

IN THE FAMILY COURT SITTING AT LANCASTER

CASE NUMBER: PR20C00242

BETWEEN

LANCASHIRE COUNTY COUNCIL

AND

B (the mother)

AND

C (the father)

AND

J

(a minor by her Children's Guardian,

Mr Peter Morey)

Re J (A Child) (Resolutions Model)

HHJ Baker

Judgment

25 June 2021

Representation

Ms J Wall (Counsel) for the Applicant Local Authority.

Mr P Gilmore (Counsel), for the First Respondent mother (Beverley).

Ms S Forsyth (Solicitor), for the Second Respondent father (Carl).

Ms J Moody (Counsel), for the Third Respondent child (Jane).

Publication

1. I have written this judgment for publication because this case highlights an approach taken that may be considered out of the ordinary or unusual. This is a case where using the Resolutions Model has led to a reunification of a mother and child in circumstances where a different outcome might have been anticipated at the start of the case.

2. I have changed the names of the children. I have also changed the names of the people involved who are members of the children's family. This judgment is published on the basis that nothing must be done to identify the names of any family members or children.
3. In writing this judgment I have also remembered that it may be read by the parents and so I have written it with them in mind. The father has had the help of an intermediary throughout this case.

### Background

4. Jane was born in May 2020. Her mother is Beverley. Her father is Carl. The local authority applied for a care order the day after she was born.
5. The reason the local authority wanted a care order for Jane was because of what happened to Jane's older sister, Amber.
6. Amber was born in 2017. There was a care case about Amber. I was the judge in that care case. The result of that case was that Amber went to live with a relative, who became a Special Guardian for her.
7. Beverley is Amber's mother. Carl is not Amber's father, but he was living with and looking after Amber with Beverley when problems occurred. I had a hearing in which I heard evidence about injuries that Amber had suffered whilst being looked after by Beverley and Carl. Having heard all the evidence I made the following findings or decisions about what had happened:
  - a. Amber was presented to the Royal Lancaster Infirmary on a day in December 2018 and was found to have the following injuries: -
  - b. Bruising
    - i. Bruising to the Amber's face as follows –
      1. Bruising to the left cheek below the left eye measuring 5cm x 4cm vertically. The bruise extended around the top of the left eye where it measured 2cm horizontally and 1cm vertically. There was a lump present over the whole of the cheek bone
      2. On the left side of the jaw there was a roughly circular yellow /brown bruise measuring 1cm x 0.5cm
      3. On the right cheek there was a bruise beneath the right eye overlying the maxilla which measured 2cm vertically and 2.5cm horizontally. Curving from this bruise around the inner part of the right eye was a purple /red bruise measuring 3cm x 0.5cm.
      4. On the outer part of the bruise beneath the right eye there was a roughly circular bruise measuring 1cm x 0.8cm which was yellow /green in colour;

- ii. Fingertip bruising to her ribs both front and back;
  - c. I decided that the bruises to Amber's face and rib areas were inflicted injuries.
  - d. I decided that the bruises were caused by Beverley or Carl.
  - e. Amber also had nail injuries:
    - i. Loss of fingernails to both hands and infected areas around them;
    - ii. Two black toenails;
  - f. I decided that the fingernail loss was caused or contributed to by some external trauma (i.e. not as a result of infection). The injuries could not be explained solely by accidental trauma as described by Beverley.
  - g. I said that at the time of the trauma there would have been visible external signs such as bruising or bleeding, changes which would be almost instant and should have been noticed by a reasonable carer.
  - h. I decided that the injuries to the nails were inflicted.
  - i. I decided that the injuries were perpetrated by Beverley or Carl.
  - j. I decided that the person who did not cause the injuries was aware of the likelihood that the injury was inflicted and failed to seek appropriate prompt medical assistance or treatment.
  - k. I decided that neither Beverley nor Carl had told the truth as to how Amber's injuries had been caused and Beverley and Carl had each sought to defend the other.
- 8. At the time the local authority started care proceedings for Jane, everyone involved in Jane's case also agrees that:
  - a. Beverley and Carl had split up.
  - b. Both Beverley and Carl continued to deny any involvement in Amber's injuries.
  - c. Neither Beverley nor Carl had offered any appropriate explanation for Amber's injuries.
  - d. Carl continued to smoke cannabis. He used a lot. So much that he would not be able to safely care for Jane.
  - e. Beverley continued to smoke cannabis when she was pregnant with Jane.

9. All the people involved in this case agree that the things I have set out in paragraphs 7 and 8 above satisfy what is known as the Threshold Criteria for Jane. In other words, the test set out at section 31 of the Children Act 1989 to allow a court to consider making a care order for Jane was met.
10. To put it another way, although Jane has never suffered any harm at the hands of either Beverley or Carl, what had happened to Amber (see paragraph 7 above) and things about Beverley and Carl's lifestyle and attitude *at the time Jane was born* (see paragraph 8 above) make it likely that Jane would suffer harm in the future if looked after by either Beverley or Carl.
11. When Jane was born the local authority and the Children's Guardian both said Jane needed to be placed in foster care with her aunt. Neither Beverley nor Carl argued against this.
12. At a hearing in May 2020 Mr Gilmore argued on behalf of Beverley for two things:
  - a. That Beverley and Jane should be placed in a placement where they could live together whilst assessments were undertaken (often known as a 'mother and baby' unit); and
  - b. That the court should permit an assessment to take place that would adopt the 'Resolutions Model' approach. I will explain what a Resolutions Model means later in this judgment.
13. I did not think that it would be right to put Jane and Beverley in a mother and baby unit together. I explained my reasons for this decision at the time. A summary of those reasons is:
  - a. Beverley would be living somewhere artificial and out of the community. This would mean that both the positive things in her life (family support) and the negative things in her life (for example people who supply and take drugs) would be missing from her day to day experience. Those influences are an important part of any assessment to see if Beverley could look after Jane.
  - b. The local authority had commissioned an Independent Social Work report by Ms Catherine Poole of both Beverley and Carl prior to Jane's birth. Those assessment were detailed and logical. Ms Poole explained her conclusions clearly. She did not think Beverley could look after a child safely given what had happened to Amber. She also did not think Carl could look after a child for similar reasons.
  - c. An assessment in a mother and baby unit did not, in my opinion, deal with the 'real' issue in the case, that was the risk that was obvious given what happened to Amber.

- d. If the request to consider a Resolution Model assessment was to be seriously considered, I did not think it would work best with Beverly and Jane being in a unit, away from family members and support. I was aware that family members would be an important part of any assessment that adopted the Resolutions model.

14. I did think that this was a case where the Resolutions model may be appropriate for Jane and Beverley.

### The Resolutions Model

15. Descriptions of the Resolutions model can be found in several places. There is a helpful article in a publication called Family Law in 1999 called '*Child Abuse: Rehabilitation without Admission - A New Way Forward*'<sup>1</sup>.

16. The Resolutions model is set out in considerable detail in a book written by Andrew Turnell and Susanne Essex. That book is called "*Working with denied child abuse: The Resolutions Approach*" and was published by the Open University Press in 2006.

17. My understanding of the model was that, *in the right set of circumstances*, the fact that a parent denies causing an injury need not rule out the possibility of that parent resuming care of or involvement in the care of that child. It may be possible to use the entire family and support network to build a protective regime around the child to ensure the child's future safety.

18. I was of the view that a Resolution model *may* be appropriate in Jane's circumstances for the following reasons:

- a. The parents had separated.
- b. There had been some movement on Beverley's part in relation to Amber's injuries – Beverly had come to accept that the injuries were inflicted injuries whereas previously she had said they were due to accidents or infection.
- c. Beverley appeared to have a relatively large and supportive family.
- d. Although Ms Poole's assessment of Beverley was negative because of what happened to Amber, it did highlight a number of positives, which can be summarised as follows:
  - i. Beverley experienced a positive childhood free of abuse or neglect and retains close relationships with her family.
  - ii. Beverley attended mainstream school and college and attained academic qualifications.

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<sup>1</sup> Gumbleton, J. and Lusk, A., Child Abuse: Rehabilitation without Admission - A New Way Forward, Family Law, Dec 1999, Vol 29, p 822-825.

- iii. Beverley has been in paid employment for most of her adult life.
- iv. Beverley is physically fit and well with no pending health issues.
- v. Beverley takes her prescribed medication and is on the waiting list for counselling to address her emotional wellbeing.
- vi. Beverley has attended sessions with Inspire to devise a plan to cease cannabis use. There is no evidence of alcohol misuse.
- vii. Beverley does not have an extensive forensic history.
- viii. Beverley intends to be a lone parent.
- ix. Beverley has engaged well with midwifery and the baby is healthy.
- x. Beverley attends supervised contact with Amber and there have been no further safeguarding concerns.

e. There were no other options left. In the absence of an approach that worked with and accommodated the fact that Beverly and Carl denied causing the injuries to Amber, it was highly likely that the outcome of the case was inevitable as any assessment that followed the ‘standard’ (and often wholly appropriate) risk assessment approach would reach exactly the same conclusion as Ms Poole.

19. A week later, having been provided with greater details of how an assessment would be undertaken and by whom, I gave permission for Ms Tracey Carboni to undertake a risk assessment to see if the Resolution model could be employed with respect to either parent.

20. Ms Carboni is a very experienced social worker of over 20 years standing. In 2017 she began working in a private capacity with the Resolutions model having had previous experience of working with Mr J Gumbleton, author of the Family Law article referred to above. She specialises in undertaking risk assessments in situations where children have been abused or are deemed to be at serious risk in cases where the perpetrators continue to deny involvement. If she recommends that family reunification is feasible, she has experience of delivering a Resolutions programme with the family to help effect the safe return home of children.

21. Having met and assessed the parents and family members, Ms Carboni reached different conclusions with respect to Beverley and Carl.

22. Ms Carboni said the following about Carl’s situation:

“I am not of the opinion that reunification with Carl is viable and suggest again that Carl has several unaddressed needs which would compromise his ability to care safely for a small child. I suggest that these unmet needs will militate against his capacity to change at the present time. I move on to suggest that the functioning of the paternal family is not sufficient for robust safety planning. This is because I would not be totally confident that Carl would be open and honest with his support network and that conflict between professionals and some family members would undermine the safety plan. I consequently argue that I do not foresee that it will be safe for father to have unsupervised contact

at the current time. I nonetheless offer a view around this branch of the paternal family having supervised contact should this fit with the overall care plan.”

23. Ms Carboni had a different view about Beverley and her situation:

“... it is viable to work with the maternal family and Beverley as part of a Resolutions Programme towards the reunification of Jane to Beverley. I argue that the maternal family is comprised of functional and enduring relationships and consist of family members who have the capacity to work with professionals to keep Jane safe. Furthermore, I suggest that whilst the findings against Beverley are serious, Beverley does have many strengths and is motivated to abstain from substances and change her life. I suggest that she has the capacity to make these changes given her own positive parenting experience.”

24. The local authority and the Children’s Guardian agreed, with some reservations, to the Resolution model being tried for Beverley, in collaboration with Ms Carboni. In addition, I gave permission for a psychological assessment of Beverley, which was conducted by Dr Lindsay Cunningham.

25. The next few months involved a lot of work: by Ms Carboni with Beverley and family members; risk assessments of family members undertaken by the local authority; professionals’ meetings; continual and close involvement with Ms Heatherington, Janes’ social worker and the key social worker; and oversight by the Children’s Guardian. Through these steps a Resolutions Safety Plan and Roadmap was formulated.

26. In January 2021 Dr Cunningham reported in positive terms about Beverley. The psychological assessment identified how Beverley has made significant positive changes to her lifestyle and well-being and did not identify any psychological issues that would stop her being a good parent. The recent drug test results were 'negative' for cannabis.

27. At a hearing in March 2021 I agreed a rehabilitation plan that saw Jane move to her mother’s care, under the supervision of the family. Jane went to live with her mum on 5<sup>th</sup> April 2021 and has remained there to date. The final care plan proposes that Jane stays in the care of her mother.

#### The Resolutions Safety Plan and Road Map

28. It is not possible or necessary to set out every detail of the Plan in this judgment. I think it is a good idea to give an outline of what is involved.

29. The plan involves a long period when Jane and Beverley are supervised when together. 24 hours per day, 7 days per week. There are five family members and a close family friend involved in that supervision. It operates on a shift pattern in blocks of time. Gradually, very short periods of unsupervised time (starting with 5 minutes) are allowed

by the supervisors. The family are given very clear guidance about detecting any difficulties with Jane's health and presentation. They are given clear rules about what is and is not acceptable. They have been helped to understand what to look out for to ensure Jane remains safe and healthy.

30. Beverley's care of Jane will gradually become less supervised. As that happens the family members' roles change to one of looking after Jane's health and safety through planned and unplanned observations and very regular family meetings, all in cooperation with local authority staff.
31. On the paternal side, Carl's father supervises his contact with Jane. Again, this takes place with very clear rules. It is also a considerable commitment as it is unlikely that Carl's contact with Jane is going to become unsupervised until she is much older, if at all. Jane will also stay overnight with her granddad once every four weeks.
32. Beverley is expected to be honest with the local authority, as are family members. The need to put Jane's welfare first has clearly been a considerable focus of the work undertaken with the family.
33. The Plan allows for flexibility. If a family member can no longer be part of the Plan, then progress may be slowed down or stopped. If Beverley were to get a new boyfriend, the local authority would have to assess him and the situation before he had any involvement with Jane. I know that Beverley has no plans to have a boyfriend any time soon.

#### The Local Authority

34. This case could not have progressed as it has without the cooperation and support of the local authority and in particular the social worker, Ms Hetherington.
35. It must always be remembered that bringing in an expert such as Ms Carboni, may be appropriate, but such experts leave the case. It is then the local authority that must remain involved and put the plan into action. If the local authority does not support the plan, it will not work.
36. The Resolutions Model challenges some aspects of social work practice in some cases. It is an unknown approach to many social workers. Ms Carboni says this in her final report:

“... Credit has to be given to the social worker, Ms Heatherington, who has worked well with me and been very committed to the work. By her own admission this has been a professional journey for her, but she is a reflective practitioner who has sought to understand the model in its complexity and the different way it seeks to develop future safety. Key to this is an open relationship where challenge and reflection takes place within a relationship of mutual honesty and respect. I have noticed Ms Heatherington's approach to conversation with the family being more relaxed whilst maintaining her



authority and I have very much appreciated her input during the work and her honesty with myself and the family that she was learning as they were. Out of this has emerged a new relationship in which the family have come to appreciate her involvement, and all far are less guarded with the Local Authority.

...

I understand that this has been an unusual journey for the other professionals at times, and that in this case my initial hypothesis has been tested out by other assessments undertaken during this process by other professionals. Whilst this is unusual during the work, it was nonetheless reassuring that my original risk assessment stood the test of time, and the work has now been completed successfully. I do want to reassure the court that have always been mindful that what happened to Amber was profoundly serious throughout my work, and I have never sought to downplay or marginalise the past whatsoever. However my analysis is that there is safety in place now for Jane going forwards...

37. I am very pleased that the local authority and the Children's Guardian have been both flexible and challenging. I think that has led to a very thorough and strong care plan for Jane.

#### The Mother and Father

38. I want to make it clear that I have been impressed by the way Beverley has changed. It is true that the case remains high risk because neither mum nor dad have told me what really happened to Amber. It is also true that Beverley has cooperated very well with the social workers and other professionals in the case. It is also true that she is working very well with her family.
39. I hope Beverley's good work will continue. I wish her and Jane a happy future together.
40. Carl has also made improvements. It is not right that I should use this judgment to set out Carl's background or his life experiences. I do not need to. He now accepts that he will not be looking after Jane on his own. That is a brave decision for a parent to take. I think Carl is brave for making that decision. I hope he and Jane continue to enjoy their time together.

#### Family Members

41. I am sure Beverley and Carl have said 'thank you' to their family and friends who are helping them. Without them Jane would not have come home. I hope Ms Hetherington will tell them that the judge says 'thank you' to them for what they are doing.

#### The Resolutions Model - Conclusions

42. Mr Gilmore on behalf of Beverley asked me to publish a judgment despite the outcome being agreed. In his position statement he said:

"Even though the resolutions approach has now been in place for a considerable number of years it is still not widely known. Indeed, even in this locality such

an assessment is rare and perhaps it could be said under used. The number of reported cases utilising that assessment model with the UK are limited and it is therefore in the public interests for others to see that with commitment, engagement, and the multi-disciplinary support as provided in this case, the resolutions approach can be a successful form of parenting assessment.

This case also provides an efficient model for such assessments. The interplay between the resolution's assessor, the social worker, the guardian, and the psychologist all led to a successful assessment and a detailed safety plan. It is again in the public interest to provide a clear example of how that assessment process can proceed within public law proceedings. In the hope that this will encourage the use of more creative models of working with parents and to match those assessments to the particular needs of that case."

43. It is not for me to make any observation about other cases. As far as this case is concerned, I would set out the following points about the Resolutions Model:

- a. There were several factors in this case that persuaded me it was appropriate to give permission for a risk assessment to determine whether the Resolution Model may be appropriate. They were:
  - i. Evidence of the existence of a support network and family;
  - ii. The fact that the possibility had been identified early (at the first Case Management Hearing); and
  - iii. The evidence of sufficient positives with respect to the mother (absent the possible perpetration of inflicted injury) such that the amelioration of risk could be targeted. To put it another way, had the known risk factors at the time of intervention been multifactorial (e.g. drink, heavy drug use, domestic abuse, mental health issues etc) I doubt that I would have been persuaded that the Resolutions model could have been employed positively.
- b. This case has taken a long time. Some months delay were added by the Covid 19 pandemic. Face to face contact between Jane and her parents was suspended for many weeks and professionals were restricted in their ability to meet family members in person. However, even without the pandemic, it is difficult to imagine a case involving a Resolutions approach being completed within 26 weeks. I note Recommendation 31 from *the Public Law Working Group Final Report* (March 2021):

"Recommendation 31: Case management of cases in relation to new-born babies and infants. Applications in respect of new-born babies and infants should be the subject of strict case management directions and time limits. It is especially important that proceedings in respect of these children are concluded, whenever possible, within the 26-week limit. There will however be some cases, particularly relating to first-time

parents, where parents are demonstrating their ability to respond in a sustainable manner to the advice and treatment provided to address concerns about their parenting, and where therefore proceedings may need to be extended.”

In this case it was of course a balance between delay and the likelihood of success. I did not think it would take quite so long when I permitted the assessment. In this case, the outcome has been positive for Jane. It may not have been. That, of course, is the burden and cost of judicial discretion.

- c. After the risk assessment was undertaken to see if the Resolutions model is appropriate, the work undertaken by Ms Carboni was paid for by the local authority alone. The direct cost for Ms Carboni’s work was in the region of £4,000. The indirect costs consequent upon adopting the plan in terms of time and commitment are also significant. The Legal Aid Agency will not pay for work that is considered ‘therapeutic’. The Legal Aid Agency will only contribute to the cost of assessments. Without the support and agreement of the local authority the work with the family and the parents could not have been done. I am very grateful, as I am sure are the parents.

#### Order

44. All the parties agree that the Threshold is satisfied. I have set out the threshold facts at paragraphs 7 and 8 above.
45. All the parties agree that I should make Jane the subject of a Care Order. The Local Authority has asked for a Care Order. The Guardian and the parents support that application.
46. Again, I note the observations from the Public Law Working Group Final Report (March 2021) at paragraphs 33 to 35:

“33. There may be good reason at the inception of care proceedings for a child to remain in the care of her parents/carers/family members and subject to an ICO pending the completion of assessments.

34. The making of a care order on the basis of a plan for the child to remain in the care of her parents/carers is a different matter. There should be exceptional reasons for a court to make a care order on the basis of such a plan.

35. If the making of a care order is intended to be used a vehicle for the provision of support and services, that is wrong. A means/route should be devised to provide these necessary support and services without the need to make a care order.”

47. The reasons for all the parties seeking a care order in this case are in my view centred entirely on the child's welfare. They revolve around (i) risk and (ii) the need to share parental responsibility.
48. This remains a high-risk outcome for reasons that are obvious because of the history set out above.
49. The local authority clearly has a need to share Parental Responsibility for Jane. An analysis of The Resolutions Safety Plan and Road Map and the Home Placement Agreement reveals many decision points for the local authority. It is, in one sense, a highly interventionist care plan and one where, in order to meet and ameliorate the risk, the local authority need the ability to make and in extreme circumstances impose decisions about Janes' welfare. That will remain necessary for some considerable period.
50. Accordingly, I am entirely satisfied that making a care order in this case is not a vehicle for support. I am also satisfied that such an outcome is entirely in the child's welfare interests when measured against the statutory yardstick of section 1 (3) of the Children Act 1989 and bearing in mind that the order will last until Jane turns eighteen or the order is discharged, whichever is the sooner.

His Honour Judge Clive Baker

25<sup>th</sup> June 2021