Neutral Citation Number: [2024] EWFC 329 (B)
Case number: ZC23C50445

IN THE FAMILY COURT
SITTING AT CENTRAL FAMILY COURT

Date: 17 October 2024

Before
DISTRICT JUDGE CASSIDY

Re S (A Child) (Placement with Father)

Between:
LA1

Applicant

- and -

The Mother

First Respondent

- and -

The Father

Second Respondent

- and -

S
(Acting through her Children's Guardian)

Third Respondent

Ms Lamont, counsel, for the **applicant** Local Authority 1 (LA1)

Mr Ogunbusola, counsel, for the **first respondent** mother

Ms Pryse-Davies, solicitor, for the **second respondent** Father

Ms Ford, counsel, representing **Amy Allebone-Salt** (guardian to child 'S'), and S, the **third respondent** Child

Mr Simons, counsel, for Local Authority 2 ('LA 2'), who attended court by invitation.

HEARD ON 14th to 17th October 2024

"This judgment was given in private. The judge gives permission 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 this judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court."

INTRODUCTION

1. This is my judgment following a final hearing in public law Children Act 1989 proceedings where I am concerned with the welfare of one child, S a girl born in 2023.

2. The parties to the proceedings are
   a. Local Authority 1, the applicant represented by Ms Lamont, counsel ('the local authority or LA1').
   b. The mother, the first respondent who is S's mother represented by Mr Ogunbusola, counsel ('the mother or M').
   c. The father, the second respondent who is S's father represented by Ms Pryse-Davies, solicitor ('the father or F').
   d. S acting through her children's guardian Amy Allebone-Salt the third respondent represented by Ms Ford of counsel ('the guardian').
   e. Local Authority 2 attended court by invitation and were represented by Mr Simons of counsel ('LA 2').

3. S is currently living with her father in the community and regularly spends time with her mother for supervised contact.

THE POSITION OF THE PARTIES

4. The local authority's care plan is that S should live with her father in the community and the court should make a supervision order for 6 months designating LA 2 to be the supervising local authority.

5. The mother wishes for S to be returned to her care.

6. The father agrees with the local authority's final care plan and seeks a live with child arrangements order.

7. The children's guardian agrees with the local authority's care plan but has suggested amendments to the final supervision plan and recommends the supervision order should last for 12 months.

8. LA 2 accepts it should be designated as the supervising local authority if the court makes a supervision order and recommends the supervision order should be 12 months in duration.

THE RELEVANT LAW

9. I have to consider whether the threshold criteria in section 31 (2) of the Children Act 1989 are met. Only if those criteria are met can I consider whether to make a supervision order.

S's welfare is my paramount consideration in considering what final orders I should make. I should consider the relevant parts of the welfare checklist contained in section 1(3) of the Children Act 1989. I must have regards to the rights to family life of S and both of her parents as enshrined in Article 8 of the European Convention on Human Rights.

THRESHOLD

10. The parties have produced an agreed threshold document containing the following findings.

    1. The child will be at risk of physical and emotional harm due to the mother's post-natal mental health:
        a. The mother has a diagnosis of bipolar affective disorder and has historically presented with significant deterioration in her mental health postnatally, resulting in postnatal psychosis and as a subsequence her previous children have been removed from her care due to limitations to the mother being able to identify when her mental health has acutely relapsed.
        b. This is not the mother's first child. All of her children save for one were removed during the mother's residence at a psychiatric unit. None of her older children remain in her care.
        c. A consultant perinatal psychiatrist who saw the mother in October 2023 has advised that the mother has a history of becoming ill after she has given birth. Whilst she is currently well, she is at very high risk of postnatal relapse, given past perinatal severe relapses and non-concordance with psychotropics. The same doctor further states during past perinatal relapses she had risky behaviour, including aggression to others, necessitating PICU (psychiatric intensive care unit) admission on one occasion. If she were to relapse this would pose risks to her, others and the baby.

    2. The mother's lack of engagement with community mental health teams and consistency with her medication, means that the child is likely to be placed at risk of harm should the mother's mental health deteriorate:
        a. Historically, the mother's engagement has fluctuated.
        b. The mother has not attended care programme approach reviews since last year.
        c. The mother has not engaged in psychological input that would help her to build a great understanding of healthy relationships.
        d. The mother declined perinatal mental health services twice since August 2023.

e. The mother's pattern of behaviour in her previous pregnancies was to stop taking her medication throughout her pregnancies and postnatally. The mother has confirmed she has not taken her medication since January 2023 and refused to take any medication whilst she is pregnant. X hospital midwives have advised The mother did not bring any of her medications with her to the hospital.

3. The mother concealed her pregnancy and did not seek antenatal care until August 2023 thus putting the health of her unborn baby at risk of harm.
   a. The mother has a history of concealing her pregnancies.
   b. The local authority was notified by health professionals of V's pregnancy booking in November 2007. V was born 06 January 2008.
   c. The local authority was notified by health professionals of W's pregnancy booking on 26 January 2011, with an expectant due date of 25 February 2011. W was born on 10 March 2011.

4. The mother presented to her GP in August 2023. The local authority was notified by health professionals on 12 September 2023 with an expected due date of 09 October 2023. The mother reported she was unaware she was pregnant despite feeling 'kicks' in June and experiencing vomiting.

5. The cognitive assessment Report by Mr D dated 8th January 2024 in respect of the father, scored his IQ at 73, which is "Borderline", with better skills in retaining information, and lower skills in reading ability. He was not assessed to have a learning disability, but Mr D considered his functioning to be "in the lowest 10% of adults his age". Mr D observed that the father processes "somewhat slower than the average adult", struggled to "discuss and explore" his psychological functioning, and was not forthcoming with his views.

6. The father has a history of misusing cannabis which he reports he has been smoking since he was a teenager and using this to self-medicate for his mental health which will place the child at risk of significant harm.

7. There is a history of domestic abuse between the parents which will impact on the child emotionally and physically, with the father having been observed to make threats of violence towards the mother.

11. On the basis of these agreed findings relevant as at 9 October 2023 when the proceedings were issued I find that S was likely to suffer, significant harm; and that the likelihood of

harm, is attributable to the care likely to be given to her if the order were not made, not being what it would be reasonable to expect a parent to give to her

12. Ms Lamont sought a further finding in terms of the findings of the parenting assessment (which are discussed below). I decided not to consider this as a threshold finding as the court already had an agreed threshold document and the issues appeared to me to be more relevant to welfare.

THE ISSUES

13. I decided as a preliminary issue (with the agreement of all parties) that there was no need for father and S's location within LA 2 to continue to be kept confidential from the mother given that there had been no reports of the mother seeking the father out and that their relationship appears to be cordial and pleasant now that they have separated.

14. Therefore, at the outset of the final hearing the issues for the court to decide were (adopting Ms Ford's helpful schedule of issues).
    a. Which of S's parents are able to provide her with 'good enough' parenting for the rest of her minority?
    b. Should the Court move S from the care of her father if it is concluded that both parents are able to parent her?
    c. If S remains in her father's care what on-going support is to be provided?
    d. If S is to live with her mother what level of support will be required?
    e. Is the Court satisfied that the proposed supervision support plan produced by the LA 2 dated 10.10.24 meets the needs of the continued placement of the child with her father?
    f. Arrangements for family time between S and the parent (including their extended family members) with whom she does not live.
    g. Should a supervision order be made for 6 months or 12 months duration?
    h. Should the court make a child arrangements order to confirm that S lives with her mother/ father.

SUMMARY OF THE BACKGROUND

15. The father was born abroad in 1985. The mother was born in London in 1987. The mother has given birth to 4 older children. She was not able to care for any of these children in the long-term.
    a. T born in 2004
    b. U born in 2005.

c. V born in 2008.
d. W born in March 2011.

16. T was removed in May 2005, U in November 2005, V in January 2008 and W in March 2011. All removals, apart from T, took place during the mother's residence at a psychiatric unit and resulted in the termination of parenting assessments due to concerns for the mother's parenting capacity and mental health presentation. All 4 children were subsequently adopted. Tragically W died in 2015.

17. The mother has a diagnosis of bipolar affective disorder and has historically presented with significant deterioration in her mental health postnatally, resulting in postnatal psychosis and as subsequently her previous children have been removed from her care due to limitations to the mother being able to identify when her mental health has acutely relapsed.

18. The parents met in 2020 in London, commenced a relationship and later began to cohabit.

19. The father moved to the United Kingdom from abroad in 2018. The father has one older child R born in 2012 who is the care of his mother abroad.

20. The father has no legal status in the UK. He is an over stayer having been in the UK for the past 6 years, he has no recourse to public funds however he receives some financial support from his mother who is a UK citizen.

21. On 7 November 2022 the father submitted an out of time claim for asylum which remains under consideration.

EVENTS LEADING TO THE START OF THESE PROCEEDINGS

22. The mother presented to her GP in August 2023 as pregnant. The Local Authority was notified by health professionals on 12 September 2023 with an expected due date of 09 October 2023.

23. At this time the parents continued to be in a relationship and were cohabiting.

24. The mother did not make it clear if she would take her medication after the birth of baby but advised the Consultant perinatal psychiatrist on 2 October 2023 that she would.
S was born at X Hospital on in October 2023. The mother had initially declined a baby and mother placement but on 4 October 2023 the mother agreed to be transferred to a mother and baby unit but in the event remained at X Hospital until 13 October 2023.

25. Dr L (consultant psychiatrist at Y mother and baby unit) set out the following in her report dated 20 November 2023.
    a. The mother and S were admitted to Y mother and baby unit together on 13 October 2023.
    b. Mother started taking Aripiprazole on admission.
    c. The mother was initially irritable on admission but within 1-2 weeks became calmer and more amenable.
    d. Dr L described the mother as 'now mentally well, there are no psychotic symptoms, and her mood is euthymic.'
    e. In relation to baby care 'the mother is able to meet her baby's physical needs however at times struggles to attend to baby's emotional needs and prioritise her baby's needs over her own needs.'

THE COURT PROCEEDINGS

26. On 9 October 2023 the local authority's application for a care order was issued by the court.

27. At the first hearing on 12 October 2023 DJ Mulkis made an interim care order approving a plan of mother and baby being placed together in hospital with the father to join at an assessment unit.

28. Following a professionals meeting that took place on 22 November 2023 S was placed at the Z assessment unit along with her mother being joined by her father on 27 November 2023.

29. On 27 November 2023 a case management hearing took place before DJ Mulkis ordering that the following assessments should take place.
    a. Cognitive assessment of the mother by Mr D, psychologist (separate assessment of father by Mr D later ordered).
    b. Parenting assessment to be completed by Z assessment unit.
    An IRH was listed on 16 May 2024 but subsequently vacated.

30. The mother left Z assessment unit on 17 April 2024 following receipt of a negative report. The father and S remained in Z assessment unit until 28 June 2024 when they moved into the community initially into stepdown accommodation for a period of further assessment and then into independent accommodation on 20 August 2024.

31. The IRH was relisted on 7 October 2024. At that hearing I gave directions to make the final hearing effective, it being clear that the mother would contest the local authority's final care plan of placing S with her father under a supervision order.

32. Two family members have undertaken viability assessments:
    a. Paternal grandmother – this assessment was negative.
    b. Maternal second cousin – this assessment proceeded to a special guardianship assessment, however maternal second cousin subsequently withdrew.

THE WRITTEN EVIDENCE

Medical Evidence

33. Dr B, consultant psychiatrist at Y mother and baby unit produced an undated report with the latest entry being November 2023 which includes the following information.
    a. The mother's first contact with mental health services was reported to be in May 2005, when she was 18 years old and 23 weeks pregnant with her second child. She had attended A and E asking for investigations as she was worried, she had miscarried. Staff noted that she was acting bizarrely, and she was referred to her local CMHT. A subsequent MHA assessment found the mother not to be detainable, but she agreed to an informal hospital admission. She was later placed on a S2 and transferred to PICU due to her worsening aggression and sexual disinhibition. She was started on lithium and transferred to the B Psychiatric unit in September 2005 to have her daughter. She was observed to be providing inadequate care after the birth and was eventually transferred back to the adult unit, whilst her daughters were looked after by family members. She was discharged from hospital in January 2006.
    b. The mother has since had further admissions in 2008 (at 2 weeks post-partum, S2 then S3), 2011 (the first was an elective admission to the MBU, the second under S2 then S3), 2014 (S2 then S3) and 2017 (S2 then S3). She has previously been treated with lithium, sodium valproate, aripiprazole and olanzapine and is reported to have developed hyperglycaemia whilst on the latter. The mother has a history of non-concordance with medication, disengagement with services, and when unwell, of verbal/physical aggression towards others, sexual disinhibition, and self-neglect. She is also a very vulnerable lady and a survivor of domestic abuse (as described below).
    c. The mother has not being consistent with taking her prescribed mental health medication and that she stopped taking aripiprazole in Jan/2023. The mother was referred to X Hospital maternity team as a late booker.

d. A professionals meeting on the 02.11.23 - it was reported that the mother does not have current significant depressive, manic or psychotic symptoms- but is at very high risk of postnatal relapse, given past perinatal severe relapses and non-concordance with psychotropics in the past year (none in pregnancy). During past perinatal relapses she had risky behaviour, including aggression to others, necessitating PICU admission on one occasion. If she were to relapse this would pose significant risks to her, others and the baby.'

34. Apart from the report of Dr L referred to above the only other report in my bundle from a psychiatrist is from Dr M reporting on the mother's health in a certificate of capacity prepared in April 2011 which describes the mother as suffering from a bipolar affective disorder now in a manic phase 6 weeks after she had given birth to a baby.

35. There had been a number of references to the opinion of Dr K, consultant perinatal psychiatrist in the written evidence. There was no report from Dr K in my bundle but on investigation it emerged Dr K had sent information and advice to LA1 by email particularly in October 2023. I was provided with the relevant emails, Dr K's advice and observations are encapsulated in the following parts of an email dated 4 October 2023.

'She has a diagnosis of BPAD and has had several admissions under section- including 3 admissions under Section in the perinatal period (one in pregnancy and two postnatally). One of the postnatal admissions was associated with significant risk behaviour, and she required PICU admission. Her last admission was in 2021. She has been prescribed a number of mood stabiliser/antipsychotic, including lithium, valproate and most recently aripiprazole. She has poor concordance- triggering relapses and admissions…Impression: she does not have current significant depressive, manic or psychotic symptoms- but is at very high risk of postnatal relapse, given past perinatal severe relapses and non-concordance with psychotropics in the past year (none in pregnancy). During past perinatal relapses she had risky behaviour, including aggression to others, necessitating PICU admission on one occasion. If she were to relapse this would pose significant risks to her, others and the baby.'

<u>Cognitive Assessments</u>

36. There is a cognitive assessment report in respect of the mother by Mr D, clinical psychologist dated 8 January 2024. The assessment considered the mother "to be limited in several areas of her cognitive functioning" describing her IQ as being "in the low average range".

37. The cognitive assessment report in respect of the father concluded that he would not be considered to have a general learning disability in view of these scores, but his functioning is in the lowest 10% of adults his age.

The Parenting Assessment

38. The parenting assessment was prepared by Z assessment unit. There were 2 stages to their assessment.

39. Firstly, the parents were assessed together between November 2023 and March 2024. Z assessment unit completed a joint PAMs[1] assessment on the couple on 29 March 2024 which concluded that the mother was not in a position to provide safe and consistent care to S currently or in the longer term due to her learning needs, mental health and significant difficulties with meeting her own basic day to day needs. As such the report concluded that S's needs could not be prioritised and she could not be cared for by the mother. Additionally, the assessment report highlighted concerns around the mother's inability to manage her finances and concerns regarding conflicting relations with her extended family network. The assessment identified significant concerns regarding the couple's relationship with the mother being observed to rely on the father to undertake all the care for S as well as meeting the mother's needs. Z assessment unit observed that the father was the main carer for S and recommended that the father be given the opportunity to be assessed as the sole carer for S without the mother at the placement.

40. The second stage of assessment was of the father alone. This was completed in June 2024 and was positive. The assessment concluded that the father had developed his parenting skills, he had demonstrated increased confidence and assertiveness in advocating on behalf of S and had remained consistent in his motivation to care for her alone. Z assessment unit recommended a 12-month Supervision Order with the father and S being placed in a step-down unit and a robust package of support for the next 12 months to be monitored under the supervision order.

The Evidence of the Parties

41. The local authority's final evidence is prepared by Ms H the allocated social worker. Ms H's core conclusion is 'that S's welfare would be safeguarded by continuing to be in the care of her father with safe and supervised contact with her mother. S is likely to suffer

[1] PAMs refers to the Parenting Assessment Manual which is designed as a framework for assessing parents with learning or cognitive difficulties.

neglect and emotional harm if she were to return to her mother's care. The mother has vulnerabilities that are likely to adversely impact on her ability to provide consistent emotional support to S.'

42. The mother in her final statement indicates that she does not accept that S should be cared for by the father and wishes for S to be returned to her care. The mother insists that she is able to offer S safe and consistent care. She accuses the father of being the cause of emotional volatility between them. She emphasises her commitment to S and suggests she is aware of her mental health problems and compliant with medication.

43. The father in his final statement welcomes the fact that he is the subject of a positive parenting assessment and sets out his agreement to the making of a supervision order. He informs the court that following the completion of the parenting assessment he now has his own self-contained flat and is provided with financial support by the local authority He makes it plain that it is his intention to care for S himself but also that he remains on friendly terms with the mother, but he does not agree that S's paternal grandmother should supervise M's contact.

44. Within her final report the guardian sets out her support of the local authority's care plan after carrying out a thorough assessment of the relevant options. The guardian states 'I think that if she were to be returned to her mother's care S would be at significant risk of neglect and emotional harm.' The guardian considers the placement with father to be 'not without risk' and considers there are outstanding areas of support that needs to be addressed. On balance it is the guardian's view that 'remaining in her father's care is proportionate and is the option that best meets S's holistic welfare needs.' The guardian recommends there should be a 12-month supervision order.

THE ORAL EVIDENCE

45. I will set out below the significant parts of the oral evidence and my impression of each witness.

46. Ms H (allocated social worker)

    a. Since F has been in the community with S he has been visited once every 4 weeks on average. No significant concerns have been noted. In relation to mother's contact emotional warmth was noted in most contacts but there were times M needed prompting to prioritise S's needs. She agreed mother had shown commitment in travelling long distances to contact but the mother had also missed some sessions.

b. While at Z assessment unit the mother was absorbed with her financial situation, she was not able to focus on the assessment in Z assessment unit.
c. Ms H did not agree that M can offer S safe and consistent care, 'M cannot meet child's needs consistently.'
d. Ms H did not agree that M's family network was able to step in and provide effective support.
e. There had been arguments between the couple while in Z assessment unit that worried Ms H.
f. Ms H accepted that S herself has been observed to be a happy, cheerful and loving child and while giving M some credit for that, Ms H stressed that the majority of S's care had been undertaken by F which mitigated the effect on S of the mother's inability to care for S.
g. Ms H considered that F could not mitigate the risks from M in the community.
h. In relation to questions from Ms Ford, Ms H agreed F deserves credit for all his hard work and agreed services need to be right for the father but that she could not put in any service that would be able to meet S's needs if returned to M.

   I found Ms H to be a fair and balanced witness. She evidenced a good understanding of the case since she was appointed. She was challenged but remained clear as to why the local authority had decided S could not be safely cared for by her mother.

47. Ms W (key worker at Z assessment unit)
    a. The support plan from LA 2 appears to be quite a robust plan.
    b. The updating contact notes do not cause me to change my recommendation.
    c. During the assessment I was key worker for the family. I would see M several times during day and for 1 to 1 weekly feedback. We supply feedback on a traffic light system.
    d. In general M presented as a person who needed a very high level of support, and we offered her a higher level of support than most other residents. I would interact with her several times a day. A lot of time was spent supporting M and her own basic needs.
    e. There was a lot of chaos relating to mother's finances and she was given support.
    f. The time for the M in placement was very much dominated by her own needs. All of this impacted on her ability to meet baby's needs.
    g. The whole staff team worked very hard to enable M to meet her own needs. It was clear the needs of the child would be secondary to her own needs.

h. When she first came to the unit, M was not irritable, but she definitely did become irritable at times when she got feedback she did not agree with. She would go from 0 to 10 quite quickly.
i. M was not able to establish a feeding routine consistently. As M left F was able to establish a good routine.
j. M has been emotionally warm to S and spoke nicely, but she cannot put her child first above her own emotional needs.

Overall, I found Ms W to be an impressive witness. I was impressed by her knowledge of the assessment process and of the family. Ms W demonstrated to me that her conclusions were founded upon the evidence within the assessment, and she also accepted many positives relating to the mother showing balance and fairness.

48. Mother

a. My housing situation is fixed up now.
b. Z assessment unit helped me to sort out my finances.
c. I am still taking my medication at night. It does cause some side effects.
d. I want to have S back in my care.
e. I would get support from my family, my cousin particularly.
f. I would accept it if me and F were back as a family.
g. Z assessment unit made me feel like I was in a psychiatric ward. Staff at Z assessment unit were supportive and helped me to understand things. On the whole I got on well with staff and got on well with Ms W.
h. I don't want S to be away from F. I want to live as a family. I don't want to have her to myself. That would be being selfish.
i. M did remember being cross sometimes when S was present.
j. M accepted F looks after S well and she is healthy describing him as a brilliant dad.

At one point I decided the mother needed a break as she was finding it difficult to answer so many questions. I am very grateful to the mother for carrying on with her evidence. I was also grateful to the advocates for tailoring their questions to the mother in line with Dr D's evidence as I directed. I admired the mother very much for being clear and honest in her evidence. She wants to care for S very much but also clearly cares about S and recognises the good parenting provided by the father.

49. The Guardian

a. After reading updating evidence and listening to the oral evidence the guardian told me her recommendations had not changed and she agreed that a live with child arrangements order should be made in favour of the father.
b. While acknowledging that 24/7 support was not practically or financially possible the guardian went on to say she would be most worried this does not provide a consistent and stable person or group of persons to be S's primary attachment figure.
c. In the guardian's opinion S was harmed even at Z assessment unit and the guardian considered that M had had the opportunity to show she could care at Z assessment unit and that the evidence overall had provided a robust base to say it is not possible for M to care for S.
d. Of the contact notes the guardian considered they had not evidenced progress from the mother, but they have been broadly consistent with observations at Z assessment unit. *The guardian was a clear and impressive witness who provided me with helpful advice*.

50. No party had any questions for the father therefore he did not give oral evidence.

SUBMISSIONS

51. The most significant matters raised in oral submissions are summarised below.

52. Ms Lamont on behalf of the local authority.
a. The court should make a threshold finding in terms of the Z assessment unit recommendations about parenting capacity as it reflected matters at the relevant date,
b. The conclusions of the parenting assessment undertaken by Z assessment unit were clear and informed the local authority's final care plan.
c. The evidence of Ms H was clear and persuasive.
d. The rest of the evidence supports the local authority's care plan showing F does engage with services and the mother is not able to provide safe care.
e. The mother has not requested further assessment.
f. LA1 is content for the supervision order to be for 12 months and endorses the plan prepared by LA 2.

53. Mr Ogunbusola on behalf of the mother.
a. The mother's evidence was sincere and impressive.
b. The mother's mental health problems are inherited and not caused by acts such as substance abuse. She has been compliant with medication and treatment.
c. The mother entered both Y mother and baby unit and Z assessment unit voluntarily.

d. M was plainly overburdened by the demands of the parenting assessment and her own personal pressures.
e. If M ever expressed or vented her frustration this was because of the pressure she was under.
f. The mother should have been provided with a greater level of support.
g. The mother's oral evidence was that she accepted she could not care for S alone and Mr Ogunbusola accepted that he could not go beyond that. The mother wishes to care for S alongside the father.

54. Ms Pryse-Davies on behalf of the father.
    a. F's case is he wishes to care for S as a sole carer.
    b. He is committed and gives priority to his daughter.
    c. Financially F will continue to be supported by the no recourse to public funding team in LA1.
    d. The court should make a child arrangements order to make it clear who S's carer is.

55. Mr Simons for LA 2
    a. The support plan prepared by LA 2 is agreed by all parties and meets the criteria sets out by the guardian in her final report.
    b. LA 2 will review the plan every 5 weeks and specifically at 9 months to consider whether there should be an application to extend the supervision order.
    c. LA 2 agrees that the supervision order should be for a duration of 12 months.

56. Ms Ford
    a. The mother's proposal to care for S alongside the father is unrealistic.
    b. The mother lacks insight and was not even able to understand why these proceedings were necessary.
    c. That the father has been assessed as able to care for S is a credit to him particularly in light of his own difficult personal circumstances.
    d. The support plan prepared by LA 2 is endorsed by the guardian who is impressed by the wraparound services set out.
    e. The guardian invites the court to make a 12-month supervision order in favour of LA 2 and child arrangements order in favour of the father.

ANALYSIS

57. It is clear to me that each of these parents loves S.

58. I have to decide who is best able to care for her and who is able to meet her needs. While it is clear that the mother has not been able to care for any of her elder children, I only have a bare summary of the reasons why this has taken place and most of the information points to this arising from the mother's mental health problems.

59. Within the context of these proceedings, it appears to me that mother has co-operated with treatment and has been compliant with her medication. The fact of the mother's long term mental health problems does not disqualify her from caring for a child, certainly not based on the evidence before me.

60. The pivotal piece of evidence in this case is the detailed parenting assessment prepared by Z assessment unit. It is important to note that the assessment undertaken by Z assessment unit comprises 2 stages and they recommend there should be a third stage. The first stage of the assessment is of the parents together. The second stage of the assessment is the father on his own at Z assessment unit and the proposed third stage of the assessment is the father caring for this child in the community.

61. I accept the evidence of Z assessment unit in its entirety because
    a. The written evidence was clear and detailed (albeit the reports were overly long).
    b. Ms W was an impressive witness who was not effectively challenged.
    c. The mother in her oral evidence accepted she was supported at Z assessment unit and did not dispute the outcome of the assessment.
    d. In submissions on behalf of the mother the conclusions of Z assessment unit were not challenged.
    e. The local authority and the guardian endorse the assessments prepared by Z assessment unit.

62. The evidence from Z assessment unit demonstrates the following.
    a. Firstly, when the parents cared for S together the difficulties in their relationship impeded their ability to care for S.
    b. Secondly, during that part of the assessment the father was noted to be the more capable carer.
    c. Thirdly, it was correctly identified that the mother was unable to prioritise S's needs above her own particularly when she was suffering from stress or aggravation.

d. Fourthly, when the father cared for S alone at Z assessment unit he was noted particularly to respond well to advice and to be able to improve his ability to care for S and to meet her needs.

63. As to the next stage of the assessment when the father and S were in the community it appears to me that I have not received from the local authority a proper analysis of the father's care. I've had to piece together my own analysis from the written and oral evidence of all of the parties.

64. There were two stages to the father caring for S in the community. The first stage was at LR, a step-down form of assessment. The second stage was when he and S moved into their own accommodation. The level of visiting from the local authority was approximately once every four weeks. I am told that no significant concerns arose and S appeared to be thriving. On the basis of all of the evidence available to me I've come to the conclusion that the father continued to improve his ability to care for S and has been able to meet her needs in the community. S is reported to be a happy and contented child who is thriving. The father has also been able to engage successfully with professional services and support and this gives the court confidence that he will do so in the future.

65. I do not accept the submission that the mother was overburdened or overwhelmed during the assessment. The mother's oral evidence was that she was well supported at Z assessment unit and also accepts she was offered the services of an advocate which she turned down. What the assessment evidenced was that the mother has a considerable difficulty being able to prioritise a child above the needs of our own. This is not because she does not care for her daughter but because she is distracted and overwhelmed by her own personal issues and feelings of agitation, and this causes her to be unable to focus on the needs of a child in her care. I accept and agree with the proposition put forward by the local authority, Z assessment unit and guardian that a child in the mother's care would be likely to suffer neglect and would be unlikely to have its needs met.

66. There is no adequate or effective support available to the mother from her own family. Within the Z assessment unit, the maternal family offered the mother no real support and appeared to undermine her given the disturbance to her finances which involved members of her own family and distracted her from focusing on S.

67. With respect to the relevant matters in the welfare checklist.

(a) the ascertainable wishes and feelings of the child concerned (considered in the light of her age and understanding);

S is not able to explain what her wishes and feelings are. I assume that she would wish to be cared for within her own family as long as that would be safe for her.

(b) her physical, emotional and educational needs;

S has the same physical emotional and educational needs as any child of her age. She is still a baby and is therefore especially vulnerable. I have decided that the mother is not able to meet her needs and that the father has the potential to do so.

(c) the likely effect on her of any change in her circumstances;

if S was removed from the care of her father to move to live with her mother I find that that would cause her distress and anxiety. I further find that the mother would not be able to meet her child's needs and that S would suffer neglect. I find that if the father agreed to care for S alongside the mother the father's ability to meet S's needs would be undermined by the stresses and pressures of that relationship and the mother's focus on their own needs would distract the father from focusing on S's needs.

(d) her age, sex, background and any characteristics of her which the court considers relevant;

S is a baby with a dual heritage of a father from abroad and a black British mother whose background also has roots abroad in the same country as the father. The most relevant characteristic with reference to my judgement is S's age and vulnerability. If she were to be exposed to conflict that would have a profound effect on her ability to develop and thrive

(e) any harm which she has suffered or is at risk of suffering;

I do not ignore the potential harm to S of being exposed to her mother when she is in a state of psychiatric distress. However, on the evidence available to me as long as the mother was compliant with medication and treatment it is likely that risk could be mitigated. The greatest risk of harm to S is that she would not have her needs met by her primary carer or carers. In my judgement placing S in the mother's care would directly expose her to that risk.

(f) how capable each of her parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting her needs;

I have found the father to be a potentially capable carer based on the assessment evidence before me. In my judgement in order to meet S's needs he will need to take advantage of the support and assistance made available to him. The evidence before me

leads to the conclusion that he will do that as long as not distracted by a relationship with the mother or the mother's own pressing needs.

I accept the assessment evidence that the mother is not a capable carer for S. I find there are no services or forms of support that would enable the mother to provide adequate care to S noting this is the conclusion of all the professionals who gave evidence to me.

(g) the range of powers available to the court under this Act in the proceedings in question.

I'm going to focus on three possible outcomes for S.:

1. Firstly, if she is cared for by father and he takes advantage of the support available to him in my judgement it's likely that S's needs would be met generally. It is clear to me that the father has and will continue to provide S with a good level of physical care. The evidence before me indicates that the father is attuned to S and has a good understanding of her emotional needs I urge the father to take advantage of advice as S grows and develops. On the balance of probabilities, I find that he will do so and that therefore S's needs are likely to be met. There will be challenges of course. The father is dependent on local authority support and it is not clear that he will be able to remain in the United Kingdom. However, it has been set out that financial support will be available to the father both in the short and in the medium term. I cannot make any prediction about the outcome of the father's application to remain in the United Kingdom. I can take judicial note of the court's experience that people who have the primary care of a child who has been the subject of proceedings are often able to remain in the United Kingdom even if that person's immigration position has not been regularised. I also remind myself that S will not be able to be removed from the jurisdiction without the permission of this court. Therefore, taking a view in the medium to long term, I find that S's needs will be met by her father and that she is likely to thrive in his care.

2. Secondly, (as the mother wishes) if the parents cared for S together I would have very significant concerns for her. S would be exposed to the difficulties in the parents' relationship. She would be exposed to disagreements and in the context of those disagreements to the mother's volatility. This would be harmful to her. In my judgement the father's ability to meet S's needs would be undermined if he attempted to do so in partnership with the mother. She would be a distraction and a source of stress to him. If the parents attempted to care for S together in my

judgement S would be a significant risk of not having her needs met and of suffering disruption.

3. Thirdly, if the mother was to care for S alone it is plain to me that S's needs would not be met and that S would suffer significant harm. The mother is not capable of meeting S's needs and in my judgment within a relatively short period of time there would be two outcomes. Firstly, S would suffer harm and secondly her care arrangements would be disrupted because it would be necessary for the local authority to intervene and to place S in alternative care.

68. In relation to the mother's contact with S the plan now put forward by LA 2 is that S will have family time with the mother fortnightly for 1 hour, to be supervised. LA1 has committed to supervising a 12-week family time intervention to help the father and paternal grandmother to facilitate family time in the future. A contact review meeting will be held at 10 weeks by LA 2 where matters such as the need for continued supervision and the ability of the father to supervise will be considered.

69. In my judgment this plan clearly meets S's needs. She will be able to spend time with her mother but also needs to be protected from the mother's inability at times to retain her focus on S and to refrain from volatile behaviour. I have reviewed the contact notes and agree with the guardian and Ms W that they do not indicate an improvement in the mother's ability to care for S but are a continuation of the evidence from Z assessment unit and note the mother missed a number of sessions. I do not make a child arrangements order in relation to the mother spending time with S. The plan set out above should be noted in the recitals to the order but given it may change in the near future a defined order would not be appropriate.

70. I am very much aware that my decision will lead to an interference in the family life that S and her mother would have otherwise enjoyed. This interference is necessary in the view of the assessment evidence available to the court and is a proportionate measure to support S's family life with both her mother and her father.

CONCLUSIONS AND DECISIONS

71. Returning to the schedule of issues set out near the start of this judgment.

    a. <u>Which of S's parents are able to provide her with 'good enough' parenting for the rest of her minority?</u>

Her father is capable with support, her mother is not.

b. Should the Court move S from the care of her father if it is concluded that both parents are able to parent her?
   This is not relevant.

c. If S remains in her father's care what on-going support is to be provided?
   The support plan provided by LA 2 sets this out. I approve the plan.

d. If S is to live with her mother what level of support will be required?
   There is no level of support that would allow the mother to care for S adequately.

e. Is the Court satisfied that the proposed supervision support plan produced by the LA 2 dated 10.10.24 (and updated on 14.10.24) meets the needs of the continued placement of the child with her father?
   I am so satisfied.

f. Arrangements for family time between S and the parent (including their extended family members) with whom she does not live.
   I endorse the plan of LA 2 referred to above.

g. Should a Supervision Order be for 6 months or 12 months duration?
   I make a supervision order for 12 months. The duration of the order is agreed and in my judgment is proportionate and necessary.

h. Should the Court make a child arrangements order to confirm that S lives with her mother or father.
   I make a child arrangements order that S should live with her father. It is necessary for it to be clear to both parents and any professionals working with the family who the primary carer is for S.

District Judge Francis Cassidy
17 October 2024 (in draft)
Finalised, 11 November 2024

Postscript. I am very grateful to all counsel for their assistance during this hearing and particularly in the process of anonymizing this judgment.