

Ref. CM054/24; CM23C50252  
And ZE23C50388

**Neutral Citation No: [2024] EWFC 270 (B)**

**IN THE EAST LONDON FAMILY COURT**

6<sup>th</sup> and 7<sup>th</sup> Floor  
11 Westferry Circus  
London

**Before HER HONOUR JUDGE SUH**

**IN THE MATTER OF**

**LOCAL AUTHORITY 1 (Applicant CM5054/24)**  
**LOCAL AUTHORITY 2 (Applicants in ZE23C50388)**

**-v-**

- (1) Mother**
- (2) Father**
- (3) THE CHILDREN through the Children's Guardian (Respondents)**

**MS J QUEEN appeared on behalf of the Applicant in CM054/24**  
**MS KERNIGHAN appeared on behalf of the Applicant in ZE23C50388**

**MS WATTS appeared on behalf of the First Respondent**  
**MR FERGUSON appeared on behalf of the Second Respondent**  
**MR LAMB appeared on behalf of the Children (via the Children's Guardian)**

**JUDGMENT**  
**23<sup>rd</sup> JULY 2024**

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*WARNING: This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.*

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JUDGE SUH:

1. Today I am concerned with two children, a girl (QR) born in 2020 who is now four years old and her younger brother (XR), born in 2023 who is now 10 months old. The children are subject to proceedings. In relation to QR, local authority 1 have made an application for a placement order on 21 March 2024 and in relation to XR, local authority 2 have made an application for a care and placement order the latter being dated 11 June 2024.

2. I am hearing these applications today the 23 July 2024 and I am very grateful for the representatives. Ms Queen represents local authority 1, Ms Watts represents the mother in both proceedings, Mr Ferguson the father in both sets of proceedings and Mr Lamb the children through their guardian. Ms Kernighan represents local authority 2, and I am very grateful for the social work teams from both local authorities being at the back of court.

### **Background**

3. By way of background, the mother has not come to court today. I think she appeared remotely at one of the very earliest hearings but has not engaged by coming to court throughout these proceedings. She has not had contact with the children since December 2023 and her solicitors have made strenuous efforts to be in touch with her. She contacted them in May 2024 and provided a number to them but missed her appointments to provide a statement and has not responded to texts, phone calls or emails since. Counsel, Ms Watts, also tried this morning to contact her.

4. She has had a letter hand delivered by local authority 1 on 25 June 2024 setting out in plain language that the local authorities propose to ask the court to make placement orders for the children with a view to them being adopted. The social work team has also contacted multiple family members. The court knows that this is a close knit family, including the maternal grandmother, the paternal grandmother, the maternal aunt and the great aunt on the maternal side. A family member told the Social worker that the mother has been living with her and I am satisfied that all reasonable attempts have been made to engage the mother in these proceedings and that she has been made aware both through her solicitors, through the court orders and through communication from the family of the local authorities' plans for the children. No one asked me to adjourn today, and it is not in the children's best interests that I do so.

5. Their father, has joined I think every hearing on the link from a country in South East Asia. He supports the local authorities' applications. He is very clear that he wants the children to grow up together and he said it would be awful for them if they grew up apart. He has been he says "focusing on the children's needs" and says "now is not a time to be selfish", he puts them first in supporting the local authorities' plans for both of them to be placed outside their birth family for adoption.

### **Threshold**

6. I have already approved a form of words for the threshold document. The mother never indeed filed a response to it. Sadly, she has had a longstanding history of social worker involvement with her two older children dating back to 2010 due to concerns relating to parental drug misuse, domestic abuse and neglect. The two older children were subject to care proceedings in 2019, 2020 and remain the subject of full care orders. QR is subject to a care order herself made to local authority 1 on 6 January 2023 and XR is, of course, the subject to an interim care order made on 20 September 2023.

## Welfare

7. I have to remind myself that the welfare of both children is my paramount consideration, and I remind myself of the no delay principle set out in law and certainly as Ms Queen set out today QR has had so many changes of placement, been placed in so many different contexts that the children's welfare requires me to avoid any further delay, whilst also of course being careful to be fair to both parents.

8. I am sure if the children could express their wishes and feelings they would say that they would want to be with their birth family if it was safe for them to do so but these children are so young that they cannot have a full grasp of the complexities of the decision that I have to make, the risks and the long-term implications for them of the options before the court.

9. I look at their physical, emotional and educational needs and they have both had so much change in their short lives, particularly QR, that they need carers who can be attuned to their development, who can put them first, who can encourage them at school and who can monitor any developmental difficulties that may crop up in the future.

10. I look at the likely affect of any change of circumstance and of course it is sad and regrettable that there needs to be a change of foster placement because the carers have given notice. These children, particularly QR, have had so many changes in their lives. Of course they have a great aunt who QR in particular has spent time with, they have spent time with their mother, they have been removed from her care, she removed them from the residential placement in which she was living in September 2023 and they have come to know so many different carers and social workers and it seems to me that any change of circumstance for them needs to be carefully handled in the future and carefully managed so that both local authorities minimise the number of changes for them going forward.

11. They are both of course white British children. They are part of a wider family who I know love them very much and both in these proceedings and previously their paternal grandmother, their aunt, and their great aunt, have put themselves forward to be assessed. I have already referred to the two half-siblings on the maternal side, and I believe they have paternal half-siblings as well. They are part of a family which is a large and loving one.

12. I have already referred to the harm that they have suffered by talking about the threshold documents, but it seems to me that there would be a risk of harm to them if they were placed back in their mother's care. Very sadly she tested for drugs in January this year and the report of 17 January 2024 shows high levels of cocaine and crack, cannabis, diazepam, fluoxetine, ketamine, MDMA which cover the period between June and December 2023. Sadly, it is noteworthy that the levels of cocaine use were too high to be measured, and this of course covered the time when the mother was caring for QR and during which XR was born. There is a long history of complex relationships which put the children at risk of being exposed to aggression and indeed drug use.

13. Dr Ratnam in these proceedings has assessed the mother and thinks that she uses these drugs as a coping mechanism for anxiety and depression and to help mitigate the impact on her of a very difficult past history. Sadly, Ms Goldberger when she tried to assess the mother was able to set up appointments but could go no further because the mother was not able to take part in that assessment. The mother's actions which led to these proceedings of removing both children from the care of the local authorities, from the family assessment unit on 19 September 2024 and staying off the radar until the children were handed to their great

aunt on the 24 September 2024 put the children at risk of harm. I have in my judgment on contact published now under the local authority 1 case number looked at in detail how distressing and upsetting that period must have been for both children.

14. Sadly the mother has not been able to work openly and honestly with the local authorities. I know that she left the UK to give birth to QR in a country in South East Asia and provided during her pregnancy urine samples that had been given by third parties to minimise and mislead the local authority as to her drug use.

15. When I look at how capable she is of meeting these children's needs very sadly I have to recall that as a result of her own pain she is unable to care for the children at this time. I agree with the Guardian that her non-engagement in these proceedings is an expression of the pain that she is experiencing knowing that she is unable I think to care for these children and that they are unlikely to be returned to her care.

16. The father currently lives overseas, and he is not in a position to care for his children and very openly says that the mother would not be able to do so either. That is a very realistic and child focused approach for him to take.

17. In previous proceedings the aunt has been assessed. She put herself forward to care for the children this time but withdrew from the assessment indicating that she has to focus on caring for her own children and the stability of her own mental health. The paternal grandmother, was also negatively assessed in these proceedings and has not challenged that assessment. The great aunt, was negatively assessed and came to court to challenge that assessment. I dismissed that application on 16 May 2024 and I have not been informed of any appeal of that decision. So, sadly, these family members who very much love these children are unable to offer them a stable forever home.

18. I have to consider for both children whether making an order is better than making no order at all and since I am asked to consider placement orders I look at the children's welfare throughout their lifetimes. If a placement order accords with their welfare I then have power to determine whether their welfare requires me to dispense with the consent of their parents. I remind myself of the guidance in the case of *Re P (Placement Orders: Parental Consent)* [2008] EWCA Civ 535.

19. I look in the context of the Adoption and Children Act at the children's particular needs and QR has had such an unpredictable start in life, her speech is unclear at times, and it is recorded that she struggles to express her emotions. When she first went to the foster carers she was overwhelmed at times by tantrums and the current carers are struggling to meet her very particular needs. XR of course was exposed to his mother's drug use when he was in utero, and we do not know the impact that that may have on him in later life. These children have had a very difficult start in life and may have needs that show themselves throughout their childhood of needing particular care and skill on the part of their carers to make sure that they are well looked after.

20. I look at the likely effect on both children of having ceased to be a member of the original family and becoming adopted. Of course there is a severance of legal ties with the birth family that is a lifelong and fundamental change. The local authorities suggest that after farewell contacts which will be by video, live for XR, prerecorded it looks as if maybe best suited for QR, there will be letterbox contact for their parents and wider family members. That is a lifelong decision that I am being asked to make that affects these children's sense of identity as they grow up and into the future. It would extinguish the parental responsibility of

their parents, and should they be adopted they would be treated in law as a child of the adopted family with all of the impact that that has on succession, inheritance and rights of abode. Of course fundamentally the decision to place a child for adoption has an impact on their identity and potentially their self-worth and self-image for years to come.

21. I look at the relationship they have with relatives and the value of that continuing and of course there is such a value of these children knowing their birth family and I am grateful that the father has managed to stay in touch with the children from overseas. Of course they are part of a broader sibling network and the local authority in their plans have looked at letterbox contact for half-siblings as well. The wider family will be offered letterbox contact and that is very important because as I have said these children are an integral part of a very broad and loving family.

### **Analysis of the options for these children**

22. I have to look at the realistic options and of course one option is to place the children with their mother, but she has not been assessed in these proceedings. QR was placed in her care under a care order which led, sadly, to her removing QR from the oversight of the local authority by kidnapping her in short and going off grid for a number of days. Their mother loves them, I know that it is an expression of her own pain and sadness that she cannot be here for them today, but if she were to be able to care for them she would need to be able to work openly and honestly, she would need such a high level of support which she was offered at that residential assessment. Sadly, during these proceedings she has not been in a place where she has been able to work with the social workers or the parenting assessors or meet with the guardian.

23. The return of the children to her care is unrealistic and such high risk that the view of both social work teams is that it should not be attempted and that is something that the guardian agrees with. The return of the children to her care if they were removed again would be catastrophic for them at a time where they need certainty and stability.

24. One option of course is for both children to be subject to a care order under local authority supervision in foster care. The local authority would have parental responsibility, they would find carefully chosen, vetted carers, the children would be together and their bonds with their family could be retained. But against this these are young children who if in foster care would have corporate parents throughout their childhood so that day to day decisions about school trips, sleepovers and all of those kind of things would be overseen by social workers.

25. They would, as we have seen, face the uncertainty of changes in placement. Sadly there needs to be a change within the next 28 days due to the foster carers giving notice and that is not in my view a pattern that the children should have to face repeatedly during their childhood. All of that uncertainty if they remained in foster care would remain live, it would be unclear whether mother would ever be in a place to discharge a care order, and these children need permanence and stability without delay.

26. Another option is placement for adoption. That gives them the stability and permanence that they need, it means that they will be placed together in a carefully chosen home that can meet their needs and give them stability and predictability going forward. The adoptive parents will be in a position to make those parental responsibility decisions for them throughout their lifetime.

27. I know that adoption is not a magic wand, it is not a panacea for all of life's challenges and of course adoptions can and do break down. Adoption is a lifelong decision with such long lasting implications for the children's identity and it means that they would only have letterbox contact with all those family members who love them very much.

28. But looking at those options I am driven, sadly, to the inescapable conclusion that placement for adoption best meets these children's needs. Sadly it is so very clear that the mother is not in a position to meet the children's needs and that this is the necessary and proportionate order to make. Indeed it is supported by the children's father.

### **Conclusion**

29. So subject to any further submissions I make the following orders. I record that I have already set out the threshold criteria and annexed it to an earlier order. I make a care order for XR. I know that the father consents to the placement of both children but formally I dispense with this consent because it has not been given in a prescribed form and because he is out of the country it is important for me to say that had he not consented I would and do dispense with the consent of both parents. I make a placement order for both children. I direct that a transcript of the judgment be prepared at the expense of the local authorities and anonymised and published so it sits alongside the anonymised judgment on contact which is already available.

30. I give leave for any relevant documentation to be disclosed to prospective adopters and I make the usual orders about costs.

31. I hope that the farewell contact will be tailored for both children in a way that is memorable for them. Certainly, if that is done by video that might be a video that the children could keep and have in later life to replay if they wish to do so and if it is in their best interests for that to be captured for them in later life. It of course would depend on how that contact goes. But I certainly hope that the parents might bring themselves to participate in some life story work and that they can contribute to the life story book no doubt that is being prepared for the children. I know the father is likely to do so, he has come to every hearing, and I am sure he would want to send a later life message for both children.

32. I hope that in later life if the children read this judgment they will appreciate how sacrificial their father was in putting them first and saying that he wants them to have a life where they flourish together and are well cared for. He says in his statement how lucky an adoptive family would be to have these children in their care, and he is absolutely right in doing so.

33. The thoughts he has for them chime entirely with the sibling assessment that says that these children should be brought up together as siblings and have that lifelong support of each other in their lives.

34. I hope the children would also understand how much their mother loves them and it is a reflection of her own distress and difficulty that she is not here for them physically in court at this time. Having reread a number of papers from previous proceedings it is very clear that their mother adores them but, sadly, is not in a position due to her own personal circumstances to care for them throughout their childhood.

35. In closing the case I would want to thank the social work teams for the hard work that they have put in to joining up the thinking for both children and I know that that is something



that has taken hard work and dedication on behalf of both teams and I am really grateful for them making sure that they have planned for both children together and thought out carefully, two separate local authorities with their own duties, but thought out carefully in conjunction with one another what is best for QR and for XR.

36. I am very grateful to the guardian for her careful scrutiny of how this case has developed and a very thoughtful final analysis that puts the children first.

37. I am very grateful to counsel and particularly consistency of representation for the parents and the children which means that the parents could be assured that they have had the best possible advice and representation all the way through these proceedings.

38. I, as a formality, record that XR's birth certificate has not been made available to me today. I am grateful for counsel looking at the rules and advising me that it is not necessary and not a barrier to me making the placement orders and that of course I have the power to direct that any documents need not be attached to any particular form if they are required to be so. For the avoidance of any suggestion of procedural irregularity and to make sure that the court has it to hand I will not perfect the local authority 2 order until that birth certificate has been provided for the court file so that I know that it is there and can be referred to as necessary before my job is formally completed.

39. Thank you all for your help and hard work and I wish both QR and her little brother, XR, all the very best in the future.

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This transcript has been approved by the Judge