

IN THE FAMILY COURT
(Sitting at Brentford)

No. ZW18C00108

Alexandra Road, High Street
Brentford
TW8 0JJ

Thursday, 6 September 2018

Before:

HIS HONOUR JUDGE WILLANS

(In Private)

B E T W E E N :

LONDON BOROUGH OF HOUNSLOW Applicant

- and -

(1) M

(2) F

(3) Child A Respondent
(by her Children's Guardian)

MS C. IRVINE appeared on behalf of the Applicant Local Authority

MS M. O'LEARY (instructed by Mackenzie & Co, solicitors) appeared on behalf of the First Respondent

MS C. LE QUENSE (instructed by Caveat Solicitors) appeared on behalf of the Second Respondent

MR C. STEVENSON (instructed by Creighton & Partners) appeared on behalf of the Children's Guardian

J U D G M E N T

His Honour Judge Willans:

INTRODUCTORY OBSERVATIONS

- 1 If I start by making some introductory observations in this part of my judgment, I'll explain who the parties are and really what the case is about, and what I've considered in making my decision. This is a case involving most importantly Child A. Child A is now seven-months of age. She was born on 2 February of this year. Since March of this year she's been in local authority foster care, separated from her mother. The local authority is the London Borough of Hounslow. The other parties to the case are Child A's mother, M. M is accompanied in court through these proceedings by an intermediary, and that's Ms Amy Daly. And that intermediary was appointed at the court's direction following a previous hearing having regard to M's undoubted cognitive difficulties as one finds in the medical expert reports. She's also been accompanied -- not throughout but certainly today and, I think, on Monday -- by a worker Christiana, her surname escapes me, but has been working with mother in the community for a period of time. She's represented by counsel, as are the local authority. The local authority by Ms Irvine, and mother by Ms O'Leary. Child A's father is F. He appears in court today from detention. I'll deal with the details of that shortly, but he is as a result accompanied and has been accompanied throughout by prison or delivery services. I am grateful for him being made available to the court to enable this hearing to proceed successfully. He's also represented by Ms Le Quense, counsel. Lastly, Child A is a party to these proceedings. She acts through her guardian Ms Martinez, and instructs counsel Mr Stevenson to make submissions and arguments on her behalf.
- 2 There are other personalities I will refer to in this judgment, and I just briefly identify who they are. There is -- and these are all found within the bundle -- the relevant social worker is Ms O'Leary, and she's given evidence before me. In addition, there's an independent social worker and I'll refer to her as the independent social worker. I'll refer to where her reports are found in due course in the bundle, but that's Ms Shaw. Additional to that, a psychologist has provided information in this case, and that's a Ms Alam. One of the important things done by Ms Alam was to decide that M lacked legal capacity in these proceedings, and so M has acted through the official solicitor and Ms O'Leary has taken her instructions from the official solicitor. That question of capacity has not been challenged. Further, Ms Haywood, social worker, has carried out an assessment in relation to the proceedings in respect of F. Ms Alam, who I referred to a moment ago, has carried out psychological assessments of both mum and dad, and Dr Hallstrom has carried out a psychiatric assessment in relation to M. The only other relevant family members that I directly refer to within the papers particularly, I should say, are the maternal grandparents, by which I am referring to maternal grandmother and stepfather. I think they're identified as being Mr and Mrs M. A further individual who arises in the course of the documentation is a gentleman by the name of Mr B. The exact relationship Mr B has in this case is variously described. For the avoidance of doubt he's variously referred to as F's friend, and elsewhere as his brother. I don't need to determine that if there is a dispute in those details, but for the avoidance of doubt where, in the papers there's reference to him as a brother or as a friend, we are referring to the same person. So those are the key parties in the case.
- 3 The issues, and there really are five separate issues I have to consider in the following I've referred to them as follows: there's a request for a final care order made by the local authority. Linked to that request for a care order is an application for a placement order. The placement order is request which allows for the child in due course to be adopted, and it shouldn't be disguised that a placement application is a route towards adoption. There is also an application made on behalf of M, which is a pt.25 application, and that's an application where she's asking for an assessment to be undertaken by Symbol, an

organisation well-known to the court that carries out residential assessments, and I think at times community-based assessments. It's well understood to the court that they are an organisation that has particular focus on parents with needs, including learning needs, but it's also right to observe that many other organisations carry out assessment of that type using a PAMS-based programme. The application made by M is an application for an adjournment of these proceedings to enable that assessment to be undertaken. F has made two applications, but they are separate. The first is an application for parental responsibility, and so that's an application in which he seeks, effectively the confirmation of his legal status as father. And for, therefore the consequences that flow to be involved in major decisions arising in the child's life. The other application is an application made by him for a child arrangements order. That application plainly is to be considered at the same time as the care application and they are applications that fit together.

4 The parties' positions. What does everyone say? What are they asking me to do? The local authority say I should make a care and placement order. They say I should refuse the pt.25 application. They say I should not make a child arrangements order, but should rather follow their care plan, which I turn to in due course, and I should refuse to make a parental responsibility order in favour of F. The instructions on behalf of the official solicitor, and the position put forward therefore on behalf of M, is oppositional to the care and placement order based around the need for there to be a further assessment. And so, the key argument made on behalf of M is there should be an adjournment. Beyond that, if that were refused, the circumstances are less clear as to what the official solicitor believes should happen, because the official solicitor accepts that there are clear concerns in this case but in considering this case I am going to bear in mind, as an option, the option of return to mother rather than simply if I were to refuse the pt.25 application there'd be no arguments on behalf of mother. It bears consideration to take that into account. In relation to child arrangements order and parental responsibility, I think the simple point is Ms O'Leary doesn't have instructions and so has told me she's neutral on these points. In relation to F, his position had changed, and I think that's important to point out. He started the case arguing that Child A should be with her mother, or if not with her, with him. And if not with him, in long-term foster care. He ended the case arguing that Child A should not be with her mother, and the pt.25 application should effectively therefore not succeed, but that Child A should be placed with him, and if not, in long-term foster care. He maintained an argument for contact under a child arrangements order, or placement with him of course under a child arrangements order, and he sought the parental responsibility that he's applied for. He opposes the making of a placement order, although pending any decision as to his parental responsibility of course, his consent to same need not be dispensed with. The guardian's position is to support the care and placement applications; to oppose the pt.25 application; to oppose the need for a child arrangements order, although she differs as to the amount of contact that should take place between Child A and her father; and to support the parental responsibility application.

5 To help me make decisions I've considered the documents in the bundle that's before me, which has a wealth of information -- not all of which I've been referred to, understandably, and not all of which I will refer to in the course of this judgment, but I've borne it in mind. Additional documents have accrued during the course of hearing, and so perhaps it's sensible that I identify those:

- I've received the guardian's updated position for the final hearing.
- I've received F's final statement and his final response to threshold.
- I've received, from the local authority a seventh statement from Ms O'Leary, the social worker, and minutes of a safety planning meeting which is undated but is a recent meeting.

- I've also received from the local authority, but really from the parties, a document which is headed "Final threshold September 2018, which on the basis of the submissions I've heard should be viewed as supplemental to the threshold document in the bundle rather than in replacement of the same.
- 6 I've received all of that evidence. I've heard witnesses in the course of this case, in addition to reading what they've had to say. And those witnesses have been Ms Shaw, Ms O'Leary, F, and the guardian. The official solicitor's position as to the mother giving evidence is set out in the position document I've received. That in the light of the evidence it would not be appropriate for him to call M to give evidence. And no-one has challenged that position at all. I've received submissions on behalf of the parties, both written submissions and oral submissions at the end of the case. It is right to say that the advocates have kept to the time estimate they set at the start of the proceedings, and it seems to me this case has been conducted in an efficient but appropriate manner, It's also right to say the questioning has been, and the approach taken has been, it seemed to me, considerate and reflective of the emotions of the case and the needs of the case. And I'm grateful for that.
- 7 So, what are the realistic options? The options I'm going to consider in due course, as a different way of looking at it, are the order sought -- which is care and placement -- that's an option that has to be considered. I'm going to consider the adjournment application of course as an option to the case. I'm going to reflect on placement with mother and the merits and the problems that may be associated with that. I'm also going to consider the position of father for the placement with him, albeit not immediately. I'll return to why it's not immediately, in due course.
- 8 So that's the introductory points I wish to make at this time, and what I'm next going to deal with is the legal principles that I have to think about in making this decision.

LEGAL CONSIDERATIONS

- 9 The first thing I have to think about is the law that is relevant to the application for the adjournment and further assessment. This is a p.25 application. It's a request for an expert assessment -- Symbol -- and as such it has to be necessary, as was the requirement for Dr Hallstrom and all the other experts in the case. It has to be necessary. Everyone agrees that. That's not in dispute. What is said, and it attested under the Family Procedure Rules at p.25.43, the necessity in this case is said to arise out of a gap in the evidence. And so what's said is that there's a gap, without filling which, the court can't fairly resolve the case. And that gap can only be filled by the further assessment. I think this is probably a reference, in a way, to a case called, *Re: S.* in which the last President of the Family Division explains circumstances in which the 26-week rule could be put to one side. And one of those circumstances was where there was a gap in the evidence. If I were to determine that there was a need for an adjournment, then at the same time I would have to be considering it necessary to extend the proceedings, because the proceedings have in fact gone beyond the 26 weeks and would therefore be delayed for a further period. The exact amount of time it would be delayed for is difficult for me to evaluate, but it would be, it seems to me if such assessment was pursued successfully and moved into a residential circumstance, it would be an adjournment of at least 16 weeks to allow for an assessment and there to be then the evidence from all the parties reflecting on what that told us. So that's a delay that would have to be necessary. My assessment is that these two questions of necessity are just two sides of the same coin frankly. If the court determined it was necessary for there to be an assessment, there's a strong likelihood the court would say it's necessary for there to be delay for the assessment.

- 10 In terms of parental responsibility, the test comes from the welfare checklist s.1(3), child's welfare is paramount. The law tells us really that the focus is upon commitment and attachment. And attachment is a mutual attachment, child to father, father to child. But these are not exhaustive factors. All the circumstances are relevant. I've borne in mind that there is a case called *Re: M. and M.* from 1999. A case in which the court said that PR should not be granted where a father can't exercise parental responsibility. I paused for a second considering that, because this is a case which father, in prison, is substantially impacted upon. But that's not the same as that case in which a father had suffered a serious mental injury and couldn't make decisions himself. There's no reason, in principle, why a father, from prison, can't exercise parental responsibility. Or indeed in the community. So anyway, I move from that.
- 11 A child arrangements order is subject to the s.1(3) welfare checklist. Now in terms of care and placement application, there's quite a lot to say -- certainly more than in relation to the other aspects. The first thing for me to say is that this is an application which involves a request towards adoption. And as a result, I have to look at what is s.1(4) of the 2002 Act, that's the Adoption and Children Act. And the law tells me that I shouldn't go through s.1(3), the 1989 Act and then go on to the other Act and look at them separately, but to look at the 2002 Act. Otherwise I'll end up confusing myself as to what really the law says. An important thing to bear in mind is that s.1(4) of the 2002 Act covers essentially the same territory as the 1989 Act, but it does place particular focus on some of the features that arise in the adoption setting and, importantly, it requires the court to have regard to Child A's welfare throughout her life. And that's an important additional requirement. And so I will reflect upon that, and that will be by paramount consideration -- her welfare -- that's what guides me making my decisions. What's best for her.
- 12 Now, the second feature is that the court can only make care and placement orders -- care orders, in fact, can only be made if the court finds that the legal threshold has been crossed. The legal threshold is a test of significant harm and it's found in s.31 of the Children Act. And significant harm in this context means that Child A has suffered significant harm, or is likely to suffer significant harm, and that harm is attributable to the care that she has received, or is likely to receive if a court order is not made is not that which a court would expect from a reasonable parent. So, it's significant harm flowing from the care that she will receive. It's harm that's happened or harm that might happen. In this case, threshold is agreed as being crossed but there is a dispute as to the exact manner in which it is crossed, and I'll return to that. It's important to bear in mind that the finding that the threshold is crossed is not the answer to the case, it simply permits the court to make the orders sought. The court then has to go on to consider what orders are best for Child A. And in that regard, I'm asked to make what I refer to as a qualitative assessment. That's an assessment taking into account all the circumstances of the case, weighing them up, balancing them, and deciding what's best for this young child. That's a welfare assessment. It requires me to carry out what lawyers refer to as a holistic approach. And what that means is that I have to look at each option and look at what's good about it, what's bad about it, and weigh them against each other. It isn't a case in which I can say "well mum can't do it therefore if dad can't do it there's adoption". Because I have to think, "well what does adoption mean for the child"? It may well be that there are downsides to mum caring, but the downsides to adoption are even greater. So I have to balance these things and look at them in the round, and what I'm told not to do, and I won't do, is apply a linear approach -- simply knocking them off one-by-one until I'm left with one option standing.
- 13 I'm required to have regard to what lawyers again refer to as Art.8, which is no more than saying that I'm being asked to make orders which interfere substantially in the family life of Child A, M, F, and I guess the broader family. But those individuals in particular. The

court can't interfere in family life. It's not entitled to interfere in family life, save where to do so is lawful, proportionate, reasonable, and necessary. And so any interference in this case -- and that could mean any of the orders we're talking about here, it could mean a care order, placement order, it can mean of course, supervision orders and the like -- are all interferences that have to be justified subject to that test.

- 14 Moving on to the question of placement adoption. This is recognised by the court as being an extreme interference. I've talked about the court not being able to interfere without justification. To interfere by way of adoption is an extreme interference. It's as far as the court really can go, a court of this country, in terms of their involvement in an individual's life. To remove a child, to sever those relationships potentially for life, it's difficult to conceive of anything more significant. And because that is so serious a step, the court really has to ask itself the question, "is there nothing else that will do?" And to reach a conclusion "nothing else will do". Because it's only then that the court can appropriately decide that adoption is the only thing that will do, and make such order. In those circumstances, the court has to consider the position of the parents. Parent who don't consent to adoption have the right to take that approach. If the court decides that that's something it should dispense with, then it can only do so if the welfare of the child requires it. And that's covered by s.52 of 2002 Act.
- 15 Moving on from that. Two other final points. In this case there are allegations made and allegations denied, and so the court has to decide what's happened. To do that I have to bear in mind who bears the burden of proof in the allegation. That's the local authority in this case. So the local authority have to prove what it says happened. Neither M or F -- F in particular, the way the case has stacked up -- has to disprove the allegations. Effectively, F could provide no evidence whatsoever. It's all for the local authority to prove the case. Of course, if the parents put forward evidence, that evidence is important. It has to be borne in mind with all the other evidence in the case. What is the standard to which that evidence has to be proven? It's the civil standard. More likely than not. More than fifty percent. So if the court's persuaded it's more likely than not that A happened, then that's a fact and it will be a fact for the purposes of this case. If the court decides that it's not more likely than not -- so let's just say for example satisfied to forty-nine percent -- then that won't be proven, and it will be disregarded for the purposes of these proceedings. In considering the evidence, I am bound to take into account that parties and individuals can lie for all sorts of reasons, and that the finding that an individual has lied about a feature of the case does not mean that that individual has lied about every aspect of the case. Individuals lie in all sorts of circumstances, and context is important. The court shouldn't throw out the evidence of an individual altogether, simply because they're found to have lied in one particular regards.
- 16 Two additional final points on fact-finding. I bear in mind the case of *Re: A*. which sets out the need for a causative link between the allegation and the significant harm. So, an example there might be, a simple finding that an individual has used cannabis does not necessarily prove significant harm because it may well be there's no association between that usage and significant harm. So there has to be a link. It has to be demonstrated and it needs to be proved on good facts, not beliefs or reports or what individuals understand to be the case. It has to be proved by evidence. *Re. L*. is a case which sets out that the court has to accept that there is a range of different parenting styles and it's no role of the court to intervene to protect children from all negative parenting. And so, it's no role of mine to engage in social engineering. Lastly, and this is lastly in relation to the law, this is a case in which M has identified cognitive difficulties, learning difficulties, learning disability indeed, with an IQ of 65. The evidence of the experts makes this quite clear. There are cases which deal with what that means for cases of this sort, and what those cases tell me is that the court should not readily accept, or take the view, that just because a parent has a learning

difficulty that they cannot care for a child. The courts recognise that parents of all forms of ability and disability have a capacity to care. The key point is the form of support that they will require, and the reasonableness of that support and the need to actively consider that it's support that can be obtained. But there is a distinction between supported parenting and substitute parenting. And if the parenting required goes to the level where, effectively, the care is a form of substitute parenting, then there are then real questions as to whether, in fact, that is support at all. The cases that deal with that are, *Re: W.* which is a need of a local authority to set out its alternative plan were the court not to agree its care plan. And indeed, in this case, the local authority by the sixth statement of Ms O'Leary, sought to do that.

BACKGROUND FEATURES

- 17 Background. I'm now going to deal with some of the background features that bring this case to court, and which would enable anyone reading this judgment to understand what's happened in this case. It's always helpful to have some understanding of the background to the key parties, mum and dad in particular of course. I'm going to just take a little bit of time, and I'm going to make references to the bundle to explain where I've found what I'm talking about. In this bundle there is a chronology which is a developing chronology for the local authority social workers' statements. But at C.7 and C.8 in the bundle, one finds the history for M up to June 2016 where I'm going to draw a line for the purposes of this first part.
- 18 The history of M, who remains a young mother, is a history which is described and is found within the other reports, as being a childhood with experiences of abuse. This is detailed in the psychologist's report at E.28, where there's more detail and narrative given about the experiences mum has had sharing a home with her father first of all -- an abusive household in a range of different ways -- then difficulties that have arisen in the new household with her mother and stepfather, and indeed older brother. And sister, but older brother in particular with alleged abuse. And an account of mother effectively going off the rails, and being off the rails. Not being able to engage properly in education. And difficulties that led to her, in June 2016, being accommodated under s.20 of the Children Act. The situation -- that background -- is complicated, the experts tell me, and I accept, by mum's poor level of IQ which leaves her vulnerable and she struggles to deal and regulate her emotions. I return to these issues in due course, but the finding as to mum's cognitive ability is found at E.22 in the bundle. Dr Hallstrom sets out at E.82 to E.85 the history as he has identified it, and I'm not going to detail the history which is a difficult history. It won't do anyone any good, but I've read it, and it's in the bundle.
- 19 F's background history is, I'm bound to say, far less clear I guess in part because his origins are outside of this country. He's an Albanian national, and so one simply doesn't have the social work records that might exist or not exist, or the police records that might or might not exist. One is wholly dependant upon his own account. But his own account is an account found, I think, at E.64 in the psychological assessment and also in his own statement evidence at C.51, C.52. So taking that as given, it's an account of growing up in Albania in a household in which the impression is of an over-strict father, and some abuse. He describes leaving Albania because he changed his religious convictions and his father did not approve of the same, placing him in a position of risk. As a consequence, he obtained transport on a lorry and entered this country. In the evidence he described that were he to return to Albania he would be a risk of death from either his father or someone acting on his father's behalf. That suggests a high level of the problem and difficulty if I accept that as being true. And for these purposes I do. As the expert observes, if that is correct and those are the emotional presentations, then it's likely there would have been a very problematic childhood. It's unlikely there would have been a happy childhood which

is then followed by a risk of death from own's own father. But that's limited. And there's little by way of corroborative evidence of this background.

- 20 Subsequently, and this, I'm bound to say, is a case in which a lot of the relevant chronology is within the proceedings. Often the court details what's happened before the proceedings and then one simply has the assessments. In this case, there's been quite a lot that's happened within the proceedings, but post June 2016, mum in s.20 accommodation aged 17, chronology continues at C.8. At that time there was a fear -- which I think is a continuing fear in all reality -- that mother is at risk of child sexual exploitation, albeit she's no longer a child. Reports of mum being in a park with older men at night. This was continuing through into 2017. Mum being missing at night with other vulnerable young women. There are reports, indeed supported by mum in her meetings with I think the psychologist of developing a relationship with a gentleman referred to as G. And G providing her with drugs, and her developing usage of drugs. It's during this period -- either in late 2016 or early 2017 -- that mum and dad meet whilst in the same semi-independent accommodation. I'm bound to observe that on my reading of that accommodation, it was a wholly inappropriate place for M to be placed. On her case, and I can see no reason to disagree with this account, she was placed in accommodation with four or five other men. And given what we know about mum -- which should have been apparent at the time -- she would have been very vulnerable in that situation. Indeed, she was vulnerable, and the history has played out.
- 21 From 2017 therefore, one focuses on the relationship between mother and father. And F had found himself in that accommodation having arrived in the UK there was a question as to his age. Was he a child or was he an adult? And that had to be determined. It has been determined that he was an adult, and his date of birth has been varied by two years from 2000 to 1998. I don't need to determine anything. Nothing turns on that in this case, as a matter of reality. But he was in foster care and then ended up in the accommodation that I've just referred to.
- 22 So, from 2017 I note the following. March 2017, mum was asking to move to Hayes to be close to Mr B. I referred to him earlier. She'd been found alone in a car with four Albanian men. There were concerns about Mr B, see C.20. There were concerns about his involvement in drugs, and issues of grooming. I make no findings about Mr B. I cannot. He's not here. There's been no evidence really presented. But it is important to bear in mind that these concerns were shared with mother. And so, on any approach, she is aware of the concerns. It's also right to observe that, see E.32, mum makes observations about her understanding about father and Mr B. About grooming. And about their behaviour towards young children. And again, whilst I make no findings in this regard, this is mum's self-reporting of her understanding of the risk that they pose. And these can't be ignored in terms of the decisions she has then made.
- 23 27 March, mum is stopped in a car with father under the influence, almost certainly, of drugs. Possession of drugs. Which she says she's been given free. The court observes that it regularly sees cases in which child sexual exploitation is raised, and exploitation generally, and the giving of free items -- food, alcohol, drugs -- is a common feature. So that raised concerns.
- 24 In May of that year the parties were said to have been engaged. There's a dispute about this. Four to five months into their relationship they're engaged. June 2017, father, it is said, is being sneaked into the accommodation and mum is being picked up by a variety of cars. In the same month she is confirmed pregnant with Child A. There's no dispute in these proceedings that F is the father of Child A.

25 In July 2017, mum is saying that father, F, has been violent to her and she wants a restraining order, but she doesn't want him arrested. She deals at C.40 with what she says was happening. She says,

“On 5 July he took my phone. He wanted to know where I was at all times. He became very argumentative. At the time I didn't realise, but with hindsight I was wrong about him. I believed that his behaviour was normal. For some reason, which I have difficulty understanding even now, I believed his behaviour was a normal relationship in which we could each check on the other. He used to check my phone for messages, go to my social media, question me if I had any male attention. In his case he was getting messages from lots other females. We began to argue quite a lot as a result, although at that point there was no physical violence. On 5 July he was physically violent to me for the first time.”

26 I think mother said she was kicked and had bruises. I note that later on father comments that she did have bruises, but they arose because she fell down the stairs.

27 On 6 July, there was an incident which has subsequently led to father's conviction of two assaults, and led to a seven-month prison sentence. The detail is found at C.9. It bears consideration. It's a long entry and the essence is as follows. At this time, of course, M was in the semi-independent accommodation.

F attended the accommodation at 9.30. Michelle Worker, (and this is a report which could only have come from Michelle or other staff members), said that mum was effectively not available. He asked staff members where she was, and she said she couldn't give the information. She says he became racially abusive and was displaying threat of violence to her, to staff, and M. He was told she wasn't coming out and left the service, arriving back five minutes later with his brother, Mr B, in this context. He returned to the front of the service. He was abusive, displaying threats of violence. Stated that staff and M were going to be hurt if she didn't come out and speak to him. The other male there, who appears through most of this incident to be placatory in his behaviour, said F wanted the car keys. And M was advised to give a key to him. She was distressed, she was crying and screaming at times. Michelle tried to calm her down and she gave him the keys. They gave it to the other man as F was out of control.

He wasn't happy that the keys had been handed over. He insisted that M come out of the service to talk to him. She refused saying to Michelle that he was going to kill her. Michelle advised her not to leave the service as he was displaying violence towards the other man who was asking him to leave the service now that he had his keys. F and the other male started fighting and shouting in their own language. F then shouted at M outside of the window saying that he will come in and get her. At that stage the police were called. Whilst the staff were on the phone to the police, the staff in the office heard a loud bang at the front of the service. F had kicked in the door and gained access to the service, making his way to the main office. The panic alarm was pressed for emergency assistance. The main office was locked to stop F coming into the office. The other male continued to try and prevent F from gaining access. He managed to fight M's boyfriend out of the service.

The staff then went to see if the main front door could be shut and to see the damage. The other male, Mr B, asked M to speak with her boyfriend briefly to calm him down. She asked what she should do. She was advised not to go outside the service. But she made a decision to go out to get him to stop. Once outside at the front of the service, M's boyfriend grabbed her and was dragging her down the road, with her kicking and screaming, against her will. The other male was trying to get M released out of his grip, punching him. M's boyfriend dragged her into a car and staff waited for the police. A few minutes later the police arrived to take a statement. The car had gone. A kidnapping alert was raised to stop all vehicles fitting the description. M was spotted being attacked and beaten in a neighbouring street. Police were called. Two men were arrested and put in custody. M was interviewed and given medical assistance for her injuries.

A very serious state of affairs if true.

28 Father's account at C.53 is as follows, referring to 6 July,

"M had contacted me to meet her at the shared accommodation. When I arrived at the shared accommodation I asked the staff to inform her I was waiting in the reception as I was finding it to get in contact with her on her phone. The staff refused to inform M and requested that I should leave. I managed to get in contact with her on her mobile phone and she met me in the reception. M left the shared accommodation with me and she was holding my hand as we left. The staff were informing her not to leave, however she left by her own will. She got into my car with me. However, she wanted to get out of the car shortly afterwards. I stopped in a neighbouring road. At this point I was arrested by the police."

29 The accounts really couldn't be any more different. Under one there's nothing of any concern whatsoever. Under the other there is a significant violent incident in the presence of third parties, and serious risks of violence. I'll have to resolve, in due course, to an extent what happened there. I understand F was sentenced to seven months for the assaults on a guilty plea, although he disputes having done anything amounting to an assault before me. I note that seven months on a guilty plea with a previous history of, I think, two driving offences and two possession of cannabis, seems to be a significant sentence on a guilty plea, and it does, therefore, seem to be sentencing which is likely to have followed the seriousness of the offence as detailed in the report, albeit not involved in a kidnap. M, as I understand it, withdrew the allegations saying that she got into the car voluntarily. Elsewhere in the documentation there's reference to her being held on both sides by Mr B and by F.

30 Three days later, Mr B and F were said to be at the unit being abusive to the staff. On 15 August, M is saying that she feels there's a future with F, she wasn't forced into the car. In October 2017, whilst in prison for these purposes, I should record that F and Mr B, although plainly in the community a few days after the event, were then held in custody until December 2017. But in October 2017, the maternal grandparents visit F in prison, and at some time around then there is the suggestion of offering their address as a bail address for him.

31 It's alleged, in November 2017, that F called mother -- she alleges it see C.41 -- telling her to kill the baby. In December 2017 F pleads guilty. He's released on time served because it was a seven-month sentence, he'd been in prison for the best part of five months, but he was immediately detained in a detention centre. The exact circumstances thereafter are very

difficult for me to understand, but the best I can understand is that he has been subject to the balance of his sentence and his address for probation purposes has not been acceptable. As he told me, in a few months' time he ends the sentence, and therefore there's no question about bail addresses. And that's almost certainly because of the length of the sentence will be fully served in some way. But I might be wrong about that. The reality though is that he has not been released because the addresses put forward by him have not been deemed to be appropriate addresses for whatever reason by his supervisory officer. But he has, in fact, been available to be released since January 2018 on the information I've received.

- 32 On 4 January, mum moved to a new placement and she agreed not to give the address to F. On 11 January, seven days later, M was found to smuggle cannabis into a detention centre to give to F. F has denied that M gave it to him, it had been given to him by a prison officer or a detention officer. M agrees that she brought the cannabis into prison, or detention.
- 33 On 15 January -- I will refer to it as prison or detention because the actual status is unclear, although father has indeed been in a prison for some period, be it Lewes or Wormwood scrubs -- on 15 January, and so we're now eleven days after the new placement, M raises the question as to whether she can give her address as a bail address for F. On the same day, as I understand it, the first telephone call by F to the social worker takes place. The social worker alleges that he was threatening re: the child and re: her, making threats to both the social worker and to take the child.
- 34 On 2 February, the child was born. On 14 February, social worker viewed a video on the phone of M in which she saw, observed, father threatening to kill mother. That was on 7 February 2018 the recording. On the same day there was a core group meeting, and M was told by the local authority that they were escalating the case and she agreed to have no contact with F or Mr B. The next day M attended the placement with Mr B.
- 35 Six days later, M reported that F was threatening to harm her, have her child taken away by Mr B. As I understand it, the allegations included slitting her throat and putting a bullet in her head. Two days later, the social worker was present and read a variety of messages received by M from Mr B suggesting that there was messaging between M and F. On the same day, proceedings were issued.
- 36 On 26 February, an ICO was made, placing M with Child A in a mother and baby foster placement. That was to be a confidential placement. I think it's noteworthy at this stage to look at p.C.25 in which the social worker sets out her reasoning. She's very worried about M and Child A's safety due to the control that F and Mr B are currently exerting over her:

"I think it's important to try and keep M and Child A together if that can be done safely, and give her the best chance to escape this exploitation. I have considered placing Child A into foster care by herself with an interim care order. This may need to be considered if M discloses the placement address to Mr B, however I view that separation is too harsh and unnecessary and the safety can be managed without separation at this stage. I am also of the view that this option will provide opportunity to support and monitor M with Child A in her care, giving the best view as to her parenting capacity, the best opportunity for her to learn and develop as a mother."

- 37 On 28 February 2018, I think the second telephone call between father and social worker, C.34, it's alleged he was threatening towards her. On 1 March 2018, the foster carer, I believe the name given, sees a message on M's phone which appears to have come from F, because it uses a title which the social worker's previously known to be that applied on the

phone to F. On 6 March 2018, so a few days later, M accepts that she has received and accepted a FaceTime call from F in the previous days. On the same day, the social worker received a call from F indicating he knew where M was placed -- Kent. There were later calls, it's alleged, from F that M would not be in the place that night and complaining that she's calling him repeatedly -- meaning M. On the very same day, due to these concerns, M, Child A, and the foster carer were moved to a further place of safety.

- 38 The next day, 7 March, M admitted that she had told F she was in Kent. Her phone was checked and there were significant calls identified passing in either direction between her and F. There were messages that suggested an ongoing wish for a relationship, and there was clear message to Mr B disclosing the full postal address for the home of the foster carer.
- 39 In conversation it's reported M agreed that there'd been a plan for Mr B to come and collect her. In a later call from F, he indicated he knew the location, as I understand it, of the replacement placement, i.e. the place of safety, and in the moments that followed, M was found to be on her phone outside on the phone to someone, and there was, on the facts of the case, one of the few stand-offs between M and the social worker who wanted to find out who she had been speaking to. The police were called, and Child A was put into police protection.
- 40 On 8 March, the next day, the court authorised the separation of Child A from her mother. It's noteworthy, and I read from C.44 of mother's statement, she wants to fight for Child A, she'll do whatever it takes. Of that I'm sure. However, *"I do feel that I've completely lost the fight with F and I now need to equip myself with mental resource to be able to deal with him."*
- 41 I think it was on the same day, but certainly the report was on the same day, I think the grandmother, the grandparents, confirmed that F had stated he was going to grab the child from the placement and also that he knew that M was returning to the maternal grandparents' home. Information which had been overhead whilst at the place of safety, M reporting to a third party on the phone. She had said she was speaking to her mother, but the words she used indicated she was speaking to a third party about returning to her mother.
- 42 On 20 March, the third telephone call from F to the social worker. C.59 dictates the alleged conversation. He was concerned M was with *one of his boys*, smoking cannabis, drinking alcohol. He was very concerned as he didn't want his child to grow up around drugs and alcohol. The social worker contacted M who confirmed that she had been smoking cannabis on 16 March, and that F had given Mr B instructions to check her phone. When she refused he had punched her in the jaw, broke her phone case and hurt her finger. This was reported to the police. This was evidence of a second phone, a Nokia phone, which has raised as suggestion as to there being illicit telephone calls between the parents.
- 43 On 23 March, the grandmother reports hearing father, F, threaten to slit her daughter's throat. On 4 April M reported a plan to kill the father on his release. On 11 April, the fourth telephone call in which F calls the social worker and there is discussion about alternative carers. That may be the fifth call.
- 44 Following her separation from Child A, sadly M coped with the separation with difficulty. And I understand that. And there is evidence of her being intoxicated. Under the influence of alcohol. On 17 April she was intoxicated, she reported that there were threats from D. D is reported to be Mr B's girlfriend. She's a lady who, I'm told, came to court at the request of mother on the first day of this hearing to give her support.

- 45 On 1 May 2018, M was arrested after getting into a fight with a random male. Again, that's found to be alcohol related. On 10 May, there were reports of excess alcohol. It seems that she has done her best to get herself back on a level footing since then, and it's to her credit that she's done so. One can't underplay the emotional impact that being separated from Child A would have had on her, and I accept that. I understand that. But it is evidence that mum herself is reported, over her history, to have anger management issues of control herself, which are longstanding. Indeed, there alleged threats to kill her stepfather on 3 June 2018. But the explanation for this, which is a little bit confusing to me, is that the threats were in fact passed on in respect of Mr B. It's not entirely clear why Mr B would have been issuing threats to the stepfather, but there we are.
- 46 June 2018 there was a series of events where M was reported to have been receiving calls during contact, which were feared were coming from either F or an associate with an accent which suggested F. And in July/August, as we built up to this hearing, circumstances have become increasingly concerning. M was seen in the company of unknown individuals -- a lady and an Asian man -- and there were concerns about her safety. In the same month she was suggesting that her brother should have contact with Child A, or raising that issue. The history dictates that her brother would be an inappropriate person to have contact with Child A. The details needn't be spelt out in this judgment.
- 47 In the same month she feared that she might be pregnant, and there were reports that she was confirming that a gentleman I referred to as Mr Y was giving her free food. On 22 August, she indicated that when F left prison she intended to meet up with him. She disclosed that the likely father of her pregnancy would be Mr Y. On 3 September, she attended court, but also D attended court with Mr B. The next day mother reported, that same night she had been assaulted by Mr Y who had attended her accommodation wishing to be intimate with her and being physically violent to her when she refused, and thereafter threatening to send his brother to the property.
- 48 The concern is that a new cycle begins of mum being open to exploitation, in a way which I've just detailed from the chronology, appears to have been relevant in the relationship with F. And so, vulnerable. Being plied with free items. Forming a relationship quickly. Sexual relationship -- an intimate relationship -- followed by violence. A concerning state of affairs.

THE EVIDENCE HEARD

- 49 That's the chronology. I've received evidence, and I've got to form a view of the witnesses I heard evidence from. It's part of my job. But this has been a relatively short hearing, and as I said, I think yesterday, I didn't really hear a great deal. Over the course of three days I probably heard the best part of a day's evidence with the breaks that we had. And I should say that we followed ground rules in this case to try, as best as possible, to allow M to have an effective role in the proceedings, to follow what's happening. And I've received a report back from the intermediary indicating that, so far as it's possible, that's been successful.
- 50 But ultimately, the witnesses who came to court haven't shifted their positions. This has not been a case in which there's been any marked departures. No witness has come and said, "well I've changed my mind", and I've read the reports and I bear those in mind.
- 51 What did I make of the witnesses? The independent social worker, Ms Shaw. Well, I think one of the questions put to her from the, I think mother, and perhaps even father, was she was a balanced witness who could see the pros and cons. It seemed to me she was a straightforward professional witness. She evidenced what she said. She based it upon a

PAMS-based assessment, and it seems to me she was a straightforward, reliable witness. I would turn to the evidence she actually gave, but I can't find anything in her presentation that causes me to have doubts about the weight I should apply to her evidence.

- 52 The social worker gave evidence, Ms O'Leary. At the submissions stage, Ms O'Leary, on behalf of mother, observed on behalf of her client that she wanted to thank the social worker for the effort she had made, and used phraseology that she was "as good as it got". I think, in fairness, it's eminently to M's credit that she's able to make that observation despite the proceedings that we're involved in, and despite, of course, Ms O'Leary's role in those proceedings -- which is the face of an organisation that's making decisions that are about removing her child -- but I think it's a fair observation. It's to her credit, but it's a fair observation, having read through all the statement evidence it's quite clear that this is a social worker who was not on a destiny path to remove this child into care. I've already observed, from the first statement, the effort she was trying to take to provide a protective environment for mother, and the clarity with which she sought to explain what would happen if things couldn't be maintained.
- 53 It's also right to say that these statements are only part of the picture. I also heard about the efforts being taken in relation to various teams, including the 0-25 team, and I heard the expressions on behalf of the social worker as to that M really needs this support and it would be very important for her and she hopes very much that Mr Evans at the 0-25 team can pick up and work on a cross-agency basis with M. And I form the view that those expressions were wholly genuine, and that the social worker really had done her best, certainly in relation to M, to preserve family life. In terms of the social worker in a more general sense, I found her evidence straightforward and reliable. There is clear conflict between what she says and what F says about a series of allegations. She was questioned about those. Her answer really was as simple as to say, "well I heard this and effectively why would I make it up? What reason do I have?" And that is a powerful point, it seems to me. But in any event, I found her a reliable, professional witness.
- 54 In relation to dad, he gave his evidence. He gave his evidence in a civil, polite, straightforward manner. He maintained his composure in the witness box. He answered all the questions put to him. In that regard there can be no criticism. In the course of the hearing, there were difficulties. The court is very aware of the emotions that arise in cases of this sort, and the court often expects there to be shaking of head and interruptions and sometimes those interruptions can be a little louder than the court would wish. But I think we all have to accept that. The father and mother's child, after all, is subject to these proceedings and they run the risk of losing that child. And so, who can but understand the emotions that will arise. But it did go somewhat beyond that. I have to record, and I will get the timings wrong, but I think on the first day I had to cajole father to remain in court very early in the proceedings when he started to hear evidence he didn't like. To his credit he was able to resume his seat. To his credit he apologised. But later on in the evidence, a point came where he was clearly unsettled by a piece of evidence -- I think from Ms Shaw -- that the child would be a risk of life and limb, and I think he took that quite personally and understandably. But shortly thereafter, when there was talk about safety planning, father got up from his seat and, it seemed to me, was angry and there was a degree of aggression between him and mother. And mother responded in turn, and I'm left wondering what would the outcome have been but for the multiple professionals in court and the security officers? It was a situation that had the potential, it seemed to me, to spiral out of control. It wasn't to father's credit. He could have got up and left court because I'd told him he could. But he had no right to direct himself to the mother in the way he did, in the provocative fashion he did. And there was nothing to her credit that she stood up and seemed to wish to engage with the very same dispute in the face of the court. The court has to second-guess

what these parties do when they're outside court, and how they will behave when they're outside court. The Court can't but help think about how people behave when they're in an environment like this when they know everyone's looking at them. When they know the judge, who's making the decision, is watching them. And if people can't behave in that situation it does raise real concerns as to what would happen in the community, on the street, when no-one else is present. Anyway, I told the parties that that would be a relevant consideration, and that did impact upon the father.

- 55 A further feature which I turn to is the degree to which father is giving evidence which he feels is the best evidence for his case, as opposed to his actual position. And a classic example of this was the issue about the conviction that he has for assault on the mother. He has been convicted, and as a matter of fact that binds this court. On the first day of the case, or second day of the case, he accepted that this was a finding the court should make. But when the issue of domestic violence work was undertaken with him his evidence was that he had never assaulted a woman, and so it leaves me questioning whether or not he is saying things because it best fits how the court's going to approach the case, or whether he genuinely believes what he said.
- 56 I think I'm bound to take that into account in terms of his ability to work with social workers. Before the case he's been quite negative about that. On the day of the hearing and in his statement he says "now I will work with them". Will he really work with them or is that what he's saying to achieve an outcome that fits what he best wants?
- 57 The guardian gave evidence and there was a dispute between her, certainly, and the local authority, but it was a respectable dispute on the evidence and on the opinion as to what's best for the child. It didn't, in any way, undermine either her or the social worker, that they don't agree. Her evidence was straightforward and, I thought, balanced and demonstrated that she had applied her mind, as she's duty-bound to, to Child A's welfare interests.
- 58 In terms of evidence, I'm just going to summarise the evidence key points that I've received. The independent social worker felt that M was an ideal candidate for a PAMS assessment. There was a real concern as to her ability to protect and make independent decisions. She is vulnerable to exploitation. Her feelings about her future with F were flipping around. At one point, no. At one point, yes. She wants to be in a relationship with a changed F, but it's not a realistic view, it's borne out by her vulnerabilities and her history experiences. She holds on to the relationship because she's got a lack of support elsewhere. The lack of protective decision making isn't just about domestic violence, it's about being out late on the streets and other features. She wondered, the independent social worker, how change will ever be internalised if she can't make protective decisions for herself. In any event, this is outside of Child A's timescales. These issues are longstanding and continue despite the significant amount of time spent on dealing with the issues. Any intervention would be invasive and contrary to the welfare of Child A. She doubted Symbol would add anything, given the extensive efforts made in the last two years.
- 59 In terms of father, she accepted that an absence of assessment in contact was a limiting feature, but she didn't agree this necessarily underplayed his capacity as contact itself might have been a negative thing for the assessment, because father would have had to be engaging with a child he'd never met before and that might have made it an unfairly negative assessment. But he was co-operative. He engaged with the assessment. He was able to articulate the views, the issues. But a question for her was whether he internalised it. He could explain what domestic violence was, and why it was wrong, but was he able to internalise this and change? The issue was his understanding against his translation into sustained change. He appeared genuine, but how would he actually act when tested?

- 60 The social worker didn't agree with parental responsibility or extended contact, and I'll turn to that in a bit. She understood that placement for Child A would be a quick process. Three months, she understood. She explained the efforts she was making to find support within the 0-25 team. She was generally positive about the basic care and warmth of mother, and generally this case has not put before me front and centre mother's basic skills in caring. It is right to say the social worker did say there were concerns that were identified, but did not give the impression that this case was about that, about mum's ability to provide warmth and nurture and show affection and attendance to the child. Although there were issues, as I've observed. The concerns were about safeguarding and the ability to protect. She explained the recent safeguarding meeting and the steps that were being taken, and she explained how previous safety measures had been ineffective. It was put to her that M could have a certain arrangement in the property upstairs to protect her. She said in the first property M was upstairs with a camera on her front door, yet problems still continued.
- 61 She hadn't met father, but she recorded the threats that were made, and the risk assessment, and the negative assessment came out of the other assessments. She felt he had no impulse control and would be concerned if he was the carer. He is intelligent, but he can't change within the child's timescales. As to issues of confidentiality and safety around contact, she felt less contact would potentially mean less risk. She wouldn't want to build contact up to take it away. She thought it would be disruptive for Child A. She felt there was no need for a Symbol assessment because the assessments were thorough and realistic. The issue isn't basic care, but there is a need for constant support.
- 62 F gave evidence no longer supporting the mother. He felt that there should be no contact with the mother if he had care of Child A. He was imminently awaiting release, although it was pointed out to me that that has been a feature of the case now for some time, although I accept that he doesn't have control over this process and so he may well be constantly told that he's about to be released. But the details in this regard are very difficult to work out, save that he appears to have put forward seven different addresses, all of which have been inappropriate. And one can only guess as to what the inappropriate circumstances were. He suggested, I think, that there might have been children in the environment, or other circumstances but I'm far from clear. It's clear to me that his change in approach arose out of his understanding of the recent chronology, and of M being in a new relationship potentially, and what she was getting up to. This didn't make him happy. It left him upset, but not angry. He denied saying things that were being alleged by the social worker, the independent social worker, and the other assessors. He wasn't involved in the cannabis being brought into prison. His priority was his immigration, but this was because he needed to resolve that to be able to move on to the child matters. The difficulties have been in his solicitor not being able to obtain time with him. As regards his suggestion that there are many things he wouldn't be able to do in the case of caring for a child who's a girl, he said he would get friends to assist. But he didn't accept he'd ever been violent to a woman, including M, but if he did get a domestic violence course he would get a certificate, and this would prove he hadn't acted in the manner suggested.
- 63 The guardian confirmed her conclusions, there was an inability on the part of the parents to keep focus on the child over their own personal relationships. There weren't gaps in the evidence, she favoured PR and contact because this was part of the child's right and identity. She felt contact concerns could be managed, because they would have to be managed in the event. PR was an important confirmation of status and contact should be at once a month. The main issues are mum's limited understanding, her emotional need to be connected, and neither parent has healthy support groups, and her anger in a relationship. The mother and baby foster placement, in her view, was the appropriate resource for mum. But the support

hasn't stopped M her making the wrong decisions. She agreed that F was engaging and appropriate with her, but there's too much to do and it's not within the timescales for Child A.

- 64 The written evidence: the psychologist concluded that mum lacked capacity. This hasn't been challenged. She has a poor history and absence of a secure attachment figure to provide social buffering. She's vulnerable. Easily manipulated. Which is made worse by her poor cognitive ability. She's vulnerable to abusive relationships and grooming. She understands the concerns of the local authority at a basic level, but she remains vulnerable to repeat relationships, and the expert has severe reservations about her ability to protect Child A or herself. She's has no good role model for good parenting. Repairing this would take significant time and it's likely mum will be resistant to change or take months or years, and it's questionable whether, in fact, she will maintain the work despite her best intentions.
- 65 Ms Haywood carried out the risk assessment of father. She concluded his level of understanding about domestic violence was alarmingly low and his expectations of, and behaviour to, M would certainly fit within a domestically abusive controlling relationship, E.51. He has a lack of insight and of acceptance of responsibility, with no remorse for what has happened. In her view, M and Child A would be at high risk from him, and there are likely historic reasons leaving him unable to rationalise situations or regulate his emotions.
- 66 Ms Alam carried out an assessment of F. She felt his presenting behaviour was likely a longstanding state of affairs and there was a low likelihood of change. She had concerns relating to childcare, which were not based upon his cognitive skills, or a disorder, on his inability to self-regulate his emotions. There was a high likelihood of aggression or violence were mum and dad to meet. They would likely struggle in a co-parenting environment, they couldn't work together. There was no insight as to domestic violence, and she felt it very likely the couple would gravitate towards each other in the community.
- 67 Dr Hallstrom assessed mother as having a number of difficulties which are entrenched, unlikely to change in the foreseeable future, and she would have trouble caring for herself over the foreseeable future. She has anger issues and is vulnerable to exploitation. She has real difficulty in caring for herself and keeping herself out of trouble. As such, she will place any child in her care at risk. There is no effective treatment for her condition beyond care and supervision.

THRESHOLD

- 68 In terms of the threshold, I need to decide the factual allegations, and I have the two documents I have referred to in terms of allegations which touch upon father, and they are at A.64 in particular into A.65. Well, No. 1: it cannot be proven. Well, one can prove that father's well-known to the police. If that's true one could prove it, but it doesn't tell anyone anything substantively and it fails the *Re: A.* test in any event so I put that to one side. Moving on, there are particularised allegations of domestic violence and details of the same. I do find that father's been domestically violent towards mother during the relationship. The wealth of evidence I have in front of me shows that father is unable to regulate his emotions. He's likely got a combination of his historic upbringing and, possibly to a degree, cultural features which impact upon how he sees a relationship with a woman in relationship with him. The evidence that's deployed throughout the proceedings in the chronology I've just given, which I accept, demonstrates that he has been unable to maintain an appropriate relationship with M. The relationship has been controlling and coercive. I accept that he's been checking her phone, seeing who she's been in contact with. I accept he has made threats of violence on the phone as reported by both the social worker, mother, grandparents,

and others it seems to me. There is a wealth of supporting evidence which I prefer over this of F.

- 69 On balance I find the account of the event of 6 July in the chronology likely to be much closer to the truth than that given by either F or M. I fear that M has sought to minimise the situation to protect both herself and F, and F has done so to protect himself. But the account given on 6 July, of a violent presentation, is plain and clear. There is no reason whatsoever as to why the workers at the unit would have made this story up, or the detail which attends upon it. And I'm confident, and it's more than likely, that mother was coerced and forced out of the accommodation on that day. And in the course of doing so, threats were issued by F and threats were carried out by F against her. See the convictions in any event. This was really a very worrying incident. As I've already observed, the court often deals with domestic violence in a private setting at home. For a person to be willing to attend a public place where there are third party witnesses, and conduct oneself in that way in a prolonged fashion, knowing the likelihood of the police being called and still to remain, is actually very concerning indeed. And it speaks of a very poor level of personal self-control on the part of F.
- 70 Mr B was involved in that incident. His involvement in it, of course, was very different and at times appears to have been decidedly positive. But at other times, the reports are of him being very negative in the relationship. And I've read all of that. At the time, mum was two months' pregnant.
- 71 In relation therefore, to Allegation A, he has been domestically violent. In relation to Allegation B, I find that proven. In relation to Allegation C, convicted and imprisoned. Well indeed, that to all intents and purposes is the admitted feature of the revised schedule, and that's proven.
- 72 In terms of November 2017, telling the mother to go and kill the baby, on balance I accept this allegation. I prefer the information provided by the mother over that of the father. I don't find him a persuasive witness in this regard at all. His denial of all allegations is one which I find beggars belief. I find the evidence of the social worker of the threats made to her, and in her hearing, to be true. And I find, that on repeated occasions, father has issue threats to all and sundry when dealing with this case.
- 73 I accept, on 7 February, threats were made to kill the mother, Allegation E. And indeed, I accept that there were threats made on 21 February about Mr B which is again a reference to Mr B attending the accommodation to take Child A away. And much of this information has been physically observed either by the video or the messaging by third parties, which I find highly persuasive.
- 74 In relation to para.3, the first sentence is proven. The father does deny any wrongdoing in the relationship and lacks any insight into domestic violence. See his evidence to me, his last part of evidence. The last part is a conclusion from Ms Alam, which it seems to me a perfectly fair opinion, but it is the opinion alone rather than a finding of fact. Of course, she has recorded that. It is a, it seems to me, insightful assessment of father.
- 75 In terms of mother and the failure to protect -- in fact there is an inter relationship here with father here as well it seems to me -- mother does lack an insight into domestic violence and exploitation and the risks posed. I find that. An inability to internalise. She is able to understand, in the sense that she can repeat back what these risks are, but she's unable to maintain them and translate them into actions. And that is part of insight. She has been

unable to extricate herself from the relationship with the father and has remained in contact. That is a finding I make.

76 I find she has been exploited. I'm not clear about the detail of the threats to the stepfather, and I do not find that proven. The circumstances are so murky and so unclear to me, I am bound to say it doesn't add anything to this case. But it is clear to me that she has been subject to a level of control by a combination of F, and then by Mr B in the community. Which amounts to exploitation.

77 She did smuggle the cannabis into detention, she agrees. And she has breached a written agreement. Again, para.9 is a matter of record. But the sad feature though is the mother's domestic violence exploitation is not situational. By which I mean it is not purely related to the relationship with the father. It is more problematic in the sense that the relationship with Mr Y that we've heard about quickly escalated into a situation of domestic violence and, again, exploitation it seems to me. The relationship with G, which preceded the father, has elements of exploitation that one can find within it. And so I'm not able to say that this is something that will start and end with father. It's likely to be a continuing situation until mother is able to internalise the changes that are required.

ANALYSIS

78 I now turn to the applications. The threshold is plainly crossed. The first matter is the assessment mother seeks, the adjournment and the pt.25. The evidence of the social worker, the independent social worker, and the guardian is that there is no gap in the evidence or need for further assessment. All of those parties' witnesses identify the risk of delay. The guardian points to a inevitability of outcome in any event.

79 In my judgment, this case turns on questions of safety and protective decision making, not on basic parenting, and that's been the focus of this judgment so far. I can't, for myself, identify a gap in the evidence in a case in which there has been significant work undertaken involving the social worker, involving agencies beyond that, involving support workers, (Christianne) involving domestic violence work, significant work with M over some period of time. I really cannot see what Symbol will add to this. Indeed, although it's not clear from the assessment documentation, it may well be that Symbol have to contract out domestic violence work in any event as part of what they do. And that has been done in this case. But as the witnesses have told me, mum's been able to identify and understand or respond that she understands, but she's then acted contrary to that understanding. She's then unable to translate.

80 I agree, in this case, that the use of Symbol would have been a potential resource for consideration when the Court was first considering assessments in this case. It so happens that wasn't the position at the time when M wasn't affected by litigation incapacity. It was determined that independent social worker and a mother and baby foster placement would be appropriate. Let me just pause to say that I'm considering the question of the assessment, the pt.25 assessment, and I'm duty bound to inform mum that I'm refusing that because I cannot find a gap in the evidence. I'm pausing because mum left court for a period of time and has come back, and I don't want to pass over this without being clear of the decision I've just made. I cannot find a gap in the evidence. The assessments have been substantial, and cover all important features. I simply cannot see how Symbol will fill any gap because I cannot identify a gap.

81 I am bound to observe the following as well. On the chronology I've given it seems plain to me, and there's a high likelihood, that a Symbol placement at the commencement of these

proceedings would have broken down in any event. Because the very same issues about attendance of F at the mother and baby placement, the place of safety, the place in Kent, would have been equally attendant upon Symbol, an organisation which would be readily available to him as a location. And given the communications between mother and father, the likelihood is he would have become aware very quickly of where she was. That unit would not have been able to maintain an assessment process if father was attending, given all the risks. Because of the risk to other individuals in the unit. It would have broken down.

82 I actually agree, I think with the evidence of the guardian it was, that this mother and baby foster placement was perhaps the better outcome for mother at outset, for two or three different reasons. One was because of the potential for confidentiality. Two, because it was a more natural setting in which what she'd lacked, which is a supportive parenting feature, could be present in the home and which she could both be taught and shown skills, in contrast to a unit where she's under constant review and in which the pressures would be so significant that she might well crack. Despite the skill set of Symbol, the reality is that these assessment centres are highly invasive and they're not at all like normal life. And I tend to agree that, judging the two against each other at outset, one may have favoured a mother and baby placement in any event. But I can see no gap so dismiss that application.

83 I turn to parental responsibility. I've already observed the legal principles. In terms of commitment, I think it's fair to observe in this case that there are question marks as to what father's commitment is. Mother raises question marks as to whether it's about immigration status, and I think the social work team are at least aware of that concern. But the evidence before me suggested that father has shown commitment. He's taken part in these proceedings, and he appears to have an emotional commitment to his daughter, and I am going to proceed on the basis that there is commitment. That's where the evidence points me. In terms of attachment, and that is a feature, I think one has to deal with this with a degree of caution. Father's ability to demonstrate attachment is limited by the fact there's been no contact. He has not been the architect of that, save that his conduct has led to the risk assessments that have led to that. But he has sought contact, and this is not something which I feel should be held against him as arising out of any the fault of his own. I'm bound to observe if this was not an application including placement, then on balance I would likely adjourn the application for parental responsibility to enable father to demonstrate, over a period of time, an attachment. To enable him to show that attachment and then to progress the application in due course in the normal way. But because I'm going to be asked to consider placement, I have to bear in mind that that opportunity may not be available. So, it's unfortunate that the decision is arising at the gates of my decision.

84 But there are welfare issues, and the welfare issues are the factors that determine this application. I accept, on balance, that this request doesn't plainly have any negatives. The granting of parental responsibility doesn't have a negative impact upon a child by conveying a legal recognition of the biological reality. It just doesn't do it. But there are some benefits that can be identified. It is beneficial, in principle, for parental responsibility to be identified as a status indicator. It is important, certainly if I'm to make placement orders, as part of the identity work, for that to be part of it. That I had a father with parental responsibility is a better recognition than I had a father without parental responsibility.

85 I do accept that the local authority to this case would appropriately act, so that all the notifications that a father with parental responsibility would get would be given to father, F, without it. So I don't see benefits in that regard. It's also right to observe the point as to parental responsibility being about the exercise of parental responsibility. And one might say, "well if I am to make a placement order and within a few months the child is to be

adopted, where is the parental responsibility to be exercised?" But I don't know what would happen if I made those decisions, in the next few months. But I do know, in the course of this hearing, I am going to be asked to make a decision in respect of which parental responsibility is required to be considered. And that's under s.52 of the 2002 Act.

- 86 If I go on to make a placement order I have to dispense with parental consent. If I don't make a parental responsibility order, father simply will not have a say in that at all to be heard. In terms of identity work and life story work I think it must be an important consideration to be able to tell a child, if one reaches that stage, that both your parents could not consent to adoption. Other than to say one could but the other wasn't even canvassed because they didn't have parental responsibility. What might that mean in terms of uncertainty? Wholly technical from my perspective, but to some child reading that in years to come, trying to understand what that might mean. It's therefore something I bear in mind. And on balance, and this is a balanced decision, there are factors -- I have to say limited factors -- that weigh on one side, and there isn't anything weighing on the other side. And this is a balanced decision, and the balance falls in one direction, so I make a parental responsibility order.
- 87 Parental responsibility doesn't, of itself, mean that F has demonstrated a significant capacity as a responsible father to Child A. But I do observe, of course, as a matter of law, that there are many parents with parental responsibility that at no doubt demonstrate parental responsibility towards their own children. They simply obtain it as a matter of record of their status at the date of birth, or on the documents that are created. The child arrangements order needs to be considered in the light of the care and placement decision, so I'll roll those up.
- 88 So, I turn to the welfare assessment, and this is the part in which I decide what should happen. This really is what we get to having put everything else together. So the pieces of the jigsaw have been together and this is the picture I'm seeing and the decision I reach.
- 89 Well, firstly I said I have to carry out holistic analysis. I've seen the social workers' overview, what we call the *Re: B.S.* analysis at p.C.76, and I adopt that. By which I mean is I read that into my judgment. I accept it. It's a fair analysis of the pros and cons of adoption, of placement with a parent, of long-term foster care. For my part, although father has argued that long-term foster care is the appropriate answer if not with him, I have to say I don't see that as a realistic option in the case of a child who is not yet one-year-of-age. The notion of a one-year-old child spending a life in foster care is plainly not in that child's welfare interests. In reaching that decision, I reflect upon the decision of *Re: V*, which is from 2013, and Black LJ decision, as she then was, para.96 in which she sets out that there are significant differences for a child between long-term foster care and adoption. Most importantly, the permanence, the sense of identity, and the lack of invasive local authority involvement in a child's life. A child in long-term foster care can't have sleepovers without the friend's parents being CRB checked. Can't go overseas without the parents consenting. It's a life in which the status of a local authority parent is constant. Medical checks. All of that. And that case sets out the balance, in a way, between those two features.
- 90 I actually understood father's arguments about long-term foster care to be about really a temporary holding position in reality whilst he got himself back on his feet. But I reject the notion of long-term foster care as a solution for this child. And so, the realistic options are much more stark. Whilst I adopt all that the social worker has said, the key question is this balance between wanting the child to have family life -- biological family life -- mum or dad, but mum would be the key option because that's where the child has spent so much time and has had so much contact, whilst asking the question, with all the benefits that will

bring, identity, not being severed from family, being able to know who she is and where she fits in the world and who her grandparents are, and all those things, and the assumed wish that if a child of that age could express a wish to be with their family, against balancing the risks which are identified in all the reports of the child being caught in conflict and disagreement, and worse besides. And it's that -- and that's why this case is about the safety and decision making. It's not really about whether that child will be well-clothed. Not really about whether the heating will be sufficient, or a roof over the head. It's about whether that child will be safe. And this case is very much a safety case.

- 91 So I turn to the welfare analysis, and I remind myself that I'm talking about s.1(4) of the 2002 Act throughout the child's lifetime. Wishes and feelings. A baby of this age can't express wishes and feelings, plainly. But I have observed, and I think I will observe, that there are two inferences one might draw about a child's wish to be growing up within their family, biological family. But also an inference that a child would want to grow up in a settled and happy, and a stable and a risk-free environment. Both of those are presumed. This child hasn't been able to express any views given her age.
- 92 Needs. Second feature. Well, there's physical, emotional, and educational needs, but the focus in this case I think is physical and emotional. Physical around safety, but I'll turn to that in a moment. And emotional about stability. One of the difficulties in this case is, for M, are the conclusions which I accept of the experts that her own attachment is -- she has limited attachments in life arising out of her own upbringing. And how that has left her in really such a poor position. And how that has an impact upon her in her day-to-day life. And it's so damaging to her. And when one thinks about it that way, one understands why attachment is not just a word, but it's something that's crucial for children, and particularly for children of Child A's age over the next year or two as they go through a period and they built up secure attachments, which is really about when they go to the people that are important to them they get the response they expect. So, their mother or their father, or whoever cares for them, does what they expect them to do. And so they get predictable care and they can build upon that predictable care.
- 93 If they get unpredictable care, then they just don't know what they're going to get and it builds an insecure attachment which leads to difficulties in their presentation -- behavioural presentation -- and other things. And the evidence the court receives regularly is about the very important need for stable, secure, and predictable safe care. And in this case, the environment and the lifestyle that F and M have shared has not been that environment. (Inaudible) they've shared an environment. The way in which they've interacted with each other has been highly controlled, in semi-independent living, with oversight from the local authority, and yet it's still be surrounded by real difficulties. And it seems to me, and I find it's only been the involvement of those agencies that have safeguarded this environment. Without that we can only guess what the outcome would have been.
- 94 But one sees in court how rapidly things can break down. And I remind myself what led F to get up and attempt to leave court is unclear to me. I looked at the questions that preceded that and they didn't seem to have any particular provocation, or bearing. He was just obviously reflecting and mulling over what he'd have read, and he'd been mulling over what he'd read about Mr Y. And it just got to the point where he broke, and up he got. And it's instructive that it was him viewing mum's relationship and the impact that had upon him. Because this is a case in which both of them have expressed wishes to be back together. I think father as recently as July. And mother meeting up with father as recently I think as probably last month, albeit the context of the meeting up is unclear. They are enmeshed. That word was used in this case. The relationships are enmeshed. And they are enmeshed in part because they don't have the support structures to turn to. They don't have the family

to give them the sound good advice, or the friends who are sensible. It just pushes them back together. As the expert says, “they’ll gravitate back together for good or bad”. And the fear I have with M is that if she doesn’t gravitate back to him, she gravitates to Mr Y, or someone else.

- 95 It was instructive to me F’s response. Here she is off with this gentleman who is a risk to her, Mr Y. It shows a complete lack of insight on his behalf, that before Mr Y, he was the Mr Y. He was the person putting her in this position. He was the person threatening her. He was the person assaulting her. He was the person controlling and being coercive towards her. And yet he can only see it through her with someone else. And that shows and absolute lack of insight which, at this stage, is just frankly too late to turn around.
- 96 So the child needs emotional security and stability. And one wonders where the child could find it, as things stand.
- 97 Ceasing to be a member of family throughout her life. Well, I’ve touched upon this, it’s profound for a child to be separated -- legally -- have legal new parents/new parent, the reality of a likely lack of contact -- possibly throughout life but certainly in all likelihood throughout childhood -- the emotional baggage that this could bring. Having to come to terms with why did that happen? Was it because of me? What did I do? What were the circumstances? Did they not want me? All of those questions, that can of course be dealt with by sensible and good work, but nonetheless have to be dealt with otherwise they’re going to remain unanswered and the vacuum will be filled by emotional difficulty. These are profound, and they are recognised by, as I said earlier, the “nothing else will do” test.
- 98 The characteristics here include, of course, the mixed heritage. F is Albanian. Complex in a way because his heritage, of course, would be Islamic but he has reconciled himself to a Christian faith as I read it. But the Albanian central characteristics are important, and they are likely to be largely lost. Adopters are unlikely to be Albanian, if one went down that route. Although one can try to do one’s best, it’s limited. This a very young child who’s vulnerable. That’s an important characteristic. She is a child that’s wholly dependant upon those around her, and if the care around her is unpredictable or dangerous she is in the firing line and cannot protect herself.
- 99 In terms of harm, well I’ve dealt with the threshold and plainly this has been a very harmful, risky, situation, and the chronology I’ve set out has been a chronology that has existed over the last nine months whilst F has been contained in an environment. All of that that I recited earlier had happened whilst F has not been on the streets. And yet there has been constant weekly, monthly, difficulties with threats. In the next few weeks he’s going to be in the community. How am I to assess the risk of harm in that context as being anything other than much higher than much lower? I do assess it as being a heightened risk in due course when I look at the expert evidence.
- 100 In terms of the relationship the child has with relatives, the relationship continuing, the ability to meet needs, wishes and feelings of relatives. In this context there’s been an assessment of the grandparents. It has been negative. There’s a history there which I won’t recount but has ruled them out and they’ve not challenged that. There was an assessment of a third party who really didn’t engage with the assessment so that’s gone away. F has indicated why a placement in Albania, or with his family, would not be appropriate and there’s been no assessment in that regards. So the key relationships here are with mother and father, plainly.

101 Their relationships should have value to the child. At the moment F's relationship has not developed. But mother's relationship is valuable, and plainly valuable, to the child. F's has the capacity to be valuable. Their wishes and feelings are strongly oppositional to care and placement. Placement in particular. And I understand why. But their ability to meet the child's needs at this stage is the problem. All the expert evidence in this case says three things: 1) that they can't do it now, and 2) that the timetable for turning it around is long and outside the timescales of Child A, and 3) that there's doubt as whether in fact they can turn it around have the motivation and capacity to sustain change. Which leads those experts -- each and every one of them -- to conclude that Child A's timescales are outside of return to her parents, or one of them.

102 I therefore turn to conclusions. And the conclusions I've reached are the following. I've dealt with some of this already and I'll repeat it. I have refused the pt.25 application. I have made, and I do make a parental responsibility order. In terms of the application for care order, I make a care order. I make a care order because of the unchallenged evidence of the experts of there being substantial difficulties and a poor prognosis for change. I make it on the basis of the evidence that F has demonstrated a clear, controlling behaviour, in tandem with a lack of insight. There are additionally significant practical difficulties about him assuming care in any event, and his timescales are outside of the child. I've read what Ms Shaw says, and I accept what Ms Shaw says, about the work that would have to be undertaken. And part of that work would be domestic violence work and he's not ready for that. He's shown no insight at this time whatsoever.

103 I'm not persuaded that there's been a (inaudible) change in his attitude, or that he's in a position to provide for Child A in the foreseeable future, even were he to be released next week. And circumstances relating to that are unclear. So this decision has not been about him being in custody. This decision has not been principally about his immigration status. It's been about the issues of safety.

104 In my judgment, M is equally not in a position to care. The focus of her case has been about adjournment, and it seems to me that that has realistically recognised that it's only through an adjournment and further work being done that she could put herself in a position to care. This is not a case in which her particular needs have not been properly taken into account. There's been significant work done with her which, I think, has been focused on meeting her needs. But she's been unable to prioritise Child A's needs. I've looked at the chronology in detail, and the recent events, which cause me to believe that there is a repeating cycle. Her timescales are, as with F's, outside those of the child, and the prospects of change are poor.

CONTACT

105 In terms of contact, and I deal with that next under the care order. The care order plan is for there to be contact with mother which reduces over time. And there would have to be a reducing contact plan within a care order it seems to me. I'll come back to that. But in terms of father, there's no effective plan for contact other than as part of the placement process. The guardian says that there's a fine balance to be drawn, but the balance is in favour of there being monthly contact, pending what she would say would be a matching decision in terms of adopter being identified. And I haven't reached that decision yet, I just remind myself.

106 It does seem to me there is a balance of risk in this case. And what the local authority say is, everything I've read tells me that there is a risk surrounding contact. If Child A comes for contact, there is a risk that father might engage in taking steps, or organising steps to be taken that may endanger the child. There's a possibility during contact itself that he might

lose his temper, become emotional, she might suffer. There may be people waiting at the door of the detention centre to see where the child goes. Confidentiality will be lost, X, Y, Z, will follow and there'd be a risk of abduction.

- 107 I think it wasn't said, but it would be right to say that were I to make a placement order the emotions would be higher and one might say the risks would be greater. But there is a balance against this, and the balance is the following: that there are inevitable risks for contact in this case because the local authority say there will be contact. The local authority say there will be one contact. On the evidence I've heard and the guardian's suggestion, there might be three or four contacts. But there will be contact on any case. And that will bring with it the very risk the local authority identify. If father knows it's going to be one contact, then any attempts that he might choose to make -- and I don't say he will make them -- are going to be focused on that contact. So, it's difficult to see how things change by limiting the contact particularly. Particularly as, as was rightly said, there are equal risks materialising on mum's contact, which will continue.
- 108 The evidence tells me that it's likely, on balance, that there will be continued communication between F and M. That's been the history of this case throughout. M has said when he comes out she wants to see him. Now, this week may have changed their attitudes. Well I don't take that view. As I've read through the chronology, there have been various points where their views have changed and then rebounded to where they were before. Following the assault in July, but then shortly afterwards back again wanting bail addresses. That sort of stuff.
- 109 That being the case, the information as to mum's contact will leak as well. And actually, because that's going to be much more significant, the risks are there. So the risks have to be managed. The question is whether one's adding perhaps two extra contacts to be managed. That's the real question. And the reality is the local authority will have to manage the risks. And there are ways of doing this. Presumably there are ways of managing if one's in a civic centre. There are different routes into buildings and different routes out, to ensure that a child brought in isn't taken out the same way. Or, in other environments, one can identify environments that work.
- 110 So I think those risks, which I accept are real risks and they're not fanciful and they're not exaggerated, they are risks, are risks that would have to be taken in any event. Balancing against that, there are benefits of contact, and the benefits are the following. Of course, this is a welfare decision based, really on s.1(3) or s.1(4), but s.1(3) in terms of the child arrangements order aspect. This is the child's need to know there has been a relationship. There won't be memories. This child will not, if there's a placement order made, remember having one or two or three contacts with her father. She's unlikely to remember any contacts. But the fact of contact will be shared with her, and the reality of one contact is it's likely to be a problematic contact because of the emotions of doing ones' best. Two, three, contacts has the potential to settle into a rhythm to enable photographs to be taken. To enable an opportunity for there to be some life story work done. Which this child will benefit from.
- 111 The guardian puts it at once a month. Father talks about fortnightly. If I am to make this order once a month is about right given, certainly if I was to make a placement order, it would be wrong to set it at fortnightly only to reduce it down at the same time as mum's contact is being reduced in the same direction.
- 112 The other safeguard is the following, it seems to me, and this very important to make clear: If the court suggests, and the local authority adopt, there be a monthly contact, and dad

misconducts himself at the first contact, he'll know that that amounts to his farewell contact in this context. Because no way in the world will there be a further contact if father does something inappropriate and makes it unsafe for the child. Because no-one will allow it to happen a second time. That increases the prospect of that contact working. That reduces the prospects of there being a lack of confidentiality and abduction. And the same goes for the second contact if there's to be a third. Because father always has the risk that if he does something wrong it's the last contact. And in a way that's a self-protecting mechanism it seems to me. I make the point, if there was just a farewell contact it would be just the same as that. The one contact and the potential for misconduct would arise, but would perhaps be heightened.

- 113 So, on balance -- on balance -- I favour more than one contact. But these are respectable disputes and I understand why they've arisen, and father should come to understand that when you make threats to social workers, as I find he has, and the social work team have to try and organise safety in handovers and contacts, they have to think for their employees as much as they have to think for the child. If they are sending someone to a contact centre where father said "I'm going to kill you", they have to ask themselves whether they can send their employees -- who they employ and are responsible for in law -- to that contact centre. And if they feel they can't do that without breaching their duty to their employee, then they can't send them. So when you make threats of that sort, whether you intend them or not, there are implications.
- 114 But the conclusion I've drawn is that there should be contact, but there shouldn't be a child arrangements order for reasons which I will explain in a moment. This should be within a revised care plan. If the local authority consider it inappropriate to revise the care plan then I think I would have to order contact under a child arrangements order. Well, I'd have to consider some mechanism and I hope the local authority will move in it's thinking on the subject in any event to avoid me having to think how I manage this. I simply don't want to refuse the care plan as a result.
- 115 So, I turn to the question of the placement order. I've gone through the welfare checklist list, and I've looked at the timescales for the child. And sadly, I have reached the conclusion that I will make a placement order. That will mean that I'm making the decision that Child A will be adopted. The decision has been reached for all the reasons I've given so far. Her welfare requires it, which is the legal test.
- 116 Long-term foster care is not an adoption for a child of this age. I've explained that. There are no family options. What mum and dad can offer, mum in particular I'm bound to say on the facts of the case, is outside the timescales of this child. This is a deeply sad outcome for both parents, which I accept. On the evidence I've received though, I'm sad to have to say it's inevitable. The evidence has stacked up in this way, and it's the product of what's happened -- not this week -- but over the months, the years, that preceded this week, and the actions and decisions made during that period.
- 117 As I say, her welfare requires it. I've paid full respect to the Art.8 rights of Child A and her mother and father. The decisions are lawful. They are proportionate. This is the lowest level of interference I can identify that meets her welfare needs. It's reasonable and necessary. It's necessary because she needs it. Without this, she can't spend her life in foster care, and if she returns home to her mother, or into the care of her father, she returns to the environment I've identified in this chronology. She would not be safe. And being not safe for her means being in danger. And being in danger in the context of their disputes means being in physical danger. And I can't permit that.

- 118 Neither parent consents, and I understand why. I fully respect that. Father has parental responsibility, and he has the right to oppose and I understand he does oppose the making of a placement order. He made that clear before I granted him parental responsibility, and I think nothing's changed. Mother acts through the official solicitor. I'm not sure if that complicates the position, but she doesn't agree to this placement. That's plain on her position and the official solicitor, as is duty bound, has told me what her views are. And she has the right to exercise parental responsibility on a continuing basis, and this is part of it. But I do dispense with their consent because the child's welfare requires it.
- 119 So those are the conclusions I've reached in this, I appreciate, lengthy judgment. That concludes the case.
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CERTIFICATE

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