

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

FAMILY COURT
AT NEWCASTLE UPON TYNE

Case No: NU13CO0088

The Quayside
Newcastle upon Tyne
NE1 3LA

22nd April 2014

BEFORE:
HER HONOUR JUDGE HUDSON

Re M

Judgment

Compril Limited
Telephone: 01642 232324
Facsimile: 01642 244001
Denmark House
169-173 Stockton Street
Middlehaven
Middlesbrough
TS2 1BY

No. of folios in transcript: 94
No. of words in transcript: 6739

1. **Her Honour Judge Hudson:** These proceedings concern a little girl, who I will refer to as B, who was born on 13th July 2013 and who is now nine months of age. Her mother, M as I will refer to her, is 17 years of age. She herself is subject to a Care Order, which was made some years ago in circumstances which I will touch on briefly as I deal with the chronology.
2. B's putative father, as named by M, has failed to cooperate with DNA testing to determine whether he is indeed B's father. He was served with notice of the proceedings, but has not sought to engage in the proceedings, making it clear to the local authority that he did not wish to do so, or to be involved with B.
3. The proceedings were issued by Newcastle City Council on 28th November 2013. The application came before me on the first occasion on 12th December 2013 for a case management hearing and also to address the interim care issues. At that time M and B were placed together in a mother and baby foster placement. I was told by Mr Ainsley, who represented M on that occasion, that she had reached the difficult decision that B should be placed separately from her during the course of the proceedings. In these circumstances no interim care order was sought by the local authority. The order that I made on 12th December 2013 reflected the agreement to B being placed separately from M and the circumstances in which that was done, on the basis that notice would be given if any change was sought by M.
4. Since that time B has remained in the foster placement to which she moved. B has had regular contact with M on four occasions each week. Once again, I will touch on that shortly as I deal with the chronology.
5. The case has come before me today for final hearing. It was listed before me on 11th March 2014 for an issues resolution hearing, when it was evident that there was no agreed way forward in terms of B's future placement and I therefore listed the case for a final hearing. B's Guardian in the proceedings is Nicola Murphy. She was appointed at the outset of the proceedings and has provided two reports in the care proceedings.
6. The position of the parties is as follows. The local authority invites the court to conclude that the threshold criteria are established, based on a likelihood of significant harm. A schedule of threshold findings is in the court bundle at A6. The local authority has undertaken a parenting assessment before the issue of proceedings, which did not support B's placement in her mother's care. The local authority's ongoing assessment of M has not supported B's placement in her care.
7. The local authority undertook a viability assessment of a maternal aunt, which reached a negative conclusion in December 2013. No other family placements have materialised. The local authority sought to make contact with a further potential carer proposed by M, but she did not cooperate with any planned assessment.
8. Against that background, the local authority has concluded that B's future care needs cannot be met within her birth family and proposes a plan of adoption. The local

authority plan is for B to maintain contact with M through indirect contact. In support of its planning, the local authority has also issued a placement application which it invites the court to determine at the conclusion of these proceedings, should its plan for adoption be approved and the final Care Order be made.

9. M opposes the local authority's plan and seeks B's return to her care. The statement that she filed in February 2014, in response to the local authority's final care plan, sought a further period of assessment at a residential establishment, Elizabeth House, where young mothers are able to care for their babies. I was told at the issues resolution hearing by Ms Cowell (M's solicitor) that this placement was no longer pursued. That has remained the position before me today. In those circumstances, M invites the court to conclude that B can be returned to her care. M said in her evidence that she will do whatever needs to be done to ensure that that happens and will cooperate with any professionals to achieve that.
10. B's Guardian supports the local authority's applications. She invites the court to approve the care plan for adoption, having concluded that B's care needs cannot safely be met in her mother's care.
11. Against that background, I heard evidence during the course of the hearing today from B's social worker, Sylvia Mather; from M and from Nicola Murphy. In her evidence, M she made it clear that she does not accept the local authority's concerns and the criticisms of her care and parenting of B. She accepts that she has made some mistakes, but believes that the issues raised by the local authority do not properly reflect the care that she gave to B, during the time that she cared for her. M also says that those issues were not raised with her, or not raised with her in a way that she found helpful. M did accept in her evidence that she is defensive, as a result, she would say, of the life experiences she has had, particularly since her teens. M denies what is described as her angry and aggressive behaviour in the course of the foster placements she and B had together. M does accept that the local authority supported her at the outset in her care of B, but was unable to say why she thought that had changed.
12. It is for the local authority to establish that the threshold criteria are made out, before the court can consider making any public law orders. In relation to any factual determinations, I do so on the balance of probabilities. The local authority schedule at A6 sets out the threshold findings sought under six short headings relating to neglect and emotional harm as follows:
 - (1) An inability to meet B's basic care needs consistently by way of feeding, nappy changing, dressing appropriately and stimulation;
 - (2) An inability to meet B's emotional needs, the example is given of M behaving aggressively and angrily and unable to regulate emotions, making B feel threatened and unsafe;
 - (3) An inability to provide B with stability, giving the example of three changes of foster placement in the first four months of B's life;
 - (4) A failure to engage with the support services offered to M to develop her parenting capacity.
 - (5) A lack of insight into B's needs, dismissing professional advice and support.

- (6) M's own attachment issues, as they are described, and her difficulty in forming relationships.
13. M's response to the threshold findings are set out in a reply document at A22. In final submissions Mr Donnelly, representing M today, made it clear that she does not accept that the threshold criteria are made out and the findings sought are disputed.
14. It is against that background that I review the chronology. M herself was taken into local authority care at the age of four. She and her older sister were placed together in foster care. A final care order was made on 21st March 2002. M said in her evidence that her sister, being four years older, had a greater memory of life before their reception into local authority care; M's own recollection appears to be very limited. She gave some brief evidence today of the memories that she has of the inconsistent care that she experienced.
15. M and her sister were placed together in long term foster care. M moved to a residential unit in July 2010 at Iona Place. She was living there when she became pregnant at the end of 2012. At the time that the pregnancy became known, the local authority had immediate concerns, not only as a result of M's own poor experience of parenting which had left her poorly equipped to parent herself, but also in relation to issues of alcohol and substance misuse and the impact of them upon M, her unborn baby and her ability to care for the baby when born.
16. An initial child protection conference was held on 11th March 2013, at which the then unborn baby was made the subject of a child protection plan under the category of neglect, with a plan for M and the baby to be placed together in a foster placement. From that time, preparations were made for B's arrival and M was noted to work positively and cooperatively with professionals with a view to that end.
17. In May 2013, M moved to a foster placement which was to provide the home for her and B when B was born. B was then born on 13th July 2013. Following her birth the initial reports were positive, both of M's cooperation with professionals and her ability at that stage to manage B's care. It was recognised as a young mother without parenting experience and with an unsettled background herself, M was likely to need a high level of support, as a result of which the nurturing environment of a mother and baby placement was considered to provide the best environment for her to learn to parent B.
18. No concerns of any significant nature were raised at all during the course of August 2013 - Mr Donnelly has highlighted what appears to be the relative lack of professional engagement with M and B during the course of that month. As Sylvia Mather said in her evidence, the main source of support and monitoring was that of the foster carer, who M had formed a positive relationship with.
19. By early September 2013, it was clear that there were concerns being raised about M's care of B. In particular, her ability to provide appropriate care for B during the night. Following a statutory visit on 2nd September 2013, M agreed to nursery nurse support, but in the event M did not agree to it. M accepted in her evidence today that she has not taken

up a number of the supports that were made available to her. In relation to a proposed Sure Start group at the first foster placement, M said that she felt uncomfortable about mixing with other parents. She said the lack of permanence in her living arrangements explained her failure to engage at a later stage.

20. An incident on 9th September 2013 caused a high level of concern, when M had a disagreement with her foster carer and left, taking B to Iona Place. The local authority evidence is that B was not adequately clothed at the time that she was taken out. M accepted in her evidence today that there had been a “small disagreement” with the foster carer. She denied that there had been any arguing, but agreed that she left and took B to Iona Place. She was duly persuaded to return.
21. A core group meeting the following day (on the 10th September 2013), recorded that M was to undertake more of the caring tasks for B. The concern at that stage was that increasingly the foster carer was providing more of the care for B than was appropriate in the circumstances.
22. The local authority chronology and evidence records a high level of monitoring and support for the placement, through regular core group meetings and other professionals’ meetings to consider how the placement could be supported.
23. By the end of September 2013 there were a range of concerns in relation to M’s care of B. B’s weight had dropped to the 50th centile at this time. At the time of her birth she was on just over the 90th centile. Her weight dropped to what appears to be the more regular centile level for her of around the 75th centile. But, coinciding with the time when M took on a greater responsibility for B’s care, B’s weight dropped to the 50th centile.
24. The local authority had further concerns about the lack of engagement with other supports (the parenting groups and the nursery nurse facility which had been provided) and also in relation to the basic care which was being provided for B in terms of feeding and nappy changes, with reports from the foster carer that B’s needs were not being met to an appropriate standard.
25. The local authority held a child protection review on 7th October 2013, at which those concerns were repeated. In addition to the issues in relation to B’s care, the aggressive and abusive behaviour of M to her foster carer was a further concern that M was not taking on board the advice and leaving B’s care needs unmet. It was nonetheless concluded that the parenting assessment which was underway should continue.
26. During the course of October 2013, the foster carer reported that she was undertaking a significant amount of B’s care. She reported that she was feeding B at night, that B was not being bathed by M as regularly as she should and that she was not being fed and having her nappy changed as frequently as she should. There was clearly an issue between M and the foster carer’s adult daughter, who was a regular visitor to the property. M has explained that she found the daughter, who I understand to be aged around 20, to be over-involved with B and provided advice that M felt was not

appropriate and not welcome. The social work evidence was that this did indeed provide a cause for concern in relation to M's wellbeing in the placement, but that was addressed by the foster carer once it became evident.

27. Nonetheless, the situation deteriorated within that foster placement so that the core group meeting on 21st October 2013 discussed a move to another foster placement, at a time when the foster carer was to have a planned holiday. It was in those circumstances that M and B moved to a second placement on 23rd October 2013. As M described in her evidence, that foster placement was in a rural location, very different to the city environment that M has always known. It was an environment that M found very foreign to her and not one which she found easy to adapt to.
28. M's evidence was that she always understood that this that was a temporary placement. The social work evidence was that it could have been a permanent placement, but that the initial experiences within that placement were such that the foster carer would not consider it in the longer term. It would certainly seem from what I have heard from M that that would not have been an easy environment for her, in terms of her general wellbeing.
29. The issues that had arisen in the care of B were continued in the reports from the foster carer. The care arrangements for B were a continuing cause of concern, such that the local authority held a pre-proceedings meeting at the start of November 2013. That meeting is described as being abandoned after M left that in what was described as an agitated state. It was only days later that M and B moved to the third mother and baby foster placement. This was a foster placement back in the city of Newcastle, where M and B remained until the proceedings were issued.
30. A further core group meeting was held on 13th November 2013, followed by a PLO meeting on 19th November 2013, which led shortly thereafter to the issue of the proceedings. I have already made reference to the circumstances in which B moved to a fourth placement in December 2013, where she has remained.
31. The local authority completed its assessments and held a decision making meeting on 15th January 2014, where the plan of adoption was approved. After B was placed separately, initially M remained in the foster placement but recently moved to her own accommodation. This is a supported living arrangement so that M has access to professionals who provide her with assistance should she need it, as preparation for independent living.
32. M has attended her contact with B very regularly, which is available four times each week. One contact session each week takes place at Sure Start, where there are other young parents with their children. M's contact lasts for an hour and a half on each occasion. The reports are of a positive relationship between M and B; M undoubtedly loves B very much indeed and plays well with B for much of the time. There are some issues raised by the local authority as to the extent to which M can be distracted from B, during contact. I am very content to accept, for the purposes of this hearing and my

judgment, that M has attended all contact; she has provided for B in taking suitable toys and other items for her and has shown that she is capable of good interaction with B, in the course of that limited contact.

33. It is against that background that I consider the findings sought by local authority in relation to the threshold criteria. I have dealt in relatively brief terms with the chronology that has given rise to the proceedings and the events since proceedings were issued.
34. The three foster placements in which M and B lived together each reported consistent themes in the concerns in relation to B's care. The reports of the three foster carers are consistent with the reports from other agencies and the local authority social worker. M does not accept the reports of her neglect of B's basic parenting needs. I was not persuaded by M's evidence - of feeding B very regularly (either two or four hours), of regular nappy changes and caring for her as she described - properly reflected the care arrangements that were in place as recorded by the three foster carers in whose homes M and B were living.
35. I am satisfied on the balance of probabilities that the threshold findings are established as set out by the local authority in the threshold document at A6, subject to replacing the word 'attachment' with 'relationship' in the sixth bullet point, so that it relates to M's relationship issues, rather than attachment issues, bearing in mind the specific connotation of the word 'attachment' in proceedings such as these.
36. The threshold findings, in my judgment, make out a likelihood of significant harm in relation to M. Mr Gray, on behalf of the local authority, made it clear that the local authority does not assert that B has suffered significant harm in her mother's care and the care arrangements as they have been for her. The local authority does invite the court to conclude that B has suffered neglect as a result of those matters, but does not seek any determination that they have amounted to significant harm. I agree that this is an appropriate formulation of threshold in this case. The evidence would not satisfy a finding that B has suffered actual significant harm. Mr Gray reminded the court of the definitions of harm in section 31(9) Children Act 1989 of harm: ill-treatment or the impairment of health or development, including for example impairment suffered from seeing or hearing the ill-treatment of another and in relation to development (meaning physical, intellectual, emotional, social or behavioural development). In those circumstances, I find that the Threshold criteria are established, based on the likelihood of harm, on the basis of the factual matters set out at A6.
37. I turn to my welfare evaluation. In undertaking my welfare analysis, I have had full regard to the recent case law which is relevant to the approach of the court in determining applications for Care and Placement Orders. The judgment of the Supreme Court in *Re B (A Child) [2013] UKSC 33* is of central importance in providing guidance as to the correct approach of a court where it is asked to consider a care plan of permanent removal of a child from the birth family. The judgments considered in detail the approach to the European Convention on Human Rights Article 8 proportionality in a public law children case. The judges stressed the significance of a decision of the court to remove a

child from his or her birth family and for the child to be placed for adoption against the wishes of the birth family.

38. The judgments emphasise that a care order and adoption are extreme outcomes and a 'last resort' in the words of Lord Neuberger. A care order cannot be made in such circumstances, unless the order is proportionate, bearing in mind the requirements of Article 8. Lady Hale described the test for severing the relationship between parent and child as 'very strict, only in exceptional circumstances and where motivated by overriding requirements pertaining to the child's welfare, in short where nothing else will do' - a test of necessity, therefore.
39. The welfare of the child is paramount, as Lord Neuberger said at paragraph 77:
 'The interests of a child self-evidently require his or her relationship with her natural parents to be maintained, unless no other course is possible in the child's interests.'
He went on to say (at paragraph 104) that the interests of the child 'include being brought up by her natural family, ideally the natural parents, or at least one of them.'
40. The Court of Appeal gave judgment in *Re G (A Child) [2013] EWCA Civ 965* the following month (on 30th July 2013). The judgment of McFarlane LJ stressed the need for a proper, thorough and holistic evaluation of the placement options, giving full weight to Article 8 rights. Such an approach involves the court to balance the pros and cons of the placement options in any case. He emphasised the need for substantive consideration of the Article 8 considerations in relation to the issue of permanent separation of a child from the birth family. He said:
 'What is required is a balancing exercise in which each option is evaluated to the degree of detail necessary to analyse and weigh its own internal positives and negatives and each option is then compared side by side against the competing option or options.'
41. Where the court is considering a plan of adoption, the evaluation must take place in the context of the welfare provisions of section 1(2) Adoption & Children Act 2002, whereby the child's welfare throughout her life is the court's paramount consideration. The welfare checklist in section 1(4) of the Act includes, of course, in section 1(4) (c) the likely effect on the child throughout his life of ceasing to be a member of the original family and becoming an adopted person.
42. McFarlane LJ also referred to *Re B* and the repeated use in their Lordships' judgments of phrases such as 'high degree of justification', 'necessary', 'required', a 'very extreme thing', 'a last resort', 'nothing else will do'. He said that in the light of this: 'It is clear that the importance of a child either living with or maintaining a relationship with her parents, her natural family, have not been reduced.'
43. In *Re B-S [2013] EWCA Civ 1146* the President again referred to the 'striking' language used by the Supreme Court in *Re B*, as to the degree of necessity before a care plan for adoption is approved. In paragraph 18, by reference to Strasbourg authority, he said that: family ties may only be severed in very exceptional circumstances; everything must be

done to preserve personal relations and rebuild the family; it is not enough to show that a child could be placed in a more beneficial environment for his upbringing.

44. The President approved the global holistic approach to the welfare evaluation. He stressed the need for proper evidence from the local authority and Children's Guardian, addressing all the realistic options with an analysis of the arguments for and against each option.
45. In *Re W (a child) [2013] EWCA Civ 1227*, Ryder LJ set out at paragraph 99 the three questions the court has to answer in any care case.
 1. What is the harm and/or likelihood of harm?
 2. To what is that harm attributable?
 3. What will be best for the child?
46. At paragraph 100, he said that the court is to undertake its evaluation to determine what is best for the child by reference to three further questions:
 1. What is the welfare analysis of each of the placement options available?
 2. What is the welfare evaluation that is the best option among those available?
 3. What Orders are proportionate and necessary, if any?
47. It is against that legal framework that I have undertaken my evaluation of the placement options for B. B is now nine months old. She has the same care needs as any young child. She is, however, not meeting her developmental milestones, in that she is not yet sitting independently and there has become an increasingly evident lack of use by her of her left shoulder.
48. The local authority has questioned in its evidence whether that is caused by a lack of stimulation, in circumstances in which B has been noted to spend an undue amount of time in a bouncy chair and has not had the amount of floor time that is recommended for babies of her age. I agree with the evidence of the local authority social worker and the Children's Guardian in cross examination on behalf of M, in which they accepted that they must be cautious about the cause of the developmental delay. I have concluded that it would be wrong in the context of this hearing to make any determinations or findings which relate to that. On the evidence of the local authority, which I accept, that B has not had the amount of floor time recommended for a baby of her age is a further reflection of the shortcomings in the basic care provided for B by M.
49. B has had a disruptive start to her life. She has experienced four placements in the first six months of her life. She has another move in prospect, whether it is a move back to her mother's care or a move to an alternative placement. As I have already noted, B has an established relationship with M. I have recorded the warm interaction between them. It is clear from what I have read about B that she recognises her mother when she sees her in contact.
50. Looking to MK herself, now aged 17, her own experiences as a child have not provided a good foundation for her as a parent. She is a young woman who has limited support. I

have heard many positives about M. She is described as a likeable young woman and it is clear that she has worked hard, particularly in the course of her pregnancy and in the early months of B's life, to address what were identified concerns about her lifestyle in relation to alcohol and substance misuse. All the evidence would indicate that she has addressed those concerns successfully, which is an indicator that she can progress.

51. She is, nonetheless, still 17. I found that her immaturity showed in aspects of her evidence and her appreciation - or otherwise - of the shortcomings in B's care since her birth. I agree with the evidence of the Guardian, in response to questions from Mr Donnelly in cross examination, that there is the prospect of significant further change on the part of M in the future, if she is able to take advantage of such supports as may be available to her and she is able to mature in a positive way. M's love for B is not in question and her commitment to contact has been clear.
52. The local authority has provided a balance sheet which sets out the placement options, comprehensively addressing the full range of options that could be available for B. Realistically, it is recognised that there are two options which the court must consider. The first consideration, of course, is B's placement within her birth family, and therefore her placement with her mother, whether now or at some determinate date in the future. In circumstances in which there is no alternative family placement for consideration, the alternative for B would be a permanent placement away from the birth family, which for a child of B's age would, in almost every situation, be a placement for adoption.
53. A placement for B with M carries with it the very obvious advantage of a family placement for B with her mother – her closest family member. It is an established relationship and B would move to a familiar carer. It would bring with it the prospect of the long-term benefits which are well recognised of a placement within the birth family and the benefit that that would provide in the long term, in terms of B's overall identity. The risk for B in a placement with M is that her care needs are not adequately met. A placement away from the birth family would realistically be a placement for adoption in circumstances in which, as a young baby, a placement in long term foster care would be unlikely to meet B's welfare needs.
54. A placement for adoption brings with it finality and ends the legal relationships with the birth family – the significance of that cannot be overstated. A placement for adoption has the potential for a permanent placement which would meet B's needs, with carers assessed to meet them and matched with her.
55. M's case is that she can care for B. She made it very clear in her evidence that she believes that she was able to care for B, that she was demonstrating that she was able to care for B and that she can care for her in the future. She says that she would accept advice and support.
56. The experience of B's first six months was, as I have found, that M was not able to provide consistent care for B and was either unable or unwilling to accept the advice and support which was provided by the three foster carers and from the range of other

resources which were made available to her. In reaching that conclusion, I have taken account of the extent to which the benefit of the advice is limited by the circumstances in which it was given by a number of different people in the course of the three foster placements involving in each case a different health visitor. There is nonetheless, in my judgment, a strong and consistent theme that M was not able to take advantage of the support and advice provided within those placements to enable her to provide the consistent care that B needed. In terms of the supports which were available, M had in each placement the 24 hour support of a foster carer. That was not sufficient to ensure that B's care needs were met.

57. B, at the age of nine months, has many changes and developmental stages ahead, which will provide her carer with increasing demands. She will require responsive and appropriate parenting to meet those needs. The local authority's parenting assessment and the local authority's evidence has concluded that M is not in a position to provide the care that B needs at this stage, even if supported by advice from appropriate resources.
58. In my judgment, the evidence that is before the court clearly establishes that M is not at this stage able to care for B in a way which will meet her physical and emotional needs. I have also concluded that there are no further supports which could provide a safe environment - even if I were satisfied that M would be willing to accept those supports. In any event, I have serious reservations as to whether M would indeed accept supports over a period of time; I have no doubt that she would initially seek to do so, but the unfortunate history has demonstrated that, at times where the advice does not meet with M's own views or her own wishes in relation to B, she has not been able or willing to accept that advice.
59. Having reached those conclusions, I have considered whether there is the prospect of progress in M's own development in sufficient time so that the determination of B's future could be delayed to accommodate those changes on the part of her mother. I have made reference earlier in my judgment to the prospect of change in M; she is a young woman who has potential and demonstrated that the issues relating to substance misuse and alcohol misuse have not been ongoing concerns. I have had to consider whether there is the prospect of a change in M, which would be sufficient to satisfy the court that she could meet B's care needs and within a time which is commensurate with B's age and circumstances. Having considered that, I have concluded that it is not realistic to consider that M could make the changes which will be required for B to be provided with a consistently good enough level of care within a time-frame that would meet B's needs. B now needs her future to be secured without any significant delay.
60. B is a very young child. If I approve the plan of adoption she will, on the evidence before me, be matched and placed without any delay. The prospects of a successful placement, having regard to her age and circumstances, can be considered to be good. There is, however, the significant disadvantage in an adoptive placement for B that it terminates her legal relationship with her birth family. Other than through indirect contact, there would be no ongoing contact between her and her birth family. That will

have an impact, inevitably, on B in the future. Any placement for adoption, or placement away from the birth family, also carries with it a risk of break down.

61. I have considered the competing claims against the legal framework as I have outlined it in the course of this judgment, very mindful that a placement for adoption is only to be approved if nothing else will do - as a last resort. This is a case in which the threshold is established on the likelihood of significant harm. In this case, the harm or likelihood of harm to B in the future if she is returned to her mother's care is that she would not receive the physical and emotional care that she requires. The early experience of her parenting demonstrates that the care she requires cannot be assured to her, even with the high level of support that was in place. The prospect, as I have concluded, is that the necessary care cannot be achieved within a timescale that is reasonable for B. The additional issue in relation to the harm that B would be likely to suffer, would be the exposure to the volatility that has been evident in her mother's behaviour, for reasons which are no doubt rooted in the past experiences that she has had, which provides a further likelihood of emotional harm to B.
62. The harm that I have identified is harm which would result from the care afforded to B by her mother. That is not as a result of any wilful shortcoming on M's part; I have recognised on more than one occasion the very great love she has for B and I have no doubt she would care for B to the best of her ability. The issue is the harm that M herself has suffered during the course of her life, both in her early life experiences and no doubt as a result of her experience in the care system, which has left her ill-equipped to care for a child herself at this stage.
63. Having considered the realistic options for B's placement I have, sadly, reached the clear conclusion in this case that the only plan which can meet B's welfare interests in the short term, the longer term and throughout her life, is approval of the local authority's plan for adoption, supported as it is by the Children's Guardian. I have, sadly, concluded that nothing else will do. It is, in my judgment, necessary and is a proportionate response to B's circumstances and those of her mother.
64. Having reached that conclusion, I have considered the legal framework which can achieve that. Only the making of a final Care Order will give the local authority parental responsibility to allow it to put its plan into effect. I consider the making of a Care Order to be both proportionate and necessary. I make a Care Order approving the care plan of adoption with a plan for reducing contact, leading to indirect contact upon placement for adoption.
65. Having made a final care order, I turn then to the placement application. The local authority invites the court to make an order authorising B's placement for adoption, allowing it to progress its plan without any undue delay. I have already identified the factors which the court must consider in terms of the section 1 welfare test in the Adoption & Children Act 2002, with the extended welfare checklist in section 1(4) which requires the court to consider the impact upon B of her ceasing to be a member of her birth family, the relationships she has with her birth family and the role that they could

play in her future. M does not agree to the making of a placement order. In those circumstances the court can only make a placement order if M's consent is dispensed with, under section 52 of the Act, on the basis that B's welfare requires it.

66. In the course of the judgment that I have given and applying the 2002 welfare checklist, I have reached a clear conclusion that B's welfare interests are met by her placement for adoption in accordance with the local authority's care plan. I have identified the areas in which I have concluded that the care which M could provide for B would not meet her welfare needs throughout her childhood and beyond. I do not propose to rehearse what I have already said in the course of my judgment, but those matters that I identified are of equal relevance to this application.
67. In circumstances in which I have reached the clear conclusion that B's future must lie in adoption, I have considered the circumstances in which M is unable to give her consent to that application. Having concluded that B's placement for adoption is the appropriate course for her, and that the plan must proceed without any undue delay, I have reached the conclusion that B's welfare requires the court to dispense with M's consent to the application to allow that order to be made. I therefore do so, having concluded that the making of a placement order is once again a necessary and proportionate response to the issues relating to B. I therefore do so.

END OF JUDGMENT

We hereby certify that this judgment has been approved by Her Honour Judge Hudson.

Compril Limited