

Neutral citation number [2023] EWFC 13

Case No: OX22C50045

IN THE FAMILY COURT SITTING AT OXFORD

HEARD ON 23<sup>RD</sup> TO 25<sup>TH</sup> JANUARY 2023

HANDED DOWN ON 3<sup>RD</sup> FEBRUARY 2023

Before

HER HONOUR JUDGE OWENS

Between

Oxfordshire County Council

Applicant

- and -

M

First Respondent

-and-

F

Second Respondent

-

-and-

A and B

Third and Fourth Respondents

**Representation:**

For the Applicant: Ms Bramley, Counsel

For M, First Respondent: Mr Woolley, Counsel

For F, Second Respondent: Mr Jaguptal, Counsel

For A and B, acting through their Children's Guardian: Mr Routledge, Solicitor

1. This judgment is being handed down [in private] on 3<sup>rd</sup> February 2023. It consists of 22 pages and has been signed and dated by the Judge. The Judge has given permission for the judgment (and any of the facts and matters contained in it) to be published on condition that in any report, no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by name, current address or location [including school or work place]. In particular the anonymity of the children and the members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that these conditions are strictly complied with. Failure to do so will be a contempt of court. For the avoidance of doubt, the strict prohibition on publishing the names and current addresses of the parties will continue to apply where that information has been obtained by using the contents of this judgment to discover information already in the public domain.

## **INTRODUCTION, BACKGROUND AND EVIDENTIAL SUMMARY**

2. This is an application by the Local Authority for care and placement orders for A and B. M is the mother of both children, and F is their father though he only has parental responsibility for B.
3. Care proceedings commenced on 15<sup>th</sup> March 2022 for B, followed by proceedings for A in April 2022 when both sets of proceedings were consolidated under the first case number. Proceedings are thus in week 45 at this point. I was allocated to hear this final hearing at the IRH conducted by a colleague on 3<sup>rd</sup> January 2023.

4. M, A and B moved to the area covered by the Local Authority in January 2022. Prior to this there was no involvement by this Local Authority with this family. The Local Authority received a Police referral on 20<sup>th</sup> January 2022 which led to a Child and Family Assessment being commenced. However, on 4<sup>th</sup> February 2022 the concerns about B were such that he was taken to hospital and duly admitted. He was significantly underweight, delayed in his development and had a yellow skin tone. He was also not walking, had not had his routine immunisations, was not registered with a GP. He had also had no contact with a health visitor and had not seen a dentist up to the point that he was taken into care. A feeding tube had to be inserted for B to assist with his feeding because he struggled to consistently gain weight whilst in hospital. He ended up spending 5 weeks in hospital.
5. An interim care order was made in respect of B on 17<sup>th</sup> March 2022, the court approving an interim care plan for B to be placed in foster care where he has remained.
6. At the time, A was living with his maternal grandmother, and it subsequently transpired that he had been with his maternal grandmother for some time, probably from around July 2020. As noted earlier, care proceedings were issued in respect of him in April 2022. At the first hearing of the application in respect of A, the Local Authority did not seek to remove A from the care of his maternal grandmother. Sadly, the maternal grandmother suffered a stroke leading to A being accommodated with foster carers. An interim care order was granted in respect of A on 8<sup>th</sup> June 2022 and the maternal grandmother subsequently confirmed that she did not wish to challenge the negative initial viability assessment of her.
7. The case was initially timetabled to an IRH on 13<sup>th</sup> September 2022 (the exact date of the 26-week deadline) but had to be re-timetabled when the maternal aunt came

forward seeking to be assessed as a potential carer. At this point it also appeared that the paternal grandparents wanted to challenge the negative initial viability assessment of them. Ultimately the case was timetabled to a new IRH on 3<sup>rd</sup> January 2023.

8. On 31<sup>st</sup> October 2022 the court refused applications by M for further assessment of herself and the maternal aunt.
9. As noted above, there have been viability assessments of the paternal grandparents and maternal aunt in this case. There has also been a full parenting assessment of M, using the PAMS model, and paediatric assessments of A and B. I have read all of the evidence contained in the Bundle and have heard evidence from the allocated social worker, the social worker who completed the viability assessment of the maternal aunt, the maternal aunt and the Guardian.
10. The hearing has proceeded as wholly remote as directed by HHJ Vincent at the IRH on 3<sup>rd</sup> January 2023. M has had the assistance of a court appointed intermediary and special measures have been adopted to facilitate her participation in and understanding of the proceedings, including taking breaks as required, limiting the number of witnesses giving evidence each day, and allowing time for explanation by the intermediary.
11. On the first day of this hearing, it became apparent that the wording of the Case Management Order issued following the IRH on 3<sup>rd</sup> January 2023 had unfortunately led to some confusion on the part of the maternal aunt about when she was expected to attend court. Despite the actual order containing provision for her to attend all of the hearing, and the order of 31<sup>st</sup> October recording that she could best challenge the viability assessment by attending the final hearing to give evidence and cross examine the assessor, a recital to the 3<sup>rd</sup> January 2023 order

simply referred to her making arrangements to either participate from her home or from the mother's solicitors' offices when she gave evidence. This confusion appeared to have been compounded by a subsequent email sent by the mother's solicitors, despite the Local Authority also writing to the maternal aunt to try to tell her that she needed to attend for the whole of the hearing if she wished to continue to challenge the negative viability assessment of her. Attempts to contact her were unsuccessful on day one of this hearing and, since she works, it may have been that she was at work and thus unable to answer her phone. The case was thus put over to day two in order to try to ascertain if she was going to participate for the remainder of the hearing.

12. The maternal aunt did attend on days two and three of this final hearing and was able to hear the social work evidence and question the parenting assessor as originally envisaged.

## **PARTIES' POSITIONS**

13. The Local Authority seek care and placement orders for A and B. The final care plans for both children are for adoption and the Local Authority is asking the Court to dispense with the consent of the parents to the placement orders on the ground that the welfare of the children requires their consent to be dispensed with.
14. M accepts that threshold is crossed for the purposes of making final care orders but does not accept all of the details of why the Local Authority say that threshold is crossed. She also does not accept that placement orders should be made. She has made the very brave decision to accept that she cannot care for the children

now, but wants the maternal aunt to be fully assessed as a potential carer for the children.

15. F accepts that threshold is crossed for the purposes of making final care orders and has also made the very brave decision to accept that he cannot care for the children. He agrees with the Local Authority and Guardian that it would not be in the children's welfare interests for there to be further delay in these proceedings to assess the maternal aunt or for the children to be placed with their maternal aunt.

16. The Guardian agrees that threshold is crossed and has concluded that the final care plans for adoption are in the welfare interests of the children. She does not agree with M that there needs to be further assessment of the maternal aunt and recommends that the consent of the parents to the making of placement orders should be dispensed with on the ground that the welfare of the children requires this.

## **RELEVANT LEGAL CONSIDERATIONS**

17. In addition to considering section 31 (2) of the Children Act 1989 regarding threshold, I have considered the welfare checklist in section 1(3) of that Act and had regard to the article 8 rights of the parents and the children. I have also had regard to the article 6 rights of all concerned, not least in relation to this wholly remote hearing and the special measures adopted to facilitate the participation of M. I have also considered the options for the children applying the considerations set out in *Re B-S (Children)* [2013] EWCA Civ 1146. I have considered section 1 of the Children Act 1989 with regard to the no order principle and the issue of delay, as well as section 32 with regard to the timetable for public law proceedings. I

have also considered the welfare checklist contained in section 1 (4) of the Adoption and Children Act 2002.

## **FINDINGS**

18. In relation to threshold, there is a composite threshold document in the bundle at A59-A60. The only aspect of this which is not accepted by M is in relation to A and B suffering significant neglect and that neglect being attributable to the children not receiving good enough parenting (paras 1(a) to (b) and 2 - A59). As was pointed out by Mr Routledge and Ms Bramley, M has chosen not to give any evidence about this and has not formally challenged the evidence about this including the expert evidence from the paediatrician in his reports at E43-E49 and E60-E82. Mr Woolley pointed out in his closing submissions that M's issue may be more about her understanding of the words used, particularly "neglect" and "harm" which she seems to have taken to imply deliberate neglect and harm, but the Local Authority case is not that the neglect and harm was deliberate. Having reviewed the expert and professional evidence in this case, there is overwhelming evidence to show that both A and B suffered significant neglect and that this has caused them significant harm and has potentially long-term consequences for them. This significant neglect and harm occurred whilst B was in the care of his mother and whilst G was in the care of his maternal grandmother. I know that the maternal aunt told me that she could not accept that G was neglected and suffered significant harm whilst in the care of his grandmother, but this seemed to be based more on the fact that G was very much loved by his maternal family and her concern that the use of the words "neglect" and "harm" implied blame and doing something deliberately. It is not disputed in this case that G was very much loved

by his maternal family, nor is it part of the Local Authority case that A and B were deliberately neglected and caused harm. I am satisfied on balance of probabilities that both children were significantly neglected and suffered significant harm as alleged in the composite threshold document and adopt that document as my threshold findings. This document, suitably anonymised, is appended to this judgment.

19. The next stage of these sorts of proceedings is to look at what is in the welfare interests of the children. Their welfare is my paramount concern, and I have to consider all realistic options for them balancing the positives and negatives of each as far as they are known at this point. It is agreed between all parties that there are only two potential placement options for these children – either placement with their maternal aunt or adoption. It is also not really disputed that their maternal aunt (as she herself accepts) is not in a position to care for the boys immediately.
20. Placement with their maternal aunt would have the potential positive that this would mean that they were being cared for by a family member. This would help them maintain their sense of identity as part of their birth family and would mean that they would not potentially suffer the loss of this as the maternal aunt pointed out. The social worker and Guardian do not dispute this. A in particular is old enough to have memories of his time with his maternal family, as the social worker told me in her evidence to me in this hearing, so he is likely to be more affected by losing this connection as the social worker accepted. It was also submitted by Mr Woolley that placement within the family would also potentially mean that the possibility of a return to the care of M would not be ruled out in future if M is able to improve her parenting capacity to a level where she could meet the needs of the children. I would note that the parenting assessment of M is negative (C107-C131) and



identified significant concerns about her parenting capacity (C130-C131). As noted, she has not challenged this and accepts that she cannot meet the needs of A and B at this point. I am simply highlighting that M would have to undertake a significant amount of work to bring her parenting capacity up to a good enough standard, let alone to a level that is above this and which is what A and B would require given their higher level of need. It is by no means clear that a return to the care of M would be likely in a timescale that is appropriate for A and B, therefore.

21. Placement with the maternal aunt does have some negatives associated with it, aside from the point I have noted above about whether it is likely that there may be a possible return to the care of M in the future. As the social work evidence and that of the Guardian shows, A and B need better than good enough parenting because the harm that they have suffered has left them with a greater level of need than would otherwise be the case for children of their age and background. There is currently a negative viability assessment of the maternal aunt, and both M and the maternal aunt accept that she would need to be subject to a full assessment before placement with her could be progressed. She would have to significantly improve her parenting capacity as she accepted in her evidence to me.

22. The maternal aunt also accepted in her evidence to me and during the viability assessment of her that she would need to make some very significant lifestyle changes to enable her to care for the boys, including reducing her hours of work and finding suitable accommodation. During questions from Mr Routledge she accepted that this would take some time and that she is not in a position to care for the boys now. She has also not done anything at all at this point to progress her housing position. The social worker accepted that the maternal aunt cannot apply for social housing unless she has a court order specifying that the children

are to live with her, but the social worker also pointed out that the maternal aunt had been provided with advice to contact the Citizen's Advice Bureau and the Local Authority Housing team to start making necessary enquiries. As the maternal aunt appears to accept, she has not done even this to date. She did explain that she had not chosen to investigate private rented accommodation for a variety of largely valid reasons related to how much this would cost and lack of stability, but this does mean that she had to accept that at this point she has no real plan or timescale for when she may be able to provide the children with suitable accommodation.

23. The viability assessment identified some strengths in relation to the maternal aunt. Specifically, that she clearly felt a connection to both children and had an established relationship with each child, that she had a positive relationship with M and could promote contact with her, that she is their maternal aunt and this would enable the children to grow up in their family and have regular contact with other family members, that she and her partner would be willing to work with professionals and follow advice from them, that she has a support network in her local area to help her, that she understood what a safe and stable household looked like for the children and was willing to change her living circumstances to enable her to support them, she was strongly supportive of the children remaining in appropriate education, that she has a balanced and health diet and would provide the same for the children, she has an established relationship with her partner, and that she was able to maintain clean and suitable home conditions (C149-C150). None of these strengths are disputed by any party.

24. The viability assessment also identified some other limitations (to adopt the terminology of the assessment), namely the practical issue I have already noted

about the maternal aunt needing to have suitable accommodation for her and the children, and a concern about whether she had done enough to try to resolve that, her support network is in a different area to one in which the children are currently residing and the children would need to transition to that area, she would need to change her working hours though her manager appeared willing to support this, she did not have full information and insight into the health and developmental needs of the children and the maternal aunt seemed not to recognise the level of care needs that the children have, she and her partner each had long-term caring responsibilities for an extended family member, she had very limited prior experience of parenting and did not have good knowledge about child development and there was a concern from contact sessions that her interaction with the children was limited and focused more on A than B, she minimised safeguarding concerns for A and was not proactive in seeking support or advice around this or encouraging the maternal grandmother to do so, that there were some concerns about her motivation and commitment and she would be in effect a sole primary carer for the children despite her partner visiting regularly, one of the main sources of support for her was the maternal grandmother and there were concerns about the maternal grandmother's ability to meet and recognise the children's needs and the maternal aunt found this difficult to accept (C151-C152).

25. The allocated social worker's evidence to me was very clear that it was not one particular issue in the list of concerns that led to her negative conclusion in the viability assessment, but rather the combination of factors. She was also very clear that she had given more time to the assessment than is usual, having two visits rather than the normal one for example. This is, in my view, reflected in the length and detail of the assessment itself which is longer and more detailed than is

sometimes the case in viability assessments. I know that the maternal aunt feels that she was not given enough opportunity to demonstrate that she could potentially care for A and B and her written statement says this. However, I am satisfied that she was given more time and information for this viability assessment than is often the case, for example having the two visits and having detailed information from the allocated social worker about the concerns over the care of the mother and maternal grandmother and the needs of the children. The proceedings have also been extended considerably to enable her to be assessed despite her taking time to put herself forward, so I do not think it is right to criticise the Local Authority for not doing enough to assess her in this case.

26. The professional evidence in this case (that of the paediatrician, the allocated social worker and the Guardian) is all compellingly clear that these children have suffered significant neglect whilst in the care of their maternal family and that this has caused them significant harm. The maternal aunt has also, as she told me in her evidence, had access to extensive documentation from these proceedings, including the Guardian's Final Analysis and Recommendations. It was deeply concerning to therefore hear her say in her evidence to me that she did not accept that A and B had suffered neglect and harm and that she did not think that A was two years behind his peers in terms of his developmental delay. I accept that, as she told me when I tried to clarify her evidence to me, that she doesn't know much about child development and that she was concerned about her understanding of neglect and harm which implied it was deliberate. However, she also said that she knew that the maternal grandmother was not able to cope with caring for A which suggests she knew his needs were not being met. It is also not credible, as I think she tried to suggest, that the professional medical evidence is wrong, and that B is

not developmentally delayed by about two years. What is significant about this is her apparent reluctance to accept that evidence at face value. It is also concerning that, despite acknowledging that she was shocked to hear that B was 48 hours from death at the point that he was admitted to hospital (as the social worker told me), this still did not allow her to accept the level of neglect and harm that these children suffered.

27. The viability assessment noted as a concern that the maternal aunt appeared to lack understanding and insight into the neglect and harm that these children suffered. The Guardian's evidence to me, and in her report, was also that she was concerned about the maternal aunt's minimisation of this. The evidence I have noted above from the maternal aunt as concerning adds weight to this. I find that the maternal aunt is minimising the level of harm that A and B have suffered and the long-term impact of this and that this minimisation, based on the professional evidence, means she lacks acceptance and insight about the harm the children have suffered. This is not something that can be remedied by giving her further information, I find, because she has had extensive information as I have already noted, and had weekly contact with A and yet still failed to appreciate that his needs were not being met. Her evidence that the only issues she noticed were delay in A's speech and with his food is also deeply concerning because, combined with that lack of acceptance and insight, means it calls into question how far she would be able to develop her ability to meet the needs of A and B if she does not accept their level of need to start with.

28. She did say in her evidence that she could learn, and I have considered whether help and support, including education about child development and parenting, might mitigate this risk sufficiently to enable placement with her to be a potentially

safe option. However she is starting from such a low level of knowledge and insight, as the Guardian noted, that she would have a significant task to improve her skills to even the good enough standard. In this case, these are children whose needs are such that they require better than good enough parenting, as the social worker and Guardian's evidence clearly shows. This means that the maternal aunt has to improve to that standard and would need to do so in a timetable that is in the welfare interests of the boys too. As the social worker and Guardian told me, these children cannot wait for that and I have also noted that these proceedings have been considerably protracted beyond the statutory 26 weeks at this point so there would have to be an exceptional justification to further extend them.

29. The maternal aunt's commitment and motivation for putting herself forward was also one of the issues identified as a concern in the Local Authority evidence. She accepts that she has missed some contacts (she actually said a couple but it may be a few more than a couple based on the social work evidence) due to working or having to take the maternal grandmother to hospital appointments. This latter highlighted the potential tension that was identified in the viability assessment between her wanting to care for the children but at the same time having to do so on her own and whilst caring for the maternal grandmother. I accept that, as she told me, she wanted to do extra shifts for work to build up goodwill with her employer so as to enable her to take more time off later, but it is concerning that she chose to do so at a time when she was due to see the children. This is not evidence of her prioritising the need to attend contact and build a relationship with both A and B. Her evidence to me was also that she did not accept the professional concerns about the quality of her interactions with the children as noted in the viability assessment. I appreciate and accept that she clearly loves the children,

but the sad reality is that her relationship with them is limited even on her own evidence.

30. There is also the concern identified about her reluctance to put herself forward as a potential carer and her lack of engagement with professionals. She accepted that she was reluctant to put herself forward, and that she had not always returned calls because of her shift patterns. However, she did not address the failure to respond to texts and emails which the social worker and viability assessor both said that they had also sent. She also told me very clearly that she had been given advice by the viability assessor about what she needed to do if she sought to challenge the outcome of the assessment, and that the viability assessor offered to assist her with this, but the maternal aunt told me she had not chosen to take up this offer because she was concerned about the person who had done the negative assessment helping her. What this evidence from the maternal aunt did not address was the evidence from the allocated social worker to me about her experience being that keen kinship carers are normally very proactive in making contact with the Local Authority (“knocking on the door” was her phrase). And, whilst I accept that she needed to think carefully about the implications for her lifestyle if she were to care for the children, it is concerning that it took her until September last year to finally put herself forward to be assessed.

31. The Guardian also made a compelling point in her evidence, which was that if the maternal aunt has struggled to stay in contact with professionals during these proceedings, that caused her concern about how she would manage this if the children were placed with her. The Guardian explained to me that the children had such a heightened level of need that that were going to have a number of professionals involved with them for some time and the maternal aunt would have

to manage this. Based on the evidence of her behaviour during these proceedings, I think that the Guardian is right to be concerned about this. It is also significant that the maternal aunt seems to have accepted that she could not meet the challenges of parenting these children when she spoke to the Guardian on 13<sup>th</sup> January 2023 (E87) and also told the Guardian that she had not returned texts from the Guardian *“because she was worried about further difficult discussions with professionals. This has been labelled as poor commitment, which is a concern, but I would say it is more likely due to anxiety and worry because this is an unknown situation for her”* (E87).

32. Regardless of the reasons for the maternal aunt failing to remain in contact with professionals during the proceedings, it is clear that she has struggled to do so, and I find would therefore also struggle to manage contact with the range of professionals these children are going to need.

33. The Guardian also described the maternal aunt as “naïve”. I think she is right about this and this fits with the comments that the maternal aunt made to the viability assessor about the children catching up developmentally once they are in school (C151). I think the maternal aunt is well-meaning also clearly very loyal to her mother and her sister from her evidence to me. She clearly could not accept that the maternal grandmother neglected A and did not see any risks from unsupervised contact between M and the children despite the harm M caused them. Her capacity to safeguard the children from any risks associated with M is therefore questionable at best, and I was concerned that she seemed not to understand that, as the children’s primary carer, it would be her responsibility to do that and that she could not simply rely on what she was told could and couldn’t happen. Her naivety is probably a factor in relation to her evidence that she would be able to learn



enough about child development and parenting to enable her to parent these children as they require, I find. She seemed not to understand the professional concern from the social worker and Guardian that even two extremely experienced foster carers have at times found caring for both boys challenging. The social worker was also very clear in her evidence to me that this would be even more challenging for the maternal aunt on her own and without that sort of experience and expertise. When combined with her lack of acceptance and insight about the harm that these children have suffered and what this means for the boys in the long term, it is a deeply concerning picture of someone who is very unlikely to be able to improve her knowledge, understanding and parenting capacity to the above good enough standard that these children need, certainly not within a timescale that is in the children's welfare interests, I find.

34. It is also significant that the maternal aunt would have to care for the children on her own, as a sole carer, because it is clear from her evidence that her partner would not be able to assist given his living circumstances. This was also noted by the social worker in her evidence to me. Although the maternal aunt has a support network around her at present, it is also not clear how much help and assistance they would be able to provide with these children. Whilst she told me that she had friends who had children, it was concerning that her conversations with them had led to her not accepting the level of need that the evidence shows these children have. Perhaps more importantly, it is clear from the social work evidence that the maternal grandmother is not in a position to help the maternal aunt and questionable how appropriate this would be in any event given the harm that A suffered whilst in the care of the maternal grandmother (though it is clear that this was due to her physical and health issues). Placement with the maternal aunt is

therefore not likely to provide the sort of stability and security that these children need, nor would it be likely to provide them with the sort of enhanced parenting that their heightened level of need requires.

35. The other placement option in this case is adoption. Both children are of an age where, as I have noted, they will have memories of their previous carers and birth families which will mean they will suffer loss and potentially their sense of identity will be adversely affected by adoption. However, they are also young enough that they may be able to benefit from a secure and stable adoptive placement and, with better than good enough parenting, may start to recover from some of the long-term consequences of the significant harm that they suffered. This is clear from the social work evidence: *“B and A have been provided with consistently high standards of care, which has enabled them to achieve and “catch up” in all areas of their development. A has put on a significant amount of weight and is progressing up the percentile charts. B and A have been provided with appropriate nutrition and their physical health needs are consistently being met... and are enjoying the emotional warmth provided by their foster carers. A has started to evidence that he is forming a good attachment to his carers”* (C221).

36. The Local Authority and Guardian accept that adoption is *“the most draconian and interventionist measure”* (C231 final social work statement). The sibling assessment at C201-C216 of the bundle makes it clear that, although A and B do not have a strong sibling bond, there are positive signs of them being able to develop their relationship and on balance concludes that placement together is the better option for them. The social worker’s final statement also accepted that *“it may take some time to source an adoptive placement for B and A together as a sibling group”* (C231). However, her oral evidence to me was clear that there were

potential matches even using a very broad search at this point prior to any placement order being granted so it seems clear that a potential adoptive placement could be found in a reasonable timescale and one that meets the needs of these children.

37. In relation to the concern about sense of loss and issues around sense of identity associated with adoption, both the social work and Guardian's evidence is clear that this can be dealt with by good quality life-story work and letterbox contact. The social worker accepted that letterbox contact could include the paternal grandparents regardless of whether or not F wishes to engage with letterbox contact himself and agreed to amend the final care plans to make this clear. F has said that he doesn't feel able to engage with letterbox contact at the moment and that he hopes the children will want to know more about him when they are older, so it is particularly important that the children have the opportunity to continue some (albeit indirect) contact with their paternal grandparents. The social work evidence shows that the children have enjoyed spending some family time with their paternal grandparents (C222) so it is positive that the children would potentially be able to benefit from letterbox contact with them.

38. The Guardian has also recommended that any prospective adopters should have infrequent direct contact explored as an option too (E90). She does not suggest that this is part of a Court order, but that it should be explored fully with prospective adopters including the possibility of the prospective adopters meeting members of the birth family at the outset. The social worker accepted that this should be explored when she gave her evidence to me. Both accept that, providing prospective adopters are willing to engage with this, it may be possible for some post-adoption direct contact to be considered and that this sort of infrequent direct

contact may not jeopardise the stability of any adoptive placement. It would also assist with mitigating the impact upon the children of ceasing to be members of their birth families.

39. I find that potential placement with the maternal aunt has been explored sufficiently in these proceedings and is not a realistic placement option given the findings I have made in relation to the concerns about that option. In relation to adoption, this is the only remaining realistic option and the potential negatives associated with it (sense of loss, identity issues) can be adequately addressed by the proposed life-story work and letterbox contact as well as the fact that the plan is to try to place both boys together so that their sibling bond can continue to develop. If infrequent direct contact with the birth families is also potentially an option, this may also help further mitigate the impact of adoption too.

40. In light of my findings and the weight of professional evidence before me, I do find that final care plans for adoption are in the best interests of A and B. Further, that it is in their welfare interests to dispense with the consent of their parents to the making of placement orders. I will therefore grant final care orders and placement orders for both children.

## **CONCLUSIONS**

41. Nobody disputes that A and B were very much loved by their parents and wider maternal and paternal families. As I have also noted, everyone also accepts that the significant harm that they suffered was not caused deliberately. The severity of the harm that they suffered was dramatically highlighted by the social worker's evidence that B was within 48 hours of death when he was admitted to hospital,

and that A was delayed in his development by two years when he came into foster care. The sad reality for these children is that they have waited far too long for their needs to be met, and now need care from better than good enough carers and simply cannot wait any longer for a secure placement able to meet their needs throughout their childhood and beyond. As noted by the Guardian in her report, given the level of needs that both children have it will also be important for any prospective adopters to have copies of the paediatric assessments of both children as well as the child protection and adoption medicals.



HHJ Eleanor Owens  
3<sup>rd</sup> February 2023

## **APPENDIX A THRESHOLD FINDINGS**

The Local Authority contends that the Threshold Criteria under Section 31 of the Children Act 1989 is satisfied on the basis that, as at the relevant date, being 14.03.2022, A and B had suffered and were likely to suffer significant harm, such harm being attributable to the care given or likely to be given to them if the Order were not made, not being what it would be reasonable to expect a parent to give to them.

In support of the above, the Local Authority seeks the following findings:

1. While in the care of his Mother B has suffered significant neglect such that has impacted his health and development including but not limited to the fact that:
  - a. On 4 February 2022 B was admitted to hospital significantly underweight with a protruding spine, wasting to his muscles and weighing on the 0.4<sup>th</sup> centile.
  - b. The paediatrician concluded that;
    - i. "It is most likely that B's poor nutritional status is due to his nutritional needs not being met" [E68]

- ii. It therefore remains my opinion that B has been the victim of neglect, with a failure to recognise his growth and developmental problems prior to admission and this has resulted in a serious impairment in his physical health and development” [E68-69]
  - iii. “He had never been seen by the GP (every child needs registration with a GP). He had no contact with the health visitor (every child up to the age of 5 needs a named health visitor) to monitor his growth and development and advise parents. He was not taking any multivitamins or vitamin D (every child needs a daily preventative dose of vitamin D if they are breast fed and when they are weaned). He was not seen before by a dentist (every child needs to see a dentist regularly every six months from the age of 1). He did not attend any play group (all children need social interaction with children their age to help them develop their social skills). So, it is clear from the above that B was not receiving good enough parenting. There were no injuries seen in B; however, there was not enough stimulation and motivation to help him to develop” [E75]
2. When placed in Local Authority foster care A presented with low body weight and significant development delay [C221]. The mother’s neglect of B places A at risk of neglect.
3. The Mother and Father suffers from mental health difficulties which limit their ability to deliver good enough care:
  - a) The mother has depression and borderline personality disorder.
  - b) The father has complex PTSD.
4. A has not been in the care of either parent for around 2 years. In respect of the Father, there has been no contact between B and his Father for over a year.
5. B and A were exposed to domestic abuse in his parents’ relationship and his mother’s subsequent relationship which causes emotional harm.