Neutral Citation Number: [2011] EWCA Civ 635
Case No: B4/2010/1920

IN THE HIGH COURT OF JUSTICE
COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM SHEFFIELD COUNTY COURT
HER HONOUR JUDGE CARR QC
SE09C00402

Royal Courts of Justice
Strand, London, WC2A 2LL
Date: 25/05/2011

Before :

LORD JUSTICE THORPE
and
LADY JUSTICE BLACK

- -

Between :

K (Children) Appellant

- and -

Sheffield City Council Respondent

- -

(Transcript of the Handed Down Judgment of
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Official Shorthand Writers to the Court)

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Mr Andrew Wastall (instructed by Leviten Thompson & Co) for the 1st Appellant
Miss Sally Terris (instructed by Best Solicitors) for the 2nd Appellant
Ms Jessica Pemberton (instructed by Legal & Governance) for the Respondent

Hearing dates : Friday 4th March 2011

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Judgment
As Approved by the Court

Lady Justice Black :

1. This is an appeal against orders made in relation to AK by HH Judge Carr QC on 14 May 2010 following a nine day hearing.

2. AK is 4 years old, having been born in September 2006. The appellant is her father (F). AK's mother (M) supports F in this appeal. It is opposed by Sheffield City Council (LA) and AK's guardian.

3. The appeal was listed for an oral hearing at which there would be consideration of whether permission to appeal should be granted with the appeal to follow if so. Rather than hamper counsel in the presentation of their arguments, we heard their submissions on both issues together. For my part, I would grant permission to appeal. I doubt whether I would have done so had it not been for the proposed appeal against the Judge's order under s 91(14) Children Act 1989 but, as permission is appropriate in relation to that, I think it would be artificial to refuse it in relation to the other grounds.

4. The proceedings before Judge Carr related to both AK and her younger half brother, N, who was born on 8 August 2009 and is M's child but not F's. The proceedings began on 25 April 2008 as an application for a residence order by AK's maternal grandmother (MGM) in whose care AK had been left by M. AK was joined as a party to the proceedings and a Rule 9.5 guardian was appointed for her. A psychological assessment of M, F and MGM was carried out by a chartered forensic psychologist, Mr Chekwas. His report provoked LA to commence public law proceedings in relation to AK in April 2009. AK was made the subject of a sequence of interim supervision orders which lasted until the hearing before Judge Carr.

5. When N was born, proceedings were also begun in relation to him and he was made the subject of an interim care order. He was placed with foster carers and Judge Carr made a final care order in relation to him on 14 May 2010, the care plan being that he will be adopted. There is no appeal in relation to that care order; the appeal is solely in relation to AK.

6. The local authority, the guardian and MGM invited Judge Carr to make a special guardianship order in relation to AK in favour of MGM. The parents opposed this because they wish to look after AK themselves in the foreseeable future. They were not asking Judge Carr to return AK immediately to their care. They acknowledged that they needed therapy and assistance before that could happen and proposed that they should be assessed again in approximately 9 months.

7. Judge Carr granted a special guardianship order in favour of MGM. She also acceded to an application by MGM and the guardian for a section 91(14) order, granting an order which restricted the making of any further applications by the parents for 2 years 4 months.

8. M has been represented throughout the proceedings. F was represented up to September 2009. At that point, both parents chose to dispense with their legal representatives in circumstances to which I will allude later. M instructed a new firm of solicitors but F chose not to do so and was not represented at the hearing in front of Judge Carr. Judge Carr noted that he was able to conduct the proceedings himself, that he demonstrated a

clear knowledge of the issues and the papers and that, in any event, he was not prejudiced because his case was identical to M's. At the appeal hearing before us, F has once again had the invaluable assistance of counsel who has helped him to refine his proposed grounds of appeal, abandoning those which were untenable so that the argument could be focussed on those which merited it. Mr Wastall advanced the remaining grounds as persuasively as anyone could possibly have done.

9. F's objective is to persuade the court to overturn the special guardianship order and the section 91(14) order, to order a full viability assessment of his ability to look after AK, and to remit the matter for a rehearing as to future arrangements for AK by another circuit judge. If we are not persuaded that the special guardianship order should be overturned, he invites us to order that CAFCASS should look into the question of how AK is to be educated in the light of her dual heritage and should file a report making recommendations.

10. He advances three grounds of appeal which are, in essence, as follows: firstly that such assessment of the parents as there had been was insufficient to enable Judge Carr to rule them out in the way that she did, secondly that placement with MGM under the special guardianship order does not meet AK's religious and cultural needs, and thirdly that the section 91(14) order was wrong in principle or, in the alternative, too long in duration. Before I turn to examine these grounds in more detail, I need to set out a little history.

11. M and F met in 2005. Their racial and cultural origins are different. F is a Muslim from Pakistan. M is British and is white. She became a Muslim after she met F.

12. MGM is a white British woman and lives with her female partner in what she describes as a "non-religious household".

13. The parents were not living together at the time of AK's birth. When they commenced their relationship, F was already due to marry in Pakistan and he subsequently did so, notwithstanding that M had become pregnant with AK.

14. M's care of AK gave rise to concerns on the part of the authorities. She "presented as volatile, unpredictable, confrontational and was verbally abusive" as we see from Judge Carr's judgment at paragraph 7. She made numerous allegations that F had been violent to her (which he has always largely denied), often seeking police assistance and then retracting the allegations.

15. AK was about 1 ½ years old when M left her in the care of MGM in March 2008, giving F's domestic violence as the reason for doing so. AK has remained with MGM and her partner since that time, although M attempted to abduct her three times between then and the end of August 2008, necessitating police involvement.

16. M's allegations against F of domestic violence included some very serious allegations in May 2008 which resulted in him spending five days in custody for alleged breach of a Family Law Act injunction. Then, at the end of June 2008, M chose not to pursue any allegations of violence at all. She has been prosecuted for wasting police time.

17. A social worker who had extensive involvement with M from January 2008 to November 2008 found her very unco-operative and almost impossible to work with. During this

period, M made threats to hurt MGM, damaged MGM's partner's car, told MGM and the social worker that she was running around with a knife, and told the social worker that she was using £30 to 40 per week of cannabis. Apart from concluding that M was a very volatile young woman, the social worker was left with a very unclear picture of things.

18. By the time the public law proceedings were begun in April 2009, LA were concerned about M's failure to engage with professionals, her substance misuse, the allegations of domestic violence and the ongoing conflict regarding AK's placement with MGM.

19. A fact finding hearing was scheduled for mid September 2009. Both parents' case was that they had separated. LA did not trust this information and arranged for covert surveillance which showed that very shortly before the fact finding hearing the parents were spending time together. In the light of this evidence the parents, who at that point had the benefit of legal representation, submitted to various findings of fact which were recorded in an order of 17 September 2009. The facts found included that the relationship between the parents had been characterised by volatility and allegations of domestic violence which M retracted, that F accepted slapping M around the face on one occasion, that each parent had deceived LA as to their relationship, that M had a history of volatile and unpredictable behaviour (and had, for example, admitted in June 2008 to putting a brick through MGM's car window and attempted to abscond with AK 3 times) and that M had failed to provide AK with safe and stable accommodation.

20. By 6 October 2009, on which date the court was due to consider N's position further, it had become apparent that the parents were dissatisfied with the legal advice they had received and were seeking to challenge the agreed findings. Both dispensed with their solicitors.

21. Their revived opposition to the findings was, however, short-lived. On 10 November 2009, it became known that they had been married in an Islamic ceremony on 27 September 2009, between their acceptance of the findings of fact on 17 September and their indication on 6 October 2009 that they were intent on challenging them. F indicated to the court on 10 November that they now wished to be more transparent, open and honest. They were requested to file detailed statements setting out the nature of their relationship and their proposed plan for the future and, when the matter was heard again on 24 November, Judge Carr ordered that Mr Chekwas should look at the position again and listed the case for a final hearing.

22. The order of 24 November contains the following preamble, recording the intention of LA to carry out a viability assessment, which forms the basis of part of Mr Wastall's argument before us:

    "Upon the Local Authority confirming that it will undertake a limited viability assessment in respect of the changes that the parents are saying exist in their situation in relation to their marriage, their position that they wish to jointly care for the children and that the parents are saying that they now accept and understand the Local Authority concerns and are prepared to co operate fully with the Local Authority. The Local Authority will offer an initial joint session and then a further 2 sessions with each parent and then a final summary and feedback session." [sic]

23. Mr Chekwas saw both parents in December 2009 and produced a report dated 13 January 2010. However, by the time the matter was next before the court on 21 January 2010, LA had not completed a viability assessment. The order of that day records:

"Upon the Court noting that the previous social worker for N has left the local authority, and a further updated viability assessment has not been completed as a result.

Upon it being noted that Gail Howard has been allocated the matter shall complete this assessment, which it's anticipated shall take a minimum of 6 weeks." [sic]

24. By the time of the final hearing, Mr Chekwas had contributed a third full and detailed addendum report, dealing particularly with questions posed by the parents. At no point did he recommend the return of AK to her parents. The only person he considered capable of looking after her was MGM. His meeting with MGM took place in December 2008 and he had not seen her since so deferred to the views of others about her present position. In Judge Carr's view, she had moved on very considerably in the intervening period. The court had the benefit of the guardian's and social worker's assessments of her which were unanimously in favour of her caring for AK.

25. There was evidence of change in the parents too. Mr Chekwas commented that they were calmer and more relaxed, for example. The social worker gave evidence which was accepted by the judge that "she had noticed a change in [them] from about a month ago". The judge acknowledged the importance of this and that the change could only bode well for AK. The question for her, however, was whether the change was sufficient. There was no professional evidence to the effect that it was.

26. Miss Howard's viability assessment was not favourable to the parents. It did not comply with the preamble to the November order in that it was concluded in less than the 6 weeks envisaged and did not include the number of meetings there set out. How the judge approached it can be seen from the following passage in her judgment:

"28. ….The parents' assertion as to their moving on is quite clear in that they have married, they have lived together part-time from marriage and full-time since 18 January 2010. There has been no allegations of violence since the injunction proceedings in May 2008. I was more interested in having a viability assessment as to the parents' state of change which they told me about on the 10 November 2009. In many respects I consider that Miss Howard did what she could in the period available.

29. She had plainly read all the past papers and was aware of the chequered history of allegations of domestic violence being made and then retracted. She set up meetings so there was a joint assessment session on the 26 February 2010 an individual session on the 2 March 2010, mother cancelled an assessment on the 9 March 2010 due to a doctor's appointment and a planned contact observation did not take place due to AK being ill. I accept that at all material times mother was polite and attended on time. Miss Howard attended on the 3 March 2010 and inspected mother's home and found that it was clean and tidy. She plainly listened to mother and obtained a fair amount of detail from her. Likewise I consider she did her best to carry out an assessment of [F] but unfortunately the timescales to meet the hearing date were very tight and of course I had the observations of [the social worker], the continuing assessment of the guardian and Mr Chekwas' updated assessment. Although some criticisms can be made as to the depth of

this assessment it was always only meant to be a viability assessment. I have not in the event, due to the parents' objection of Miss Howard's report, given it much weight in the course of my judgment because it did not do the minimum of 6 weeks and effectively only comprises of one joint session and one individual session and therefore it does not assist me to any great extent in reaching the decisions that I have to. "

27. M's past allegations of domestic violence were examined during the hearing. F denied that he was ever violent save on one occasion (the slap to the cheek) and said that M had made it all up. M's case before Judge Carr was to acknowledge that, maintaining that she lied about the violence as an act of revenge against F because of his marriage in Pakistan, albeit that the marriage was in 2006 and the allegations were made in 2007 and 2008. She acknowledged that she had committed perjury by making allegations of violence in sworn affidavits and actively sought to have F committed to prison.

28. The judge found herself unable to believe a word M said. This was not surprising in the light, for example, of what had happened in relation to the domestic violence allegations and also in respect of the lies M had told about her relationship with F. She found that M had "lied from start to finish throughout this case and very little of what she says can be taken at face value". The judge concluded that "at some stage mother has suffered unpleasant incidents of violence". She observed that the allegations she had made about F had never been fully investigated because she always retracted them and therefore "there are no findings against [F] but at the end of the day that assists neither. Mother has caused the situation by what she now says are lies and because she has lied in the manner that she has, and in my judgment continues to lie, corroboration of assertions by her is required". There is no appeal against this assessment of M, nor could there be.

29. The judge's assessment of F was not significantly more favourable. F accepted that, like M, he had lied in his affidavits, falsely alleging that M had been violent to him. The judge found that he "is someone who is quite capable of lying and has lied. He has attempted to manipulate the system and I suspect will be content to do so in the future." She said "I consider he is quite prepared to manipulate his daughter and that he tried to manipulate Mr Chekwas". She concluded that it was very difficult to believe much of what he said. She also found that he had taken cannabis at various times and that he had behaved badly in contact and said unpleasant things about MGM.

30. She was left with no clear picture as to exactly what was happening between the parents and was not even satisfied that they were living together as they said they had been since 18 January 2010.

Need for a further assessment?

31. It is against this backdrop of damning findings that one must examine F's criticism of the judge for proceeding to a decision without requiring a viability assessment that complied precisely with the terms of the preamble to the 24 November order.

32. F contends that Miss Howard's report was not only fatally undermined by having been completed too quickly and without all the anticipated meetings but also by virtue of Miss Howard having wrongly assumed that there had been a significant amount of domestic violence between the parents. This leads to a two pronged attack on the judgment, the first prong of the attack being (as I interpret it) that the judge gave weight to the report

when she should not have done because of its flaws and the second being that because it was flawed, she was without the assessment that her November order required and she should therefore have adjourned for a further assessment before making a final determination.

33. I will deal first with the argument that the judge wrongly put weight on Miss Howard's recommendations. Even if one assumes, without deciding it, that Miss Howard's report was rendered unreliable by either or both of the factors upon which F relies (and the position in relation to domestic violence is undoubtedly considerably complicated by the lack of findings about F's conduct and the court's inability to trust the accounts given by either parent), that does not, in my view, advance F's case very far. Judge Carr expressly indicated, in the passage that I have quoted extensively above, that she had not given the report much weight in the course of her judgment and that it did not assist her to any great extent in reaching her decisions. She was clearly alert to its limitations, albeit that she did not identify in her judgment any issue with it in relation to the treatment of domestic violence. Although she did not say in terms that she put the report completely to one side, as I read her judgment the conclusions that she reached were, in fact, formed from her own assessment of the entirety of the evidence and in reliance on the assessments of the guardian and Mr Chekwas and the observations of the past social worker, rather than in reliance on Miss Howard. I do not consider that it is arguable that she gave undue weight to Miss Howard's report.

34. What of the argument that a further assessment should have been commissioned? The foundation for this is, to a significant extent, an assertion that as the judge had ordered a particularly type of report and nothing had changed to make this unnecessary, it was unfair to proceed without a report that fulfilled the original brief. Particular reference is made, amongst other things, to the lack of any observation by Miss Howard of contact between the parents and AK. It is argued that it is likely that further assessments would have been ordered pursuant to Miss Howard's assessment if she had observed contact and during it AK had "expressed a strong emotional bond and/or a willingness to reside with her parents at contact".

35. Judge Carr is a very experienced care judge and had been the allocated judge for these proceedings for many months prior to the final hearing. She was exceptionally well placed to evaluate the issues that she had to determine as she had extensive knowledge of the case and of the parents themselves by the time she dealt with the final hearing, having conducted many of the earlier hearings, in particular the injunction and fact finding hearings, as well as directions hearings. To this was added "the benefit of watching the parents for a period now of 9 days", as the judge put it at paragraph 21 of her judgment. She commented that "[m]y detailed observations of the parties both by giving evidence and the way in which they have conducted themselves throughout these proceedings obviously assists me when coming to deal with this judgment".

36. Care cases are not static. It can happen, as it did here, that a particular assessment is commissioned but not produced at all or only incompletely and, in those circumstances, the court has to look again at the evidence available and determine afresh whether further assessment is required or not. Many different considerations may come into play at that stage. One consideration will inevitably be the delay that might be occasioned by requiring a further assessment. Also relevant will be any developments that there have been since the report was ordered in what I will call, for want of a better description, the

situation on the ground. The court will also have to have regard to the totality of the evidence now available to it. Reports are often ordered at a relatively early stage in the preparation for a hearing and it can turn out later that other evidence covers the same ground or that the answers to the issues the reports were intended to address can be found elsewhere. In this case, amongst other things, the report of Mr Chekwas had become available after the viability assessment was originally agreed upon and there was also a full report from the guardian (who had interviewed the parents and observed contact) produced just before the final hearing.

37. Judge Carr carried out a perfectly proper evaluation on the basis of the evidence that was available and it was open to her to determine that it was sufficient and to proceed to a final determination. There was ample material upon which she was entitled to conclude that a placement with the parents was not viable.

Insufficient consideration of AK's religious and cultural background

38. F does not contend that it was wrong of the judge to sanction AK remaining with MGM for a further temporary period but does argue that it was wrong of her to do so under the auspices of a special guardianship order. His case is that MGM does not have sufficient experience or knowledge of either the Pakistani culture or the Islamic religion. He points to Mr Chekwas' report of January 2009 which identified the importance for AK of these aspects of her cultural heritage being addressed in her formative years and remarked on MGM's "generalised response and vagueness in detail" which Mr Chekwas thought indicated strongly that she had not meaningfully or seriously considered or investigated AK's cultural needs. He also invites attention to Mr Chekwas' oral evidence that it was "crucial" to AK's psychological health that the cultural issues were dealt with appropriately and that he did not think MGM would deal with them well. F argues that there have been no efforts to educate MGM on these subjects and none are planned and she will therefore be unable to address them with AK. Mr Wastall invites us to the view, on the basis of the transcript of MGM's oral evidence, that she still has little understanding of religious routine and a lack of personal interest in the subject.

39. F also complains about the treatment of the question of cultural and religious needs in the care plan. LA say there that AK's

    "dual heritage and her needs are catered for by [MGM] and [her partner]. AK is not given any pork products and does eat halal meat. The carers are sure that any other cultural needs can be met by her parents via contact. AK is attending nursery this will [sic] enhance her social skills and mix with her peers who are from many different backgrounds…."

    F criticises this as at best basic and as revealing a lack of understanding of the extent of the child's needs in this respect. It is submitted on his behalf that it is fanciful to consider that the parents would be able to provide for all AK's religious instruction during contact which takes place once a month for two hours and that the idea that MGM could consult the parents about culture also ignores the poor relations between MGM and the parents. The suggestion made on behalf of MGM that the parents could take AK to Mosque during their contact sessions is also submitted to be impracticable. The social worker had referred the child to a multi-cultural group but it is submitted that that is inadequate as it

does not apparently claim to give any instruction in relation to the child's own particular cultural or religious background.

40. The judge is criticised for failing to deal with this issue fully enough. She expressed herself satisfied that MGM will respect AK's cultural heritage and she said

    "I regard this as an important matter and that she must continue to acknowledge that this is a little girl whose parents are Muslim"

41. She is criticised for not identifying any practical means by which MGM will build up her own knowledge so as to educate AK on such matters. It is also argued that she wrongly disagreed with Mr Chekwas on a matter that was within his own expertise without giving reasons.

42. It is argued that the appropriate course, if the judge felt she had to make a special guardianship order to enable the child to have certainty, would have been for the judge to have ordered a further assessment of these particular needs of the child which could have been carried out without disruption or delay.

43. I do not consider that there is any merit in these arguments. Far from ignoring the cultural and religious issue, the judge acknowledged its importance. LA point out in their submissions that Mr Chekwas' assessment of MGM was out of date, as he conceded, and that he expressed the view that if MGM was a bit more knowledgeable about providing for AK's cultural needs he would take a different view from that which he previously held in terms of her suitability as a special guardian. He also indicated that F had told him in December 2009 that he had tried to make peace or improve the situation with MGM and that if relationships were better, the parents could play a great part in ensuring that the cultural aspects of AK's life were catered for. It cannot really be said, therefore, that the judge was differing from Mr Chekwas in his area of expertise. Furthermore, she had few choices available to her. Mr Chekwas' view was that MGM was the only person able to care for AK and the judge had to balance the need to keep AK in her own family alongside considerations as to culture and religion, important as she acknowledged them to be. To adjourn for a further report such as F suggests would have been to generate further litigation and it is quite clear from the judge's acceptance that a section 91(14) order was appropriate that she considered that that would not be in AK's interests. It was a matter for her discretion how she approached this aspect of the case and she cannot be said to have exercised her discretion in a way that was not open to her by making a special guardianship order at all or in doing so without any provision for further assessment of the cultural and religious issues.

Section 91(14) order

44. The application for a section 91(14) order was made by MGM on 22 April 2010, a few days before the final hearing began. Her reason for applying is given as follows:

    "The applicant has had sight of the children's guardian's report dated 19th April 2010 where it is noted there is a recommendation for a s. 91(14) order. The applicant feels that this would be in AK's best interests and would request that such an order is made for a period of 3 years."

45. The guardian's report says simply that she recommends:

"The making of a Section 91(14) order preventing further Section 8 applications without the leave of the court, for a period of three years (the parents will need to apply for residence in any event) given the number of applications made by parents to date."

46. Dealing with the application, the judge said:

"The law on this topic is clear and having considered AK's welfare I do believe there is a need for a filter and that the matter should be reserved for me. I do not regard Section 91(14) as incompatible with this Human Rights legislation because it should only act as a filter. I am also quite clear that therapeutic intervention is required for both mother and father, which if they do not so engage or obtain the services of suitable therapeutic intervention, will militate against their parenting a child. I have considered the dicta of Lady Justice Butler Sloss in *Re M* [1999] 2 FLR 553. I consider the period of 3 years is arguably too long and make the order so that no application may be made without leave for a period of 2 years 4 months so any application cannot be made until the 14 September 2012. This I hope will allow a period of calm before anything else happens and the reservation of the case to me ceases after that date."

47. Counsel for F invites our attention to the well known authority *Re P (Section 91(14) Guidelines)(Residence and Religious Heritage)*[1999] 2 FLR 573, and to *A (A Child)* [2009] EWCA Civ 1548 in which Wilson LJ reiterated that a s 91(14) order is generally to be seen as a weapon of last resort in cases of repeated and unreasonable applications.

48. He argues that there is nothing in this case to justify such an order and that the judge failed to give sufficient reasons for making it. He also argues that the fact that F would need leave to apply for a residence order anyway in view of the special guardianship order should have made the judge all the more cautious in making such an order. Furthermore, he submits that the continuing issues over AK's cultural and religious upbringing may give rise to difficulties which would legitimately necessitate further applications to the court.

49. He points out that the judge said in the hearing, during the time when the guardian was giving evidence, that she did not regard the parents as vexatious litigants. From the relevant passage in the transcript, we can see that the judge said that the parents "responded to MGM's application, mother got pregnant and these have been on-going proceedings. They are not vexatious in that sense….". One should note also that immediately before this passage, are set out the guardian's reasons for her support for a s 91(14) order, the guardian explaining that she considered it necessary to protect the placement for AK and to provide a period of stability. She pointed to M's evidence which the guardian considered indicated that M

"did not accept that her wishes were being followed through; she does not accept the time scales and is hopeful to come back to court in three to four months. I cannot see, without treatment and stability, what would have changed. It is about safeguarding AK's welfare over that period of time."

50. As must be clear from my willingness to grant permission to appeal in relation to the s 91(14) order, the judge's decision in this respect seemed to me to require the scrutiny of this court, not least because her reasons were briefly expressed and in the context of Re M rather than the more traditional authority *Re P*.

51. It is worthy of note that *Re M* and *Re P* are both judgments given on 30 April 1999, both by precisely the same Court of Appeal. It would be very surprising therefore if the guidance contained in them was intended to be radically different and I do not think that it is. I do not therefore think that the judge was led astray by her reference to *Re M*.

52. Did the facts justify the order she made? It was not a case of multiple applications by the parents but it was a case of protracted litigation which had been made considerably more troubled by, as the judge put it in paragraph 11 of her judgment, "the way in which M and F have chosen to treat this case and the hearings that have taken place during the course of these proceedings so as to duck and dive and evade responsibility for their actions" and by what the judge found to be their lying and manipulation. The evidence established that they had caused trouble for MGM in her care of AK and they continued to be discontented about aspects of that care, not least in relation to cultural and religious matters. Deciding, just before she turned to the issue of the s 91(14) application, that a special guardianship order was "imperative", the judge commented that this "is borne out by the contact notes and the way in which the parents have chosen to deal with this matter over the last 2 years". No doubt similar thinking influenced her consideration, immediately thereafter, of the s 91(14) issue.

53. The evidence was such that it was difficult for the judge to trust the parents to put AK's interests before their own as would be necessary if there were to be the period of calm which the judge considered to be necessary. A period of calm was an entirely justifiable objective as AK's welfare required that she should be able to settle into her placement with MGM in the context of the special guardianship order and, as the judge said in her conclusion, come to "know that her home is with MGM and [her partner]". This case was not, in my view, a run of the mill case but an unusual one and it was open to the judge to conclude that AK's welfare required the imposition of a s 91(14) order. The period of the restriction was very much a matter for her discretion, knowing the parents as she did, and having formed her own assessment of the prognosis for change in the future.

54. For these reasons, I do not consider that the judge's order under s 91(14) is open to disruption by this court.

55. For all these reasons, I would dismiss the appeal.

Lord Justice Thorpe:

56. I also agree.