other people, particularly any child that she is caring for, and intimate partners, and to make and sustain changes so that she would be able to care for a child in the future. [Emma] has made a good start in having some twenty sessions of therapy, and for doing the domestic abuse work, but this is only the start of her journey. As Mrs Carty said, it is one thing to learn something in theory but it is how those lessons are put in practice that matters.
65. Dr Bues’ opinion was that [Emma] has a long road ahead of her, and that even if she had therapy for twelve months, that would be unlikely to get her to a stage where her ‘relational difficulties’ could be sufficiently improved.
66. The evidence is that all the risks identified at the end of [Felix]’s proceedings are still very much a concern for [Bella].
67. [Emma]’s insight and understanding of the professionals’ concerns remains very limited and superficial. She has not been able to identify any aspect of parenting that she thinks would be difficult to manage.
68. But the evidence is that [Emma] does need a lot of help just to manage contacts twice a week. She has help from [MGM] to get up on time, to get dressed and get her breakfast and be taken to contact. During contacts, [MGM] helps [Emma] by showing her how to care for [Bella], how to focus on [Bella] and respond to her cues, and makes suggestions for activities and for how to stimulate and play with [Bella].
69. [Emma] has shown some willing to do the therapy and the domestic abuse work, and she says that if she had to do a parenting course she would. However, the local authority will not always be around to tell her what she needs to be doing. If [Emma] does not think she has anything to learn, and does not see the need to make any changes for herself, it is unlikely that she will be able to benefit from the courses she does do. In the future, this is likely to be a barrier to her getting the help and support she would need in order to be able to give [Bella] the care she needs and deserves to have.
70. [Emma] still presents as very immature, and she has not shown any ability to reflect on what has happened in the past, to take responsibility for her own actions, or to demonstrate any understanding of the impact of her behaviour on others.
71. In her evidence to me she blamed [Luke] entirely for what happened to [Felix]. Of course he bears responsibility for the injuries, but [Emma] has not apparently accepted responsibility for any of the other issues that have been raised with her by professionals for a long time.
72. It is good that she is in a more steady new relationship, but it is perhaps of some concern that she felt the need to be starting a new relationship during the time of [Felix]’s case.

For the reasons given above, her refusal to share information about this partner gives cause for concern about her insight and her ability to put her children's interests and safety before her need to protect the relationship. It is somewhat odd that she has not told her partner anything about her children's situation. The guardian said she became 'visibly irritated' by questions on this, and said her partner, *'doesn't know about the court proceedings. He knows about the kids and what [Luke] did but not that they're not with me. He hasn't asked really where they are. I see him on weekends so he probably thinks they're with me in the week and somewhere else on weekends.'* That she has allowed her partner to form such a wrong impression gives rise to concern that the relationship is not at the moment one of openness and honesty.

73. The weight of the evidence is that [Emma] would not be able to provide consistent care to [Bella] for any length of time. She can clearly do this very well, but there are numerous reports of her then 'zoning out', appearing somewhat overwhelmed and exhausted. When we were discussing contact in evidence, [Emma] was very clear that she did not think that she could manage spending a whole day out and about with [Bella]. She has not acknowledged that when she was caring for [Felix] she often felt overwhelmed and needed a lot of support from other people around her. This is what led her to be over-reliant upon [Luke] in caring for [Felix]. The evidence suggests that this would continue to be a significant problem for [Emma], and therefore for [Bella], if [Emma] were caring for her full-time.
74. [Emma] has been very reliant on her mother for support, but when she is not there, [Emma] has not found a way to get to contact on her own. [Emma]'s proposal that she go and live with her parents is not workable for a number of reasons:
- (i) [Emma] needs a huge amount of support in caring for [Bella]. It is not reasonable or realistic to expect her mother, or anyone else, to provide that level of care;
 - (ii) [Emma]'s mother has tirelessly devoted herself to support [Emma]. She could not have given more of herself. She has stood up for [Emma], advocated for her, and been by her side or available to her almost constantly. It is a strength and commendable that she can see [Emma]'s perspective so clearly. However, at times she struggles to set boundaries for [Emma] and is not always able to persuade [Emma] out of a particular viewpoint. [MGM] told the guardian that [Emma] will go 'into child mode' and be determined to do things her own way, or not accept that she needs help;
 - (iii) [MGM] is exhausted. She has significant caring responsibilities for her elderly parents. She cannot continue to give [Emma] the level of support that she has been giving throughout these two sets of proceedings, let alone step up to the higher level that would be required if [Emma] had [Bella] in her full time care;
 - (iv) [Emma] has a difficult relationship with her father. They effectively avoid each other when they are in the same household. He does not have an established

relationship with [Bella]. He cannot be regarded as a source of parenting support for [Emma]. The likelihood is that if [Emma] were living full-time in the house, there would be arguments between [Emma] and her father, and [Emma] and her brother [Q]. This would put a strain on her mother's relationships with her, her husband and with [Q]. This would be difficult for all of them, and would not be a safe environment for [Bella];

- (v) [Emma]'s difficulties are entrenched and long-standing. In order to safely parent [Bella] she would need a very high level of support for many years to come. It is not realistic to expect her parents to provide that and it is not something that they are able to offer to [Emma]. After a few months, [Emma] and [Bella] would have nowhere to live and [Emma] would not have access to the level of support she needed to look after [Bella]. That would not be [Bella]'s welfare interests.

75. In her parenting assessment, Mrs Carty concluded:

'I remain concerned that [Emma] is not at the stage where she really understands what is needed to change in herself to parent a child. She is young and in addition to this she has a diagnosis of autism and complex needs stemming from her early childhood experiences. In discussion I felt that [Emma] is tiring of the level of professional involvement and for her parents the level of stress has taken its toll on them, and I am sure impacted on [Emma].'

76. The guardian shares these concerns. In this, and her parenting assessment as a whole, Mrs Carty describes clearly the concerns she continues to have about [Emma]'s parenting capacity, which are borne out by the overwhelming weight of the evidence.

77. Regarding the capacity of [A] and [B] to care for [Bella]. The assessment of them is lengthy and detailed, based on extensive interviews with them, members of their family and other relevant individuals, as well as including comprehensive checks. The report is extremely positive. [A] and [B] are in a long-term committed relationship, both as happy and secure as they have ever been in their lives. The relationship is characterised by mutual support, love and respect for one another. They have already spent a great deal of time with [Bella], who has been seen to be very happy and relaxed in their company and to already be turning to them for comfort and reassurance.

78. Both [MG] and the guardian have had many meetings and conversations with [A] and [B], and have seen [Bella] in their care. They both have full confidence in their ability to provide a stable, secure and loving home for [Bella] throughout her childhood, at the same time as being able to promote and nurture her relationships with her mum, dad and members of her extended birth family.

79. It is to [Emma]'s credit that she met with [A] and [B]. She told me that she felt reassured by her meeting with them. Although she would love [Bella] to live with her, if that is not possible then she would not oppose her placement with [A] and [B].

80. I consider **the range of powers available to the court.**

81. Having regard to all the circumstances, and each of the factors on the welfare checklist, I support the local authority's plan for [Bella] to go and live with [A] and [B] under the auspices of the current interim care order, with a view to returning to Court in a couple of months for a final hearing. At that time, providing the testing out period has gone well, it would be hoped that special guardianship orders could be made.

Contact

82. We are not at the stage of making final orders, but it has been helpful at this stage to hear the evidence from the professionals in respect of the local authority's proposals for contact in the longer term. I have been invited to give an indication.

83. [Luke]'s contact with [Bella] is agreed to be at six times a year. As [Luke] is [A]'s nephew (his mum is her sister) this is likely to be organised fairly easily. There may well be family gatherings at which [Luke] sees [Bella] on top of the six planned contacts. [A] and [B] have a clear understanding of what happened to [Felix] and are clear of the need for [Luke]'s contact to be supervised at all times.

84. There has been a professional difference between [MG] and the guardian about [Emma]'s contact. Having heard their evidence and submissions, my view is that on balance the guardian's proposal of twelve short contacts a year is preferable as a starting point, rather than the local authority's suggestion of six longer contacts. My reasons are as follows:

- (i) I accept the evidence of Mrs Carty and the guardian that at just over a year old, [Bella] will not have developed the ability to 'hold in mind' people who are not around her all the time, even if those people are very special to her. So contact no more than every two months could risk harming her relationship with her mum and maternal grandmother;
- (ii) [Bella] has established relationships with [Emma] and with her grandmother [MGM]. It would be unfair on her and on them to limit those relationships. [MGM] is a very significant person in [Bella]'s life and has been the main source of [Emma]'s support. She has been the person to establish a relationship with [Felix]'s grandmother and thus to enable [Emma] to have contact with [Felix] regularly. She would be better able to build a similar relationship with [A] and [B] if contact was every month;
- (iii) [Emma]'s clear view, supported by the overwhelming weight of the evidence, is that she would do better to spend shorter periods of time with [Bella], rather than

longer days. The proposed ‘compensation’ of longer days less often doesn’t really help in this case;

- (iv) [Emma] is [Bella]’s mum and enjoys providing her with her basic care needs; feeding her and changing her nappy, or taking her to a café or local play park. This is one of her strengths as a parent. It would be nice for [Emma] if the time she spends with [Bella] can be spent these sorts of everyday things, rather than being put into the role of a perhaps more distant relative taking [Bella] on day trips. There may well be times in the future that [Emma] does want to take [Bella] on days out, perhaps with [Felix] as well. For now, while [Bella] is still young it would be better to continue contact in the pattern that it has been, supported by [Emma]’s mum. That is established as a time that works well for [Emma] and for [Bella];
- (v) Less frequent contact raises the stakes. If [Bella] - or [Emma] - were having a bad day because they were ill or something was preoccupying them, and the contact didn’t go so well, it would feel like a long time until the next one;
- (vi) [Emma] has shown herself to be much more committed to contact than [Luke]. He has some advantage over her because this is a family placement. The chances are he may well get to see [Bella] more than six times a year. It would be unfair on [Emma] for her to see [Bella] less than [Luke] does;
- (vii) Because [Luke]’s contacts are likely to be informally arranged, the burden upon [A] and [B] of twelve contacts with [Emma], particularly if only for two hours or so at a time, should be manageable;
- (viii) There is no evidence that [Emma] would seek to undermine [Bella]’s placement in contact. In fact the reverse is the case. It was brave of [Emma] to meet with [A] and [B]. She has shown some maturity in being able to consider the idea of [Bella] living with them and she said that she liked them and felt reassured to meet them. So the signs at the moment are that she would be supportive of [Bella]’s placement.

85. For all these reasons, I would suggest that the starting point should be for [Bella] to see [Emma] once a month for a couple of hours.

Next steps

86. I will list the matter for a final hearing in approximately two months’ time.

87. [Emma] has been through a lot over the past few years. I understand that a referral has already been made to Pause Oxfordshire. Knowing that she has committed already to therapy, that she will continue to have the support of her mother, and knowing something of the wonderful work that Pause does, I have some confidence that I sincerely hope that

she will find the support she needs to process and understand her experiences, to recover from them and to look forward to her future.

HHJ Joanna Vincent
Family Court, Oxford
30 September 2024