

[2010] EWCC 12 (Fam)

In the County Court

Before:
HHJ X

Between:

X Local Authority
And
A Mother

Applicant

Respondent

Hearing dates: 18 February 2010

WRITTEN REASONS

Judgement

1. THE JUDGE: The applications before the court relate to CW. They are firstly an application by the local authority for a care order under the Children Act 1989, and secondly by LR for an adoption order under section 51 of the Adoption and Children Act 2002.
2. The background to the case is as follows. C's mother is AW. His father is believed to be PR. He has played no part in these proceedings. Miss R is his sister. C is mother's third child. He was born on (date given) and is therefore now (age given). M was born on (date given); her father was R(?). S was born on (date given); her father was JC. Both M and S were made the subject of care orders on (date given). Those proceedings were commenced because of concerns about, firstly, the level of mother's care for M, secondly, mother's relationship with S's father which was abusive and violent; thirdly, alcohol and illicit drug abuse, fourthly, the lack of appropriate guidance and boundaries, and mother's inability to prioritise M's needs; and, fifthly, alleged physical abuse of M.
3. M was placed for adoption. Mother and S were placed in W under Placement with Parent Regulations in (date given) with a view to rehabilitation. Whilst there, S was a young baby and mother made impressive progress. She moved to H flats and continued her parenting and care of S with some independence but also with continued support. Eventually she was able to move to her own home. There was a contract of expectations drawn up between mother and the local authority, and she was provided with a support package.
4. In or around 2006 mother met PR. She is unsure of the precise date. She says there was no relationship, by which she means there was no sexual relationship, between them until (date given). It was an abusive relationship. On (date given) S was assaulted by mother after she had been drinking with Mr. R. She was subsequently convicted. S was removed under an emergency protection order. Mother applied to discharge the care order but withdrew her application on (date given). In (date given) the Adoption Panel recommended that S ought to be adopted. She is now in the same placement as M.
5. Mother originally said her relationship with PR ended in (date given). There was, however, police record of them having been found arguing and intoxicated on (date given). She later accepted that they were reconciled in (date given). She became pregnant and underwent a termination. She revealed that the relationship had been ongoing. A considerable question arose in the mind of the local authority, that is in the mind of Mr. J, the social worker, about whether, and if so when, it ended.
6. In the course of the original proceedings in 2003 Dr. GW undertook a psychological assessment of mother. His conclusion was that mother's ability to parent the children was compromised by her personality style. He said there were issues of low self esteem, poor self image, the need for protection and support, negative inter-personal interaction, and the creation of ill will in

others which then activates an angry, frustrating cycle. Dr. W said that this personality style had in part resulted in problematic relationships and interpersonal conflict, which affected her ability to parent. These features manifested themselves in the maintenance of abusive relationships with the fathers of the children, and the inadequate care of M and S.

7. A further assessment was undertaken by Dr. D in (date given) in relation to mother's application to discharge the care order relating to S. He reached the same conclusions as Dr. W. He detected little change since 2003. He said she demonstrates clinically significant traits of such personality styles which may potentially impact negatively upon her ability to parent. He said she had minimised the extent to which her relationship with Mr. R. had been violent. Her paranoid personality might make her reluctant to co-operate with the local authority. She might encounter increased stress levels that could lead to her reacting inappropriately.
8. That is the background against which the local authority intervened on (date given) upon C's birth, and sought and obtained an interim care order on (date given). That has been renewed successively whilst C has remained in the same foster placement, having contact regularly with his mother.
9. I turn now to the consideration of the threshold. The relevant date for the consideration of the threshold under section 31 of the Children Act 1989 is (date given), the date of C's birth and of the local authority's intervention. Mother agrees that the threshold is met in this case. It is agreed that at that date C was likely to suffer significant harm and that the likelihood of that harm was attributable to the care likely to be given to him by his mother not being what it would be reasonable to expect a parent to give him. The risks were to his physical and emotional development. That likelihood is based upon firstly, the previous care orders in relation to M and S on the basis that they had suffered or were likely to suffer significant harm; secondly, mother's past alcohol misuse, anger management problems, her propensity for entering into inappropriate relationships and her lack of openness with professionals; thirdly, the assault upon S whilst under the influence of alcohol, fourthly, mother's personality traits and the need for lengthy therapeutic intervention and, fifthly, the fact that despite mother informing the local authority that the relationship with Mr. R had ended, the police were called to an incident between them in (date given) after which mother had presented at the P Hospital in B under the influence of alcohol.
10. Having considered the evidence, including that from the psychologists, I too agree and I find that at (date given) the threshold criteria were met.
11. The local authority has prepared two care plans in this case. The current plan is dated 1st February 2010. It provides for C's adoption by Miss R.
12. I turn now to a consideration of the present concerns. They arise from Dr. D's further assessment which was undertaken for the purpose of these proceedings, and his report of 6th March 2009. He summarised his concerns as follows. *"Miss W has a level of cognitive functioning in the average range and in my opinion does not suffer from a substance dependence at this time.*

Her current levels of clinical depression are concerning, given that she stated that she has ceased taking her prescription medication. In my opinion her personality profile is such that there is a concern that in the future she may seek attention and affection within a further relationship which, if proven to be inappropriate, may negatively affect her ability to care appropriately for her son. However, she has recently begun counselling and demonstrated a good degree of insight as to its purpose and the need for it. Psychologically there appears to be little psychological evidence why she should not understand the need for and benefit from long term intervention designed to reduce her strong personality traits. However, this can never be considered to be a certainty and in my opinion the effectiveness of it can only be tested in the long term when her son approaches an age when he becomes less dependent upon her immediate care.”

13. Dr. D was asked seven specific questions and I have considered his answers fully. The concerns arising from mother’s personality profile questioned firstly, whether she would withhold information from the authorities if she encountered difficulties, secondly, whether she would turn to inappropriate relationships when C became older and challenging, thirdly, whether she would accept inappropriate behaviour by a future partner, and in particular by Mr. R, fourthly, whether therapy could be successful within an acceptable timescale, fifthly, whether mother might self-medicate with alcohol to address increased stress or depressive feelings, and sixthly, whether the core features of her personality, that is her dependent personality style coupled with the risk of entry into inappropriate relationships, substance misuse and depression, prevent her from providing good enough care when C becomes older and seeks independence.
14. In his evidence Dr. D emphasised that the concerns are not about her practical abilities as such. They are over her ability to protect the child from the relationships that she seeks out, coupled with longer term problems that arise as a child becomes more challenging and less dependent and is no longer meeting her own dependency needs. There are these two specific personality concerns of dependence and social desirability.
15. I turn to the local authority’s position. Evidence was given by the social worker, Mr. J, that the local authority were not aware of significant events in mother’s life because she disguised them until matters came to a head on (date given). Consequently the local authority has no confidence in a phased rehabilitation to mother in conjunction with a support package. That was what was tried for S. Despite what mother says, the local authority say there is little evidence of it being put into effect, and no evidence that she can change when dealing with others, including professionals. She still wants to be what Mr. J described as a “closed book”. The principal concern is the recurrence of past events unless there is strong action to change mother’s personality.
16. Mother concealed the truth about her relationships with Mr. C and Mr. R to the extent that mother denied Mr. R’s presence at the home when he, Mr. J, had actually seen him there in (date given). That calls into question in Mr. J’s mind her commitment and whether she has in fact grasped the need for total

change to overcome the deficits in her personality. In short, they say the old concerns have not been addressed and C is at risk of the harm that materialised for M and S.

17. Miss AT was instructed as an independent social worker by mother to assess her parenting. In her report of 30th July 2009 she undertook an analysis of mother's parenting abilities according to the framework for assessment of children in need and their families.
18. Her conclusions were firstly that, overall, mother was not able to provide a good enough standard of basic care on a consistent basis, and that outside influences would impact upon her ability to focus on her children's needs.
19. Secondly, she had failed to protect her children from dangerous situations. Specifically, she was unable to extricate herself from relationships that are dangerous, and reluctant to make a choice that has been in a child's interests rather than fulfilling her own complex needs.
20. Thirdly, whereas she thrived in the supported environment in the past and has built an attachment with C and is attentive to his needs, the concern is that outside that supportive environment mother will seek company and support where she can find it because her own needs are so great. Becoming embroiled in relationships diminishes her ability to meet a child's needs.
21. Fourthly, mother has difficulty in establishing boundaries as a child gets older, as evidenced in particular by S and what had been described as a dramatic deterioration in her behaviour in the months prior to her admission into care.
22. Fifthly, mother struggles most of all in relation to stability in her parenting. Her own enormous problems mean that she has lived in a state of emotional chaos. Consequently, she has not been a positive role model consistently, and she has exposed the children to disturbing and frightening behaviour.
23. Sixthly, she was provided with support by the local authority but it proved insufficient. Miss T said it is difficult to see how she could receive a higher level of support in a non-residential setting. That led to her general conclusion of the imperative of mother engaging in a suitable therapeutic process and to work openly and honestly to address these complex personality and emotional issues. That process would be, said Miss T, outside a timescale consistent with C's welfare.
24. Mother's account was given in her statements and in her evidence before the court. She accepts that she was not open and honest about the relationship with Mr. R. She does not know why she concealed the truth from Dr. D and Miss T. She understands the local authority's concerns about the history of the relationships and her dishonesty with them. She says it may be true that she struggles to deal with a developing child, and certainly found S what she described as "*a handful*". She accepts, too, that there has to be change. She presented herself as having undergone that process of change. She says she is not in any form of relationship with Mr. R and has not seen him since (date given) when she accepted an invitation on a purely platonic basis

to meet his family. She went principally because at that time Miss R had put herself forward as a potential carer for C and so she thought it would be a good idea. She did not see him, as had been suggested, in December.

25. More importantly, she said she had acted on Dr. D's suggestion that she should consult her GP and she was now prescribed antidepressant medicine which she took daily. She had enrolled on the following courses: a stress and anxiety course at MIND, the women's aid freedom course, and a cognitive behaviour therapy course with MIND. MIND confirmed in correspondence that mother completed twelve sessions of CBT in (date given) and that she had attended five out of twelve sessions of a stress and anxiety management programme between (dates given). She said in her evidence that she can be trustworthy now and has come to her senses. She likes to think that she has changed and wants to be up front and honest. She is more positive and confident, and realises the child's needs must be above her own. She has overcome obstacles and described herself as a lot more stable.
26. The central issue that emerges and is critical in this case is whether mother has changed, and if so changed sufficiently, or whether she could do so within a timescale that is appropriate for C so that she could provide good enough care for him. Dr. D says she has no cognitive deficiency and that mother therefore understands the problem and understands the need for change. She may sincerely believe she has changed. She may genuinely consider herself to be highly motivated. The real issue here is whether she has in fact changed, or whether the personality traits of dependency and social desirability mean that any future relationship with C would be vulnerable. As Dr. D puts it, the problem is not one of awareness, it is one of acting upon that awareness.
27. Mr. J was very pessimistic about a change in her relationship with professionals. He said there was no evidence of it having occurred. He did not believe that she is committed to therapy, and she had not grasped the significance of the need for total change to overcome these personality deficits. Miss T acknowledged that some therapy had been undertaken but said it was just the beginning. Mother was not even on the first rung of the ladder for the local authority to trust her as a parent. Miss T and everyone else acknowledged the great difficulties mother would experience in obtaining access to therapy that she simply could not afford to pay for. This was, however, part of the plan when she was in W and is not something new. Miss T said that there were times when mother would talk about specific actions and decisions that had led to chaos in her life, but it was often fleeting because her own needs were so great. She could be deep in conversation and go off at a tangent about herself. It was difficult to maintain her focus. Whilst there is a level of acceptance, Miss T's view was that mother cannot really relate the past and her acceptance of it to present circumstances.
28. Dr. D's assessment was that he saw no evidence to suggest that the personality profile had altered since he interviewed mother in (date given). He explained at length that cognitive behaviour therapy for a pervasive personality trait is a long term exercise. It could not be addressed in twelve

sessions or over twelve weeks. Much depends on motivation, but because personality is resistant to change, it is unlikely that change can be effected in any timescale significantly less than three years. He had a significant question in his mind about mother's motivation. This was because mother had professed a desire to change in the past. He said she had always done so, yet whilst doing so was, as he described it, proactively deceitful about her relationship which was then ongoing and at a time when she had just become pregnant again by Mr. R. He attributes what mother now says to have a tendency to appear socially desirable and not to genuine motivation. He looked for evidence. The only source of evidence was the past, and he said that past behaviour is the best guide to future behaviour. The therapy undertaken did not alter his view. He did not see it as evidence of genuine motivation.

29. So has there been change? What is the prognosis? I regard all of that evidence as an extensive and persuasive body of evidence to the effect that mother has not demonstrated that she has undergone any significant change, or that she has addressed her personality deficits in any significant way. In saying that I acknowledge and accept that there is no evidence of current alcohol misuse, and that her attendance at courses is evidence of motivation on her part. It does not mean, however, that the problems associated with her personality are overcome, and my reasons for coming to that important conclusion in this case are these.
30. Firstly, the evidence comes from three professional sources. It is not to be accepted blindly just because of that, but equally I cannot ignore the extensive involvement that Mr. J, Miss T and Dr. D have had with mother over the years. All were involved in earlier proceedings. Miss T was involved through W. The local authority was involved in the assessment relating to S. The local authority and Miss T were promoting S's rehabilitation to mother. Dr. D interviewed mother in 2008 and 2009. All three have a long detailed involvement which I consider is a reliable foundation for their clear opinions about this.
31. Secondly, whilst no-one, including the experts, can predict the future with certainty there is weight in the argument that the past can be a generally reliable indicator. Mother acknowledges that the past problems, the deceit in relation to Mr. R and the continuation of the relationship until (date given) at least, during the course of these proceedings, is justifiably a major concern on the part of all three professionals.
32. I can accept the sense of what mother says at face value about the September meeting, but I am not able to accept readily that that is the full extent of it. If mother is right she deliberately concealed a relationship between February and June. I believe that she was badly affected by Mr. R's decision to call it off at the end of June. That effect would be exacerbated in her case by her dependency trait, and I doubt very much that the feelings and the needs that drove that relationship to the extent that it had earlier in the year had all gone, and that this was purely platonic by September. The point is that the evidence about Mr. R, even taking it only up until June, contradicts

mother's case that there has been a substantial change or, indeed, that she is on the cusp of it.

33. Thirdly, mother herself was not entirely convincing about this. I have no doubt about the depth of her feelings and her sense of desperation. Only someone with a heart of stone could fail to see that. But when asked specifically about her proposal for rehabilitation she said *"I don't need any more therapy at the moment. Maybe I could go back to the doctor. I'm definitely more stable now. I would go to MIND. I would do anything. I would work under a supervision order."* Towards the end of her evidence she said she had attended most of the Freedom seminars, and went on to say *"Maybe I need more CBT. I feel there's been enough and I have really benefited."* But in my view, this is an unrealistic assessment of herself and her needs, and whilst she says she would engage in more, she revealed an underlying belief that in fact enough may have been achieved already and I do not consider that this amounts to evidence of a real understanding and an acceptance of what is required.
34. Fourthly, following from that is the evidence of timescale. There is nothing to contradict Dr. D's clear opinion that it would take a year or so for the first signs to appear, and then a total of three years or so, possibly more, before enduring change could be expected. Mother's own assurances about change do not undermine that evidence. It is, in my view, highly unlikely that anything meaningful could have been achieved by what she has done so far.
35. So I summarise my conclusions as follows in relation to this central issue. There is no evidence of sufficient change beyond mother's assertions about herself. Her personality traits are pervasive and will take years to reverse. There is a probability that whilst these traits remain to be addressed, the clear pattern of past behaviour will recur. In particular, mother's own dependency will mean that she will probably seek out a further relationship, and that she would not be able to prioritise the needs of a developing child over those of her own. A child in her care would be exposed to a level of parenting that cannot be considered good enough. In particular, the risks are a repetition of the shortcomings M and S were exposed to.
36. On the basis of those conclusions I now turn to the question of what the outcome should be of the applications before me, and whether a care order should be made. The court's paramount consideration is C's welfare, in accordance with section 1 of the Children Act 1989. I have to consider all of the circumstances, including the factors referred to in section 1(1) of the Act, the welfare checklist.
37. C is too young to have ascertainable wishes and feelings. In terms of his physical, emotional and educational needs, his needs are those of any young child. He needs consistent, safe and secure nurturing in a permanent, stable and stimulating environment. In practical terms this means proper attention to his physical welfare, his education, his health, his protection from dysfunctional activities, and disturbing experiences, the establishing of proper boundaries, and the provision of guidance and a consistent level of care and emotional support.

38. These needs are currently met in his foster placement. He is described as a delightful child, meeting his developmental milestones, and it is fair to acknowledge that within the structured confines of the contact currently on four occasions per week, mother has contributed to that and shown that she can meet his needs.
39. Were his circumstances to change, as they must, the likely effects are as follows. If returned to mother he would be exposed to the shortcomings evident in her parenting in the past. This would be particularly so as C grows older and less dependent upon mother than now. He would be vulnerable to risks arising from mother entering into another relationship. He would be at risk of facing the same problems as M and S. It is probable that these difficulties would arise again, wholly or in part.
40. If placed with Miss R, then on the basis of the assessment undertaken of her he would receive parenting in accordance with his identified needs. Mother does not challenge this assessment, or Miss R's qualities. Indeed, she acknowledges her to have been a very impressive person and expresses gratitude for her intervention. He would also transfer his attachment to Miss R and make the transition in his life without difficulty.
41. In terms of his age, sex and background, he is still very young, just x months. He is male, and his background is as I have described it. He has no special characteristics which are relevant. He is at risk of suffering harm if returned to mother's care and exposed to the risks identified. No harm has been sustained to date because C has been in foster care since his discharge after birth.
42. In relation to the capabilities of the parents and other relevant persons, this consideration is confined to mother, because of father's non-engagement. I have already made findings about the impact upon her parenting of mother's hugely unfortunate background and the inadequacies in her own upbringing and its pervasive effects on her personality. Miss R's assessment is as I have described.
43. The court's range of powers include no order; a supervision order on the basis of C being rehabilitated with mother, a special guardianship order; or adoption. In the particular circumstances there are no other viable possibilities.
44. On the basis of the findings I have made, in my judgment rehabilitation with mother is not consistent with C's welfare and his needs. It would expose him to risk of harm. It would be a high risk strategy. A supervision order would not overcome these problems and risks. It would diminish the role of the local authority. The local authority is justified in its deep reservations about whether they can trust mother sufficiently to work openly and honestly with them, and in their concern that C could be exposed to the effects of problems in mother's life without them knowing. Long term fostering would not give C permanency and the stability he needs, and is not proposed by anyone.

45. The only person available with whom C could be placed is Miss R. A residence order in her favour would not give C permanence and stability, and again is not proposed by anyone. The court is faced in this case with distinguishing between the only two viable and proposed options: a special guardianship, or adoption order in respect of C.
46. I approach this sensitive issue bearing the following legal matters in mind. They arise from the Adoption and Children Act 2002 ("the Act") and from the case law.
47. Firstly, the court's paramount consideration must be C's welfare throughout his life (section 1(2) of the Act).
48. Secondly, the court must have regard to the matters specified in section 1(4) (a) to (f) of the Act.
49. Thirdly, the court must consider the whole range of available powers, including those under the Children Act 1989 and those under the Act, and must not make any order unless it considers that making the order would be better for C than not doing so (section 1(6)).
50. Fourthly, the welfare interests of C will include his interests in retaining his identity. It would also require consideration of his relationships with relatives, including in C's case the potential for development of a relationship in the future (see paragraphs 15 and 19 of the judgment of Arden LJ in *Re: C (A Child) v XYZ County Council*, [\[2007\] EWCA Civ. 1206](#)).
51. Fifthly, Article 8 of the European Convention is engaged.
52. Sixthly, there is guidance given which I have considered in the general comments in paragraph 41 to 77 of the judgment of Wall LJ in *Re: S (A Child)* [\[2007\] EWCA Civ. 54](#). I bear in mind in particular firstly the clear distinction between the status of adopted children and those subject to a lesser order, including a special guardianship order; secondly, that there is no statutory presumption for or against either outcome, and thirdly, that the key question to be asked is which order will better serve the welfare of C.
53. Is, therefore, a special guardianship order sufficient and appropriate, or do the particular circumstances of the case require that the court make an adoption order to meet C's identified needs?
54. Miss R's original application was for a special guardianship order. It was after she received different legal advice and as the case unfolded that she changed her position and now sees an adoption order as the preference. Mr. J and the local authority acknowledge a special guardianship would go some way towards meeting C's needs. The reservation is that it would mean mother would retain parental responsibility and it would be open to challenge in the future. Mr. J said that a special guardian is envisaged as suitable for a child who would have the advantage of some knowledge of a link within a family. By implication he says that would be when a child is older. A special guardianship order would make Miss R feel vulnerable to challenge --

challenges, that is, to her own decision-making. It would not provide a conclusive outcome for C and there would be the spectre of court proceedings being initiated. That of itself would jeopardise the stability and permanence of a placement.

55. The local authority does not believe that mother could and would support the placement. Her needs would come first. She would need to have her say. A special guardianship order would go wrong because of the conflict. Miss T said that she would have very real concerns about whether mother could accept a secondary role under a special guardianship order. Dr. D's view was that mother should fully understand the nature of the subordinate role. However, her personality traits may undermine the child's relationship with his primary carer. Mother's need for social desirability could lead to things being said to C to influence his view of her. Her dependency could reduce her motivation and lead to her giving up on C in response to other influences.
56. Mother's response to these arguments is that C has an attachment, a bond with her that has been developed through the regime of contact to which she has been fully committed. She says too much weight has been given by the experts to what are only predictive fears about her capacity to undermine a placement, and that too little weight has been given to the evidence of her motivation in attending therapy and in her approach to contact, including the concession she made to allow contact to be established between C and Miss R. She says the local authority's analysis is flawed because of a failure to take account of the specific criteria in the Act and the whole of life Implications of adoption. She says a special guardianship order is commensurate with C's welfare, and whilst she says the fears about her disruption of a placement are illusory, the court can buttress any order and allay those fears by using its powers under section 91(14) of the Children Act 1989 and impose an indefinite restriction against her making any application for an order under section 8 without leave. She makes the point, too, that were she so inclined in the particular circumstances of this case she could disrupt a placement anyway.
57. She says that an adoption order would skew relationships within the family. Mr. J, counsel on her behalf, presents this in two senses. Not only would C's aunt be his mother, but he will become an integral part of the paternal family whilst to all intents and purposes being excluded from his maternal family. That is something that would arouse his curiosity and requires retention of his mother's role in his life in order to redress that imbalance. Finally, mother says that whatever order is preferred, there should be contact which she seeks on a monthly basis. She suggests bi-monthly as an alternative, with a residual position of asking, understandably, for whatever the court would permit.
58. Miss R confirmed in her evidence that her decision to make an application for an adoption order was driven purely by her views about what was best for and consistent with C's welfare, and not for any other mundane reasons. I unreservedly accept that to be the case. She saw the distinction between special guardianship and adoption not as one confined to decision-making about C's future, but as about his feelings of permanency and security,

especially as he grows older and goes to school. The prospect of the involvement of mother, or indeed father, in the future made her anxious, something which she feared would be transmitted to C. She was concerned that C should have what she regarded as the security and feelings of self-worth that adoption would provide. In short, she said she wants to be his mother and raise him in that way, always acknowledging that he also had a birth mother and a father, awareness of whom she would promote.

59. Those are the competing arguments. It is my judgment that there is substance in the concerns raised by the local authority, the experts, and Miss R. A special guardianship order would be vulnerable to future challenge by mother, and to further applications to the court. I accept that Miss R would feel exposed. It would make her anxious. It would detract from the permanence and stability an adoption order would establish. I think there are justifiable reservations about mother's assurances that she would not intervene. I think it would be a harsh and unwarranted conclusion that she would do so deliberately, or that she is deliberately saying things now that she knows to be false in order to achieve an objective. I think her situation is much more subtle and much more complex than that. But even on the basis of an acceptance that she is genuine in the sense that she really believes that she will not do so, that is something which simply cannot be accepted at face value. Her primary case is for rehabilitation of C to her care now. That in itself demonstrates to my mind that she does not fully accept the real problems that exist here and their extent. If not returned to her, she says he should live with Miss R but have monthly or some other periodic but regular contact with her. No-one should be critical of her for that, nor simply dismiss her motives. But on the basis of past evidence and what I have seen and heard over the last three days I find it very difficult to conclude that she would accept a secondary role within a special guardianship order and what it would require of her, and not undermine the placement.
60. Her willingness to submit to an order under section 91(14) of the Children Act may well be a genuine expression of current intent. The likelihood is that that would change. There is generally unfettered access to the court under a special guardianship order in relation to all section 8 orders except residence, and whilst it is right that the court can invoke a jurisdiction under section 91, the test for overcoming leave has historically been seen as comparatively low (see paragraphs 66 and 68 in *Re: S*). Dr. D, Miss T and the guardian express the same concern. They all believe mother would be unable to support a placement. Dr. D considers it likely that she would be driven to it by her personality traits. He assessed the risk as very high. He accepted that the effects of mother's personality traits in a situation such as this where she would not be the primary carer but have a secondary role might be different. The risk would be lower, but might be a real risk nevertheless. Miss T with all her knowledge and experience of mother doubted very much that she could and would accept a secondary role.
61. In reaching these conclusions none of the experts has ignored mother's attachment with C nor, as mother contends, given it insufficient weight. They have accepted the commitment she has made and the positive experience

contact has been over the last fourteen months. Dr. D, in my view, was less generous in this respect than Mr. J and Miss T, but that attachment or bond is a recognised factor. Nor do I think they have ignored the efforts mother has made. These are factors which have to be set against the risks they perceive for C as he develops. I think it would once again be harsh to judge mother's motivation in this context as a contrivance on her part to achieve her aim. I think she is genuine in her attempts. The question is whether that level of motivation is sufficient to show that she could put C's needs before her own, and either care for him adequately or accept a secondary role and leave a placement undisturbed in the future. I do not believe that she has gone that far, and I think that the experts have factored that into their thinking.

62. Nor do I accept that the guardian's analysis or that of the local authority is flawed on the basis of reverse reasoning. Mr. J's submission is that they started with a conclusion and worked backwards in garnering and expressing the evidence to justify it. On my reading of all of the reports that has not occurred. Upon reading the guardian's analysis as a whole it does make clear that she has considered the life-long implications for C. Reference is made to the life-long implications of the permanence she considered C needed. There is reference to life story work as the means of addressing the need for C to understand his background and his situation. In its Annexe A report the local authority consider the separate options.
63. Insofar as the skewed or imbalanced relationships within the family are concerned, the only person who would have dual status in C's life in the event of adoption would be Miss R. She would be C's adoptive mother and his aunt. This is not a case in which C would be living in a household with other people who would have peculiar or unusual legal relationships with him as a consequence of his adoption. It is correct that in the particular circumstances of this case adoption would make C an integral part of the paternal family. That seems to me to be a benefit for him. It is a factor in the case, but it does not seem to me to be a basis upon which the court could properly decline to make an order which it would otherwise make in C's interests. The central issue is C's welfare and that must include how best to address issues of identity and awareness of his past. It does not follow that C should be denied the benefits of permanence and stability in order to achieve that.
64. Those are my conclusions in relation to the arguments advanced by the parties. It does not follow automatically that there should be an adoption order. The court has to consider the circumstances generally and the statutory criteria. In relation to sections 1(4)(a), (b), (d) and (e) of the Act I reach the same conclusions that I have already expressed in considering the welfare checklist under the Children Act 1989. In relation to section 1(4)(c), the likely effect on C throughout his life of having ceased to be a member of the original family and become an adoptive person, the relevant considerations, in my judgment, are as follows.
65. Firstly, if adopted C would have a secure and permanent relationship with a mother, albeit not his birth mother, where all of his needs would be addressed. It will confer upon Miss R legal obligations on the one hand and the security of a clear legal framework for C's upbringing on the other. It

would confer upon her the security of being in charge of any situations that may arise from the fact that mother and/or father could emerge in these particular circumstances. She would be in a position to deal with those, as I believe she would sensitively and decisively. These are matters of life-long significance for C.

66. In terms of ceasing to be a member of his existing family, there is the loss of his mother. That cannot be minimised. That has, however, to be considered in the context of his age, the fact that he has had no permanent home life with her. His father has never had anything to do with him, and his maternal grandmother fully supports the care plan. Maternal grandfather and uncle have had nothing to do with C so far as I am aware, and they are not presented in this case as people with whom he would have a relationship in the future. In terms of his identity, he has none as yet, and I am satisfied that Miss R is highly competent, sincere and responsible, and that she would undertake life story work in a meaningful way for C. She has said, too, that she would be guided by the court in relation to contact, and in any event would deal with any issues that C himself may raise when older in relation to contact with his birth family.
67. There are no other matters that arise from him ceasing to be a member of his original family.
68. I consider too section 1(4)(f) - that is the relationship C has with relatives and with any other person in relation to whom the court considers the relationship to be relevant. There is only mother here. There is, of course, value in C's continuing his relationship with his mother. Mother's ability to provide a secure environment in which C could develop and otherwise meet his needs is highly questionable. Her wishes and feelings are known but there is no-one else to be considered in this context. There are no other religious, racial, cultural or linguistic considerations that arise in this case.
69. In my judgment the principal and highly influential factors in this welfare test arise from C's age, his need for permanence, and a home in which his needs will be met, his needs for stability in his life and the role, on the other hand, of his mother. In my judgment the court cannot have confidence that his welfare will be achieved by a special guardianship order. It can by an adoption order. It is the outcome which will better serve C's welfare. It is a necessary and a proportionate course to take to secure his safety and promote his wellbeing and development. These factors outweigh the loss of his mother as his legal parent.
70. I have considered the issue of contact separately. Largely for the same reasons I come to the view, with some reluctance, that C's needs are best met by an order for indirect contact, that is letter-box contact, in accordance with the care plan. My reasons are these. Firstly, C's compelling needs for permanence and stability and security should not be compromised by confusion and conflict that contact on a monthly, bi-monthly, or indeed at any other regular intervals, would be likely to create. Secondly, he will transfer attachment to an adoptive mother who will deal sensitively with his needs to understand his situation and his need for awareness of his birth mother and

his past at appropriate times. Thirdly, whilst it is tempting on the face of it to seek to preserve a connection in some way, it raises ultimately in my mind the question of whose interests would be being served -- those of C or those of mother? The risks of compromising his stability are too great. Fourthly, C is so young. He is not a child with an existing sense of identity and established relationships in a family that are going to be broken. His primary attachment is indeed with his foster carer. Fifthly, the risks of mother undermining the placement unwittingly or otherwise are a real concern.

71. I turn now to the issue of parental consent. Mother does not consent and an order is sought under section 52 of the Act dispensing with consent on the grounds that the child's welfare requires it be dispensed with. An argument was advanced before me on the basis that if the court decided a special guardianship order and adoption order were equally consistent with the child's welfare and needs, then discrete issues would arise in relation to the issue of consent and the dispensation with it. There is, in my judgment, a clear distinction here between the two regimes, and that it is an adoption order that meets the child's needs. Accordingly I need not address that issue further. In any event, I follow the view expressed as a provisional view in *Re: S* at paragraph 71. For the same reasons that I have given in relation to the granting of the application for adoption I make the order dispensing with mother's consent.

72. Finally, I am aware that this is yet another major blow for a mother in a life in which she has received more than her fair share already. I am sure that she loves C dearly. Her motives have not been malign. The deceit about Mr. R was something she was driven to, not something she deliberately or maliciously engaged in as a matter of choice. She has been sincere in what she has said. Her display of emotion on Tuesday was real. All of this makes a decision like this an uncomfortable one to make, but I hope that mother can yet understand that the decisions I make are not decisions against her. They are decisions for C. It is what the court thinks his welfare requires in these sad circumstances.

73. I grant the application for the care order, approve the care plan, grant the application for adoption, and make an order under section 52 dispensing with parental consent, mother's consent.

74. Is there anything I have not addressed?

75. MR. J: Not for my part.

76. THE JUDGE: Thank you, Mr. J. Miss S?

77. MISS S: No, thank you