

IN CONFIDENCE

IMPORTANT NOTICE

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 child[ren] and members of their [or his/her] 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.

Case No: SE23C50307

Neutral Citation Number: [2024] EWFC 343 (B)

IN THE FAMILY COURT SITTING IN SHEFFIELD

IN THE MATTER OF THE CHILDREN ACT 1989

AND IN THE MATTER OF THE ADOPTION AND CHILDREN ACT 2002

AND IN THE MATTER OF SARAH

Date: 14 October 2024

Before: HHJ Pemberton

Between:

A City Council Applicant

-and-

The Mother

-and-

The Father

-and-

The Child

(by her Children's Guardian)

Respondents

Helen Davey for the Applicant

Hannah Bramley for the 1st Respondent

Martin Todd for the 2nd Respondent

Louise Stanbury for the 3rd Respondent

Hearing dates: 21st and 22nd August and 13th September 2024

JUDGMENT

Note:- Some of the background details in relation to these parents and their daughter has been amended in order to preserve the anonymity of the family.

1. Sarah (not her real name) was born in spring 2020 and is now four years old. In this judgment I will refer to her parents as “the mother” and “the father”. I want to start by confirming that all of the evidence is clear that they both love Sarah very much indeed.
2. This is the local authority’s application for a care and placement order in respect of Sarah which is opposed by both of her parents but is supported by the children’s guardian.
3. I have read all of the papers in the bundle and have heard evidence from the jointly instructed psychologist, the allocated social worker and team manager, a contact supervisor, both parents and the children’s guardian. I have also received helpful and detailed submissions from the advocates.

Background

4. The mother is from a county in Africa. She converted to Islam as a young adult. The father is from a different African country. He was raised in a Muslim community. Religion is an important and central aspect of both parents’ identities and culture.
5. Sarah has an older brother, Adam who is about 13. He lives outside of the UK with his paternal family. He is not the father’s son. Sarah does not have any contact with Adam.
6. The mother and the father met in approximately April 2019 and were married one month later. Sarah was conceived very quickly after the marriage. The parents lived together on and off, although it is clear that it was never an enduring relationship. The mother reports arguments and that the father lashed out during some of these arguments. The mother also reports that she went to court in July 2019 to apply for a restraining order against the father after he had hit her with an extension cord causing bruising.
7. The relationship between the parents fluctuated and the mother decided to travel to the UK to have a break from the relationship. I believe she arrived here in or around January 2020 and was then unable to leave due to the pandemic. She has applied for asylum in the UK and is currently appealing the refusal of that application.
8. Initially, the mother stayed with her mother, the maternal grandmother (“MGM”) but there were tensions in that relationship which the mother reports was partly due to the fact that she had not lived with the MGM for any significant duration and also due to the MGM not accepting the mother’s religious beliefs and faith. The mother alleges some domestic abuse from her

mother. Due to her reporting this abuse, when Sarah was born social care became involved and they supported her with accommodation until the Home Office was able to do so.

9. Sarah remained in her mother's care until March 2023. I note that for some of this time in Sarah's early life, the Covid pandemic meant that social interactions were very restricted and professional support for the mother was more limited. Sarah was known to social care from birth, but social care had a limited role, supporting the mother and Sarah with the property and with finances and were not involved due to any safeguarding issues.
10. Some concerns were raised by the mother's GP in January 2023 who reported that the mother was struggling to care for Sarah and that she had put chilli on her breast to stop Sarah from breastfeeding. This is disputed by the mother who says it was Lemon and not chilli and she did this to encourage Sarah to start eating more independently.
11. On 3 February 2023, a referral was received by the local authority that Sarah had been left alone for a number of hours whilst the mother went to an appointment in another city approximately 30 miles away from her home. It is a concern for me that the local authority did not at that stage put in place any protective measures. The risks to Sarah, being left alone for a number of hours when she was just three years of age, are numerous and obvious.
12. The local authority did make enquiries with the health visiting service and the GP and some concerns were raised in respect of the mother's presentation, her mental health, and concerns about her bonding with Sarah.
13. In early March 2023, the mother reported that she was not able to care for Sarah due to her own poor mental health and she asked social care to accommodate Sarah. Family support was explored, and the mother agreed to go and stay with her sister. Unfortunately, the mother's mental health deteriorated further and after only a few days, a plan was agreed for Sarah to go and stay with the MGM.
14. After less than two weeks of Sarah being in her MGM's care, she was taken to the accident and emergency department after burning herself whilst having a bath in the sink. The MGM reported that she had gone to get a towel and Sarah had turned on the hot tap.
15. It is not clear what steps, if any, the local authority took but the following day the MGM attempted to return Sarah to her mother, stating that she was unable to care for Sarah due to her own commitments. The mother then reported that

she was also unable to care for Sarah and if Sarah was left in her care, she threatened to feed her with rat poison or throw her in front of the bus. Section 20 accommodation was agreed in April 2023. Given the obvious concerns in respect of the mother's mental health, again I think it is surprising that the local authority did not feel it appropriate to issue proceedings at that time.

16. For some months the mother had limited engagement with the local authority and, during the month of September 2023, did not attend for any contact with Sarah, yet the local authority did not issue these current proceedings until 25 September 2023. In my opinion crucial time was lost in respect of planning and assessment for Sarah and her mother and father.
17. It was not until Sarah was removed into care that the local authority became aware that her father was alive and living in Africa. The mother had previously reported that Sarah's father had died. Once the local authority became aware that this was not correct, it attempted to promote video contact for Sarah with her father. The mother reported that she did not want him to have anything to do with Sarah due to his failure to provide her with emotional and financial support.
18. In October 2023, the local authority addressed its mind to promoting contact between Sarah and her father. Sarah at that stage did not have any memories of her father and the local authority planned some preparatory work prior to introducing video calls. Video contact has been established and now takes place on a regular basis. Sarah enjoys speaking to her father on the phone and the quality of these contacts is agreed to be very good.
19. The mother has missed a number of contact sessions with Sarah during the course of these proceedings and in the period prior to them being issued. She has sometimes struggled to engage with Sarah during contact but that has generally improved more recently.

Assessments within these proceedings

20. The first parenting assessment that was arranged by the local authority was not completed due to the mother not attending for the majority of sessions offered.
21. The mother did however describe a very difficult upbringing, with her care being taken on by her grandmother and then stepfather in her early years. she was not given honest information in respect of her parentage and when she discovered the truth, she described this being a "bombshell."
22. When asked about her experience of caring for Sarah, the mother reported "I can't describe emotions if I'm being honest. It was just exhaustion, which is

all I remember.” At the time of this initial parenting assessment, which was completed in September 2023, the mother did not appear to be working with her GP to address her mental health difficulties.

23. A further parenting assessment was offered to the mother. Due to her not wishing to work with the allocated social worker, this further parenting assessment was completed by the team manager and is dated December 2023. The mother did engage with this assessment and attended most of the sessions. This report again records the mother’s dysfunctional upbringing where she was not provided with a positive role model during her childhood.
24. During the course of this assessment the mother did not seem able to acknowledge the dangers involved in leaving Sarah when she went to her appointment and instead appeared to offer explanation and justification for those decisions.
25. When exploring her mental health, the mother explained that she had stopped taking her medication as it made her feel unwell and instead was meeting with friends and going to the gym which had improved her mental health. Whilst previously she had struggled to leave the home, she described that this was no longer a problem and that her anxiety was much improved. She described enjoying hiking in the countryside and engaging in Thai boxing.
26. In terms of support network, the mother indicated that she would like to move closer to her sister who lives in another part of the country and she also described a friend called Paul who provided her with some support but indicated that they were not in an intimate relationship with each other and in fact she was not in a relationship with any man.
27. This assessment was unable to reach a final conclusion and make recommendations due to the identified gaps within the mother’s parenting skills. It was noted that she struggled to provide Sarah with emotional warmth. Given the very limited options for Sarah the local authority invited the court to extend the care proceedings for the purpose of a psychological assessment. I agreed to this request.
28. The team manager updated her parenting assessment following receipt of the psychological assessment and following some further work being done with the mother by a worker from the intensive family support service. Concerns continued in respect of the mother’s presentation with her sometimes appearing low and flat. Whilst the mother had reported during the course of this updated assessment that she felt well in herself, she was noted, during a session in March 2024, as appearing tired and not as vibrant as usual. The

team manager accepted that this may have been due to her fasting during the Ramadan period.

29. The family time supervisors had also raised concerns at around the same time in relation to the mother's mental health and had reported that in a number of sessions, the mother had appeared offhand with Sarah and had engaged in minimal purposeful interaction with her. Sessions with the intensive family support worker to assist the mother with her parenting skills had taken place within the family home and out in the community. The mother had engaged well with these and reported that she had found the session was useful. However, five of the sessions had been missed for health reasons.
30. There were generally some improvements noted in the interactions between Sarah and her mother following the professional support but there were still ongoing concerns in respect of her lack of interaction and criticism of the way Sarah looked and dressed which Sarah found upsetting.
31. The team manager records that when she asked the mother around her feelings and thoughts if Sarah were to be returned to her care, the mother expressed a concern "I am worried that I will not get a break." She continued to struggle to meaningfully acknowledge the risks of harm to Sarah when she had travelled to another city and left Sarah alone in the family home.
32. When discussing support networks, the mother initially stated she was no longer having any contact with Paul who she had previously suggested would be a source of support. However, by the next session, he was once again being put forward as a positive support. Another source of support that the mother identified was a friend from the gym.
33. The mother reported she was not in a relationship but that she would want to be in a relationship "with a purpose" in the future and would not date someone unless the relationship was serious.
34. In the conclusion to the assessment, the team manager noted some positives, in that the mother has engaged with the parenting assessment sessions and was now welcoming of ongoing professional support. She had identified two friends who could provide her with support to care for Sarah although she was unable to identify any support from within her own family. She continued to do physical activities that she reported improved her general health and emotional welfare. She was also agreeable to engaging with therapy and support.

35. However, the team manager was concerned to note that the mother has provided conflicting information in respect of her own abilities and continued to demonstrate a lack of understanding in respect of the local authority concerns. Whilst engaging with the assessment, the mother had been noted on occasions to become threatening and verbally aggressive when she did not agree with professionals or with what she is being asked. A lack of emotional warmth towards Sarah was also seen as a concern.
36. In the conclusion to the parenting assessment, the team manager reflected on the historical and current information in respect of the mother and her ability to meet Sarah's needs. She concluded that Sarah would be at ongoing risk of harm if she returned to the care of her mother. The team manager did not recommend that Sarah is returned to her mother's care.
37. I have heard oral evidence from the team manager. She was questioned on behalf of the mother as to whether or not she had shown appropriate respect and understanding in respect of the mother's values and beliefs.
38. The Guardian, in his report comments:- "I note that [the mother] has raised concern around a lack of cultural sensitivity, suggesting that a different social worker should have been allocated. There are areas, such as in considering 'emotional warmth', where I feel a more reflexive approach could have been taken. I do however note that [the mother] reflects positively on certain relationships (e.g. with the intensive family support worker and wonder if a common denominator is that challenge comes when a worker has the capacity to criticise, and make recommendations around the long-term Care Plan".
39. Having considered all the evidence of the team manager I was satisfied from her responses that she had indeed properly reflected and taken into account the mother's background and cultural and religious beliefs and that the criticism in relation to this did not appear to me to be substantiated.
40. On 5 January 2024 I approved the instruction of Dr Agatha Benyera-Mararike to carry out a psychological assessment of the mother. Her report was initially directed to be filed and served by 1 March 2024 but was not actually received until the 9 April.
41. The report is a detailed and comprehensive report, running to some 58 pages. Within the executive summary, Dr Benyera-Mararike reports that the mother has limited understanding or awareness of the local authority concerns. She did however have self-awareness of her inability to cope with bringing up her daughter on her own. Dr Benyera-Mararike also refers to the damage caused to the mother due to the parenting she herself received. Dr Benyera-Mararike

identifies that the mother's personality profile indicates personality disorder classifications of a narcissistic personality disorder; compulsive personality disorder; schizoid personality type and paranoid personality type.

42. She suggests that this cluster of personality disorders perhaps explains why the mother finds it hard to relate to other people. Her behaviour may seem odd or eccentric to other people. The cluster of personality disorders and prototypes sit alongside other mental health problems such as anxiety and depression.
43. Dr Benyera-Mararike confirmed, as she had done in her addendum report, that the responses that she had referred to were the responses that this mother had completed on the psychometric testing. Dr Benyera-Mararike felt that there was a level of incongruence between the mother's intellectual capacity and her actions.
44. The mother is assessed as exhibiting an insecure anxious avoidant attachment style. While she can meet some of Sarah's basic needs, she is unable to cope on her own whilst looking after a child's day-to-day needs. She identified the father as being the only person who could help her in bringing up her daughter and she wished for him to join her.
45. Dr Benyera-Mararike reports that the mother does not believe she is solely responsible for her child. Whilst it is positive that she recognises the need for support and help, Dr Benyera-Mararike assesses the mother's approach as worrying as there appears to be "an unwillingness to assume responsibility for nothing more than basic parenting." Dr Benyera-Mararike refers to the mother also delegating her responsibilities as a mother in relation to her son Adam.
46. Dr Benyera-Mararike concludes that even with support from social services and health professionals, the mother would remain unable to meet the needs of Sarah. She recommends that the mother undertake 36 to 48 weekly sessions of long-term culturally sensitive psychotherapy to provide her with the opportunity for in-depth exploration of the childhood upbringing issues that impact on her adult life add to or hinder her life.
47. She opines that long-term therapy allows for the building of trust and sustainable change is most likely to start to appear at the tail end of the therapeutic process and any such change would only be capable of being confirmed (via assessment) after therapy has stopped for at least 3 to 6 months. Dr Benyera-Mararike observes that this may not be within Sarah's timescales. She also recommends that the mother participate in the triple P parenting program. All of this indicates that the mother lacks the ability to meet the needs of Sarah in the short, medium, and long term.

48. Solicitors on behalf of the mother put questions to Dr Benyera-Mararike in relation to how the assessment had been conducted and in particular disputed some of the factual matters recorded by Dr Benyera-Mararike. She was asked for a copy of any contemporaneous notes and audio recordings. Dr Benyera-Mararike responded that the recording of the assessment was to aid notetaking and was deleted on completion of the report, something which she said she had advised the mother of at the time of the assessment. Her contemporaneous notes were provided.
49. It was further put to Dr Benyera-Mararike that the sheets used for the psychometric testing had been previously completed by others and therefore were not the responses of the mother herself. Dr Benyera-Mararike was clear that the mother was provided with clean copies of the test papers on which she was asked to record her responses.
50. I have heard oral evidence from Dr Benyera-Mararike. She explained so that in line with her usual practice, she had used audio recordings to assist her in interpreting the contemporaneous notes that she took during the course of the assessment. In line with her usual practice, the recordings were destroyed when the report was completed. With the responses that the mother herself had completed.
51. On the morning of the final hearing, the mother had filed a further statement which set out details of a sexual assault and rape at the hands of a former partner. Dr Benyera-Mararike was asked about the relationship that the mother had now disclosed with a man who appeared to be involved with organised crime. Dr Benyera-Mararike confirmed that the mother had not disclosed the existence of that relationship but the relationship and the abuse that the mother had described fitted with the vulnerabilities that Dr Benyera-Mararike had assessed her as having. Given her attachment style, in Dr Benyera-Mararike's view she is very vulnerable in relationships. Dr Benyera-Mararike observed that if the mother is unable to protect and safeguard herself then it is extremely unlikely, she would be up to protect the child in her care.
52. Ms Bramley on behalf of the mother sought to challenge the professionalism of Dr Benyera-Mararike, the mother having reported that Dr Benyera-Mararike appeared clumsy and forgetful. Dr Benyera-Mararike explained that she had had a difficult journey on the day she met with the mother but that that had not impacted on the time that she spent with the mother and that the assessment was not rushed. Further time was allowed to compensate for her late arrival.

53. I found the assessment and evidence of Dr Benyera-Maraïke to be comprehensive, internally coherent, and consistent with some of the other evidence in this case. I do not accept any suggestion that her assessment was unprofessional or hurried or that she has relied on the responses of a third party in conducting the psychometric testing. I accept Dr Benyera-Maraïke's assessment and conclusions.
54. The allocated social worker was the worker that initially attempted to conduct the parenting assessment of the mother with which the mother refused to engage. She is also the author of the care plans for Sarah. In her final evidence she summarises the positives from the parenting assessments, balanced against the risks that had been identified by herself, her manager and the psychologist. She is concerned that the mother continues to show a lack of insight to the risks involved in leaving Sarah unsupervised, continues to struggle to provide Sarah with consistent emotional warmth and interaction and a failure to recognise the impact on Sarah of negative or critical comments.
55. The allocated social worker was also the worker that carried out the initial assessment of the father and to whom he had reported the difficulties that he saw for his parents in caring for Sarah or for Sarah being placed with him.
56. The parenting assessment of the father is dated 12 December 2023. Within this assessment the father sets out that his plan initially had been to join the mother and Sarah but that his immigration application was turned down in 2021 due to some of his application documents being forged. The father had paid someone to process his Visa application and it now appears that they had submitted fake documents. This application and apparent attempted fraud have had significant implications for the father and in turn for Sarah. The father now has a 10-year visa ban placed in respect of any future Visa application to be permitted to come to England.
57. The father explained that there was a lot of violence in the country that he was living and working in, and undercurrents of xenophobia, where foreigners are not approved of and may get killed. He explained to the social worker that he did not wish to play with the life of his child or of his own life, living in such an environment. He explained that he did not feel safe walking on the street holding his phone as he knew he could be attacked with a knife. He went on to explain that if life in his home country had been better, he would never have left. He left in order to improve his economic prospects and so that he could provide for his family. He told the social worker that he currently cares for his parents and five of his siblings. He explained that his brother had learnt to tile

floors but was not getting jobs that would sustain him and his sisters were having to get cleaning jobs to at least feed themselves.

58. During the course of this assessment, the father was very clear that he did not want Sarah to be sent to live with him. Alongside the general difficulties he had described, he also did not feel he would be able to financially care for her and did not wish her to experience “living without food to eat, good education or to be physically harmed” as this has been his prevalent experience.
59. At the time of the assessment, the father was unable to work which he explained was because of the xenophobia outbreak as he feared for his own life if he was to go to work.
60. The father was very clear in terms of his hopes and aspirations for Sarah. He did not wish her to be adopted and would prefer her to be returned to the care of her mother. He did not wish his daughter to lose her identity and religion or her family link.
61. When asked about his support network, the father said that he had no support because everybody was working in order to provide for themselves. He did however explain that there were some other people from his home county living nearby with whom he shared supportive relationships, and he would sometimes go to their homes to eat.
62. A further concern that the father raised during the course of this assessment was that the mother’s family had previously threatened to kill him, and he would not wish to aggravate their hatred any further by caring for Sarah. He explained that he had had to run away and go into hiding for a period due to his fears in respect of the mother’s family.
63. There were obvious limitations on the parenting assessment due to the fact that the father was outside of the UK and had never met Sarah in person and so had never been able to demonstrate his ability to care for her. The observations of the video contact between Sarah and her father though are extremely positive.
64. The overall conclusion of the parenting assessment was that the father did not have an appropriate home for Sarah either in the country that he lives in or in England. Whilst he had engaged very fully with the assessment process and clearly loved Sarah and showed empathy for her experiences, he was simply unable to demonstrate how he could positively parent Sarah. He did not wish to care for her in his home country or his adopted country and was unable to travel to the UK due to the Visa ban he was subject to. The assessment therefore concluded negatively.

65. During the course of these proceedings, counsel's opinion has been obtained in respect of the father's immigration status and whether there are any steps that could be taken to enable the father to travel to England to be assessed in respect of Sarah. The advice concluded that the prospects of success of an entry clearance application in light of previous finding on deception would be low. The costs involved with such an application, even without instructing a specialist solicitor to assist in order to address and deal with the previous fraudulent application, would be significant. A fee waiver application is difficult to succeed upon.
66. In general, the current process time for the application is 24 weeks but counsel's advice was given the complexity of the application required for the father, an application was likely to take longer.
67. The father did not challenge this assessment and indeed the evidence that he filed within these proceedings, confirmed some of the difficulties outlined in the parenting assessment.
68. In his statement to the court of 21 May 2024 after the local authority had filed its final evidence and recommendation of a plan of adoption for Sarah, the father makes it clear that whilst he opposes the plan of adoption, he states that it is simply not an option for Sarah to live with him in his adopted country. He says: "I simply could not agree to this in [adopted country] under any circumstances. It is too dangerous for her in [adopted country] and she will be at risk of harm in this country. It would not be in her welfare interests. I fear for my well-being living here and I am an adult male. [Adopted country] is extremely xenophobic and there is a lot of violence here. There are children sleeping on the streets. There is human trafficking. It is a tough life living here. I cannot expose Sarahto that."
69. In respect of his home country he says "my home country is also very poor and there is sickness in that country. My parents lived there but they are very elderly and so, sadly would not be able to offer to care for us to. Sarah would have the best prospects of life growing up in the UK. That is where she was born, and she has always lived there. She would have a much better education and quality-of-life in the UK."
70. The father put forward somebody who he referred to as his brother who lived in Yorkshire. I understand this was actually a close family friend. Sadly, this friend declined to be assessed as a carer. On 21 June 2024, the father made an application to instruct an independent social worker to undertake a parenting assessment of him in. The statement filed in support dated 21 June paints a very different picture. Within this, the father explains that he rents his own flat

in and sublets two of the bedrooms, one to a friend and one to 2 women. He explains that if Sarah was placed in his care, he could give notice to his tenants.

71. He states he is working as a self-employed mechanic, choosing his own hours of work. When working, he proposes his close friend and his wife to care for us together with their own two children. He also says he would receive support from his girlfriend. He says he has known them for some three years (although she does not appear to have been mentioned during the time of the parenting assessment). She has her own daughter who is 4 ½ years old. The father proposes that she would be able to assist with the care of Sarah whilst he was at work.
72. In respect of the general concerns that he had previously raised about life in his adopted country he explains that these are only his personal views and are not based on any proven facts and statistics. Within this statement he also now put forward his parents to care for Sarah and explains that they have a four /five-bedroom house and are retired. The father explains his sister also lives with their parents together with her own daughter. His parents would also be supported by his other siblings. The threats that he had received from the maternal family, he says stopped when the mother moved to England.
73. On further investigation, solicitors on behalf of the father were advised that it was not permissible for a social worker to travel from the UK to conduct an assessment of the father and instead any assessment would need to be through CFAB. The likely timescale for this would be 4 to 6 months. The application for further assessment was adjourned to this final hearing.
74. When this application came before me, I raised a number of practical questions as to how, if preliminary assessment of the father was positive, it was proposed that Sarah would be transported to the father and how an assessment of her in her father's care would then be conducted. I also raised the concern that Sarah has no settled immigration status in the UK, and I did not know what the implications would be for her if she moved to her father's adopted country and placement with her father was not successful. I was not sure she would be allowed to return to the UK. I asked the father and his legal team to consider some of these, in my view, very significant practical difficulties and to set out what his proposals were.
75. A further statement was filed on 24th of July in which the father proposed that Sarah was transported by a social worker from this authority or by his friend. He sets out his aspiration to do whatever he can for his daughter and that he would have support from his close friend and his girlfriend.

76. Following on from this change in position from the father, the team manager contacted the paternal grandparents to discuss the plans for Sarah. This was a prearranged meeting and was facilitated by an interpreter as the paternal grandparents do not speak English.
77. The grandparents engaged well with the assessment. They confirmed they had never met their granddaughter and had only seen pictures of her. They had not seen the father for a significant period of time and were not sure when they were due to see him again.
78. They were unaware of the reasons why Sarah was in foster care and the team manager gave them some explanation for this.
79. They were clear that they wish to care for Sarah because they loved her and because they are the father's parents. The paternal grandmother ("PGM") reported that she worked as a seamstress making garments to sell in the market and the paternal grandfather ("PGF") reported that he is a taxi driver. They reported that they had no financial struggles but did have some support from their sons. Perhaps unsurprisingly, the paternal grandparents were unaware of services that may be available to support them in caring for their granddaughter. Health services are not provided through a general practitioner but through the local hospital or local doctor in the event of any health issues.
80. The local authority position following this discussion was that they would not support further assessment of the paternal grandparents, concluding that they would not be able to meet all of Sarah's needs.
81. I accept entirely the submissions made that this was a very superficial "assessment." Effectively only a telephone call with the paternal grandparents and as part of my overall decision-making, I have considered whether there should be further assessment of the paternal grandparents which would require them to travel to the UK or whether there is any value of an assessment of them in their home country.
82. During the course of this final hearing, as I have already referred to, I have heard from the team manager and from the allocated social worker.
83. I accept that the local authority has not properly considered or addressed Sarah's cultural needs. She is a Muslim child. Prior to her removal I understand that she spoke both English and her mother's first language at home. Her mother's language has not been promoted. She is in a non-Muslim placement, and it is not at all clear to me how much her religious and cultural background have been promoted.

84. Observations and judgments have been made in respect of the mother in particular which do not properly take into account her cultural background. As the Guardian observes, it will be culturally insensitive to suggest that “emotional warmth” exists in a singular way, devoid of cultural context. It is important to recognise, and indeed there is clear evidence that there are moments in different ways in which the mother has communicated her love for her daughter and on top on occasions, she is observed to demonstrate her love with lots of kisses and cuddles and obvious demonstrations of emotional warmth. These criticisms whilst valid, do not in my view undermine the overall assessment by the local authority.
85. The Guardian has provided a very helpful and careful analysis of all of the information from the assessments. In his report, he analyses the many positives in family time and in the assessment by the worker from the intensive family support team but balances these against some of the concerning incidents that have been observed. He refers to an incident in September 2023 when the mother threatened that she would not spend time with Sarah again “until the hair is sorted”. Sarah was observed to become noticeably reserved in response to this.
86. A more recent example was of the mother shouting at a family time supervisor whilst holding Sarah. The Guardian points to these and other examples of the mother’s inability to speak and behave in a child-centred manner and her failing to notice the emotional impact upon her daughter of her behaviours.
87. For me, a significant example of this is the contact on 26 April when Sarah had an accident while sitting on her mother’s lap. Her first response was to be concerned about her mother’s response, asking her mother not to be angry. When the Guardian tried to discuss this incident with the mother, she was preoccupied and focused on how much Sarah had had to drink during the session rather than recognising that Sarah’s “accident” may be evidence of Sarah experiencing emotional anxiety.
88. I have carefully considered all that the mother says in response to the assessments of her both by the psychologist and by the social workers. The most recent evidence from the mother, filed on the first day of the final hearing is a statement in which she discloses that she has been in a relationship since June 2023. This was not a relationship that she had disclosed to any of the professionals. Whilst believing her partner to be divorced, she has subsequently discovered that he is still married and living with his wife.
89. In her statement she describes in April of this year, she was raped by her partner which she has subsequently reported to the police. She also reports

that she has been stalked by her partner's wife since February 2024 although she only discovered this in May 2024. Information from the police suggest that this man may be involved in organised crime. The mother states that the relationship is now over and would never have begun had Sarah been living with her.

90. The accounts that the mother gives of this relationship is extremely worrying in a number of ways. Firstly, in terms of the mother's ability to be open and honest with professionals. She had not disclosed to the social worker, the team manager the psychologist or the Guardian that she was in any relationship which would clearly have been a significant part of the assessment, particularly when the question of support for the mother was an important part of the assessment. When the team manager was asked about this, she confirmed that the mother had been adamant in discussions that she was not in a relationship
91. Secondly, this relationship appears to have been abusive and the mother appears to be very vulnerable within the relationship.
92. The fact of this relationship and the abuse that the mother alleges she has suffered simply add to the concerns in respect of the mother's vulnerability and also her ability to be open and honest with professionals. The mother appeared very matter-of-fact in the witness box and I accept that this may be due to her cultural background. She did not persuade me that she recognised any of the problems identified by the professionals in terms of her parenting and instead repeatedly sought both in her written and her oral evidence, to minimise the concerns or to try to offer explanation or place responsibility with someone else. She was clear that she did not accept the conclusions of the psychologist nor that her own life experiences will have impacted on her psychological profile.
93. I accept that she has worked well with the family support team (although did miss 5 of the 13 sessions due to ill health). Some of her contacts with Sarah can be very positive and I have considered the evidence from the family support team. However, this does not in my view provide sufficient reassurance or undermine the overall conclusions and assessments of the psychologist and of the team manager.
94. The Guardian observed in his report that the mother gives the impression of a parent who has struggled to consider the impact of past times upon her daughter. He considers the lack of emotional responsiveness to Sarah during family time and the mother's explanation relating to the impact of cultural norms and her childhood experiences. She reported that as a child she was

punished for public displays of affection. The Guardian observes and I agree that this explanation has limitations. There have been occasions during contact when Sarah has been visibly distressed and not been attended to by her mother. As the Guardian says, this is qualitatively different to a lack of spontaneous displays of affection. It is a core emotional need not being met.

95. In her oral evidence, the Mother continued to minimise and excuse the concern that she had left Sarah alone for a period of hours.
96. She showed a total lack of insight about the risk of harm to Sarah of her entering into relationship with violent men and about the importance of being open and honest with professionals who are there to help and safeguard Sarah.
97. She did not appear to understand or appreciate how her comments and behaviour in contact may cause (and indeed in my judgment have already caused) emotional harm to Sarah.
98. I find that there is no need for any further assessment of the mother, there is in fact a wealth of evidence in relation to the mother and her parenting abilities.
99. I have considered all that the father says in his evidence to the court and in his oral evidence. I appreciate that the position he puts forward has changed as the reality of the placement application has become obvious. The father was very clear initially in saying that placement in his adopted country would not be in Sarah's welfare interests and that his parents were not in a position to care for her. He now invites me to consider placing her with him although his oral evidence was very confused as to whether he planned to live with Sarah in his adopted country or to take her back to his home country.
100. I could approve his application for an independent social work assessment of him but this would only give me a limited picture in terms of his ability to meet Sarah's needs. His plans for Sarah are not well thought out and at times were confused. They appear to involve the father and Sarah moving to a new home and then being cared for by people whom she does not yet know.
101. They also do not take into account the fact that Sarah's immigration status is precarious and that were she to leave the UK, she may not be permitted to return. Even if an independent social work assessment of the father was positive, there would then still need to be a period of assessment and testing out of his ability to care for Sarah. Given he cannot come to the UK, this would have to be done either in his adopted country or his home country. Aside from the immigration risks, there is the risk that the father is unable to care for Sarah on a day-to-day basis and meet all her needs.

102. In addition, the father does not currently have permission to remain in his adopted country and be allowed to work. He has been awaiting a decision in respect of his work visa for the last two years.
103. He works to support his family in and it is apparent that his work is an important and significant economic factor for him and his wider family. Whilst in his oral evidence, he told me he would give up working in order to care for Sarah, I think this is an unrealistic proposal and whilst he said he could rely on support from friends, the father would need to have sufficient financial resources to provide for both himself and Sarah both for housing and living costs.
104. The father's proposals for his parents to be assessed have come very late in the day and again have little thought as to the impact on Sarah. He is proposing that Sarah be placed with people that she has never met and never even spoken to. They do not have a shared common language. In his oral evidence he said that she would learn to speak their language and I accept that this is a possibility. However, all of the problems in terms of immigration status again arise with any proposed placement with the paternal grandparents. They could come to the UK for the purpose of assessment but this would only give a limited picture would not show the realities of life for Sarah in the care of her grandparents in their home country.
105. I accept that the father is now facing the very real possibility of his daughter being adopted. This is something that he feels very strongly about and is very opposed to. However, during his oral evidence he showed extremely limited insight into the harm that Sarah has suffered and would potentially be at risk of suffering. He again proposed Sarah could be placed in the care of her mother and suggested that this was his first choice. He did not appear to acknowledge or have any insight into the serious concerns about the mother's care of Sarah. He suggested that a further assessment may produce a more positive outcome. Similarly, he suggested that Sarah be cared for by the MGM without acknowledging the harm that Sarah suffered when she was cared for in that home and the potential risks of such a placement given the mother's own experience of being parented by the MGM.
106. What came across very clearly during the father's evidence was his pride in his daughter and his love for her. He has shared with me a number of videos of his contact with Sarah which are a delight to see. Sarah clearly loves her father very much indeed and their contact is extremely positive. I am not persuaded however, even when considering the very limited options available for Sarah, that any further assessment of him or his family is either necessary or

proportionate. His application for further assessment of himself and of his family is therefore refused.

107. The Guardian was the final witness I heard from. His final analysis is an extremely thorough and comprehensive document and he confirms his agreement to the local authority's application for a placement order for Sarah. However, during the course of his oral evidence, he developed the areas in which he disagrees with the local authority's plan and planning process. He urged me to consider the potential positive impact of an ongoing face-to-face relationship for Sarah with both her parents but particularly with her father. He pointed to the fact that the local authority's plans showed little or no regard for Sarah's relationship with her father when they were first filed and served.
108. The allocated social worker and team manager have had several opportunities to reconsider the plans for Sarah's contact with her parents. The ADM minutes (from 1 June 2024) record that the ADM had questioned : "Sarah will need to know that direct contact with [her father] has been examined. He poses no risks to her, and she enjoys seeing him via video call. I am not clear why this can't continue?"
109. The Guardian had raised the issue of ongoing video contact between Sarah and her father in his final analysis which was filed at the beginning of July, however, it was not until the conclusion of the first day of this final hearing that the local authority agreed to revisit this question and to amend its care plans. There remains a difference between the local authority and the Guardian as to the appropriate level of contact. The Guardian has no confidence that the local authority is properly committed to this contact given the failure to properly consider Sarah's needs for contact prior to this final hearing and he therefore invites me to make an order for contact under section 26 of the Adoption and Children Act 2002 in respect of the father's contact.
110. During his oral evidence he referred to the speech by the President of the family division to the "Potato" conference 2024. Potato stands for "parents of traumatised adopted teens organisation". The President in his keynote address said:-

"the potential for some familial relationships to continue and be nurtured through contact may be of real benefit during the teen years and beyond into adulthood. Given the 'life-long' focus of s 1, adoption agencies and the court each has a duty to consider these matters more fully than may have been the case in the past. The question of contact should never be seen as an 'add on' issue, either at the placement order stage or at a final adoption. Rather, it should be centre stage and seen as an integral part of the child's support

package as they move on towards adoption, adolescence and adulthood in the years to come”.

111. The Guardian invites me to refuse to approve the current care plan for Sarah on the grounds that in its current format it does not meet Sarah’s welfare needs throughout her life. He departs from the LA’s care plan on two specific points:-
- i) The necessity of the Father’s contact with Sarah to continue post the making of final orders, which he considers so significant and important to her welfare that it justifies the making of a contact order under Section 26 of ACA in his favour; and
 - ii) That the LA should amend their care plan to reflect that the Mother should have direct contact with Sarah once per year and letterbox contact once per year.

Threshold

112. Having considered all of the written and oral evidence in this case I have come to the clear conclusion that the threshold criteria for the making of a public law order is crossed. The local authority has drafted a final proposed threshold document which is dated 4 July 2024. The local authority has satisfied me, on the balance of probabilities that the threshold is made out as drafted in that document, other than for the final line of the proposed threshold. I do not find that Sarah is at risk of neglect due to her father’s inability to exercise parental responsibility and that line should be deleted.
113. The fact that the threshold criteria are found to be satisfied does not of course lead to an automatic conclusion that a public law order should be made. The orders that the local authority seek represent the most serious interference in the family life of Sarah, her mother and her father.
114. As Mr Todd reminds me on behalf of the father, “The best person to bring up a child is the natural parent. It matters not whether the parent is wise or foolish, rich or poor, educated or illiterate, provided the child’s moral and physical health are not endangered. Public Authorities cannot improve on nature“

Lord Templeman - Re KD (A Minor) (Ward : Termination of Access) [1988] AC 806, § 812.

115. Care plans for adoption are “very extreme” only made when “necessary” for the protection of the children’s interests, which means “when nothing else will do”, “when all else fails.” Adoption “should only be contemplated as a last resort” (*Re B* [2013] UKSC 33; *Re P* (a child) [2013] EWCA Civ 963; *Re G* (a child) [2013] EWCA Civ 965).
116. In such a case, the court should remind itself of the judgment of Gillen J in *Re G and A (Care Order: Freeing Order: Parents with a Learning Disability)* [2006] NI Fam 8 and the summary provided by Sir James Munby President (as he then was) in *Re D (A Child) (No 3)* [2016] EWFC 1 in [25] and [30]:
117. In a case such as this it is vitally important always to bear in mind two well-established principles. The first is encapsulated in what the Strasbourg court said in *Y v United Kingdom* (2012) 55 EHRR 33, [2012] 2 FLR 332, para 134:
- 'Family ties may only be severed in very exceptional circumstances and ... everything must be done to preserve personal relations and, where appropriate, to 'rebuild' the family. *It is not enough to show that a child could be placed in a more beneficial environment for his upbringing.* However, where the maintenance of family ties would harm the child's health and development, a parent is not entitled under article 8 to insist that such ties be maintained (emphasis added).
118. Placement orders are the most draconian orders. The superior courts have emphasised the strict test the local authority has to satisfy before a court can approve a plan for adoption. As Baroness Hale said in *Re B* [2013] UKSC 33, Paragraph 198 that; “*the test for severing the relationship between parent and child is very strict: only in exceptional circumstances and where motivated by overriding requirements pertaining to the child's welfare, in short, where nothing else will do.*”

In *Re B-S* [2013] EWCA Civ 1146, Sir James Munby, the then President of the Family Division at paragraph 22 reiterated Baroness Hale’s words: “*The language used in Re B is striking. Different words and phrases are used, but the message is clear. Orders contemplating non-consensual adoption – care orders with a plan for adoption, placement orders and adoption orders – are "a very extreme thing, a last resort", only to be made where "nothing else will*

do", where "no other course [is] possible in [the child's] interests", they are "the most extreme option", a "last resort – when all else fails", to be made "only in exceptional circumstances and where motivated by overriding requirements pertaining to the child's welfare, in short, where nothing else will do": see Re B paras 74, 76, 77, 82, 104, 130, 135, 145, 198, 215."

119. As the local authority's application is for care and placement order Sarah's welfare throughout her life is my paramount consideration and in deciding what is in her welfare interests, I must and do take into account all elements of the welfare checklist in the Adoption and Children Act 2002.
120. Sarah is too young to express a view but I have no doubt that she would want to be cared for by carer(s) that can be attuned to her emotional needs and can meet all of her physical, emotional and educational needs to very high standard. She is a creative, thoughtful and clever young person. I understand she enjoys singing, dancing and playing her drum. She has responded well to the positive routine and guidance within her foster placement.
121. When Sarah first came into local authority care, she was noted to be behind in her speech and language and had had very limited opportunity to leave her mother's flat. Her lived experience involved limited stimulation and Sarah was not registered at nursery. She has struggled socially in nursery and has required "scaffolding" from adults around her. Again, she will need care from individuals who can recognise and support her in navigating her educational journey.
122. When considering the likely effect on the child (throughout his life) of having ceased to be a member of the original family and become an adopted person; this is the significant concern for Sarah. Her parents cultural and religious backgrounds are a significant part of Sarah's heritage and background. It is very unfortunate that during her time in foster care, neither the local authority nor the mother have promoted Sarah's use of the mother's language and she has not learned her father's language. Her current placement does not match her religious background. Whilst the local authority is committed to finding adopters who will be able to reflect Sarah's religious and cultural heritage, it is unlikely that they will be able to properly replicate what her birth family represents.
123. Adopted people can struggle to come to terms with the fact that they have been denied the opportunity to grow up within their birth family. It may be that this can be to some extent be alleviated through good life story work, a good matching process and consideration of ongoing contact.

124. Sarah's background and her experiences prior to coming into care have been set out in detail elsewhere in this judgement. Her experiences of life in her mother's care and then the change of care to her grandmother, back to her mother and then into local authority care will have all been confusing and distressing for Sarah and as the Guardian observes, some of her behaviours may be indicative of insecure attachment behaviours. Again, she will need a carer who was attuned to her lived experience and how that impacts on her needs and how that may manifest itself in her presentation.
125. I have considered Sarah's relationships with her parents (there are, in reality, no other significant relationships in her life). There is a clear difference of professional opinion between the Guardian and the local authority as to the level of contact that should be promoted with the father and whether any direct contact should be promoted with the mother. I will come back to these points.
126. The father is unable to provide Sarah with a secure environment. The assessments of the mother conclude that while she does not have the skills and ability to provide the level of care she needs and to protect her from ongoing harm.
127. Section 1(2) Children Act 1989 sets out the general principle that any delay in concluding proceedings such as these is likely to prejudice the welfare of the child. I am satisfied that no further assessment of either parent or any wider family members as necessary. Delay is one of the factors that I have taken into account, assessment of either of the parents or any wider family members would inevitably lead to delay for Sarah in terms of having her future arrangements settled. Such delay would be justified if I had concluded that further information was necessary. Sadly for these parents that is not the conclusion that I have reached.
128. In addition to those statutory provisions, I have also considered the Article 8 rights of Sarah and her parents and have endeavoured to arrive at an outcome that is both proportionate and in their best welfare interests
129. I have considered whether there is any support that could be put in place to enable either of these parents to care for Sarah. Given the father's immigration difficulties no level of support can overcome the sad reality that he is simply not in a position to care for his daughter.
130. In terms of the mother, her dishonesty about her ongoing relationship and the psychological problems that have been identified by Dr Benyera-Marairke, and the aggression and hostility the mother has shown to the social work team

all lead me to the conclusion that there is no amount of support that could be put in place that would enable this mother to safely care for Sarah.

131. Turning then to the realistic options for Sarah I come to this sad conclusion that neither parent presents a realistic option for Sarah. Whilst the father would undoubtedly provide Sarah with love and affection, he is not in a practical position able to care for her. The lack of insight he is shown into the harm that Sarah has suffered and will be at risk of suffering in her mother's care also in my view makes this an unrealistic option.
132. The mother, I am sure, would also love Sarah and I'm satisfied that she does now wish to assume responsibility for caring for her daughter. All of the evidence suggests however that Sarah would remain at ongoing risk of harm in her mother's care due to her mother's unaddressed psychological difficulties recognise and reflect on the harm and risk of harm that Sarah has already suffered as a result of the parenting that she has received.
133. Long-term foster care is a realistic option for Sarah. This would enable her to maintain ongoing contact with both her parents would mean that she would remain a member of her birth family. Her parents will be able to promote her cultural and religious identity through the contact they had with her. However, long term foster care is an extraordinarily precarious legal framework for any child, particularly one as young as Sarah who has at least 13 years of parenting ahead of her. Foster placements, long or short term, do not provide legal security. They can and often do come to an end (sometimes very abruptly). Children in long term care may find themselves moved from one home to another sometimes for seemingly inexplicable reasons. Long term foster parents are not expected to be fully committed to a child in the same way as adoptive parents. Most importantly of all in the current context, a long term foster child does not have the same and enduring sense of belonging within a family as does a child who has been adopted. There is no way in which a long term foster child can count on the permanency, predictability, and enduring quality of his placement as can a child who has been adopted. Long-term foster care offers something less than family life in the fullest sense.
134. Sarah is only 4 years old she been in foster since she was 2 years old and a plan of foster care would mean she will have spent almost all of her childhood in foster care. Research suggests that children sometimes struggle with the fact that they are children in care, certainly as they get a little older. This is not permanence in the fullest sense and to that extent.

135. The local authority and the Guardian agree that Sarah should be placed for adoption. The Guardian does however invite me to delay proceedings and invited the local authority to reconsider its plan for contact for Sarah.
136. He invites me to refuse to approve the current care plan for Sarah on the grounds that in its current format it does not meet her welfare needs throughout her life.
137. I am satisfied that the plan and orders that best meet Sarah's welfare needs throughout her life are care and placement orders.
138. I have also considered whether I should, as invited to by the Guardian, invite the local authority to amend its plan in line with the Guardian's recommendations. I agree that the local authority did not, when considering the final plans and arrangements for Sarah, give detailed consideration to post adoptive contact for Sarah. The social work team did not look at Sarah's needs subjectively. I agree that the views of the Guardian and the ADM were ignored and the child permanence report which is the document that would be provided to any prospective adopters does not accurately record the value and importance to her of the contact she has with her father.
139. The Guardian invites me to reject the care plan on the basis that it is not consistent with Sarah's welfare needs throughout her life. This position is supported by the father in the event that I am not persuaded to order further assessment of him or other family members or to place Sarah with him. The principles are supported by the mother (again, in the event I reject her application for further assessment) but she seeks parity with the father in terms of the level of contact to be ordered.
140. If I am not persuaded that this is the correct court course of action, then the Guardian invites me to make an order pursuant to section 26 of the adoption and children act 2002. However, this is not his preferred course of action as it would not reflect his views that there should be some limited ongoing contact with Sarah's mother promoted post any placement order and through into any adoptive placement.
141. When considering whether to make an order under s 31, subject to the requirements of s 34(11), the court is required by s 31(3A) to scrutinise the care plan only to the extent of considering the permanence provisions within that plan.

142. However, Section 34 (11) of the Children Act 1989 provides that before making, varying or discharging an order or making a care order with respect to any child the court shall –
- i) consider the arrangements which the authority have made, or propose to make, for affording any person contact with a child to whom this section applies; and
 - ii) invite the parties to the proceedings to comment on those arrangements.
143. The court should scrutinise the relevant parts of the plan rigorously and if it is not satisfied that it is in the best interests of the child, *it can* refuse to make a care order: (Re J (Minors) (Care: Care Plan) (1994) 1 FLR 253, , Re T (A Minor) (Care Order: Conditions) [1994] 2 FLR 423, CA, Re C (Care Order: Appropriate Local Authority) [1997] 1 FLR 544, FD).
144. Section 27(4) of the Adoption and Children Act 2002 provides that the Court must consider the arrangements for contact when making a placement order.
145. Section 26 of the Adoption and Children Act 2002 provides that the court may make a contact order on the application of certain entitled applicants, or of its own initiative.
146. Dealing initially then with the contact between Sarah and her father, I am persuaded that the importance of this relationship has not been properly recognised in the evidence of the local authority. I accept and adopt the reasons set out to necessitate such an order in the Guardian’s closing submissions. Specifically, to reflect the concern that the local authority in its initial final care plan, were not supportive of any post adoptive direct contact and did not appear to recognise the significance of the relationship; I agree that the making of this order underlines the seriousness and importance of this ongoing contact and gives a clear message to prospective adopters; this is not something that the local authority had illustrated through the child permanence report.
147. I recognise that this may reduce the number of adopters that will be prepared to care for Sarah but in my view, a placement without this ongoing contact will be at increased risk of disruption and any adopters who are not prepared to consider this ongoing relationship may not be the appropriate adopters for Sarah. I accept entirely that we do not yet know the response of the father to the making of the placement order and he will need to be able to demonstrate his support for Sarah in the next stages of her life story. I hope that the local

authority will be able to give him some support and understanding to enable him to act in Sarah's welfare interests. I know this is not the order that he wanted me to make but I hope that he will be able to reflect and consider his approach to contact so as to ensure that Sarah does not receive mixed messages or that her placement be destabilised by this contact. If that were to happen then I would expect the local authority to apply back to the court with evidence and invite me to revisit this order.

148. I also recognise in making this order that this order does not bind future adopters and that the contact arrangements for Sarah will be considered again when the court is considering any adoption application.
149. In relation to the mother, I am not persuaded by the Guardian's recommendation that final orders are adjourned in an attempt to persuade the local authority to revisit its position that there should be indirect contact only with the mother.
150. I accept the local authority submissions that the mother's contact with Sarah is significantly different in two important ways. Firstly, the quality of the contact is not always positive. Sometimes, Sarah is upset by things her mother says or does during contact and the mother does not appear able to understand how her comments or behaviour may impact on Sarah. Secondly, the mother is present here in the UK. She has not been open and honest about her recent relationship with somebody that could well pose a potential risk to Sarah and could destabilise any placement that Sarah is in. I balance this against the potential importance of Sarah having a true and accurate picture of her mother through direct contact which, having considered the president's keynote speech and ongoing research, may well serve to support and scaffold a placement with prospective adopters. However, in my view the risks outweigh the potential benefits. Instead, I would like this judgement to be shared with any prospective adopters and I would like them to read the president's speech, which is annexed to this judgment.
151. I would also like them to speak to their adoption support worker about the potential benefits of promoting some direct contact between Sarah_ and her mother throughout her childhood. I make no order in respect of the mother's contact with Sarah_.
152. I make the care and placement orders, the order for father's video contact to be maintained at a level of no less than 6 times a year.
153. Whilst I make no order in relation to the time that the local authority intend to look for an adoptive placement, I would urge that at the proposed review stage

at 6 months, if no adoptive placement has been identified, to review the reasons why and to carefully analyse whether it is the presence of the S26 order that is limiting the pool of prospective adopters or some other factor that need to be further reviewed.

