

Parental Behaviour, Child Protection and the Removal of Children From Their Families: Evaluating the Threshold for State Intervention in 21st Century Britain¹

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How should the State best protect children from suffering significant harm perpetrated within their own families? Is the State justified in removing babies from their mothers at birth, in accordance with a set of statutory rules? Should the State have this far-reaching power where judges are empowered to remove babies at birth according to statutory criteria which are not fully defined and open to different interpretations? Are such court-ordered removals in the best interests of the welfare of the child? Do they in turn do irreparable harm to the mother? These are deep and searching questions which demand deep and searching investigation, carefully targeted research, and critical and well-informed analysis.

However, this article focuses on just one aspect of this practice, namely the relatively recent spate of cases where the number of such compulsory removals by lower courts appears to have reached a new high which raises questions about their justification and moral acceptability. The case of *Nottingham City Council v LW and others*² is examined as it purports to give judicial guidance on how long a Local Authority is permitted to wait before issuing care proceedings for the removal of a new born baby, where the evidence indicates that the statutory threshold for such removal appears to have been crossed. Having surveyed seminal case-law, suggestions for reform are made as to what can be done to address the manifold problems which beset this area of law and social work practice.

Striking a balance

A crucial difficulty with this area of social work and the law is the perceived need by the State to strike a balance between respecting the rights of parents and protecting children from significant harm. This constant goal has evolved because of the history of the investigation of child abuse in this country. Reported and well-documented cases dating back to the early 1970s have seen an abundance of instances where the State (through their child protection agencies) has repeatedly failed to intervene in time to save a child from serious physical abuse and eventual death, going back to Maria Colwell in 1973, stretching across the decades to Victoria Climbié in 2000 and Baby P (Peter Connelly) in 2009. There have been at least 40 child abuse

Inquiries where the basic facts have been the same –local authorities and other welfare services failing to notice a child showing signs of being physically abused until the child eventually died from that persistent abuse. The solitary high-profile exception was the series of incidents involving alleged sexual abuse of a child in 1986-7 in Cleveland, where it is surmised that between 121 and 165 children were removed from their homes in a council estate, over a period of several months and taken to Middlesbrough General Hospital where their parents were denied access to them until their cases were heard in court.

The Threshold for Intervention

This is contained in s.31(2) of the Children Act 1989, which stipulates that a care or supervision order may be made by a Court if it is satisfied that the child concerned is suffering or is likely to suffer significant harm *and* the harm or likelihood of harm is attributable to the care given to the child not being what is reasonable to expect a parent to give that child or the child is beyond parental control.

The Elements of the Threshold requirements

The two key elements of the threshold requirements are the existence of significant harm (present or future) and, by virtue of s.31(10) of the Children Act 1989, the treatment of a ‘similar child’.³ We shall examine each of these elements in turn.

What is ‘significant harm’?

What does ‘significant harm’ mean in English Child Law in the context of child protection? This is a matter for the interpretation of the Courts since the Children Act 1989 offers no statutory definition of the concept of ‘significant harm’ as such. However, there is a statutory definition of ‘harm’ under the Children Act 1989, which, under s.31(9) thereof, is described as ‘ill-treatment or the impairment of health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another.’

The traditional starting point has been the definition of ‘significant’ by Booth, J, who, citing the Oxford English Dictionary, described it as ‘considerable, noteworthy, important’.⁴ The advice of Hedley, J is also worth noting,

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² [2016] EWHC 11 (Fam).

³ Section 31(10) Children Act 1989 declares: Where the question of whether harm suffered by a child is significant turns on the child’s health or development, his health and development shall be compared with that which could reasonably be expected of a similar child’.

⁴ See Booth, J in *Humberside CC v B* [1994] 1 FLR 297

when he observes that in this context, 'to be significant, the harm must be something unusual; at least something more than commonplace human failure or inadequacy.'⁵ However, he goes on to say that it would be 'unwise to a degree to attempt an all-embracing definition of significant harm' and that the term is 'fact specific' and must retain the breadth of meaning that human fallibility may require of it.⁶

Lord Wilson echoes this view in the Supreme Court case of *Re B* by saying that 'In my view this court should avoid attempting to explain the word 'significant'; it would be a gloss; attention might then turn to the meaning of the gloss and albeit with the best of intentions, the court might find in due course that they had travelled far from the word itself.'⁷

Interpreting 'similar child'

Whilst there is no statutory definition of 'similar child', the Department of Health Guidance to the Children Act 1989, Vol. 1, has suggested that the 'meaning of similar child will require judicial interpretation but may need to take account of environmental, cultural and social characteristics of the child...the standard should only be that which it is reasonable to expect for the particular child rather than the best that could possibly be achieved.'

The two-stage test in Care proceedings

In order for a care (or supervision) order to be made, a Court has to consider the application for a care order in two stages: First, *the threshold stage* where there has to be sufficient reason to suggest that the threshold as stipulated under s.31(2) has been crossed, i.e. that there are sufficient facts to suggest that significant harm has been caused to the child or the circumstances suggest that significant harm will be suffered by the child in the future; or circumstances show the child is beyond parental control.

At the second stage, known as *the welfare stage*, even if the threshold has been crossed, the Court must consider whether it would be in the child's best interests to make an order. If it is not, then no order should be made.

The relevance of Human Rights

Both Art. 8 and Art 6 of the European Convention of Human Rights are relevant to this area of the law in that Article 8 deals with 'interference' with the right to respect for family life and Article 6 deals with the right to a fair trial/hearing. Case-law suggests that a decision about the threshold does not engage Art 8 since a consequence that the threshold is crossed merely opens the gateway to the making of order.⁸ Once the court decides to make statutory

orders, Article 8 is engaged and comes into play. If the parents are not given adequate time to know the nature of the allegations against them and therefore cannot prepare their defence adequately, then Article 6 might be engaged.⁹

Meeting the threshold: Guidelines in *Re B*

In the leading 2013 case of *Re B*¹⁰ the Supreme Court confirmed that a decision as to whether the threshold conditions have been satisfied depends on an evaluation of the facts of the case as found by the judge. It is not an exercise of discretion.

The oft-quoted words of Lady Hale in *Re B*¹¹ cast some light on meeting the threshold:

'I agree entirely that it is the statute and the statute alone that the courts have to apply, and that judicial explanation or expansion is at best an imperfect guide. I agree also that parents, children and families are so infinitely various that that the law must be flexible enough to cater for frailties as yet unimagined even by the most experienced family judge. Nevertheless, where the threshold is in dispute, courts might find it helpful to bear the following in mind:

The court's task is not to improve on nature or even to secure that every child has a happy and fulfilled life, but to be satisfied that the statutory threshold has been crossed.

When deciding whether the threshold is crossed the court should identify, as precisely as possible, the nature of the harm which the child is suffering or is likely to suffer. This is particularly important where the child has not yet suffered any, or any significant harm and where the harm which is feared is the impairment of intellectual, emotional, social or behavioural development.

Significant harm is harm which is "considerable, noteworthy or important". The court should identify why and in what respects the harm is significant. Again, this may be particularly important where the harm in question is the impairment of intellectual, emotional, social or behavioural development which has not yet happened.

The harm has to be attributable to a lack, or likely lack, of reasonable parental care, not simply to the characters and personalities of both the child and her parents. So, once again, the court should identify the respects in which parental care is falling (or likely to fall) short of what it would be reasonable to expect.

Finally, where harm has not yet been suffered,

⁵ See Hedley, J in *Re L (Care: Threshold Criteria)* [2007] 1 FLR 2050 para. 51

⁶ *ibid.*

⁷ See *Re B (A Child)* [2013] UKSC 33 para. 26.

⁸ See *Re B (A Child)* [2013] UKSC at paras. 29, 62, 129 and 186.

⁹ As could be argued in *Re LW* [2016] EWHC 11.

¹⁰ *Re B (A Child)* [2013] UKSC 33.

¹¹ See *Re B*, *ibid* at para 193.

¹² See *Re MA (Care Threshold)* [2009] EWCA 253; [2010] 1 FLR 431.

the court must consider the degree of likelihood that it will be suffered in the future. This will entail considering the degree of likelihood that the parents' future behaviour will amount to a lack of reasonable parental care. It will also entail considering the relationship between the significance of the harm feared and the likelihood that it will occur. Simply to state that there is a "risk" is not enough. The court has to be satisfied, by relevant and sufficient evidence, that the harm is likely: see *in re J* [2013] 2 WLR 649.

Proving Significant Harm: Some problem Cases

In recent case law, while lower courts have been willing to have children taken into care upon proof of sufficient evidence of significant harm having been or about to be committed, the Court of Appeal in *Re MA* has shown a reluctance to make care orders for a child where it has been argued that the possible past abuse of the sibling of the child in question can found the basis of placing that child into care.¹² Similarly, the gist of the Supreme Court's approach in *Re J* is that the threshold criteria can only be established on the basis of facts proved to be true on the balance of probabilities not on the basis of suspicions.¹³

These cases have been criticised by academics, calling the decision of *Re MA*, in particular a 'staggering' decision, in the words of the dissenting judge, Wilson LJ (as he then was).¹⁴

The Impact of high-profile child abuse scandals on social work practice

It would appear that the impact of high-profile child abuse scandals has been a series of child abuse Inquiries, some producing not simply reports, identifying a catalogue of failures by the local authorities and child protection services, but also containing long lists of recommendations¹⁵. Some of these, for example from the Victoria Climbié Report, have actually resulted in new legislation, namely the Children Act 2004, which, *inter alia*, has strengthened the statutory basis on which the various child protection agencies are required to co-operate with each other. In the past few years, the increased frequency of reported cases where local authorities have failed to protect vulnerable children has resulted in a surge of care applications. This could well explain the willingness of the local authorities to apply to place so many babies in care, as a reaction to the many reported cases where such measures

were not taken. It should perhaps be borne in mind that in the Baby P case, legal advice was given that there were insufficient grounds to issue care proceedings which with hindsight has proved to be at best misplaced and at worst, incorrect advice. This could have been as a result of confusion between the grounds for care proceedings and the grounds for interim care orders.¹⁶ However, regardless of the reason for the advice given, both local authorities and the lower courts now seem to be more willing to be more proactive and not run the risk of having failed to act in time to protect the child.

Statistics on Children taken into care at birth: 2008-2014

Family court records were studied by researchers at Lancaster University, Brunel University, London University and the Tavistock and Portman NHS Trust. They found that in 2008, a total of 802 babies were taken into local authority care, rising in 2013 to 2,018 babies at birth or soon afterwards. Between 2007 and 2014, a total of 13,248 babies were removed by Local Authorities. The number of new born babies taken away with the approval of the family courts has soared by 150% in five years, with a third removed from women in their teens. One mother had 16 babies removed from her one after another, and is still of child-bearing age. The number of new born babies taken away by family courts has increased 2.5 times in five years. It has also been reported¹⁷ that only 1 in 10 of those babies was ever returned to its mother.

It has been argued by Broadhurst and Mason that their research indicates that the State reinforces parents' exclusion, where the full range of challenges these parents face is poorly understood. They emphasise that the continued high volume of children entering state care is also taking place in international jurisdictions such as the USA and Australia, and that recent empirical evidence from England suggests that a sizeable proportion of birth parents who appear as respondents in the family court are repeat clients.¹⁸ The impact of such removal in terms of emotional loss and social stigma where it is not a clear-cut case of needing to protect highly vulnerable children is perhaps yet to be fully understood and remains controversial.

Cases on Removal of babies at birth: *Re LW*

In the 2016 case of *Nottingham City Council v LW & Ors*¹⁹ the judge posed the question: how long can a Local Authority wait before issuing care proceedings for

¹³ See *Re J* (2013) UKSC 9.

¹⁴ See eg Hayes, J, Hayes, M & Williams, J 'Shocking abuse followed by a 'staggering' ruling: *Re MA (Care Threshold)*' [2010] Family Law 166.

¹⁵ See *The Victoria Climbié Inquiry. Report of an Inquiry by Lord Laming* (2003) HMSO contained 108 recommendations while the subsequent Report by Lord Laming nearly 6 years later, largely precipitated by the death of Baby P (Peter Connelly), contained 58 recommendations: see *The Protection of Children in England: A Report* (2009).

¹⁶ A suggestion made by Jacqui Gilliat in 'The Interim Removal of Children from their parents Updated: Emergency Protection Orders, Interim Care Orders and the Baby P Effect' (2009) *Family Law Week* at www.familylawweek.co.uk .

¹⁷ See *The Guardian, the Mail* online, 14 December 2015.

¹⁸ See Broadhurst, K and Mason, C 'Birth Parents and the Collateral Consequences of Court-ordered Child Removal: Towards a Comprehensive Framework' (2017) *31 International Journal of Law, Policy and the Family* 41.

¹⁹ [2016] EWHC 11 (Fam).

removing a new born baby?

The case was focused on a baby girl who was the subject of care proceedings issued by Nottingham City Council, which argued that the baby was at risk of suffering significant harm if she remained in the care of either of her parents on her discharge from hospital. This was because there was concern over the parents' reported drug taking and domestic violence in their relationship which consequently posed a threat of harm the child would be at risk of suffering. Children services had been involved with the family for two years and care proceedings had been issued for a half sibling who had subsequently been placed with his grandparents with his mother's consent.

The first hearing of the present case came before Keehan J, when the child was 12 days old, and the learned judge had to determine whether the baby should be removed from her parents and placed in foster care under an Interim Care Order (ICO). The parents contested the application.

Given the allegations against the parents and in view of the removal of the baby's sibling, Keehan J was satisfied that the interim threshold was met.²⁰ He made the Interim Care Order with a plan for removal and directed supervised contact to take place each weekday. He was compelled to take this course in the 'best welfare interests of the baby'. The baby was born on 16 January and the hospital notified the social workers of her birth on 18 January. However, it took the social workers until 21 January to place the necessary papers before the local authority's solicitors for consideration of the issue of care proceedings. It then took a local authority solicitor until 28 January to issue care proceedings and to apply for an 'urgent' interim care order.

These facts led the learned judge to make several comments, highlighting the Local Authority's failings and poor practice, lamenting the fact that 'fundamental and egregious errors' were made in what he considered was 'a run of the mill case', and that such errors were not isolated examples.

The judge in this case was extremely critical of the length of time taken by the local authority to issue proceedings and described these 'egregious errors' in some detail. First, there was the question of the late issue of proceedings. The hospital had notified the social workers of the birth but they then took three days to notify their legal department and it took them another seven days before they issued proceedings. However, it was explained that the reason for the delay was largely due to the local authority awaiting medical information pertaining to allegations that the baby was suffering withdrawal symptoms from methadone taken by the mother during pregnancy and therefore needed monitoring, and that the father had taken a drugs overdose which necessitated him being admitted to hospital. The delay was compounded by

the fact that once the medical report had been provided, it was not picked up by the social worker who was on sick leave but although the report had been sent to the local authority lawyer, it was again not picked up as she was absent from the office.

Second, another criticism levelled by the learned judge was that the local authority did not provide the parent's solicitors with their application and supporting evidence until two and a half hours before the hearing, resulting in the parents having insufficient time to consider their position and prepare their case. Another consequence of the late issue of the application meant that the child's guardian could undertake only 'rudimentary enquiries' having only being appointed shortly before the hearing. Indeed, the parents sought to challenge the case but were hampered in doing so by the late service of evidence.

In the light of these errors, the Court took the unusual step of ordering Nottingham County Council to pay the costs of the publicly funded parties.

Keehan J chose to emphasise the following points:

The period of time for which a hospital is prepared to keep a new born baby may be a material consideration for a local authority in relation to the timing of an Interim Care Order (ICO) application –but one must not place too great a reliance on these indications, particularly as:

a hospital may not detain a baby in hospital against the wishes of parents with Parental Responsibility;

the capability of a maternity unit or hospital to accommodate a new born baby may change within hours;

police protection orders and emergency protection orders are emergency remedies but they do not afford the parents nor the child the same degree of participation, representation and protection as an on-notice ICO application;

the indication of a maternity unit as to date of discharge should not normally set or lead the time for an ICO application.

Where there is a pre-birth plan in place that provides for removal of a new born baby, it is 'essential and best practice'²¹ for the ICO application to be made on the day of the child's birth.

The availability of additional evidence from the maternity unit or elsewhere must not cause delay in the issue of care proceedings –rather the 'provision of additional evidence may be envisaged in the application and/or provided subsequently.'²²

He set out five basic points of good practice:

The birth plan should be rigorously adhered to

²⁰ i.e. that 'At an interim stage, the removal of children from their parents is not to be sanctioned unless the child's safety requires interim protection.' This comes from the Court of Appeal in *Re L-A* [2009] EWCA Civ 822.

²¹ See *Nottingham CC v LW and ors* [2016] EWHC 2011 at para.31.

²² *ibid* at para 32.

by social workers, managers and local authority legal departments; in the actual case, there was a pre-birth plan but ‘this was not worth the paper it was written on’ because it was ‘ignored by everyone connected with the local authority’.²³

A risk assessment of the mother and the father should be commenced immediately upon the social workers being made aware of the mother’s pregnancy, and the assessment completed at least 4 weeks before the mother’s expected date of delivery. The assessment should then be updated to take account of relevant events immediately pre- and post-delivery, which could potentially affect the initial conclusions on risk and care planning for the unborn child;

The assessment should be disclosed forthwith upon initial completion, to the parents and, if instructed, to their solicitors to give them an opportunity, if necessary, to challenge the assessment of risk and the proposed care plan;

The social work team should provide all relevant documentation necessary, for the legal department to issue care proceedings and the application for an interim care order, no less than seven days before the expected date of delivery. The legal department must issue the application on the day of birth and, in any event, no later than 24 hours after birth (or, as the case may be, the date on which the local authority is notified of the birth);

Immediately upon issue, if not before, the local authority’s solicitors should have served the applications and supporting documents on the parents and, if instructed, upon their respective solicitors;

Immediately upon issue, the local authority should seek an initial hearing date, at the best time estimate that can at that time be provided.

Hence, he emphasised that ‘the message must go out loud and clear that, save in the most exceptional and unusual of circumstances, local authorities must make applications for public law proceedings in respect of new born babies timeously and, especially where the circumstances arguably require the removal of the child from its parent(s), within at most five days of the child’s birth²⁴ with failures “to act fairly and/or timeously...condemned in an order for costs”.²⁵

Other historic case law on new born babies taken into care at birth or

²³ *Ibid* at para.10.

²⁴ *Nottingham CC* (above) [2016] EWHC at para. 41.

²⁵ *Ibid* at para. 42.

²⁶ See *Re D (A Minor)* [1987] 1 AER 20 ; 1 FLR 422 (also known as The Berkshire Case).

²⁷ i.e. under the Children and Young Persons Act 1969 (now repealed).

²⁸ See *The Telegraph*, 16 February 2017.

²⁹ See *AZ, BZ, CZ v Kirklees Council* [2017] EWFC 11; [2017]1 WLR 2467 .

soon after

Case law on the *Re LW* scenario can be traced back to at least 1987 and the infamous ‘drug baby’ case of *Re D*²⁶, where a baby whose mother who had been addicted to drugs for ten years and was a registered drug addict gave birth prematurely to a baby boy suffering from convulsions and drug withdrawal symptoms. The baby’s father was also a drug addict. The Local Authority obtained a care order (under pre-Children Act 1989 legislation) to remove the child soon after its birth and the baby was placed in intensive care. After six weeks the child was placed with foster parents by the Local Authority . The Local Authority then applied for a care order under the legislation of the time.²⁷

The parents challenged the care order which was eventually affirmed by the House of Lords. Since this was in the pre-Children Act era, the Law Lords interpreted the legislation of the time (under the Children and Young Persons Act 1969) which required that meaning that the children could be removed if the child’s proper development ‘is being’ avoidably prevented, to refer to as part of a continuum or continuing state of circumstances and therefore the Courts could look at events surrounding the welfare of the child not just in the present but also in the past and in the future. Under the Children Act 1989, of course, the words of s.31 (2) thereof would cover the *Re D* scenario as it is worded widely enough to protect past, present and the likelihood of future harm.

Removal for different reasons: *The Kirklees Case of CZ*

In a totally different scenario, it was reported on 16 February 2017²⁸ that social workers had removed a week-old baby into care because the father had expressed ‘unorthodox’ views about the need to sterilise feeding bottles. A family court judge awarded the couple and their son , who is now 15 months old, a total of £11,250, after ruling that Kirklees Council had breached the couple’s human rights and misled a judge in a bid to remove the child from their care.

The case of *CZ*²⁹ involved a couple in their mid-twenties, who cannot be identified. They both suffer from mild learning difficulties and have received assistance from adult social care workers for about a decade. Mr Justice Cobb said that the couple had *not* been referred to social services ahead of the baby’s birth, in November 2015, despite the fact that the mother suffers from minor mental health problems and the father ‘had displayed aggressive behaviour’. The child (*CZ*) was born by emergency caesarean section and was briefly placed in a Special Care

Unit after his birth because he was losing weight and was slow to feed. According to the hospital's health visitor, the baby's loss of weight was due to the circumstances of his birth and was not the parents' fault. Nevertheless, four days after the child was born, hospital staff called the council to raise concerns about 'the long-term parenting capacity of this mother and father.'

Cobb, J said: 'It was suggested that the mother had no family support, and that the father was expressing unorthodox views about the need for sterilisation of bottles, and was heard praising the benefits of formula milk.' Social workers then sought an emergency hearing to place the child under the care of its paternal grandmother but did not inform the parents that the hearing was taking place, and wrongly told the judge that the couple had been informed. They also 'forgot to notify' CAFCASS. The council removed the baby into care when the child was seven days old.

The learned judge declared: 'The failure of the local authority to notify the Claimants that the hearing was taking place on the afternoon of 13 November was particularly egregious; misleading the district judge no fewer than three times that the parents knew of the hearing aggravates the culpability yet further.'

He continued, 'There is no doubt in my mind, indeed it is admitted, that Kirklees Council breached the human rights of a baby boy and his parents. I am satisfied that the breaches were serious...the separation of a baby from his parents represents a very serious interference with family life.'

He stated that it was 'questionable that there was a proper case for asserting that CZ's immediate safety demanded separation from his parents at all.'³⁰

The family accumulated legal aid bills of nearly £80,000 while Kirklees Council had costs of around £40,000. This was criticised by the learned judge as 'unwarranted expenditure' of the law firms involved in the case. The judge awarded the mother, father and baby £3,750 each but said that as they did not 'conscientiously attempt to settle their claim, they were unlikely to receive those sums because the funds were likely to be recouped by the Legal Aid Agency'.

Comments on the Threshold Criteria

The criticisms of the threshold criteria are well-known, namely, that interpreting s.31(2) of the Children Act 1989 has become legalistic and requires a degree of subjective assessment by the courts; constant interpretation of its component parts is required and the threshold is arguably set too high to protect as many children as possible. It is strongly recommended that the previously detailed Guidance on the threshold criteria from previous versions of this publication be reinstated to a prominent position in

Working Together 2015 rather than in supplementary documents, while the emphasis in *Working Together* 2015 of the concept of 'serious harm'. The debate will no doubt continue on whether the threshold for interim care orders is too high or too low.³¹

Concluding comments

The Nottingham case (*Re LJW*) appears to be a clear-cut scenario for court approval of removal of a new born baby by virtue of its risk of suffering significant harm from its parents. In the light of the facts of the case, the judge's approach in this instance appears to be totally justified. However, the judicial approach to applications for such removal may not be so straightforward in other cases. It is arguable that in the light of cases like *Re MA* and *Re J*, the courts at the highest level appear to be far more cautious about removal of children from their families purely on the basis of a history of sibling removal or if there does not appear to be cogent evidence of past significant harm. Even a real possibility that a parent had harmed another child in the past would not be sufficient to establish the likelihood that the child who was the subject of the present proceedings would necessarily be harmed in the future. Mere suspicion cannot be relied upon to establish the threshold criteria, only proof that the significant harm *had* actually taken place. Nevertheless, the lower courts do not seem to have any qualms about removing babies from their mothers at birth where the evidence looks reasonably convincing at the interim care order stage, as *Re LJW* demonstrates.

We therefore appear to have reached a polarised state in law and social work where, when it comes to the removal of babies at birth, the lower courts seem to be far more willing to do so, sometimes for somewhat dubious reasons, as in *CZ*, whereas in the light of their cautionary approach in relation to applications to place children in care on the basis of possible past abuse of siblings in the same family, the higher appellate courts do not appear to be easily convinced that the threshold has been crossed. The question therefore remains as to whether section 31(2) should be amended to 'lack of reasonable care' or a similar broader standard of care. However, this would immediately open the door to criticisms of further debates over what the new phrase means in any given case. It could be argued that the most concerning aspect of the spate of court ordered removals, child removals at birth is the age of the mothers concerned (predominantly teenagers) and the implication that this has now become a cultural phenomenon rather than a purely episodic occurrence. This does not augur well for any future amendments to the law and perhaps these cases reflect a deeper set of social problems encountered by these young mothers in particular which no amount of legislation can resolve on its own.

³⁰ See *AZ, BZ, CZ* [2017] EWFC 11 (above) at para.41.

³¹ See Howe, D, 'Removal of Children at Interim Hearings: Is the test now set too high?' [2009] Fam Law 321, contrasted with Bainham, A 'Interim Care Orders: Is the Bar set too Low?' [2011] Fam Law 374.