

**IN THE FAMILY COURT AT WEST LONDON**

West London Family Court,  
Gloucester House, 4 Dukes Green Avenue  
Feltham, TW14 0LR

Date: 28/08/2019

**Before :**

**HIS HONOUR JUDGE WILLANS**

-----  
**Between :**

**THE LONDON BOROUGH OF EALING**

**Applicant**

**- and -**

**(1) RA**

**Respondents**

**(2) B (by her Children's Guardian)**

**-and-**

**SF**

**Intervenor**

-----  
**Finola Moore** (instructed by **Legal Department London Borough of Ealing**) for the  
**Applicant**  
**Julie O'Malley** for the **First Respondent**  
**Mark Rawcliffe** (instructed by **Duncan Lewis Solicitors**) for the **Second Respondent Child**  
**Sally Douglas (Guardian)** acting in person  
**The Intervenor** in person

Hearing dates: 21-23 August 2019  
(Handed down on 4 September 2019)

-----  
**JUDGMENT**

## **His Honour Judge Willans:**

### Introduction

1. This judgment sets out my conclusions following a fact finding hearing conducted over three days. The Local Authority seek findings which they contend satisfy the threshold test under section 31 Children Act 1989. The child, who is directly represented supports these findings. Both the First Respondent and the Intervenor (against both of who findings are sought) dispute the allegations. The child's guardian has separated from the child and is neutral on the question of findings.
2. To preserve anonymity I intend to refer to the parties by the following initials:
  - i) LA: *The London Borough of Ealing*
  - ii) B: *The Child, (date of birth .. ... 2008)*
  - iii) RA: *The first respondent*
  - iv) X: *The first respondent's husband*
  - v) SF: *The Intervenor*
  - vi) Y: *The Intervenor's partner (husband)*
  - vii) Z: *The child's previous carer in AA*
  - viii) AA: *[Country of origin]*
3. I have taken into account the papers found within the final hearing bundle. In addition I have heard evidence from the following witnesses: (a) PF (Pam Fastier)/VA (Veronica Aderinola) and FA (Frances Ahmed) (social workers); (b) RA, and (c) SF, and; submissions from counsel for the LA, RA and B and from SF and the Guardian directly.

### Legal Principles

4. The LA puts a number of allegations before the Court. It is their responsibility to prove each of the allegations. They will do so if they establish that it is more likely than not that each of the alleged events took place as alleged. This is the ordinary balance of probabilities. Neither RA or SF bear any evidential burden to disprove the allegations.
5. I am also asked to conclude that the legal threshold has been crossed as a result of the findings I have been asked to make. The threshold test is found in section 31(2) Children Act 1989 and requires me to conclude that B has suffered significant harm or was likely to suffer significant harm due to the care given to her (or likely to be given if an order were not made) not being that which the Court would expect from a reasonable parent.

6. I remind myself the LA must establish a causative link between the alleged conduct and the significant harm: **Re A**<sup>1</sup>. I also bear in mind that in considering such issues it is not my role to seek to conduct any form of social engineering: **Re L**<sup>2</sup>:

*"society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent. It follows too that children will inevitably have both very different experiences of parenting and very unequal consequences flowing from it. It means that some children will experience disadvantage and harm, while others flourish in atmospheres of loving security and emotional stability. These are the consequences of our fallible humanity and it is not the provenance of the state to spare children all the consequences of defective parenting. In any event, it simply could not be done."*

The Court may only interfere where the conduct is such as to cause significant harm to the child.

7. In any fact finding hearing the Court must remind itself of the *Lucas Direction*. This direction reminds the Court that a witness who has been found to be untruthful on one point may be otherwise wholly truthful. The Court must be alive to the context surrounding the lie and should examine whether broader conclusions can be properly drawn from a finding of dishonesty.
8. The threshold test is an objective test in that it refers to the reasonable parent. However there is a subjective element to the test in that the Court must have regard to the individual circumstances of the child when considering whether the test is made out.

### Background

9. The respondents and the intervenor derive from country AA. It is known to have experienced periods of political and economic turbulence. The evidence suggested both the first respondent and the intervenor entered this country as unaccompanied minors. They are now fully independent adults. RA is now aged 30 years and my sense of SF is that she is of an equivalent age. B is aged 11 years.
10. B's life story is not as clear as one would hope. I take the following history from a combination of the social work chronology [C6], RA's statement [C23] and the account given to the professionals by B [E4]. There does not appear to be any significant inconsistency between these accounts and so this history would appear to be essentially reliable.
11. B was born in AA in early 2008. A year later<sup>3</sup> she was left by her mother in her father's care. Her mother's whereabouts since that time are unknown. A year later her father died and B was left in the care of Z. It appears Z was previously employed by B's father and felt a sense of duty to the family. Over time Z's health deteriorated and B's living conditions also deteriorated. It seems clear she was living in a state of poverty and required to provide significant caring duties for Z and for herself. There is no suggestion this relationship was

<sup>1</sup> Re A (A Child) [2015] EWFC 11 per Munby (President)

<sup>2</sup> Re L (Care: Legal Threshold) [2007] 1 FLR 2050 per Hedley J.

<sup>3</sup> B dates this later but I prefer the general consensus of the evidence

anything other than a loving relationship and it would seem B understood for some period of time that Z was her father. In 2013 RA received information that B was her half sister through her father. She made contact with Z and it is understood it was about this time that B came to understand Z was not her father. The chronology indicates that at this time B was '*looking after the home, undertaking household chores and caring for Z*' who was '*elderly, frail and ill*'. It is clear RA then assumed a sense of responsibility for B and began financial support for both B and Z. She additionally made annual visits to AA to see B and paid for her schooling. She further commenced a process of seeking to bring B to the UK so that she could provide a home for B. During this period RA adopted B in AA although this adoption is not recognised in this jurisdiction. Following protracted efforts B came to the UK in February 2018 with clearance for an '*adoption dependent*'. There is documentation within the papers demonstrating RA formally adopted B whilst in AA. On arrival B lived with RA and commenced school in her locality. On the evidence B became familiar with RA's then partner, X and with her close friend SF and her own partner, Y. RA describes SF as being her sister albeit they are not blood related. She told me that SF's father is her godfather and within her culture this creates a close bond between the individuals such that they regard each other as if sisters.

12. In July 2018 RA married X. The marriage took place in X's European home country. B attended the wedding (as did SF). Following their return to the UK, RA and her husband went on honeymoon to Greece and B stayed with SF. On their return B remained with SF. Subsequently RA and X planned a short journey to AA for X to be baptised into RA's orthodox religion. This could only take place following the commencement of the September school term and it was decided B would remain with SF throughout this school year at a school local to SF. B would then return to RA to commence her secondary schooling from September 2019. On 26 November 2018 B attended school and was seen in a distraught state. She refused to return to either SF or RA and made a series of allegations which fall to be considered within this hearing. Following protracted discussions B was placed into care that evening (on the basis that there was no adult with parental responsibility) on a section 20 basis<sup>4</sup>.
13. On 16 January 2019 the LA issued its care application. I have conducted all but one of the 5 case management hearings. At the initial hearing B was made the subject of an interim care order. She remains in such position and has remained with the same foster family throughout. The subsequent case management has included resolution of issues of habitual residence; joinder of RA and SF and consideration as to whether B should give evidence. The LA have parallel planned and as part of this process have undertaken a special guardianship assessment of RA. It is noteworthy that B has refused any direct contact with RA since November 2018. This fact finding hearing was fixed on 5 July and a follow up disposal hearing has been fixed for 4-5 September 2019. To their credit the LA have funded the representation costs of RA. I am immensely grateful for the assistance the LA have given in such regard.

---

<sup>4</sup> There is mention of a Police Protection Order but I have not seen supporting information. This has no bearing on the content of this judgment

### The Allegations

14. These can be found in the threshold document [A51-55]. The allegations are (in chronological order):
- i) RA did not ensure somebody had parental responsibility for B
  - ii) RA allowed her husband to live in her household even though B was uncomfortable around him and had only been in the country a few months
  - iii) RA required B to perform household chores above and beyond those to be expected of a child of her age
  - iv) RA would shout and scream at B if she did not carry out these chores properly causing her to be fearful and upset
  - v) When B became upset and scared around X, RA chose to place her with SF in spite of B's historic upheaval
  - vi) B has suffered feelings of upset and abandonment in being left with SF after RA returned from honeymoon
  - vii) RA allowed the school to record that SF has PR for B which could have led to delays and difficulties making decisions in B's best interests / SF registered herself as having PR which could have led to the same difficulties
  - viii) SF required B to perform household chores beyond those expected of a child of B's age including getting up at 6am to carry out these chores, walking the dog and cleaning the house
  - ix) B was fed different meals to the adults which caused her to feel excluded. She was not given a balanced diet
  - x) B was made to sit in a small storeroom amongst clothes and other items when SF wanted to watch television with her partner
  - xi) *B was not given appropriate clothes [added at trial]*
  - xii) *B was not registered with a GP [added at trial]*
  - xiii) *B was not appropriately supported with respect to her extra curricular activities [added at trial]*
  - xiv) RA was not communicative with social workers regarding B's needs after the initial 'disclosures' [allegations]. She did not act promptly when informed of B's distress and did not provide appropriate responses and care.

I will use this numbering system when considering the allegations.

### The Evidence

15. I did not hear direct evidence from B. No formal statement was taken from her and no ABE interview conducted. The source of her reports / complaints can be found in a series of conversations with interested professionals. At an early stage in the proceedings directions were given for a Re W hearing. On 15 May 2019 the Guardian produced a Re W analysis [E14]. At paragraphs 38-39 in particular she highlights factors which run counter to the child giving evidence. She pointed to the *'fragility of the evidence in the case'* and that B giving evidence would be *'unlikely to provide anything further'*. She was concerned as to the passage of time and that B might *'now be saying what she thinks professionals want to hear'*. She noted the number of separate accounts provided which were before the Court. Ultimately at a case management hearing on 17 May 2019 [B45] all parties agreed that it was neither in the interests of B or that of a fair hearing for B to give evidence.
16. It is therefore important to identify the reports given by B with care. It is important to note that B has an understanding of English but communicates in her native language and that interpreter services have been utilised. With this in mind I note the following:
- i) The initiating report was made to B's school and social work professionals who attended the school in the afternoon / evening of 26 November 2018. The relevant case notes are found at [F1-11]. The school overview is found in a note dated 14 December 2018 [F12-17].

The initial school report is limited as to detail but reported B arriving unusually late for school at 9.25am and 10 minutes later being in a distressed state. When asked as to what was wrong she said she was 'sad' and 'didn't want to go home'. She gestured to a wedding ring and said words to the effect that a man was at home and he makes her sad. Throughout the day she was consistent in not wanting to go home but would not expand on the reasons for this wish. The teacher tried some role play and B denied being hit or touched [F5].

In the afternoon a social worker (LB) attended and plans had been made for admission into foster care. Through a telephone interpretation service B said she was not happy at SF's home and did not want to live with her sister. She was unhappy living with them and their men/partners did not treat her right. She was unable to articulate her concerns other than that she was fed only rice and bread. It was felt she came across as scared and was tearful [F1].

PM then took over from LB (at around 6pm – through to around 10pm). She appears to have had a more extensive communication with B. Her view was that B was not scared but was unwilling to return home. At [F4] she recorded B reporting she was 'treated nicely' but it is unclear as to what this refers. B reported not being treated fairly; sleeping on the

sofa in the living room and only being fed ‘macaroni, pasta and bread’. She was not allowed to eat the fruit and vegetables.

In a more extensive note [F6] B said she felt uncomfortable at home. Life had been good before her sister married. The man makes her feel sad but she would not elaborate. She didn’t want to live with her sister and moved to her sister’s friend a few weeks before starting school. On the weekend her sister’s friend had said for her to go to her sister’s. Things had changed when her sister married as she had to sleep in the living room. She did not eat a variety of food (as reported above) and did not eat what the adults ate. The school reported her bringing in a packed lunch, sometimes rice and bread. She talked about life in AA. She was not scared but did not want to go home. She was not allowed to watch TV and sat in a room with a stool and lots of boxes. She slept on the sofa when SF and her husband went to bed.

The police attended around 9.00pm. Although they questioned B she was largely unresponsive to their questions telling them that this was the first time she had spoken to people like them. At one point they asked her whether she had been sexually abused or assaulted. She denied this happening. Subsequently she has repeated her denial of such behaviour.

PF was then relieved by VA who accompanied B first to SF’s home to collect items and then into foster care. She does not record any noteworthy conversation with B.

- ii) The next account can be found in the conversations between B and the allocated social worker, FA. These are found in her statement evidence [C1-22] which was not materially modified by her live evidence. A significant part of the initiating statement recounts the history and the prior account set out above. At [C13] FA sets out her direct conversation with B in which B recounted:

On 25 November 2018 she had been kept up late as she had to tidy and clean the property. Then she had to get up early the next morning to tidy and clean the dishes from breakfast and walk the dog. As she was walking the dog she could see pupils making their way to school and knew she would be late for school. On arriving at school she felt overwhelmed by the situation and what she was expected to do. She felt her sister had abandoned her and was not protecting her from the behaviour she was experiencing with SF.

In her statement FA sets out ‘the child’s own statement’ as follows: *‘I would like the Court to know that I would like to be living with carers who can make me feel safe and to be well cared for and be treated like part of their family. I do not believe [RA] or [SF] can care for in this way and I do not want to return to their care’* [C16].

In her supplemental statement FA added further information as follows: B spoke of good memories of time with her sister but was left confused when she did not return to her sister’s care after the honeymoon. She

didn't want contact with her sister as she had left her in this situation and didn't want her.

- iii) The Guardian records direct work with B on 20 February and 19 March 2019. She records B as reporting her sister provided financial support when she saw the situation B was enduring in AA. She paid for school fees, clothing and food and helped both her and Z. She then reported her concerns as follows:

*'When he was her boyfriend I didn't see his bad side...after they got married they completely changed toward me and I feel he didn't like me...life with my sister was very hard and difficult when I lived there I did lots of housework...she fed me the same food all week – this was rice with a little tumeric sometimes. I was working as a domestic maid after I got there. After I spent some time with [SF] when school opened she said you are going back to your sister and I said no I am not happy to go back to my sister's place – so after that [SF] registered me with the school I still attend...[A]t the beginning life with [SF] was okay because she looked after me like a kid and treated me nicely – her behaviour became worse than my sister – job in the morning had to take the dog out for fresh air...after that cleaning washing, look after the cats the plates and stuff and also she didn't allow me to watch TV and also she didn't let me sleep in the main house, I slept in the store...even if I had spare time she didn't let me in the sitting room I would sit in the store room...I slept in the store room – so many stuff in that store – I used a little space for my study place even though no proper chair small table and another small table full of stuff like shoes and everything and used one for exercise and do my homework'*

*'So one day as soon as I woke I started to clean the house, before I take the dog for fresh air – by the time I take the dog out and come back the school already started at that point and I was very upset and angry because I have to clean as well'*

B then recounted an issue that had occurred on that final day surrounding SF refusing to sign a school permission slip as it had the incorrect date upon it. She said this made her more angry. She also repeated an allegation of being fed rice with a little tumeric and not being able to eat what the adults had. Finally she said that SF's partner, Y, had been generous and kind and fed her behind SF's back.

In the March note B referred to preparing her own food. She reported SF would *'always make me have pasta and rice her husband would get home and give me treats – he was kind to me'*. She spoke about SF getting angry with her and commented that her face would be contorted and B would get sad and annoyed about it. She said she did not think RA knew what was happening at SF's house but did not think she would have done anything as she did not want B to live with her.

- iv) I met with B following the first day of the hearing. The meeting was conducted in line with the relevant guidelines and a note of the meeting has been shared. We did not discuss the nature of the allegations but she was clear as to her wish not to have contact with her sister.
- v) I also have a direct letter from B (which was not subject to restrictions as to content) [C61]. It does not detail the allegations at any real level despite being clear as to a wish not to return to RA.

17. Moving from B's account, evidence was also given by VA as to the state of the accommodation in which B lived. She described the conditions as poor and unsuitable for a child. She also gave evidence as to amount of clothing provided on her request and her sense that B had little by way of clothing and personal items (toys and books). FA provided evidence as to B's change in demenour following receipt into care and her assessment of her as a credible child. She also spoke of her interactions with RA. In my assessment PF added little to her written account.
18. Both RA and SF gave statement and live evidence. RA wholly denied the allegations although she with hindsight recognised the changes in care may have impacted on B. She told me B did not have significant chores to undertake but was expected to carry out modest tidying. She was fed the same as the adults albeit there were times when they fasted and followed culturally appropriate dietary routines. B would not do the same and so would not eat the same as them. There were no issues with her partner. The change of schooling was driven by B's wishes – as she wanted a bigger school and was 'taken' by the school close to SF. The initial plan was for B to be cared for by X's mother when they were in AA, but B had wanted to stay with SF. She was told she would stay there for the year if she started school there. RA gave uncontroversial evidence as to the efforts she had undertaken to get B into the country. She hypothesised that B was acting in this way due to the perceived material benefits of foster care. She felt Z had in some way encouraged B in her decision making. The living arrangements at her and SF's property was appropriate as they slept on a sofa bed. She spent considerable time at SF's as they were as if sisters and she provided support by buying food for the household.
19. SF gave an account consistent with that of RA. There was no suggestion from either that the other was lying or had provided anything other than care for B. She denied providing poor food or requiring excessive chores to be done. She denied B had been asked to walk the dog as it was too strong for her. She considered her partner had a good relationship with B but did not spoil her.
20. Each of RA and SF accepted that the account of chores if true would be inappropriate.

#### Impression of each witness

21. In considering the impression I have formed of each witness I bear in mind the cautionary guidance of Leggatt LJ. in *Sri Lanka v The Secretary of State for the Home Department* [2018] EWCA Civ 1391 at 41:

*No doubt it is impossible, and perhaps undesirable, to ignore altogether the impression created by the demeanour of a witness giving evidence. But to attach any significant weight to such impressions in assessing credibility risks making judgments which at best have no rational basis and at worst reflect conscious or unconscious biases and prejudices. One of the most important qualities expected of a judge is that they will strive to avoid being influenced by personal biases and prejudices in their decision-making. That requires eschewing judgments based on the appearance of a witness or on their tone, manner or other aspects of their behaviour in answering questions. Rather than attempting to assess whether testimony is truthful from the manner in which it is given, the only objective and reliable approach is to focus on the content*

*of the testimony and to consider whether it is consistent with other evidence (including evidence of what the witness has said on other occasions) and with known or probable facts.*

My focus should be on the content rather than the presentational qualities of the evidence.

22. With that in mind I record that I do not consider either of PF or FA gave meaningful evidence that was truly both relevant and controversial in respect of the issues I am now being asked to resolve. Whilst there are disagreements between RA and FA I do not consider these touch on the key issues at the heart of this assessment. On the relevant issues I found no reason to believe that either of the witnesses had exaggerated or falsely stated what they had been told.
23. Turning to VA I am bound to bear in mind her reported views at the time of her involvement. It is quite clear that she had formed the impression that RA was not related to B. Indeed she is recorded as stating she could '*near enough guarantee*' that RA and B were not step-sisters. DNA testing has shown this to be a false belief. It is clear VA was of the view B may have been trafficked for nefarious purposes. I cannot escape the feeling that this has influenced her views. I am also struck by her evidence as to the events at the home. She was clear B had not entered the flat with the police but the police report appears to question this account. I also felt she did not have an open mind as to the issue of available clothing and whether her request for items was understandably interpreted as being for clothes for the night only (as both RA and SF contended). She was also somewhat fixated as to the capacity of the living room to accommodate sleeping resources for B. In fact the evidence clearly shows the sofa converts into a sofa bed. Overall I was less impressed by her evidence although in reality she received no complaints from B and her evidence is tangential to the issues I have to decide.
24. In contrast I found both RA and SF to be measured and straightforward witnesses. I was impressed with both the manner and care with which they gave their evidence. Their evidence was robust and they did not shift. They answered all questions put to them and did so in a calm and polite fashion. At no point did they give the impression of being caught out in their answers. Their only true difficulty was in providing a sustainable explanation for why B acted as she did. In this regard I found their answers understandable but somewhat unpersuasive.

### Findings

25. I agree with counsel for the child that it is important to establish a factual nexus whether or not I find threshold crossed. It is only right to note that I have been keen during my management of this case to ensure the LA set out the findings they seek with clarity. I have previously expressed observations which tally with the guardian's own observations as to the '*fragility of the evidence*'. I have sought to ensure the LA put their case with clarity and to identify the evidential components that support their assertions. I have particularly had in mind the fact that both SF and RA (until very recently) acted in prison and are/were at a significant disadvantage. This case is far from the clear cut threshold case one often sees in proceedings of this sort. I intend to deal with each allegation in

turn setting out my finding and then identifying the evidence that has led to my conclusion.

26. i) RA did not ensure anyone had PR for B

I consider this allegation is wholly misconceived. First, there is absolutely no evidence to provide a causative link between the failure to obtain PR and either an actual or likely level of significant emotional harm for B. Whilst I agree a lack of PR may have caused complications there is no evidence that it had a material impact on B. Secondly, the evidence plainly sets out that RA was doing her utmost to regularise matters. There is no dispute she worked very hard to get B to this jurisdiction and thereafter to legitimate her continued residence in this jurisdiction. She told me she needed to wait for a year to make an application that would give her PR. Under the Children Act 1989 as a relative she would need to found a section 10 application on 1 years living with time. But even if her understanding is wrong in this regard there is no evidence to suggest that her mistake is in any way open to criticism. Frankly at no point did the LA set out what she should have done different to that which she did.

**Not found.**

27. vii) Allowing SF to be registered with the school as having PR

This is almost as misconceived as (i) above. I can see no causative link whilst again accepting the potential for confusion. It is quite unclear to me that SF was in fact clearly noted as having PR. However, my sense is that she was being identified as the point of contact with respect to B. In the circumstances this made perfect sense and falls far short of being a threshold issue.

**Not found.**

28. xii) B not registered with a GP

This was added in the course of submissions. I initially expressed some doubt as to how this amounted to a threshold finding on the evidence in any event. However this became redundant when in line with her evidence RA, in submissions, provided satisfactory documentary evidence of registration.

**Not found.**

29. xiv) RA was not communicative with social workers regarding B's needs after the initial 'disclosures' [allegations]. She did not act promptly when informed of B's distress and did not provide appropriate responses and care.

I struggle to understand what is the finding sought under this heading that establishes significant harm at the relevant date. The allegation is all about post-litigation engagement and nothing about the care being provided to the child or likely to be provided to her at the date of the instigation of the proceedings. To the extent it sheds light on RA's care of B it tells me nothing of worth as to the quality or otherwise of that care.

**Not found.**

30. xiii) B was not supported with her extra curricular activities

I am unimpressed with this allegation and indeed the evidence (or lack of it) in support. In essence this can only relate to the failure of SF to sign the permission slip on 26 November 2018. Yet it is not in dispute this slip was wrongly dated and I fail to see how such a failure can be criticised let alone amount to conduct causing or likely to cause significant harm. In my assessment it simply does not find its home in a threshold document. It falls very clearly on the wrong side of the divide suggested by Hedley J. in Re L. Is it really the role of the LA to intervene in family life if a child is not ‘*supported in their extra curricular activities*’ whether or not a child is saddened or upset by such lack of support? I consider the obvious answer is no.

**Not found.**

31. xi) B not provided with appropriate / adequate clothing

This is a meaningful allegation but on the evidence fails. It appears to arise from the observations carried out by VA at the property on the night of the 26 November 2018 supplemented by the failure of RA to provide clothing for B after her admission into care. Having heard the evidence I am not satisfied VA was placed to comment as to B’s actual available clothing on the night in question. I prefer the evidence of both RA and SF that they had understood they were only providing for an overnight stay and as such provided limited clothing to include pyjama’s. I was not persuaded by VA’s evidence as to her capacity to review what was available at the property. Her opportunity to assess clothing was highly limited and it is clear her account of the property does not tally with the subsequently provided photographic evidence (e.g. she suggested limited room around the bed but there is clearly significant room and a built in wardrobe and chest which she did not examine). I prefer the evidence of RA that the chest containing the pyjama’s also contained additional clothes for B. In reaching my conclusions I bear in mind there is no evidence from the school as to poor, inadequate or grubby clothing at any point. Such evidence is often available and is telling as to the existing state of affairs. The absence of such evidence is equally valuable. I also bear in mind undisputed photographic evidence showing B in a range of attractive clothing [C33-37]. I take account of the fact that the special guardianship assessor was shown a case of clothing. Finally I reflect on the fact B raises no complaint in this regard.

**Not found.**

32. x) B was made to sit in a small storeroom when SF wanted to watch TV

In my assessment this is perhaps the most serious of the allegations. At its highest B refers to sleeping in the room. Having considered the evidence it seems the allegation is taken to refer to a small ‘airing’ or storage cupboard in the property hallway. VA refers to this room as containing the clothes box referred to above. SF has supplied photographs of the room to illustrate its dimensions. Although B spoke to the guardian in terms of this being a store and not part of the main house there is no evidence to suggest there was an external garage or storage space separate to the property. I therefore approach the

allegation on the basis of the reference being at most to this identified room. I note B's account has developed somewhat from the initial report, which in mentioning sitting on a stool in a room with lots of boxes, did not explicitly reference the storage room. Later in February 2019 when speaking to the guardian this account developed into:

*...also she didn't allow me to watch TV and also she didn't let me sleep in the main house, I slept in the store...even if I had spare time she didn't let me in the sitting room I would sit in the store room...I slept in the store room – so many stuff in that store – I used a little space for my study place even though no proper chair small table and another small table full of stuff like shoes and everything and used one for exercise and do my homework...*

It can be seen the account is now of spending significant time in the room, even sleeping there. SF denied this was true. Both her and RA reported B having to spend time in the kitchen in the evening's reading for school. Having considered all the evidence I am not persuaded this allegation has been established and I am not persuaded B was required to spend time sitting or sleeping in the storage room. I have reached this conclusion with particular regard to the following matters:

- a) VA in her evidence commented as to the room in question. It was clear from her evidence that it would be very difficult for someone to either sit or sleep in the room. The space was very contained and the closet was full of items. Given the circumstances of VA's attendance I do not consider the position could have been contrived for her benefit. She agreed there were shelves rising from about waist level. This would have all but prohibited an individual sitting on a stool in the room. The contents were such that there would have only been a most modest space in which someone could have positioned themselves.
- b) This is further supported by the police evidence on attendance which spoke in terms of struggling to open the door of the closet.
- c) I also bear in mind the photographic evidence. I accept the contents of the closet might have been staged for the photograph but I also reflect on the fact that the contemporaneous evidence suggests a room equally full to that in the photograph. This is not a setting in which someone could sleep.
- d) In any event B's evidence is of sleeping in the living room.
- e) I also take account of the developing account which was initially ambiguous as to where B would sit when the adults were watching TV.
- f) I note from VA an assumption that B was referring to the closet as being the location in which she suggested she had to sit. I cannot rule out this information being unconsciously transmitted to B leading to her story developing.
- g) I am also conscious of a similar theme being found in the 'Harry Potter' narrative and I retain a level of concern as to whether this may have fed into the allegation.

- h) On attendance and despite VA being suspicious of whether this was the room in question no evidence was observed within the room to suggest B had in fact been using it.
- i) I found the evidence of both RA and SF in this regard persuasive. There is no suggestion B told RA this was happening. If it had happened then this would be surprising. Further in her own account to the guardian B indicates she told SF she wanted to stay with her when there was a suggestion of returning to RA. Again if the allegation were correct this would be a surprising response.

**Not found.**

33. ii) RA allowed her husband to live in her household even though B was uncomfortable around him and had only been in the country a few months

This is a somewhat problematic allegation. I should remind myself that despite her expression of being made sad by the men in the house (which I accept is a reference in part to X) B did not make any actual allegation against X other than that he looked at her in an angry way and would speak to her sister about her not keeping the property clean. When explicitly asked she denied any assaults or sexual impropriety. She also denied being scared of the 'men'. There is also no actual evidence that B at any point spoke to RA about her feelings in this regard or that RA was conscious B was upset at the situation. One must also have regard to the fact that X was RA's pre-existing partner prior to B coming to the country and was part of the household (on an occasional basis) throughout the period B was present. I question whether such a state of affairs could ever justify a threshold finding.

RA and X then married. Although I heard no direct evidence it is likely there was some planning in such regard and there is no evidence to suggest this was a surprise to anyone. It seems to me one must at least reflect on what the LA suggest should have been done. Having considered the allegation it seems the LA argue RA should have suspended any intention to marry and should have restricted her relationship to allow B to settle into the home. I accept this might be a sensible approach taken in such circumstances but I do not accept it is the only appropriate response. In my assessment maintaining existing plans and arrangements is an equally valid response. Taking all of this into account I cannot see how this allegation could amount to a threshold point. Having reviewed the evidence and having reflected on the surprising turn of events in November 2018 I accept there must have been some underlying unhappiness that caused B to act in the way she did. I will return to this point below but at this time simply record my view that RA's developing living arrangements likely fed into B's state of unhappiness.

**Not found as a threshold finding.**

34. iii) & viii) B was required to carry out household chores beyond that expected of a child of her age

I consider the Court has to be careful in examining this allegation so as not to trespass into challenging the permissible different styles of parenting reflected by the decision of Re L. It is plainly a matter of parenting to determine the responsibilities expected of a child in the home and there can be no principled challenge to a carer expecting a child to carry out household chores. The Court must also be respectful of cultural differences in such regard which exist as much within European cultures as between world wide cultures. It is as easy to criticise a parent for expecting too much of a child as to criticise for being overly lax in expectations. With this in mind I have regard to both the nature of the work required and the quantum of the work.

As to the nature of the work I can find no principled objection such as to amount to a threshold point. Washing the dishes; cleaning the house; looking after the pets; walking the dog are all matters which one might appropriately expect of a 10 year old child. The fact that both RA and SF agreed that such work would not be appropriate does not change the standard I apply and does not assist in the forensic analysis I am required to undertake. The real issue is the quantum of the work. If B was required to be a domestic maid, doing all the work and being late to bed and school, as a result then this would likely have crossed acceptable boundaries. The question for me is as to the evidence in such regard. Having considered the evidence I accept B was likely required to do somewhat more by way of household chores than is accepted by either of RA or SF but that the same is not such as to cross the legal threshold in that it caused or was likely to cause significant (likely emotional) harm to B. My reasons for such a conclusion are as follows:

- a) There is no evidence prior to 26 November 2018 from any agency, and particularly the school, as to B attending late or tired. Indeed her prior attendance was 100%. If she had been required to work at the levels suggested then this would likely have had an impact which was noted in her daily routines.
- b) I also note the development of her account with the latterly description of her being treated as a domestic maid. My sense is that this language has developed in placement as she has recounted her story. I am left with the view that this language may reflect the interpretation of others as to her plight.
- c) I bear in mind that B was in fact late for school on 26 November 2018 but there are a myriad of surrounding circumstances which impact on my assessment for that day including: i) the issue relating to the permission form, and; ii) the suggestion (which I accept) of her being on the phone to Z that morning.
- d) I also bear in mind there were two timelines in play that morning which included SF's need to get to work around 9am. The evidence does not suggest she was still at the property as late as 9.20am requiring B to do further work.
- e) All of the above being said I find it likely B was required to clean dishes and 'look after the animals'. I am less sure she was required to walk

the dog alone given I found the evidence of SF in this regard plausible. However, I consider RA and SF are underplaying the responsibilities expected of B. I bear in mind B was previously acting as a sole carer for Z in AA. In that context her duties were close to that of a parent/carer to Z and fell well above any of the criticisms raised in this case. In considering RA/SF's evidence I judge a *Lucas direction* is particularly relevant. My finding is that they have each come to understand there is a underlying criticism that a child should be expected to do that which they expected. Faced by this suggestion they have tailored their evidence when they need not have done so. This is the existing context I apply to their limited lies.

- f) I do not however accept B was required to work from getting up at 6am to school and then after school. The allegation worrying fits the initiating (but incorrect) concern of trafficking and I am myself concerned this narrative has contaminated the evidence in this case. It is entirely plausible this narrative has travelled with B into her foster placement where it has been allowed to develop a life of its own. In reaching my conclusion I bear in mind that such an allegation sits uncomfortably with B's otherwise account of '*things being okay until her sister got married*' and of things being nice at first with SF. It also rests uncomfortably with the uncontroversial facts surrounding the efforts made by RA to 'rescue' her sister from her life in AA.
- g) As with the point as to X (above) I consider this has played into the state of affairs which developed on 26 November 2018. It is a further feature of an otherwise puzzling development.

**Established at a factual level to an extent but not a threshold matter.**

35. iv) RA would shout and scream at B if she did not carry out these chores properly causing her to be fearful and upset

The evidential source for this allegation is somewhat opaque. In her direct work the guardian records B saying her sister '*used to be really angry*' if everything was not clean and that SF also got '*really angry*' when cleaning was not done. However, I cannot find references to screaming and shouting. On the evidence I have I cannot make the finding sought.

**Not found.**

36. v) When B became upset and scared around Z, RA chose to place her with SF in spite of B's historic upheaval / vi) B has suffered feelings of upset and abandonment in being left with SF after RA returned from honeymoon

I have already noted there is no evidence to suggest B confided any unhappiness about X in RA. It is therefore difficult to draw the suggested causative link between the complaint and the action of placing B with SF. However, on the evidence this point falls away because I am persuaded by RA's evidence as to the underlying planning. I find the planning was as follows:

- a) B travelled to X's home country for the wedding – this is not in dispute and there is no complaint in such regard.
- b) Following the wedding the couple went on honeymoon and B stayed with SF. This was again a wholly rationale decision and is not subject to complaint.
- c) On the evidence I find the period between return to the UK (from the wedding) and the honeymoon to Greece did not allow for a period of 1 week living with RA and X. The evidence of RA as to dates in such regard was not challenged and I was persuaded by the detail given.
- d) This produces a forensic problem as B has been consistently clear that problems with X only arose following the marriage (in contrast to the cleaning allegation which preceded this). Yet the opportunity to experience such a change was limited in the extreme on the facts as I find them.
- e) After a short period on honeymoon (probably returning in around early August) B then stayed with SF for the holiday. The evidence in such regard is not controversial. Both RA and B (to the guardian) give an account of B wanting to remain with SF for the balance of the holiday.

Pausing there it is difficult to see on what basis the allegation can be established as up to this point the placement has been a reasoned one and consistent with the child's expressed wishes.

- f) The complication arises around September 2018 when RA planned a trip to AA for X to be baptised into her faith. I accept this was the planning. I also accept B could not travel with RA due to her unresolved status in the UK. I do not criticise the trip.
- g) I accept the evidence of RA that her initial plan was for B to remain at her house and to be looked after by X's mother. I also accept B wanted to stay with SF and that she expressed a wish to go to the school local to SF. Importantly I consider B did express an opinion in this regard.
- h) I have been impressed throughout my analysis by B's clear focus on education. She was plainly focusing on the impact on her education as a concern on 26 November 2018. The same keen focus has remained in her discussions with professionals; in her letter to me and in her meeting with me. It impresses me as a central goal of B's ~ to maximise her educational attainment. This is hardly surprising given her history. I am doubtful she was not equally focused when the issue arose in late summer 2018. It is far more likely and consistent with the evidence that she had an opinion and a wish in such regard.

I am persuaded the decision making was not taken in isolation from B's wishes and that a factor in the planning was her wish to go to the school local to SF with its improved facilities.

That is not to say the planning was not as thought through as it might/should have been. For B to change primary homes for a year in such circumstances was a significant development and perhaps one which required greater consideration. However, I bear in mind (and accept) the evidence of RA as to the quality of her relationship with SF and the level to which she moved between her home and SF's home.

In summary the decision making can be questioned but I am not satisfied the planning was a response to a breakdown in the relationship between B and RA/X. As such I do not find the allegation proven.

**Not found.**

37. ix) B was fed different meals to the adults which caused her to feel excluded. She was not given a balanced diet

I will deal with this allegation in short form. I accept there would have been occasions on which B would not have eaten with the adults or the same food as the adults. RA described a cultural/religious dietary structure that governed both her and SF and that B would not necessarily follow this stricture. I accept this evidence. I also bear in mind common practice in many families for children to eat different foods (often differently spiced or because a child has particular eating fads or preferences). Sometimes the eating patterns follow working timetables which do not fit with the child's timelines. But none of this amounts to a matter justifying a threshold finding. In this case there is no evidence of B not being fed and there is no medical evidence of poor diet (see for instance on receipt into care). Rather I have the allegations of pasta, bread and rice and a lack of vegetables. In contrast I have the evidence of SF as to a balanced diet and of the school noting pasta dishes with sauces. I am simply not satisfied B did not receive an appropriate diet albeit I am willing to accept this did not wholly mirror the dietary experience of the adults in the property. To the extent this may have led her to feel excluded this is not a threshold matter.

**Not found.**

Conclusions

38. I have made some limited factual findings but have not found a number of issues proven and I have importantly not found the legal threshold crossed. As such the proceedings will come to an end at the next hearing. In considering the allegations I have paused and reflected on the undeniable fact of B attending school in a distressed state on 26 November 2018. This fact does raise concern and calls for an explanation. However the absence of an explanation does not, without more, prove the allegations.
39. I have kept this point in mind throughout my analysis. On balance I have not been persuaded that B acted in the way she did because of an understanding of a potential better life within the care system. I am not persuaded she did so at the instigation of Z. The evidence does not support such a findings although I accept B had been in contact with Z. On balance I accept the social work evidence of Z attempting to foster contact between B and RA.

40. So why did B act in this extreme way?
41. My sense of the evidence is that a series of factors have impacted on B leaving her overwhelmed and causing the standoff at school. These include:
- i) The change in living arrangements and the loss of her important relationship with Z
  - ii) The increased role of X within the household and the likely impression this gave of being distanced from RA. Given her history this would be a potentially significant isolating factor
  - iii) The chore expectations (legitimate) placed upon her with perhaps a sense that she did not expect there to be any continuation of such responsibility within the UK
  - iv) A sense that the grass was not as green as she had expected when coming to the UK
  - v) The limited relationship she had with her sister and the developing understanding of it in situ not being as positive as she might have expected
  - vi) The issue with the permission slip
  - vii) The changes in homelife moving to SF

All of this likely played out in a situation in which B already had highly fractured relationships and in which her link to her sister was not as one would ordinarily expect of a child of her age to her primary carer. From the outside this seemed objectively odd but when one considers the background circumstances it is easier to comprehend.

42. Finally my sense is that B would have had a sense of the social support structures within this country. As an immigrant child wishing to come to this country it is entirely possible she would have been alert to the benefits available. In any event both RA and SF had benefitted from such an experience and it may be B was subconsciously aware of these realities. In such a situation the decisions she made can be understood not as a response to particular poor care but to a developing unhappiness that her move had not been all she expected.
43. I will now send this judgment to the parties for their consideration. I will formally hand it down at the adjourned hearing on 4 September 2019 when the public law proceedings will come to an end. I am willing to consider appropriate case management in the event that the suggested special guardianship application has been issued.
44. Plainly thought will have to be given to B's continued refusal to have contact with RA, and particularly in the light of there being no individual with PR for the child. I anticipate there is room for a sensible and pragmatic agreement in such regard.

45. I would ask the parties to consider this judgment and to forward to me in advance of the hearing any suggested typographical corrections / requests for clarification. I will deal with the same on handing down.
46. I formally excuse SF's attendance at the hearing although she is welcome to attend.
47. I direct the represented parties to file position statements in advance of the hearing setting out their suggested proposals for the determination of the application / management of any remaining application.

His Honour Judge Willans