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**Case No: SQ17C00285**

**IN THE FAMILY COURT  
SITTING AT STOKE-ON-TRENT**

**IN THE MATTER OF THE CHILDREN ACT 1989  
AND IN THE MATTER OF THE ADOPTION AND CHILDREN ACT 2002**

**AND IN THE MATTER OF THE O CHILDREN**

**B E T W E E N:**

**S COUNCIL**

**Applicant**

**- and -**

**Parents of children**

**- And -**

**Ann, Mary and Penny**

**And**

**(Minors, by their Children’s Guardian)**

**Respondents**

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**JUDGMENT**

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**Her Honour Judge Williscroft**

1. In the course of this week I’ve heard and read evidence concerning applications for

the above three children. I do so in circumstances in which the Court of Appeal in September of 2018 determined Recorder Clarke's reasoning for refusing to make placement orders in respect of the girls was insufficient. He had in the summer of 2018 determined applications brought before the court by S Council in respect of five children. The mother has six children but her oldest is now independent. The next two children in age Tom and Susan are subject to care orders which were made last year.

2. The local authority was represented by Christopher Adams, the Mother by Claire Dillon, Father by Michael Jones and the children by Nina Bache. I am grateful to them all for their assistance.

3. **The history**

4. The Parents who I will refer to as the Mother and Father are the parents of the Mother's three youngest children, they met in 2011 and began to live together in 2012. Before the birth of the three youngest children the oldest three had been designated as children in need by the local authority from 2012 and a public outline process began in 2013 following the children being placed on the child protection register under the category of neglect.

5. The parents had an assessment of their psychological functioning in 2013, further assessment and support was provided to them and in 2013 a community-based PAM's assessment of their parenting was conducted.

6. Primary school in 2015 reported to social services that parents did not appear to have a loving attachment with the youngest children. There were concerns about home life and supervision which included an alleged assault by the oldest female child upon Tom. She left home in 2016 as a result. Further parenting assessments followed in 2016 when concerns were raised about bruising seen on Tom, who has a range of serious difficulties in understanding, behaviour and functioning. His sister Mary also

in care also has some learning difficulties.

7. **The legal process.**

8. The process in regard to the court application ending in the determinations that took place in the summer of 2018 began when parents were told proceedings were to be issued in August 2017. Parents agreed to Tom being accommodated by the local authority at that time. In September of that year the local authority applied for care orders for five children and since October of 2017 they have all been in foster care save for Tom who remains in a residential establishment. His younger sister Mary lives separately. The children have continued to see each other and their parents since that time, although contact for parents was restricted by me to monthly for the younger children in October of last year.
9. In proceedings a further assessment was then carried out, the children were seen by a paediatrician, and parents by a psychologist called Dr Burchess . This resulted in care plans in which social services sought court approval for the older two children being cared for outside the family in foster care and for adoption for the three youngest children.
10. In April 2018 a formal application for placement orders was made
11. In July Recorder Clark handed down a very lengthy written judgement. He also responded to requests for clarification He determined that the children must remain in long-term foster care, finding that the children had been significantly emotionally harmed by the parenting they had received from their carers and also that there was no prospect within the timescales of the children of the parents being able to address the deficits in parenting he had found. He refused the applications for placement orders.
12. The Court of Appeal determined there should be a rehearing of the placement applications and also the court should have assistance from a psychological report

about these three children which in particular should address issues of their attachment to each other and to their parents and which placement would best suit their welfare needs throughout their lives.

13. The Recorder had determined placing children for adoption would be “harmful” to them. He concluded in his judgement at page A77 in the bundle I have read that he considered parents could meet the children’s basic physical and educational needs but had not and were not likely to be able in the foreseeable future to meet the children’s emotional needs. They should he said continue to benefit from the love and emotional support which they receive from direct contact with their extended family (including the parents and siblings).

14. He did not accept the children could be returned to the care of the Mother and the Father. He was plainly well aware of the principles of the Children Act emphasising the desirability of children being brought up as part of their birth family if that is consistent with their welfare and safety. He noted the clear love shown to the children by their parents and their ability to provide physical and educational care in the past. He considered the care the Children were receiving from their foster carers, who have remained available throughout, was remedying the situation and described the children as thriving.

15. It was his conclusion that an important part of the children's recovery was for other constants in their lives to remain in place. That included contact with their parents, siblings and T and G, relatives who they knew well.

**16. The local authority’s current plans.**

17. At the time of the last hearing the local authority’s plans been that they would look for an adoptive home for all three of the girls together but if that was not possible they might be separated. Since that time the plans have altered informed by the

psychological report that Dr Rodwell provided for the court earlier this year.

18. She is absolutely clear the children must stay together and the local authority are now committed to that. Their current plans are that the children should be subject to a search for an adoptive family for a period of six months. This would only be extended a short time to perhaps nine months if there were already indicators of the family who are interested in them at 5 to 6-month stage. They have also confirmed to the court and the parents that if the children were to be subject to placement order and an adoptive family could not be found they will come back to the court promptly to revoke the placement orders.

**19. The applications before the court.**

20. I am therefore today reconsidering afresh the application for placement orders based on slightly altered plans.

21. In addition later in this court process the local authority had sought to reduce contact in an application under s34(4) of the Children Act. This came before me at the same time as I was to make directions about the rehearing of the placement applications in early October of 2018. I did after considering the evidence reduce contact to once a month. That application was to be finally determined today. Since October contact has been once a month for 90 minutes. Parents told me that if the children were to remain in foster care they would like contact preferably once a week. Social services following the receipt of Dr Rodwell's report and its clear advice that face-to-face contact the children was directly harmful sought permission to end direct contact altogether.

22. In early December the Father applied to discharge the care orders. In fact a final determination has been made in relation to Tom and Mary and as there was not an appeal of the determination about that I agreed to deal with it as an application to

discharge the care orders for the three younger children who I will call Annie Mary and Penny and I consolidated the application with the placement applications. I note in that application he sought the return of the children to parents care by Christmas. As it is fully supported by his partner the Mother I have treated it today as if it was made by them both.

23. He has been a little criticised for this by social services who have in response sought an order under s91(14) of the Children Act to prevent further applications without permission for a period. It seems to me that it must have been impossible for the parents to contemplate the court was looking only at issues of adoption or fostering without considering their deep wish for their children to be returned home. I am not critical of this and would have refused to make an order preventing further applications since I am not persuaded the legal grounds are made out if I were not to grant the placement applications.

24. I will however, despite a permanent move to Derby, reserve any further applications in relation to this family to myself as it seems to me judicial continuity is imperative and also that parents have heard clear evidence from the psychologist in court about the poor impact reminders about the possibility of a return could have upon their children at this time.

**25. The position of the parties**

26. Parents invite the court to discharge the care orders in reality today. While the lawyers told the court parents in fact seek further assessment their oral evidence to me was they felt perfectly able to care for the children right now.

27. Parents strongly opposed the application for placement orders and also oppose the end of direct contact to them. They did not want the court to make any orders to prevent them having access to the courts.

28. The children's Guardian supports the applications made by the local authority

**29. Should I discharge the care orders?**

30. I have to consider this first since if I granted this application, or I considered I need further evidence to consider its merits, the applications for placement orders cannot proceed today.

31. In order to consider the merits of this I revisited the judgement of Recorder Clarke and the considerable evidence in the bundle he had considered when making his decision.

32. I imagine that the parents found his judgement rather hard to follow since the majority of it is examining case law by the higher courts looking at how the courts should approach their task. It is only some way in he begins examining the evidence before the court. I hope that this judgment can be a record for these children in later life, and for parents and carers to understand why the court has made the decisions it has in a single document.

33. He looked at wide-ranging set of facts, called the threshold criteria, which the local authority said they could prove to show the children had suffered or were at risk of suffering significant harm at the time the proceedings began as a result of the parenting they had received. These facts being proved is the gateway to the court having any jurisdiction over the welfare of children in applications made by social services. This list of facts looked at concerns about the Father's behaviour to the children, parents inability to take on advice, negative comments to one of the older girls from the Father, the difficulty of the Mother in engaging the children, difficulty for both in meeting the children's needs consistently, poor supervision as Tom had been seen with a number of bruises which were unexplained, failure to thrive for the three youngest children and the Father's unwillingness to provide footage of Tom at night on request of medical access professionals to assist in their examination of him.

It also set out concerns that he had added an extra stairgate to prevent Tom coming downstairs and continued its use despite clear advice. It asserted that developmental delay and difficulties seen in Annie and Mary were as a result of parenting. Minor matters such as access to toys and reluctance to sort out rehousing were asserted. Lastly they allege that the Mother had failed to protect the children from the harm they alleged have been caused by the Father's behaviour to them.

34. Mr Jones representing Father then and now had rightly said that if an individual fact was proved then the threshold was crossed.

35. It was the Recorder's conclusion that the Mother was not dominated by the father but in a respectful relationship with him. He concluded they operated as a partnership

36. As far as the Father was concerned he noted his presentation. He noted that the father held to his beliefs regarding the appropriateness of his behaviour and accepted that he had not meant to appear disrespectful to the Mother. He had accepted to the judge that while his emotional empathy towards the children might be lacking and his parenting style might be authoritarian the fact that he didn't show love did not mean he didn't feel it. He told the Recorder that he would strive to do things differently if the children returned to the family and accepted to the court "at this point that part of the reason we are here is because my failings as a parent".

37. The Recorder concluded that the father's remarks were not intended to diminish the Mother and noted steps he had taken to take on responsibility for both mother and her three older children when he began a relationship with her which included through private law proceedings obtaining parental responsibility.

38. In these proceedings both parents had the opportunity to meet a psychologist again. In his evidence Father described this to me as having received a "character assassination". He did not understand I think that the purpose of the psychological

assessment was to see if there was any obvious reason why the parents had not been able to sustain the interactions that social services felt was so necessary for the children over such a long period of time. It was plainly intended to be helpful to them.

39. In relation to the assessment of the Mother this report determined that she was someone with limited intellectual abilities but also that she was depressed. This is important since the current social worker Miss D identifies that the parents' mood has an impact on their interactions with their children. Mother has since approached a wellbeing service but told them that she is not depressed apart from the stress of these proceedings. I know Miss D's evidence, which I accept, was that she said something very different to her and is therefore I conclude likely still depressed but choosing not to get the help Dr Burchess felt would be of benefit to her and to her parenting.

40. In relation to the father Dr Burchess considered that the father's rigid thinking and behaviour might well be connected to autism. He recommended an assessment of this I am confident because he wanted to give him the best help to address some of the concerns that social services had. To my mind it does not matter what label Mr Burchess thought might be appropriate to the Father, what matters is how he behaves and if he is prepared to accept that some of that might not be helpful.

41. Dr Burchess concluded that the Mother's difficulties might cause her to provide inconsistent and ineffective parenting. The combination of her depression and learning disability would hamper her acquiring new skills he considered. He noted that the Father had had a number of difficulties throughout his life in developing and maintaining peer relationships and the direct and blunt way he often spoke would suggest he had difficulties in understanding other people's thoughts and feelings. His interests could become easily all consuming. His thinking was concrete. That meant he tended to think of things as being black or white. He had difficulty in considering

multiple perspectives. In conversation he turned the conversation back onto himself or his own topic of interest and did not pick up social cues. He pointed out that the symptoms were linked to a possible diagnosis. But in essence what he was saying was that people with rigid thinking of this kind have difficulties in parenting which can be minor or substantial. Parents need to be able to move their attention frequently. They need to be able to acknowledge and understand what other people are thinking or knowing. He described people with such difficulties having a difficulty in acknowledging the wishes or intentions of their children.

42. He concluded that both parents had significant problems impacting on their parenting. The range in age and needs of those children added to the difficulties.

43. He considered that the Mother would benefit from assistance to deal with her depression and the Father would get assistance if he had a formal diagnosis which would lead him to understand some of the difficulties in communication and understanding he faced. In his opinion the Father's rigidity, focus on detail rather than the bigger picture and difficulties in considering and reflecting on other perspectives was he felt a major contributory factor to their inability to understand and accept professional's concerns. Both of them had not accepted any harmful behaviour to the children and considered they had been unjustly accused.

44. Recorder Clarke explained that the PAMs parenting assessment had set out a number of difficulties observed in parenting skills. The Father had been stern and while aware of the correct method to address the children could not manage to implement this consistently. He had been observed acting inappropriately. He was seen overreacting and an incident with an older girl is mentioned. He accepted his actions have been "over the top". This included that he had threatened to cut her bag up, when she was distressed and tearful he did not comfort her but told to go and sit

on the naughty step until she stopped crying. Mother had not intervened. When the oldest girl had refused to take a coat to school and thrown it on the stairs as she left the house he had thrown the coat on the wheelie bin in her view. The Father accepted over a long period of time using smacking.

45. In 2016 in December which I remind myself is over two years ago social workers carrying out a further parenting assessment noted the parents lacking an appropriate attachment response to their children, often preoccupied, observing little interaction with the children. Concerns about the long-term effects of neglectful parenting were explained. Father would tell the children to do as he told them. He struggled to understand their behaviour and responses.

46. Observations in this assessment of Mary were very worrying. She had been seen in 2016 in a withdrawn state, often seated on the floor with a distinct lack of eye contact and facial expression. To get attention she was crying very loudly and rocking and banging her head. The father did not appear to even acknowledge her or engage in any way.

47. He had been resistant to making any changes in his parenting at all. The Mother was noted to have been unresponsive to the children's request for her attention would stay still in a seat and only voice an opinion when prompted. She was observed to be heavily reliant upon her partner for instruction and rather childlike. Lack of emotional warmth affection and love shown towards the children was observed. She too was very defensive when the observations were discussed with her in an attempt to help both parents manage things differently.

48. Despite an enormous amount of support and encouragement throughout the years concerns remained the same. The lack of responsiveness to the children's needs, Mother sitting on her own while Father directs the home and highly controlling

oppositional behaviour from the Father all continued to worry social services. Baby Penny was often seen lying on her back in a travel cot without any stimulus or adult interaction.

49. The workers continued to be concerned about the impact upon the older girl of the Father's behaviour to her. He had taken an important parental role with her but continued to speak to her in a negative way.

50. The conclusions were that this parenting was causing insecure relationships between children and parents.

51. In the course of these court proceedings parents were given a further opportunity of assessment by a social Worker and the conclusion of Ms B was clear. She noted the displays of affection were not consistent and the children's request for affection or attention often ignored. Interaction with baby Penny was limited to a few minutes at a time and superficial. As Recorder Clarke pointed out this was an opportunity to demonstrate they could make and sustain changes. They were not able to do so. The assessor was clear that while parents were able to verbalise what the children needed and might be able to do this for a limited time they were not able to do it on each and every occasion or well enough over time. The stubbornness of the father who would not be told "what to do" was troubling.

52. Parents then and now were of the view that social services were planning to remove the children from them some years ago. This was not the conclusion of the Recorder or of myself. They complained as now that they have never been given the sort of help they wanted but as far as I am able to see the kind of help they have received has been extensive, well-resourced and prolonged.

53. As a result it's unsurprising that the Recorder found the children were suffering significant emotional harm and determined other complaints would not be

dealt with in detail. For a range of them he declined to do so considering it might be harsh to make adverse findings against parents regarding other matters. He did not accept Fathers behaviour about the stairgate was in appropriate.

54. His key conclusion was that no improvement in the parenting offered by the parents was achievable within the children's timescales.

55. The children I am concerned with have been cared for since removal from their parents by foster parents Mr and Mrs P . They have been clear that they are prepared to offer them a long-term foster home which appears to be practical. They have not been willing to commit to a permanent solution such a special guardianship or adoption, though have indicated that they may consider this a later stage. The reports of their care are very positive. They have been resourceful and child focussed in attempting to meet the children's needs. They have offered them devoted care and it is plain that have been significant improvements in the children's well-being since they moved into their home.

56. Annie is almost 5 years old. She was described in July 2016 by a social worker as being isolated, not communicating and with little eye contact. Advice from professionals such as the health visitor and speech and language were engaged to help her. She began to cry to get attention and behave in a difficult to manage way including biting her siblings. She was highly anxious and grinding her teeth. It was a social workers assessment that she was very anxious and under stimulated and the paediatrician considered her behaviour was likely related to parenting style and neglect.

57. Dr Rodwell provided written and oral evidence about Annie who she met with early this year. She was needing a lot of attention to stay focused on work at school, moving and fidgeting. She was struggling with social interactions. She was observed

to be pleased to see her sister Mary who goes to the same school. In a range of testing to understand her needs and abilities she showed some weakness in verbal comprehension processing speed and acquiring vocabulary. It was shown she has difficulties with communication and self-direction skills. She can play with her foster carers but struggles to share and play reciprocally with her siblings. At school the experience is similar. She can recognise and name her feelings. She relaxes when she sees and hugs the carers.

58. The testing and observations showed that she developed a disorganised pattern of attachment. She did not know a strategy for getting her needs met. Frequently she would freeze. She would sit very still and look confused. The responses were typical of the child with attachment trauma Dr Rodwell explained. She would not talk about why she did not live with her birth parents or talk at all about them whenever this skilled expert attempted to gently explore her view of them. She demonstrated she is heavily invested in her relationship with her siblings Mary and Penny. She was unwilling to talk about the three older children. Plainly she had developed a positive relationship and emotional investment with her current carers.

59. School gave a very concerning picture of Annie. She had not shown eye contact when she started, used to eat from bins and drink from the water tray and had no social interaction skills at all. Concentration and speech was delayed. She was clinging and would self soothe on occasion. She had on occasion said she didn't want to see her parents on contact days and later shown distress. The foster carers too described Annie looking very pale when she arrived screaming a lot, speaking very few words, taking her clothes off when she's at the home and various other behaviours of concern.

60. They reported that the Father had given them a great many rules about what

they were and were not allowed to do with the children. One was that he had said that schoolwork should not be done at home.

61. She has a form of stuttering now which is more pronounced at contact sessions with both parents. She continues to eat slowly. She is very scared of the dark and loud noises and is fearful if she is ever on her own. She often acts like a much younger child. She wants to be in control and have her own way and competes for attention with her sisters. Testing showed that she is in a clinically significant range for anxiety attention deficit hyperactivity and oppositional defiant problems.

62. The foster carers spoke about Annie refusing to attend contact on occasion and screaming and being harder to settle following contact. The competition with her sisters and need for adult attention is much more intense after contact visits. Annie is reported to have told her carers that she doesn't want to live with her parents and she wants to stay with them. They had been told to let the children know they were staying with them forever after the hearing last July and they did so.

63. Dr Rodwell's assessment was that Annie showed uneven cognitive development. She noticed stammering was more pronounced when contact with both parents took place and that speech difficulties can be triggered by feelings of unsafety and trauma. She diagnosed a child who had experienced attachment trauma and an emotionally neglectful early history, saying about her that she does not yet have a mental picture that carers are safe and reliable. She is emotionally insecure and holds a negative view of herself. She has not yet learned how to regulate her feelings. She recommended attachment focused intervention using a model such as theraplay and dyadic developmental psychotherapy. She made recommendations for school about how they dealt with her which I was pleased to hear social workers have already shared with school. She also recommended that carers are given more teaching and

strategies that will help Annie. She recommended a paediatric occupational therapist to undertake sensory integration assessment which I'm told is now been arranged. I should comment this is a very sad and troubling picture which I accept is accurate of this little girl and it shows us in real terms what the impact of the neglectful parenting she has received is.

64. Mary is four years old. She has cognitive abilities in the low average to average range. Dr Rodwell noted Mary and Annie were pleased to see each other and would run and hug each other. She was also pleased to see Penny. She's developed a close relationship with her carers. School reported that she is been more unsettled and zoned out on mornings following contact with both parents. She has previously shown some strange behaviour after contact including standing in the classroom and urinating. She's never spoken about parents at the nursery though she talks of home life with her carers. Foster parents reported she too had been pale when she arrived speaking few words and tapping an arm when she needed something. She would tip her meals out onto the floor and eat them there. They reported and the psychologist or observed that she repeated phrases repetitively, runs around the house, screams then quickly stops and makes clicking noises with her tongue. After contact they had observed her screaming at bedtime and sleeping in a very unsettled manner overnight, she can hit her foster mother, become argumentative and is more argumentative at her sister. She has been at times reluctant to attend contact. She continues to show dysregulated behaviour and has attention difficulties. Dr Rodwell considered she has an attachment style which is a mix of secure and avoidant strategies. This is developing and likely to continue to become more secure if she receives good and attuned parenting. She needs attachment focused parenting strategies and is vulnerable to future difficulties because of her difficult early start in life. Again, this is a sad and

concerning picture.

65. Penny is now two years old. The majority of her life of course spent in foster care now. She was described by Dr Rodwell as cognitively able with no significant developmental delay. Carers described her when she arrived. She had been underweight, not shown any eye contact at all, made no vocal noises and had not cried. She was not able to lift head or sit independently and didn't use her hands. They intensively worked to give her a lot of attention and said within a couple of weeks she'd begun to progress.

66. The foster carers had sought out help from a physiotherapist and she started to make steps to walk at the age of 19 months. When first placed she didn't use her eyes at all or track people nearby as babies normally do. Gradually she began to respond. Some months later she would cry if the foster mother left the room. When she came back into the room she would move towards her to want to be picked up.

67. While Penny has slight weaknesses with expressive language she's made appropriate developmental progress while in foster care. She has formed secure attachment to her carers now but needs carers who are able to provide ordinary everyday parenting while mindful of her early experience of attachment and separation. The psychologist said that she was vulnerable to future developmental behavioural and emotional difficulties due to a difficult early start in life.

68. The psychologist observed a number of contacts. She was able to see the girls on family visits and with their parents. As a result of observations there were in fact more contacts over the period of assessment than otherwise.

69. She had conducted interviews with all of the important people for the children including the parents as well as a range of psychological testing in order to advise the court about what was best for the children the future. She had not been instructed to

assess the parents.

70. It was her conclusion that there was more evidence for adoption being the best option for the children over fostering and also that their direct contact with parents should end now. She told the court she was absolutely clear from a psychological point of view adoption was the best option if the right adopters can be found and she agreed the local authority current plans for a six-month search should begin and if at five months there was some kind of hope this might be extended to 6 months. The search being extended for over nine months would be too long she said.

71. She was clear that children should be honestly told what it is that is happening now and that a search to have the right parents would take place. She considered that if they had a sense of adults looking at both options it would be manageable. Explaining this is a bread-and-butter social work job she said and while it might be tempting not to say anything it would be wrong.

72. She was clear that children had all suffered attachment trauma and she was very clear the contract was distressing and disturbing the children. Her observations are set out in detail in her report. This is obviously not a good foundation for rehabilitation she said. While Annie has particular needs for re parenting all three children need that too she advised. Delay would be poor for the children. They need to know whether they can invest in the current carers or not.

73. She was satisfied with social services plans to provide support for carers which they currently will independently commission or for adoptive parents would be provided through the adoption support budget. She accepted that those plans were reasonable.

74. For these three girls and the two older siblings in care she considered that two times a year contact with them if it could be supported by adoptive parents would

meet their needs. If they would stay at their long-term foster home she would want this about four times a year. Contact in adoption is different she advised, the issue would be the capacity of the adopters. Issues like distance of where homes were of their ability to sustain this relationship were important.

75. She felt the local authority needed to put in support to help the adopters understand the work needed and whether they can facilitate face-to-face contact in the future.

76. As to the ending of contact her reasoning for this was that her observations and assessment is that the children do not feel emotionally safe when they're in the presence of parents. Evidence of foster parents and school show the children become dysregulated in those settings afterwards. They continue to make progress but then she describes it is "like a jolt when they don't feel safe again" and repairing needs to be done. There is also an impact from this because children might learn not to trust the current carers. They might think "why you dropping me into a situation where I don't feel safe again". She recommended it should end as soon as possible. If it was stopped now it would give an opportunity to develop emotional well-being and attachment before the children potentially move onto an adoptive home.

77. She acknowledged that even though it's not safe the children would experience grief from the loss of parents who they love and that there will need to be some recovery work for the children before they move on to form new relationships. This would need to be at the children's pace

78. She was referred to more recent contact recordings. She accepted that if you look at them it can look like the children are pleased and there is nice interaction. However she had professional experience at "looking below the surface". Doing so she was clear the children are demonstrating later that they're not able to manage

which she considered a clear pointer to the lack of safety.

79. She had observed different play by the children in the foster home with parents. Within the foster home the play was more varied and age-appropriate and she explained the differences; when under stress a child is not able to access the more creative parts of their brain.

80. The impact of future applications and indeed looked after children reviews might have an impact on the children if they found out but she pointed out also potential impact on carers. She had found this can make carers really stressed and undermine their ability to be regulated and present which with children with attachment difficulties is important. The children would think “my life can be undermined in a heartbeat”. These children all need stable relationships with adults who will last the test of time and stick with them.

81. She considered Annie freezing as she described it when she tried to talk to about her parents notable. She considered this was a “no go” topic. This is significant she felt. It’s a topic that is scary. Until the children are a hundred percent safe the reason for that fear cannot be addressed.

82. In her discussion with parents she had detected no responsibility from them for the difficulties that the children had experienced or any need to change. Then as in court the father’s dialogue was about the impact of Tom’s needs on the family and their perceived lack of support. The father described to her feeling persecuted by the local authority.

83. She had not been asked to assess the parents but was speaking to them in order to assess their understanding and needs of the children. She advised the children need high quality of care now from parents who could quickly learn about attachment. This is on top of providing good stability and routines. Parents needs to be able to

manage the emotional impact on them the child with attention attachment difficulties. The child can overwhelm carers with their feelings and carers will need support and emotional robustness and resilience. This is absolutely key she said. If children were returned the behaviours would certainly get worse and the extremes would be seen.

84. She returned to Penny. She described the significance of her presentation when she first came into foster care is very very unusual and really worrying. It's a description of an infant that has been shut down and hasn't had experience of good face-to-face communication with a carer she said. Babies will normally seek out eyes and spaces and respond.

85. She pointed out that the children wouldn't make it easy for the parents even if they could now change their style. They would respond by avoiding them.

86. Her observations of contact confirmed her anxiety about what was happening. Annie was needing to control the situation. Penny wandered from toy to toy and didn't seek interaction with parents at all. She observed father making a real attempt to interact with the children that she felt the children didn't know how to respond to and there were lots of "near misses". It didn't ever become anything is deeper or more connected.

87. She told the court about her clinical experience when she works regularly with children have been fostered or adopted. Her experience is that children describe an adoption order as an important part of their security. They feel parents have "chosen them", they are "there for keeps". Parent will "stick with them" and they "belong" there. They had described that they could fully invest in this now once the adoption order was made. From her point of view she considered this to tip the balance between a home which is providing well for the children but is a foster home and a supported adoptive placement.

88. Cross-examined by father's representative she was not prepared to accept that the trauma the children have experienced is as a result of separation from their parents. She did accept all children would normally say they would return to live with their parents if they could unless they were really frightened.

89. Her observations about contact with both parents were trying their best. "I'm sure they knew this is an important assessment for them". She understood this was different from previous contact visits and that is certainly the evidence from the contact notes. She noted the positives in contact notes which I have seen for December January and February. She continued to see signs the children felt unsafe. "That is about knowing what you are looking at and looking at what happens afterwards". She was aware there would be an element of trauma and upset if contact is stopped. She felt this needs to be weighed in the balance. The fact that children run to their parents does not mean they feel safe.

90. When questioned about the balance between fostering and adoption she was clear that after a move the children will show some difficult behaviour and adopters will need to be ready and prepared for it all. Placement would need to be properly supported. The risk was about preparation and support. She accepted a breakdown would be catastrophic for these children.

91. When asked about their sense of belonging with the current foster carers she stated that as children get older they have a different sense of what permanence of belonging means. She would hope the foster parents will continue to stay in contact with them if they move to an adoptive home as that is now good practice. She was not prepared to say the decision to adoption was finely balanced. Ultimately if the right match is found it would not be.

92. She pointed out that on occasion she's experienced social care managers who

said that out of area foster homes or agency foster homes will not be used any more by our authority and if so there is a risk to placement in foster care could be seriously disrupted and of course foster carers could retire .

93. Asked how long contact should be prevented on the basis of children staying in foster care she thought they needed to be a minimum period. If reviews are very regular children would not feel had control their lives. She felt years would be required to prevent this kind of thing and was thinking about the children being about 10 before transition to secondary school. At that point they will be thinking again about who they are and their background

94. Dr Rodwell was approved as an expert to advise the court. I considered her evidence fair and thorough. I accept it and it provides obvious pointers to the decisions that are best for the children. I then heard from adoption social worker Ms S, the current social worker Ms D , both parents and the children's Guardian who independently represents the interests of the children. I found Ms D to be generally a fair and thoughtful witness and noted her acceptance properly that her description of more recent contacts had omitted the positive observations which she accepted was wrong. It was also not correct to say parents didn't usually bring food – she said she meant to say without prompting. It is very important to be clear and accurate and to be balanced as she is well aware parents already feel social services have made unfair decisions about them. Her observations I note and accept were that contact was very much affected by parents' mood. Her observations were that more effort was made in recent contacts but it was still not positive.

95. She considered Father was dominant and controlling and her observations confirmed this. She was aware of the Recorder's conclusions about him and could not accept them. I understand this since it is difficult to me to balance the many

observations in the papers with this. While Mother is able to be assertive on her own in the witness box and supports the Father, in other conversations he talks about her and treats her as a child who he is responsible for and talks over her, answering for her. She will not tell social workers what she thinks without checking this with him. His presentation is often hostile and difficult. I note also the observations of his behaviour with the older girl and that Mother did not stand up for her daughter then. The social worker described Father being oppositional and hostile, referring to making complaints and putting the phone down on her.

96. Ms D felt nothing had changed and the risks remained exactly the same as existed last year. She explained she had tried to help improve contact but this had no real affect. She accepted Dr Rodwells evidence and confirmed her own analysis of the benefits of adoption over foster care, and was clear resources would be available to support the children whichever option the court supported. On a recent visit home parents had been hoping the older girl could return now and Tom later. She said he was still blamed for all the difficulties.

97. I heard from the Mother first. She said she would agree to the older girl remaining in care for now but hoped all her children would be home eventually. She described difficulties in contact were due to social workers interfering, too much pressure and “we couldn’t do right from wrong”. She believed the children’s behaviour was worse after contact since it had been reduced and demonstrated them missing their parents. She felt they were not happy in their foster homes and that explained distress exhibited. She felt her older daughter could come home now and for all the children there would be only a few weeks of difficulty settling back in. She did not agree with the Records conclusion she said but then said we failed because of the demands from Tom, “we tried our best” a statement I am sure is correct. She

described the changes she said had been made – the home was better though I understand the actual garden remains unusable. She is suffering from sciatica which she said explained why she was often sedentary. She accepted Dr Rodwells report she said but then said Annie's upset was as a result of foster care not her previous care at home which is Dr Rodwell's conclusion. She described her as a very different child at her reception in to care to the description foster carers give which I consider to be more likely to be accurate. It was obvious she is devoted to her children and loves them very much. She moved on to say they had been persecuted by social services, "in a way we are being blackmailed" she said which I found hard to follow. She ended by saying she considered Dr Rodwells report was wrong. Unfortunately, I consider she has no real understanding of the reason why social services have been worried for so long and no capacity to change the parenting she has provided to date

98. The Father also gave evidence. He felt social workers had not given constructive advice and been interfering. He considered the significant impact of parenting Tom was the reason for any struggles they had. While he said they had failed the children it was hard to understand why he said that since the tenor of his evidence was that social services had failed them as parents by not providing the support they needed. He accused social services of prejudice bias and being unfair and said he was confrontational justly, "I am not an everyday person who bows down to their whims". He considered the observations of Dr Rodwell was the impact of removal and while he said he had to accept her report since she was an expert also felt that contact being reduced had impacted on her assessment. He was clear they had not sought to intentionally destabilise the children through applying to discharge the care orders and I accept that is true. He continued to be upset about the local authorities decisions early on in proceedings to require the parents to telephone to confirm

attendance, describing this as putting them under duress. I could not see a good reason for this decision since they attended each and every week and it is unfortunate I consider this added to difficulties.

99. The Father plainly didn't accept Recorder Clarke's conclusions but accepts he had the right to make them. He considered the children were content now but not happy saying of them, "They are as much a victim of this process as we are." Overall "nothing needs to change" but he suggested parents too could have help with any attachment difficulties in the same way as foster parents or adoptive parents would. If the children were to be returned that would be true.

100. **My conclusions**

101. It is plain both parents love for their children is genuine and heartfelt. It is also obvious that they do not really appreciate the concerns of professionals and their failure to understand and accept them and the difficulties Dr Burchess identified means they are not able to change their parenting to meet their children's needs. Overall their circumstances I find had not changed in any real way since the decisions of the court last summer. The father has had it determined that he is not autistic. The Mother has said to a wellbeing professional she is not depressed. By the time of the last hearing their home was already in a better state. I note there are observations of contact on recent occasions which show the father making significantly more effort but these are very recent and of limited overall evidential value given I must accept Dr Rodwells opinion about this.

102. I must on such an application re visit if separation of children from parents is necessary and look at the welfare checklist with the children's welfare as my paramount consideration.

103. What hasn't changed is the children's needs for stable care which are as

pressing as they have ever been. The parents' relationship with social workers is not one of mutual support or learning. The father feels they are hostile and both feel they have been persecuted. What has not changed is that parents deny they have harmed their children in reality despite Father saying in evidence that he accepted they had caused emotional harm, something which the Recorder found as I do was not intentional. He told me he accepted findings "were by omission" and that "we have failed our children" but then that they and all the children had been harmed by the fact of removal itself, and the children's behaviour was "very much a consequence of the unquantifiable emotional harm of forced removal" For both parents I conclude from the while of their evidence they did not in fact think they had caused the emotional harm by their parenting and do not accept that the results of their own care are that their children are very vulnerable and needy.

104. Luckily the children remained in the same home and been able to continue with relationships that are important to them. The Court of Appeal's decision that psychological assessment of the children should assist the court to make the best decisions for them enabled to court have clear expert evidence about the children's needs. This is supported by the Children's Guardian who confirmed in oral evidence she felt there were no gaps and had found Dr Rodwells professional advice and evidence compelling and clearly supportive of adoption and an end to direct contact.

105. I too found Dr Rodwell's written and oral evidence compelling. She had thought through all of the options carefully and has given the local authority advice that they are already beginning to follow to promote the children's well-being.

106. Her evidence was that return would be harmful. I consider even if parents were somehow able to parent in a different way the children have learnt over a long time what to expect and the difficulties are not now capable of remedy.

107. I particularly concentrate on the children's individual needs and parenting that they will need. I cannot accept that either parent has capacity to provide basic emotional parenting let alone the kind of parenting they need now or in future. I conclude because of the conclusions of Recorder Clarke and my own that the children will be exposed to future significant harm if they were returned to the care of their parents. In reality they have already benefited from separation from their parents. It is notable I think that the two oldest of these three are so resistant to any discussion of family life at all. I must therefore dismiss the application made. I understand this will be painful for the parents to hear and acknowledge their love for their children. I also accept the advice of Dr Rodwell.

108. I move on to the **application for placement order**. The local authority seek permission to place the children with an adoptive family. The evidence about the availability of adoptive families was provided by statements and oral evidence from Ms S. She was clear that at the present moment they have no family available locally or nationally who are looking for a sibling group of three girls. At times there have been over the course of the last year. She explained the steps to be taken to give publicity about their availability as a sibling group, including to attend events in which prospective carers might meet the girls and want to form a future relationship with them. Both she and the social worker were clear that funds would be available either in foster care or through the adoption support fund to enable therapy to be put in place these children and support for the carers. They agreed this could be reflected in the order I made.

109. The law is very clear that adoption is not just a welfare "option". It is an order the court can only consider there are no other welfare alternatives that will meet the children's needs throughout their lives, or justified by overriding requirements

pertaining to the child's best interests a strict test, for good reason. The state interfering in private family life must be proportionate and justified. The Adoption and Children Act sets out a clear checklist related to the children checklist but adding considering the impact on the children of losing important relationships with parents and other family members. That includes in this case the possibility at least of losing relationships with the siblings they currently see.

110. Parents will know that I've been referred to a great deal of case law in court about this issue and they might have read a good deal of it in the Recorder's judgment. Such cases all reiterate making such a draconian order, ending the parents legal relationship with their own children is the most serious order any family court can take. I am obliged to look at a welfare analysis of the realistic options for the children, individually balancing the benefits and detriments in relation to each option to then evaluate which option will safeguard the child's welfare throughout their lives. I have already concluded that care with parents is not a realistic welfare option.

111. In foster care or by the effect of being placed for adoption the local authority asked the court to end direct contact the parents and instead have some indirect communications between parents and children and children and parents. They do so for the welfare reasons that Dr Rodwell has set out in which I accept. This is a very unusual order for the court to be asked to make and indeed to approve. There is however clear evidential welfare basis in the evidence of Dr Rodwell which I accept for the court to make such serious orders. The orders will promote the well-being of the children and their stability. It would end their repeated reminders of how unsafe they feel when they meet their parents. It reflects their welfare needs and were I not going to approve a plan for adoption I would have made such an order. It is one Dr Rodwell thought if in a foster home would be required probably until the children

were approaching the end of primary school when they are considering their own identity more. They will continue hopefully to have an ongoing relationship with two of their older siblings.

112. I am therefore comparing two forms of care for the children with very different effects but without at this stage direct contact with their parents. I bear in mind however that should the children stay in foster care then in future years it is possible that they may be able to restore some kind of relationship between parents and all their siblings that would meet the needs of the children. That possibility would not be available in adoption unless the adoptive parents were open to that possibility which I have to say I consider unlikely in the circumstances. That is a potential disadvantage of adoption.

113. The option of fostering is one in which the children are already living in a settled home with foster parents who are giving them lovely care. The children are showing the benefits of this and are relying on the foster carers who they currently understand will be looking after them for the rest of their lives. The fact that they are able to rely on the foster carers and formed a bond with them is a very important factor in weighing these two options in the balance. They are already going to have to cope with distress due to no longer seeing their parents, however difficult the effects of that is. The move to live with proposed adoptive parents would inevitably cause trauma and stress Dr Rodwell accepted. Continued involvement of the foster carers in the lives would ameliorate that to a small degree I consider and it is now good practice I am told for some ongoing relationship. However change, from where they physically live and are used to being, where their schools and nurseries are, all their day-to-day lived experience will be difficult for these children who are seeking stability so much.

114. I also have to consider whether the adoption plans of the local authority

supported by the Guardian and Dr Rodwell are realistic. It seems to me if I considered it was simply fanciful that an adoptive home could be found it would be unfair to even suggest this to the children. While it is more hopeful than assured I consider there is at least a prospect of adoption within the months ahead.

115. It is clearly evidenced that there are risks in adoptive placements which are more pronounced the older children are. It would be foolish to ignore that risk or Dr Rodwell's evidence that should it happen it would be devastating for the children. The risks are to my mind significantly ameliorated by the fact that prospective adoptive parents will have important information about the children they care for – including my judgment and Dr Rodwells report plus the support before and during placement for both themselves and the children. Adoptive parents go through a rigorous assessment process which clarifies their understanding of trauma and willingness to work with professionals which is proved as part of the assessment process. These aspects give me significantly more confidence that a carefully planned placement has good prospects of success.

116. In foster care children are subject to looked after children reviews which, however carefully planned, carry a risk of disruption for these children since they must inevitably be involved when they are older. Their parents too said they intended to fight for the children and seek their return. I have not prevented them doing so since I was not persuaded this was a definitely realistic threat but such applications are possible and could cause the upset Dr Rodwell identified. Children have to be seen regularly when they are in foster care. Just to spend a night at a friend is meant to have approval. Many young people report feeling being “in care” can have a stigmatising effect especially if they are seen at school.

117. To my mind the most significant differences are the ones Dr Rodwell

identified – a home “forever” in adoption , the impact she described on young people who could invest in a permanent home and the growing impact on understanding belonging as children grow. In foster care there is less certainty that when there is a crisis as an adult you will be rescued I feel; examples being relationships breaking down and being homeless or running out of money. There is a clearer understanding that your legal parent would help out then. This is important in the consideration of welfare that is lifelong.

118. The impact of losing relationships with your parents and other relatives is plainly significant. They will be people who look and probably sound like you, have memories of your early days no one else can share, and life story information while helpful is not an equal substitute for this. This is a huge loss.

119. Adoption is not a panacea as Dr Rodwell rightly points out. These young people needing significant help already will find a big change hard and likely pose some challenges to their new carers.

120. However the risk that the foster carers might have other responsibilities, choose to retire or funding for their placement is altered is also real.

121. I consider balancing both alternatives the opportunity of a permanent home with lifelong relationships is one I should authorise. I consider it is likely overall if a home is found to provide a better chance to give these children the security they need to make the best of their lives with devoted support.

122. I must therefore make orders dispensing with the consent of the parents as the children’s welfare requires it, and I consider this is a proportionate and necessary order to promote their welfare throughout their lives

123. I authorise the release of this judgment to the carers as well as prospective adopters on the basis they are clearly told of its confidential nature and it must be

available to the children in later lives should they choose to know more detail about why they were unable to live with their parents

124. I hope the parents are able to help with life story work for them and take part in letterbox contact. I am told support is available for them at this difficult time from adoption services. I am sorry to have to make an order which I appreciate will cause them so much pain.

March 2019