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ZW53/18

IN THE FAMILY COURT SITTING AT WEST LONDON

Before:

HER HONOUR JUDGE CORBETT

Between:

A Local Authority

Applicant

-and-

(1) Mother (“the Mother”)

(2) Father (“the Father”)

(3) T (the child through their Children’s Guardian)

Respondents

**Ms Queen represented and was instructed by the applicant local authority
Mr Jagutpal, instructed by Ms McGinty of Lovell Chohan Solicitors, represented the
1st respondent mother
The 2nd respondent father was unrepresented
Mr Cregan, instructed by Ms Johnson of Duncan Lewis Solicitors, represented the 3rd
respondent child**

Hearing dates: 11, 12, 13, 18 March 2019

HER HONOUR JUDGE CORBETT:

Introduction

1. T is subject to a full care order made by District Judge Nisa in May 2016 at the conclusion of care and placement proceedings. T was aged four years two months at the hearing before me. T has been living with her mother in the same ‘mother and baby’ foster placement since July 2015. T’s father holds parental responsibility, he has no contact with T and he did not attend the previous final hearing. During these proceedings he has not engaged with social worker’s efforts to communicate with him. He attended one hearing in November 2018 when he was encouraged by the Judge, the

social worker and the Guardian to obtain legal representation, and he confirmed that he understood that the possible outcome for T was adoption. There has been no engagement since then. I am satisfied that I should proceed in his absence as it is clear that he is aware of these court proceedings, and aware of the possible permanency options, and aware that he should seek legal advice.

2. The local authority applied to the court in May 2018 for a placement order in respect of T. The local authority seeks for the court to dispense with the parents' consent further to s52(1) (b) Adoption and Children Act 2002. During the course of the hearing the mother issued a part 25 application seeking an independent social work parenting assessment of her partner's mother.
3. This is my judgment at the conclusion of the final hearing which took place from 11-13 March 2019. Following submissions from counsel on 13 March I was in a position on 18 March to indicate that my decision was to make a placement order. I was not able on that day to give a full judgment; all counsel had indicated to me that it would be acceptable to provide my judgment subsequently. I regret that due to a combination of personal and professional demands on my time I have been unable to send my judgment until now. This judgment does not contain a full summary of the evidence which I have read and heard nor of the submissions in their entirety. I have read and reread the bundle of evidence provided to me including a great deal of the foster carer logs. In this judgment I refer to the evidence and submissions which I have found relevant and important. I can assure the parties that I have considered all of the evidence and submissions with care.

4. Parties, representation and positions

The Local Authority represented by counsel Miss Queen, seeks a placement order in respect of T, inviting me to dispense with the consent of the parents on the grounds that T's welfare requires it.

The mother, represented by counsel Mr Jagutpal, opposes the application for a placement order. The mother wishes to care for T with her partner (the father to her unborn baby) and her partner's mother; she wishes to live with her partner and his partner's mother at the partner's

mother's home. The mother acknowledged that she was unable to care for T without support, and that she and her partner are unable to without support. She sought an assessment of her partner's mother by an independent social worker. As a second option the mother would prefer long-term foster care to adoption. She would like the opportunity to meet any prospective adopters and she sought confirmation that the question of direct contact with her would be fully explored with any prospective adopters.

The Father – was not present nor represented.

The Guardian – was represented by counsel Mr Cregan and supported the local authority's application for a placement order. The Guardian invited the local authority to amend its final care plan to reflect a parallel search for long-term foster placement and an adoptive placement after a six-month search for an adoptive placement only. The local authority agreed to amend its plan.

5. The mother

The mother was born in 1997 and has been living in a mother and baby foster placement (with the foster carer) with T since July 2015, almost 4 years ago.

The mother is currently in a relationship with her partner (born in 1997) and is pregnant with his child. The mother's partner lives with his own mother, and T's mother stays there approximately every other weekend. Her plan, were I to make a placement order, was to move out of the foster carer's home straightaway and move in with her partner.

The mother was assessed in the previous proceedings to have a learning disability and a Full Scale IQ of 55. As a result of the Communicourt assessment and report dated 1 March 2019 the parties invited the court to approve a number of recommendations to ensure that the mother received a fair hearing. These recommendations were put into effect at the final hearing.

6. The Law

I have had to take into account a number of legal principles when conducting this hearing and reaching my decision.

A care order has already been made, the court in previous proceedings found that the threshold criteria was met.

I have to ensure that the proceedings before me are fair, pursuant to Article 6 of the European Convention on Human Rights. No one has suggested that this hearing has been other than fair to all parties.

T's welfare throughout her life is my paramount consideration, I have to have regard to section 1(4) of the Adoption and Children Act 2002. I have to put T first not only now but I have to think about her welfare for the whole of her life. The making of a placement order is an interference with T's and her parents' right to family life pursuant to Article 8 of the European Convention on Human Rights. A court is permitted to make a placement order only when it is necessary to do so and when it is proportionate to do so. Is it necessary that I approve the local authority's plan? Is it proportionate that I do so?

The local authority has the burden of proving their case and they have to reach the standard of proof of a balance of probabilities in relation to any disputed matter. A Judge sitting in the position that I am has to weigh up the pros and cons of the options before the court. I am very aware of the Draconian nature of a placement order that permits a local authority to place T for adoption. The case of Re B 2013 UKSC 33 is very clear in relation to the high test that has to be reached before a court can be satisfied that it is necessary and proportionate to make a care order; I must consider how her welfare can be best met is there any other realistic option which will do or will nothing else do?

If I am to make a placement order I have to consider the question of parental consent pursuant to section 52(1)(b) of the Adoption and Children Act 2002; I can only dispense with parental consent if T's welfare throughout her life requires it and requires means 'something of the imperative' ; *Re B-S (Children)* [2013] EWCA Civ 1146.

7. The Judgment of 25 May 2016

The District Judge was satisfied that the threshold was met. A copy of the final threshold document and of the District Judge's judgment are attached and I will not repeat their contents here.

The District Judge sets out the background in short and her conclusions and assessment of the appropriate placement for T as at the time of the judgment on 25 May 2016.

The District Judge noted that the mother's IQ is assessed to be less than 70 [in fact her full-scale IQ was assessed on 9 October 2015 as 55, falling into the category mild learning disability] and that the mother has limitations due to her level of intellect. The independent social worker (ISW) was described by the District Judge as cautious but optimistic in terms of the mother's parenting ability. At this time the mother was doing the majority of the care tasks for T. The allocated Social Worker was of the professional opinion that T should be placed for adoption and that T was at risk of chronic neglect in the mother's care. The District Judge did not criticise the Social Worker's very cautious approach, indeed she commended her. However, the District Judge's conclusion was that the mother should remain caring for T with ongoing support from the Local Authority. It was said by the District Judge that the mother and baby foster placement would be available for the mother for a further 18 months and then it was hoped by the Judge that she could move to supported accommodation. The District Judge assessed that the mother had ability to make changes and her opinion was that this would continue. She rejected the application for a placement order setting out that adoption is the last resort but nothing else will do and stating 'we have not reached that stage yet'. The Guardian (appointed at that time) supported the mother's position. A written agreement then drawn up included that the Local Authority would ensure that an advocate was available for the mother.

8. Summary of the local authority's position at this placement order hearing

Following the conclusion of the previous proceedings in May 2016 the mother remained as the primary carer of T in the foster placement. At the LAC meeting on 5 December 2016 it was noted that there was some slow progress being made. It was agreed that the mother needed to take a lead on typical day-to-day living skills with a view to assessing how she would cope in a more independent living situation. The foster carer was asked to take a step back to allow the mother to take the lead in her parenting role.

Over a year later, the child and family assessment dated 10 January 2018 concluded that despite interventions being in place the mother would not be able to meet T's needs and that a placement order was needed. The hopes expressed at the final hearing in April 2016 that the mother would improve her independent living skills had not come to fruition. At the review on 6 March 2018 it was concluded that the foster carer would take over the lead role in parenting tasks with the mother alongside her. Further that the mother was to have no more unsupervised time with T.

In May 2018 the local authority issued a placement application. During this hearing they agreed to amend the final care plan so that after six months of a search for an adoptive placement only, they would then conduct a parallel search for long-term foster placement and adoptive placement.

They also agreed to amend their plan as to contact so that there would be six contact sessions with the mother as set out in the care plan and then contact every four weeks between the mother and T until matching with a long-term placement, twice a year indirect contact to the mother and once a year to the father.

The local authority final evidence and chronology sets out the from the time of the final hearing in 2016 many issues and concerns remain in respect of the mother's parenting.

The local authority relies on the addendum parenting assessment by the independent social worker and her conclusion that the mother was unable to meet daughter's care needs, and that T would be at risk of emotional harm due to her mother's emotional dysregulation, poor guidance and limited promotion of T's development. Further her professional opinion that when considering the possibility of the mother parenting T with her partner the independent social worker was of the view that any additional parenting work would be outside T's timescales. The local authority considered it noteworthy that the ISW who supported the mother caring for T at the last final hearing, now recommends a care plan of adoption, because any benefits to T of remaining with her mother long term would be outweighed by the risk of harm to T.

The local authority further rely on the voluminous foster carer logs prepared by the foster carer, noting the continued occasions of emotional dysregulation, poor financial management, inconsistent parenting, poor cleanliness, limited independent living skills, poor basic hygiene regarding nappies, wet soiled clothes and sanitary towels.

The mother has engaged in several short-term relationships since living with the foster carer, namely approximately 14 some of whom with males who had criminal histories.

There should be no further assessment of the mother's partner's mother, and there is no gap in the evidence. There has been a viability assessment in July of last year with a negative conclusion; the partner's mother has subsequently not sought to challenge that conclusion nor seek any contact to or information about T.

9. Summary of the mother's position

In her statement filed for this hearing the mother stated that she wants to parent T with her partner with family and professional support. She has been in a relationship with her partner since December 2017 with one short break. The mother seeks to live with her partner and his mother at his mother's home in another borough. His mother did not provide a statement as directed in relation to this, providing a short email only, but she attended the hearing for cross examination.

During the hearing, the mother issued an application for her partner's mother to be assessed as a carer for T. In her oral evidence the mother said that she just 'needed a bit of support in parenting' and she would like that to come from her partner's mother. She acknowledged in her evidence that she was unable to care for T without support but she said that her partner's mother can bring her up to the right standard of care. The mother agreed that she and her partner together would be unable to care for T without support.

10. Guardian's position

The Guardian recommends a placement order, and opposes any adjournment for assessment of the mother's partner's mother. She sought that the care plan be amended as to the timescale for the search as already outlined.

11. Assessments

A 'Pams' parenting assessment dated 25 August 2018 has been carried out by the ISW who carried out the previous assessment. This was to consider the mother either caring alone or jointly with her partner, the conclusion was negative.

The local authority has carried out a viability assessment of the maternal great aunt and uncle which was positive but they withdrew before a full assessment could be carried out.

As said above the local authority carried out a viability assessment of the mother's partner's mother which was negative and to which there was no challenge by her upon receipt in July 2018 or subsequently.

12. Witnesses

Allocated Social Worker

The social worker was allocated as long ago as April 2017. She had an excellent grasp of the issues in this case and was impressive in her fairness. She agreed that it had been an unusual situation for the mother and child to live in foster care for four years. She agreed that it could cause confusion for a child and also agreed that the mother has shown love and affection for her daughter.

She explained very clearly the opportunities given to the mother to enhance her parenting to a good enough standard. She conceded that it was expected that the mother would have an advocate in important meetings, telling the court that the local authority had difficulty in sourcing one, but also saying that the professionals and the foster carer were all mindful of the need to afford additional time to the mother and to provide explanations to her. In particular at the LAC review meeting held in March 2018 she told me that although the mother did not have an independent advocate at that meeting to explain the shift in focus of care, that the

mother had the ongoing dialogue of the foster carer running up to that meeting and meetings with the social worker and so the shift of care decision was not sprung upon her at the meeting. I am entirely satisfied from hearing the evidence of this social worker and indeed of the highly experienced and sensitive foster carer that both of them were very mindful of the need for the mother to have careful explanations given to her and I am satisfied that they put that into effect.

The social worker explained that they asked the foster carer to take a backseat in December 2016 in order for the mother to show whether she could manage without the foster carers ongoing guidance. The social worker explained how she and the foster carer took pains to explain matters to the mother. It was put to her that any inconsistency in the mother's parenting may be linked to the fact that she began counselling in August 2017. The social worker refuted this, expressing clearly that the mother's inconsistency has been from the very beginning of the placement, and not just after her counselling began in August 2017 and indeed it continued after the mother decided not to attend counselling. I can be satisfied that the two are not linked.

The social worker sets out clearly in her statement how the local authority has considered the mother's capacity to parent by taking into account the independent social worker's report and the foster carer logs as well as the allocated social worker's own interaction with the mother. In her statement the social worker sets out that the mother has not been able to demonstrate sufficient changes with regard to her parenting, and that areas of concern remain in relation to money management, hygiene, attuned parenting, lacking sufficient independent living skills and her own emotional deregulation. The social worker sets out in her written evidence that despite the very high level of support and intervention there is limited evidence to show any improvement in the mother's parenting capacity and that the mother would not be able to parent T independently. Further that from the assessment by the independent social worker, her partner is unable to make up the many deficits in the mother's parenting. In her oral evidence the social worker was unshaken in cross examination about these matters. She further emphasised that when the mother is in a relationship with a man she is distracted, and that even in the highly supported foster care situation with the foster carer still the mother has difficulties fulfilling her role as a parent.

The social worker accepted that T has a bond with her mother with whom she has lived since birth and to be placed outside her family would be a great change for her which will have a significant impact on her emotional well-being.

The social worker was cross-examined in respect of the mother's proposal that there be a further assessment of the partner's mother. The allocated social worker highlighted that the concerns for her included that the partner's mother had not sought to challenge the negative viability assessment carried out and provided to her in July of last year. She, the social worker, contacted the partner's mother twice hoping that she would reflect on viability assessment but had no response and she has never asked the local authority whether she could meet T.

When the social worker had discussions with the partner's mother recently she was not overly confident about how even her own son, the mother's partner, would manage with a child and said that she worries about him and how he would cope with a new baby. The partner's mother told the social worker she was not 100% convinced about how the couple were managing as a couple. In discussions with the social worker the partner's mother was more led by discussions about her unborn grandchild than about T.

The social worker said that the dynamic is more complex now than when she carried out the viability assessment because now the partner's mother has another factor to consider which is her unborn grandchild. She said that nothing has happened since the conclusion of the viability assessment which gives the local authority any cause to believe that any assessment of the partner's mother would be other than negative.

It was the evidence of the social worker that it would be unrealistic to suggest that T's needs would be met properly if the mother were to leave the protective foster placement where she has been since July 2015 and move to the partner's mother's home to start cohabiting with her partner and look after T.

The allocated social worker gave her evidence before the oral evidence of the partner's mother.

The social worker agreed that the adoption and permanency team would explore the question of direct contact between the mother and child with the prospective adopters.

When asked about long-term foster care, her evidence was that it did not offer this child the permanency which she needs, stating 'I want to advocate for her to achieve permanency'.

In her assessment dated March 2016 in advance of the earlier final hearing, the independent social worker concluded that with an individually tailored support package and on the basis she remained in the foster placement for 12 to 18 months and provided the mother accessed therapy and consolidated her independent living skills, she could hope to work towards a placement in the community.

The independent social worker carried out a second parenting assessment considering the possibility of T being cared for by her mother as a sole carer or by her mother and new partner together.

In a report dated August 2018 the independent social worker set out her professional opinion. For this addendum assessment the ISW spent a total of 16 hours with the mother and her partner and she met the partner's mother who joined in some discussions on two occasions.

In summary her opinion is as follows:

The mother has been offered a wide range of support options alongside extensive support from the foster carer. T now requires permanency and in my opinion carers who are able to make key decisions in her best interests. The mother has been offered many different resources by the local authority to boost her parenting skills. Unfortunately, the outcome of this assessment is that she has not benefited from those opportunities. It is my view that some of those services have not been delivered to meet her learning needs which has been unhelpful for her. Nevertheless, she has consistently received extensive help and support from the foster carer who has assisted, guided and prompted the mother with the development of parenting skills. It is my view that T cannot wait for her mother or her partner to undertake parenting work or further parenting work and she now needs a permanent placement where she can live for the remainder of her minority years. Within the relationship between T and her mother, T is the more dominant personality. The mother has struggled to put in place guidance and boundaries to T alongside responding to her needs. I do not see that work to improve the relationship between T and the mother is in T's best interests, she needs permanency and placement outside her birth family with carers who can meet her needs.

The ISW's oral evidence at the final hearing before me was of crucial importance. When she carried out her assessment in the 2016 proceedings the mother had an advocate assisting her. The ISW went to considerable lengths to try to achieve an advocate, this time it was not possible. She said that the main reason she decided to carry on without an advocate was that she had worked with this foster carer previously describing her as 'a very skilled carer with a very nice straightforward way of explaining what needs to happen, and who is very good at prompting a nice natural way. The fact that there was no advocate has no impact on the difference in how the mother scored in the parenting tests'. She did note that she had never had a situation where there has been such a reduction in a parent's assessed scores (in an addendum report) other than this case.

The ISW told the court: the fact that the mother's living skills have not moved forward is equally a worry to the concerns about her parenting tasks. For example, generally a parent wants to play with her child but when I observed her in 2018 on two occasions the mother just sat back. Even in 2016 the mother at times was trying but this time there seem to be no reciprocal attention from her to T.

The mother made it clear to me that she wanted to care for her daughter.

The mother's partner struggled to understand the local authority's worries, I could not get a clear picture from him as to what the local authority were concerned about he simply could not really tell me. I would have expected the mother's partner to have had some understanding of the concerns given that the mother is living with a foster carer and has been for some years, with two sets of care proceedings but the mother's partner was unable to draw the inference from that. I asked him several times what the local authority's worries were, his mother was present too, and he really could not tell me. An account given by him was that the foster carer was not helping the mother enough and there are 'little things that the mother needs help with'. I do not think that he can care for T with her needs and her history. His focus was on the birth of his own baby in fact. He wants to help the mother with T.

The mother's partner and his mother are well-meaning but the partner's mother has her own health difficulties and when I was there she struggled to get around the house, whether that amounted for the mess in the house it was difficult to tell. In discussions with the partner's mother they centred around T being with the mother in the partner's mother's home or not

being there at all, there was no other suggestion made. When I saw the partner's mother she was giving the impression of offering some help to the mother and providing her with a home, she did not say that she wants to be a carer for T and I note the viability assessment was not positive, perhaps she believes that with a bit of help the mother could reach the level of adequate care. That is not the case.

I had a discussion with the mother and her partner about it not being a good time to have a baby, her pregnancy was not known then. In order to support a parent her partner needs to understand the difficulties the parent has. Both the partner and his mother were unable to picture the problems that the mother has.

In my judgment the independent social worker provides a particularly impressive tranche of independent expert evidence for the court. It is of particular importance to the court that in 2016 her recommendation was that there should be a further opportunity to see whether T could remain with her mother. Her written and oral evidence was overwhelmingly fair and balanced, indeed it was not suggested to the independent social worker that she had been other than fair and comprehensive.

14. Foster carer

The foster carer has kept voluminous daily logs, which were provided to me, many of which I have read including the selection of logs which it was agreed between counsel were of particular importance. The foster carer accepted that in May 2016 she did say that the mother was then making progress which was correct at the time, she stood by the accuracy of her foster carer logs and during cross examination in particular a number of matters were highlighted. The foster carer agreed that the summary at page C5 was accurate namely that the mother has continued to struggle with management of hygiene and cleanliness by regularly allowing a build up of rubbish including used nappies and dirty bedding in her room. They also evidence numerous short-lived relationships some of which have involved reports of threatening and abusive behaviour from the mother's partners. Examples of the support offered by the foster carer include regular reminders to clean her room and bedding, reminders to bathe herself and clean T's teeth, prompts to pay attention to T and not be distracted by her phone or

relationships, guidance on potty training, modelling of positive praise to T, prompts to check the temperature of T's food when failure to do so could have resulted in T being scalded by hot food.

The foster carer told the court: the mother has had several relationships this is the 15th during the time that she has lived with me. When she is in a relationship the mother is often distracted by it which has an impact on T for example T might run up to her and her mother would ignore her and/or brush her away if she is distracted by her relationship. She is so often on her telephone and I frequently ask her to come off the phone and pay attention to T, I used to speak to her about this daily and at times there be an improvement but then it lapsed she says I will not do it again but she does it again repeatedly. She frequently argues in front of T, I advise her not to. She listens but not does not act on it. She does not recognise her daughter's emotional cues, there is a constant struggle about boundaries. I have explained but the mother just does not understand the local authority's concerns.

The mother often chooses to spend time with her partner rather than with T for example not going to see Father Christmas even though a ticket was bought for her.

The court notes that the snapshot of the catalogue of concerns held by the foster carer set out at C78 of the social worker's statement are in fact mostly when the mother was playing a supportive rather than primary role, yet still the multiplicity of concerns remained for the foster carer. The foster carer said in evidence that T would scream so loudly when her mother was undertaking basic tasks that her neighbours would comment. The foster said that the time before March 2018 was an emotionally abusive time for T. She was very clear that the mother's difficulties in sustaining and retaining information and her emotional dysregulation were long standing.

The foster carer gave detailed evidence in her logs and in oral evidence about the mother's parenting and independent living skills. T has been fortunate to have had the dedicated care and oversight by this experienced foster carer. The mother has been fortunate to have the opportunity of living with this foster carer for almost 4 years with her daughter. I have no hesitation in accepting the accuracy of the matters set out in the foster carer logs nor in the foster carers evidence, indeed there was very little factual challenge to the contents of those logs.

15. Family finding Social worker

This witness was confident that a 3 to 6 months search for an adoptive placement would give a fair idea about whether it is possible to get an adoptive placement. She had no objections to the care plan being amended as proposed by the Guardian so that after a six month search the adoptive search could be extended to a parallel search for long-term foster care.

Despite the fact that there are some difficult features, for example T has lived with her mother to date and is now over four years old, the family finding social worker said there were a number of strengths as well for example the consistency of the foster placement throughout her life and the oversight of the foster carer throughout her life, all of which she had taken into account.

16. The mother's partner

The mother's partner gave his evidence in a quite flat and passive manner. I note that his own mother describes him as quiet; when asked why T did not live alone with her mother he told me this was because the local authority believes that she cannot live up to expectations towards T and that that she cannot live up to T's emotional needs.

He said 'I believe she is a perfect parent'; he was very unclear as to whether he thought she needed any help. Later he said that he told his mother that they required her help with their unborn child and also with T. He said that he had a discussion with his mother about this for the first time last Tuesday or Wednesday. He said 'my mum will be the best main person to look after T'.

The mother's partner gave me the impression of a man unable or unwilling to ask himself why his partner, the mother of his unborn child, has had long involvement with the local authority, unable or unwilling to draw any conclusions from the fact that T lives with her mother in a foster care home. He appeared remarkably unquestioning about this. It appeared to me that any discussions with his own mother were recent and brief.

17. The partner's mother

The mother's partner's mother cooperated with a screening in and screening and viability assessment dated 2 July 2018. At that date and indeed subsequently the partner's mother had no relationship with T having never met her, nor sought to meet her. When she put herself forward she had very little information about why T was being cared for in a mother and baby foster placement. At that point the mother and her partner had only been in a relationship for a few months. The recommendation was negative. The partner's mother did not seek to challenge it.

As part of her own enquiries the Guardian spoke with the partner's mother on 27 February 2019 to discuss her son's suggestion in his statement that his mother was in agreement for T and the mother to live with them and the new baby when born. The partner's mother told the Guardian that she was not aware her son had suggested this in a statement and told the Guardian that she wanted to support the mother and her own son but there was 'only so much she could do'.

Despite my direction that a statement be filed by her, the partner's mother did not provide a statement, but sent an email on the day before the hearing, Sunday, saying that the mother could reside in her home with T and that she 'was willing to provide support and help with any area that may have issues [sic]'.

In her oral evidence the partner's mother accepted that she had received the viability assessment negative report, was aware that she could contact the local authority in order to challenge it but did not, she accepted that she had not asked to see the mother's daughter and that her son and the mother had not suggested it to her.

The partner's mother has health issues which mean she is fully dependent on crutches for mobility. She has had no involvement with social services in the upbringing of her own children. She is in receipt of disability living allowance at a higher rate for mobility and the middle rate for care. The mother's partner receives a carer's allowance from the state as his mother's registered carer. When asked about this the partner's mother said that she did not need him so much anymore. She has a degree and had planned to go back to university in January of this year, in the future she would like to apply to the probation service.

She said that last summer she had a fractured wrist and her health was then not the greatest as she was having trouble with her hands. Her hand recovery is very very slow moving, 'there is an operation next week to release two fingers and then my hand will be hundred percent'.

She had not asked the mother about why she was living with the foster carer stating that it was not her place to ask the mother what was going on as she did not want to poke her nose in. The partner's mother agreed that the Guardian was correct in her report that on 27 February she told the Guardian that she was surprised that her son had said in a statement filed with the court that she would be willing to take the mother and T into their home. Further, the partner's mother said that her son had led her to believe that they would be going to a mother and baby unit with a new baby. 'I assumed T would not go and that she would go into care'.

'I have now had discussions with my son about two or three weeks ago and they can be part of my home; we will prepare the house, T can have a room upstairs...I now understand that the mother has had daily help in the foster placement for years'.

When she was asked what would happen if her son and the mother split up, the partner's mother said T would go up for adoption and then on another occasion in her evidence said T would go into care.

The partner's mother attended a meeting with the local authority in January of this year regarding her unborn grandchild. She said in evidence that she now wants to offer my help and support to the mother, but further that if she could only have one child her unborn grandchild would come first.

18. Mother

T's mother gave her evidence with the assistance of Communicourt and in the corner of the court on a seat, curled up into a ball. Her counsel said that she was very very anxious. Her anxiety was plain to see. She gave limited evidence, the essence of which was that she has not had the chance to show that she can look after her daughter and just needs a bit of support.

She said 'I am able to care for the baby and my daughter and can have both with support from my partner's mother I have asked for her help'.

She said 'I have not talked to my partner's mother about living with her with T. I did not want to put pressure on her'.

The Guardian had discussed with the mother when she met with her in June 2018 the impact that any unplanned pregnancy may have on the mother's ability to care for T and that having two children would make things much more difficult. In her later enquiries just before the final hearing the Guardian was told by the mother that she remembered some of that discussion but accepted that she had not sought to prevent her pregnancy. She and her partner acknowledged to the Guardian that other family members including her partner's mother had discouraged them from having a baby at this time given the current circumstances with T and their relationship being very much in its early stages. Neither the mother nor her partner could give the Guardian any real rationale as to why they had not taken this advice on board.

The mother told the Guardian that she stopped attending therapeutic sessions because she no longer felt it was necessary. In her discussions with the Guardian she could not suggest any other significant support that she would need if living with her partner's mother and T as well as a new baby.

The mother did not seek to challenge these observations by the Guardian in oral evidence.

The mother wants to be a parent for T, but she gave me no impression of understanding why the professionals have been so worried about T's welfare. She was very passive in her evidence and although I am aware of her low IQ, I was still struck by the lack of real enthusiasm about her daughter.

19. Children's Guardian

In her final analysis dated 27 February 2019 the Guardian concluded that adoption was the only plan that met T's care needs throughout her minority. In the Guardian's opinion T appears to have developed healthy relationships thus far which is positive and transferable to new carers.

The Guardian was satisfied that T would remain in her current foster placement and not be moved to an interim bridging placement prior to any move to prospective adopters and also recommended an amendment to the care plan which was accepted by the local authority namely that after a six-month search for an adoptive placement, that the search be widened to a parallel search for long-term foster care and adoption.

The Guardian recommended indirect contact between T and her parents once placed for adoption, she also recommended an amendment to the care plan so that direct contact would take place every four weeks between T and her mother prior to an adoptive placement being identified, again this was accepted.

The Guardian maintained in oral evidence her strong recommendation for a placement order.

Due to the very late oral evidence from the partner's mother, the Guardian gave detailed oral evidence about the part 25 application. She said that she opposed an assessment of the partner's mother as it was not necessary to do any further assessment of that situation, it is not a realistic option for T. The Guardian went on: I do not believe that the mother feels she needs someone else to be the primary care of T, but in any event if she was being assessed as a supportive carer I do not recommend it.

The partner's mother has no pre-existing relationship with T, she has not sought to meet her or have any relationship with her. Information has been provided on an agreed basis to her. There is no pre-existing relationship between T and the partner's mother other than the partner's mother is the grandmother of T's half sibling, this is a tenuous connection.

She was viability assessed by the local authority and did not seek to challenge it. In the viability assessment she was clear that she did not want to pursue contact with T because she was not sure whether her son's relationship with T's mother would run out of steam.

In fact, now the situation is a lot more complicated because her unborn grandchild is on the way. It is natural for her to focus on the baby. She was very honest in her evidence that the grandchild would come first; if I felt the mother's partner's mother was a realistic possibility I would consider it, but the delay in T's placement at this stage would have serious implications for her permanency plan, as she is on the periphery age-wise for a successful adoption.

Yesterday in her oral evidence the partner's mother said that if her son and the mother split up T would go into care, that concerns me as it is a reflection of the overall situation and questions her commitment at this late stage. People show a commitment to a child they know or if they are related to a child - neither applies here and further she made no enquiries about T.

In a highly supported foster care environment this child needed someone to take over her primary care due to the mother's quality of care, and this was very upsetting for the mother to accept, in fact this mother does not want anyone else to be T's primary carer.

It is not a realistic possibility that the partner's mother will have a positive assessment, the delay there would be if the final hearing was adjourned for an assessment is only purposeful if it is a realistic possibility. In my opinion it is not a realistic possibility.

20. Psychologist

This psychologist was not required for cross examination, I have read her report at J35. The mother's full-scale IQ is 55 and the psychologist concluded in October 2015 that the mother would require a significant level of support provided on a daily basis, and that given the mother's clear emotional and learning needs was that a long-term programme of teaching an intensive parenting support and therapeutic commitment would be needed which would not be achievable within T's timescales.

21. Children's centre practitioner

The children's centre practitioner provided a report dated 5 July 2018 which contained a summary of the intensive support provided to the mother over the previous 2 ½ years. She did not give oral evidence. Her report set out that the mother has made little progress and her opinion that any future support offered would not be beneficial in enhancing the mother's parenting capacity regardless of how long it was offered. Her conclusion was that without the support of a live in foster carer T's needs would not be adequately met. The children's centre practitioner was prepared to offer 1-1 work but the mother was not proactive in seeking this.

22. Discussion

These proceedings have been prolonged. That must have been very frustrating for the mother. When the matter was before the court on 28 November the first available hearing before a Judge was mid-March, due to the volume of cases at this court. On behalf of the court I deeply regret that delay.

23.

- a. I accept the Guardian's assessment of T as a socially confident engaging and curious four-year-old who has a close relationship with the foster carer and also with her mother, but the primary attachment being with the foster carer.
- b. T is meeting all her developmental milestones and is likely to be excelling in some areas from the observations of the Guardian. The delay in reaching a permanent decision is likely to have impacted on her already, for example she has continued in her preschool provision for another year when most of her peer group would have moved up to a nursery setting. This is due to the uncertainty regarding her permanent placement.
- c. T has had good care from the foster carer and developed healthy positive and transferable relationships. T needs a permanent placement as soon as possible; whatever decision the court makes, she will not be remaining with the foster carer.
- d. There are 3 realistic options for the court.
- e. Option 1: To remain in the care of her mother, living with the mother's partner and his mother. The mother does not submit that this is an immediate option but seeks an adjournment of the final hearing for an assessment of her partner's mother.
- f. That would have the advantage of T being brought up within her birth family. If that were the case she would not have to manage any identity and emotional issues that might arise from being adopted and she would be able to gain

information about her background from her birth family at least from her birth mother since there is no contact from the father.

- g. The disadvantages to this proposal include the likely emotional harm and neglect to T if the mother was her primary carer, or a joint/shared carer with her partner. Given that the mother does not want anyone else to be the primary carer of T, she is likely to struggle with anyone else being the primary carer which is likely to result in further emotional harm to T. Further if the final hearing was adjourned in order to assess the mother's partner further (which the Guardian regards as unlikely to produce a positive outcome) there is the likelihood of further emotional harm to T by the delay in these proceedings, and possibly the loss of adoption as a realistic option for her.

- h. Option 2: To be made subject of a placement order and placed for adoption

- i. The advantages of an adoptive placement include that T would be placed with adoptive carers who had been assessed as adopters and matched as the right people to look after T, the right people to provide T with a forever family. T would benefit from the love, care and stability that that placement could provide, she would have adoptive parents who are committed to her and could support her development, help her reach her potential and assist her with any identity issues which may arise through life story work. If T were adopted T would have a sense of belonging to that adoptive family.

- j. There are negatives in relation to adoption, T would not grow up in her birth family, she may experience emotional issues from being an adopted child. It is not unknown for an adoptive placement to break down and that would be very difficult for any child. T might feel different from her peers if she were adopted. There would be the loss of the face to face relationship which she has with her mother if she were placed for adoption.

- k. Option 3: I have considered the option of T being placed under a care order with long-term foster carers, which would enable her to continue direct contact with

her mother. A further advantage is that she would retain a legal relationship with her family of origin which may be beneficial to her identity needs as she grows up. The disadvantage of a long-term foster placement for this child aged four years old, is that she would not have the permanence and sense of belonging which she would receive from an adoptive placement and which she deserves.

24. I have had the benefit of professional assessment, including independent professional assessment, to assist me in making important decisions about T's welfare. The quality of the evidence in particular from the independent social worker, allocated social worker and foster carer has been high. The mother has had the benefit of excellent legal representation throughout this final hearing. Nothing more could have been said on her behalf by Mr Jagutpal. I am very conscious that by making a placement order T will lose the opportunity to be looked after during her minority and beyond by her mother but the professional evidence (which I accept) is unanimous and quite clear that T's welfare requires that she is placed away from her mother. I do not depart from the unanimous expert opinion of the independent social worker and allocated social worker and Guardian about the risk that the mother poses to T, and the deficits in her parenting. The allocated social worker and foster carer were caring and careful about the mother's understanding and I can be satisfied that they made great efforts to ensure that the mother understood what was expected of her, even when an advocate was not available.

25. At the time that the care order was made in May 2016 the court envisaged that with support the mother would be in a position to move from the mother and baby foster placement into supported accommodation after 18 months. Living with a foster carer for so long is a highly unusual situation for a parent and child, but it has given an excellent opportunity to the mother to try to develop her parenting and independent living skills, which she has not been able to do. Despite being in a mother and baby foster placement since August 2015, it is very clear from the professional assessments that there are significant safeguarding concerns for T in her mother's care and despite the assistance of the highly experienced foster carer the mother has been unable to develop the skills required to care for T. The mother has been given more time to develop her skills than the District Judge envisaged. There were 22 months of foster carer logs from May 2016 to March 2018.

26. Since 6 March 2018 the foster carer has been the primary care of T, since that time when the mother has had less responsibility for T, she has still not been able to manage important aspects of T's care. These include basic hygiene and finances. During the time that the mother has lived with the foster carer since August 2015 she has had a relationship with at least 14 men, albeit that since December 2017 she has been in a relationship it seems only with her partner. The foster carer was very clear about the negative effect this has on the mother's ability to look after T. I also accept that the mother is not capable of independent living let alone looking after a child.
27. The independent social worker when giving evidence before the District Judge, supported a plan for the mother to continue to look after T. It is in my judgment noteworthy that that same assessor now recommends a care plan of adoption, her professional opinion is that any benefits to T of remaining living with her birth mother long-term would be outweighed by the risk of harm to T.
28. The mother struggles still to understand why there are criticism and worries about her parenting; in her own statement she says that she can meet T's needs. She has had intensive help from an experienced foster carer for 4 years yet still cannot provide good enough parenting.
29. I have to conclude that the mother is not able to provide T with consistent good enough parenting despite a high level of input and support received by her. She had a valuable opportunity but has regressed. The mother accepts that she cannot either alone or with her partner provide care with support. The ISW assessed that in fact the mother's areas of weakness increased when assessed with her partner as a joint carer. The mother's partner and his own mother say that he would need help caring for T.
30. I have given careful thought to the application for assessment of the partner's mother. The onus is on the mother to persuade the court that an assessment is necessary. It is positive that the partner's mother looked after her own 2 children with her own mother's help, and has had no dealing with social services before. The viability assessment of her was negative and she did not seek to challenge it either then nor in oral evidence did she seek to challenge its conclusions. She agreed that she did not respond to the calls made to her by the social worker following receipt of the assessment. The partner's

mother appeared to me to be very unsure as to why she had come to court. There is no written evidence from her just an email on the day before the hearing saying she would provide support. She told both the ISW and in her email that she offered support to the mother, she gave no impression of being an alternative to the mother.

31. The partner said that he raised with his mother the question of T living at their home for the first time the previous week (probably 5 March). There is no well thought out proposal from the mother as to what role the partner's mother might play with T. The partner's mother and the mother agreed that they had not had any active discussion about what they proposed. There has been little sharing of information by the mother's partner and the mother with the partner's mother. The Local Authority provided some background for her. There is no indication that the partner's mother's partner and/or daughter wish to assist with T at all.
32. Since the negative viability assessment in July 2018 (which I find was detailed, careful and unchallenged) life has become more complicated for the partner's mother, she has had what she said was an 'unbelievably slow recovery' to her wrist injury with an operation next week, her partner moved into her home and she has a grandchild on the way in relation to whom there is a pre-birth child protection conference. She told the court that the baby is her priority. That is not surprising.
33. The partner's mother probably means well in seeking to assist the mother but I agree with the Guardian that the partner's mother has not shown any curiosity about T, did not contact the Local Authority to put herself forward to assist her son and the mother, she made contact with the local authority but only in relation to her own unborn grandchild, at that child case conference when there was reference to T, still the partner's mother did not enquire with the social worker about T. The partner's mother has no connection biologically or emotionally with T and has shown no real interest in T's welfare over the past 8 months since she was negatively assessed.
34. This mother has been unable to improve her parenting and independent living skills over 4 years of living with a professional foster carer. The partner's mother told the ISW that she could offer 'support' to the mother, a word she used in her recent email

to the court. If the mother was unable to improve her skills with the professional foster carer, I cannot see how she would be able to do so with the partner's mother.

35. There has not been any positive change in circumstances since the viability assessment, only negative ones including the forthcoming child's birth, a child to whom the partner's mother accepts she has a priority. When asked what would happen to T if the relationship between her mother and her son did not survive, the partner's mother told the court that she supposed T would go into care.
36. I agree with the assessment of the local authority and Guardian that in these circumstances it is very difficult to imagine anything other than a negative assessment of the partner's mother and this could result in several months of delay before the case could be heard again. There is real detriment to T if I adjourn part heard at this stage.
37. Long-term foster care would provide a safe placement and retain a level of direct contact with her birth family which would reinforce her sense of identity, but given her age and need for a permanent placement, I accept the professional recommendation that the only option that would adequately safeguard T and promote her well-being throughout her life is an adoptive placement allowing T to grow up in a family with whom she will have been carefully matched and within which she will be a full legal member.
38. The local authority accepted the Guardian's recommendation that the care plan should be amended to provide for a search for six months for adoption only and thereafter a parallel search for long-term foster care and adoption this appears to be entirely appropriate, given her age and need for permanency.
39. T's welfare is my paramount consideration. I have had full regard to the s1(4) welfare checklist throughout consideration of this case. T's welfare clearly requires that I dispense with the consent of both of the parents.
40. I approve the plan for indirect contact with the mother twice a year and to father once a year.

41. I hope that the prospective adopters once identified and matched will consider meeting with the mother if she wishes to do so. I also am satisfied that the adoption and permanency team will discuss the question of direct contact for T with her mother with them.

End