



Neutral Citation Number: [2019] EWHC 3076 (Fam)

IN THE LEICESTER FAMILY COURT

90 Wellington Street
Leicester LW1 6HG

Date: 27 June 2019

Before:

THE HONOURABLE MRS JUSTICE GWYNETH KNOWLES DBE

Between:

A CITY COUNCIL

Applicant

- and -

1) A Mother

1st Respondent

- and -

2) A Father

2nd Respondent

- and -

Others

MISS JUDD QC and MR MANSFIELD appeared on behalf of the Applicant
MR WOODWARD-CARLTON QC and MS WEBBER appeared on behalf of the First Respondent
MR LARIZADEH QC and MR BARNES appeared on behalf of the Second Respondent
MR KINGERLEY appeared behalf of the Third Respondent
MR JUBB and MR BASI appeared on behalf of the Fourth Respondent
MS PROLINGHEUER appeared on behalf of the Guardian
MR EKANEY QC and MS LEE appeared on behalf of the First Intervenor
MS KHANDIA appeared on behalf of the Second Intervenor

Hearing date: 27th June 2019

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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THE HONOURABLE MRS JUSTICE GWYNNETH KNOWLES DBE

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

Mrs Justice Knowles:

1. I am concerned with four young people who are the subjects of Section 31 proceedings, brought by the A. They are: Q, who is aged 17; A, who is aged 12; B, who is aged nine; and C, who is aged seven. A, B and C are the subjects of interim care orders to A. Until her 17th birthday, in March of this year, Q was also the subject of an interim care order. In my judgment entitled, *Re Q (Interim Care Order: Jurisdiction)* [2019] EWHC 512 (Fam), I determined that there was no jurisdiction to make an interim public law order or, indeed, a final order of that sort, once a young person had reached the age of 17; this is, therefore, the reason why Q is no longer subject to an interim care order.
2. However, I permitted the Section 31 proceedings in relation to Q to continue. In *Re Q* I expressed the view that there might, in a category of limited cases, be utility or benefit to Section 31 proceedings remaining ongoing, even if the court had no jurisdiction to make either interim, or final public law orders; that is, indeed, the position here, for reasons which I hope will be self-evident from this judgment.
3. The children also have two adult sisters; Y, who is 22 years old; and Z, who is 20 years old. Both Y and Z live in their parents' home, and that was the case at the date of the Local Authority's application in December 2018.
4. The parties to the proceedings are the parents, B and C, by their Children's Guardian; A, separately represented; Q, separately represented; Y as an intervenor, separately represented; and Z as an intervenor, separately represented.
5. In reaching my decision, I have read the bundle of material provided to me, together with the very helpful position statements submitted by the parties. It is a tribute to the quality of the advice that all of the parties have received, that this hearing has concluded much earlier than was originally timetabled. I am enormously grateful to all of the advocates for their considerable assistance in resolving the difficult issues in this case.

The Background

6. The family arrived in the United Kingdom in about 2003. The parents married in 1996, the father having converted to Islam, this being the faith in which the mother was born. Their three older children, Y, Z and Q were born in France, and the younger three children were born in this jurisdiction. As I understand it, all six children are French nationals.
7. The family became known to the Local Authority for the first time in August 2018, following a referral from the police. The family had been on holiday to Turkey, and on their return to Gatwick airport in early August, had been subjected to a search, pursuant to the powers contained in Schedule 7 of the Terrorism Act 2000. The powers in that schedule permit the examination of persons travelling through UK international ports and borders, in order to determine whether they appear to be concerned in the commission, preparation or instigation of acts of terrorism.
8. A tablet, computer and memory stick belonging to Z were seized, as well as a mobile phone belonging to Y. Several days later, further items, including a mobile phone belonging to the children's mother, were removed by police from the family home. Initial examination of Y's phone revealed numerous images which appeared to

encourage terrorism, and to glorify the so-called Islamic State. Y was arrested and bailed pending further enquiries. Following the police referral, the Local Authority undertook a family assessment, in an effort, first, to understand the impact of Y's views on her younger siblings, and second, to ascertain whether the children were being radicalised.

9. Her mother and father were of the view at that stage, that Y had made a mistake, and did not, in the opinion of the social workers assessing, fully appreciate the gravity and the implications of Y's arrest.
10. Alongside the concerns about Y, it emerged from materials seized by the police that A had completed a piece of homework, some two years earlier, which appeared to glorify the bombing and killing of police officers. Notwithstanding this material, the Local Authority's assessment concluded that the children were not at risk of significant harm and recommended the intervention of the Prevent Programme. The case was closed to children's social care in October 2018.
11. Later that year, in December, Prevent made a referral to the Local Authority, explaining that the police planned to arrest both parents, Y and Z, in relation to alleged terror-related offences. In consequence, the four younger children were made the subject of police protection orders and were placed in foster care. Following another search of the family home, the adults I have identified were arrested and then bailed.
12. The following day, the Local Authority issued care proceedings and I made interim care orders the day after, on 20 December 2018, continuing the children's placement in foster care. Following a contested hearing in February, I made further interim care orders, this time pursuant to Section 38(6) of the Children Act 1989, on the basis that there would be an assessment of the children in the family home. Alongside that order, the family's passports were surrendered to the Tipstaff, port alerts put in place, and orders made under the inherent jurisdiction, forbidding the removal of the younger children from the jurisdiction.
13. The mother and father submitted themselves to a written agreement, providing for, amongst other matters, monitoring of the family's internet use, together with announced and unannounced checks by social workers. The four younger children remain at home to date, and the police investigation is ongoing. I have been told that, presently, the Crown Prosecution Service is not of the view that the material in the possession of the police crosses the threshold test for prosecution of either parent or, indeed, Y. I should say that Z is not the subject of an ongoing police investigation as I understand and no findings are sought against her by the Local Authority at this stage, or indeed, at all.
14. The police have issued an application seeking disclosure of documents from the care proceedings, which has yet to be resolved. At the invitation of the parties, I have decided that I cannot determine that application, pending a decision of the Court of Appeal on the correct approach to such applications. I am told by those who represent the father that the Court of Appeal's judgment is expected within the next fortnight.
15. Given the serious nature of the police investigation and what is accordingly at stake for the adults concerned, I consider that I cannot make final public law orders until that application has been determined. This course permits the parents and Y the benefit of

legal representation for that hearing, which is self-evidently closely allied to these public law proceedings. This judgment will thus resolve issues relating to the threshold criteria in Section 31(2) of the Children Act and welfare, in order to provide a structure for the eventual final orders, which I will make at the conclusion of the hearing which will be held towards the end of July.

Threshold criteria

16. The Parties have reached agreement between themselves as to the basis upon which the threshold criteria, set out in Section 31(2) of the 1989 Act, are met. I have considered with care, the contents of the agreed threshold document presented to me during the course of this hearing. In my view, the concessions made by the parents which are incorporated into that document, are more than sufficient to satisfy the threshold criteria, and importantly, those concessions accord with the gravity of the case brought by the Local Authority. I have already mentioned and note further, that no findings were sought, or indeed, are made by me in relation to Z.
17. It is not necessary for me to set out the precise details of the basis upon which the threshold has been agreed. Nevertheless, it is important, given my welfare decision, to understand the threshold context.
18. At the time the protective arrangements were put in place on 16 December 2018, I find that all four younger children were likely to suffer significant harm to their physical and emotional wellbeing, that together with the impairment of their development, this harm continues to date and is attributable to the care they are likely to receive from their parents.
19. The harm arose from the following facts, which I summarise as follows. First, the mother is a strong, if not, fanatical sympathiser of terrorism, and with the use of murder and violence in the support of the aims of the so-called Islamic State. This is evidenced by, for example, her expressions of sympathy for terrorist acts; her watching of violent and extreme videos; her derogatory remarks about ‘Kuffars’, a term used to describe non-Muslims; material on her phone supportive of so-called Islamic state; and finally, of her desire to travel Syria, Mali, or the Yemen, or other war zones.
20. Secondly, the father too sympathises with violent extremism and terror, though to a lesser degree than the mother. This is evidenced by messages exchanged between the parents, which demonstrated his stated wish to become a suicide bomber, his celebration of terrorist action in France, and his apparent agreement with the extremist views expressed by the mother.
21. Third, the mother behaved in a way which was likely to encourage her children to sympathise with so-called Islamic State, and violent terrorism. This is evidenced by, for example; her watching of extremist videos with Y, of her knowledge of Y’s interests in marrying an adherent of so-called Islamic State; her downloading material relating to the leader of so-called Islamic State with Y, and her desire that A should have his hair cut in a style similar to that of the leader of so-called Islamic State.
22. Fourth, the effect of both parents’ behaviour was to expose Y to sympathy for terrorism and violence. The material downloaded from Y’s electronic devices showed she had become interested in terrorist conduct, and in marrying a man sympathetic to the aims

of so-called Islamic State. Furthermore, the parents' behaviour and beliefs would act to expose and encourage the children to sympathise with terrorism during the course of their childhood and beyond.

23. The children are, as accepted, at risk of physical harm, should they decide as teenagers to travel abroad, to further the aims of so-called Islamic State, or to participate in terrorist activities in this jurisdiction. Exposure to images of extreme violence, hatred and murder, is also likely to cause these children emotional harm. That harm arises, not only as a result of viewing this material, but also, importantly, as a result of being led to believe such violence is normal, justified and acceptable because the victims are Kuffars or non-Muslims.
24. Finally, the children's development is likely to be impaired, in that exposure to their parent's beliefs as described will affect their ability to integrate into their community if they are brought up to hate and despise those amongst whom they will live and work.

Welfare

25. The Local Authority's proposal is that A, B and C should be the subjects of final care orders. The Children's Guardian for B and C, supported that proposal, which was made on the basis that the ongoing risk, in this case, was so serious that care orders, albeit with the children remaining at home, were both justified and proportionate.
26. The father has confirmed his agreement to the making of care orders, though as Mr Larizadeh QC told me, he would have preferred this court to have resolved these proceedings by making a supervision order. The mother too stated she would prefer it if supervision orders were made, though she no longer actively opposed the making of care orders. A is content that the Local Authority's plan provides that he remains at home with his parents.
27. The Local Authority's plan has been informed by the very careful and thorough assessment conducted by the allocated social worker. I understand that the parents generally accept the conclusions of this assessment, save for two matters identified in paragraph six of the Children's Guardian's analysis. It is not necessary for me to resolve those matters in order to come to a decision as to the form of order best suited to promoting the children's welfare.
28. The Local Authority assessment identified in this family a number of specific vulnerability factors for radicalisation, which are contained within the Channel Vulnerability Framework. This framework is a key element of the Prevent strategy, itself a multi-agency early intervention strategy, designed to safeguard children and adults from being drawn into committing terrorist related activity. The Channel Assessment Framework involves three dimensions; engagement, intent and capability, and identifies factors within each dimension which *may* (my emphasis) indicate that a person is either committed to terrorism or may become a terrorist.
29. The Local Authority's assessment identified the following vulnerability factors in this family, namely; feelings of grievance and injustice; being under threat; a need for identity, meaning and belonging; susceptibility to indoctrination; feeling at a transitional time of life; mental health issues; over identification with a group or an ideology; 'them' and 'us' thinking; and access to networks funding or equipment.

30. In the view of the Local Authority, those factors presented, without further intervention and involvement from professionals, a very real risk of significant emotional harm to the children. There is some material in the assessment suggestive that one or two of the children aged under 18 had adopted some of the modes of thinking identified as vulnerability factors in the Channel Vulnerability Framework. The assessment also raised concerns about the family's isolation and lack of integration into the wider community, which was compounded by the children's education within an Islamic faith school.
31. The school attended by the three younger children has been rated as inadequate following a recent Ofsted inspection, which identified clear deficits in safe guarding, and in the promotion of personal development and welfare. The latter deficit limits the children's understanding of, and exposure to cultural and religious differences in the wider community. The social worker has recommended that the parents consider a change in the children's schools, in order to ensure that A, B and C access a more rounded social experience in their education.
32. Notwithstanding the stance adopted by the parties to the making of care orders, it is my duty to consider whether a care order is a necessary and proportionate response to the risk presented.
33. I remind myself that the least interventionist order or approach is preferable, if this is consistent with the children's welfare. When deciding if I should make a care order, Section 31(3)(a) also requires me to consider the permanency provisions of the Local Authority's plan for these children, those provisions being defined in Section 31(3)(b). Finally, I must take into account the factors set out in Section 1 of the Children Act in reaching my decision. I have borne all of the above in mind in coming to my conclusions in this case.
34. Having evaluated all of the material in the bundle, and listened to the submissions made, I am satisfied that care orders are a proportionate and necessary response to the risks posed to A, B and C. The plan provides for the children to live with their parents, but that place is within the care of adults and in a family environment, where they continue to be at risk of significant emotional and developmental harm, by reason of their parent's radicalised beliefs. Further, the agreed threshold criteria make plain the parents' support for the radicalised beliefs, apparently adopted by Y, who also continues to live in the family home. The mitigation of risk cannot be met, in my view, by the making of supervision orders, which lack powers for the Local Authority to regulate and determine, in consultation with the parents, the extent to which the parents may meet their parental responsibility of the children.
35. The exercise of those powers, pursuant to Section 33(3) and Section 33(4) of the Children Act, may be of crucial importance in meeting all of the children's needs, but particularly their educational and social needs. Though I am pleased to note that the parents are now willing to cooperate with the Local Authority, both admitted to the Children's Guardian that they were afraid of being honest at the outset of the proceedings, because of fear of the police investigation. I note that this investigation remains ongoing and thus, may compromise a truly open and honest relationship with the Local Authority. In these circumstances, I have decided there must be a clear parent in overall charge of the three younger children's welfare, and that parent should be the

Local Authority, given the very real risks which I have already spelled out in this judgment.

36. I am pleased to record that the parents have signed a written agreement with the Local Authority, regulating their working relationship once final care orders are made. This provides, amongst other matters, that the family will engage with Prevent; that the family's electronic devices will subject to inspection on request, and may also have monitoring software installed; and that the parents will ensure that the older members of the family do not expose any of the younger children to websites or downloaded materials, endorsing or supporting violent jihad, or organisations which may be in breach of English anti-terrorism legislation. Importantly, it is for the parents to ensure that their younger children are not exposed to harmful behaviour by that older sister's supportive of the violent jihad and the like.
37. Finally, and in accordance with Section 33(7) of the Act, the family will take no trips outside this jurisdiction without prior consultation with the Local Authority, and its express agreement in writing. The Local Authority is to hold the passports of the three younger children, together with that of Q, whilst the three younger children remain subject to care orders, and until Q is 18. There will be port alerts in relation to all four of the younger children.
38. I do not underestimate the magnitude of the task which lies ahead for the Local Authority and its partner agencies, in seeking to recalibrate the beliefs of these parents towards a more inclusive and tolerant acceptance of those who live in this country, and who do not observe the Muslim faith. Both the mother and father profess themselves to have been profoundly shocked by the police and Local Authority's intervention in their family life, and this has, no doubt, played a role in the realistic concessions they made to me.
39. It is obvious to me, how much they love their children, and I urge them to make full use of the help and assistance available to them; they owe it to their children to do so. If they fail to do so or believe that mere lip service to what is demanded will suffice, they are most seriously mistaken.
40. I thus approve the written agreement, and will make final care orders, once the police disclosure application has been resolved at the next hearing.

Q

41. I have found the threshold criteria crossed in relation to her, but she is now 17 and no longer susceptible in law to the making of a public law order. However, she remains a Child in Need, within the meaning of Section 17(1) of the Children Act, until her 18th birthday, and she is thus properly encompassed within the written agreement, agreed by her parents with the Local Authority.
42. I have also been invited by the parties to make an order under the inherent jurisdiction, providing that Q's passport be held by the Local Authority until she is 18 years old. Such an order will prevent her travelling abroad before she is 18, unless she accompanies her family on a trip abroad, sanctioned by the Local Authority, or this court returns her passport to her. Given the concerns which have arisen in this case relating to travel abroad, and pursuant to Section 100(4) and Section 100(5) of the

Children Act, such an order is, in my view, necessary, since without it there is reasonable cause to believe Q is likely to suffer significant harm. I am further satisfied that I should give the Local Authority permission to make its application for such an order, as the result which the Local Authority wishes to achieve could not be achieved through the making of an order either made out with the court's inherent jurisdiction, or for which the Local Authority is entitled to apply.

43. This conclusion to the Section 31 proceedings, relating to Q, demonstrates why, in some cases, public law proceedings might properly continue, even though a child has reached the age of 17, and may no longer, in law be made subject to a public law order.
44. This matter will be listed before me in a month's time, and I will determine the application made by the police for disclosure, and make the final orders highlighted in this judgment.
45. That is my decision.

End of Judgment