



Neutral Citation Number: [2020] EWHC 3496 (Fam)

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 18/12/2020

Before :

MRS JUSTICE KNOWLES

Between:

A LOCAL AUTHORITY

Applicant

- and -

A MOTHER

Respondents

And

A FATHER

And

BB

And

CC

And

J

(by her Children's Guardian)

Mr Barnes and Mr Langford for the Applicant local authority

Miss Giz for the First Respondent mother

Mr A Powell for the Second Respondent, BB

Miss Mitropoulos for the Third Respondent, CC

Ms Honeyman for J

Hearing dates: 2-6 November, 17 November, 27 November 2020

Approved Judgment

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....

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.

Mrs Justice Knowles:Introduction

1. I am concerned with the second set of care proceedings about J, now aged four years. The first set of proceedings concluded in June 2018 when I made a special guardianship order placing J in the care of her paternal grandmother, BB. These proceedings generated two judgments, the first in consequence of a fact-finding hearing (A Local Authority v A Mother and Others (Radicalisation: Fact-Finding) [2018] EWHC 2054 (Fam)) and the second in consequence of a welfare hearing (A Local Authority v A Mother and Others (Radicalisation: Welfare) [2018] EWHC 2056 (Fam)). Regrettably, in 2019 the breakdown of J's placement with her paternal grandmother gave rise to these proceedings.
2. The parties to the proceedings were the mother, the paternal grandmother, BB, the paternal great uncle, CC, and J herself. The father played no role as he remains in prison in Turkey, having been convicted of membership of an armed terrorist organisation. I was told that he may be released in the latter part of 2021 and would wish to return to this jurisdiction of which he is a citizen. It remains unclear whether, on return, the father would be the subject of further investigation by the authorities. At an early stage in these proceedings, efforts were made to ascertain whether he could be served. Those efforts foundered and the parties expressed concern about the degree to which information about these proceedings could be shared without putting the father at an unacceptable risk whilst a serving prisoner. No party sought to delay the resolution of the proceedings for J in consequence of the father's inability to participate. I was satisfied that I should proceed to make decisions about J's welfare in his absence.
3. I have read a substantial bundle of documents which included some material from the first set of care proceedings together with position statements from the parties at the commencement of the hearing and written submissions in advance of the oral submissions which I heard on 27 November 2020. I heard oral evidence from Dr Timberlake, a clinical psychologist, the social worker who assessed CC, J's allocated social worker, the mother, the paternal grandmother, CC and the Children's Guardian.
4. I record my debt to the advocates who appeared before me in this uniquely difficult case.

Background

5. The background is fully set out in my two previous judgments which should be read alongside this one. What follows is a summary.
6. In March 2015, the mother and the father travelled together to Syria via a third country and Turkey, having met and married shortly before their departure. Prior to their departure, both the mother and the father had, independently, become radicalised. There was a point of apparent connection through the husband of one of the mother's sisters, but any involvement from him in the arrangements to marry appears to have come after the process of radicalisation had occurred for both J's parents.

Approved Judgment

7. Both parents aspired to live under the Caliphate which had been declared by ISIL (Islamic State in the Levant) in June 2014 throughout territory straddling Syria and northern Iraq. In this jurisdiction, I record that ISIL has been a proscribed terrorist organisation since June 2014. It is a brutal Sunni Islamist terrorist group which adheres to a global jihadist ideology, following an extreme interpretation of Islam which is anti-Western and promotes sectarian violence. ISIL aimed to establish an Islamic state governed by Sharia law in Syria and Northern Iraq and to impose its rule by using violence and extortion.
8. The mother and father entered ISIL controlled territory willingly and I found that the mother had been fully aware of the ultimate destination of travel before she left this jurisdiction. Whilst in ISIL controlled territory, the mother and father spent time in both Syria and northern Iraq. The mother reported - though this could not be corroborated - that they also spent periods of time apart. During their time in ISIL controlled territory, the mother fell pregnant and gave birth to J. In early 2017, the mother, father, and J presented themselves in a Turkish town near the Syrian border. Both parents were arrested. After a lengthy process, the mother was permitted to return to this jurisdiction with the support of the Foreign and Commonwealth Office, following DNA testing of J. In her absence in October 2018, the mother was convicted in Turkey of membership of an armed terrorist organisation. No extradition proceedings have been brought and none were indicated. The mother was advised that she was likely to be detained to serve her sentence should she travel to Turkey in future.
9. At a fact-finding hearing in February 2018, I found the threshold criteria set out in s.31(2) of the Children Act 1989 were satisfied. In summary, my findings were that J had been exposed to the risk of significant harm by her parents who had travelled to Syria and lived in a war zone. Her father had been radicalised and held Islamist extremist beliefs, travelling to Syria to fight for ISIL and to engage in terrorism-related activity. J's mother shared the same extremist ideology and had travelled with the father to Syria to live in ISIL controlled territory. Furthermore, there was a risk (a) that the mother would radicalise J and inculcate an extremist ideology; (b) that she would seek to remove J from the jurisdiction to an unsafe location in pursuit of her extremist ideology; and (c) that the mother would behave in this jurisdiction in ways consistent with her extremist ideology. Finally, I found that the mother did not have any real insight into the risk of significant physical and emotional harm which the father posed to J and, in consequence, was unable to act protectively. I found the mother's evidence during the fact-finding hearing to be both inadequate and dishonest and I considered that she had withheld information from the court just as she had done from the professionals working with her. Her failure to provide a complete account of events was indicative of a continuing desire to conceal her true belief system.
10. At the conclusion of the welfare hearing in June 2018, I made a special guardianship order in favour of the paternal grandmother, BB, coupled with a 12-month supervision order. The mother had sought J's return to her care, but I concluded that this would not be in J's best interests. Though the mother was more than capable of providing good physical care for J and loved her deeply, the mother's oral evidence gave rise to serious concern. She appeared to have accepted some of the findings I made following the February 2018 hearing. However, having heard her oral evidence, I formed the view that her acceptance was limited and insufficient. I did not believe the

Approved Judgment

information she had given represented a final, full, and honest account of what occurred in 2015 and thereafter. Such an account was necessary to inform any evaluation of risk. Though she had engaged with therapy, I concluded she was merely at the start of a lengthy process of personal change and that J could not wait for that process to be complete. Were J to be returned to her mother's care, I concluded that the risks could not be safely managed.

11. My welfare judgment noted that there had been some equivocation by the paternal grandmother in putting herself forward as a carer for J. This was a focus of the evidence before and during the welfare hearing. Sadly, J's placement came under significant pressure, arising from the investigation and diagnosis of J with thalassaemia in late 2018/early 2019 and the paternal grandmother's unresolved feelings about the behaviour of J's father.
12. In June 2019, the local authority made an application to extend the supervision order and, at a hearing in July 2019, the paternal grandmother confirmed she felt unable to care for J in the long term. As a result, the local authority issued care proceedings in early August 2019 asserting that, given the existence of the supervision order, the threshold criteria could be established on that basis alongside the court's findings made in February 2018. On 6 August 2019, I timetabled the care proceedings to a final hearing in March 2020 and, in November 2019, I authorised the instruction of Dr Timberlake to conduct a psychological assessment of J and members of her family.
13. Alongside the legal proceedings, J's care arrangements had altered in that CC, her paternal great uncle who is the paternal grandmother's brother, had started to play a more significant role. Every alternate weekend, CC provided respite care for J at the home he shared with his mother, J's great-grandmother. By November 2019, CC had decided to put himself forward as a long-term carer for J if J was unable to return to the care of her mother.
14. At a pre-hearing review on 9 March 2020, the parties agreed that the section 31 threshold criteria were satisfied on the basis of (a) the paternal grandmother having confirmed that she was unable to provide long-term care for J and (b) the findings made in the previous proceedings in respect of both J's parents. I endorsed that formulation of the threshold test in my order on that date. On 31 March 2020 and on the application of the mother, I adjourned the final hearing to October 2020. The Covid-19 pandemic meant that there were substantial barriers to the mother's effective participation in a hearing at that time. By that time, J was living with CC and her great-grandmother and, to confer parental responsibility upon CC, I made a "lives with" child arrangements order in his favour, considering the same to be justified given the uncertainties at the start of the pandemic.
15. In September 2020, I once more adjourned the final hearing to early November 2020 as personal circumstances meant that I was not available in early October 2020. The mother applied for reallocation of the proceedings to a judge capable of hearing the matter at an in-person or hybrid hearing in the belief that this would secure an earlier hearing. I refused that application (a) as there was no judge available who could hear the matter before the date I had identified in early November and (b) the benefit of judicial continuity greatly outweighed reallocation to another judge. Further, there was no disadvantage to the mother in a remote hearing.

Approved Judgment

16. From about July 2020 onwards, the mother had raised concerns about the care given to J by the paternal family. These were investigated by the local authority and found to be without foundation.

The Parties' Positions

17. All the parties agreed that the special guardianship order made in favour of the paternal grandmother should be discharged. The paternal grandmother accepted that, following the discharge of this order, she would no longer hold parental responsibility for J. She stated she wished to remain in J's life as an active presence albeit not as J's primary carer. She supported the making of a special guardianship order in favour of CC.
18. All the parties were also agreed that any final order should be accompanied by a 12-month supervision order. The previous supervision order had been extended but this could no longer occur beyond June 2021. As a consequence, a fresh supervision order based on the conceded threshold finding recorded in my order dated 9 March 2020 would be required. Such an order would be capable, if required, of further extension up to a total of three years. The local authority confirmed that, irrespective of my decision as to where J should live, it would agree to hold the supervision order. That concession was made, having reflected on the merits of retaining the order given the local authority's lengthy involvement, especially in circumstances where it was not clear where J and her mother would reside if I decided she should return to her mother's care.
19. The local authority supported the making of a special guardianship order in favour of CC. Though his special guardianship assessment identified that CC had not previously cared for a small child, the period since March 2020 had demonstrated (a) his total commitment to J; (b) the high quality of care he had provided during a conspicuously challenging time; and (c) his willingness to seek support to enhance his parenting skills. The local authority acknowledged that the mother had an extremely positive relationship with J but remained concerned about whether the risks identified in 2018 had been sufficiently ameliorated to make rehabilitation possible. It was accepted that the nature of the risk arising to J in the mother's care was hard to quantify but, in the local authority's view, it had not been addressed sufficiently to permit safe reunification. The alternative option of J remaining with CC provided continuity, no risk of significant harm, and was likely to allow J to continue to have a positive relationship with her mother.
20. The mother sought J's return to her care and pointed to the work she had undertaken with an Intervention Provider (IP) to address her extremist beliefs and to her cooperation with the Returning Families Unit based at the Tavistock Clinic. Her commitment to J was unwavering and she had maintained good quality, frequent contact since the conclusion of the welfare hearing in June 2018. Furthermore, the mother had secured paid full-time paid employment and had learned to drive. Her assessment by Dr Timberlake was positive and he had recommended that J return to her care.
21. On fine balance, the Children's Guardian recommended, in her March 2020 report, that J should return to the care of her mother with a supervision order and a robust support and safety plan. That recommendation was subject to the caveat that the

Approved Judgment

Children’s Guardian would wish to consider any further information which might emerge during the hearing. By November 2020, the recommendation of the Children’s Guardian was even more finely balanced than it had been in March 2020. J appeared very much at home in CC’s care and the Children’s Guardian was troubled by the mother’s criticisms of the paternal family’s care which had emerged since her earlier report. She considered the concerns expressed by the mother were not warranted and was worried about the implications of an apparent growing lack of trust. She recognised that the return of the father to this jurisdiction at some point in 2021 would bring additional concerns and noted that, whilst living with her own family, the mother appeared to be isolated, have little other support, and might be unable to secure housing such that J could continue at her present nursery. In a position statement filed on her behalf at the start of the November 2020 hearing, the Children’s Guardian continued to support J’s rehabilitation with her mother though she acknowledged this was a somewhat more tepid endorsement than was previously the case.

22. However, having heard the mother’s oral evidence, the Children’s Guardian’s position altered, and she no longer felt able to support J’s return to her mother’s care and endorsed J’s placement with CC. In those circumstances, I invited the Children’s Guardian to produce a short addendum report explaining the reasoning for the change in her position. Fairness to the mother required her to understand the Children’s Guardian’s reasoning so that she might give instructions to her legal team prior to the Children’s Guardian’s oral evidence. The Children’s Guardian did so and there was ample time by reason of a short adjournment for the mother to give instructions on the change of position.
23. CC made plain his commitment to providing J with a long-term home if I decided that this was in her best interests. His position throughout the hearing was neutral, trusting in the professionals and the court to determine which placement and what form of contact would be in J’s best interests. He was firmly of the view that J would benefit from the mother and the paternal family working together, trusting each other and respecting their different positions. He acknowledged the proceedings had been stressful and difficult for the mother and was anxious not to criticise her.

The Legal Framework

24. Given the agreement between the parties that the s.31(2) threshold test was satisfied, I have not set out the law in this respect. No further fact-finding in respect of threshold was required. However, the satisfaction of the threshold test is of critical significance. In Re H (A Child) [2015] EWCA Civ 1284, McFarlane LJ (as he then was) noted the following:

“88. [...] In the context of private law disputes relating to children, there is no presumption in favour of a parent (Re G (Children) [2006] UKHL 43; [2006] 1 WLR 2305 and Re B (A Child) [2009] UKSC 5; [2009] 1 WLR 2496). In a private law case, whilst the fact of parenthood is to be regarded as an important and significant factor in considering which proposals better advance the welfare of the child, the only principal is that the child’s welfare is to be afforded paramount consideration.

[...]

Approved Judgment

94. [...] *The House of Lords and Supreme Court have been at pains to avoid the attribution of any presumption where CA 1989, s 1 is being applied for the resolution of a private law dispute concerning a child's welfare; there is therefore a need for care before adopting a different approach to the welfare principle in public law cases. As the judgments in Re B, and indeed the years of case law preceding Re B, make plain, once the s 31 threshold is crossed the evaluation of a child's welfare in public law proceedings is determined on the basis of proportionality rather than by the application of presumptions. In that context it is not, in my view, apt to refer to there being a 'presumption' in favour of the natural family; each case falls to be determined on its own facts in accordance with the proportionate approach that is clearly described by the Supreme Court in Re B and in the subsequent decisions of this Court.*"

25. In this case, therefore, the court is required to undertake an holistic analysis of the competing care options, with the child's welfare as its paramount consideration. The welfare checklist must be applied. It is also self-evident that the Article 8 rights of J and her family to respect for their private and family life are engaged in this process of judicial determination. Where those rights are in conflict, J's rights as a child must prevail.
26. I have also borne in mind the law set out in paragraph 33 of my 2018 welfare judgment as the potential placement with CC was a placement in which J's identity as a Muslim child would not be given full expression.
27. Finally, any appraisal of risk requires the court to focus on "*the type of risk that is involved, how likely it is to happen and what the likely consequences might then be. Only by carrying out this exercise is it possible to know what weights to give to the risks before setting them alongside other relevant factors*". Similarly, I must pay close attention to the true significance of lies and lack of insight in the context of assessing welfare. Lies are significant only to the extent that they affect the welfare of the child and, in particular, to the extent that they undermine systems of protection designed to keep the child safe (see paragraphs 24-25 of Re F (A Child) (Placement Order: Proportionality) [2018] EWCA Civ 2761).

The Evidence

28. The following is a summary of the salient points of the written and oral evidence and includes some observations which inform my analysis.

The Professional Evidence

29. In July 2018, the local authority referred the mother to Catch-22, a project working with children and families who had returned from Syria. Catch-22 identified the following needs: assistance for the mother with her housing; obtaining a nursery placement for J; emotional support for the mother and paternal grandmother; identifying contact centres close to the paternal grandmother's home; supporting the relationship and the communication between the mother and the paternal grandmother; and providing advocacy services to the mother and paternal grandmother as appropriate. The mother had weekly contact with the project until the end of Catch-22's involvement in July 2019. Mr Fahri, the project manager, provided

Approved Judgment

a report dated 1 June 2019 which was in the court bundle. He did not give oral evidence as no party required his attendance.

30. Mr Fahri's report was extremely positive about the mother's engagement with Catch-22 and described her as making "*impressive progress*" in her ability to be open, insightful and reflective about her past, her upbringing, and her experiences in Syria. He considered that she had demonstrated a genuine desire to change and had not demonstrated any concerning behaviours or expressed any thoughts or beliefs would cause concern about extremist thoughts. He described the mother as now being able to talk about the very traumatic and abusive experiences she was subjected to in her childhood and was of the opinion that this had allowed her to gain a deeper understanding of the process that had resulted in her becoming drawn into radical ideologies. Mr Fahri considered that the risk posed by the mother was "*minimal*" and suggested that unsupervised contact between J and her mother should be considered because the mother was "*proven*" not to be any significant risk to J. He commented that there had been much "*polarising and splitting amongst professionals*" and as a result some "*very punitive decisions*" had been made about J's care.
31. Mr Fahri's report expressed a firm view on risk in circumstances where Catch-22 had not conducted a risk assessment. Despite the disclosure of my two earlier judgments to Catch-22, Mr Fahri made no reference to these which I found a little surprising. The characterisation of the decisions about J's care as "*punitive*" was emotive and without foundation.
32. The mother was referred to an Intervention Provider [IP] by Channel, a confidential and voluntary multi-agency safeguarding programme that supports people vulnerable to radicalisation. The mother had 11 sessions of two hours' duration with the IP and I was able to consider the reports written after each session. The IP focused on developing the mother's knowledge of her religion and on helping her to recognise the wrongness of her past beliefs. At the end of the sessions in summer 2019, the IP concluded that she should disengage and that there remained in the mother "*no vulnerability to radicalisation*". She believed that the mother was much more resilient to extremist ideology and was now better able to separate extremist propaganda from mainstream Islam. However, though she did not identify any issues of concern, the IP commented that the mother was not always honest with her. She noted the mother was very reluctant to talk about how she met her husband, why the marriage was a secret, and when the couple decided to travel to Syria. Curiously, in the last session, the mother denied that her brother-in-law was a member of a proscribed terrorist group. The IP observed that the mother may have sought to keep some subjects under wraps for fear of incriminating herself further. Finally, the IP noted that, while the mother had stated repeatedly that she was not violent and disapproved of hatred towards anyone, this stance was at odds with her Twitter feed after the Charlie Hebdo murders.
33. Some of the sessions with the IP raised concerns in respect of the issues in these proceedings. At the penultimate session on 1 July 2019 after these proceedings had been issued, the mother was in a bad mood and angry with the local authority. As she had done before, she spoke of the paternal grandmother's alleged Islamophobic behaviour towards the father and blamed the paternal grandmother for his radicalisation. She stated that she could not believe the local authority wanted her child to be raised by the paternal grandmother and the IP noted her belief that the

Approved Judgment

local authority had deliberately lied to the court in order to keep J in foster care. In her oral evidence the mother took issue with some of the comments made by the IP and did not accept she had expressed negative views about the paternal grandmother. I do not accept the mother's account since she spoke of the paternal grandmother's alleged Islamophobia on more than one occasion and it struck me as unlikely that the IP would have inaccurately reported her comments on each and every occasion.

34. The IP was not required for cross examination by the mother's legal team. Valuable though her reports were, it was not part of her process to probe and challenge mother's accounts in any depth. At times, her reports read as if the mother - like a school pupil - was receiving instruction about her faith from a teacher rather than being engaged in a process whereby she was challenged about her past behaviour and beliefs and, in consequence, received assistance in identifying with and adhering to mainstream Muslim belief.
35. The special guardianship assessment of CC was positive. CC is aged 53 years and lives with his mother, J's great-grandmother. Prior to caring for J, CC had no parenting experience, but he made impressive efforts to get to know J, to learn about her interests and to take advice. The assessor considered that he had demonstrated commitment and perseverance in wanting to learn how to care for J. CC has been self-employed all his life within the IT industry and has worked from home for much of that time. As a result, he appeared socially isolated and initially struggled to demonstrate affection and physical warmth towards J. In early March 2020, when the special guardianship assessment was completed, the assessor considered that CC needed to "*loosen up*" around J. Despite this emotional reticence, the assessor saw evidence of the beginnings of a bond between J and CC at that time. By the time the assessor gave her oral evidence, CC and his mother had been caring for J full-time since late March 2020. When the assessor visited in late October 2020, she described CC as being comfortable and natural with J and observed that J was very comfortable around CC. Though her visit was relatively brief, she felt CC had come a long way in demonstrating an emotional connection with J since her assessment report was written. Seeing CC and J together had consolidated her recommendation that he had the ability and motivation to care for J in the long term. Miss Giz challenged the assessor on the basis that J did not experience CC as her primary carer instead seeking comfort from her paternal great-grandmother. The assessor disagreed and relied on her recent observations. I found her evidence to be straightforward and balanced.
36. The allocated social worker had the considerable benefit of being involved with J and her mother during the first set of care proceedings and beyond. In late 2019, she carried out a parenting assessment of the mother focused on exploring the mother's response to the 2018 findings and trying to understand the somewhat confusing position adopted by the mother of neither fully accepting nor actively challenging those findings. Her assessment concluded that there remained real questions over the mother's willingness to be consistently honest, open, and forthcoming with important information. In those circumstances she highlighted the difficulties for the local authority in managing risk were J to be placed in her mother's care. She recommended that J should have contact six times a year with her mother if she were placed with CC but was deferential to the court's view on that issue. Should J return to her mother, the social worker considered the future involvement of the paternal family was of critical importance.

Approved Judgment

37. I note that at times the mother has accused the allocated social worker of discrimination based on her religion and/or social background. At other times, the mother has acknowledged the allocated social worker's positive contribution and sympathetic approach. For my part, the mother's criticisms were entirely misplaced, and I was pleased to note that Miss Giz did not rely on them.
38. Miss Giz pointed to an apparent U-turn in the local authority's position which she explored with the allocated social worker in cross examination. In 2019 the allocated social worker's written evidence expressed clear support for the mother on the basis of the positive contact which was taking place. In May 2019, the local authority proposed that there should be unsupervised contact between J and her mother once a week in the community and noted that, when J had contact with her mother at the paternal grandfather's home, there was a degree of unsupervised contact. The social work statement in August 2019 stated that, if J could not remain in the care of her grandmother, the local authority would explore reunification to the mother's care and noted that the IP reports concluded that there had been a significant and positive shift in the mother's beliefs and mindset. However, the statement also observed that the mother remained living with the maternal family, thereby maintaining contact with those who were known sympathisers and associates of a proscribed radical Islamist group. The statement mentioned the risks which might ensue should the father return to this jurisdiction once he had completed his sentence. The local authority's recommendation at that stage was for J to remain in the care of her grandmother whilst further assessment of her mother and other alternative carers was undertaken. At that stage, the local authority's position was entirely sensible, and I struggle to describe its recommendation to the court at the final hearing as "*something of a U-turn*" according to Miss Giz's submissions. However, I accept that the developments in the mother's contact during 2019 may have given the mother the impression that J would be returned to her. I will discuss contact towards the end of my judgment.
39. Miss Giz characterised the evidence of the allocated social worker as disappointing and criticised her for being unable to balance her own views as against those of the other professionals and Dr Timberlake. Given that allegedly rigid approach, Miss Giz invited me to treat the allocated social worker's evidence about the mother with extreme caution. In my view, the social worker was entitled to come to her own assessment of the mother based on their interactions during the parenting assessment and to maintain that opinion. The social worker's oral evidence made plain what the expectations of the mother had been during that process and highlighted the mother's lack of transparency about key issues. However, and contrary to the social worker's evaluation, the mother's failure to be open did not mean the risk in this case must be assessed as unchanged since there are many reasons why people lie or do not reveal information, for example, to protect themselves or others or because of feelings of guilt and shame.
40. The allocated social worker was positive about the commitment of CC to J and the relationship between them. She considered that J had started to recognise CC as her primary carer and was settled in his home: J had spoken of being "*at home with Uncle CC*". She was concerned that, in the run-up to the final hearing, the mother had been critical of the care J was receiving from CC without proper foundation.
41. Dr Timberlake, a chartered clinical psychologist, was instructed to carry out an assessment of J and key family members. The letter of instruction asked him to

Approved Judgment

undertake a full psychological assessment of the mother, taking into account “*her experiences in childhood, her experience of being parented and growing up in the maternal family, the family relationships within her family, her relationship with her father, living in Syria, returning to the UK, being separated from her daughter and her husband*”. It included a request for him to comment on the mother’s motivation, functioning, resilience, and susceptibility to external views together with her overall ability to reflect, learn, make, and sustain changes. His report set out the mother’s account at great length without comment or any indication of challenge by him. He went on to answer the questions posed of him by the letter of instruction.

42. With respect to J, he noted that her presentation was good and that she had shown resilience in adjusting to the changes in her care. She currently presented with minimal difficulty around her psychological and emotional well-being and appeared to be able to utilise the support and care of the several adult carers in her life whilst maintaining a good attachment to her mother. He thought that J had had good care from those around her and that the relationship with her mother had helped to nurture her sense of resilience. He considered that it was important for J to understand who her primary caregiver was and that she needed consistency in her home environment. She did not require any therapeutic intervention. Dr Timberlake expressed some concern that J’s care arrangements within the paternal family represented a form of shared care which might be unsettling for her as she developed and matured.
43. Dr Timberlake considered that the mother demonstrated insight into her experiences and the ability to reflect on her own role and responsibility in past events. She appeared to be emotionally and psychologically more resilient and had made significant steps in her own life and in her role as J’s mother despite difficult circumstances. He considered that her relationship with the father had ended. He did not think she presented as highly susceptible either to external views/beliefs or as a highly vulnerable individual. He was supportive of J’s return to her mother’s care.
44. Dr Timberlake assessed CC as a very accomplished man who had achieved great deal of stability in his own life and who was committed to his family. It was clear that he was capable of taking on new challenges and learning new skills conducive to providing care for J. Nevertheless, he was likely to need considerable support to care effectively for J and Dr Timberlake thought it likely that the paternal great-grandmother would take much of the lead. At the time he reported in February 2020, Dr Timberlake thought it likely that CC had not been taking the lead in caring for J and considered it essential that he did so if J were to have a sense of who her main caregiver was. Additionally, Dr Timberlake did not think CC fully understood the requirement to promote J’s religious identity as a Muslim child. In conclusion, Dr Timberlake opined that the paternal family’s main priority was to ensure that J remained in their care at all costs. In his oral evidence, he characterised the paternal family as engaging in a custody battle with the mother.
45. In his oral evidence, Dr Timberlake was keen to stress that he was not undertaking a risk assessment, but that assertion did not accord with the nature of some of his conclusions, for example in relation to the mother’s vulnerability and her relationship with the father, which were expressed very firmly. Rather more critically, there were significant issues – such as her ambivalence about her relationship with J’s father - which Dr Timberlake had failed to elicit from the mother, and which were therefore absent or incorrectly framed in his analysis. Furthermore, it was unclear whether Dr

Approved Judgment

Timberlake had accepted my previous judgments as the starting point for his work. Though he accepted that he had to take my findings into consideration, parts of his report demonstrated an acceptance of the mother's account even though it contradicted the findings that I made in 2018. When cross-examined about the impact on risk, if the mother fundamentally failed to acknowledge her belief structure and agency in past events, his answer failed to grapple with that significant issue. Throughout, it appeared from Dr Timberlake's answers that he accepted the mother's account alongside the reports from the IP and the Returning Families Unit, seeing it as his task to "*look at her ability to form a narrative to understand her actions and how she got to her current position*". When I asked him how he was able to assess the mother's ability to make and sustain change if her narrative was, at points, wholly at variance with my findings, he responded: "*It wasn't about challenging the fact-finding but developing her understanding of why she did what she did. On reflection, understanding what may have been going on for her - the moment when she arrived, her experiences - she believed she wasn't someone who intended to go to Syria to harm anyone*". I found this evidence quite difficult to follow. If in fact the mother intended to travel to Syria to support the ISIL regime and did so in furtherance of a violent extremist mindset, then the creation of a narrative in which she believed she was not someone who intended to go to Syria to harm anyone did not strike me as a reliable way of deconstructing and challenging her past beliefs.

46. In his report on the mother, Dr Timberlake made no reference to any of my findings and though he assured me that he had taken these into account, I was left unconvinced. Dr Timberlake's assessment that the mother did not present as highly susceptible to external views or beliefs and that she had demonstrated an ability to learn, reflect and sustain change did not, for the reasons set out above, appear to be soundly based and I did not rely on it. I note that he was at pains to confirm that he was not a forensic psychologist; had not been asked to conduct a forensic risk assessment; and did not claim expertise in the field of radicalisation.
47. I was also unpersuaded by Dr Timberlake's assertion that the paternal family members were engaged in a custody battle with the mother. If anything, the converse was true as both the paternal grandmother and CC were at great pains to avoid criticism of the mother and to acknowledge her importance in J's life.
48. Dr Timberlake was also of the view that further assessment of the maternal family could be carried out once J was in her mother's care.

The Paternal Family

49. The paternal grandmother's evidence was helpful to me. When asked about the father, her answers were measured and characterised by an overwhelming sense of duty to prioritise J's safety over the needs of her son were he to return to this jurisdiction. She made it clear that she would not permit the father to live in her own home on his return to this jurisdiction. It was plain that his behaviour caused her great pain and that she remained concerned about his welfare. Contrary to the view expressed by Dr Timberlake, the paternal grandmother stated that she did not see the current set of proceedings as a custody battle though she expressed some scepticism that a shared care arrangement involving the mother and CC could work.

Approved Judgment

50. CC's steadfast commitment to J permeated his evidence. It was clear that he had been able to develop his relationship with J and had managed remarkably well in the difficult circumstances of the Covid-19 lockdown in spring 2020. He described her daily care arrangements in which he played a significant role and underlined his willingness to educate himself about parenting and J's Muslim faith. He acknowledged the important role played by the paternal great-grandmother and by the grandmother. Most notably and to his great credit, he sought to avoid criticising the mother and acknowledged the positive significance of her relationship with J. He told me that he very much wished to promote that relationship if J were to remain in his care. I accept his evidence. It was also clear to me that he had been very upset by the recent criticisms the mother had made about J's care though he was pains to tell me that he considered this episode had been resolved and that he had put it behind him.
51. Miss Giz placed considerable emphasis on observations of CC made by Dr Kershaw of the Returning Families Unit when she visited his home – with a number of other professionals - on 16 September 2020. Dr Kershaw observed that J mostly interacted with the paternal great-grandmother and Miss Giz relied on that observation to suggest that J did not have a primary attachment to CC. CC told me that he wanted to discuss J's needs with the visiting professionals and had arranged in advance that his mother would keep J entertained. I accept that evidence and note that Dr Kershaw's observation was at odds with observations made of CC's interaction with J on the recent visits of the Children's Guardian and of the special guardianship assessor.

The Maternal Family

52. No member of the maternal family gave oral evidence or filed a written statement. The mother was consistent in stating that she did not look to her family for support although she lived with her parents and younger siblings. At the conclusion of the evidence, the Children's Guardian was of the view that the maternal family remained a source of concern and uncertainty. All three of the eldest girls in the family had married men said to be Islamist extremists who were known to the police. The reasons for this striking feature remain unclear. During the hearing it emerged that the children of one of the mother's sisters were not living with their mother; that this sister was staying in the family home where the mother was living; that there were private law proceedings about those children in which the court had made a section 37 direction and had directed a home visit after the section 37 reporter had not been able to make such a visit without a court direction. The mother disclosed that the reason for the section 37 direction was her own presence in the home, apparently raised by her former brother-in-law, despite the fact that he himself had been suspected of extremist Islamist views. The Children's Guardian told me in her evidence that she viewed the maternal family as a vulnerable feature pertaining to the mother. She disagreed with Dr Timberlake that the risks posed by the maternal family could be assessed once J was in her mother's care, considering that the outcome of that assessment was too uncertain.

The Mother

53. I begin by acknowledging that the mother has taken significant steps to improve her life, by obtaining employment that she finds satisfying and useful and by learning to drive. Unfortunately, she has not been able to secure independent accommodation and has returned to her family, first living with her brother before moving back to her

Approved Judgment

childhood home lived in by her parents and several younger siblings. She continues to be somewhat isolated and has few friends and told me that her main support came from the paternal family rather than from her own. Over the last two years she has had access to a high level of support and intervention from several professionals with whom she has engaged.

54. In 2018 I identified a number of areas about which the mother had failed to give a full and/or true account, for example, the circumstances in which she came to know the father, the couple's courtship and marriage, their journey to Syria and what happened during the time they lived in the ISIL Caliphate. In my welfare judgment, I expressed the view that the mother's evidence about the end of her relationship with the father was distinctly equivocal. It was apparent then that I was troubled by mother's failure to address honestly what has happened in the past and I said in paragraph 41: "*Had she given a fuller and more convincingly honest account of the matters discussed in my judgment, rather than making piecemeal and late revelations, there might have been more scope for optimism about her potential as a carer for her daughter*". I observed that the mother was, in June 2018, at the start of a lengthy process of personal change.
55. In her September 2019 statement the mother accepted my findings as to the risk posed by the father but claimed to be unaware that he "*had such extreme views and wished to join ISIL for the purpose of fighting for them*". At that time, the mother claimed that her support for ISIL was limited to "*ISIL establishing a caliphate in which it would be possible for me to live under Sharia law*". She claimed to believe that videos showing ISIL atrocities were Western propaganda and did not believe them to be true. Despite knowing the importance placed by the local authority on transparency, the mother's final statement in late September 2020 did not provide any further information. She asserted that she had given a full account of all she knew and maintained her position on ISIL atrocity videos despite the implausibility of this. Her statement sought to differentiate between her outlook and that of the father and maintained she had not gone to Syria with any intention other than that of living in an Islamic environment.
56. The mother's account of her experiences provided to Dr Timberlake stressed an apparent lack of agency, in that the driving force to go to Syria was always that of the father rather than her own. Her account of the couple's courtship did not accord with my findings about the speed with which they had decided to get married and her account in other respects was at variance with my findings.
57. The mother's oral evidence was an emotionally draining experience for her and difficult for those in court to listen to. At the start of the mother's evidence she was noticeably confident, but this ebbed away when she was asked about her relationship with the father, with her own family, and her experience of radicalisation. She eventually accepted she had failed to provide information to the local authority about her sisters, one of whom was involved in children law proceedings where complaint was made about the mother's presence in the maternal family home as a potential source of radicalisation for her nieces and nephews. When I asked her about her feelings for the father given his status as J's father, she accepted that there were lots of issues she had not really explored with professionals and that she needed significant professional assistance to address these. When confronted about her statements to the IP that the paternal grandmother was Islamophobic and this had

Approved Judgment

caused the father's radicalisation, the mother struggled to explain away her continuing feelings of sympathy towards the father. Her ambivalence about the ending of their relationship was obvious and worrying. Without hesitation during cross-examination, the mother was able to entertain the notion of the father having contact with J. There was little appreciation by her that the father would pose a risk to both her and J.

58. In my welfare judgment, I had observed that it was striking how new information from the mother was only forthcoming in the witness box. That observation was equally pertinent with respect to the mother's oral evidence in 2020. Towards the end of her cross examination by Ms Honeyman, the mother finally admitted that she had believed in violent jihad and had left this country to act on those radical views. She described those beliefs as "*disgusting*" and said she was ashamed of herself. She admitted she needed to work on how to make sense of what had happened to her and that she continued to experience difficulties in this regard. She accepted that there were ongoing risks and problems in relation to her as a carer for J especially given the father's foreseeable return to this jurisdiction in 2021. That was a brave acknowledgement by the mother for which I give her considerable credit, but it underscored a fundamental lack of transparency on her part with safeguarding agencies and with those who had been working with her. It reinforced the view that I expressed in 2018, namely that the mother was on a journey of personal change which remained incomplete.
59. Standing back and looking at the work undertaken with the mother and at the assessment conducted by Dr Timberlake, the failure to grapple meaningfully with the mother's relationship with the father and the events of 2015 represented something of a missed opportunity. Miss Giz submitted that, if this was my view, the mother should be further assessed so that she had an opportunity to provide a fuller account and so that better founded expert evidence as to risk might be before the court. Superficially attractive though that submission might be, it failed to address the mother's own reticence and lack of transparency with either assessors or therapists. It was only in the witness box when challenged carefully and appropriately that (a) the mother's lack of transparency became apparent and (b) she made further damaging admissions. I had little confidence that an adjournment for a further period of assessment would alter that dynamic or produce anything meaningful.

The Children's Guardian

60. In her final analysis in March 2020, the Children's Guardian identified that there remained a significant gap between my findings what the mother had now admitted. She found it frustrating that the mother could not be fully honest knowing the significance for J. She took into account the views of the IP and the Returning Families Unit that the risks associated with the mother had reduced and that the mother's mindset had shifted. She concluded that, if the court assessed that the risks had diminished, it would be possible to establish a care plan in which J could be safely supervised by the local authority and live with her mother. Her recommendation on fine balance was for J's rehabilitation to the mother alongside the making of a supervision order with a robust support and safety plan. That recommendation was subject to the caveat that the Children's Guardian would wish to consider any further information which emerged during the hearing. In her addendum analysis, the Children's Guardian confirmed that J had settled well in CC's home. Notwithstanding her view that the mother's account of the circumstances described in

Approved Judgment

my fact-finding judgment was incomplete and superficial and that this may be related to a wish to protect herself or others, the Children's Guardian accepted that she was unsure whether the lack of transparency on the mother's part indicated the continued holding of distorted beliefs. She made it clear that she would reflect further on her position having heard the mother's evidence but endorsed once again - in more tentative terms - the plan for rehabilitation of J to the mother's care.

61. Having heard the mother's evidence, the Children's Guardian felt unable to recommend J's return to her mother's care. In her addendum report and in her oral evidence she explained that having heard the mother's evidence, she had appreciated more fully the mother's vulnerability and the difficulties that the local authority would have in managing the risk of J being in the mother's care. She saw the mother as guarded, isolated and lonely and she worried whether the mother would fully accept involvement from the paternal family if J were placed in her care. Significantly, the Children's Guardian accepted that she had not fully appreciated the significance of the father's return and admitted frankly that she should have been more curious and imaginative about this.

The Welfare Checklist

62. J remains a very young child who has close relationships with key members of the paternal family and with her mother. She is, of course, too young to express in words her wishes and feelings about the decision that I must take.
63. J has been diagnosed with thalassaemia. Her carers need to be fully aware of her condition and alert to changes in her presentation. I understand that, when last seen in September 2019, J's haemoglobin was on the low side and she had an enlarged spleen which may indicate the need for future blood transfusions. Nevertheless, she continues to thrive, and her health visitor is pleased with her development. All agreed that J needed stability given that she had had a series of significant changes of carer in her life. A further placement breakdown was likely to cause her real emotional harm. There was professional unanimity that J needed to know who her primary caregiver was.
64. J enjoys being in nursery though it is said she prefers adult company over that of her peers. She was described by the Children's Guardian as being very much at home with CC and his mother, both of whom said J was a happy child who ate and slept well.
65. If J remained in the care of CC, the only change was likely to be a reduction in contact with her mother to a level that would enable her to recognise the permanent nature of her care arrangements and assist her to develop a secure understanding of and confidence in CC as her primary carer. By contrast, a move to the care of her mother would be potentially unsettling; there would need to be a careful transition plan and this move would have to be deferred until the mother had her own accommodation. Any move would be less unsettling if that accommodation could be near to J's current address in order that there could be continuity of nursery provision and to facilitate frequent contact with her paternal family. If this were not possible, the change of nursery would be unsettling as J was said to be happy and comfortable there. J would be likely to miss her present home environment and miss spending time on a daily or very frequent basis with CC, her paternal great-grandmother and her

Approved Judgment

grandmother. Wherever J lived with her mother, there would need to be frequent contact with her paternal family, including overnight stays, in view of the close relationships she has with them. However, the close relationship J has with her mother and the extent of her mother's involvement in her care throughout her life would help to mitigate the disruption of a move. There were, however, uncertainties, including the role of the maternal family and whether the mother would maintain contact with the paternal family in the longer term.

66. J is four years old. She was born in Syria and spent her early months with her parents as they travelled from Syria to Turkey and then was detained with her mother. She spent several months in foster care before moving to her paternal grandmother, losing the relationship with her foster carers to whom she was attached. She then moved from her paternal grandmother's home to the care of CC though the disruption and upset of that move was likely to have been mitigated by the significant role played in her life by the paternal great-grandmother. J has shown resilience but has also experienced distress in respect of all these disruptions. Currently, she was said to present with minimal difficulties around her psychological and emotional well-being. J was now settled and happy in CC's home and had come to accept his importance as her caregiver.
67. It is important to emphasise that this hearing was an opportunity for the court to evaluate whether the risks identified in 2018 had been ameliorated to a sufficient extent that they could be sensibly ignored. Thus, the candour of the mother's admissions about matters traversed in the fact-finding judgment was a key issue, as was the existence of any continuing minimisation or lack of frankness. Those matters not only concern actual or likely risk but also engage the issue as to whether safeguarding agencies could manage any risk if there was a lack of transparency on the mother's part. I also identified that (a) the potential impact of the father returning to the jurisdiction and the nature of the mother's relationship with him; (b) the mother's own vulnerability (evidenced by her earlier radicalisation) and potential isolation; and (c) the role which the maternal family might play were all crucial issues.
68. Based on my findings, the father continued to pose a high risk of significant physical and emotional harm to J. It was difficult to predict what would happen on the father's return to this jurisdiction since he may or may not be subject to further criminal investigation and/or proceedings. The risks the father posed may or may not have diminished. Though the mother had explored obtaining a divorce from the father, this had not progressed as she had been advised that she required his participation in that process. The mother recognised that she continued to have ambivalent feelings about the father. On her own belated admission, their relationship was clearly a matter which caused her ongoing difficulties and which so far, she had been unable to address with those who worked with her therapeutically. I agree with the Children's Guardian that there was a sense of unfinished business between the mother and the father. Though I accept that the mother appreciated on an intellectual level that the father represented a significant risk to both her and J, I find that, on an emotional level, she remains enmeshed with him such that, as recently as 10 January 2020 in a parenting assessment meeting with the social worker, the mother was recorded as saying "*I do not think I will pursue a relationship with him in the future*". The fact that, so late in the day and contrary to her views expressed elsewhere, the mother

Approved Judgment

appeared unable to exclude definitively a continuing marital relationship with the father rang alarm bells. Her inability to be open about her difficulties in this regard reinforced the risk to which J would be exposed in the care of her mother. I am satisfied that my earlier finding about the mother's lack of insight in appreciating the significant risk posed to J by her father and being thus unable to act protectively remains intact.

69. Additionally, there remained a risk that J would be exposed to extremist views in the care of her mother, whether or not the father was involved. The maternal family's association with extremist Islamist beliefs was significant. I cannot exclude the risk which the wider maternal family may pose in this regard though I accept this remained presently unassessed. Whilst the mother herself appeared to have benefited from the work of the IP and had been assessed as no longer adhering to an extremist Islamist ideology, I was unwilling to conclude that J would not be exposed to extremist views by her mother. This was because of (a) the mother's lack of transparency about pivotal events; (b) her ambivalent and enmeshed relationship with the father; and (c) her continuing association with the maternal family. I was however satisfied that the mother dearly loves J and would not place her at risk of physical harm by removing her to an unsafe place abroad or by carrying out dangerous acts in this jurisdiction. To that extent alone, I modify my earlier findings with respect to the risk posed by the mother.
70. Finally, despite her achievements in obtaining employment and learning to drive, the mother remained an isolated and vulnerable young woman. I observe that isolation and emotional vulnerability had attracted her to the apparent certainties offered by an extremist Islamist ideology. Those vulnerabilities remain and, indeed, are enhanced by an obvious desire on the part of the mother to be guarded with outsiders about her life situation.
71. I have carefully considered the position of the paternal family with respect to the risk which the father may pose on his return to this jurisdiction. It was plain that the paternal grandmother remained emotionally devastated by his behaviour and his incarceration in Turkey. There was a significant difference between the paternal family's position and that of the mother, namely that they did not share and had never shared the father's extremist views. Those views have always been repellent to them, and I record that the paternal family reported the father missing and raised concerns about what they found on his computer. I have no reason to doubt the paternal family would protect J from her father and would rely on professional advice about any role he might conceivably play in her life.
72. Turning to the capacity of parents/relevant others to meet J's needs, I was satisfied that the mother is committed to J. She is caring and emotionally attuned to her little girl and she could meet her needs to a high standard. Her contact has been consistently of an excellent quality. In addition to the identified risk of harm, the mother is a vulnerable young woman with few friends and little support other than that offered by the paternal family. It would be difficult for her to form close friendships and support networks for she has good reason to be guarded and closed about both her past, her present feelings and beliefs, and the role of statutory agencies in her life and that of her daughter. Though the mother told me she was anxious for there to be generous contact between J and the paternal family, the recent and wholly unjustifiable criticisms she made of their care for J suggested a rather more complex

Approved Judgment

relationship. I do not know the extent to which she would continue to prioritise J's relationship with them if J were to live with her. Thus, the risks identified in the mother's vulnerability mean she may not be able to offer J safe care for the remainder of her minority.

73. If J remained with CC, the mother would have an important role in her life via contact. This would evolve over time and her role might be particularly important when J moved into adolescence. I was encouraged to hear the mother say that, should I decide J should remain with CC, she would support that placement to the best of her ability.
74. J is flourishing in the care of CC and his commitment to her is beyond doubt. Though he has never parented before or indeed had much to do with small children, he has risen to the challenge and demonstrated his ability to change. He was eager and willing to take advantage of support with parenting including in respect of identity issues. Observations of his relationship with J were, on the whole, positive, and I was satisfied she has started to recognise him as her primary carer. Her great-grandmother and her grandmother also have an important role in her care. Though the mother sought to cast doubts on the appropriateness of the arrangements for J's care, suggesting that it was shared in a way that left J without a primary carer, I was satisfied that the arrangements were child focused and permitted J to spend time with her extended paternal family whilst having a proper routine with CC as her carer.
75. If J moved to her mother's care, I regard it as crucial that CC plays an important part in her life. Regular visiting contact with him would allow J to experience his love and care and that of her extended paternal family. Both CC, the paternal great-grandmother and grandmother would be an important protective factor for J.

My Assessment

76. The realistic options for J's placement are, firstly, placement with her mother and, secondly, placement with CC. During the hearing, the prospect of a shared care arrangement was canvassed but, in their closing submissions, no party invited me to endorse such an arrangement. In my view, that was realistic since the benefits to J of such an arrangement were uncertain and furthermore, I had grave doubts that this arrangement would be practical.
77. The advantages to J of placement with her mother were that her mother was best placed to meet her identity, cultural and religious needs. There is a strong bond between J and her mother which has been supported and developed by continued contact. Arrangements could be made for J to have regular contact with her paternal family and J and her mother would receive support and services from the local authority for at least the duration of the supervision order and probably for longer.
78. The disadvantages to J would be the risk of her suffering significant emotional harm arising from the continuing risks which her mother poses. Though some of those risks have diminished, other significant risks remain not least of which is the risk posed by J's father. The mother is vulnerable and isolated, and she has not been open and honest with professionals. Statutory agencies would struggle to manage these risks, with little confidence that the mother was being transparent in her dealings with them. Though the mother stated that she had accepted the 2018 findings and made some

Approved Judgment

admissions about her behaviour, her involvement with professionals suggested that her acceptance was partial and that she continued to minimise her own role in past events and conceal her beliefs.

79. If J cannot return to her mother's care, the alternative is for her to live with her paternal great uncle, CC, pursuant to a special guardianship order. The advantage to J is that she is already living with CC and looks to him to meet her day-to-day needs. CC is wholly committed to caring for J and has demonstrated that he can provide excellent care and promote her safety and well-being. No issue of risk rises in his care. J's home with CC would allow her to maintain the deep connection with her wider paternal family. CC would be supported via a supervision order and the special guardianship support plan.
80. The disadvantage of this placement is that J will not be living with her mother. Furthermore, a special guardianship order is one which could potentially be revoked if the court gave permission for this to happen. Her mother and father would retain parental responsibility and would need to be consulted about significant decisions affecting J which could potentially lead to friction between the adults. J will also not be brought up as a Muslim child though CC has committed to supporting her religious identity. That is a limitation on her right to manifest her religious beliefs, but this disadvantage is mitigated by CC's willingness to promote J's religious heritage. J will continue to have contact with her mother, and this will provide an opportunity for the mother to support and promote J's religious identity.
81. Standing back and taking a holistic view of the options realistically available to me, I am satisfied that J's welfare requires her placement with CC under the auspices of the special guardianship order. Such placement is a proportionate interference with the article 8 rights of both J and her mother. Her right to a safe and loving home with CC must prevail over a return to the care of her mother who remains, on the basis of my 2018 findings and my assessment within these proceedings, an ongoing risk to her child.

Contact

82. Given my decision as to placement, I must now consider the contact arrangements between J and her mother. The mother invited me to endorse an arrangement whereby she had alternate weekend contact on either a Saturday or Sunday, such contact to be supervised by the paternal family. The local authority suggested a frequency of contact at six times a year but recognised that this was unlikely to be accepted by me. The Children's Guardian suggested that contact should take place once a month with additional contact for special occasions and in the longer school holidays at Christmas, Easter and in the summer. Neither the paternal grandmother nor CC pressed on me any specific frequency of contact though CC indicated that he had no difficulty with fortnightly contact.
83. J has been used to seeing her mother every two weeks. From September 2018 to March 2020, J saw her mother every other weekend, often staying with her at the paternal grandfather's home under his supervision. On occasion there was additional contact when J was unwell, and the mother spent time with her at the paternal grandmother's home. Alternate weekend contact came to an end during spring 2020 and only video contact was possible. Contact resumed at the same level in July 2020.

Approved Judgment

The evidence is that contact has worked well and J has never been prejudiced by alternate weekend contact. It appears that J has settled into CC's care and recognises him as her primary carer.

84. The frequency of J's contact with her mother appears to have had its origins in pragmatic decisions made by the local authority to shore up the placement with the paternal grandmother and to avoid J going into foster care. The Children's Guardian told me that, initially, contact should be at a level which did not undermine CC's role as J's primary carer, and which ensured that J continued to settle. She suggested that contact should continue to be supervised by members of the paternal family and should take place for about half a day so that there was time for enjoyable outings. Ultimately it would be for CC to decide on the appropriate level of contact which would change over time, as J grew older and her needs evolved.
85. All the parties other than the mother invited me not to make an order for contact but to indicate a minimum level of contact which would meet J's needs. The mother asked me to make an order for contact as she wished to have the certainty and clarity that an order would provide.
86. In coming to my decision, I have taken into account the welfare checklist, and the reality that these were not private law proceedings but public law proceedings in which a difficult and far-reaching decision for J's long-term placement had to be made. I recognise the high quality of the contact which has taken place between J and her mother, but the present level of contact was reflective of uncertainty about J's ultimate long-term placement. Given my placement decision, contact needs to be rebalanced to support J's placement with CC.
87. Standing back and looking at matters in the round, I have decided that contact should take place every three weeks at the weekend and should continue to be supervised by the paternal family. Initially, contact should take place for about half a day to allow J and her mother to go on outings but on special occasions such as birthdays and Eid and, when it falls in the school holiday, contact could be extended for a whole day. Presently, there should be no staying contact. Those arrangements strike a welfare focused balance which allows J to see her mother regularly but not as infrequently as monthly and which reinforces to J that her home is with CC.
88. In due course and over time, contact will develop as J's needs evolve and the mother's circumstances alter. That militates against the making of an order because an order will not adapt readily to J's needs. In my view, as her carer, CC is best placed to assess the level of contact which will meet J's needs. I have confidence that he values and respects the mother's role in J's life and that he will promote and support her contact with J in the future.

Conclusion

89. I am satisfied that these care proceedings should conclude with the making of a special guardianship order placing J in the care of CC coupled with a 12-month supervision order. This outcome is not what the mother wanted, and I am very conscious of the distress which my decision will cause her. However, J needs her to support her home with CC and I invite the mother to make good her promise to me that she will do so.

Approved Judgment

90. I commend the mother for the effort she has made to fashion for herself a life with purposeful employment which gives hope for the future. In so doing, she sets a good example for J. Alongside those positives, the mother must address the difficult issues identified in this judgment and do so transparently and honestly no matter how painful this may be for her. If she fails to do so, the psychological and emotional burden on her will be crippling and she will be faced with continuing suspicion on the part of safeguarding agencies. She has made positive progress since my judgments in 2018, but both she and I know there is much hard work still to be done. I very much hope that she can continue to receive support and therapy from the Tavistock Returning Families Unit.
91. Finally, I pay tribute to the paternal family who have come together to provide J with a loving home. Their restraint and dignity in this uniquely difficult litigation was commendable.
92. That is my decision.