

IN THE HIGH COURT OF JUSTICE  
FAMILY DIVISION SITTING AT LIVERPOOL

Case No. LV24C00404

Neutral Citation Number: [2024] EWHC 2680 (Fam)

Courtroom No. 25

35 Vernon Street  
London  
L2 2BX

Tuesday, 23<sup>rd</sup> July 2024

Before:  
HIS HONOUR JUDGE PARKER  
(Sitting as a Judge of the High Court pursuant to section 9(1) Senior Courts Act 1981)

B E T W E E N:

A Local Authority

and

A Mother

MR SAMPSON KC & MS JOHNSON appeared on behalf of the Local Authority  
MR ROWLEY KC & MS HUGHES appeared on behalf of the Respondent Mother  
MR CHRISTIAN appeared on behalf of the Child through the Guardian

JUDGMENT

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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..*



HHJ PARKER:

1. The child appears through the Children's Guardian, Miss Reil and is represented by Mr Christian. The Local Authority is represented by Mr Sampson KC and Miss Johnson. The Mother is represented by Mr Rowley KC and Miss Hughes.
2. The Local Authority has made the following applications;
  - a) a direction pursuant to Rule 14.21 of the Family Procedure Rules 2010 that the father, without parental responsibility, need not be given notification of the intention to place the child for adoption,
  - b) for a declaration pursuant to the inherent jurisdiction that the Local Authority need not assess nor consider placement with the paternal or maternal family of the child, and
  - c) for a declaration that the Local Authority need not notify the Pakistan High Commission of the appointment of a guardian, under Article 37 of the Vienna Convention 1963, to which both Pakistan and the United Kingdom are signatories.

Those applications were made on 8 July 2024.
  - d) In addition, the Local Authority also applies for permission to withdraw the application for a care order which was made in April 2024.

### **Background**

3. The mother and father are both Muslim and Pakistani. They had a sexual relationship outside of wedlock. The child was born as a consequence. The father was married to another woman. The putative father was at hospital when the mother gave birth.
4. The mother's case is that, in her culture it will bring a large amount of shame to her family, that she has had a baby out of wedlock. She maintains that both she and the child are at risk of death if her family were to find out about the child. The mother's case is that she found out that she was pregnant at approximately 30 weeks, having had an MRI scan for other health reasons. She maintained that she was using contraception. When she told the father that she was pregnant, he told her that he was married and had four children and a wife in Pakistan. Initially, the mother said that the father said he would arrange for the mother to give birth in Pakistan, and then a member of his family would care for the child. However, she said that she later found out that the father had arranged for her to have an abortion. When she found out about the pregnancy, it was too late for her to have an abortion.

5. Even though she resides with her mother, father, and siblings she told them that she was working away from home for a period of time so that she could give birth. As she was unable to tell anyone about the pregnancy, all visits and correspondence were done through her GP and if letters were sent to her, they were sent on the pretence that it was about other health matters.
6. Since birth, the child has been placed with foster to adopt carers. Initially the mother refused to register the child's birth, she was so concerned about putting her information on the document. However, subsequently she was persuaded to do so. The mother is due to get married in the coming months. If her new husband were to find out that she had already had a child before they were married, this could also pose a risk to her of honour-based violence she said.
7. The mother and the putative father signed a Section 20 agreement with the Local Authority. The mother sought to relinquish the child for adoption. The father also agreed that the child should be adopted. When giving his agreement, the father declined to give any information as to who he was, however he signed the Section 20 paperwork with a single name.
8. Hitherto, the mother has declined to provide further details of the paternal family including the father, and to provide any contact details.
9. I made an order on 15 May 2024 in the following terms. Paragraph 10:
  - “The first respondent mother shall by 4pm 31 May 2024 file and serve a statement addressing;
    - (f) Details of the child's putative father.
    - (g) Details of contact with the child's putative father, including the amount of time and when she has been in contact with him exhibiting all relevant texts, emails, messages.”The mother has not complied with that order.
10. The Local Authority accept the mother's case that she believes that she is at risk of honour-based violence, or, to use Mr Rowley's phrase, “she is in mortal danger from her family if they find out about the birth.” The Local Authority say that the mother has been consistent in setting out that belief. Her actions pre-birth were also consistent with that belief. They invite the Court to grant them declaratory relief to relieve them from assessing or considering placement with the maternal family. All parties agree that the declaratory relief should be granted. There is no effective challenge to the mother's account on that risk. I agree.
11. The Local Authority's case is that it has no sufficient information from the mother to enable it to contact the father in order to consult with him about the plan for adoption, or to carry out

any investigation or assessment of an paternal family members. The Local Authority in light of the risks raised had issued proceedings, as the mother was then not only refusing to register the birth, but also did not want to appear on the birth certificate at all. The Local Authority felt that she needed protection. The Local Authority now accept that they could have applied to complete the birth registration pursuant to declaratory proceedings. In any event, care proceedings now no longer fit the bill, and the risks do not require ongoing care proceedings. They therefore invite the Court to grant them permission to withdraw the application for a care order. That is agreed by the mother and the Children's Guardian. I also agree.

12. In addition, the Court is invited to exercise its discretion to disapply Article 37 of the Vienna Convention of 1963, in line with the decision of Mr Justice Keehan in *Re O A Child: The Vienna Convention on Consular Relations 1963* [2021] EWHC 908. At paragraphs 31 to 33, His Lordship said this;

“In the premises does Article 37b impose an absolute and binding duty in all circumstances to notify a foreign authority were a Court appoints a guardian in respect of it's nationals. In my judgement it does not. In the vast majority of cases where Article 37b is engaged the Court will have no difficulty or face any impediment in complying with the terms of the Vienna Convention. In giving the requisite notification to the foreign authority. There will be rare cases, such as the circumstances of this case, where it would be wholly inimical to the welfare best interests of the child to give the requisite notice to the foreign authority. The Vienna Convention is not enshrined in our domestic law. The terms of the Convention should ordinarily be complied with, but where to do so would be contrary to the welfare best interests of the child concerned, I am satisfied that the Court may conclude it would not be appropriate to give the requisite notification.”

13. All parties agree that the Court should give that declaratory relief to the Local Authority, on the basis that it may defeat the object of any declaratory relief which relieve the Local Authority from any duty to assess the maternal family if the Court did not. I agree.
14. The issue between the parties is this; the mother's case is set out in three statements: 31 May 2024, 15 July 2024, 23 July 2024. Her case is that she does not want the Local Authority to communicate with the father any further. She has hitherto refused to provide any contact details for the father. Her case is that she has been trapped in a nightmare since discovering her pregnancy. She has sought to do the best for the child, whilst fearing for her life. The line should be drawn and no steps should be taken to notify or contact the father. Only the mother holds parental responsibility. There is no existing family life between the child and the father. The father has taken no steps in furtherance of establishing a relationship and therefore has not acquired rights under Article 8. There is no evidence that the father has any interest in

him or his family establishing any relationship with the child. Whilst the father continued to be in contact with the mother during the pregnancy and was at the birth, the mutual intention communicated to the social worker at birth was that the child be adopted.

15. The maternal family are not a realistic option as they present a mortal danger to the mother and the child. The father is not a realistic alternative. He supported the mother's decision for adoption. He wanted no further involvement. He has played no role in the child's life. He could have made contact with the Local Authority with ease. He could have told members of his family, who could have made their own efforts to engage with the Local Authority.
16. The impact on the mother of notification is severe, as she says the idea of the father being contacted makes her physically ill. She is concerned that the father may react by informing her family that she has had a baby with another male, pretending that it is his. The Court should respect and protect the mother's autonomy to make her own decisions. Holman J in *Z County Council v R* [2001] 1 FLR 365 said this;

“Adoption exists to serve many social needs, but high among them has been historically the desire, or need, of some mothers to be able to conceal from their own family and friends the fact of the pregnancy and birth. So far as I know, it has not previously been suggested, nor judicially determined that that confidentiality of the mother cannot be respected and maintained. If it is now to be eroded, there is in my judgement, a real risk that more pregnant women would seek abortions or give birth secretly, to the risk of both themselves and their babies. There is, in my judgement, a strong social need, if it is lawful, to continue to enable some mothers, such as this mother, to make discreet, dignified and humane arrangements for the birth and subsequent adoption of their babies without their families knowing anything about it, if the mother for good reason so wishes.’

17. The critical features of the case are the cultural and religious norms to which the maternal family subscribe, which leads to the mother facing a threat of serious harm, up to and including death should the child's birth become known. The father's circumstances and background mean that he will have a public face to maintain, which could lead him to disavow the mother and make allegations against her. The mother, who has hitherto been unwilling to disclose any contact information, cannot in reality be compelled. In the case of *X County Council v C* [2007] EWHC 1771, Munby J, as he then was, said this at paragraph 36 et seq;

“In the first place, although one could only speculate as to why the mother should be adopting such a stance, if indeed she is, I would not want to assume that she is acting otherwise than properly by her own light. We take a different view, but for all I can know, she may conscientiously believe that it is not in her daughter's interest to know anything of her father, and who is to say that she might not be right. But what am I to do? The mother has told me herself in court, not in the witness box on oath, but from the well of

the court that there is nothing more she can tell us. There is no reason to believe that she would say anything different were she to be required to go into the witness box and either take the oath or affirm. It would be naïve to imagine that someone, who on this hypothesis, is prepared to lie when addressing a judge direct, is suddenly going to volunteer the truth, merely because she has been put on her oath. And is it to be suggested if she maintains her denial, that she should then be cross-examined, and if so, with what degree of vigour so that the truth can be extracted from her? I confess that I find the idea very disturbing. There is something deeply unattractive and unsettling in the idea that a women in the mother's position should be cross-examined in order to compel her to reveal the name of her child's father. And there is something deeply unattractive and unsettling in the idea that a women in the mother's position should be cross-examined as on this hypothesis, would almost inevitably be the case, for how else is cross-examination likely to elicit the relevant information as to the nature, extent and duration of her relationship with the father. In relation to matters as personal and intimate as this, we should be wary of seeking to open windows into people's souls. And would it, in any event, be right to subject the mother to prime cross-examination on the probably dubious, double hypothesis that she is, at present, not telling the truth, but that if cross-examined, the truth will out. And in any event, where would cross-examination get us? It is possible that the mother would in fact make further disclosures, though I rather doubt it. Suppose, as I think much more likely that she makes no further disclosures of any significance. I might for all I know, be left with a powerful impression that she was not telling the truth. But that of itself, would get us nowhere. Contempt could not be proved unless I was satisfied to the criminal standard, satisfied so that I was sure, satisfied beyond reasonable doubt that the mother was telling lies. An unlikely outcome. And suppose that I was satisfied to the criminal standard that she was telling lies, could it seriously be suggested that she should be punished, even sent to prison, surely not? Punishment would surely be unthinkable. The whole process smacks too much of the inquisition to be tolerable, and it is not to be justified merely because we believe, however strongly, that what we are doing is being done in the best interests of the child.

18. Here again, it seems to me the words of Holman J have a powerful resonance;

“We can reason with someone in the mother's position. We can seek to persuade. But we should not seek to force or coerce.”

How else in this context could one sensibly characterise the threat of cross-examination, or the threat of punishment for contempt. As Holman J said, *Z County Council v R*

“The matter is not to be determined on the say-so of a mother, but we have to face the realities.”

The reality here, in the particular circumstances of this case is, I am quite satisfied, that we have to accept what the mother has told us. It would be wrong to push matters any further.

19. In addition, it is argued that other means of attempting to locate the father would be laborious, risk word spreading of the essential facts, and imperilling the mother and the child.
20. To refuse the Local Authority's application would also delay the confirmation of the child's permanent placement, which could be considerable if the Court then embarked upon the assessment process of the father and or his family, which may potentially involve assessments in Pakistan.
21. The Local Authority's case is that by a fine balance, the Court is invited to grant the declaratory relief to prevent further notification, consultation and any subsequent assessment of the paternal family. The Local Authority has concerns about the varying accounts of the mother. It takes at face value that the father was at hospital when the mother gave birth. There is no evidence that could suggest anyone else was the father. The Local Authority is very clear that the mother's case, on any risk posed by the father, has changed over time.
22. Initially, they say, her case was that he was offering to provide for travel to Pakistan for one of his family members to care for the child. Then it was for the purposes of securing an abortion. Her latest statement however suggests, that when she spoke to him on 8 May 2024 and told him that there was a problem and that the process may now take up to a year, he became angry and verbally abusive and then blocked her. He accused the mother of deliberately stalling, as he could not understand, based on the conversation he had had with the social work manager in December 2023, what the issue was. It was clear that he no longer trusted what the mother said and accused her of either wanting him to fly back, so they could be together, or of wanting to get something from the government linked to immigration. When she did not travel to Pakistan in October 2023, he had told her that she was now on her own in the pregnancy and that if she came after his family, he would come after hers. Furthermore, it is suggested that the father has contact details of her siblings and it would be easy for him to contact her family. The Local Authority asserts that the mother's latest statement cobbles together an explanation for her differing accounts.
23. The Local Authority suggests that the Court has to consider the child's Article 8 rights. It is felt that the father could be pursued without exposing the mother and child to risk. The father knows which Local Authority it is, but he has not been in contact.
24. The Court does not have the power to coerce the mother to provide information about the father. In terms of the practicalities, the content of the most recent statement of the mother is not accepted. It is not accepted that the team manager gave an assurance that things could be done and dusted quickly. Overall, the Local Authority has misgivings about the information



provided by the mother and that which has not been provided by the mother, but it is satisfied that it has sufficient information. That is particularly in light of the fact that the mother's presentation is adjudged to be one of fear. The mother went to great lengths to be in a place of safety to give birth and then in going through this process.

25. The Local Authority accept that it is in an unsatisfactory position. However, the Court made an order in May 2024 which provided for the mother to give details and information about the putative father. Nothing was provided.
26. The Local Authority's position is that there is a sense in which simply asking the question again of the mother is futility. It is accepted that the mother is afraid and that the risk of honour-based violence is real for her. It may be that the father is on the fringes of that. However, they are sure that the father knew that he was dealing with this particular local authority. If they were given contact details for the father they would use them. However, this is a question that has already been addressed by the Court. The mother has given what she is willing to give. The social worker has spoken again with the mother. The Local Authority says that enough is enough.
27. The Children's Guardian's case is as follows; if the Court is satisfied that the father already knows about the Court's application, no order is necessary pursuant to rule 14.21 of the Family Procedure Rules 2010. If the Court is not satisfied that the father already knows, the Local Authority's application for permission not to notify the father should be refused or adjourned at this stage, to allow for further investigation. The Court is invited to refuse to grant a declaration or, in default, to adjourn the application for a declaration that the Local Authority need not assess nor consider placement with the paternal family to allow for further investigation for that to happen.
28. The Guardian invites the Court to adjourn the Local Authority's application for a period of 21 days, to allow for reasonable attempts to contact the father to be taken and to ascertain his position. The adjournment would take the case up to 18 weeks in terms of care proceedings.
29. At the advocates meeting held on 18 July 2024, it was agreed that steps would be taken to ask the mother if she would provide contact details for the putative father in the circumstances prior to the hearing on 23 July today. Failing that the Guardian invited the Court to direct the mother to provide the father's telephone number or contact details forthwith.
30. Mr Christian on behalf of the Children's Guardian said that the key issue that the Children's Guardian takes issue with is notification of the father and the paternal family. She is concerned that there have been missed opportunities to make further enquiries. In terms of

what is possible, the only thing is the mother disclosing the telephone number that she has for the father so that further enquiries could be made. Mr Christian accepts that, while the mother cannot be forced or coerced, she has a number and the Guardian thinks enquiries could be made. The Court could make that decision. It was suggested that the mother had not been formally requested to give the telephone number. If she were, that might have a different response from the mother. However, it was fully accepted that she cannot be forced. Mr Christian accepted that that would be as far as we could go. He argued that the mother's account had been one that had developed over time. Information had been given slowly.

31. The Guardian did not accept the mother's accounts of the conversation with the mother and father around the time of the birth. There was a note of conversation between the father and the team manager, no checks had been made in respect of his identity and there was a simple recording. There was a dispute as to what had been said between the Local Authority and the mother. The mother had not initially identified that there was any risk that the father might contact her family members. Hitherto, no suggestion that the father was a risk. Therefore the Guardian was opposed to the application by the Local Authority and felt that a request of the mother to give the telephone number should be made. If she said no, then it was accepted that we were, as it were, in a cul-de-sac. However, the Children's Guardian was clearly of the view that effort should be made. "If we don't ask," said Mr Christian "we will never know." There would be a difference between an order and a verbal request made by the Court. It was accepted that if the number was given then there was a risk of delay.
32. On behalf of the mother, it was then argued that in analysing the costs and benefit analysis, there was very little evidence to suggest that the father was interested. The father had made no attempt to find out any information about the child, or to contact the Local Authority. That in response to the suggestion that risk posed by the father was a late addition to the mother's case, reference was made to her statement in May 2024, when the mother said this;

"Whilst I do not feel physically at threat from the father, if he was to be contacted, I do fear he would think I am trying to blackmail him and potentially tell the community that I had had a baby by another male and pretended it was his. If he did this I fear my family would find out, see that the dates match with the child's birth and will then kill me. I do not know what the risk would be if the father's family were to find out about the child's birth. I am sure that the father wants nothing to do with the child. He was clearly aware of his birth and thinks that the adoption has already taken place."

## My Decision

33. In my judgement the Local Authority should have the declaratory relief it seeks, such that the Local Authority is relieved from any duty to notify, consult with and or assess the father and or the paternal family.

## My Reasons

34. I have regard to the decision of the Court of Appeal in *A, B and C* [2020] EWCA Civ 41 and the lead judgment of Peter Jackson LJ. At paragraph 89, subparagraph 6 he said this;

“There is no single test for distinguishing between cases in which notification should and should not be given. But the case law shows that these factors will be relevant when reaching in decision.

(1) Parental responsibility. The fact that a father has parental responsibility by marriage or otherwise entitles him to give or withhold consent to adoption and gives him automatic party status in any proceedings that might lead to adoption. Compelling reasons are therefore required before the withholding of notification can be justified.”

35. The father in this case does not have parental responsibility. His name is not on the birth certificate and the mother and father were not married at the date of birth.

“(2) Article 8 rights. Whether the father married, or unmarried, or the relative have an established or potential family life with the mother or the child, the right to a fair hearing is engaged and strong reasons are required before withholding of notification can be justified.”

36. At paragraph 42 of his judgment, Peter Jackson LJ dealt with the existence or non-existence of family life. He said that it

- i. “is essentially a question of fact depending on the existence of close personal ties. *Marckx v Belgium* 6833/74 [1979] ECHR paragraph 31.

The notion of family concerns, marriage-based relationships and also other de facto family ties where the parties are living together or where other factors demonstrate that the relationship has sufficient constancy.

*Kroon v Netherlands* 18535/91 [1994] ECHR 35.”

37. As to potential relationships in *Lebbink v Netherlands* 45582/99 [2004] ECHR 1418, the Court stated at paragraph 36;

“Where it concerns a potential relationship which could develop between a child born out of wedlock and its natural father, relevant factors include the nature of the relationship between the natural parents and the demonstrable interest in and commitment by the father to the child both before and after its birth.”

38. Then at paragraph 44 he said:

“So factors that may indicate the close personal ties that constitute family life, though their absence does not automatically negative its existence, include marriage or a marriage-like relationship, co-habitation, length of relationship, intention to found a family, demonstration of commitment by having children together, demonstrable commitment to the child before and after birth. In cases of undisclosed pregnancy and birth, the father will have had no opportunity to demonstrate commitment to the child and the focus will inevitably be on other factors and a counter-factual assessment of the likely position that the fact be known.”

39. In this case, the only evidence before the Court is that it is likely the father knew of the pregnancy, knew of the birth, attended the birth and consented to the child being placed in foster care. Since then, he has had nothing to do with the child and made no efforts to enquire about the child or to see the child, or to take any steps at all with regard to the child. I am not satisfied on the available evidence that the father has any Article 8 rights in respect of the child. Even if I am wrong on that, the fact of it would not weigh so heavy as to change my judgement on the declaratory relief.

#### **The Substance of the Relationships.**

40. Aside from the presence or absence of parental responsibility and family life rights an assessment must be made of the substance of the relationship between the parents, the circumstances of the conception. The purpose is to ensure that those who are necessarily silent are given a notional voice so as to identify the possible strengths and weaknesses of any argument that they might make. Put another way, with what degree of objective justification might such a person complain if they later discover that they had been excluded from the decision? The answer will differ, as between a father, with whom the mother has had a fleeting encounter, and one with whom she has had a substantial relationship and as between members of the extended family who are close to the parents and those who are more distant.

41. In this case, the only evidence is that the relationship between the mother and the father was based upon deceit. The mother's case is that she only discovered that the father was married when she told him that she was pregnant. The nature of the relationship between them was at best a casual sexual relationship and one where clearly the father had no intention of making any commitment to it; he was told of the pregnancy and the birth, he attended the birth, he has made no attempt to engage with the Local Authority or the child since. At present there is no information about the father's extended family.

### **The Likelihood of the Family Placement being a Realistic Alternative to Adoption**

42. This is of particular importance to the child's lifelong welfare, as it may determine whether or not adoption is necessary. An objective view beyond the say-so of the person seeking confidentiality should be taken about whether a family member may or may not be a potential carer. Where a family placement is unlikely to be worth investigating, or where notification may cause significant harm to those notified, this factor will speak in favour of maintaining confidentiality. Anything less than that will point the other way.
43. The Local Authority in this case accept that the basis for the mother's case is fear of her family finding out with a consequential risk of catastrophic harm or even death for her and or the child. Notification of any family members, be they maternal or paternal, as far as the mother is concerned the nature of the risk is as serious as it could be. The magnitude of the risk is more difficult to judge as none of the extended family members, maternal or paternal, and the father have not been engaged upon that issue to allow assessment. It is however, based in genuine fear. In those circumstances the risks are too great, in my judgement, to pursue investigation and assessment any further.

### **The Physical, Psychological or Social Impact On The Mother or On Others of Notification Being Given.**

44. Where this would be severe, for example because of fear arising from rape or violence, or because of possible consequences such as ostracism or family breakdown, or because of significant mental health vulnerability, these must weigh heavily on the balancing exercise. On the other hand, excessive weight should not be given to short-term difficulties and to less serious situations involving embarrassment or social unpleasantness at the expense of other interests. The risk of honour-based violence and the impact on the mother's physical, psychological and emotional welfare is accepted in this case by the Local Authority and in respect of the maternal family, by the Children's Guardian. Honour-based violence will always be at the higher end on the bracket of considerations under this heading in my judgment. It is amongst the most serious of consequences.

### **Cultural and Religious Factors.**

45. The conception and concealed pregnancy may give rise to particular difficulties in some cultural and religious contexts. These may enhance the risks of notification, but they may also mean that the possibility of maintaining the birth ties through a family placement is of

particular importance for the child. Again, in this case, honour-based violence through the cultural and religious factors place this case at the upper end of the bracket, in my judgement.

### **The Availability and Durability of the Confidential Information**

46. Notification can only take place if there is someone to notify. In cases where a mother declined to identify the father she may face persuasion if that is thought appropriate, but she cannot be coerced. In some cases the available information may mean that the father is identifiable and maternal relatives may also be identifiable. The extent to which identifying information is pursued is a matter of judgement. Conversely, there will be cases where it is necessary to consider whether any confidentiality is likely to endure. In the modern world, secrets are increasingly difficult to keep and the consequences, particularly for the child and any prospective adopters, of the child's existence being concealed but becoming known to family members later on, sometimes as a result of disclosure by the person seeking confidentiality, should be borne in mind.
47. This is at the heart of the issue between the Local Authority and the mother and the Children's Guardian. The Children's Guardian invites the Court to ask the mother directly to disclose contact details for the father. In particular to disclose a phone number that she has. The Local Authority's case is that this has already been done in a more powerful way through a court order directing the mother to provide information. She has not done so. Other attempts have been made over the preceding six or seven weeks to encourage her to provide information about the father.
48. The Local Authority's position is that enough is enough. It would be futile now for the Court simply to ask the mother to provide a telephone number. She knows from the documents exchanged by the parties including skeleton arguments and from the submissions made before the Court, that the Court will not force her to do so. On balance therefore, it is time now to move the case forward by making the declarations sought. I agree with those submissions.
49. In addition Mr Rowley argues that there is no point in so doing, because the father has made it abundantly clear that he is not interested in becoming involved in the child's life. He has had ample opportunity to do so. In addition, by pursuing the father, if the mother was willing to provide the number, the Court is increasing the nature and magnitude of risk for the mother and the child unnecessarily. I agree with those submissions.

### **The Impact of Delay.**

50. The decision to apply to Court, and thereafter any decision to notify will inevitably postpone, to some extent, the time when the child's permanent placement can be confirmed. In most cases the importance of the issues means that the delay cannot be a predominant factor. There may however be circumstances where a delay would have particularly damaging consequences for the mother of the child. For example, it would undoubtedly need to be considered if it would lead to the withdrawal of the child's established carers or to the loss of an especially suitable adoptive placement. There is no evidence in this case that increased delay would have a significant effect on the child over and above the normal consequences of delay in achieving permanence for a child. I do however make the point that we are already at the point of six months post-birth. If the Court was to embark upon assessments of paternal members who may well be in Pakistan, then a further delay of several months at the least is one that could be expected. There is no information as to how delay would impact the current foster to adopt placement.

### **Any Other Relevant Matters.**

51. Overall, I agree with the Local Authority assessment that this is a fine balance. However, for the reasons that I have given in my judgment, the Court should not stand the matter down and adjourn it with the request of the mother that she provides the telephone number for the father. This has already been tried by a court order amongst other things. The Court should be slow to indulge in an exercise of futility and whilst there is a superficial attraction to the suggestion that the Court should stand the matter down and request the mother to provide the telephone number, that is likely to be futile in my judgement.
52. I therefore grant the declaratory relief sought. That concludes this judgment.

**End of Judgment.**

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