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Neutral citation: [2024] EWFC 152 (B)

Case No: LV23C50556

IN THE FAMILY COURT
AT LIVERPOOL

Liverpool Civil & Family Court
35 Vernon Street
Liverpool
L2 2BX

29/02/2024

Before:

HIS HONOUR JUDGE PARKER

Re: L

MISS NATASHA JOHNSON for the **Applicant local authority**
MR REILLY for the **First Respondent mother**
The **Second Respondent father** neither attended nor was represented
MISS ADELE SCHOFIELD for the **Children's Guardian**

JUDGMENT
(IN PRIVATE)

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JUDGE PARKER:

1. I am dealing with a child called L, who was born on 13 August 2023. He is presently aged about six months. He appears through the Children's Guardian and is represented by Miss Schofield. The local authority are represented by Miss Johnson. They have applied for Care and Placement Orders in respect of L. The mother is M. She is presently incarcerated in HMP X. She was sentenced to seven years' immediate custody in January 2024 and will serve at least three and a half years. She is, therefore, in custody until at least July 2027. She has been in custody throughout these proceedings. The father is F. He does not have parental responsibility as he is not named on the child's birth certificate. I am satisfied that he was given notice of the proceedings in September 2023. He said as much. He was also provided with a list of solicitors. He has also been subject to an online parenting assessment by the local authority. He has also been seen by the Children's Guardian. Despite being reminded of his ability post-September to take part in the proceedings I am satisfied that he has chosen not to do so. He has had plenty of time to instruct a solicitor, even taking into account that he is presently incarcerated and not due for release until later in March. Nevertheless, I arranged for a link to be set up on the second day to at least give him the opportunity to be heard by the court at this final hearing. He took that opportunity. He has remained unrepresented.

BACKGROUND.

2. The mother has an extensive history relating to drug misuse and the supply of drugs. She has previously served two lengthy sentences, one in 2017 for possession with intent to supply Crack cocaine and heroin and one in 2020, possession with intention to supply class A drugs. Whilst on licence the mother was arrested on 23 February

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2023 for possession of three bags of heroin which she attempted to conceal by swallowing even though she was 13 weeks' pregnant with L. The father also has an extensive criminal background with over 20 convictions spanning 15 years including offences against the person, theft, drug offences, firearms, offensive weapons and offences against property. He has never met L and his engagement with the local authority has at best been sporadic.

3. On 17 August 2023 the court granted an interim Care Order in respect of L and sanctioned the local authority's plan for removal into foster care. The mother did not oppose the making of an interim Care Order but did oppose separation. The mother made a C2 application seeking for L to be returned to her care in a mother and baby unit at the prison. However, when the application was eventually heard by the court it was known that the mother was facing a four day trial before the Crown court in January 2024 and it was known that, if she was convicted, she would receive a significant sentence of imprisonment. In those circumstances I ruled that the application was premature and that the results of the trial should be ascertained before considering the application further. In light of her conviction and sentence the application was not pursued further.

4. Viability assessments have been undertaken of the paternal grandmother, the paternal aunt, the maternal grandmother and a family friend, Ms M. All of those assessments concluded that L should not be placed in their care and the paternal grandfather withdrew from the assessment process. Apart from Ms M none of the other people who were assessed has asked either to be heard or to challenge the assessment. The court received a handwritten note from Miss M asking for a re-assessment.

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5. L is currently placed in local authority foster care and is having supervised contact with his mother at the prison three times per week, which is the maximum that the prison can offer, taking into account facilities and supervision. The mother was convicted of an offence of possession with intent to supply on 12 January 2024.
6. The local authority has carried out an assessment of the father dated 18 January 2024. That was negative. The father has an impending prosecution for drug related offences and the risk factors identified include extensive offending history, domestic abuse, substance misuse, child abuse, lack of insight and lack of engagement.
7. There is a parenting assessment of the mother also dated 18 January 2024 which is negative. The risk factors identified include a lifestyle associated with drugs, substance misuse, significant history of supplying and possessing class A drugs, criminality within the wider family, domestic abuse, dishonesty with professionals and instability.
8. The local authority in their final evidence dated 22 January 2024 recommend to the court that the child is made subject to Care and Placement Orders. In respect of contact to the mother, currently at three times per week, if a Placement Order is made contact will reduce to monthly until an adoptive placement is identified. In respect of the father the local authority's plan is to arrange some contact. That will take place at a frequency of once per month until an adoptive placement is identified.

THRESHOLD.

9. I make the following findings on threshold. At the time the proceedings were commenced the child was suffering and was likely to suffer significant harm and the harm or likelihood of harm was attributable to the care given to him by his parents not

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being what it would be reasonable to expect a parent to give to him. L has been subject to child protection in pre-proceedings as an unborn child. The father did not seek to be involved in any intervention and has confirmed this to the social worker.

DOMESTIC ABUSE.

10. The father has a history of domestic abuse with his previous partners. The mother has witnessed domestic abuse in her childhood. That would likely be an issue in their relationship but they would conceal this for fear of professional involvement.

DRUGS AND ALCOHOL.

11. The mother has a longstanding history both herself and within wider family of drug use and supply. She is currently incarcerated at HMP X. That was until July 2024 at the time of commencement of proceedings, now of course until July 2027 following her most recent conviction and sentence. The mother was arrested with her partner. Both admitted to using substances. The mother had been using substances whilst pregnant with L.

PHYSICAL HARM.

12. The child had been exposed to drug misuse in *utero*. The mother was arrested and attempted to swallow three bags of heroin at 13 weeks' pregnant. This could have been fatal for both her and the unborn child. The father has a history of excessive physical chastisement with his older children who are not in his care. He is allowed supervised contact with those children who do not reside with either parent.

INABILITY TO WORK OPENLY AND HONESTLY WITH PROFESSIONALS.

13. The mother attempted to conceal her relationship. She has also lied about her drug use and failed to take on board the concerns of the local authority.

THE MOTHER'S CASE.

14. The mother gave some brief evidence before me. She did not wish to challenge the evidence of the social worker or the Children's Guardian in cross-examination. She confirmed her statement at C69 and her statement at C173 and also two letters, one written to me and one written to L to which I will refer later in this Judgment. She agreed that she had not had the best childhood. She had difficulties with her mother. There was drug misuse in her house and there were difficulties with criminality and lifestyle choices. She could understand why the local authority were concerned about L. She said that everything changed on 13 August because she became a mother and she had a reason to change. She said that L was not planned but she chose to keep him. She started to turn her life around. He gives her something to be responsible for. She described how L has dark brown hair with a tinge of ginger in the light. He rolls from his back onto his front. He pushes himself up. He giggles. He is very nosy. He enjoys contact and the mother said she tries to give him different kinds of food at the contact, although he clearly does not like carrot puree because he spits it out over her. He is well behaved. She said that L means everything to her, "he means the world" and, indeed, I noted that her faced lit up when she spoke about him. She said that if L cannot be placed in the care of her friend, M, then she would like him to be placed in long term foster care which would give her the opportunity to prove herself and get him back. If, however, the court made a Placement Order she will carry on making better decisions and carry on fighting for him anyway. She will always love him. She

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wanted him to be proud of her. She had not taken any drugs recently due to having L and breast feeding. Even though there are loads of drugs in gaol she has not taken any. She referred to the letter that she has written. She wants him to have a breakdown of where he comes from and his family, who love him. She said that she had started work on a beautician course in prison and she produced a letter from the beauty tutor, SH. That letter tells me that the mother started on a level 2 beauty course on 14 September 2023 and she has completed it to a high standard and gone on to level 2 nail enhancement. She has worked hard and earned her new position as a key worker for the salon supporting her peers with theory work and practical treatments. She attends all sessions scheduled and is always punctual. She has demonstrated real aptitude for her subject and is respectful and professional at all times when working with staff and clients in the salon environment. She said that she is doing this course to be able to support L better so that she has a better job and does not engage in criminality. She would like to be placed in long term foster care to enable her to show that she can care for him. She thought that long term foster care was best for him so he could keep a bond with her and reach his milestones and keep his family ties and not feel that he is on his own. She asked for a chance to prove that she has changed and was willing to maintain the change for L.

15. Mr Reilly on her behalf submitted that she had given heartfelt evidence and I agree, that she had suffered trauma in childhood including domestic abuse, drug misuse, neglect and criminal lifestyles. Mr Reilly pointed out the positive comments at F75:

“Strengths. M clearly loves L dearly and from sessions with her it is clear that she misses him whenever he is not with her. She is clear that he has given her the motivation to change and that she wishes to give him as much as she can. M has engaged with courses and support in prison in relation to her substance misuse and intends to engage with a relationship course, which is positive. M has taken the opportunity to

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further develop her skills as a hair dresser and beautician and has undertaken NVQs whilst in prison and she hopes that she will be able to earn a living from this and support herself and L.”.

Then at F81:

“M’s understanding of basic care needs of a young child and growing child has been assessed to be good. This remains unchanged. M states that care of her children has been observed to be positive. The direct work completed with Families First support worker, Miss J, previously indicates good insight in respect of her parenting. Therefore, it is assessed that M is more than likely to be able to meet the basic care needs of a child if all other risks were not present.”

16. Mr Reilly invited me to consider the two letters written by the mother which I now set out in full in this Judgment. The first is the letter directly to me:

“Dear Judge Parker, I am writing to you today in hope that you consider long term foster care or Ms M as the best realistic option. I understand the reasons why we are before you today for L’s wellbeing and safety. I am a first time mother to L and when I found out I was pregnant I reduced off drugs and got clean and staying that way. I cannot change my past bad choices in life but I can change and keep change in the future for me and L. L deserves the best version of me so I can give him the best upbringing and help him grow into a bright young man, giving him guidance to the right path and show him he is capable of anything he puts his mind to. I understand that the past five plus months of L’s life isn’t what I would have wanted but it is what he needs until I am home and proved that I have changed. As each day goes by I will keep bettering myself because L is what has changed me and give me something to better myself for. I will carry on to make my son proud to have me as his mother, just like I am proud of him with every milestone he overcomes. The fact is no child asks to be born. I made that choice and it has changed my whole life for the better. I am working to give L the best version of me. I have not always made the right choices in life but having L is the best and always will be. Please, I just need this one chance to be a mother to my son. In the end I will get there with the little bit of hope I have left that sits in your hands today. Thank you for taking the time to read this. If you grant me this chance I will not fail”, and that is signed by the mother.

The second letter is direct to L.

“To my darling son, L. I am writing this to prepare for if the worst outcome happens in court. Please understand that I never gave up fighting for the right to be your mother and when I made the choice to have you as you weren’t planned I reduced off drug and have been drugfree for just under a year. I have made some bad choices in my life but since I made the best choice to have you I’ve changed my whole lifestyle so I could be

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the best mother to you. You're my only reason I had to change because wanted you to be proud to have me as your mother. Let me tell you a little bit about me and your dad. Your dad, F, dob redacted born and lives in W. He is height redacted and redacted, lovely man, but, like me, made some bad choices in life. He loves you dearly. Me, your mum, is M, dob redacted, height redacted, brown hair, born and lives in W, and I love you more than anything in the whole world. You are my everything, my reason for living. I just hope that one day you will find me and we can reform our bond we have. I'm going to miss you for the rest of my life and I'm going to miss every milestone you make in life, but I am and always will be proud of the man you become. Just know I am so sorry I couldn't win the fight for you. You come into the world on redacted, weight: redacted at 20:30pm, two weeks before your due date. We spent four days together in hospital and they was the best days of my life. I loved every second of it, even your first nappy change when you pee'd on me. I didn't see it at first, I just wondered why my leg was getting warm and the shock I had when I seen where the warmth was coming from, but as you have gotten older it becomes a little game for you" (laughing emoji).

"On the fourth day social took me to court and put you in temp. foster. I kept fighting for you as well as proving \i had changed. It wasn't till I got found guilty did the social change their minds and looked at adoption. I never give up fighting and kept proving that I have changed. I have one day that is the best day of my life and that's you coming into this world and two days that are the worst and most painful to me and they are the both times you being taken away from me.

"You have two half siblings, S and P. One day you will meet them. They always ask about you. While you are my first child and the most beautiful, healthy boy in the whole world I love you with every part of my heart and soul. You changed me for the better and I honestly cannot wait for the day I can find you and hopefully you find me too. You have my heart for the rest of my days on this earth and so much more and understand you have a family that loves you and [fought I think that should say] for you to the end."

17. I am hugely impressed by these two letters. The letter to me demonstrates an understandable desire to try to have a chance to have L in her care in the future, but it is the letter to L that really deserves my admiration and praise. The bravery and the strength of character demonstrated by the mother in being able to prepare this hugely insightful and child focused letter will, I am sure, be of huge benefit to her son in the future. She really did express herself in a most moving way and I commend her for it.
18. I also heard from F by CVP link from prison. The major thrust of what he said was to give the mother a chance to care for L and if that was not the outcome chosen by the

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court then he could not understand why the paternal grandmother could not care for L, particularly as she works in schools. Her viability assessment concluded that she as already heavily burdened with caring responsibilities and did not have the capacity to provide good enough care for L as well. I have been sent an email today in which the grandmother says that she does not wish to challenge the assessment. When F was asked what the court should do with L for at least three and a half years whilst the mother is still incarcerated he did not really have an answer. Whilst clearly he was exercised by the prospect of his son being placed for adoption, the impression I formed is that there was a reluctant acknowledgment by him that the court really had little alternative. He made what was at best a passing reference to the possibility that he might care for L but, again, was realistic, in my judgment, about his own personal circumstances and his present incarceration.

19. L has been in foster care now since August 2023 after all. Unfortunately, neither parent is in a position to provide care for L now and there are no alternative friends, family or other connected carers assessed as suitable to provide care in their stead.
20. The Children's Guardian set out her view in paragraph 29 of her analysis. Both parents have been negatively assessed within these proceedings, (reports dated 18 January 2024). Both are currently incarcerated and current timescales for them to be able to demonstrate their ability to safely parent L lie way outside L's timescales. He cannot wait for what in effect would be years for his parents to make and sustain the changes necessary. Even if his parents were to be released tomorrow there is a wealth of work that would need to be undertaken in addition to being able to demonstrate that they are drugfree within the community and have suitable accommodation. It is my

understanding that neither had his or her own accommodation prior to their current periods of incarceration.

WELFARE – THE LAW.

21. I have considered the case of *ABA (Children; Care and Placement Orders)* [2023] EWCA Civ 743 in which the Court of Appeal referred to the case of *Re: D*. In the lead Judgment Peter Jackson LJ, said:

”The proper approach to a decision involving adoption is well established. I have attempted to encapsulate the essentials in these earlier decisions.”

Re: D (A child; Placement Order) [2022] EWCA Civ at page 896:

“The recent decision of the Supreme Court in *HW (Children)* UKSC Law Reports [2022] at page 17 underlines that a decision leading to adoption or to an order with similarly profound effects requires the rigorous evaluation and comparison of all the realistic possibilities for a child’s future in the light of the court’s factual findings. Adoption can only be approved where it is in the child’s lifelong best interests and where the severe interference with the right to respect for family life is necessary and proportionate. The court must, therefore, evaluate the family placement and assess the nature and likelihood of the harm that the child would be likely to suffer in it, the consequences of the harm arising and the possibilities for reducing the risk of harm or for mitigating its effects. It must then compare the advantages and disadvantages for the child of that placement with the advantages and disadvantages of adoption and of any other realistic placement outcome short of adoption. The comparison will inevitably include a consideration of any harm that the child would suffer in the family placement and any harm arising from separation from parents, siblings and other relations. It is only through this process of evaluation and comparison that the court can validly conclude that adoption is the only outcome that can provide for the child’s lifelong welfare, in other words that it is necessary and proportionate.”

22. I have also considered the decision in *N (Refusal of Placement Order)* [2023] EWCA Civ at page 364 in which Baker LJ, said this:

“The approach to be adopted by a judge when deciding whether to make a Placement Order is now well established and need not be repeated at length again here. Under Article 8 of the European

Convention on Human Rights any interference with the exercise of the right to respect for family life should be proportionate to its legitimate aim. There can be no greater interference than the permanent removal of a child. Consequently, the relationship between parents and children can be severed only in exceptional circumstances and where motivated by overriding requirements pertaining to the child's welfare, in short where nothing else will do (per Baroness Hale of Richmond in *Re: B (Care proceedings; appeal)* [2013] UKSC 33.

”A judge determining an application for a Placement Order must, therefore, carry out a rigorous analysis and deliver a reasoned judgment. The key requirements of the Judgment are stated by McFarlane LJ, as he then was, in *Re: G (A child)* [2013] EWCA Civ page 965 at paragraph 54:

“...Is a balancing exercise in which each option is evaluated to the degree of detail necessary to analyse and weigh its own internal positives and negatives and each option is then compared side by side against the competing option or options.”

23. I have also considered the decision in *W (A child)* [2016] EWCA Civ page 793.

McFarlane LJ, as he then was said this:

Nothing else will do. Since the phrase ‘nothing else will do’ was first coined in the context of public law orders for the protection of children by the Supreme Court in *Re: B* judges in both the High Court and Court of Appeal have cautioned professionals and courts to ensure that the phrase is applied so that it is tied to the welfare of the child as described by Baroness Hale in paragraph 215 of her Judgment:

“We are all agreed that an order compulsorily severing the ties between a child and her parents can only be made if justified by an overriding requirement pertaining to the child's best interests, in other words the test is one of necessity; nothing else will do. The phrase is meaningless and potentially dangerous if it is applied to some freestanding short cut test divorced from or even in place of an overall evaluation of the child's welfare.”

“Used properly, as Baroness Hale explained, the phrase ‘nothing else will do’ is no more, nor no less than a useful distillation of the proportionality and necessity test as Ms Mbodyed in the European Convention on Human Rights and reflected in the need to afford paramount consideration to the welfare of the child throughout his lifetime (Adoption and Children Act 2002 section 1). The phrase ‘nothing else will do’ is not some sort of hyperlink providing a direct route to the outcome of a case so as to bypass the need to undertake a full, comprehensive welfare evaluation of all the relevant pros and cons (see *Re: B-S* (2013) EWCA Civ 1146).

“Once a comprehensive full welfare analysis has been undertaken of the pros and cons, it is then and only then that the overall proportionality of any plan for adoption falls to be evaluated and the phrase ‘nothing else will do’ can properly be deployed. If the ultimate outcome of the case is to favour placement for adoption or the making of an Adoption Order, it is that outcome that falls to be evaluated against the yardstick of necessity, proportionality and ‘nothing else will do’.”

24. I have also considered the Court of Appeal decision in *V (Children)* [2013] EWCA Civ at page 913. Black LJ, said this at paragraph 95:

“Also entering the picture is C’s view. The judge thought, given a rosy tinted view of adoption and not told that long term fostering could provide the same security. My difficulty with that is that I do not think that fostering and adoption can in fact be equated in terms of what they offer by way of security. I do not intend to Ms Mbark on a comprehensive comparison of the two arrangements, merely to highlight some of the material differences. What I say should not be taken as a substitute for professional advice to the court from social services and/or the Guardian in any case in which this is a significant issue.”

25. With that caveat I make the following observations:
- i) Adoption makes the child a permanent part of the adoptive family to which he or she fully belongs. To the child it is likely, therefore, to feel different from fostering. Adoptions do of course fail but the commitment of the adoptive family is of a different nature to that of a local authority foster carer whose circumstances may change, however devoted he or she is and who is free to determine the caring arrangements;
 - ii) Whereas the parents may apply for the discharge of a Care Order with a view to getting the child back to live with them, once an Adoption Order is made it is made for all time.
 - iii) Contact in the adoption context is also a different matter from contact in the context of the fostering arrangement. Where a child is in the care of a local

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authority the starting point is that the authority is obliged to allow the child reasonable contact with his parents (section 34(1) Children Act 1989). The contact position can of course be regulated by alternative orders under section 34 but the situation still contrasts markedly with that of an adopted child. There are open adoptions where the child sees his or her natural parents but I think it would be fair to say that such arrangements tend not to be seen where the adoptive parents are not in full agreement. Once the Adoption Order has been made the natural parents normally need leave before they can apply for contact;

- iv) Routine life is different for the adopted child in that once he or she is adopted the local authority have no further role in his or her life, no local authority medicals, no local authority reviews, no need to consult the social worker over school trips abroad, for example.

WELFARE.

- 26. The balancing exercise seen through the prism of section 1 of the Adoption and Children Act 2002. This is an adoption question and I have regard to the provisions of section 1 of the Adoption and Children Act 2002 as it will follow that, if I am satisfied that a Placement Order should be made, then a Care Order will follow and there is no need to consider the inferior test in section 1 of the Children Act 1989 (McFarlane LJ, as he then was, in *Re: R*).
- 27. The paramount consideration of the court must be the child's welfare throughout his life. I remind myself that the European Court of Human Rights has held that in identifying where a child's best interests lie two considerations must be borne in mind. First, it is in the child's best interest that his ties with his family be maintained

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except in cases where the family has proved particularly unfit. Second, it is in the child's best interest to ensure his development in a safe and secure environment (*YC v The United Kingdom* Family Law Reports for (2012) 2 FLR 332). I also remind myself that the court must at all times bear in mind that in general any delay in coming to the decision is likely to prejudice the child's welfare. L has been in foster care now since August 2023, that is in excess of the 26 weeks within which the Family Court should conclude care proceedings pursuant to section 32 of the Children Act 1989. There will be no further delay and I intend to make a decision today.

28. The court must have regard to the following matters amongst others:

(a) the child's ascertainable wishes and feelings regarding the decision, considered in the light of the child's age and understanding. Clearly, L is too young to express any wishes and feelings upon which the court could rely;

(b) the child's particular needs. The child clearly has a need for permanence, giving him the ability to form proper attachments with a forever carer or carers. He requires security and stability in a home that is free from domestic abuse, alcohol and substance misuse and free from the impact of adult mental health issues impacting upon the quality of care that he receives. He is currently in foster care. This cannot be used as a staging post whilst the parents seek to address the multifarious issues that they have. L requires a placement in which he can make proper attachments with his primary carers, so crucial for a child's wellbeing and emotional development. His welfare is my paramount concern and decisions have to be made with his best interests at the core;

(c) The likely effect on the child throughout his life of having ceased to be a member of the original family and becoming an adopted person. On adoption the cessation of

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membership of the original family is total and intended to be so for all time. The original parents' parental responsibility is extinguished and there is a complete severing of all legal ties with the family. The cut-off from his family of origin may have a potentially damaging impact on his sense of identity and L's emotional wellbeing. Becoming an adopted person provides for the child a permanent substitute family where the adopters are legally responsible and, therefore, fully committed to fulfilling their parental responsibilities. In focusing upon the likely effect on L of these changes I have considered the degree of interference with his Article 8 rights to family life and those of other family members that would be consequent upon an adoption. I balance that against the family life that L would enjoy within an adoptive family;

(d) the child's age, sex, background and any of the child's characteristics which the court considers relevant. L is a delightful redacted months old little boy who is meeting all of his developmental milestones. He is from a white British background. He was last weighed on 17 January 2024 and was 7.4kg (16lb 4 oz) and his length 64cm. L is in his second foster placement since birth. From his discharge he was initially placed with out of birth carers but was moved on 25 September 2023. He has remained in his current placement since then and is thriving. Following L's birth there were concerns that he was withdrawing, that he was observed to be jittery. There were concerns that the mother had used illicit substances during pregnancy. L was observed to be jittery following his placement in foster care until he was three weeks old. He was being breast fed during this time. L had the advantage of receiving positive parenting since his placement with his current carers. He is having all of his needs met to a really high standard. There are no current concerns for his health and development. L is a very happy, smiley and responsive baby who is currently teething

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and loves the water. He goes swimming weekly. He is sleeping through the night and has started to roll. He can be heard babbling and enjoys playing with his toys whilst sat in his doughnut.

(e) any harm within the meaning of the Children Act 1989 which the child has suffered or is at risk of suffering. I have dealt with findings of harm under Threshold above.

(f) The relationship which the child has with relatives and with any other person in relation to whom the court or agency considers the relationship to be relevant including:

(1) the likelihood of any such relationship continuing and the value to the child of its doing so;

(2) the ability and willingness of any of the child's relatives or of any such person to provide the child with a secure environment in which the child can develop and otherwise to meet the child's needs;

(3) the wishes and feelings of any of the child's relatives or any such person regarding the child.

29. L has three paternal half siblings whom he has never met. The whereabouts of the eldest is unknown but she is believed to reside with her mother. The other two children are not believed to know about L's birth and there is no current relationship between them. The local authority would propose indirect contact if their parents are in agreement with the same.

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30. I fully accept that both the mother and the father love L dearly. I also accept that the mother is desperate to care for L. The parents, and particularly the mother, have fought to have their son returned to their care. They have not given up, they have not rejected their son, they have not abandoned him; it is not L's fault. However, unfortunately in this case neither of them is able to provide good enough, safe enough care for him within his time frame. There are no friends, family or other connected alternatives suitably positively assessed.

31. Long term foster care would enable L to have ongoing contact with his parents with the potential that one of them could reach the stage one day where he or she could provide good enough, safe enough care and he could be returned to that parent. However, there are a number of negatives with long term foster care. There is the intrusion by the State in the child's life and the stigma of being a Looked After Child. Being a Looked After Child is likely to feel very different to life as an adopted child as a member of a permanent family rather than just being looked after by professional carers. The risk of breakdown is higher with long term foster care. It is unlikely to provide the child with a sense of permanence and stability that he needs to form good, wholesome attachments with his primary carers. The placement could also be subject to applications by the parents to discharge the Care Order which, again, could provide instability, particularly if the applications lack merit.

32. Adoption would likely mean that ties with his birth family would be broken. He would not enjoy the benefits of an ongoing relationship with his mother and any relationship that he manages to form with his father. Adoption provides a permanent family where L could feel as though he truly belonged. The carers would be committed to him for his life rather than just his childhood or a period of his

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childhood. Whilst there would be an interference with his Article 8 rights to private and family life, he would enjoy the benefits of family life in his adoptive placement. He would form the familial relationships in a new family. State intrusion would also come to an end and he would enjoy a normal family life without the stigma of being a Looked After Child and the freedom to engage in activities such as holidays without local authority consent.

33. He cannot remain in a state of temporary foster care, in a state of flux, probably for years whilst his parents attempt to address their various issues. These proceedings have to move at the speed of the child's welfare and not the adults'.
34. In coming to a decision relating to the adoption of a child the court must always consider the whole range of powers available to it, in the child's case whether under this Act or the Children Act 1989, and the court must not make any order under this Act unless it considers that making the order would be better for the child than not doing so.
35. In my judgment, this is a case where only adoption will do. It is in the best interests of L and is necessary and proportionate. It follows, therefore, that I dispense with the consent of the parents on the grounds that his welfare requires that I do so. I also follow that the court should make a Care Order and I do so. I approve the permanence provisions of the care plan including the contact reduction plan as L will need to be prepared for the move into an adoptive placement. I also direct that a transcript of this Judgment be prepared at the local authority's expense in accordance with the direction of Peter Jackson LJ. That concludes this Judgment.

IN PRIVATE

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