

**THE HIGH COURT
FAMILY LAW**

[2021] IEHC 677

[Record No. 2021/51 M]

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 54 OF
THE ADOPTION ACT 2010 (AS AMENDED)**

AND

**IN THE MATTER OF S,
A MINOR BORN ON THE DAY OF AUGUST 2003**

BETWEEN

**CHILD AND FAMILY AGENCY AND
K AND C**

APPLICANTS

AND

**THE ADOPTION AUTHORITY OF IRELAND AND
A AND J**

RESPONDENTS

**EX TEMPORE JUDGMENT of Mr. Justice Jordan delivered on the 7th day of
July, 2021.**

1. This application is a late application once more, an application under s.54 arriving to the court when the child in question is on the cusp of majority. This is an unfortunate situation and some effort must be made by the stakeholders, the Child and Family Agency and insofar as it can do so the Adoption Authority to create a new regime in relation to foster care situations where it ought to be apparent that adoption is being considered or is likely to be considered. It does seem to me in this particular

case that a discussion ought to have taken place between the Child and Family Agency and the foster parents many years ago.

2. The complaint which A makes in relation to the lateness of this application is justified. Delay is inimicable to the interests of justice, it doesn't help the child, it doesn't help the foster parents and it certainly doesn't help the birth mother in the position in which A now finds herself. It seems to me that it is fundamentally unfair that that situation has come about. It seems to me that there ought to be a proactive approach by the Child and Family Agency in the hope of avoiding late applications such as this. I am not saying that it will always be possible to avoid late applications but I am saying that it is the view of this Court having dealt with many of these applications over the last few years that a number of them should have come before the Court at a much earlier stage.

3. It seems to me also that A is entitled to point out that more support ought to be provided to somebody such as a birth mother in her position. In fairness, I do need to temper that observation with another observation and that is that the situation for many years now, ten years or so, has been extremely difficult in terms of the ability of the Child and Family Agency to converse with or contact or interact with A.

4. I take the point in relation to s.54(1)(a) of the Adoption Act of 2010 as amended. I take the point in relation to the introduction of that amendment in 2017 by the amending legislation, the section says that "where applicants in whose favour the Authority has made a declaration under s.53(1), request the Child and Family Agency to apply to the High Court for an order under this section(a) if the Child and Family Agency is satisfied that every reasonable effort has been made to support the parents of the child to whom the declaration under 53(1) section relates". The section goes on to provide "the applicants may apply to the High Court for the order"

5. It is the position that the provision in relation to support of the parents, the birth mother in this instance, is not included in subs. (a) to (f) inclusive of s.54(2A). That is a valid point in the context of the framing of the section. However, it is also the position that sub-section 54(3) provides that “in considering an application for an order under s.2, the High Court shall (a) have regard to (i) the rights whether under the Constitution or otherwise, of the persons concerned (including the natural and imprescriptible rights of the child); (ii) any other matter which the High Court considers relevant to the application”. In sub.(b) insofar as is practicable in a case where the child concerned is capable of forming his or her own views give due weight to the views of that child having regard to the age and maturity of the child and the section goes on to provide at the end of s.54(3): “In the resolution of any such application the best interests of the child shall be the paramount consideration”.

6. It does seem to me therefore, as Ms. Behan urges on behalf of A, that in having regard to anything that I consider relevant I should have regard to what has transpired over the years in terms of the support or lack of support for A and I will come back to that.

7. Insofar as these applications are concerned it is necessary to point out, I think not for the first time, and as I have touched upon earlier the need for the Child and Family Agency to be proactive in order to expedite applications for adoption particularly when it becomes apparent that such applications are likely to be made sooner or later.

8. Turning back to the requirement for support for the birth mother, it is true that this Court has to take an objective view and have regard to the high thresholds that require to be met in terms of the proofs that have to be satisfied but that objective

view is an objective view having regard to the facts as they exist at this moment in time.

9. I am dealing with the application for the adoption of S who will turn eighteen on the of August next and who has been in the care of his foster parents for almost the entirety of his life. The wording of s.54(1)(a) refers to the Child and Family Agency being satisfied that every reasonable effort has been made to support the parents or the birth mother in this instance. It seems to me on the evidence that I have heard that the Child and Family Agency was in fact satisfied that every reasonable effort was made to support the birth mother. It seems to me that that was the conclusion which the Child and Family Agency did arrive at. I am not saying that the Court agrees with that conclusion. I am saying that it does seem apparent to me that the Child and Family Agency was satisfied that every reasonable effort had been made to support the birth mother. I do need to say insofar as the conclusion in that regard is concerned that it does seem to me that the Child and Family Agency should look at reviewing the protocols and procedures. Many of these cases are high conflict situations in terms of the interface between the Child and Family Agency and the birth mother and it is not unusual that a complete standoff occurs. It is not unusual that there is a complete breakdown in communication but the Child and Family Agency is staffed by trained professionals and some effort needs to be made to continue the discourse with the birth mother even though the situation is high conflict and even though contact with the birth mother may be difficult.

10. Insofar as the complaint of A concerning the accessing of her address in light of what had transpired previously and in light of what she recollects as a complete embargo on contact with her, imposed in her recollection by a District Court Judge, her complaints in relation to the manner in which she was found is understandable in

the context of the history of her contact with the Child and Family Agency. I should say that if an application had been made to the court in relation to ascertaining her contact details by contact with the department, it is likely that the court would have permitted such contact be made provided of course a statutory basis for such an order exists. Even if such an order was not permissible, this Court has in other cases and would probably in this case have asked that an effort be made to effect service of these proceedings through the Department of Social Protection if it was the only way in which service could be effected. At the end of the day the Child and Family Agency did need to make contact with A in relation to this application. It does not seem to me that there was any motivation involved other than a genuine effort to establish contact.

11. A makes the point in evidence that she has been involved in a completely rushed process because of the lateness of the hour insofar as this application is concerned and again one cannot argue with the points she makes in that regard. It is apparent to everyone involved in this application that it is a rushed process. It is apparent also to the court that much of the upset and stress which A has endured as a result of this application would likely have been avoided if the application had been made earlier, if it had been made some years ago. No good reason is established in the evidence before the court for the delay which has occurred.

12. It is the position that S. is with the foster parents who are relative foster parents since August of 2004 and it is the position that A is entitled to take exception to the use of the word abandonment. She did not abandon S. in the sense in which that word is ordinarily understood. She did in the sense of the special legal meaning attributed to that word. As set out in the authorities no intention to abandon is proved

in this case nor was there such an intention but such an intention is not a requirement because the word abandon has a special legal meaning.

13. There has been some discussion about the care orders but the court is satisfied that the care orders were made and that the care regime has been in place for most of the child's life. The full care order, the October 2006 order, was not appealed and no application was made to discharge it and the court is satisfied that A has been aware of its existence for many years at this stage.

14. Insofar as the care proceedings are concerned, this Court cannot re-visit the decisions made in the District Court and the care order proceedings in the context of this application.

15. Insofar as the application before the court is concerned, the position is that A finds herself between a rock and a hard place in trying to do what she considers to be correct by her son and for herself. She agrees that her son S. wants the adoption to proceed although she did express the view that she felt he wasn't fully informed in that regard. Although appreciating her expression of that view, this Court is satisfied that S has a full understanding of adoption and does desire the adoption to proceed.

16. The mother is, she has been and remains, concerned that the adoption will proceed, if it is allowed to proceed, when in her view it is based on assertions which are not true or correct. As I think she put it herself in evidence "the adoption has not been given on a truthful ground, even though it's probably the best thing for him".

17. She went on to say in evidence, and I will come back to this in the context of her sworn affidavit, that she respected and wanted what's best for S. A is in a far from unique position in this regard. The experience of this Court is that many birth mothers, and indeed on occasion birth fathers also, are unable for human reasons to

bring themselves to consent to the adoption of a child whom they love and whom despite separation is very much part of their life or lives.

18. I am dealing with the situation here where the last access was in 2011, although I appreciate that A does say that she tried unsuccessfully to raise the issue of access and get access in 2017 or 2018. She makes the point that she was unable to get the legal representation to make a court application and if she did not seek access or if she did not seek a legal remedy then her failures to do so have to be viewed in that context, which again the court has found in this case and in many others is a very real tangible and unfair obstacle for people in the position of A.

19. The situation insofar as S is concerned is that A, it is apparent, and I am quite satisfied on the evidence, knew that S was being well looked after and because she loved him dearly took consolation from that fact. As she said herself in evidence, if I recollect correctly, she tried to rebuild her life as she thought S was in the best position. Again an observation which needs to be made, it is apparent on the evidence that A who had many difficulties at the time S. was born and went into care during that period of her life, she has moved on. She is in a better position in life and her ambition to rebuild her life would appear on the evidence to have been achieved which looking at the statutory proofs, which I will deal with in turn later, does cause the court to pause in relation to statutory proof B as to whether or not there is a reasonable prospect that the parents will be able to care for the child in a manner that will not prejudicially affect his safety or welfare.

20. In that regard, A fairly said that her partner does not know about S. She said that if it came to it she would tell him and that if he had a problem with it then that would impact upon the relationship with her partner but not with S. In other words, as I interpreted her evidence, she would not allow the views of her partner to come in the

way of her relationship with S if he was to come back into her life. However, she also went on very fairly to say in that regard “I don’t think S would want it”. She also conceded that she did not seek the return of S. and this evidence is consistent with the position which she adopted from an early stage because S in her view was in a good place. He was in the best position and she wanted what was best for him.

21. At para. 12 of her affidavit which was sworn on 2nd July last, it is the final paragraph of her affidavit, she said “I say in all of the circumstances that I am prepared to accept the wishes of S if he desires to be adopted and respect his intentions in this regard. I do however, take issue with the inaccurate characterisation of me by the first named applicant as outlined in the affidavits grounding the within application”. That sworn averment by A is consistent with her approach throughout the life of her son S. because in truth she has done throughout what she felt was and is best for him. It would not be right to treat that paragraph on its own as a concession concerning the making of the order and the granting of the approval sought in circumstances where A has said when it was put to her that she is not consenting to the application.

22. This Court needs to look at the individual proofs and requirements of the legislation in the context of the decided authorities in this area, of which there are many. In that regard having read and considered the submissions of the Child and Family Agency and the Adoption Authority of Ireland and the submissions on behalf of A, I see that the parties do reference relevant authorities perhaps not all of them but relevant authorities in the area and if there is a difference between the parties it is a difference of emphasis in relation to what is to be taken from the authorities.

23. In the context of the authorities referred to, the decision in 2018 of MacGrath J. in *Child and Family Agency and H.R. and F.R. v. The Adoption Authority of Ireland*

and P.W. and A.W. [2018] IEHC, at p.550 is relevant and useful and sets out the legal position in relation to applications such as this. That decision was referred to as were some others in the 2020 decision of this Court in the application in *The Child and Family Agency and Anor. v. The Adoption Authority of Ireland and M.L. (A Minor)* [2020] IEHC 419. It occurred to me when reading the submissions that I hadn't enquired of the parties about that decision of this Court and the only point in relation to the decision which I wish to make at this stage is that the law in relation to s.54 applications, the law including the legislation and the authorities including some European Court decisions, are set out in that decision at para. 67 onwards. It is worth mentioning that the Court in that decision dealt with delay in applications of this nature, the undesirability of delay in adoption cases generally and the Court's desire that something would be done or something more would be done to avoid unnecessary delay when it comes to adoption.

24. Insofar as the submissions on behalf of A are concerned I am not going to quote extensively from these or any other submissions but I note for example the submission at para. 17 of A's written submissions. The birth mother gave evidence that she was not appraised in relation to any matter pertaining to the welfare of the child and no access took place after 2011. The Child and Family Agency now seek to rely on the lack of access as grounds to support proof of abandonment by the birth mother whereas in reality such lack of contact is equally indicative of a failure by the Child and Family Agency to promote and support the birth mother in circumstances where it was known that she had a difficult relationship with the social workers and had personal difficulties around this time.

25. It was submitted that it falls short of the obligation that every reasonable effort be made to support the parents that access be simply arranged without provision of the

means either practical or psychological to carry out such access and renders any such arrangements futile.

26. There is a dispute as to the actual position in relation to the efforts made. I have already expressed a view in relation to the reasonable efforts or the reasonable effort to support A which the Child and Family Agency do believe took place but I have to say also that it is not surprising that the submission at para. 17 of the written submissions is made on behalf of A, when there is delay such as that which exists in this case as in an adoption application coming when the child is almost eighteen years of age. The birth mother is placed in an almost impossible position in terms of opposing the application because the child's life has passed by, the child is now almost an adult. I suppose the point in this regard is that this delay is working to the advantage of everyone but the birth mother and regrettably the court is concerned that this is all too frequently a consideration in terms of the timing of applications such as this. I am not in this case making a finding in that regard but I am expressing a very real concern about delay in the timing of applications such as this and the utterly unfair position and inequality of arms that exists for the birth mother as a result of the last minute application.

27. Turning then to the issue raised in relation to the European Convention of Human Rights. Again looking at the decision, which I didn't invite discussion on, the decision in this Court in the case of *M.L.* (referred to above), there has to be a review of the practices and procedures by the Child and Family Agency where long term foster care is involved. It is frequently, I won't go as far as to say invariably, but it is frequently the position that the welfare of the child or children involved does require the continuation of the long term foster care arrangement but it is probable that many of the situations of long term foster care become gateways to adoption at an early

stage. If adoption is on the cards then in fairness to the child, the foster parents and the birth parents the adoption application ought to be pursued and dealt with so that everyone can get on with their lives in certainty as to what the actual position is and get on with their lives at a time when they can deal with the assertions and allegations and different positions adopted by all sides in what is an adversarial contest, while matters are fresh in their respective minds.

28. I said earlier in the course of discussion with counsel that a view has been expressed by McKechnie J. and I have quoted the decision and referenced it in the *M.L.* case, a view has been expressed of the danger of trotting out the paramount consideration in every case where the child's welfare is at issue as if it were a trump card and as if it on its own ought to determine the outcome of the application. That cannot be the position and it certainly is not the position that the fact that the best interests of the child is the paramount consideration in the resolution of applications such as this prevents the Court looking very carefully at the situation with a view to determining in the interests of justice whether or not it is right that the approval sought be granted. I have to say I have misgivings about this application, serious misgivings and I have had those misgivings from the outset when A addressed the court in relation to the application.

29. There is no doubt in my mind that S. wishes the adoption to proceed, his voice can be heard loud and clear in that regard and indeed there is no real dispute as to his desire. There is no doubt in my mind that it is in the best interests of his welfare that the adoption proceeds and indeed an undercurrent in all of these applications is the concern the court invariably has as to the child's reaction to a refusal of the approval which would result in the adoption not proceeding. The Court is without direct evidence on the likely reaction but has evidence nonetheless in terms of a very strong

desire of S to be adopted. It is the position that the Court is satisfied that refusing to grant the approval sought would have a detrimental effect on S.

30. I touched upon the European dimension in terms of the jurisprudence in this area. I wish to say in that regard that one cannot help but be struck by the lack of efforts to achieve family reunification in cases such as this. It may be that a reunification could not have been achieved but it is striking when looking at the evidence in the case that there is or appears to be an absence of effort certainly in the early years in that regard.

31. Looking at the submissions on behalf of the Adoption Authority of Ireland I am satisfied firstly that the Adoption Authority of Ireland dealt with this application with expedition when it came before it. It seems to me that it would be wrong having said what I have said concerning delay in relation to applications such as this, it would be wrong not to acknowledge the fact that the Adoption Authority dealt with the matter as expeditiously as one could expect them to deal with it given what was involved.

32. Insofar as the written submissions on behalf of the Adoption Authority refer to s.92 of the 2010 Act and the best interests, there isn't any doubt in my mind and little dispute that I can see concerning what is in the best interests of S. It is in his best interests that the people he knows as his parents be permitted to adopt him.

33. Turning then to the written submissions on behalf of the Child and Family Agency. Without rehearsing what is contained in the written submissions on behalf of the Agency, I should say that I am happy to agree, subject to the caveats outlined already, with the submissions made and dated the 5th of July. Ultimately when it comes to deciding the application, the three-fold test referred to in the earlier authorities has now been expanded by the amendment of the legislation. There is a

high threshold. The court must look at the matter objectively. The court must decide the application on the evidence and the court is dealing with the situation as it exists at present. Insofar as the requirements are concerned, sub. (a) of s.54(2)(a) provides for “a continuous period of not less than 36 months immediately preceding the time of the application, the parents of the child to whom the declaration under s.53(1) relates have failed in their duty towards the child to such an extent that the safety or welfare of the child is likely to be prejudicially affected”. The Court is looking objectively at the situation that actually exists. It is dealing with the actual duty, the parenting or parental duty and what has occurred since August of 2004 and since 2011, the child being placed in the care of the foster carers in August of 2004 and the last contact the last access being in 2011. The factual position in relation to S. is that he has been brought up by the applicants for adoption. The factual position is that the birth mother because she loves S. dearly has been content to see that situation exist because that was the best decision for S. and it is in that context that the Court has to review sub. (a) and consider whether or not the evidence satisfies it of the position in that regard. The Court is satisfied on the evidence that although it is a high threshold there is proof, there is evidence and it does satisfy the Court in relation to the requirement set out at sub. (a).

34. The Court has already touched on sub. (b) but will repeat the proof required - there is no reasonable prospect that A will be able to care for the child in a manner that will not prejudicially affect his safety or welfare. The truth of the situation is that it makes no sense to consider uprooting S from his family although he will soon turn eighteen. It makes no sense to even debate whether or not there is any prospect of him moving to A. It is abundantly clear on the evidence that there is no reasonable prospect that A will be able to care for S. in a manner that will not prejudicially affect

his safety or welfare because he does not want to move to her - because he lives with the people he regards as his parents and he is settled there and because he is almost eighteen years of age.

35. Again, the Court is dismayed that consideration in relation to this requirement takes place less than two months before S. turns eighteen but that is where the court is placed. The Court is satisfied that the evidence is clear in relation to sub.(b) and that the evidence satisfies the requirement of sub.(b).

36. Subparagraph (c) “the failure constitutes an abandonment on the part of the parents of all parental rights whether under the Constitution or otherwise with respect to the child”. This concept of abandonment, the word which the Court has already said it dislikes is a word in the legislation nonetheless. It does not bear its natural and ordinary meaning. Proof of what is required in order to satisfy sub.(c) does not require proof of any intention to abandon and there is no such proof in this case - but one is not required.

37. On her own evidence A was in a different place in her life when S went into care and over the years she was keeping an eye on him from a distance and was satisfied that he was being well cared for and was satisfied that he was in the best position. McGuinness J. in *Northern Area Health Board v. An Bord Uchtala* [2002] 4 IR 252 and others accepted as a correct proposition that what is meant by parental duties is the normal day to day care of the child. She also described the test of abandonment as being an objective one and she held in the context of the facts of that case that acquiescence in regard to crucial decisions regarding the child’s health and education and the carrying into effect of those decisions together with the by no means insubstantial financial costs that arise from them, that situation amounted in a real and objective sense to abandonment of her rights as a parent.

38. Denham J. in *Southern Health Board v an Bord Uchtála* [2000] 1 IR 165 pointed out that there could be abandonment even if there was no intention to abandon and made the point that the word abandonment in its ordinary meaning would distress parents. She said at p.179 “the section does not require that there be an intention to abandon while there may well be cases under s.3 where there is a simple abandonment of a child and an intention to abandon a child these are not the only circumstances where s.3 may be applied. The legal term abandon can be used also where by their action parents have failed in their duty so as to enable a court to deem that their failure constitutes an abandonment of parental rights. The parents in this case did not abandon FOD in the sense of leaving him physically in a place but that does not preclude the operation of the section the term abandon is wider”.

39. In the MacGrath J decision in 2018 he stated:

‘In relation to this particular aspect or ingredient of the section in my view it is the totality of the facts and circumstances objectively assessed which must be considered in determining whether there has been a failure of duty and whether that failure constitutes an abandonment of parental rights.’

The Court is satisfied on the evidence that this proof is satisfied in this case. The Court is entirely satisfied that there was no intention by A to abandon her son but what happened amounts on the evidence to such a situation as to satisfy the proof required by the sub.(c).

40. Then comes sub.(d) “by reason of the failure, the state, as guardian of the common good, should supply the place of the parents”. The Court will come back to section (d).

41. Subsection (e) “the child at the time of making the application is in the custody of and has a home with the applicants and for a continuous period of not less

than eighteen months immediately preceding that time has been in the custody of and has had a home with the applicants”. The evidence clearly establishes that such is the case.

42. Subsection (f) “that the adoption of the child by the applicants is a proportionate means by which to supply the place of the parents”.

43. It seems to the Court that subs. (d) and (f) should be considered together and the Court is satisfied that the requirements of sub. (d) are met on the evidence in this case. Again, looking at the factual situation objectively, S has been with the applicants for adoption, his relative foster parents, since August of 2004 and he has been in their care pursuant to the care regime that has existed and he has done well in care and continues to do well and regards his foster carers as his parents in fact. Again there is nothing unusual or illogical or unique about that. That is what his life at this point in time amounts to and it seems to the Court that it is appropriate in the circumstances to conclude that the requirement set out in sub. (d) is satisfied. Again, it is unfortunate that consideration of this particular issue did not take place many years ago but as the Court has already said we are where we are in the context of this application.

44. In relation to sub. (f), the same or similar considerations apply. Again, the fact of the matter is that the relative foster carers have provided S with a good home, a loving home and a nurturing home, for almost all of his life. He has been in a good position, he has thrived, he remains in a good position and he wants the adoption to go through and in all of those circumstances this Court cannot but conclude that the proof set out in sub. (f) is satisfied.

45. Again, the court is revisiting points made in relation to s.54(3) or submissions made in relation to that section.

46. In considering an application for the order which has been sought, this Court is obliged to have regard to the rights whether under the Constitution or otherwise of the persons concerned and in this case that is A, S and the applicants for adoption, (the foster parents) and any other matter which the High Court considers relevant to the application. Subparagraph (b) provides that the Court is obliged to have regard where the child concerned is capable of forming his or her own views to the views of the child and is required to give due weight to those views having regard to the age and maturity of the child. In a case of this nature where the child is almost an adult and has expressed very clear and consistent views, and whose intervention last Christmas with the adoption form in the Christmas card to his parents brought about the making of this application, the child's views are a weighty consideration.

47. In all of those circumstances the court has to take very seriously the views which S has expressed with an overarching consideration that it is his best interests which are the paramount consideration although not the only consideration. But, and there is a but in this judgment, if the Court goes back to the rights of A in looking at other matters, any other matters which the court considers relevant to the application, I have to say that I am very much in two minds about whether or not to grant the approval which is sought in this application because of the very valid arguments put forward by A from the outset in relation to the lateness of this application, the fact that it is a rushed application, the fact that she is placed between a rock and a hard place because of the manner in which it has come about against the backdrop of the history of her interaction with the Child and Family Agency and against the backdrop of the obligations of the Child and Family Agency in relation to children in care and in circumstances where this Court cannot ignore the importance which is placed on efforts being made to reunite children in care with their biological parents.

48. It does occur to me that if this Court does not do something in relation to what is occurring, what this Court sees occurring with these applications being made at a very late stage and placing genuine decent people such as A in the invidious position in which they are placed between a rock and a hard place, it does seem to me that unless the court takes action to show in a positive way its disapproval of such a state of affairs occurring and being repeated in papers arriving into this Court then it is going to continue and nobody will pay any heed and other people will be in the position of A again and again because the Child and Family Agency will consider that no application is refused particularly when the child wants it and when the paramount consideration is the best interests of the child.

49. In the final paragraph of the decision in *M.L.* this Court said “It would be wrong of the court to refuse to grant the approval sought by reason of the shortcomings of the first named applicant” that was the Child and Family Agency, “although the court has made clear its dismay at what has transpired.” The Court’s dismay at what transpired in that case was dismay in a different factual background but the court is dismayed in this case in the context of the factual background that exists, but as the last paragraph of that judgment said, “it would be wrong of the court to refuse to grant the approval sought by reason of the shortcomings of the first named applicant and although the court has made clear its dismay at what has transpired, to refuse the approval sought would negatively impact on the best interests of the child and would effectively set to one side that paramount consideration, that would be wrong” and in that case the court granted the order as sought.

50. Here I am again looking at another last minute application which I consider could and should have been avoided if necessary and timely action was taken at an earlier stage to advise people in relation to adoption, to counsel people in relation to

adoption and to see to it that the process started some years ago. A system failure is what has us here now and has A here and genuinely stressed and upset. This happening at this hour in the life of S and in her own life, and I have to say that this timeline of delay in applications of this nature, is a very significant aspect in these applications when they are made late, and falls squarely in my view within something that must be considered by the court with a view to deciding whether or not it is just to grant the approval sought.

51. I am on the point of refusing the approval which has been sought in this case and the only thing that is stopping me refusing to grant the approval sought is the damage I consider it could do to S going forward and the fact that I know in her heart A doesn't want him to be damaged in any way and that has been her position throughout his entire life.

52. So with a considerable degree of reluctance and with another emphasised expression of my concerns to the Child and Family Agency, I am granting in this case the approval sought.