

IN THE FAMILY COURT SITTING AT LUTON

Neutral Citation Number: [2024] EWFC 388 (B)

Decided on: 06/12/24

Before:

HIS HONOUR JUDGE NEWPORT

Name: Re BE (Care and Placement)

Between:

Central Bedfordshire Council

Applicant

-and-

(1) Mother

(2) Father

(3) BE (by his Children's Guardian)

Respondents

Samuel Wallace (instructed by Central Bedfordshire Council) for the **Applicant**

Ana Carvalho-Gomes (instructed by Family Law Group) for the **First Respondent**

The **Second Respondent** did not appear and was not represented

Gary Noble (instructed by Machins Solicitors) for the **Third Respondent**

Hearing dates: 4-6 December 2024

APPROVED JUDGMENT

This judgment was handed down in court on 6 December 2024 and uploaded in anonymised format on 10 January 2025.

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 and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court.

His Honour Judge Newport:

1. This case is about BE. BE was born on 19 October 2023 and is just over a year old. He is the much-loved child of the parents Mother and Father. BE isn't in the court, but he is still the most important person that I must think about.
2. Mother knows everybody by their first name, and I will do the same in this judgment. Her lawyer is Ana Gomes. Mother has been helped by Beth, her intermediary. They have helped me make sure that Mother understands what is going on and to take part properly. Ana has put Mother's case clearly and firmly. Mother's mother ("Grandmother") has also been in court with her.
3. Father isn't at court, and he doesn't have a lawyer anymore. He hasn't provided any written evidence.
4. The local authority lawyer is Sam Wallace. The local authority knows that Mother loves BE more than anything. She has tried very hard. They say she can give BE a lot of love, but she isn't able to give him the care that he needs. Children grow up very quickly. The local authority says that the only option for BE is to be adopted.
5. BE has a children's guardian. Her name is Khadeja. Her lawyer is Gary Noble. Khadeja agrees with the local authority. She too thinks that adoption is the only option for BE.

Decision

6. Mother loves BE more than anything. I think she has tried really hard to do everything for him. Sadly, if BE returns home, I think he will be at risk of significant harm from Father and from the parenting he is likely to receive. I do not think that Grandmother or professional support can support Mother enough for her to be able to care for BE. Mother needs 24-hour help. I do not think that there is any other option for BE other than adoption.

Background

7. This case began in 2023 when midwives became concerned about Mother's pregnancy because of her own difficulties. They were also concerned about Father and the family home being overcrowded. When the local authority did their first assessment, they became concerned about Mother drinking too much and about what happened to Mother when she was little. They had reports about Mother arguing with her mother Grandmother, drinking too much, and being taken to hospital due to her mental health. Mother was found on the A5. She has threatened to kill herself. In 2022, arguments with Father began.
8. BE was born early. He stayed in the hospital for babies for almost a month. The hospital was worried that Mother and Father did not understand what having a premature baby meant in terms of handling and caring for him. Mother was heavy handed sometimes and didn't like the nurses stepping in. BE's clothes smelled of smoke. Father didn't visit for days and when he did, he would shout at hospital staff. BE went home in November 2023. Mother and Father admitted to drinking alcohol after BE was born. They were told to stop. They agreed that Grandmother would be with Mother at all times but that didn't always happen. They didn't always follow medical advice.
9. Things became difficult during a visit on 23 November 2023. Father was heard shouting rude things and Mother said she would kill herself. Father was very angry. He wouldn't let the social worker pick BE up. He was aggressive and intimidating. He said that Mother was very drunk the night before when she was looking after BE. She had called police. Grandmother said that Mother was drinking neat vodka and that she, Grandmother, couldn't cope. Mother bought more alcohol after taking Grandmother's credit card. Mother was locked out and slept in the shed. Father did not think this would affect BE. Mother later told the social worker that Father was drinking more than he had said. She said that he shouts a lot but doesn't hurt her. He said things like *"I bet you enjoyed being raped"*.

10. Mother, Father and Grandmother signed a written agreement with the local authority. It is a bit like a contract. They promised not to drink or argue when BE was in their care. Father said he wouldn't stay overnight, and Grandmother agreed to be present at all times with BE. He was then made subject to a Child Protection Plan. Father did not take that well. He was very abusive to the social worker and team manager. The local authority say that bottles were not being cleaned properly, Father and Mother were not keeping the charts properly and did not check BE's temperature as often as they should. At the end of November, Grandmother said that she had not always supervised Father with BE, as she said she would. Father was asleep in the house. When he was asked to leave, he said the social workers were toxic feminists and asked if they had been hit by their boyfriends.
11. The case came to court on 29 November 2023. The Justices decided that BE should be placed into care. There were more court hearings in 2024 until this final hearing before me. The most important of those hearings was on 3 September 2024 when Her Honour Judge Gargan found threshold to be met.

Issues

12. I have to decide whether BE should return home to Mother's care or be placed for adoption. I also have to consider contact if BE is placed for adoption.

Legal Principles

13. The law tells me what I have to consider. The first part is what lawyers call "threshold". It is what is said to have gone wrong with parenting and where the risks are to BE. A very senior judge said it means there must be actual or likely harm, it must be significant, and it must be due to parenting that is not reasonable.
14. The local authority has to prove what they say. Mother does not. The test isn't the same as in the criminal courts. It is what is "more likely than not". I can only decide that on evidence or inferences from that evidence. I cannot do so on what I think might have happened. That is called speculation. I have to consider all the evidence not just parts of it.

15. A risk of harm means a real possibility than cannot sensibly be ignored. It doesn't mean making assumptions about behaviour. I have to think about type of harm that might occur, the chances of it happening, the consequences and what we can do to reduce it. We all have to remember that society will diverse standards of parenting. If someone tells me lies about one thing, it doesn't mean that all their evidence is a lie. A lie isn't proof that someone is guilty. The evidence of a parent or carer is very important. When I consider how good someone's evidence is, I must remember that giving evidence is difficult and I must not place too much weight on how a person gives evidence.
16. Another very senior judge says we have to consider parenting with support. Parents with learning disabilities are not prevented from caring for children because of their learning needs and must be treated and assessed fairly.
17. I have to think about BE's best interests throughout his life. To do that, I have a welfare checklist to use. It is a longer list when adoption is being considered. Any orders I make must be necessary and proportionate. BE and his parents have Article 8 rights. I must not make orders if not making them is best for BE. Children should be brought up by family unless their welfare makes that not possible and where there is no practical way for a local authority or others to provide the support needed.
18. I am helped by cases decided by the senior courts in this country and in Europe. Adoption is extreme and is a last resort. Courts can only allow adoption where "*nothing else will do*". I have to have proper evidence from the local authority and guardian to look at all the realistically possible options. I must intervene in family life as little as possible. The European court says that family ties should only be cut in very exceptional circumstances. It is not enough to show that there is a better option for a child.
19. Mother does not agree with adoption. I can only put her position to one side if I think BE's welfare demands it.

Evidence

20. I have a big bundle of evidence on this case. I have read it all. This includes assessments by Frank Furlong, Communicourt and an initial assessment of Grandmother.

Jamie

21. Jamie Barton is an independent social worker. She assessed Mother's parenting using Parent Assess. That is the type of assessment that is fair to parents like Mother. Jamie does not think that Mother can look after BE and keep him safe. She doesn't think that Mother would ever hurt BE on purpose. Mother is vulnerable and doesn't always understand what babies need. Mother isn't very confident and is very anxious. She will struggle with someone else taking the lead. Mother needs 24-hour supervision. Jamie doesn't think Grandmother can do that. Mother isn't able to keep up with learning the new skills needed to raise BE. Mother makes unsafe decisions in her life and doesn't listen to Grandmother. She also struggles to step in when Mother does that. This is a real problem when it comes to Father. Mother has a fixed view that he is a good dad and loving partner. Mother has impressed Jamie with some of her learning. Father has refused to meet with Jamie. Mother cannot see what safe relationships are. Because of that, no further work would help.

22. Jamie came to court to tell me about her report. She was sad to her that Mother and Father are back together. She is really worried about the relationship. The emails are shocking. It is disgusting that any victim survivor would wish that level of abuse on anyone. Jamie isn't worried about Father being physical but rather how he makes people feel and his views of women and professionals. He isn't safe. Mother is very vulnerable and loves him. Nobody else could be BE's main carer. Jamie didn't assess Grandmother, but she did have a lot of information about her. Grandmother gives advice to Mother. What she does with it depends on how she is feeling. Jamie doesn't believe that Mother sent the emails. Mother drinks when she doesn't feel great and doesn't think ahead. If she stopped drinking, it wouldn't change her recommendation. Things might be different if Mother had a positive relationship with a partner. Grandmother has lots of strengths but struggles to set Mother straight. She is passive.

Mother would have found Faces overwhelming. She struggles to learn and remember things. Mother and Grandmother both makes excuses for Father. Mother sees the best in him, but Jamie doesn't. His behaviour is completely wrong. She questioned whether Mother really wanted separation. Mother needs someone to model how to parent and explain it to her.

23. Jamie was an excellent witness. It is obvious that she has been really fair to Mother and wanted her to succeed. Her evidence is balanced, and her assessment of Mother's parenting is thorough.

Katie

24. Katie Lee is the social worker. She is concerned about the same things as Jamie. In her statements, she thinks Mother has been impacted by Father's abuse and that she has attempted to hide the relationship. She is very worried about the emails and Mother returning to the relationship after calling police. She describes Father as manipulating Mother and Grandmother. His views of women raise serious concerns about domestic abuse. Mother's drinking worries Katie, as does her mental health. Father is completely unassessed as he wouldn't engage.
25. Katie gave evidence on the screen. She told me about the work that has been offered to Mother and what she has, and hasn't, taken up. She has only met Father once, and described him as being very angry, derogatory and directing angry comments towards her. Father described things as all being Mother's fault. Mother and Grandmother went along with that, leaving Katie concerned about how Mother would feel. Katie is very concerned about how Mother interacts with BE, making it clear how much support she needs. Katie accepted she did not provide written lists of the support available. The social workers before Katie were concerned about Grandmother's ability to be protective and to intervene. A full assessment isn't necessary as the viability assessment is thorough and Grandmother hasn't challenged it. She herself was concerned about Mother's mood. She does not think that Mother sent the emails. When domestic abuse work was offered, Mother was clear that there was no abuse in her relationship.

26. Katie was a helpful witness. She was hesitant at times and seemed to struggle with the sound, but I found her evidence was focused and consistent. She stood up to tough questions from Ana.

Mother

27. Mother is, of course, BE's mother. She accepts a lot of what the local authority says but not all of it. She doesn't think that drinking and her cognitive ability means she can't prioritise BE or that she prioritises Father. She has written about the work she has done to help her and BE. She is back together with Father and has told us why. In one of her statements, she agreed that he was a risk.

28. Mother gave her evidence with Beth's help and breaks between each lawyer's questions. She does not remember anything in the police document. She said that she had sent some part of the emails, the rest was Father. They wrote them together. Father did most of the typing and read some of it back before sending. They sent messages from a park and the pit in Dunstable. Mother told Father not to say anything nasty. She is in the middle of trying to get BE back. He didn't listen. She said she is in a relationship with Father. There is no abuse. Mother agreed with Sam that she needs support from Grandmother with routines, dressing, feeding, school and play. She described Father as being very good and a great support. He showed her how to look after BE. Asked about social workers visiting, she said "*that is a hard one*" and that she would agree if it gets BE home. Father would not be okay with it. He loves BE and should be given a second chance. Mother told Gary that she couldn't remember what happened on 4 July 2024 as she was drunk.

29. Mother tried her best. She came alive when talking about BE. She struggled to remember some important events. She gave good evidence about everything other than Father, not having a bad word said against him. She was quick to defend him and to try to explain his actions.

Khadeja

30. Khadeja Samsuddin is BE's guardian. She has written two reports. In her first report, she tells me about her meeting with Father, his behaviour and how Father and Grandmother did not support Mother going into a residential unit. Father sold Khadeja about Mother's drinking. Mother told Khadeja about the horrible things Father said to her. Mother said she didn't need help with her mental health and was attending P2R. Khadeja spoke to Grandmother and thought she did not have insight into risk.
31. In her second report, Khadeja told the court about the messages from Father. She felt that Mother prioritised her relationship with Father over BE. Mother engaged well with her. She gave examples of Father being controlling and coercive towards Mother. Khadeja took Mother through Jamie's assessment of her and said that Mother was missing the point about Father. She was frightened of him. She did not engage with adult services. She also spoke to Grandmother. Khadeja agreed with Katie's statement about the welfare checklist. She says there are no safe alternatives for BE.
32. Khadeja gave evidence from a computer screen. Her concerns have increased. She described Mother as "*so vulnerable*". She said she would be blunt in her evidence. Mother loves BE dearly but cannot protect him from anger and abuse, nor can Grandmother. She told me about her home visit. She asked Mother and Grandmother to wake Father up and they were petrified. She asked how BE would know what makes his father angry. Grandmother has not been open and honest. She has breached the working agreement and undermined her daughter. She doesn't share the local authority's concerns. She was laughing when Father was threatening to the social worker. She still thinks that Father is a lovely man. A further assessment would not give the court anything. Grandmother does not encourage Mother to take up support and put her off going to a residential placement. Mother will not say anything negative about Father. He was present when Jamie visited and should not have been. Mother says that she doesn't need support and isn't the victim of abuse, but her relationship with Father is extremely abusive. Mother doesn't understand domestic abuse. Father manipulates her. She needs to understand what a healthy relationship is.

Khadeja hasn't listed support as her main concern is the risk. Support cannot be considered until the risk is accepted.

33. Khadeja was a forthright and direct witness. She was very clear in her recommendation and her reasoning. I accept her evidence.

Submissions

34. The lawyers have told me about their cases and why I should agree with them. They have done so carefully, sensitively and thoroughly. I thank Sam, Ana and Gary for the help that they have given the court. Can I also thank Beth for helping me and Mother understand each other.

Analysis

35. I have read and listened to the evidence very carefully. This is my analysis of it, my decision and my reasons.

36. Mother has additional needs herself. She has global developmental delay, PTSD, anxiety and depression. Grandmother is her carer. I have read about Mother's childhood.

37. Mother accepts that threshold is met. Things haven't always gone well, and she has not got things right. I have read the findings of Her Honour Judge Gargan at page A71. Mother accepts that she and Father have been angry towards each other and professionals. That has affected their ability to accept support. That has caused BE harm. Mother accepts what the local authority says about her alcohol use and how that is harmful. She accepts that there is a risk of significant harm and emotional harm due to hers and Father's behaviour. Father has not given any evidence. Mother doesn't agree that her drinking and cognitive difficulties have impaired her ability to prioritise BE.

38. Father is an important part of this case. Mother and Grandmother say that the local authority is wrong about him and that he is not abusive. Whether or not I accept the local authority's picture of Father is likely to influence the weight I can give the assessments in this case. In her evidence yesterday, Mother described Father as "*A brilliant dad. I couldn't ask for anyone better. I feel safe around him. He is very protective and doesn't let anyone take advantage of me*". This is different to her statement in August and her report to police but the same as what she has said to professionals.
39. What Mother says about Father is not supported by the evidence. Father doesn't have criminal convictions, but very experienced and robust professionals tell me of their experiences working with him. He is aggressive, angry, abusive and intimidating. Jamie could not do part of her report because he was unexpectedly in the house. Khadeja told me about how Mother and Grandmother were petrified of Father when she asked them to wake him up. That means they were very scared of what he might do. Mother's positive view of Father is further undermined by the emails last week. They are abusive, intimidating, threatening, racist and misogynistic. Mother is none of those things, but Father is. Mother said she only sent part of these emails as she doesn't know the long words. I was struck by Mother's evidence about how she told Father not to send them, pointing out how important BE was, yet he did so. It was clear that these emails came almost entirely, if not entirely, from Father and he was not put off by Mother asking him not to or motivated by helping her get BE home.
40. The emails sent last week were sent over 5½ hour period at night and in the early hours of a cold November. As I understand it, it would mean them walking 30-40 minutes between venues and sending emails as they went. That is unlikely. Even if true, it shows the extent of the relationship now. I am left with two worrying conclusions. Either Mother doesn't see Father for what he is at all, or she does know but will not accept it or stand up to him. Both are very risky for BE. Grandmother does not seem to be any different. The papers contain many examples of them minimising, denying or trying to explain Father's behaviour.
41. Mother said that she cannot remember what happened on 4 July 2024 because she had been drinking. We know what happened because we have a police report. Mother

telephoned from a bus at 2.38am because she was being abused by Father, and they had both been drinking. The report says there have been “many verbal domestics” between the two. It is plain that drinking led to the events and a combination of that and Mother’s cognitive difficulties, and more likely than not, her complete lack of insight into healthy relationships, led to her prioritising Father and not putting BE first.

42. The local authority evidence and Mother’s evidence show that Mother prioritises Father. As Gary said, she undoubtedly loves BE, but she also loves Father. She rushes to defend him even when that defence bears no resemblance to any of the evidence we have. Her description of his emails and her attempt to understand his frustration lead me conclude that Mother does prioritise him, to BE’s detriment. I have no doubt that she loves BE very much. She told me she would do anything for him. Sadly, it seems that is only the case if it fits with pleasing Father. Her evidence yesterday was a textbook response from a victim of controlling and coercive behaviour. It is likely that Father tells Mother what to do and she does it.
43. I find extra allegation 1 proved. Sam is not asking me to consider allegation 2 anymore. That is already covered in Her Honour Judge Gargan’s findings.
44. As threshold is met, I turn to welfare. It is for the local authority to show that their care plan is in BE’s best interests and that there is no other option for him. The evidence is overwhelming and best put by Khadeja in her evidence in chief. Each point she made goes to the heart of BE’s welfare and is well supported by evidence.
45. Mother’s relationship with Father and the risk of significant harm that he poses is a big part of this case, but it is not the only part. Father’s behaviour is set out by each of the professionals. BE will not know at such a young age what sets Father off. He is highly likely to witness aggressive and vile behaviour if one of the many triggers for behaviour occurs in front of him. Father was not able to put BE first even when told not to send emails by Mother. The risks to him are greater as Mother cannot or will not see that Father’s behaviour is wrong and Grandmother cannot stop it. She does not know what a healthy relationship looks like. That isn’t going to change if she thinks Father isn’t abusive.

46. Mother does not drink as much or as often as she did. She has done that by herself. That is good. It explains why P2R have discharged her. She drinks when she is feeling down. The evidence says that links with her cognitive ability. She has threatened to kill herself before.
47. Mother accepts that she needs Grandmother's help with basic care skills. She told me what she would like Grandmother to help with yesterday. I also have Katie, Jamie and Khadeja to tell me about Mother's care of BE and how his needs and her abilities are likely to develop at a very different pace.
48. I also do not find that less than full compliance with the Good Practice on Working with Parents with a Learning Disability undermines the local authority's case. It is correct that there is no list of support for Mother herself or BE. The professionals have tried to help Mother with referrals and meaningful social work. I have to consider what the support is and whether it could make things better for Mother and BE. Each professional has told me about the support they have offered and those professionals before them have offered. Mother does not want help from adult services. They are probably best placed to help her. She sees Grandmother as her support. Other work is only going to work if Mother accepts the risk. Even if she did, Father's involvement and the high likelihood that they will stay together mean that any work done about relationships will be undermined by Father.
49. Ana says that the local authority has not assessed Grandmother properly. There is no full assessment of her, but the assessment we have is detailed. It is supported by Jamie and Khadeja's reports. The weaknesses in what Grandmother can offer are such that a full assessment would not help the court. Grandmother has not challenged the assessment of her. I do not agree that a lack of full assessment undermines the local authority's case.
50. I accept the evidence and the reports of the local authority and guardian. They tell me about the risk of harm to BE from Father, the relationship between the parents, Mother's drinking and the lack of insight of the family. I still have to ask myself what the risk of harm is, how likely is it to happen, how serious would the consequences be

for BE. The evidence shows what happens when Father controls Mother and when her mood is low, and she drinks. It shows how she and Grandmother respond. These risks cannot be reduced as things stand and there is no realistic chance that will change. Mother often blames herself when things go wrong.

51. BE is just over a year old. He is too young to tell me what he wants. I can safely presume that he would want to live with his family in a safe and loving household. He has a warm and loving relationship with Mother and Grandmother. Grandmother has explained BE's identity. BE was born early. He has needed more help with his health and meeting early milestones. He has not been injured by Mother's handling of him. BE is too young for school or nursery. He will rely on carers to meet his needs as they develop. Katie does not think that Mother will be able to do that, even with help. BE had a difficult start to life following an early birth, going home and then being taken into care. He has been well looked after by his carers. Whoever looks after him will need to understand attachment and trauma.
52. BE has suffered significant harm. That is set out in the court's threshold findings. He is at risk of further significant harm. A further example of risk from Father is in what he said to Khadeja on 11 July 2024. He suggested that Mother would put her life at risk to have a home birth. Work done already is not meaningful because of Father's influence and he is highly likely to undermine any support or progress that Mother might make.
53. BE is loved by his mother and grandmother. He sees them for contact and clearly enjoys it. Father has shown some skill with parenting, but BE hasn't seen him for some time. I have heard about aunts and uncles, but they have limited involvement with BE.
54. The only options before the court are return to Mother or placement for adoption. Grandmother was negatively assessed at IVA and has not challenged it.
55. Living with Mother would mean BE growing up in his birth family. They love him more than anything. He would have his sense of identity. However, BE would also be

at risk of significant harm in the home from which he was removed. There is no realistic prospect of change in this case.

56. I am not asked to consider long term foster care or a Special Guardianship Order. Neither would be appropriate in this case. BE is only one year of age. No family members have been positively assessed.

57. Adoption has the advantages of permanence, finality and stability. BE would be safe from harm and would grow up in a forever family especially chosen for him by the local authority. It is not a panacea. Placements can break down, and if that happens, it can be harmful. Adoption severs the ties with birth family.

58. Considering everything together, nothing else will do for BE other than adoption. I am not satisfied that Mother can meet his needs, with any level of support from professionals or family. Father is a huge risk to BE and neither Mother nor Grandmother can see it or manage it. There is no prospect of change without that crucial insight. There are no realistic family options.

59. I will therefore grant a care order and placement order for BE. I approve the care plan as amended in court. I am satisfied that doing so is a lawful, necessary and proportionate interference with BE's Article 8 rights. His welfare requires me to dispense with his parents' consent.

60. I accept the local authority's evidence and position regarding post-adoption contact. It is not safe if Mother is in a relationship with Father. If she is not, a risk assessment will be needed.

61. I have written this judgment in language that I hope Mother can understand. I can provide the cases that I refer to in formal terms if required.

62. That concludes my judgment.