

IN THE FAMILY COURT

Date: 7th May 2020

Before:
HHJ Middleton-Roy

Re S (a child)

Laura Williams, Counsel, instructed by Hertfordshire County Council for the Applicant.
Sarah Jamieson, Solicitor, Powell Spencer and Partners for the First Respondent mother.
Haroon Rana, Counsel, instructed by Collins Solicitors for the Second Respondent father.
Bob Amos, Solicitor, David Barney & Co for the Third Respondent child.

Hearing date: 30th April 2020

Approved Judgment

This judgment was handed down remotely by circulation to the parties' representatives by email and by release to BAILII. The date and time for hand-down is deemed to be at 10:30am on Thursday, 7th May 2020. The Judge has given leave for this version of the judgment to be published on condition that, irrespective of what is contained in the judgment, in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

His Honour Judge Middleton-Roy:

The Parties and Application

1. This Court is concerned with a 7-year-old girl. In this judgment, the child will be referred to as “S.”
2. The child’s mother is “M.” The child’s father is “F.” Both parents have parental responsibility for the child.
3. In line with the Practice Guidance of the President of the Family Division issued in December 2018, the names of the child and the adult parties in this judgment have been anonymised, having regard to the implications for the child of placing personal details and information in the public domain.
4. The Local Authority is identified by name. The Local Authority is a public body with a statutory responsibility for the welfare and protection of children and support of families. Where that work has resulted in Court proceedings, the Local Authority is held accountable for its actions with families by the Court. The need for a public body to be identified when acting in respect of citizens is important. This Court concludes that naming the Local Authority would carry with it some risk of identifying the child. Having balanced the risks between transparency of justice on behalf of the State where life changing decisions are made for children, and ensuring their privacy, welfare and safeguarding needs are taken seriously and protected, this Court concludes that the public interest in identifying the applicant Local Authority is so important that it outweighs any risk of identification of the child.
5. In August 2019, Hertfordshire County Council applied to the Court for a Care Order. The child was made the subject of an Interim Supervision Order whilst remaining in the care of her father. The Local Authority later applied for an Interim Care Order in November 2019. The Interim Care Order application was adjourned to 11th December 2019 and adjourned again to 16th December 2019. The Local Authority did not pursue the Interim Care Order application at the adjourned hearing on 16th December 2019. The child has remained in the care of her father throughout these proceedings.

Remote Hearing

6. The action was listed for final hearing in January 2020, within the 26-week timetable for disposing of Care Order applications prescribed by section 14 of the Children and Families Act 2014. At that hearing, a conventional Court hearing where the parties and advocates attended the Court building physically, the Court heard oral evidence from an independent psychologist via a video link. The evidence of that expert was of such significance that the Local Authority properly reflected on its care plan for the child and sought to adjourn the final hearing in order for further enquiries to be made into locating a specialist foster placement for the child and to revise its care plan. The final hearing was adjourned part-heard and listed to recommence on 28th April 2020.
7. In the intervening period, prior to the final hearing recommencing, the United Kingdom was affected by the Covid-19 pandemic. The United Kingdom government, in response to this public health emergency, imposed rules restricting public movement aimed at preventing the spread of the virus. Live court-based hearings have been confined only to *exceptional* circumstances where a remote hearing is not possible.
8. In advance of the adjourned Final Hearing, the Court convened a directions hearing on 21st April 2020 to explore with the parties and their advocates whether this case was suitable for hearing remotely, having regard to the individual circumstances of the case. In exercising the

wide discretion available to the Court in that case management decision, the Court had regard to the ordinary principles of fairness, justice and the need to promote the welfare of the subject child.

9. The President's Guidance on Remote Hearings issued on 19 March 2020 sets out the types of hearing which may be considered to be suitable for a remote hearing.
10. On 9 April 2020 a joint message from the Lord Chief Justice, the Master of the Rolls and the President of the Family Division provided further guidance, which included the following general guidance to Judges to assist in determining the question in family cases, of whether any particular case should be heard remotely:
 - a. If all parties oppose a remotely conducted final hearing, this is a very powerful factor in not proceeding with a remote hearing; if parties agree, or appear to agree, to a remotely conducted final hearing, this should not necessarily be treated as the 'green light' to conduct a hearing in this way;
 - b. Where the final hearing is conducted on the basis of submissions only and no evidence, it could be conducted remotely;
 - c. Video hearings are likely to be more effective than telephone hearings;
 - d. Where the parents oppose the Local Authority plan but the only witnesses to be called are the Social Worker and the Children's Guardian and the factual issues are limited;
 - e. Where only the expert medical witnesses are to be called to give evidence, it could be conducted remotely;
 - f. in all other cases where the parents and/or other lay witnesses etc are to be called, the case is unlikely to be suitable for remote hearing.
11. This Court also had regard to the helpful guidance contained in *Re P (A Child Remote Hearing)* [2020] EWFC 32, decided on 16th April 2020, a few days prior to this Court making its case management decision on whether the final hearing should proceed as a remote hearing.
12. In reaching the decision whether to hold a remote final hearing in this contested case involving the best interests of this child, a range of practical, emotional and welfare factors were in play, each compelling. The need to maintain the adjourned final hearing dates in order to avoid further delay and to resolve issues for the child in order for her life to move forward was a powerful consideration. The Court determined that such factor was not at odds with the need for the resolution of that issue to be undertaken in a thorough, forensically sound, fair, just and proportionate manner. The decision to proceed with the final hearing by way of remote hearing also took into consideration the significance and seriousness of the final decision the Court was tasked to make and all other factors idiosyncratic of the case itself, including the local facilities, the available technology and the personalities and expectations of the key family members.
13. In this case, the outcome sought by the Local Authority by way of final order was for the child to be removed from her father's care, a very significant interference with the private life of the child and the father. Whilst the mother and Children's Guardian supported the Local Authority care plan, the care plan was opposed by the father. All parties were legally represented by experienced advocates. The father was assessed as having a mild learning disability. The father was supported in his care of the child by his own mother, the paternal grandmother, who was invited to participate in the directions hearing to allow the Court to determine whether a remote hearing could proceed fairly. Notwithstanding his mild learning disability, the father, his legal team and the Court were each satisfied that the father would be able to engage in the

proceedings meaningfully. The Local Authority provided access to an electronic device for the father's use to allow him to participate in the remote final hearing. Further the Local Authority provided the father with safe access to a private room to facilitate his access to that electronic device and to a paper copy of the Court bundle, in addition to the electronic bundle, should he wish to avail himself of those facilities, a room where he could be supported by his mother, give private instructions to Counsel and receive private legal advice. Of further significance to the decision to conduct a remote final hearing in this case was the particular psychological needs of the child, who was assessed as having a significantly disturbed attachment system linked to neglect and trauma, significant levels of conduct and attention problems and a very high level of need. All parties accepted that further delay for the child through further adjournment of the final hearing, would be contrary to her welfare. The Court was informed that the mother did not seek to give evidence at the final hearing. Furthermore, notwithstanding the fact that the father opposed the Local Authority's care plan, the father too chose not to give evidence at the Final Hearing but sought through Counsel to challenge the professional evidence, including factual and welfare evidence from the Social Worker, the child's school teacher, the author of the father's parenting assessment and from the Children's Guardian. The father had already, through Counsel, challenged and tested the independent expert evidence when the psychologist gave oral evidence at the original final hearing in January 2020 by video link. At the adjourned four-day final hearing, facilities were available to all parties, advocates and the Court to see and hear live evidence by video conference via the MS Teams platform.

14. Taking all these factors into account, all parties agreed, and the Court determined, that the father and each of the parties could engage sufficiently with the professional evidence by way of a remote final hearing by video to an adequate degree for the process to be regarded as fair, for each of the parties to follow and to understand the court hearing and to instruct their lawyers adequately and in a timely manner. That decision was taken, whilst recognising that the decision whether to continue with the final hearing remotely would be the subject of ongoing review on each day of the hearing to ensure that the demands and dynamics of the hearing did not encroach upon the central principles of a fair hearing.
15. Since the decision of this Court on 21st April 2020 to conduct the final hearing remotely, further helpful observations on the Family Court's ability to discharge its duties by way of conducting remote hearings has been given by the Court of Appeal in two cases both handed down on 30th April 2020, being the same date this final hearing concluded, namely, *Re A (Children) (Remote Hearing: Care and Placement Orders)* [2020] EWCA Civ 583 and *Re B (Children) (Remote Hearing: Interim Care Order)* [2020] EWCA Civ 584 and subsequently by the President of the Family Division on 6th May 2020 in *Re Q* [2020] EWHC 1109 (Fam).

Background

The First set of Court Proceedings

16. In October 2017, when she was 5 years old, the child was removed from the care of her mother along with her half-siblings and placed in foster care. At that time, the child, her siblings and their mother were all living within the area of a different Local Authority. The Local Authority was concerned that the child and her siblings were suffering long-term neglect and emotional abuse, poor home conditions, domestic abuse, poor parental mental health and neglect of the children's basic care and health needs. The documented concerns included the children attending school hungry and unkempt, in dirty clothes and smelling of urine and stale smoke. The children presented with head lice and crumbling teeth. The child, S, presented with flea bites which caused her discomfort and scarring. She had bruising to her body, a rash on her hand and she was soiling herself on a regular basis. A range of support was provided to the mother by the Local Authority during this period. The Local Authority concluded that the mother was able to make short-term changes but that she was unable to sustain the changes. Additionally, the father of the half-siblings (who is not S's father), presented with significant

unmet mental health needs. He experienced psychotic episodes, was violent to the mother, regularly damaged the family home and is reported to have spat in the children's food.

17. During those Court proceedings, a psychological assessment in respect of S and her siblings was prepared by Dr Hunnisett, Consultant Clinical Psychologist. The assessment concluded that S had significantly delayed adaptive skills across the spectrum of her development: social, academic, emotional and conceptual. Further, the assessment identified that S presented with clinically significant levels of conduct and attention problems and had not been able to integrate socially. Dr Hunnisett reported that S struggled to engage emotionally with others, except on her terms, and reflected in part a significantly disturbed attachment system, linked to early neglect and relational trauma. The assessment concluded that S had a very high level of need and would respond best to a calm environment with low-level stimuli and low expressed emotion, with very clear boundaries and tight supervision where she could feel contained.
18. S and her father maintained a relationship, despite their parents' separation until around February 2016. Contact between F and the child resumed in around November 2017, during the court proceedings. F was the subject of a positive parenting assessment in those proceedings, albeit the assessment noted that he would require additional support and access to parenting classes, given S's presenting difficulties. The paternal grandmother was also the subject of assessment, which raised concerns in respect of the paternal grandmother's negative view of the local authority and the difficult relationship between F and her.
19. Those Court proceedings concluded in July 2018 before HHJ Yelton with the child being made the subject of a Child Arrangements Order in favour of F. Further, the child was put under the supervision of Hertfordshire County Council for 12 months, Hertfordshire County Council being the Local Authority in whose area the father lives.

The Second Set of Court Proceedings

20. Hertfordshire County Council Children's Services began working with the family in August 2018. The Local Authority evidence records that attempts were made to work with F under a Child in Need Plan. Progress was limited due to F's hostility towards professionals and his unwillingness to engage meaningfully with support. F was reported as being rude and abrupt to staff and was observed to be short and cold towards S.
21. The paternal grandmother reported in October 2018, during a Child In Need visit, that S's behaviour was 'feral,' that S refused to sleep and that she did not listen. The paternal grandmother raised concerns in respect of her own relationship with F and their differing approach in parenting S. The paternal grandmother is recorded as having described F as aggressive and a 'bigot'. S was described as always wanting to run away, including on one occasion when professionals tried to leave the home following a visit. F and the paternal grandmother reported that they were not previously aware of the extent of S's challenging behaviour. Further, F is reported as not wishing to travel to allow S to spend time with her mother and half-siblings.
22. In January 2019, when S was 6 years old, she reported to her family worker that she took two trains and one bus to see her mother, when a police officer found her. When this was discussed with F, he is reported as saying he had not alerted the Social Worker as it was private matter and nothing to do with her.
23. Concerns were raised that F was not attending meetings with the school, relying on the paternal grandmother to attend. F changed his telephone number and refused to provide it to professionals, insisting that they communicate with him through his mother. Professionals raised concerns that the paternal grandmother held very negative views of S's behaviour and that her way of managing S' behaviour was through threats. During a Child in Need visit on

16th January 2019, F is reported as not engaging with the professionals and pushed S into the room with the social worker while he went to another room to watch television. In May 2019, F is reported to have behaved in an aggressive and intimidating manner with a worker from ARC, a specialist local service set up to help children and their families to overcome problems.

24. In respect of her education, S commenced school (“School A”) in November 2018 on a reduced timetable. It was reported that S struggled to be in a classroom with other children. In April 2019, S is reported to have become aggressive at school and started hitting her teaching assistant. She refused to leave the room and threatened to hit the teaching assistant with a broom. In May 2019, S refused to enter school and is reported to have shouted, “don’t tell daddy, because he will slap me”. In June 2019, S began hitting and slapping school staff and repeatedly swore. She slapped her teaching assistant, kicked a member of teaching staff and ripped the clothing of another. When F arrived at school, S is reported to have run and hid. Later that month, the school reported that S appeared worried and was watching out for her father. At home time, she would not let go of her teaching assistant’s hand and asked her to come to her house. S refused to go home from school on 21st June 2019. When F tried to collect her, she hid. F is reported to have said he would take S to the police. F is reported on 25th June 2019 as having referred to S in derogatory terms in her presence when delivering her to school. The following day, S climbed a fence at school and refused to go home. She refused to leave with her father stating that he would slap her. When this was discussed with F, he is reported to have called her manipulative and a liar in her presence. On 27th June 2019, S reported that her father told her to f*** off when she left for school that morning. When asked why, S stated that F told her she could not see her mother. The paternal grandmother reported that F was not going to comply with any professionals from then on and he was refusing to take S to school or collect her. There followed various reports of S being late for school, being unsettled whilst at school, assaulting school staff, swearing and becoming angry and aggressive whilst at school. On 9th July 2019 the paternal grandmother raised concerns with hospital staff about the father’s inability to cope with S.
25. On 8th August 2019 Hertfordshire County Council issued these Court proceedings.
26. At the outset, the Local Authority proposed in its application that the action should be allocated to Lay Justices. The case was then formally allocated to Lay Justices by the Court. The case was heard ultimately by a panel of Lay Justices, by a District Judge and by three different Circuit Judges prior to the final hearing taking place before me in January 2020. In total, the parties have appeared before six different tribunals during the life of the action.
27. This is not a case that has benefited from any judicial continuity. It is a well-established principle of good practice that case management of a complex case should be conducted by one Judge. In the family jurisdiction, judicial continuity ensures the identification of the Judge responsible for the conduct of all case management and interim hearings as well as the early identification of the Judge to conduct the final hearing. There are many benefits to be achieved through allocation to a single Judge. Only one Judge need read the case papers. It is easier to identify the relevant issues in the case. The judicial control exercised over a case is firmer. The case management is more consistent. Interim applications will be heard by the same Judge. Experience has also shown that Judges to whom cases are allocated are able to accept a greater responsibility for the progress of cases and urgent applications heard in a timely manner. Had there been judicial continuity in this case, it is possible that the issues leading to the adjournment of the final hearing in January 2020 might have been identified earlier and an adjournment avoided.
28. In the event, the Court commenced the final hearing in January 2020, hearing evidence from the independent expert, Dr Hunnisett. At the conclusion of the expert evidence, the Local Authority invited the Court quite appropriately to adjourn the Final Hearing in order to reflect

on its care plan. The adjournment was not opposed by the parties and was approved by the Court.

29. At the re-convened, part-heard Final Hearing in April 2020, the Court heard evidence remotely via video conference from the allocated social worker, from the author of the parenting assessment, from a school teaching assistant and from the Children's Guardian. The father and the mother both sought not to give evidence, consistent with their previously expressed wishes. In the event, the father chose to absent himself from the hearing. I make clear that his decision not to participate in the Final Hearing directly does not negatively influence my decision in this case. The father remained fully represented throughout the Final Hearing. Mr Rana on behalf of the father undertook expert thorough and focused cross-examination of each of the professional witnesses. With the permission of the Court, the paternal grandmother was present throughout the hearing, remotely, and was permitted to make her own closing submissions. At the conclusion of the oral submissions, the Court announced its decision.

The Relevant Law

30. In any application for a Care Order the Court must apply section 31 of the Children Act 1989 to each relevant child.
31. Section 31(2) of the Children Act 1989 provides that a Court may only make a Care Order if it is satisfied that the child concerned is suffering or is likely to suffer significant harm and that the harm or likelihood of harm is attributable to the care given to the child or likely to be given to the child if the order were not made, not being what it would be reasonable to expect a parent to give. These provisions are commonly called the threshold criteria.
32. Section 31(9) and section 105 of the Children Act 1989 define "harm" as meaning ill-treatment or the impairment of health and development including, for example, impairment suffered from seeing or hearing the ill-treatment of another. "*Development*" means physical, intellectual, emotional, social or behavioural development. "*Health*" is defined as meaning physical or mental health.
33. If satisfied that the threshold criteria are made out in respect of the child, the Court must proceed to consider section 1 of the Children Act 1989. At this second stage, the welfare of the child is the Court's paramount consideration.
34. Section 1(3) of the Children Act 1989, commonly referred to as the "welfare checklist," provides that the Court shall have regard in particular to -
- (a) the ascertainable wishes and feelings of the child concerned (considered in the light of their age and understanding);
 - (b) the child's physical, emotional and educational needs;
 - (c) the likely effect on the child of any change in her circumstances;
 - (d) the child's age, sex, background and any characteristics of the child which the court considers relevant;
 - (e) any harm which the child has suffered or is at risk of suffering;
 - (f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting the child's needs;
 - (g) the range of powers available to the court under this Act in the proceedings in question.

35. The Court should not make any Order with regard to a child unless it is satisfied that it is better for the child to make that Order rather than to make no Order at all.
36. The Human Rights Act 1998 applies to these proceedings. Under Article 8, everyone has the right to respect for private and family life, home and correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. Each individual family member in this case has that right, including the child, the mother, the father and the wider family. These rights must be balanced. Any interference with the right to private and family life must be a necessary interference and must be proportionate, having regard to the risks.
37. In reaching a decision in relation to the child, the Court has regard also to the principles derived from the legal authorities.
38. In deciding issues in respect of the child's welfare, the Court's task is not to improve on nature or even to secure that every child has a happy and fulfilled life but to be satisfied that the statutory threshold has been crossed.
39. In exercising the jurisdiction to control or to ignore the parental right, the Court must act cautiously and must act in opposition to the parent only when judicially satisfied that the welfare of the child requires that the parental right should be suspended or superseded.
40. The best person to bring up a child is the natural parent. It matters not whether the parent is wise or foolish, rich or poor, educated or illiterate, provided the child's moral and physical health are not in danger. Public authorities cannot improve on nature.
41. 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 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. We are all frail human beings, with our fair share of unattractive character traits, which sometimes manifest themselves in bad behaviours which may be copied by our children but the State does not and cannot take away the children of all the people who commit crimes, who abuse alcohol or drugs, who suffer from physical or mental illnesses or disabilities or who espouse antisocial political or religious beliefs.
42. The Court's assessment of the parents' ability to discharge their responsibilities towards the child must take into account the practical assistance and support which the authorities or others would offer. Parents with learning difficulties must not be precluded from parenting children by reason of their learning difficulty. The concept of parenting with practical and emotional support underpins the way in which courts and professionals approach parents with learning difficulties and courts must make absolutely certain that parents with learning difficulties are not at risk of having their parental responsibilities terminated on the basis of evidence that would not hold up against normal parents. Their competence must not be judged against stricter criteria or harsher standards than other parents.
43. The Court's paramount consideration remains the child's welfare.

Threshold

44. On the evidence before the Court, the Court is satisfied that as at the relevant date, the child was suffering significant harm and that the harm is attributable to the care given, not being what it would be reasonable to expect a parent to give to a child. The Court finds the threshold criteria for the making of a public law order to be met, pursuant to section 31(2) of the Children Act 1989.
45. To his credit, the father made some concessions in respect of the Local Authority's pleaded threshold statement. Where the pleaded threshold facts are in dispute, the Court finds those facts as pleaded by the Local Authority on the totality of the evidence available.
46. The Court makes the following findings:
 - (1) The father has a hostile attitude and exhibits intimidating behaviours towards professionals and has been resistant to engaging with professional advice. The child has been exposed to the father's derogatory comments about, and hostile attitude towards the allocated social worker, school staff and professionals from ARC and this has caused her emotional harm and undermined their ability to work effectively with her;
 - (2) The father has a contentious relationship with his mother and he has used inappropriate language and demeanour in the child's presence. The child has suffered emotional harm and neglect by living in a home environment that was unpredictable and adult conflict was a feature;
 - (3) The father lacks an understanding of the child's needs and has failed to engage with her in a nurturing and positive manner. He has subjected her to verbal abuse and threats, has been hostile towards her and often speaks negatively about her when she is present. As a result, the child has suffered emotional harm;
 - (4) As a result of the neglectful parenting the child received from her mother, she has struggled to settle into school. The child functions at a lower level than her chronological age. She has speech and language delay and is delayed in her education.

Evidence and Analysis

47. A cognitive assessment of the father was completed by Dr Parsons, Consultant Psychologist in September 2019. Dr Parsons concluded that the father functions in the extremely low range of adult intellectual ability and is likely to have mild deficits in social and adaptive functioning and therefore meets the criteria to be said to be experiencing a mild learning disability. In Dr Parsons' opinion, the father shows no evidence of any other psychological difficulty.
48. Dr Parsons also completed a cognitive assessment of the mother, in which he concluded that the mother functions in the borderline range of adult intellectual ability and does not meet the criteria to be said to be experiencing a learning disability.
49. Dr Hunnisett, Consultant Clinical Psychologist, conducted series of psychological assessments of the child. Dr Hunnisett observed that the child is preoccupied with holding adult attention by whatever means possible. She does not reliably feel safe or contained when adults are in control and has learned to manage anxiety by taking control over social situations. Further, the child has significantly delayed adaptive skills across the spectrum of her development, social, academic, emotional and conceptual. She presents with clinically significant levels of conduct and attention problems and has not been able to integrate socially. In her professional opinion, the child's basic motivation to please and not to engage emotionally with others, except on her terms, is a key part of her profile and reflects in part a significantly disturbed attachment system, linked to early neglect and relational trauma. In Dr Hunnisett's professional opinion, the child has a very high level of need and would respond best to a calm environment with low-level

stimuli and low expressed emotion, where she can feel contained, with very clear boundaries and tight supervision. Dr Hunnisett reports that the child does not reliably feel safe or contained when adults are in control and has learned to manage anxiety by taking control over social situations. In her professional opinion, the father and paternal grandmother are compromised in their capacity to offer the child the specialist support she needs, despite their obvious love and affection for her. Dr Hunnisett concluded that this is a difficult case, where the child is receiving less than optimal parenting and that both the father and paternal grandmother have, within their own profiles, vulnerabilities which impact on their ability to learn and to provide stable, sensitive and containing parenting for the child such as would enhance her sense of security, scaffold her development and help reduce her anxiety and confusion. Dr Hunnisett concluded that the child remains at continuing risk of emotional and physical harm on account of her own significant high level of needs and the limitations of the father and grandmother reliably to meet them. At the same time, their love for the child and the emotional investment in her are clear.

50. In her oral evidence, Dr Hunnisett made clear that it is important for the child to learn and to benefit from an educational setting and that the child feels sufficiently secure in her placement or the environment she is in. For the child to develop at school, to learn to focus and thrive, things need to be in place at home, first. Wherever she is placed, she needs stability, predictability and security and for her placement to be permanent, where she feels she belongs. She needs especially sensitive care. She had such a difficult start to life, it will be a challenge as she has very distorted attachment difficulties and trauma and a very high level of need. Dr Hunnisett told the Court that the child needs absolute, clear boundaries at home. Where there is inconsistency or mixed messages, having regard to her attachment style, she will become even more confused. She has not felt safe when adults are in control. She feels safer when she tries to take control herself. She has lots of risk-taking behaviours which are very worrying. She needs authoritative care, consistency of boundaries and parenting and carers who understand her risk-taking behaviours and her anxiety, anger and frustration. That framework at home is a vital ingredient to help her learn at school. All the adults around her need to adopt a similar consistent and caring approach, which at present is missing. In conclusion, the child needs one-to-one support from a carer with space for lots of one-to-one interaction to develop her relationship with her carer and not be eclipsed. In her professional opinion, the child has such a very high and significant level of needs, there is a risk of placement breakdown even with sensitive carers, placement breakdown being a real possibility because the demands the child places on carers are very high.
51. Dr Hunnisett considered also the advantages and disadvantages of a therapeutic residential placement and a foster care placement. One advantage of a residential therapeutic placement is there is a staff team around the child. She would need a small staff team with a high staff-to-child ratio. Staff are then less likely to be overwhelmed and the stress may be less than the intensity of a foster care placement. A key disadvantage to residential placement, however, is the absence of a single attachment figure to form a clear attachment relationship with the child. Dr Hunnisett observed that this could not be guaranteed in long term foster care either. Further, the child is very young for a residential placement. Ultimately, Dr Hunnisett concluded that the match of the placement is important, where there is a very low risk of breakdown, expressing the concern that if a foster care placement was not ideally equipped, the risk of potential breakdown could potentially be catastrophic for the child, having moved so many times in her life already. A foster placement without other young children would be preferred, given the child's extreme need for attention and adult focus on her, where she is most likely to thrive and have most of her needs met. Optimally, foster care was recommended, if best matched to the child's needs with a very low chance of failure.
52. In her oral evidence, Dr Hunnisett told the Court that there are blocks to the father working with professionals. She told the Court, "*There needs to be a change in the father and paternal grandmother's ability to demonstrate meaningful engagement with the Local Authority and*

outside agencies which they found intrusive and evidence of change in [the child's] presentation and a reduction in the extreme behaviours she has presented. I have reservations about their capacity to meet [the child's] needs over the longer term. There would need to be evidence of both the father and the paternal grandmother's change in approach and implementing advice and recommendations effectively and of [the child] demonstrating she is more secure, less confused and more able to engage, including at school. Mistrust and suspicion of professionals are deeply ingrained in the him [father] and the family. There are clear vulnerabilities in his profile. He has seen the Local Authority as an unwelcome intrusion. He found it difficult in his working relationship with them...It's quite entrenched...and stems back a long way into his own past. It needs to be treated with sensitivity but it is a barrier to effective learning. The father's and paternal grandmother's unresolved trauma relating to their own childhoods are definitely a factor. It gets in the way of their capacity to meet [the child's] needs because [the child's] carers have unresolved trauma. It can be too painful to face those issues head on. They would need to go at their own pace rather than have it imposed upon them. Neither of them has had the opportunity to be able to process their own trauma. I think the situation in many ways is quite stark. There is a gap between their ability to parent and [the child's] very, very complex needs. The level of change required is so great, it is unlikely to be achieved in [the child's] timescales, even though they want to make things work and their motivation is born out of love for [the child] but their ability level and skill level and their vulnerability stand as barriers...The gap between the father and paternal grandmother's skills and the child's needs is too great and the likelihood of success is low, despite their qualities and strengths...their recent changes are not enough for the concerns about the child to be reduced. It is unrealistic to expect the father and paternal grandmother to be viable. The love and care is beyond doubt and they want the best for her. That of itself is not enough for the child. She needs more. The risk is not immediate. The risk of harm is longer term. The likelihood of success in a kinship placement is low. The child's needs are not being met."

53. I find no reason to disagree with the comprehensive, careful and considered evidence of the independent expert.
54. This is not a case where it has been possible for the professionals to ascertain directly the child's wishes and feelings in respect of where she would wish to live. The Children's Guardian's evidence was that the child has a close bond with her father and paternal grandmother. She perceives her home to be with them and it would be expected that she would want to remain in her birth family if possible. However, the Children's Guardian told the Court that the child's true wishes and feelings were, "*almost impossible to ascertain as the child does not have the communicative level on an emotional front. She can show anger and frustration but she can't explore her emotions because she does not have that communication style.*" The Children's Guardian told the Court, "*I last visited [the child] in late January 2020. I tried to engage her in conversational play. Her attention span is very, very limited and it is very difficult to get meaningful information from her.*"
55. A parenting assessment of the father concluded negatively. The parenting assessor concluded that despite his best intentions and sincere love for the child, the complexity of her needs is beyond the father and any interventions put in place in attempt to address these, will, in all likelihood, prove ineffectual and the child's complex needs will continue to go unmet. I accept the detailed, balanced evidence contained in the assessment.
56. I reject the criticism by the father that the Local Authority has not given him the support he needs, that he has been subjected to continual criticism and that he feels let down by the Local Authority. The evidence is plain that the Local Authority has provided support and training to the father and the paternal grandmother tailored to their needs, including a Practical Parenting Programme and through ARC services over an extensive period of 11 months to December 2019. Several of those sessions were cancelled by the father and replacement sessions were

turned down by the father and his mother. ARC's experience of working with the family was characterised by a lack of meaningful engagement, defensiveness and aggression.

57. A Special Guardianship assessment of the paternal grandmother prepared in November 2019 was also negative. The assessment concluded that the child requires skilled and attuned care that cannot be provided by the paternal grandmother. The assessment has not been challenged.
58. To her credit, the mother acknowledges she is not in a position to offer the child the care she needs. She has made the difficult, child-focused decision not to put herself forward to care for the child.
59. To their credit, both the father and the paternal grandmother recognise some of their difficulties and have sought additional support to care for the child. The father has engaged in assessments attuned to his learning needs and has made some advances, including engaging in some courses and ceasing his cannabis use. The professionals all conclude unanimously, however, that the father has not engaged consistently with support services, that he is resistant to professional advice and that he has not implemented the learning he has undertaken. As the Children's Guardian said in her evidence, the father needs to understand what he is taught, to then embed that learning into his practice and then to call on that knowledge to deal with the child's complex needs. I accept the Children's Guardian's evidence that the father has not demonstrated he has embedded his learning and been able to call on that knowledge in his parenting of the child, particularly as her needs are even more complex than previously understood. The Children's Guardian observed that S is, "the most damaged young girl," she has come across and would be a challenge for the most experienced care givers.
60. I accept the evidence that the father's mistrust of professionals is deeply engrained in him and that he and the paternal grandmother have unresolved trauma that stands in the way of them meeting the child's highly complex needs. In my judgment, the level of change required in the father's sole parenting of the child, or jointly with his mother, is too great. In short, I find there is no solid evidence-based reason to conclude that the father is committed to making the changes identified by the professionals as necessary. There is no solid evidence-based reason to conclude that the father is committed to accessing the professional support required. There is no solid evidence-based reason to conclude that the father will be able to maintain any such commitment. Further there is no solid evidence-based reason to conclude that the father will be able to make the necessary changes within the child's timescales.
61. The professional evidence in this case is very compelling. I find no reason to disagree with the professional consensus of opinion that, within the care of her father and grandmother, despite their love for her, the child has been exposed to hostility and tensions within the home environment due to the fraught dynamics between the adults and that the parenting the child has received has significantly impacted upon and makes it extremely difficult for the child to recover from the trauma she has experienced and makes it difficult for her to achieve the necessary stability and be supported in regulating her emotions. I find no reason to depart from the unanimous professional conclusion that there is a strong likelihood that if the child remains in her father's care or in the joint care of the father and paternal grandmother, her emotional needs would remain unmet and would further deteriorate in the long term. I find no reason to depart from the conclusion reached by all the professionals that the child will not have her specialist, individual needs met in the care of her mother, or her father, even if the father has the support of his mother, despite some advancements.
62. There are no other family members who have been assessed positively to care for the child. Adoption is not a suitable option for the child, having regard to her age.
63. Residential placement is a viable option for the child having regard to the level of her care needs and her developmental delay, provided that such placements was therapeutically focused with

an educational base. I share the concerns of the Children's Guardian that the child's age is a factor weighing against a conclusion that residential care is in her best interests. I have regard to the helpful consideration of the advantages and disadvantages of residential care and foster care articulated by Dr Hunnisett in her oral evidence. I share the observation that a key disadvantage to residential placement is the absence of a single attachment figure to form a clear attachment relationship with the child. In my judgment, placement of the child with specialist foster carers, as have now been identified by the Local Authority, carries the key advantage of placement of the child in a family setting, in a placement that has the capacity to best meet the child's complex needs, coupled with specialist training and access to specialist education and therapeutic services.

64. There remain uncertainties regarding the child's future education placement. Those uncertainties have been heightened by the current national public health emergency. It is very unfortunate that School B, which it was believed would be accepting the child into full time education, presently feels it requires further information before a firm decision is taken. I share the disappointment expressed by the Children's Guardian at what seems to be confusion regarding that final educational placement. I accept the Local Authority evidence that all relevant documents have been provided to School B to allow it to make its assessment and that the school has been invited to and has attended all relevant professionals' meetings. The evidence before the Court is that School B wishes to offer the child a place but first seeks to ensure that all conditions are in place to make it a positive move for her. I am sympathetic to the suggestion that a three-month delay between the child being placed in a nurturing home environment and being placed in a new school is beneficial, as to change school and home at the same time or in short succession would be too much of a change for the child and would be detrimental to her emotional needs.
65. On the evidence, S plainly needs a school with therapeutic provision for children with emotional trauma in order that she may learn. Further, to learn, she must have relationships with those teaching her. As Dr Hunnisett observed, if there is no emotional connection, she will disengage, as she does presently when she does not want to do something. It is a vital, key part of any educational provision that there must be an emotional, social and therapeutic element and there is real need for this to be finalised. It is also essential to have the right foster care placement. The current school, School A, seems not likely to be the right one and not in line with Dr Hunnisett's recommendations. Further, for the child to develop at school, the child requires a settled home environment first, where she can achieve stability, predictability and security and for that placement to be permanent. There is no merit in the father's suggestion that the child must wait to have her education placement stabilised first, whilst remaining in his care. That is contrary to the expert evidence. The priority must be for the child to settle into a nurturing environment first, in order that her educational needs can then be maximised.
66. A Care Order is a serious order that can only be made where the facts justify it, where it is in the child's interests, and where it is necessary and proportionate. In reaching my decision I have considered also the following questions. Does the child's welfare really justify the remedy? Have we done all we can in a measured, calm and reflective way to ensure that the child has a relationship with her father, mother and with the wider family? Have we done all we can for the benefit of the child to continue to have an understanding of who she is, how she fits in to her family dynamics, to understand at times their vulnerabilities and to be given the freedom to develop relationships with them? In my judgment, the social work evidence and the evidence from the Children's Guardian addresses all those questions and leaves none of those key questions unanswered. Those questions must each be answered in the affirmative. There are no alternative routes other than a Care Order that can be taken to meet the child's welfare needs.

67. On all evidence, having regard to each of the factors in section 1(3) Children Act 1989, I reach the firm conclusion that a Care Order with the care plan of placement with specialist foster carers is in the child's best interests having regard to her very specific needs.
68. Clearly, on making a Care Order, there will be an interference with the Article 8 right to family and private life of the child, her parents and the wider family. Looking at all the evidence, in my judgment, I must conclude that a Care Order is necessary, is in the child's best interests and is proportionate to the risk.
69. The Local Authority care plan makes provision for contact between the child and her mother three times per year, in addition to contact between the child and her half-siblings a further six times per year, and that the mother may join those six contact sessions, making a potential for nine contact sessions each year. The child's relationship with her mother remains an important one. The child holds her mother in mind. The level of contact must be sufficient for the child to know that her mother has not forgotten her but not so much as to interfere with the child's progress. I accept on the evidence that the mother largely has been committed to contact for S and her siblings, with one missed contact session in December 2019, which the mother puts down to missed communication, rather than a lack of commitment. Clearly that missed contact was hugely disappointing for the child. Nevertheless, I accept that otherwise, the mother has been committed to contact and that contact has been warm, loving and engaging. Having regard to all evidence, I am satisfied that the Local Authority care plan is in the child's best interests and will be the subject of ongoing review.
70. In respect of contact between the child and her father and paternal grandmother, Dr Hunnisett's professional opinion was that the Local Authority's proposed contact of six times per year seems a reasonable starting point. The Guardian agrees with that view and I find no reason to disagree. I approve the Local Authority care plan, with contact being subject to ongoing Local Authority review.
71. For the reasons given, the Court makes a Care Order and endorses the Local Authority care plan of placement of the child in foster care.