

IN THE FAMILY COURT at NEWCASTLE UPON TYNE

Case No: NE17C00714

**The Law Courts
The Quayside
Newcastle upon Tyne
NE1 3LA**

**Dictated Friday, 12th April 2019
Disclosed as a draft, 9th May 2019
Handed down: 16th May 2019**

**Before:
HIS HONOUR JUDGE SIMON WOOD**

B E T W E E N:

A Local Authority

and

- 1) M**
- 2) X (A Child)**

Hearing dates: 4-8 March, 16 May 2019

MR J GRAY appeared on behalf of the Applicant
MR G HUNTER appeared on behalf of the Resondent Mother
MRS C SPENCELEY (solicitor) appeared on behalf of the Child through their Guardian

**JUDGMENT
(Approved by the Judge)**

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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 children and members of their 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.

His Honour Judge Simon Wood:

Introduction

1. The court is concerned with the welfare of X, a girl born in 2009, and almost 10 years old. On 4 October 2017, the local authority issued an application seeking a care order in respect of X and it continues to seek such an order with a plan of long-term foster care, a plan which is supported by X's Children's Guardian, Miriam Dolman.
2. The plan is opposed by X's mother, known as M, who seeks the return of X to her care. Sadly, X's father died in 2015, but X has four older siblings; brothers A and C, and sisters B and D, all of whom are adults, and who feature very much in X's story albeit have played no direct part in this final hearing.
3. Why does the local authority say that, at the time the proceedings were issued, X had suffered, or was likely to suffer, significant harm attributable to care that she was receiving from her mother? The history is complex. Although X was born in the United Kingdom, her siblings and parents were all born in an African country. The mother and the children had followed the father to the United Kingdom in 2008, he having come previously in 2002, fleeing persecution. The year following the arrival of the family, X was born. X is a child with very particular needs over and above other 10-year olds. She was born with Down's syndrome, a factor which is relevant to issues both within the threshold, to which I will come, and welfare. She is, I should add, reported to be a delightful young girl with a great sense of humour and determination.

Background

4. The family came to the attention of the local authority very shortly after they arrived in England with a wide variety of concerns ranging from questions about the true ages of the children, through lack of parental guidance, excessive chastisement and very challenging behaviours. The chronology runs to over 40 pages to the date of issue and it is not possible to give more than a flavour of it to keep this judgment within reasonable bounds.
5. The first strategy meeting was in December 2009. The first police child concern notification regarding C's violent behaviour was January 2010, he being charged with sexual assault on a child later that year, subsequently being found guilty, and then his exclusion from school. The events that precipitated litigation flowed from C attending the family home, where X and D were living with their mother, and stabbing another male, despite an agreement in place since December 2016, that he must not attend the home. There was a suggestion that he had a key to the home. The risks that he was thought to pose were principally related to his violent offending history, which included sexual offences, battery, aggravated burglary with a knife, and wounding. He had previously assaulted one of his sisters in the family home and threatened to stab two community foster carers working with the family. At an initial child protection conference he was described as unstable, hearing voices and threatening to, 'kick the baby out' of his pregnant partner.
6. By then, X had been subject of a child protection plan since the end of 2014 and subject to the public law outline since 2016. Mother was felt not to have engaged openly, recognised the impact on X (or the other children) of C's behaviour or demonstrated the insight or ability to safeguard the children and keep them safe from physical, emotional or sexual harm.

7. Other concerns specific to X included her considerable weight (she was on the 99th centile), together with the lack of understanding of, and compliance with, medical advice. X's older sisters were thought to be implicated in child sexual exploitation, had not been protected from this by their mother, and disengaged in D's case with support that had been offered to the family from sexual exploitation workers. The risk to a girl as vulnerable as X was a particular concern. Running throughout the entire period of the local authority's involvement, were concerns about different aspects of neglect.
8. Thus, these and other concerns combined to cause the local authority, on issue, to allege:
 - i) M's failure to protect X from C, due to his violence, with particular reference to the stabbing in September 2017;
 - ii) failing to disclose that incident to professionals and work openly and honestly around it;
 - iii) failing to meet X's health needs;
 - iv) dressing X in ill-fitting clothes unsuitable for school
 - v) minimising the risk of D's exposure to sexual exploitation;
 - vi) the long-standing local authority intervention since 2008;
 - vii) the failure to assert parental control;
 - viii) the unstable home environment that included anti-social behaviour, chaotic lifestyle, attendance by inappropriate visitors and regular police visits;
 - ix) the mother had also delayed learning English which, in turn, hindered her ability to meet the children's needs.
9. In fact M does not significantly dispute the threshold. The real issues relate to the her learning acquired during the course of this very long litigation and her ability to apply it reliably and consistently so as to ensure that X is, in the future, protected from harm.
10. Therefore, it is accepted that X has been subject to physical over-chastisement, to significant medical risks by virtue of her obesity, as well as the management of her behaviour given the issues that each of her older siblings present. These behaviours have, if anything, become more extreme and include the following:
 - i) the possibility that A suffers from PTSD and psychosis, is misusing drugs and perpetrating domestic abuse, but not accessing support in relation to his mental health. Separate from his violent offending history are his associates with a gang to which he belongs;
 - ii) the stabbing of A's girlfriend in October 2018, thought to have been caused by his association with gang culture. He is currently believed to be at large, considered to be a danger to his current girlfriend and wanted by the police in respect of a further robbery;
 - iii) C has unresolved trauma, misuses drugs, perpetrates domestic abuse and has a violent offending history and also associates with the same gang;
 - iv) D is now believed to be involved in child sexual exploitation of other girls, either as a perpetrator or, more likely, as a facilitator.
11. As I will come to, there remain other issues that the local authority say persist that impact on X's emotional well-being. Thus, the local authority say that these risks individually and cumulatively continue to expose, not just X, but her mother as well, to significant risk.
12. As a consequence of these concerns, the local authority point out that they expose X and her

mother to:

- i) the risk of being caught up in the dangers that flow from gang culture;
- ii) the risks associated with exposure to drug use and violence and threatening behaviours;
- iii) the risk that flows from child sexual exploitation;
- iv) the fact that the risks cannot be quantified beyond their nature that make them so serious and difficult to assess in terms of likelihood;
- v) despite that history, the mother continues to have a relationship with A, and had visited him in the not too distant past;
- vi) as I will come to, church features as a significant aspect in this family's life and the boys are likely to attend it if there is a party taking place in the course of ordinary worship.

13. Now, in the acute focus on the mother's ability to protect X from this varied harm and ensure that she is kept safe in the widest sense (physical, emotional, sexual), it is right to say, at this stage, that the mother is herself a vulnerable individual and much of the litigation has been occupied with ensuring her fullest participation within it: linguistically, culturally, cognitively and of course, emotionally.

14. It is not disputed that she is or has been:

- i) culturally isolated, aside from her attendance at church;
- ii) linguistically disadvantaged, speaking a relatively rare dialect and little English, with no reliable access to interpreters. A very good one was found by her solicitor, who became utterly indispensable on HMCTS being wholly unable to source an appropriate interpreter for any hearing, including this final hearing. Exceptionally, it was agreed by the local authority, the Guardian and the court, that this lady would have not just to interpret for the benefit of the mother and her lawyer, but for the court. Despite the potential conflict that would generally render such a course inappropriate, she did so with conspicuous professionalism, fully understanding her duty to the court, and it is extremely indebted to her for that, which doubtless assisted the mother's confidence in giving her evidence;
- iii) the mother has a learning disability assessed at length by Dr Downs, who found her to have significant cognitive impairment, likely aggravated by psychological difficulties arising from trauma, loss, the death of her husband and the behaviour of her children, the latter two each being significant matters with which she had had to cope;
- iv) her distrust and fear of authority born of experiences in her home country has been a significant barrier to progress.

15. As I will come to, one of the major complaints made on her behalf has been the ineffectiveness of the intervention of children's services, to which all of the foregoing contributed and which she contends has now been remedied by her engagement with a culturally informed charity, the charity that has played a major role in engaging with her since these proceedings commenced. She relies heavily on that charity, not just accepting that the concerns of the local authority reflected by the threshold are correct, but in providing her with the ability to recognise risk and protect X in the future.

16. Therefore, whilst some threshold aspects will have to be considered, the real issue in the case is whether the risks that the behaviours mentioned, and which in the case of those

posed by the older children continue and escalate, are capable of being addressed, managed or reduced to a level such that the court could have the necessary confidence that X would be safe in her care.

17. There is a great deal of evidence that the court has received, even taking into account the duration of these proceedings. Therefore the court has heard from:
 - i) KSW, the key social worker since November 2017;
 - ii) ISW, an independent social worker who prepared a PAMS assessment, and did so from a culturally appropriate background;
 - iii) PA, a child development worker and parenting advocate for the charity;
 - iv) VA, a student social worker and volunteer advocate with Families in Care, who happily spoke the mother's language;
 - v) the mother herself;
 - vi) the Children's Guardian.

18. Separately the court read:
 - i) statements from many other social work professionals, including KSW's predecessors, and those who attempted to carry out a risk assessment of C and A, as well as viability assessments of other family members and friends, all of which were negative and not challenged;
 - ii) a report from the independent reviewing officer;
 - iii) statements from numerous teaching professionals;
 - iv) the cognitive assessment of the mother by Dr Downs and her subsequent psychological assessment and addendum;
 - v) a detailed report from a worker with Families in Care, which followed a meeting that she convened, comprising members of the family's church community;
 - vi) a great deal of police disclosure.

19. It is not necessary or appropriate for the court to refer to all of this evidence or recite much of it in detail. The court has read it all and taken it into account in considering its decision.

20. An issue that has run through the evidence merits separate attention before I turn to it. The mother's very vulnerability, by reason of the multiple factors to which the court has already referred, has undoubtedly disadvantaged her and complaint is made that it was not addressed adequately, or at all, until November 2017. This was explored at some length, and justifiably so, by Mr Hunter for the mother. However, it is conceded by him that there was a sea change from that date onwards represented by:
 - i) the appointment of KSW, a sensitive and supportive professional who not only worked with the mother but introduced her to the charity and Families in Care as part of a process of education, support, advice and guidance, not least, leading to a better understanding of the norms and expectations of life in the United Kingdom;
 - ii) the witnesses that came to speak of the mother's work with each of the charity and Families in Care, to whom the mother is indebted and acknowledges them as considerable supports both to date and continuing;
 - iii) the culturally sensitive PAMS assessment was another separate part of that process and, in suggesting ways in which the mother can be helped, draws attention to the difficulties that the mother is likely to have experienced to that date;
 - iv) the mother belongs, and has always belonged, to a church. The involvement of Families in Care, in particular, has enabled members of it to be drawn into this

- process and they are, and remain willing, to be a source of support;
- v) I have mentioned the enormous value that the interpreter has given the mother and I should also mention her solicitor who is recognised as a practitioner with a particular interest in cases such as this;
 - vi) as a consequence it is said, on the mother's behalf, that she has a far better understanding now of the role of Children's Services, no longer regarding them as she would the equivalent in her home country as part of a state to be feared, such that she can now work much more constructively with them.
21. This is important background. It does not seek to excuse the shortcomings before November 2017, but it does mean that despite the length of the history the acute focus is now on what had happened since then. Thus, in reviewing the evidence, the court will concentrate its attention on that, not least as KSW's evidence about the period prior to November 2017 is all second hand, based on the records of others.

The issues for the court

22. Mr Gray summarised the issues for determination within this hearing succinctly and accurately as:
- i) the risks posed to X by her older siblings;
 - ii) the mother's ability to protect X from those risks, with particular regard to her needs and vulnerabilities;
 - iii) the ability of the mother to care for X in the circumstances;
 - iv) the appropriate long-term living arrangements for X, taking her cultural needs into account and, if that is to be long-term foster care, the appropriate contact arrangements for X to see her mother.
23. KSW, in her final statement, having noted the risks already highlighted regarding the siblings, said;
- ‘X was subject to a child protection plan for over a two-year period due to there being no sustained change or reduced risk of significant harm to her while she resided at home. The risks posed to X through her older siblings’ behaviour and that of their peers while she was at home were significant. She had been exposed to frightening behaviour, and due to her own vulnerabilities and disability, she was even more vulnerable, and unable to recognise the risk she was at or able to protect herself. The local authority cannot be certain of the full extent of the risks X was exposed to. The evidence the local authority has gathered, which has been filed in previous statements to the court, has been substantial. Risks associated with her older brothers C and A being involved in gang behaviour, both known to have violent offences against others. C stabbing B’s boyfriend within the family home, reports from the police of other vulnerable children being found at M’s house under the influence of illicit substances, for which M was served with a harbouring warning. M had not supervised the children at home, she has not been honest with professionals or the court in allowing A’s girlfriend to reside with her for two months. She has claimed she has not known the children were using illicit substances in the house and, despite the local authority urging M not to allow A into the family home having shared with her all the concerns, she has done so while X has been present. X had been exposed to an unacceptable level of risk to her

physical and emotional well-being whilst cared for by M. Additionally, although this issued did not contribute to her interim removal, it remained a significant concern as X was described by health professionals as morbidly obese. The only reason for her weight was overfeeding and lack of honest reporting by M to the dietician. A church member also commented that she would regularly see X in church and M feeding her food to pacify her which she commented on being too much and not good for X in her opinion.’

24. KSW went on to consider what protective factors existed and noted the following:
‘Despite the risk prevalent within the family home, X is observed to be very much loved by her mother and siblings. She attends school on a regular basis and is very much a valued pupil. She in turn loves school and missed attending during the summer holiday period. X has benefitted emotionally from the stable consistent relationship she has formed with her teachers and support staff in school’.
25. Turing to the analysis of her parenting capacity, KSW drew on:
 - i) the findings of Dr Downs of the mother being within the range of learning disability, as impacted by the cultural differences and her mental health;
 - ii) she noted that ISW had concluded, in her initial PAMS assessment in May 2018, that the mother was regarded by her as a protective factor for X and made suggestions for improved methods of sharing information with the mother.
26. However, whilst the local authority did not agree with ISW’s conclusions at that stage, they were overtaken by events shortly after, namely the finding of A in the family home after his release from prison, along with evidence of illicit substances being taken, all in breach of agreement and throwing the openness and honesty of the mother into question. That resulted in a contested interim care application, in which Her Honour Judge Moir, on 27 June, concluded that X’s safety could not be guaranteed by the mother, either through want of knowledge and understanding on her part, or dishonestly. Therefore she directed her removal to foster care where X has remained ever since.
27. That event caused ISW to revise her opinion to the extent that X needed to remain safe whilst agencies worked with the mother. She went on to identify the importance of the mother building a trusting relationship with the professionals to support her ongoing understanding of the risks posed to X and also identified that any change in her understanding and ability to work with the local authority would be dependent upon her willingness to accept that there is a need to make changes which, in turn, was dependent upon her ability to accept the local authority’s concerns.
28. ISW noted that were the mother to reach that stage, four to six months would be needed to allow a measurable outcome of change, given the complexities in the case, and thought it was likely that she would require support for the foreseeable future. However, ISW had repeatedly emphasised that the mother needed to accept the local authority’s concerns, which ultimately resulted in X’s removal.
29. KSW recognised that M had gone on to engage with the charity and Families in Care. She had undertaken a parenting course and was reportedly demonstrating more confidence. She had supported her daughters moving from the family home and KSW did not doubt that M was trying to make changes. Set against that, D’s social worker had observed that M

reportedly said that she was only sending the girls to live on their own because they had been accused of smoking and bringing their boyfriends back to the house and, were they to leave the home, X would return. Subsequently, M accepted that the older girls knew that they had done wrong but had left the home and now X could be returned. The work that followed highlighted KSW's concern that M could not identify what she had done in the past, or would do differently, such that there was no meaningful insight into the concerns. She added:

‘These comments do not provide any reassurance that M accepts any responsibility for her part in X being removed from her care. She continues to blame her children. It is my worry that M is attending parenting courses, moving her older children out of the house and appearing to make changes for the benefit of X, however, I am not reassured that she fully understands and accepts the concerns that she had not acted appropriately to protect X’.

30. In those circumstances, she could not support a plan of reunification of X with her mother. She told me in oral evidence that the risks posed by the boys and D had not reduced:
- i) a complex abuse meeting, chaired independently, has been convened at the request of the police and other agencies because the concerns have reached a level that warrant it;
 - ii) the siblings were all involved, as individuals, in a major police child sexual exploitation operation in this region;
 - iii) that operation included many vulnerable young people who were afraid of reprisals;
 - iv) the police were aware of parties taking place in which the use of drugs was common place, leading to child sexual exploitation and serious assault.
31. A, separately, is known to be a young man who carries a weapon and is subject to a MAPPA arising from his violence within intimate relationships, his former girlfriend having been stabbed. Neither A nor C engaged in the risk assessment that the local authority attempted to carry out. D is believed actively to be involved in child sexual exploitation. There is no expectation that any of the siblings will engage in work with the local authority to ensure that X can be kept safe. Whilst M tells the social worker that they feel guilty at the consequences for X, not one of them has come forward to discuss the expectations of their behaviour that might be necessary to bring about change.
32. In terms of M's understanding, KSW told me that she regrets her children's behaviour, occasionally blames them but struggles to accept her own role within it. She can talk about past mistakes but the family ties with A, as the now *de facto* head of the family following the death of his father, places her in a position of conflict, between a rock and a hard place as she put it.
33. In cross-examination she acknowledged a host of prior concerns about the children in a family that faced many difficulties, albeit she did say that community fostering was in place, more or less continuously, from 2014 to January 2019, working in the family's home and seeking to address behavioural issues, routines, as well as offering support with the family together. She readily acknowledged that M's work with the charity and Families in Care had been beneficial, that M had engaged well, particularly once she had recovered from the acute distress occasioned by X's removal in June 2018. Even before this, in April 2017, a parenting assessment then carried out identified many positives despite the difficulties with, for example, interpreters and the issues with lack of trust. Thus:

- i) M had taken positive steps to get D back to school;
- ii) M was beginning to engage and accept support;
- iii) M was at home when the social worker called for home visits and is no longer hostile;
- iv) M had enrolled on an English language course and made considerable efforts to do so;
- v) M had stopped young people staying over at the family home;
- vi) M had listened when she had been told not to allow an adult of concern back to the house;
- vii) X was going to school without issue;
- viii) X was met from school off the bus daily;
- ix) M had worked with Welfare Rights, such that her benefits were being reinstated;
- x) home conditions were now good, and the social worker was shown around by the mother with evident pride;
- xi) X was able to access a high level of professional scrutiny, from educational, fostering, and children with disability;
- xii) D was working with a support worker; and finally
- xiii) there was no evidence that C was living at the family home.

34. However, KSW said that the change has all been relatively recent and there was continued evidence that she has struggled to put her learning into practice. It, of course, only arises in contact with X, as she is not in her mother's care, but there are ongoing problems:

- i) M was told at a care team meeting on 8 January, that X was upset at her, M's, suggestion that she was not clean, rubbing herself vigorously. It was explained to M that her reference to this was emotionally impacting in an adverse way, such that X needed reassurance. Yet the following day again tried to wash X, would not be discouraged by the supervisor and, on that professional saying that she would have to alert KSW, only then did she desist and plead with her not to tell KSW;
- ii) there had been multiple conversations about X's hair, which M wished to be braided. In fact, X had been taken to a hairdresser, believed to be culturally suitable, who said that X's hair needed a rest to breathe, advice M would not accept and she continued to braid it in contact. That latterly happened in front of the Children's Guardian who noted, additionally, that M, having asked X if she likes her hair 'natural', answered in the affirmative, only for M to persist with suggesting it be braided. That had the consequence that X changed her mind, recognising that her mother had not liked her first answer and thus changed it to appease her. She said it turned into an unpleasant dialogue between M and the worker, in front of X, putting the worker in a difficult position and impacting on X. She later added to Mrs Spenceley, that this had placed huge emotional pressure on X and both this, and the washing, had impacted on her sense of safety in contact, quite apart from the impact of her placement.

35. M persisted in her questioning in court (as she did later in her evidence) with photographs that she had taken of X in contact, many of them close up, designed to show that X was either dirty, or her hair neglected. KSW pointed out that the school had no concerns regarding her presentation. X's general practitioner has agreed that her skincare is appropriate and is happy with its progress in foster care.

36. X's weight has been a very long-standing concern, with much dietician support, as well as

work to limit portion sizes, something that M had struggled with when bringing homemade food to contact.

37. KSW told me that X is a happy, sociable, lovely girl and a credit to her mother. She said that the work that M has done has greatly increased her knowledge of childcare, as well as the roles of the Local Authority and police, all of which was positive.
38. KSW confirmed the positives within the parenting assessment but nevertheless pointed to the fact that home had been chaotic, with the family shouting at each other, behaviour to which X was accustomed, as well as C's concerning violence, his assault on D, and stabbing of someone, together with a complete failure of any of the older children to engage, meaning that they remained unassessed risks to X. A was very close to X, and she asks about him and for him. She was equally close to C, but she agreed with the independent social worker that M remains loyal and committed to those children to the extent that she is in denial about the risks they pose. Whilst she would hope they would stay away if X was with their mother, she did not think that they would, or that M would be strong enough to stop them.
39. PA was called by the mother. She made a detailed and comprehensive statement describing the change she had detected since September 2018 with regular attendance upon her, a full contribution to the work, the making of friendships and becoming more willing to respond appropriately to challenges, for example, about the behaviour of her older children. Part of the training had been directed at looking at risk, safeguarding and the role of the local authority. She has moved from a point of not accepting that bad things that she had not seen that had occurred within her home, to a greater acceptance that they had. She had excluded the elder children from the home, spending Christmas on her own as a consequence. Her world has enlarged as a result of this work, making her more confident, independent and wanting to learn.
40. In answer to Mr Gray and Mrs Spenceley, PA confirmed that she had:
 - i) not seen the report of Dr Downs;
 - ii) had not seen the more recent evidence regarding the issues flowing from contact;
 - iii) had not met any of the children, apart from D briefly and, consequently, done no work with them;
 - iv) discussed with M the fact that the children are independent and have moved on. Based on what M said, she thought that M now had a full understanding of the concerns they present;
 - v) although her work had not been home-based, a risk assessment ruled that out in any event, based on the behaviour of the boys and she knew that what they had been concerned with included activities that were exceptionally serious.
41. Nevertheless, PA felt that X could go home, and be safeguarded because M understood the risks. She would have agreed that M's loyalty was divided when she started work with her, but by December 2018 she felt that M had moved on, such that X was her priority and she was no longer dependent on the others. When it was pointed out that ISW felt that M was not strong enough to distance herself from the older children, she contrasted a time when her meetings with M were constantly interrupted by telephone calls from the children, something which was no longer a feature.

42. VA had also filed a detailed statement. A masters level student social worker, she had known M prior to her referral to Families in Care in August 2018, as part of an African group locally. She highlights the difficulties M experienced including, additionally, a very controlling ex-military husband, isolation, and limited community contact. Culturally, she was confused about the rights of her children, how to parent, particularly in setting boundaries and managing discipline, as well as lacking in understanding about UK norms. She worked with M in respect of issues such a skin care, weight, language and the maintenance of X's cultural heritage including language. She told me that she had noticed change from October or November, in terms of an increase in her understanding of safeguarding, the role of the local authority and the reasons why X was taken from her care, which she had not previously understood. She felt that M now had a full understanding of the concerns, and the behaviour of the older children, without the checks that would exist in Africa, in terms of reliance of extended family and community to regulate such behaviours. She said M is now very strict, so she will meet with the older children but not let them come to her home. She could not comment with confidence as to the sustainability of that but felt she had learned so much that she would expect M to adhere in future.
43. She explained the use of metaphors to help M understand concepts. Thus for example, in respect of the behaviour of the older children, she explained that by reference to Mafia movies, something M understood. She highlighted the culturally important things to M and thus to X:
- i) religion;
 - ii) food;
 - iii) identity;
 - iv) respect;
 - v) values such as honesty;
 - vi) marriage as one of the many important milestones in life.
44. In cross-examination, she told me that she had not seen the report of Dr Downs, the social work statement or the Guardian's report, but she had nevertheless been able to help M understand why proceedings were brought. She said this in relation to Africa:
- ‘There is not a concept of keeping a child from harm. We have a verb to nurture and protect but not from somebody. If I go out, I know my neighbour will look after my children. We work on the basis of trust. It is embedded in our culture to protect a child’.
45. She said she had met the older children a long time ago, but she would not feel comfortable doing so now, given what is said about their behaviour.
46. Although I heard M next chronologically, I am going to return to her evidence because ISW was then called by the Local Authority as part of its case. She had first reported with her PAMS assessment in May 2018 whilst X was till at home. Observing that the signs of safety model, a systemic method of working with families, ought to have been used by the local authority, this comprehensive report scored M's parenting capacity and made teaching recommendations where appropriate. Her ability to care produced the highest score she had ever seen and led her to the conclusion that M had the ability and capacity to parent X, albeit with continued support, encouragement and understanding. She had no doubt that she could continue to be able to meet X's needs.

47. The Local Authority and Guardian were unconvinced, but that report was overtaken by the circumstances that resulted in X's removal. ISW described work that would need to be done, using a capacity to change model before X could be returned to her care in her August addendum. In her undated addendum, from about February 2019, having read the updating material, she said this;
- ‘Having read the updated information, and given the amount of time that has passed since the initial assessment and the apparent inability of M to manage her own emotions, prioritising her needs during contact, it appears that she has caused further emotional harm to X. It must be said that M's intention is not to harm her daughter emotionally, but as stated in my original assessment, M is suffering from PTSD and grieving for the loss of her previous life, husband and children. Added to this, she is terrified of losing her youngest daughter X. It is not surprising that as a mother she wants to care for her daughter when she sees her at contact. However, M's maladaptive coping strategies and lack of insight into illness and the impact on her child, or whether it is insight not applied, raises concerns about how she could consistently meet X's emotional and health needs in the longer-term. Taking into account the fact her other adult children are involved in dangerous criminal activity; she remains loyal and committed to them’.
48. She went on to add that she conceded that X would be at risk of further harm were she to reside with her mother at this time, albeit reinforced her previous stress on the importance of regular contact between X and her mother.
49. Her oral evidence was spread over two days. It became clear that she thought she had not seen all of the current material, in particular that describing the work with the charity and Families in Care. In the circumstances, having briefly read it and described it as significant, the court adjourned over night to enable her to reconsider. She did and very helpfully produced a further addendum in writing. Under the heading of risk and emotional harm she said this:
- ‘For X, as with most children, it is vitally important to receive her mother's approval. The emotional harm that she is feeling has disappointed her mother every time she sees her, can give a detrimental effect on X's self-esteem. This is a concern given the incidents during contact, however, if X was not in foster care, these incidents would not occur, as M would follow the skin and hair regime as she had previously. Therefore, given the fact that over the past few months mother appears to have learnt a lot from parenting courses, there is no reason that she is unable to continue to learn regarding emotional harm, and hopefully cease from causing X to feel disapproval in the near future.’
50. However, her conclusion was overall unchanged:
- ‘On 6 December there were reports at a complex abuse meeting that the police were concerned regarding intimidation and threats from X's older siblings within the community. There had been reported two incidents of assault, whereby D was involved; one with her boyfriend and C, and one with A and his girlfriend. The violent behaviour within the community remains a real concern, especially should there be repercussions from rivals. Although M has progressed and made lots of changes, there remain

concerns regarding M's ability or commitment to maintain changes in her behaviour, not only during contact, but keeping her adult children away from her home should X return to her care. The Guardian observed the contact as recently as 9 January, whereby M behaved in a way that caused distress to X. M also describes how she saw her sons when on the street, returning from the charit. Given the incidents of violence occur in the community, I would be concerned should M have X with her and a violent incident occur on the street. I therefore must concede that although M completed the PAMS assessment to a very high standard, the complexities of her life and risks her adult children continue to pose are too high to place X in the care of her mother'.

51. Her oral evidence was principally directed at the importance of culture, and the role of contact, to which I will return, save for this: in suggesting it would be safe for X to go to church with her mother, even if the older boys turned up, she said she could not see risk. Challenged by Mrs Spenceley to the effect that the behaviour of the older children was causing more rather than less concern, she acknowledged that, looking at risk, they did generally pose a risk; the boys carrying weapons, and she said that, 'These are risks that could materialise in a church setting'.

The mother's evidence

52. I then heard from the mother and did so at length, in order to give her the best opportunity to present her evidence aided, as I have no doubt she was, by her interpreter. She does not read at all and her English is limited. Her evidence was almost exclusively given in her native language. She had made three detailed statements. She said that the removal of X had forced her to recognise the realities of how she had lived and looked after her children in the United Kingdom, where the cultural norms were very different from those with which she was familiar. She wholeheartedly opposed the local authority plans. She described the extensive help she had received from:
- i) the church;
 - ii) VA;
 - iii) the charity;
 - iv) the local authority: she said that the local authority help had been very hard to accept because it was much easier to work with Black African women.
53. She said that she now knows that she had not disciplined her children: that unlike at home, the police are not the last people to approach for help. She had learnt from parenting classes, learned to listen and to give proper attention to X. She also attributed X's weight to the use of processed oil in the United Kingdom, which was far more calorific than at home, and she was delighted at X's weight-loss in care. She is learning English. She has gained confidence. She can now see that the local authority had been trying to help. She would cooperate with any requirement to have X returned to her care.
54. She re-emphasised all of this in her oral evidence and said that she had learnt how she could protect X from dangerous people, saying that older children were 'bad and dangerous', such that they had no right to come home and they knew it. She maintained contact with each (although C less so than the others) by meeting them in community settings. The girls had been in touch during the course of the hearing itself, with B writing a letter saying that they would be well even if they were not allowed to see X and, thus, pleading for X to be

returned to her mother's care.

55. D sent a text in which she said that she had moved out of the home to a hostel so that her mother could focus on herself without the distractions caused by her children. She promised not to get involved in her mother's life with X and, like B, pleaded for her return home.
56. M told me that C had asked for her forgiveness when he came out of prison, she having refused to visit him there. She said if any of her children came to the house, she would call the police, the local authority and her friend from church. Neither of the boys, she said, were head of the family because they had done 'bad things'. She now believed most of the things that she had been told. However, she could not bring herself to think about C stabbing someone but accepted that he had stolen something from a shop. She had heard of the gang with which both boys are associated and cannot understand why, but recognised they have problems as a result. In general terms though, if she had not seen things, such as the stabbing or D's boyfriend using drugs in the house, or D organising parties for girls to meet men, she was less ready to accept these. Having previously thought D was a good girl, she now thinks that she and the boys are 'liars'.

The Children's Guardian

57. Finally, the Guardian gave evidence, having produced three reports. She agreed with the local authority analysis and, in her final report, concluded as follows:
'Whilst there are strengths to M's parenting, the remaining concerns undermine her ability to keep X safe and meet her needs consistently. A separation for X will be upsetting for her, and she will need to be appropriately supported, this will also significantly reduce her access to her cultural heritage, impacting on her day to day access to traditions that are important to her family. Whilst this is very sad for X, her safety and welfare must be the paramount consideration. I therefore support the plan of the local authority'.
58. She was cross-examined by Mr Hunter and acknowledged that M had made good progress, having had a long distance to travel a year ago. She had no issue regarding M's basic care, saying this:
'The question for the court is whether M can protect X if she returns home. She has made good progress in recognising danger in the older siblings, but there is work to be done to keep them at arm's length. What has been more difficult since being received into care is following advice around her care. The emotional upset has been significant'.
59. She went on to add that she had no disagreement with M's right to raise concerns about X's care, adding, 'But there was clear guidance given around washing, and telling her not to clean X as it was causing distress'.
60. She went on to describe what she had observed as, 'Emotional pressure'. Acknowledging that there was no suggestion that the boys had been violent towards X, and there was no evidence of revenge attacks on the family, she nevertheless maintained that the risks were 'significant'.

Submissions

61. Unfortunately, it was not possible to receive submissions on the final day of the hearing as we quite simply ran out of time. Accordingly, I directed and received succinct written submissions, and I am very grateful to the advocates for their assistance in this regard.
62. In his submissions on behalf of M, Mr Hunter pointed out the historical difficulties, M's mental health, and the changes which had been brought about during the course of the last year, including the development of a support network. He reminded me that ISW recorded that there is a traditional culture in Africa in which it is said, 'It takes a village to raise a child'. He maintained that there is now 'a village' in place around M, which was not prior to last year, which was a sign of confidence for the future. Emphasising the importance of X's culture, which is inseparable from her identity and spoken of extensively by all of the professionals, he reminds me that ISW said this, 'If the court were to remove X from her mother's care then I believe it would be disastrous for X. She would be losing her culture, language, as well as family'.
63. That was written before the interim care order was made but that has broken the cultural bond which, he submits, cannot be replicated by continued contact. That in carrying out the balancing exercise necessary, weighing up the risks to which X is exposed in M's care against the risk of being removed from M's care, he invited me to make a child arrangements order, underpinned by a supervision order, orders with which M would be more than willing to cooperate.
64. Mr Gray, on behalf of the local authority, in answering how the risks that have been identified might be addressed or reduced and looking at the work that might be done to assist the family, pointed out that it was not possible to work with the older children who had declined to engage. There was no basis to think that matters would improve in that regard, not least because the local authority had been responsible for X's removal. Neither the charity nor Families in Care were able to assist working with the older boys because of the risks that they pose. There were no other resources available to undertake work that might be necessary.
65. Mr Gray reminded me that the older children had simply not engaged at all, notwithstanding the duration of these proceedings, every opportunity having been afforded them to do so. He was sceptical about the circumstances in which the communications mentioned came from D and B. However, he acknowledged that the greatest risks were posed by the boys who had not engaged in any form. Without risk assessment, and given the violence of which the Local Authority is aware, he cautioned the court to conclude that the risk must be assumed to be high. Looked at overall, he invited the court to work on the basis that the boys are unreformed and, probably, unrepentant.
66. He points out that, sadly, M has numerous limitations in understanding a change of approach, her cognitive functioning, cultural factors, mental health difficulties, and notes that Dr Downs was not optimistic that she would be able to engage in therapy within appropriate timescales. She had difficulty in acknowledging the concerns, is defensive in her reactions and the court can have no confidence that she would take protective action should trouble come to her door. He prayed in aid the ultimate conclusion of ISW, that X was at risk of harm should she return home, noting that ISW had had the opportunity to hear M give her oral evidence. Overall, the evidence demonstrated the necessity of X remaining

in long-term foster care.

67. Finally, the Guardian, through Mrs Spenceley, expressed her regret that it had not been safe for X to remain at home, and that she cannot recommend a return home now. Highlighting the risks that have been repeated throughout this judgment, she invited the court to the view that M did not accept responsibility for her own part leading to X's removal, blaming her children. The Guardian invites the court to conclude that she is either in denial or not being candid. She, like Mr Gray, prayed in aid the evidence of ISW, and went on to set out in detail just how serious the risks are that are posed by the older children.
68. I have not addressed here either the evidence or the submissions regarding contact, the importance of which is acknowledged by all, but I will revert to this as required, once I have considered the principle of the application for a care order with a plan of long-term foster care, although I acknowledge that contact, whilst always important, in this case has a very particular importance to X. That is, of course, in relation to the preservation and development of her cultural heritage which, for example, ISW indicated in the strongest terms, was absolutely critical in terms of her overall development and welfare. It follows that the ability of contact to meet those needs, forms an essential part of the welfare evaluation.

The Law

69. There is no dispute as to the legal principles that the court must apply. It is for the local authority to prove on the balance of probabilities the facts on which they seek to rely. In considering the local authority's application for a care order, the court must have regard to the welfare checklist in section 1(3) of the Children Act 1989. That involves considering all the circumstances of the case, including X's own vulnerabilities and needs. The application involves a clear interference with the right to family life, pursuant to Article 8 of the European Convention on Human Rights, such that the court must satisfy itself that the proposed plan is both necessary and proportionate in order to protect X from the risks to which the court finds she is exposed.

Discussion

70. This has been a difficult and distressing case. The pain this mother has suffered is plain for the court to see. The difficulties that she has faced since her arrival in the United Kingdom have been repeatedly referred to: they are real, and they are not in dispute. If, as seems clear to the court, she has not had the extent of the help that she has had since late 2017 before that, this is a further difficulty with which she has had to contend. The static difficulties, such as her learning disability, her lack of language, her mental health, her lack of understanding of UK norms, the distrust she brings with her from Africa of authority and the loss of her husband are all misfortunes that have been inflicted on her. They have contributed to the seeming inability of professionals to bring about any change until 2018. Care proceedings are not about blame at all, but none could attach to M in any event for any of this.
71. Separately, however, there have been some very concerning developments. Her two sons are very dangerous young men:
- i) C came to the attention of the police first, before he was 12 years old. By the time he was 15 he had broken somebody's jaw in the city centre at 3.30am, was involved in an affray, and the police then concluded his parents had little or no control over

him. Indeed, an assault by him on his father was the next police involvement. By the following year there was a complaint of repeated rape and the allegations escalated to the stabbing with a knife of a boy spending the night with B in the family home, where X was. Having been remanded in custody for nine months, he was given a suspended sentence at court;

- ii) A, aged 20, was in receipt of child harbouring notices on young females frequenting his home and being plied with drink. He has a formidable history of reported sexual assaults, and in October 2018 was arrested after his girlfriend was stabbed in the thigh, thought to be related to his gang related behaviour;
- iii) the fact that each belong to a named known gang is not disputed;
- iv) related to these issues are drug distribution and use, child sexual exploitation, sexual and physical violence, and domestic abuse. Weapons are a consistent feature in reports. It is difficult to argue with Mrs Spenceley's characterisation of them as having been vulnerable children who have become dangerous adults.

72. Separately, the behaviour of the girls is almost as concerning:

- i) probably beginning as victims of child sexual exploitation, the intelligence suggests that they are now procurers of it;
- ii) this is long-standing: when D was 14, she saw her sister having sex with a man in exchange for money and a mobile phone;
- iii) they, with their brothers, are all implicated in one of the main police operations in this city that has reached the national consciousness and resulted in a full enquiry.

73. Furthermore, despite the messages that the girls sent via the mother during this hearing, none of them have engaged in this litigation involving their younger and vulnerable sister to help either her or their mother, who they must know is utterly distraught by the turn of events. Whatever they think of the local authority, the court or anyone else, they have simply failed to do anything to help their sister or their mother, still less reassure professionals that they will not bring any of their issues to a home where X is living. The circumstances in which D's text and B's letter came into being raised several questions, but their conduct in failing to engage speaks far more eloquently and forcefully than their words. Each of the four children, in their own way, pose very considerable risks to any 10-year-old girl. However, this is not any 10-year-old girl: it is their sister. The harm to which B and D have come is self-evident. X's level of vulnerability places her in an altogether different league of risk of serious harm.

74. Whilst there is undoubtedly a history of neglect, despite the PAMS assessment of the mother's abilities as a carer, it really is this serious risk that is wholly unassessed but quite apparent from the history. The fact that four of the mother's five children have taken this course in life is a factor that is very worrying indeed. However, to turn to the central issue, it is this risk above all that has to be addressed.

75. The incidents that trouble the local authority and Guardian arising from contact are real, undoubtedly in the court's judgment are emotionally harmful, but would ultimately almost certainly fall away were X to go home. It is a clash of cultures, the mother's and the care provided by the foster carer. It is very difficult for M, I accept. However, the incidents regarding washing and hair are nevertheless relevant because they are another window into insight, which is seemingly incapable, despite the clearest instruction and advice, of recognising the harm that she causes. In the court's judgment, it raises a question about

basic parenting that the PAMS assessment did not pick up, as well as the extent of further learning that is required. M's anxiety that the social worker was not told what she had done, in the court's judgment, also reveals sufficient insight that she knew what she had done was wrong, or at least had been expressly disapproved, yet persisted with it despite that knowledge.

76. Therefore, having identified the scale of risk, can it be mitigated? These are these problems:
- i) the principal source of risk are M's older children who are simply not engaged. There is a hope that they might engage after the litigation is over but it is just that, a hope. There is simply no evidential basis in the court's judgment to conclude that they will and, even if they do, with what result;
 - ii) whilst the court does not doubt that M is sincere in her assertion that she will not let her children come to her home, the court does not consider that it is realistic or deliverable:
 - a. it is completely at odds with the culture in which M lives to exclude her children from her home;
 - b. whilst they appear to have stayed away for some time now, there is nothing to give any confidence that they will continue to do so;
 - c. despite what the mother says about being 'bad' and 'liars', sadly that has been the case for many years. Some of this very serious behaviour has gone on directly in M's home. So her acceptance that it is wrong, objectively by any standard including those of the country from which she comes, is not unequivocally given. It is not clear to the court whether M has been trustingly naïve or less than frank but, ultimately, it does not matter because the outcome is the same in that she had failed to protect her children, and X in particular, from these activities in circumstances where that protection was needed;
 - d. although M's network of support has undoubtedly grown, strengthening and improving her confidence, she is still incredibly vulnerable.
77. I found the mother to be an appealing and sympathetic person. Her love for and devotion to X is unconditional and complete. She is totally sincere in that and I have no doubt that it is mutual. What has happened has just brought even more trauma to a life that has already had significantly more than its fair share of misfortune and worse. In reaching that assessment, of course, I remind myself of the remarks of Macur LJ, in *Re A (A Child)* [2014] EWCA Civ 1577, not to judge M solely by reference to her performance in the highly charged atmosphere of the family court. That has been at the forefront of the court's mind in reaching its conclusions about M.
78. However, despite the progress that this mother has made, and the positive support from the charity, Families in Care and KSW, the professionals who have had full access to all the information are unanimous in their view that the risks that are posed to X in M's care cannot be managed to ensure her safety. ISW who was, and remains, so sympathetic to M (to the point of supporting X remaining in her care prior to her removal) even after consideration of all of the additional information from Families in Care and the charity, and despite her powerfully pointing to the cultural need that X has for contact to maintain her African culture and heritage, she cannot support a return to her mother.

79. The court is satisfied that the evidence in this case fully complies with the requirements identified by the Court of Appeal in *Re B-S (Children)* [2013] EWCA Civ 1146. The realistic options for future care, a return to her mother under a child arrangements order and supervision order as pressed on the court by Mr Hunter, or a care order on the basis of long-term foster care, have been comprehensively analysed and the advantages and disadvantages of each carefully considered by the local authority, the Guardian and, indeed, ISW. I accept their analyses.
80. The importance of contact cannot be overstated relating, as it does, not only to the maintenance of the relationship that X has with her mother but to language, culture including diet, and religion.
81. The local authority proposed reducing the current level of contact four times one hours per week, to monthly contact. ISW was clear that that was insufficient, but noted that by week eight, the local authority plan will be to reduce contact to fortnightly. That is, in fact, the level that she would support, as does the Guardian, the latter including church within one of those contacts if it can be achieved safely. In the circumstances, the local authority agrees to a review at week eight, in the hope that it can be established that fortnightly is the rate that best meets X's needs, probably for 90 minutes, albeit the Guardian suggests two hours. M obviously seeks as much contact as possible.
82. If that were the extent of the issue, it would require little further comment, because the court can do little more than set on track contact following the making of a care order. It is for the local authority to review and make the arrangements that best suit X as she adjusts to her changed status post the making of an order.
83. However, all the parties can see the significant value of some contact occurring in church which, in the widest sense, will meet X's needs. For her part, ISW could see little risk to X in a church setting which she regarded as a safe place where there would be several protective factors, including other church members and elders, as was clear from the meeting convened by Families in Care. She questioned what the risk would be but, it seemed to the court, recognised that if the siblings did turn up (and the boys tended to when there were parties at church) and on being pressed by Mrs Spenceley came around to the view that:
- i) there was a risk that X could be drawn into difficult situations;
 - ii) there was no reassurance that the siblings would not turn up;
 - iii) they remained an unassessed risk;
 - iv) there was currently no proposal from the church as to what safety might look like.
84. I was also reminded that each of the charity and Families in Care have assessed that the risk of contact with the older siblings is simply too great to be possible at the present time.
85. I agree with that analysis and conclude that the Guardian's approach is the correct one. Ideally, if it can safely be promoted, one of the contacts should be in church because of the value it will bring in the wider sense to X as a person as well as her identity. However, for that to happen, then:
- i) there must be a robust risk assessment;
 - ii) there needs to be careful assessment of a proposed supervisor from whichever organisation is prepared to put somebody forward;

- iii) the arrangements would need to be controlled by a typed written agreement and safety plan signed and understood by all; and
 - iv) to ensure that X is safeguarded, the older siblings will have to engage with professionals, and the process of risk assessment.
86. In so saying, whilst ISW's suggestion that church ought to be a safe place has obvious merit, it is the scale and breadth of risk that is posed by the older siblings, their associates and their activities that is so difficult to manage. It is not suggested that they would directly physically harm X. The risk is of being caught up in the cross-fire of their behaviour, or the behaviours of others with a grudge, which might be directed towards them.
87. Like the Guardian, I very much hope that, following the conclusion of this litigation, those older siblings demonstrate willingness to make amends and engage with the professionals to afford their younger sister the opportunity of attending church with their mother, notwithstanding their signal failure to do so to date.
88. In reaching the sad conclusion that the court must on this evidence that the only order that will safeguard X in the future, and which meets her needs in a proportionate way, is a care order with a plan of long-term foster care, the contact which I have outlined as a starting point.
89. I immediately acknowledge the distress that this will cause to M. That said, it is X who is the court's paramount concern and the court has unhesitatingly reached the view that this is the only order which can ensure her safety. I very much hope that, notwithstanding the disadvantages of foster care, it will ensure her safety in the wider sense and give her the opportunity to maintain her relationship with her mother, promote her cultural heritage and achieve whatever potential she may have in life in due course.
90. In concluding and wishing X and her mother well, I extend my thanks to the advocates and the professionals who have all, in my judgment, carried out their work with the utmost sensitivity in this case.

End of Judgment

Transcript from a recording by Ubiquis
291-299 Borough High Street, London SE1 1JG
Tel: 020 7269 0370
legal@ubiquis.com