

IN THE MILTON KEYNES FAMILY COURT

Case No: MI14C00003

351 Silbury Boulevard
Witan Gate East
Central Milton Keynes
Buckinghamshire
MK9 2DT

Thursday, 5th June 2014

Before:

HIS HONOUR JUDGE HUGHES

B E T W E E N:

Milton Keynes Council

and

RE CM A CHILD

Transcript from a recording by Ubiquis
61 Southwark Street, London SE1 0HL
Tel: 020 7269 0370

MS H CREANOR appeared on behalf of CM and the Guardian
MR R HARRIS appeared on behalf of Milton Keynes Council
MR WILSON appeared on behalf of E
MS S LLOYD-MORRIS appeared on behalf of T

JUDGMENT

HHJ HUGHES:

1. The child with whom I am concerned whose welfare is my paramount consideration is CM, who was born on 7th January 2014. She is represented in these proceedings by Helen Creanor, a solicitor, and through her guardian, Maria Owers, from CAFCASS. The applicant, a local authority, is Milton Keynes Council, represented by Richard Harris, counsel. It is their application for a care order and a placement order in relation to CM.
2. The mother of CM is E, who is represented by Mr Wilson, a solicitor. The father of CM is T, who is represented by Syvil Lloyd-Morris, a solicitor. The application for a care order was issued on 13th January 2014 and an interim care order made on 16th January 2014. The application for the placement order was issued on 8th May and directed to be heard with this care order application.
3. I should perhaps also say for the purposes of completeness that an emergency protection order was made on 9th January 2014 which was superseded in due course by the making of an interim care order. When the matter came before the justices for the making of an emergency protection order, CM was but a few days old and already the medical notes raised concerns about the level of care provided by her parents to her while she was in hospital. Those concerns included E having to be prompted to feed CM and change her nappy, inadequate clothing, failure by both parents to prioritise CM's needs over and above their own, for example, E receiving a telephone call while CM was being fed resulting in CM receiving an inadequate feed. In short form, what was demonstrated in the notes was the parents' failure to observe CM's cues. The other concerns recorded E's personal care since birth in relation to poor personal hygiene and poor antenatal care.
4. I mention this evidence as it was manifestly clear in early course that notwithstanding their own difficulties the parents would have to face grave and weighty challenges in order to be able to care appropriately and safely for their child.
5. I draw now on the background section of the local authority's helpful opening note. Where

of course any of the assertions contained therein conflict with my subsequent findings, my findings of course prevail. The key issues in this case will be the threshold criteria and the parents' capacity to meet CM's physical and emotional needs during her childhood.

6. By way of background circumstances the local authority's case is that they believe that CM is likely to suffer significant emotional and physical harm and neglect in her parents' care due to E's lack of insight and understanding of the care needs of CM. It is a matter of record in this case that E was unable to meet the needs of her older child, R, resulting in his maternal grandmother being granted a residence order and R remaining in her care.
7. I should record this: that E has profound learning difficulties and limited ability to read and write. She required a capacity assessment in these proceedings, and that was carried out by Mr Keene, a chartered clinical psychologist. He concluded that E did have capacity in relation to the proceedings, and she has been represented accordingly and on that basis.
8. Whilst in hospital E had to be repeatedly prompted by hospital staff to feed, change and keep CM warm. She also declined to carry out basic care of CM.
9. I turn now to T, drawing on the local authority's background information. There are concerns that T also has personal needs and that these needs would be prioritised over CM's needs. T has a diagnosis of ADD/ADHD and is reported as having emotional and behavioural problems. He is known to Aylesbury's Children Social Care. It is understood that T has provided Mr Keene's report to his general practitioner and is awaiting a referral for psychological or psychiatric help.
10. T also, through no fault of his own, has had historical concerns in relation to his sexualised behaviour. He has had a difficult childhood himself. He was at boarding school in 1999. The school reported T exhibiting sexualised behaviour. Heather Frick, one of the witnesses in this case, has raised concerns about T that he was inappropriate while she was completing her assessment by touching himself and looking at her breasts. I come to her evidence in a little more detail later on in this judgment. However, in the context of inappropriate sexual

behaviour, the local authority report that the contact supervisor also raised concerns that T was rubbing E's arms in a sexualised manner and had to be asked to stop.

11. There have been historical concerns relating to reports of domestic abuse between the parents, which would cause emotional and physical harm to CM. T has been described by social workers as controlling of the relationship, and has limited amount of contact E has had with her own family. T denies that there has been any domestic violence in the relationship, and that is a matter upon which I make findings in due course. E has reported, however, previous domestic violence in her statement, but has stated that there has been no domestic violence since the start of the care proceedings.
12. In relation to the risk of neglect during contact, both parents have been observed to focus their attentions on their mobile phones rather than on attending to CM. Both parents have poor personal hygiene and require support for self-care. The parents live in poor and unkempt home conditions, although there have been recent reports that the condition of the home is tidier.
13. Both T and E have not consistently engaged with children's social care and other services, and failed to acknowledge or understand concerns raised by professionals. The parents had put forward family members to be assessed but one family member in particular, the maternal aunt, has since withdrawn and there are no family members to be assessed.
14. During the course of these proceedings as indeed is usual the parents have undergone a number of assessments. I can say that they have cooperated with those assessments, for which they deserve credit. They have conducted themselves in Court, if I should say so, with commendable dignity and restraint having regard to how important and serious these matters are for her. As I will presently unfold, neither chose to give evidence.
15. I return to the nature of the assessments. Both parents have been assessed by Mr Nicholas Keene, to whom I have already referred. He concluded that although neither parent suffers from a psychological condition, E is suffering from a mild learning disability.

Mr Keene opined that E would require, ‘considerable extra support and advice to understand CM’s changing emotional and physical needs as she grows older.’ Also:

‘She is very vulnerable to being taken advantage of by unscrupulous friends, relatives and neighbours. She may be unable to identify risky situations in either the physical or the social environment.’

16. Mr Keene stated that E, ‘would be unable to parent CM without the practical and emotional support of her partner.’ She:

‘appears to have been inconsistent in her reporting of violent behaviour to herself by T. She is also very distrustful of the authorities and in the circumstances may be tempted to leave any potential episodes of abuse or violent behaviour towards herself or CM unreported.’

17. Mr Keene also undertook a psychological assessment of T. He determined that T prioritises his own needs above CM’s. He said that T’s, ‘mental health and mood is vulnerable to further disturbance in the future.’ T ‘is likely to have difficulty in understanding CM’s perspectives on situations and is likely to sometimes be clumsy in addressing her physical needs.’ He indicated that T required the same high level of ongoing practical and social support as E and will be unable to take the task of meeting CM’s needs on his own.
18. Mr Keene also reported that T’s psychometric testing indicated that he is a low-to-medium risk of further domestic abuse. However, E’s mental vulnerability and the relative isolation of the couple are not taken into account in this, and these factors increase the risk which needs to be taken into account, according to the local authority.
19. The parents accept Mr Keene’s reports and do not intend to call him as a witness and have not called him as a witness at the final hearing. There was a parenting assessment of both parents. That is dated 10th April and was conducted by Mrs Frick. I come to deal with her evidence in more detail as I do the social worker’s evidence. However, in short form Mrs Frick concluded, ‘The significant deficits identified in respect of each parent lead me to conclude that individually both present too high a risk to their daughter to be considered as a sole carer for her.’ She has identified particular concerns as being serious and significant, which have included their relationship involving domestic violence and E’s lack of insight

in relation to the same, the absence of a consistent safe support network, observation of the parents' physical presentation and family home.

20. The parents did not accept the conclusions of Mrs Frick. Mrs Frick came to Court and was cross-examined. I shall, as I have said, deal with her evidence in a little detail as a consequence of that cross-examination.
21. However, at the commencement of the case it was clear that there was no understanding by the parents in the mind of the local authority that they would have the necessary skills to meet CM's needs. The local authority indicated their high level of concern in relation to the parents' attitude towards domestic violence and indeed in relation to their attendance at contact. It was recorded that they have cancelled 14 out of 25 contacts, which has caused the local authority to reduce contact during the course of the proceedings to once a week. I return to the issue of contact in due course.
22. Suffice it to say that I have read all the file documents in relation to this case as well as of course listening to the live evidence and listening to submissions on behalf of the representatives. The first local authority evidence came from Heather Frick. She is an independent social worker of some considerable experience who was instructed to undertake a PAM assessment of the parents' ability to parent having regard for E's learning disabilities, T's troubled history and their family functioning.
23. A PAM assessment is specifically directed to fairly assess parenting ability in parents with cognitive limitations and learning disability, and was crafted and designed by Sue McGraw, who incidentally by way of coincidence trained this particular social worker. I rehearse that particular detail as in my judgment the work undertaken by this independent social worker was thorough and of a very high order, observing as she did the parents at contact and seeing them individually and as a couple over 17 hours between 13th March and 27th March 2014.
24. She has of course drawn on other information filed with the Court including psychological

assessments by Mr Nicholas Keene and the other filed evidence. She has organised her report into three parts, firstly dealing with the background information in relation to the parents including their own self-reporting; secondly, employing the PAM assessment as a tool to assess the parents including identification of targeted skills for future teaching and assessing both needs and risk for each parent both individually and as a couple; finally, dealing with her recommendations and conclusions.

25. What is immediately obvious from her assessment of the parents is that their self-reporting in the initial stage made it clear that they both grossly underestimated the challenge of parenting and the challenge of their relationship with each other, and showed little insight in relation to how to implement change and potential areas in respect of which they needed help.
26. What was clear in relation to T is that he had an appalling early childhood from his own birth parents and was subjected to abuse and neglect. Matters only improved for him with the introduction of his foster carers. In my judgment what has emerged from this very detailed piece of work which he carried out in relation to an assessment is the parents' joint insistence that there were no areas identified within the 'I need help' questionnaire where they felt they required any intensive or needed support. This included child healthcare, both general hygiene and warmth, child guidance and control, child responsibility and independence, parent home care domesticity, parent home care hygiene; and parent support and resources.
27. It is in my judgment a major deficit in their case that there appears to be no insight at all in relation to those areas where it is plain that the filed evidence identifies numerous difficulties in all those areas to a greater or lesser degree, although I acknowledge balancing the positives as I do, that where they only attended 14 out of 25 hostel contacts and contact had to be reduced due to non-attendance. I have of course noticed examples of tender and loving interaction on both their parts in relation to their child, but their non-attendances

signify serious non-commitment and lack of insight into their child's needs.

28. This witness was challenged that she had not recorded the positives in relation to the parents' position. However, her report in my judgment contained numerous positives, not least of which that both parents love their child with a degree of attachment to her, and the room set aside for her seems tidy and quite clean. However, there is no escaping that the concerns are legion. An unhygienic, dirty and unsafe flat; lack of awareness in relation to safety issues; E's vulnerability as recorded by Mr Keene to being taken advantage of by unscrupulous friends, relatives and neighbours; domestic violence and/or controlling behaviour by T to E and the extent to which E has distanced herself from previous reports; the lack of consistent and safe support network to both parents and routine, and regular non-attendance at contact, which was an opportunity for them to learn skills.

29. She writes,

'Both E and T have displayed significant deficits across the domains relating to the parenting task and role. Both have in some significant areas a fundamental lack of knowledge, skills and practices required of a parent with such a young child for whom they both seek to assure others they can successfully parent. The couple's daughter will continue to have ever-changing needs both in respect of her physical and emotional development. It is highly unlikely that either E or T together or individually will be able to develop the required skills and apply them even with intensive support/teaching which would otherwise require continual monitoring and review alongside continued teaching and support throughout all CM's minority.'

It is in my judgment a damning indictment of their capacity to provide good enough care.

30. Her assessment was challenged in oral evidence. Although she reported a degree of communication between E and CM when CM was passed to T, she would become passive and uninvolved. She did not engage with CM when changing a nappy and seemed unable to respond to CM, for example, looking at a particular object and the need for her subsequently to be stimulated. There were concerns in relation to cleanliness at nappy changing on the part of E. E has not been proactive in her own care both antenatally and postnatally, and this witness proposed a risk that feature may endure with her care of a

child. For example, E has never registered with a dentist for herself and has shown no inclination to do so.

31. She has shown little insight in relation to her relationship with T. Her knowledge of parenting seemed to be based on what she had seen on reality television shows according to her own reportage. She has admitted that they did not always get up for contact. Surprisingly and disturbingly she reported on one occasion to this witness how things had gone at contact and spoke endearingly regarding CM's development, and subsequently T indicated to this witness that they had not actually gone to contact at all that day. On another occasion she said that she could not attend contact as she was seeing R, and it was subsequently found out that this was not the case.
32. All this goes to lack of candour, lack of honesty, which goes directly to the issue of risk, given the imperative in her case that she works cooperatively with any supporting agency. T has blamed his lack of attendance at contact on his lack of sleep, but there is little insight on the potential effect on CM being brought from her foster carers for contact in instances where contact did not go ahead.
33. As to T's alleged controlling behaviour, both parents asserted that there were only minor disagreements over silly things, but that does not sit well in my judgment with the contents of the Section 7 report prepared in relation to R's case when R was made the subject of a residence order in favour of her parents. I mention that that report was dated 30th July 2013, and it is recorded in that self-same report that on 25th June 2013 E showed the CAFCASS officer a bruise and said that it had been caused by T.
34. On 28th June 2013 E disclosed in the context of her relationship with T that, 'He gets into a strop' when she speaks to her mother on the phone, and has pinned her shoulders down with his knees and has pushed her facing forward on to the cooker and forced her arms up behind her back. She sought to explain such conduct to Mrs Frick by saying that T did not know his own strength and always says sorry. In my judgment her need for the relationship with

T overrides all other considerations.

35. Of course I am mindful of the fact that T has denied any of these incidents happening, but the story in my judgment is a compelling one and one I am inclined to believe particularly as it is self-reported by E to both Mrs Frick and the Section 7 reporter, and indeed, and significantly in my judgment, in one of her own statements. I recall from her statement of February 2014 that she writes,

‘I do have concern about T’s previous violence and the fact that he controls me so much. And that is why I would be scared to resist him in case he got angry with me. And that is why in the past I have let him control me. But now I have CM in my life I do not want this to continue and I want to be able to separate from him as I am worried he might try to convince me to stay with him.’

It must be a matter of concern that E now seeks to withdraw from any suggestion that she has been the subject of any violence or controlling behaviour by T, although the police have been involved on two occasions to resolve verbal arguments falling short, I accept, of violence. There seems to be little insight into the potential effect on CM given E’s present position.

36. Although I have said more than once in this judgment that there are some positives and endearing snapshots at contact, in addition to the issue of lack of attendance has been T’s predilection for looking at or using his mobile phone at contact. This witness also recorded the extent of her concern about the parents’ lack of support and the disparaging attitude to social workers, and indeed their own solicitor, going to the issue of potential engagement for two very vulnerable adults and the potential effect on CM whose parents would need to whole-heartedly buy into a notion of support if they are to have any chance of parenting her.
37. In relation to the Section 7 report, Mrs Frick was able to identify and confirm that it did speak to some positives of E’s relationship with R and positive interaction and E’s genuine feeling that she wanted to parent CM, her daughter. It was clearly a positive, she agreed, that E had always been free of drugs and was not depressed.
38. I have little doubt that not only she but also contact workers used patient and intelligent

explanations with E to assist her in relation to parenting. Rightly, in my judgment, she described parenting as complex. There is a need to think, she said, in multiple areas, and although she acknowledged the ability of E to do some practical tasks her insight and capacity to do more was lacking and she could only do one thing at a time. It was a telling piece of her evidence when she indicated that E would struggle to cope unless she had someone with her, '24/7', and of course such an option is neither practical or child-centred, nor within CM's timescales for this to be tested out.

39. It is a matter of deep significance and concern in my judgment that she recorded that she saw no intuitive interaction with CM by E, and the deficits were of such a level that she had to be mindful of the extent of CM's changing needs throughout childhood and E's ability to meet them.
40. She was challenged that given what she has recorded in relation to the difficulties that E faces whether or not two together, in other words E and T together, the deficiencies of one could be made up by the strengths of the other. Unfortunately she has identified more significant areas of concern in relation to T, although she was able to identify the positives so far as he was concerned, namely, that he did have some understanding of age-appropriate development, the importance of language and development and some ability to perform basic tasks. Also there was little doubt that he loved CM, whatever the deficits that she has identified. However, even with specialist help there would have to be continual engagement for three to six months on a 24-hour basis and then ongoing help in the longer term which she said would not be viable for this child, and I agree with her.
41. She was challenged that Mr Keene had recorded that T had,

'made great strides in the last six years to overcome his ADHD and emotional distress, and he should be given credit for this. He has shown resolve and maturity in avoiding drugs, alcohol and other substances that may adversely affect his mental state. Other than the allegation of domestic violence he has had no criminal activity or involvement with police. He has also given up smoking. He has established a more mature relationship with E in the absence of any external support other than the minimum offered by the YMCA.'

42. The self-same report goes on to indicate that he has a great deal to learn about bringing up children but his foster parents were reliable and positive. Mr Keene indicates the need for a parenting assessment which of course was subsequently carried out by Mrs Frick, who did not accept in the light of her subsequent investigations, the rather optimistic flavour of the particular statement by Mr Keene, which I have quoted above. There is little doubt in her view that T does smoke and on occasion she saw him clearly under the influence of a substance. She clearly did not think having regard to the totality of the evidence that the relationship with E was a mature one. She has recorded anxiety about the relationship because of its controlling nature, and there is more than an echo of that Mr Keene's subsequent remark that T is likely to have a reduced capacity to learn new complex skills involving sophisticated emotional self-regulation and is likely to need monitoring assistance and assistance in this area. Incidentally, Mr Keene goes on to say, 'He may also struggle to master some of the practical skills of caring for a baby.'
43. Mrs Frick was challenged that the profile of T reported by E to her was not a typical profile of a perpetrator of domestic violence. However, that is merely one of E's reports. I have in mind the observations that E made to the Section 7 reporter and indeed in her own statement where she deals with this in some detail. There was a disturbing section in this social worker's report when T behaved in a thoroughly sexualised way on two occasions. The first occasion was during her first visit when the couple she reported were having a passionate kiss after which T laid back on the bed with his hands on his genitals inside his tracksuit pants and, 'He appeared to be pleasuring himself.' A minute or two later she reports, 'He was still in a trance-like state manipulating his nipples with his fingers.'
44. Subsequently during supervised contact the next week he was seen to be playing with a toy truck and started stroking E's arms with it and then started rolling the toy across and up over E's breasts. He was challenged about these incidents as part of this assessment, and there was concern that in the course of being challenged he became sexually aroused and is

reported to have stared at the assessor's breasts again in a trance-like state.

45. It is difficult to know what I can draw from this save and except a finding of T's lack of ability to maintain acceptable boundaries gives rise to a substantial risk that a child in his care may witness inappropriate sexual behaviour. I am entirely persuaded that the account of this witness is true, notwithstanding T's case put in cross-examination that T was, 'adjusting his person' or dealing with an irritating rash. It is in my judgment a disturbing behaviour particularly given the reports of T's sexualised behaviour while at school.
46. I also record, because it comes in that section of the report, that both parents reported to this witness that they were relying on a neighbour who was, 'going through the same processes and advised us on the best way for them to behave, etc., when dealing with social workers.' This piece of evidence goes in my judgment to their vulnerability and particularly their lack of ability to access proper professional advice through their competent solicitor, and does not augur well for their ability to form a cooperative relationship with social workers.
47. Although she was able to say that the parents had engaged with her, she continued right up until the end of her evidence to express concerns about their lack of openness and honesty, telling what she described as silly fibs about smoking, about non-attendance at contact and about their relationship. She conceded that it was impossible to know the reality in this case, but she remains seriously concerned regarding their deficiencies and limitations.
48. By way of a parting shot she was not even confident that they could access appropriate healthcare for a child and were not able to identify when questioned what information would go to a call centre in the event of a child being unwell in the scenarios with which they were presented during the course of the assessment. She saw contact as an opportunity for them to enhance skills and learn, and their lack of attendance went directly to sustainability of any help that could be offered to them.
49. Gabrielle James is the current social worker in the case, having been allocated in April 2014, having taken over from the previous social worker, [Citabili Agussi?].

Gabrielle James is an experienced social worker having qualified in June 1993. She is the author of one statement, the care plan, and the placement application report. Although she relies on previous local authority evidence filed in the case, I am fully satisfied having heard her that she has a full grasp of the evidence and had been able to form her own assessment of the parents' ability to care for CM. Her own report comprises an assessment of parental capacity, drawing as it does on the evidence of Heather Frick, who carried out the PAM assessment on the recommendation of Mr Keene, and indeed Mr Keene's own report rehearsing as she does in her statement the key observations of those two witnesses.

50. She says in terms, 'The significant deficits identified in respect of each parent lead me to conclude that individually both present too high a risk to their daughter to be considered as a sole carer for her.' She acknowledges that although E and T appear to have some knowledge of what is expected in caring for a child and maintaining a safe environment, and can discuss them, however, in practice they are unable to demonstrate their knowledge.
51. It is part of E's case that she has maintained regular contact with R, but this social worker's evidence was that having checked the position with the maternal grandmother, with whom R lives, E has not visited R since February 2014, and there has been little or no telephone contact since that time. Apparently the maternal grandmother reports a poor relationship between her and T.
52. She was criticised that the local authority had not done enough to support these two vulnerable parents. She described a significant visit to the house in or about the middle of April shortly after her appointment. Apparently the parents had missed contact and she went to their flat. Two male neighbours were in the flat when she arrived, and she felt uncomfortable about them and arranged to continue the visit at the office. Incidentally according to her reportage, these men appeared to be under the influence of either drink or drugs.
53. E was then invited to return to social services offices the next day when this social worker

had conscientiously arranged for an advocate to come and sit with her to help with the explanations, but E did not turn up. Equally she expressed concern that although E was referred to the learning disability team she did not take this offer of help up, and it is her belief that the disability team contacted E without success.

54. It is difficult, therefore, for this mother to raise the issue of lack of support in circumstances where firstly both she and T demonstrably failed to take up all contact offered and E failed to take up the referral to the adult disability team, and E failed to engage by attending at the offices of the social worker when special arrangements had been made.
55. She was challenged that there were little or no positives in relation to her evidence, but she was able to acknowledge that T had always been courteous to her and both parents clearly loved their child. However, she would not resile from her view that there were either issues of domestic violence or control within the relationship between the parents, and that the parents had failed to engage.
56. She expressed concern also about the lack of support networks that both parent had, and although T's previous foster carers have been supportive to him in numerous ways, it was clear that they were unable to step into a breach in a meaningful way given the level of support that these parents will require, accepting as I do the evidence of Heather Frick that safe parenting of CM would involve in effect 24-hour cover.
57. She says in her written evidence that she agrees with the analysis of Heather Frick, that the parents have significant deficits across the domains relating to parenting tasks and roles, some of which are fundamental, and that CM would have ever-changing needs both in respect of her physical and emotional development, it being highly unlikely that either parent together or individually would be able to develop the required skills and apply them even with intensive support and teaching, which would also require continual monitoring and review throughout CM's minority. She independently agrees with this analysis and, therefore, cannot support CM's return to their care solely or jointly, and that forms the

foundation stone for the local authority's application for a care order and permanence planning for CM.

58. I should also record that the placement application report also contains a balanced summary of the welfare checklist under the 2002 Adoption and Children Act, and observes importantly that there are no members of CM's extended family who are able to offer her stability and care. It is for those reasons that the local authority make an application for parental consent to be dispensed with on welfare grounds in relation to the making of a placement order.
59. Before the conclusion of the local authority's case I was handed a number of documents which were not challenged. One was a referral form from People's Voices, the advocacy service to whom E disclosed domestic abuse from her partner in December 2013 before CM was born. They identify a placement at a refuge for E, to which she subsequently stated she was unable to move.
60. A Safeguarding Adults report of 12th December 2013 also indicated that during the assessment E complained T had hurt her causing her bruising and that he controls her. This has included not letting her go out alone and telling her when she can visit her son who resides with the maternal grandparents.
61. Finally, I have read a note of a telephone call between the social worker and the maternal grandmother. The maternal grandmother reported that from the beginning E has had very little to do with her son, R. She said that E was not interested in caring for her son when she was living at home and often would not wake up at night to feed him. The grandmother also reported that E had told her in the past that T beats her up. Significantly also in the context of this case, the grandmother said the last time she saw or heard from E was in February 2014, and it is clear and unchallenged by E on the basis of that information that she has not had contact with R since that time.
62. Maria Owers is the Guardian in the case. She has written three reports, two for the care

proceedings, and one in connection with the placement application. It is her final report in connection with the carer application that balances a risk analysis against what positives there are in relation to the parents' situation. More particularly she analyses their parental capacity to meet this child's needs and draws on the evidence of Heather Frick and Mr Keene. The combination of E's learning difficulties with T's emotional and behavioural problems coupled with the inability of the parents to show insight, engage and prioritise CM's needs together with her own assessment lead her to the recommendation that CM should be made subject to a care order.

63. This guardian also completed a report in relation to the placement application and specifically carried out an assessment using the checklist under the Adoption and Children Act 2002. She has carefully balanced the harm that CM will suffer as a consequence of not being a member of her birth family against the harm that she will suffer if the parents are permitted to care for her, and is unable to support CM being placed in the care of a family member.
64. She recommends annual letterbox contact. The local authority's plan for biannual letterbox contact she says, with some justification in my judgment having regard to the parents' record of failed contact, would be to permit indirect contact more than once a year, would not meet CM's needs and in effect set the parents up to fail.
65. She gave very brief oral evidence and was challenged by both parents' legal representatives that not enough had been done to support these parents in their aspiration to care for their child, a notion which she firmly rejected. She posited the view that had the parents engaged properly in contact it would have inevitably had led to more specialist assistance throughout the assessment process.
66. I am bound to say that given the level of support the experts have indicated that they would require, it would be an extraordinary level of support lasting many years which could effectively hand parenting over to the local authority for support services. It certainly

would not satisfy CM's emotional and welfare needs, and I accept the Guardian's evidence.

67. I mention now one or two aspects of law before I come to my conclusion and findings. I remind myself that Hale LJ as she then was said in *Re C and B (Children) (Care Order: Future Harm)* [2000] 2 FCR 614 at paragraph 33,

‘Under Article 8 of the Convention both the children and the parents have the right to respect for their family and private life. If the state is to interfere with that then there must be three requirements: firstly, that it must be in accordance with the law; secondly, that it must be for the legitimate aim (in this case the protection of the welfare and interests of the children); and thirdly, that it should be "necessary in a democratic society."’

68. I have this firmly in mind that under normal circumstances the best person to bring up a child is a natural parent, and the powerful remarks of Mr Justice Henley in *Re L (Care: Threshold Criteria)* [2007] 1 FLR 2050 on the toleration of society must have to ‘very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent.’

69. I also adopt and agree with the propositions advanced in *Re MA (Care Threshold)* [2010] 1 FLR CA 433, that the significant harm that I should have regard to must be sufficiently high to justify the momentous step of taking children away from their parents and the risk must be an unacceptable one.

70. I also of course have in mind the seminal judgment in the case of *Re B-S (Children)* [2013] EWCA Civ 1146 and the guidance from the President in relation to the need for proper evidence to be before the Court. In that judgment Sir James Munby, President of the Family Division, at paragraph 22 made reference to the earlier Supreme Court decision of *Re B*, and he said,

‘The language used in *Re B* is striking. Different words and phrases are used but the message is clear. Orders contemplating non-consensual adoption - care orders with a plan for adoption, placement orders and adoption orders - are "a very extreme thing, a last resort", only to be made where "nothing else will do", where "no other course [is] possible in [the child's best] interests", they are "the most extreme option", a "last resort - when all else fails", to be made "only in exceptional circumstances and where motivated by *overriding requirements* pertaining to the child's welfare, in short, where nothing else will do.’

Of course I keep these considerations firmly in mind.

71. My judicial task is clear. Firstly, I must establish that there is proper evidence from the local authority and the Children's Guardian which addresses all the realistically possible options for CM and the necessary analysis. In my judgment that evidence is before the Court and has arrived before the Court by both a combination of written, oral and expert evidence, including of course written evidence from the parents themselves.
72. I observe that the parents chose not to give evidence, and the Court decided not to interfere with that decision having regard to the weight of the evidence from the local authority and of course the parents' difficulties with which I have been familiar throughout the trial.
73. I am entirely persuaded that the parents' opposition to a care plan with a view to adoption was properly put before the Court by their advocates, but of course the Court was deprived of the opportunity of hearing the parents in live evidence in circumstances where the threshold is to all intents and purposes disputed. Of course, as I have said, I have been acutely aware of the parents' difficulties, and that may well have discouraged them from wanting to give evidence. However, I make it clear that had they wanted to do so, the Court would have listened carefully to what they had to say and their aspirations for their child.
74. I am bound to say, however, that the weight of evidence in favour of the local authority's application is quite frankly overwhelming. I read of course their statements, that is to say the statements of the parents, with care. I understand that they do not wish CM to be adopted, and they would like to care for her with support. However, I find there is no support that can be reasonably contrived in order for them to parent CM safely throughout the changing faces of childhood. I accept the evidence of Mr Keene and Heather Frick, respectively. It is just not frankly a realistic option for consideration to be given for CM to be cared for by her parents with local authority support.
75. Having reviewed all the written and oral evidence in this case, it is my task to ensure that the judgment grapples with competing factors and contains adequate reasons. I have clearly

in mind that my task is to evaluate all the competing options and undertake a global, holistic and multi-faceted evaluation of the CM's welfare, which includes all the negatives and positives of such action. I have read and approved the local authority's careful written analysis together with that of the Guardian.

76. However, there are a number of areas in which I must make findings in relation to the facts, and in particular to the threshold criteria. A threshold criteria is not agreed in this case save as to a very limited extent by both parents. Their failure to do so goes of course to the lack of insight having regard to the weight of the evidence in support of threshold.
77. I remind myself that the burden of proof is on the balance of probabilities and that the local authority carry that burden. I have the parents' written evidence and the oral submissions made on their behalf by their conscientious solicitors as well as the local authority evidence both oral and written .
78. I make the following findings:
 1. E was unable to meet her older child, R's, needs resulting in his maternal grandmother being granted a residence order and R remaining in her care. I accept the evidence that I have heard and read that in effect E relinquished care of R, and even when she was living at home with her parents after R was born was either unwilling or unable to carry out the majority of parenting tasks.
 2. I find that E is unable to meet CM's emotional and physical needs due to her lack of insight and understanding of the care needs of her baby. I have in mind the evidence from the hospital and that she was repeatedly prompted by staff to feed, change and keep CM warm, and declined to carry out basic care of CM. Of course E has learning difficulties and a limited ability to read and write. Her solicitor, Mr Wilson, submits that E must not face discrimination as a parent to any disability by itself. However, it is evident from the evidence that I have rehearsed comprehensively in this judgment that there are a range of difficulties

associated with E's ability to care and there is no package of support that can be devised to support her to care for CM.

3. Although the father accepts his diagnosis of AD/ADHD and is reported to having emotional and behavioural problems, he does not accept that his personal needs are prioritised over those of CM . There are numerous examples of this in the evidence but I name but two for the purposes of this judgment in the interests of brevity. Firstly, the father has been preoccupied with his mobile telephone during contact instead of concentrating on CM. Secondly, he and the mother had demonstrably failed to attend contact resulting in its dramatic reduction over time from five times a week to once a week and the explanations that they have given for non-attendance are not plausible.

4. I find that there has been domestic abuse between the mother and the father and there is a substantial risk that this would cause emotional harm to CM and place her at the risk of physical harm. I find that the father is controlling of the relationship with the mother and there is ample evidence in support of this proposition which comes from what the mother herself disclosed in the private law proceedings before Judge Brown, the context of the s.7 report in relation to R's proceedings and disclosures by the mother and indeed the mother's own statement as well as the safeguarding adults report and the People's Voices referral form both of December 2013 in which the mother self reports. I am entirely persuaded that what she said then was true and the fact that she now resiles from those admissions or appears to heightens rather than lessens risk.

I shall take 5, 6 and 7 together:

The written evidence is full of reference to the parents' focusing attention on their mobile phones. There is evidence from the social workers and Heather Frick regarding the poor condition of the home, the poor personal hygiene of the parents and their lack of self care. I am persuaded that the YMCA would be able to accommodate the parents and CM for up to a year and therefore I do not find ground number 6 of the threshold proved but I do find that the poor conditions in the property have subsisted although that of itself is not the core issue in relation to the case.

So far as number 8 is concerned, I find that there is ample evidence of inconsistent engagement with Social Care and failing to acknowledge or understand the concerns raised by the professionals.

I therefore find the threshold criteria under s.31(2) of the Children Act to be fully made out.

In considering whether or not to make a care order, I have of course have had to have regard to the Welfare Checklist under s.1(3) of the Children Act 1989. I have had close regard to the Checklist in deciding whether or not to make an order. It is not necessary for me to rehearse the Checklist in full but worthy of consideration is s.1(3)(b) which relates to CM's physical, emotional and educational needs and it will be evident from the earlier part of this judgment that I have found that the risk is just too great that these needs will not be met in a developing child and that she would be neglected. I have of course considered the impact of s.1, 3(c) in relation to the effect on her in the change of her circumstances and it is of course right that there will be an impact on her in her life in relation to her not being brought up by her natural parents but this has to be balanced against the risks that I have identified and in particular s.1, 3(e) any harm which she has suffered or is at risk of suffering. This case has been about an evaluation of future risk given the established facts which I

have found and the risk is significant and just too great. The Checklist also requires me to consider the capacity of each parent to meet her needs and I accept the evidence of Mr Keene and Heather Frick which makes it plain that the parents are just not able to do that. There is no alternative but to make a care order. If I return CM to her parents it would be against the background of a very high level of risk which I have identified and no doubt against the background of a session of interim care orders to monitor a rehabilitation plan which the prognosis is very poor indeed.

I therefore make a care order on the basis of the local authority's care plan for adoption and I approved the proposed plan for contact namely indirect letterbox contact on an annual basis.

Having made a care order I go onto consideration of the application for a placement order and in particular the placement application report together with the guardian's analysis. In determining this issue I should give consideration to the Checklist set out in the 2002 Adoption & Children Act and the paramount consideration of the court is CMs welfare throughout her life. The local authority placement application report rehearses that Checklist in an appropriate degree of detail. There is little doubt that there are positives in relation to this case and there have been at contact from time to time a demonstration of physical and emotional warmth towards CM and positive interaction. The Checklist addresses the relationship which the child has with relatives whether there is any possibility that they could care for CM. Sadly there are no suitable candidates.

I keep that Checklist firmly in mind. CM has a need for stability throughout her childhood. I have already identified the risk of harm. There are no relatives that are available to care for her or none that would be considered appropriate. Most material in my consideration has been the risk of harm which she has suffered or is at risk of suffering and materially the likely effect on her (throughout her life) of having ceased to be a member of the original family and become an adoptive person. Of course, I am alive to the risk of emotional difficulties later in her life when she may struggle for

a sense of identity. However I am fully persuaded that the present and future risks outweigh that consideration after having balanced it appropriately.

I cannot of course make a placement order without parental consent and of course the parents do not consent and there is no reason why they should. I have little doubt that they love CM whatever their identified shortcomings may be and she should know, in due course of time, that that is the case. I have read the statement of facts in support of the application to dispense with their consent on welfare grounds. I find the facts set out in that statement to be well established to the requisite standard. I dispense with the parents' consent because CMs welfare requires that I do.

In the fullness of time CM will come to know that her parents wanted her and fought for her but by reason of the detailed analysis set out in this judgment that was not found to be in her best interests and I am fully satisfied that in making the placement order "nothing else will do."