

IN THE FAMILY COURT
SITTING AT LIVERPOOL

AND IN THE MATTER OF: X (10 years)
Y (1 year)

BEFORE: HIS HONOUR JUDGE GREENSMITH

Judgment handed down on 23 February 2024

BETWEEN

A LOCAL AUTHORITY

Applicant

And

M (1)

And

FX (2)

And

X and Y ACTING VIA THEIR GUARDIAN (3)

And

FY (4)

Respondents

JUDGMENT

HHJ GREENSMITH

The Parties and representation

The applicant is represented by Miss Rimmer (c)

The 1st Respondent is M represented by Ms Evans(c)

The 2nd Respondent is FX (father of X) represented by Miss Gordon (s)

The third Respondents are the children. Their interests are represented by the Children's Guardian, Claire Hamblett and solicitor Ms Suzanne Daley

The fourth Respondent is FY (father of Y) represented By Miss Watters (c)

The Application

1. A local authority has applied for care orders for both children. There is consensus that Y should remain in her current placement, with her maternal aunt as her foster carer, under a care order. For reasons which will be explained, the court supports this plan as entirely appropriate.
2. There is consensus that X should remain in the care of her maternal grandmother. The issue between the parties is how that placement should be supported.
3. All parties are asking for a supervision order for X. The mother is asking that the supervision order is made to support a child arrangements order. Both the local authority and the guardian are asking that the supervision order is made to support a special guardianship order. These positions are maintained despite both the guardian and the local authority being mindful of recent guidance and relevant authorities. Contained within the local authority's final evidence in which it lists the pros and cons for making a special guardianship order along with a special guardianship order the only factor stated against doing so is,

“It is not best practice to make a Supervision Order alongside a Special Guardianship Order, as outlined in the Public Law Working Group Best Practice Guidelines, March 2021.”

4. X has been placed with her grandmother since February 2023. There is agreement that the threshold for the making of a public law order is met. Immediate return to the mother's care can not be countenanced. If the grandmother was not a position to care for X, the Court would have to consider the making of a care order with a plan of long term fostering. If the grandmother would agree to being assessed as a long term foster carer for X, it is probable on the evidence available that she would be assessed positively in the same way that she has been assessed positively as a Special Guardian.
5. The situation, though, is that the grandmother has refused to be assessed as a foster carer because she flatly refuses to care for her grand-daughter on that basis. The grandmother regards herself a grandmother and will not engage in any care arrangement that undermines this. She will not tolerate the restrictions and bureaucracy that inevitably accompanies foster care. Placement with the grandmother under a care order is not an option open to the court.
6. The grandmother will agree to the placement being supported by whatever the Court deems to be appropriate short of a care order. In her final evidence provided to the Court, by way of a written statement prepared by the social worker on her behalf, the grandmother says the following:

I, GM, want to just be a “nan” to X. However, I think a special guardianship would be better for me and X, from a legal point of view. It would give X the feeling of stability, and she needs this. I hadn’t realised that she had been known to social services and she was one. I would also be worried in the future if M or FX disagreed with me and then I wouldn’t be able to make a decision without them for X. I didn’t need to seek legal advice about this as I understand.

7. The mother does not agree that X should be made the subject of a special guardianship order and argues that a child arrangement order is sufficient to serve her welfare.
8. The family has been known to the local authority since 2015. The parenting of both children has been significantly prejudiced by the mother’s poor mental health coupled with alcohol abuse. The mother’s conduct has resulted in emergency services involvement whilst the children have been in her care. A parenting assessment was carried out by the local authority in November 2022 following the maternal grandmother contacting the local authority and sharing her concerns that the mother was trying to flee the area with the children and that the mother was suffering. An initial case conference was convened in December 2022 following the mother telling the local authority that her home is not safe for the children. In January 2023 the mother was arrested for assault and on suspicion of child neglect and causing unnecessary suffering to a child and whilst not charged for those offences she was charged for offences relating to her conduct against the police.
9. It is incontrovertible that the mother has continually placed the children at risk due to her being intoxicated. This is exacerbated by the mother allowing the children to be exposed to domestic violence within the home.
10. As a result of the mother’s inability to care safely for the children, both of them have been removed from her care. Y is now living with her maternal aunt and uncle and it is agreed that a care order should be made for her to remain in that placement under a plan of long-term foster care. X has lived with her maternal grandmother since 7 February 2023. It is agreed by all parties, and the court, that X should remain living with her grandmother although it is not agreed how that placement should be formalised and supported.
11. The mother dearly loves both her children and wants both children to return to her care in due course. The local authority freely acknowledges that it is positive that the mother has obtained employment and that she is engaged with an alcohol rehabilitation service to begin to address her alcohol use. However, it is acknowledged that the mother has only recently begun to address the issues around her own behaviours and anger issues. It is also further acknowledged that the mother has been able to establish two periods of detox although unfortunately each has led to a relapse. The mother maintains that she has been abstinent from

alcohol since July 2023 although there is evidence from recent events the mother was using alcohol to excess in January 2024.

12. As the local authority points out, irrespective of the mother's use of alcohol her behaviour can be unpredictable and volatile although it is exacerbated when alcohol is consumed.
13. This court has no wish to undermine the mother's attempts to overcome her dependency on alcohol, quite the reverse, the court accepts that the mother is wholly sincere in wishing to become alcohol free and wishes the mother every success. The mother's acceptance that she cannot currently care for either child, again, is to be respected as a wholly child centred and focused decision and one that must be difficult for the mother to make. The fact is that the mother has an enormous amount of work to do in order to rehabilitate herself to a stage where it will be possible to sustain an alcohol free life, thus making it impossible for it to be considered to be in the children's interests to be returned to the care of their mother. It is in this context that arrangements have been made for the mid-to long-term care of the children rather than short-term care or respite.
14. Y's father has only recently learned of his parentage of Y. FY has shown great understanding for the welfare of his daughter. He had engaged helpfully with these proceedings. FY has only recently been introduced to his daughter and has shown a commendable level of commitment to her. He wishes to expand his contact as time goes on but only in an appropriate way. He supports the placement with grandparents. The court is grateful to FY for his input in these proceedings and the manner in which he has demonstrated his commitment to the welfare of his daughter.
15. FX is judged as being (per MARAC) a high risk perpetrator of domestic abuse and involved in criminal activity. FX has not attended this final hearing listed on 8th and 29th February 2024, however he did attend the hearing on 11th January 2024. He is not in a position to care for his daughter. He agrees with the placement proposal for X and he sought to retain his contact with X at a frequency of once per fortnight and opposed the local authority's proposed reduction to once per month. Submissions were made on FX's behalf at the hearing on 8th February on the basis of previous and firm instructions that he had provided. FX is thanked by the court for his input into these proceedings.
16. The Court endorsed the Local Authority's plan for FX's contact to be reduced to once per month.
17. Threshold for the making of public law orders is proved: it is set out in a threshold document which will be annexed to this judgment.

The Law

18. The starting point is to emphasise the importance of the children receiving a full explanation as to why a decision has been made. I refer firstly to H-W (Children) [2022] UKSC 17. Lady Keegan adopted a passage derived from the judgment of McFarlane LJ (as he then was) in *In re G (A Child) (Care Proceedings: Welfare Evaluation)* [2013] EWCA Civ 965; [2013] 3 FCR 293:

- a. *“The judicial task is to evaluate all the options, undertaking a global, holistic and ... multi-faceted evaluation of the child’s welfare which takes into account all the negatives and the positives, all the pros and cons, of each option ...*
- b. *“What is required is a balancing exercise in which each option is evaluated to the degree of detail necessary to analyse and weigh its own internal positives and negatives and each option is then compared, side by side, against the competing option or options.” [47]*

Statutory framework

19. I will firstly set out the legal framework of the various options open to the court within the statutory framework within the Children Act 1989.

Section 1: No order principle

- a. (5) *Where a court is considering whether or not to make one or more orders under this Act with respect to a child, it shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all.*

Section 3: Definition of Parental Responsibility

In this Act “parental responsibility” means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property.

Section 8: Child Arrangements Order

In this Act —

- b. *A "child arrangements order" means an order regulating arrangements relating to any of the following—*
 - (a) with whom a child is to live, spend time or otherwise have contact, and*
 - (b) when a child is to live, spend time or otherwise have contact with any person;*

Section 12: Acquisition of parental responsibility

Where the court makes a child arrangements order and a person who is not a parent or guardian of the child concerned is named in the order as a person with whom the child is to live, that person shall have parental responsibility for the child while the order remains in force

Section 14A: Special Guardianship orders

A “ special guardianship order ” is an order appointing one or more individuals to be a child’s “ special guardian”

Section 14C: Effect of the making of a Special Guardianship Order

*The effect of a special guardianship order is that while the order remains in force—
a special guardian appointed by the order has parental responsibility for the child in respect of whom it is made; and*

subject to any other order in force with respect to the child under this Act, a special guardian is entitled to exercise parental responsibility to the exclusion of any other person with parental responsibility for the child (apart from another special guardian).

20. Section 17: Children in Need

It shall be the general duty of every local authority (in addition to the other duties imposed on them by this Part)—

- a. to safeguard and promote the welfare of children within their area who are in need; and*
- b. so far as is consistent with that duty, to promote the upbringing of such children by their families,*
 - (a) by providing a range and level of services appropriate to those children’s needs.*

Any service provided by an authority in the exercise of functions conferred on them by this section may be provided for the family of a particular child in need or for any member of his family, if it is provided with a view to safeguarding or promoting the child’s welfare.

Section 35: Duties occasioned by the making of a Supervision Order

*While a supervision order is in force it shall be the duty of the supervisor—
to advise, assist and befriend the supervised child;
to take such steps as are reasonably necessary to give effect to the order; and
where—*

(b) (i) the order is not wholly complied with; or

(c) (ii) the supervisor considers that the order may no longer be necessary, to consider whether or not to apply to the court for its variation or discharge.

Best Practice Guidance

In the Public Law Working Group: Best Practice Guidance: Special Guardianship Orders March 2021, Appendix E it is recorded that:

SGOs were introduced to ensure that children have the experience of a permanent family life, which is fundamental to their safety, welfare and development. [1]

The purpose of the order is to create a permanent family life for the child or young person with all the advantages and challenges that accompany this. It lasts until the young person reaches 18, but can be varied or discharged. [8]

Sub-appendix A records:

A CAO can sit alongside a supervision order, but the courts will need some persuasion as to why a supervision order is needed if the local authority is satisfied the carers will provide good enough care and will cooperate with the local authority without the need for an order. [7]

Key themes of this Best Practice Guide are:

the assessment of a proposed SG should be thorough and comprehensive and evidence and experience informed;

the SGSP should be comprehensive and set out the support and services to be provided to the child and the prospective SG as set out in the regulation;

where there is little or no prior connection/relationship between the child and the prospective SG, it is very likely to be in the child's best interests to be cared for on an interim basis by the prospective SG in order to establish a meaningful relationship with the child;

the SGSP should be based upon the lived experience of the child and the lived experience of the prospective SG;

the SGSP should set out the contact arrangements between the child and the parent(s) and should include (i) the type of contact which is to take place, (ii) the frequency and duration of contact, (iii) who is to be responsible for making the arrangements of contact, (iv) what practical arrangements need to be provided for to

facilitate contact and (v) what professional support and assistance, if any, will be provided to the prospective special guardian; and, save for cogent (strong and clear) reasons, a supervision order should not be made alongside an SGO.

21. The last point is expanded as to the reasoning:

The purpose of an SGO is to provide a firm foundation on which to build a lifelong permanent relationship between the child and the carer. A supervision order should not need to be used as a vehicle by which support and services are provided by the local authority. All support and services to be provided to the SG and to the child by the local authority or other organisations should be set out in the SGSP which should be attached as an appendix to the order. The cases where it would be appropriate or necessary to make a supervision order alongside an SGO will be very small in number. The issues that are intended to be addressed in the making of a supervision order are most likely to be achieved through the process as set out above. [33]

22. Regarding supervision orders the PLWG has published: Recommendations to achieve best practice in the child protection and family justice systems: Supervision orders October 2022

- a. *A supervision order places a responsibility on the local authority to “advise, assist*
- b. *and befriend” the child and by extension, the people with whom the child lives.*
- c. *Children who are the subject of such orders are allocated to social workers, who*
- d. *will submit a care plan during proceedings which will typically be managed under*
- e. *local authority arrangements for supporting children in need. The plan should be*
- f. *specific and purposeful in its aim to reduce risk and build on strengths to support*
- g. *the child in their care arrangement. The extent to which an order set up under the*
- h. *auspices of ‘befriending and assisting’ families and that is then overseen through*
- i. *child in need arrangements causes concern to some professionals who say that*
- j. *such orders are neither robust nor effective in protecting children. [24]*

23. Local Authority guidance as to how to fulfil its obligations are set out in Working Together to Safeguard Children 2023 A guide to multi-agency working to help, protect and promote the welfare of children December 2023. This provides for local authorities to have protocols for assessment of children in need and delivery of its support. The definition of support that can be provided is not exhaustive. The length of time that a child can be considered to be a child in need is not finite.

Case Law

24. W-P (Children) [2019] EWCA Civ 1120 contrasts child arrangement orders against special guardianship orders. One of the grounds for the mother's appeal in that case was an assertion that a Special Guardianship Order was disproportionate; a Child Arrangements Order in favour of the grandparents would have been more appropriate. In that case, there was a positive SGO assessment of the grandparents whereas the parenting assessment did not support placement with the parents. The children had previously been placed with the grandparents under a CAO which had not worked. The mother had exercised her PR over the children, undermining the grandparents which contributed to the placement breaking down.

25. In his lead judgment Peter Jackson LJ referred to the case of Birmingham City Council v LR [2006] EWCA Civ 1748 at [78]:

- a. *“Special guardianship is an issue of very great importance to everyone*
- b. *concerned with it, not least, of course, the child who is its subject. It is*
- c. *plainly not something to be embarked upon lightly or capriciously, not*
- d. *least because the status it gives the special guardian effectively prevents*
- e. *the exercise of parental responsibility on the part of the child's natural*
- f. *parents, and terminates the parental authority given to a local authority*
- g. *under a care order (whether interim or final). In this respect, it is*
- h. *substantially different from a residence order which, whilst it also*
- i. *brings a previously subsisting care order in relation to the same child*
- j. *to an end, does not confer on any person who holds the order the*
- k. *exclusivity in the exercise of parental responsibility which accompanies*
- l. *a special guardianship order.”*

26. In his judgment His Lordship said,

“I turn finally to the type of legal order: CAO or SGO? The appellant raises issues both of substance and process. As to the substance, the judge was in my view clearly entitled to accept the professional advice in favour of a SGO. As a specialist judge he was aware of the significant difference between that order and a CAO in terms of the restriction upon the mother's exercise of her parental responsibility. Having decided that the children should remain long-term with the grandparents and assessed that the placement needed as much stability as possible, it was proper for the judge to fortify it in this way”. [35]

27. *When comparing adoption to special guardianship, in Re S (A Child) [2007] EWCA Civ 54 Wall J said:*

Certain other points arise from the statutory scheme:-

The carefully constructed statutory regime (notice to the local authority, leave requirements in certain cases, the role of the court, and the report from the local authority - even where the order is made by the court of its own motion) demonstrates the care which is required before making a special guardianship order, and that it is only appropriate if, in the particular circumstances of the particular case, it is best fitted to meet the needs of the child or children concerned.

(ii) There is nothing in the statutory provisions themselves which limits the making of a special guardianship order or an adoption order to any given set of circumstances. The statute itself is silent on the circumstances in which a special guardianship order is likely to be appropriate, and there is no presumption contained within the statute that a special guardianship order is preferable to an adoption order in any particular category of case. Each case must be decided on its particular facts; and each case will involve the careful application of a judicial discretion to those facts.

(iii) The key question which the court will be obliged to ask itself in every case in which the question of adoption as opposed to special guardianship arises will be: which order will better serve the welfare of this particular child? [47]

28. During the parties' submissions frequent mention was made to the concept of *permanency* thereby raising the question as to whether SGOs are reserved to cases where there is an expectation that the placement will be permanent. The statute does not require the placement under a SGO to be permanent. An SGO, by its nature, leans towards permanence but does not require it. Rather than being tied to the notion of permanency, the case law emphasises focusing on the needs of a child.

29. In *C (A Child) (Special Guardianship Order)* [2019] EWCA Civ 2281 Moylan LJ said:

Ms King relied on what Ryder LJ said in Re P-S, at [35]: "Special guardianship was introduced to provide permanence in the care of children who cannot return to their birth families but where adoption is not appropriate". In making this observation, I do not consider that he was intending to depart from what this court had said in Re S, which was not referred to in Re P-S, and introduce any particular permanence threshold for the making of a special guardianship order. He was contrasting adoption and special guardianship; the above comment follows him saying that:

"whatever the degree of permanence a special guardianship order provides for a child, the order does not have the same characteristics as an adoption order". Simply stated, the order is intended to provide greater permanence than a child arrangements order. In my view, rather than becoming unduly focused on what might be meant by the word "permanence", what is important is that the court should analyse and explain why the child's welfare interests justify the making of this order rather than a child arrangements order. [72] (my emphasis).

30. The duty of a local authority under section 17 has been held to include a duty to an individual child, rather than just a general duty to all children. In *Regina v. London Borough of Barnet (Respondents) ex parte G (FC) (Appellant) Regina v. London Borough of Lambeth (Respondents) ex parte W (FC) (Appellant)* [2003] UKHL 57, Lord Nicholls opined:

At first sight section 17(1) does not seem to impose a duty in respect of the particular needs of an individual child. The duty is expressed in general, overall terms regarding the collective needs of children in need in the local authority's area. It is not expressed by reference to the needs of any one child. This generality, however, is not conclusive. The generality of an obligation regarding children in a local authority's area is not of itself inconsistent with the obligation being a duty in relation to the needs of individual children in the area. An obligation in respect of the general may include an obligation in respect of the particular. A duty in respect of an entire class or group as a whole may include a duty in respect of the individual members of the class or group. It all depends upon the language read in its context.
[26]

Analysis

31. There is no doubt X would like to return to her mother. X is mature for her age, and acknowledges that it is impossible for her to return at present. X has expressed the view which is recorded in the local authority evidence. It is recorded:

"[X] would like to return to her mother's care but only when her mother is well enough to do so. X worries that her mother will continue to be intoxicated on a regular basis and will be unable to care for her and her sister. X has stated that she wishes to remain in her maternal grandmother's care until such time as her mother is able to meet her needs."

32. There may come a time in the future when X may be able to return to her mother. In the meantime, and perhaps for years (possibly until she is 18), the local authority has identified a level of support that it concedes will be needed to support placement with the grandmother. The support is set out in the Special Guardianship support plan in the bundle. The table is in template form. There are columns headed "*Present support needs*" and "*Future support needs*". There is a column titled "*Services to be provided*". Drawing from the contents of the plan it is fair to say that the local authority acceptance of responsibility for meeting any of X's needs and attributes is limited. This is not a criticism. It is a reflection of the role of the special guardian who must be regarded by a child as her carer primarily responsible for her needs. The responsibility placed on the grandmother is stated specifically to include schooling, GP and universal services. The local authority says that it will hold a Child in Need meeting every 4 to 6 weeks. The issue of contact with her mother is left entirely to the grandmother to support by way of supervision. Regarding contact with her father, the local authority says it will supervise this while X remains subject to a Child in Need plan. There is no suggestion that this will be a responsibility resulting only in the event a supervision order is made.
33. The social worker reports that X says she is happy residing with her maternal grandmother where her needs are being met. X informed the social worker that she would like to return to her mother's care but worries her mother will continue being intoxicated and this scares her. Knowing that she is living with her maternal grandmother makes X feel safe and secure.
34. A child arrangement order would specify where X lives. X would have a sense of belonging; she would know where her base is and it would give parental responsibility to the maternal grandmother while it is force. A child arrangements order carries little sense of permanency; an application can be made to vary at any time. The process of applying to vary a child arrangement order would immediately involve X. As soon as an application was made to court, Cafcass would be required to carry out welfare checks and to provide the court with a safeguarding letter. Because of X's age it would be untenable to expect Cafcass to provide this information without speaking to X. On the other hand, an application for leave to discharge a special guardianship order would not automatically lead to the involvement of a child subject to such order, as the procedural requirement for Cafcass to prepare the safeguarding letter does not apply to such applications. The application for leave would be considered by the court without X having any knowledge of the application progressing which would have the advantage of not disturbing X's sense of security, unnecessarily.

35. Neither a child arrangements order nor a special guardianship order is necessarily permanent in its nature. That said, a special guardianship order certainly does have more of a sense of permanence and when considered through the eyes of a child must give the child a much more grounded sense of stability, knowing that the arrangement can only be disrupted if the court first has to find (in the case of the mother) that the mother would have to demonstrate a significant change in her circumstances. This is particularly relevant to X's clearly stated desire that she would need to see change in her mother before considering returning to her care.
36. The exclusive parental responsibility provided for by a special guardianship order adds to a child's sense of security. Children generally appreciate rules and boundaries. They need to know where they stand. This means they need to know who sets the rules and enforces of the boundaries. This is an essential element of parenting. Children who do not have rules or have conflicting or unclear boundaries struggle to progress to become functioning adults. As X grows, she will, as all children do, break rules and push against boundaries; this is a normal and essential part of growing up. Where a child is brought up by two parents, unless those parents are entirely consistent in how they set and enforce rules and boundaries, the child will learn how to manipulate and gain advantage from the inconsistency. The advantage of a special guardianship order being made, as opposed to a child arrangements order is that there will be one person making the rules and enforcing the boundaries which again will only add to the child's sense of security. A child arrangements order would afford more flexibility and more opportunity for the mother to become involved in key decisions for X.
37. During the term of either order the adult with parental responsibility will have frequent contact with the child's education providers. In order to give a child the best opportunity of taking advantage of their education it is often the case that the provider has to form a collaborative relationship with the person or people who have parental responsibility for the child. Frequently, decisions will have to be made regarding how the child's education is to be delivered. Any disagreement between parents or others who hold parental responsibility is counter-productive to this arrangement and will lead to adverse effects on the child's education.
38. Supervision orders last initially for 12 months. The addition of a supervision order would militate against the essential issue of X's need for a sense of permanency. It would be superfluous and may even be counterproductive because it would have a time limit which may give X a sense of pending abandonment by the local authority.

39. If a supervision order is made X's welfare would continue to be reviewed by an independent reviewing officer. Y and X would share an IRO. There would be a connecting thread monitoring the welfare of both children which may lead to more consistency in care provision.
40. If the court looks through the eyes of X I am able to state the following quite clearly:
- a SGO would provide her with the level of stability she wants and needs;
 - a CAO would not provide a sufficient level of stability within the placement;
 - a supervision order would not add anything of significant value to X's placement.
 - the local authority can (and no doubt will) provide such support as is necessary to X as a Child in Need.
41. In reaching my decision I have had regard to the law I have stated above and had particular regard to the welfare checklist in s1(3) of the 1989 Act and have placed the children's welfare as my paramount consideration.

Y's contact with her father

42. Since circulating this judgment in draft form Y's father, FY has asked that the court consider issues that have arisen in respect of his contact with Y. The issue is of such concern that prior to formally handing down FY through his solicitor has issued an application that the court address the issue of contact by way of a formal C2. The application has the following details:

Further to the recent final hearing beginning on 8th February 2024, ... there have been issues in relation to our client's contact with Y. There have been since the final hearing, further issues with contact being cancelled last minute by the foster carer. Our client's next contact is on Monday 26th February 2024, which will then be five weeks since he has seen Y. Whilst the local authority has scheduled an additional contact, our client remains extremely concerned that once matters are no longer in proceedings, contact will be hard to manage. We are aware the hearing is listed on 21st February 2024 only to hand down judgment however we wish to bring the matter to the court's attention for judicial oversight.

43. Upon receipt of the application, I adjourned the date for handing down of judgment from 21 February until 29 February to give the parties the opportunity to address the issues and hopefully to find a consensual solution. At the hearing on 29 February the court was informed

that contact has taken place once out of a possible eight opportunities. The court was informed that on the one occasion that contact took place, Y was brought to the contact centre by her male carer who upon meeting Y's father made evident his antipathy for FY by responding to FY civil greeting, saying, "I don't have to talk to you". FY was then assisted by a contact centre worker who showed FY and his daughter into the centre where the contact takes place. Unfortunately, Y became evidently distraught and distressed and the contact had to be terminated.

44. Through counsel, the local authority confirmed that the carers are resistant to contact taking place and are not supporting it as the local authority would wish. Having listened to the local authority the court is entirely satisfied that the social worker is doing everything she can to promote contact and to support the carers in their duty to do so. The local authority has suggested mediation between FY and the carers which it would support.
45. Miss Mallon, on behalf of FY, emphasised that no criticism at all is lodged against the social worker or the local authority; it is apparent that the social worker is working very hard to try to move matters forward in a child-centred way. As Miss Mallon submitted, making an order for contact on the making of a care order is extremely rare, but in the circumstances she feels she has no alternative but to ask for a contact order. The difficulty that is perceived is that following the making of the care order the social work team will change and without a robust provision being incorporated into the final order further delay would ensue, leading to Y being deprived of forming an attachment to her father at this very early stage of her development.
46. As I have made clear earlier in this judgment this court is entirely satisfied that FY has Y's welfare at heart. He is a committed father with parental responsibility who wants his daughter to grow up knowing that she has a father and to develop a functional and beneficial relationship with him. The court is wholly supportive of FY's position.
47. Nobody involved in this case wishes Y to be removed from her maternal aunt who is providing excellent basic care for her and with whom she is developing a good relationship. Y is very fortunate to have the opportunity of being cared for within her maternal family. Y's carers need to understand and acknowledge that as foster carers they are employed by the local authority to provide care for Y in accordance with the local authority's statutory obligations. It is imperative that foster carers work with local authorities and discharge their duties towards children in their care in a manner which is consistent with the requirements set out by the local authority.

48. On a broader point, and focusing on Y's long term welfare, Y has an inalienable right to have a relationship with her father and that relationship must be promoted in an appropriate manner.
49. Having considered Y's welfare I am satisfied that it is appropriate to make an order that the local authority ensure that Y has direct contact with her father for a minimum of two hours every two weeks. I emphasise that this provision is a minimum provision and, may of course, be extended at the discretion of the local authority and with the agreement of the father.

My orders are:

A care order in respect of Y

A contact order for Y in the above terms

Paragraphs 41 to 49 of this judgment shall be extracted and provided to Y's carers

A Special Guardianship Order in respect of X