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Case No: SD19C00929 / BS20C00905

IN THE FAMILY COURT AT HASTINGS

The Law Courts
Bohemia Road
Hastings
TN34 1QX

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Before:

HIS HONOUR JUDGE AHMED

Between:

(1) BRIGHTON & HOVE CITY COUNCIL

(2) BRISTOL CITY COUNCIL

Applicants

- and -

(1) V

(2) W

(3) X

(4) Y

(via their Children's Guardian)

(5) Z

Respondents

(via their Children's Guardian)

Approved Judgment

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A P P E A R A N C E S

MS RACHEL GIMSON (instructed by **Brighton & Hove City Council**) appeared for the **First Applicant**

MS LUCY REED (instructed by **Bristol City Council**) appeared for the **Second Applicant**

MS RACHAEL CLARIDGE (instructed by **Lillywhite Williams & Co**) appeared for the **First Respondent**

MS CLARE COX (Solicitor, **Barcan & Kirby LLP**) appeared for the **Second Respondent**

MR N. ALLEYNE-BROWN (instructed by **Watkins Solicitors**) appeared for the **Third Respondent**

MR CHRISTOPHER STRINGER (instructed by **MW Solicitors**) appeared for the **Fourth Respondent**

MS KARA CANN (instructed by **Royds Withy King**) appeared for the **Fifth Respondent**

HIS HONOUR JUDGE AHMED:

THE DECISION

1. The decision is that the siblings are to be placed for adoption together and are not to be separated. If, after about four months from today's date, it has not been possible to find a suitable adoptive placement for the siblings together, then they should be placed separately with contact between them being at least six times a year. I intend to make a full care order for Y and a placement for each child provided that Brighton & Hove City Council changes its care plan as required. I am not making a defined contact order but might do so in the adoption proceedings.

THE ISSUES FOR THIS HEARING

2. The court must consider the futures of two siblings. They are Y, born in late 2019, who is aged 15 months, and Z, born in spring 2020 aged just 6 months. The applications are for final care and placement orders. However, the main issue for the court to decide is whether the siblings should be placed together or separately for adoption.

THE PARTIES

3. The mother of Y is V, represented by Ms Rachel Claridge. The mother of Z is W, represented by Ms Cox. The father of both children is X, represented by Mr Nathan Alleyne-Brown. There are two adoption agencies involved. They are Adoption South East and Adoptions West. There are two local authorities. They are Brighton & Hove City Council represented today by Ms Walsh but at the substantive hearing by Ms Rachael Gimson. Bristol City Council is represented by Ms Lucy Reed.

THE PARTIES' POSITIONS

4. The local authorities are agreed on adoption being necessary for each child. They are unable to agree with each other about whether the siblings should be separated or placed together. They have requested that I determine that issue. They have each agreed that they will implement in their care plan that which I decide about separation of the siblings or placement together. That approach was suggested because it does not appear to me that I have power to order either local authority to place the siblings together or separately and particularly not when there are two local authorities involved, with the siblings living in different areas, with each local authority being separately responsible for each child. I do not have power to attach conditions to a placement order.
5. Bristol says that a search should be made for four months for an adoptive placement that will take the siblings together, although with one being placed first and then the other following. Brighton says that the siblings should be placed separately. The father says that the siblings should be placed together. The mother of Y is in two minds, understandably. She has listened to both arguments. The mother of Z says that the siblings should be placed together.
6. The Bristol care proceedings came to an end with the final care order being made by His Honour Judge Bromilow who consolidated the two sets of placement order proceedings. Those now combined proceedings are being dealt with today by the Family Court sitting at Hastings. The Bristol care proceedings were resolved without

a contested hearing. The Brighton care proceedings were heard by me and were contested. It was agreed between the judges and with all the parties that I should hear the case from then on.

7. The issue of placement of these siblings, separately or together, is an extremely important decision for them. It is as important a decision as the question of the adults with whom they are to be placed with as carers for them. It requires the exploration of the advantages and disadvantages of the options.
8. The issue of siblings being placed together or apart in adoptive placements rarely forms any substantive part of care and adoption proceedings. It should normally be considered more fully than it is. Because I did not consider that I had any power or enforceable power to order the local authorities to place the siblings separately or together, I suggested that they treat me on that issue as an arbitrator informally to resolve this dispute. There was broad agreement and certainly no disagreement that the case should proceed in that way, which it has.

THE EVIDENCE

9. I have taken into account all of the relevant evidence heard over four days with witnesses being cross-examined. They were all professional witnesses. I am most grateful to counsel who have each prepared high quality written submissions, which I found invaluable.
10. This is an unusual case. It required me to hear evidence from two social workers, two adoption agency social workers, and two children's guardians. The social workers have found this to be a very difficult case. That is shown by at least three professionals from Brighton each strongly disagreeing with their counterparts from Bristol. There are valid and powerful arguments on each side. I am well able to see why the two local authorities and the adoption agencies have been unable to agree. That applies also to the guardians. However, a decision has to be made and I will make that decision.

THE ASSESSMENT OF SIBLING PLACEMENT

11. A useful starting point is s.22C of the Children Act 1989. That replaces the old s.23. It essentially provides that where children are being looked after by a local authority, siblings should be placed together unless their welfare indicates otherwise or for other reasons it is not reasonably practicable. That is not a word for word quotation by any means but it is the gist of what the section says. It does not decide this issue because it is dealing with looked after children in a different context but it is an indication of the importance of placing siblings together whenever possible and that is the only way in which I refer to it. There are many benefits to children being placed together. However, it can be a complex picture as it is in this case.
12. That is something that is recognised by Family Futures. Family Futures is an independent adoption agency. I was referred to a practice paper of Family Futures entitled Assessing Sibling Placement. I note the following from it:

“Recognising that 80 percent of the general population in the UK have one or more brothers or sisters and that this relationship is often the longest lasting of all our family relationships helps us understand why relationships between

siblings can be among the most ambivalent and changing family relationship each of us may have.

There are ‘natural’ changes that are wrought by the passage of time and increasing age, and there are relationships that change as a result of changes in the nature of family dynamics. Families today come in a variety of forms. The increase in divorce and separation has created reconstituted families, where stepsiblings or relationships where siblings have only one parent in common, has almost become a norm.

What all of this means is that understanding the dynamics of sibling groups, particularly those which are larger and have complex histories, needs to begin with asking children who they regard as their brothers or sisters and who they feel close to or estranged from. Therefore, the significance of sibling relationships is personal and interpersonal rather than biological or legal, and this understanding should guide our thinking and practice in our work with siblings.”

13. I do not regard these siblings as being any different by reason of them being half siblings rather than full siblings. They have a biological tie and that is what should be given weight, but I have not taken a preconceived approach to the sibling separation issue that they should be placed together. I must consider the issue by trying to achieve what their welfare throughout their lives requires. That principle is more important than anything else as it is the court’s paramount consideration.
14. A further extract from Family Futures is that there is no one solution for all circumstances and all children. An individualised and nuanced approach is vital. The court requires a detailed, comprehensive assessment of the individual needs of each child and sibling group. Those assessments are readily available to me in this case. I have read them and take them into account even if I am not able to refer to all parts of them. I agree with Ms Reed that the Family Futures documents are not, in themselves, research but:

“...a synthesis of the lessons drawn from research in the field, as seen through the lens of an adoption agency, which provides services by way of consultation and assessment to the other agencies.”
15. I do not regard the family futures documents as containing a rigid set of rules. Indeed, the documents themselves highlight the importance of individual assessment.

THE LAW

16. An important and relevant starting principle is that the court is required to consider the effect on the child of no longer being a member of her original family and to consider the relationship she has with her birth relatives. Section 1(1) of the Adoption and Children Act 2002 identifies two essential principles. These principles apply whenever a court or adoption agency is considering a decision about the adoption of a child. A decision about whether to place children separately or together falls within that requirement and the two principles apply to that decision.

17. The overriding first principle is that the paramount consideration of the court, or an agency, for adoption must be the child's welfare throughout their life. That means not just looking at the immediate, the short term, the medium term, and the long term, but all of those. It demands that the court and the adoption agency must consider how the decision will affect the child throughout their life. That might be 100 years or more. That is the magnitude of the decision that the court has to consider both on the issue that is in dispute and on the placement order applications.
18. The second principle is that the court or adoption agency must at all times bear in mind, in general, that any delay in making the decision is likely to be prejudicial to the child's welfare (s.1(2) Adoption and Children Act 2002).
19. There is, however, Ms Reed says in her submissions the need to balance delay against the achievement of benefits to the child's welfare. The relevance of that in this case is the delay which is likely to result from seeking a placement together and consideration of the advantages of such a placement together. The court may consider it appropriate and, indeed, necessary for matters "to take a little bit longer to get it right" as Bristol City Council said. Ms Reed is right when she says that delay is not always harmful to a child's welfare. Delay may be necessary to meet the children's welfare needs, particularly *throughout* their lives.
20. There then follows s.1(4), which is the adoption welfare checklist. This includes the child's particular needs and the likely effect on the child throughout his or her life of having ceased to be a member of the original family and become an adopted person. If the siblings are adopted separately by different adoptive parents, their birth relationship with each other will be severed. They will no longer be siblings as far as the law is concerned.
21. A further important factor in the welfare checklist is the relationship which the child has with relatives including the likelihood of any such relationship continuing and the value to the child of it doing so, together with the wishes and feelings of any of the child's relatives regarding the child. Y and Z are each other's relatives, as are the parents to them. So the siblings fall within the reference to relatives which I have mentioned in the welfare checklist.

THE CHILDREN'S SPECIFIC NEEDS

22. Z has vision difficulties, but I read from the position statement the submissions of the mother that;

"Z has recently attended the eye hospital and has been the subject of an examination. The view taken by the doctors is that the vision issues were resolving themselves. Z has had genetic array testing, which showed no evidence of abnormality. There has been an updating developmental assessment dated 2 November 2020 confirming that Z's development is within the range in all developmental domains. The concerns as to developmental delay for Z have thus significantly receded. However, the prognosis for future development cannot be completely certain."

Z will require sensitive and attuned parenting from future adopters. Z has been identified as being at risk of developmental delay. I note that Z was born prematurely.

23. I turn to Y's needs. The service manager for the adoption agency in the Brighton area, gave evidence about Y's life experiences and needs. I was told that Y had been with the current foster carers for a year. Y had made really good progress. The service manager said that Y had two full-time carers who had devoted themselves to Y during that time. Y, no doubt as a result of the care being received, had not been under any stress but a move was going to be really, really difficult for Y. The service manager said that one of the foster carers had an illness and that meant that the placement might come to an end prematurely. On the question of adding Z to the adoptive family following earlier placements with Y was asking a large amount. The service manager was asked whether pursuing the benefits of the sibling relationship would mean taking risks that would otherwise not be taken. The service manager thought that eight weeks between the arrival of the second child was far too short. The service manager said that Y was still affected by Y's own experiences and was likely to need a longer period of transition.
24. I refer further to the evidence of the service manager from Mr Stringer's helpful submissions and his note. Were Y to move first, it would require a minimum of six months before another child could be added. It said:
- “It adds a huge worry for us that people might have to have an unscheduled move or period of respite with people Y doesn't know. The social worker explains that Y has had very sensitive and attuned care from experienced foster carers. Y is going to experience any move as a loss. Y's world is very small. It is just Y and the foster carers. There are no visitors to the home. Any move is likely to be a shock for Y. That is the case even with the best preparation and a long introduction period. Y is likely to experience this as a stressful and challenging time.”
25. Mr Stringer then refers to Z's Guardian and her evidence. This is the Bristol guardian:
- “When children are put up for permanence, the child faces an horrendous challenge. Unfortunately, that is the way it is. It is a huge trauma that these children undergo.”
26. The inevitable delay has also greatly concerned the social worker. The foster carers are remarkable people. They have shown considerable commitment to Y and they are determined, if at all possible, to see Y through to a permanent home but the social worker is realistic, given one of the carer's health needs, that to keep Y with them beyond February will be extremely difficult. So it opens up the very real and concerning prospect of Y having to be moved again before a move to the adoptive family if Y cannot be placed quickly. Such a move, it is said, would be extremely damaging for Y.
27. Y's Guardian agrees with the service manager's analysis. Y's Guardian also says that the move is going to be really difficult. Y's Guardian says that Y does not have much sense of the world. Y is not a verbal child and cannot explain what is happening. Y's Guardian says that Y is a child that does not demand attention but one should not assume that all is well. The foster carers make sure that Y gets the nurture that might be given to a much younger child and they treat Y in that way. She said it would be stressful either way but, additionally, unacceptably stressful alongside the sibling.

28. Y's Guardian considers that the first year of placement is critical in establishing the foundations for Y's attachment to parents; that is the adoptive parents. Y's Guardian agrees with the social worker that even up to six months, Y would still be in the process of establishing security and that after six months, there would need to be a further assessment.
29. Y is also described by the Guardian as a delightful little child who is in good health and there are no concerns about development. Y has a good routine, sleeps well, and loves to try new food. Y is very attached to the foster carers and is starting to demonstrate separation anxiety. Y had a very unsettled care trajectory in the earlier months. I take all of that into account and weigh it in the balance.
30. It is important not to minimise Y's needs but I do not think that Y's needs are so significant and so grave as to prevent prospective adopters from meeting those needs at the same time as meeting Z's needs. Such adopters will be approved to adopt siblings and would be carefully matched to these particular children. That is a view shared by the Bristol professionals who think that the Brighton team is being too risk averse. Children with needs such as Y's can be placed successfully. That is Bristol's argument. If these children have lived together in the same household, subject to the same local authority, I cannot imagine that anyone would be saying that they should not or could not be placed together for adoption. That is a very powerful argument. There are undoubtedly challenges and risks associated with any plan to place the children together. They do have the individual needs that I have mentioned and it is not risk-free.

TOGETHER OR APART?

31. Siblings provide emotional support to each other, comfort, a sense of belonging, and some stability. Siblings also play a crucial role in developing a person's identity and self-esteem. One of the most common positive outcomes cited as associated with joint placement is greater placement stability. Children who are placed with their siblings may experience fewer disruptions in their placements. I accept that Brighton says that that is not the case here. Bristol disagrees. In the medium to long-term, siblings living together can share a lived history having built childhood memories. There is a bond that comes from a biological connection with their sibling. The opportunity to have an enduring relationship is another factor and one which may override problems in other relationships. Siblings placed together may be able to talk to each other because they are biologically close about experiences or feelings which might not be so easy for them when shared with a non-relative. Placing them together avoids the children's possible future resentments and feelings of loss through not having their sibling living with them, particularly the loss of time together and all that that means.
32. The relationship between the siblings is likely to be much weaker if there is only contact in which to build their relationship and such contact is likely to be four to six times a year. These little siblings are eminently adoptable together not least because of their ages. It is accepted that there is a risk that a suitable joint placement will be hard to find and therefore delay will occur.
33. I accept the evidence of the Adoption West that it is likely that a match will be found within the three to four months' timeframe. She is very experienced and was speaking from that experience. If a placement together cannot be found within the four months, then placement separately should not be difficult. There would need to

be parallel planning in case the four months elapsed without success. If the process under the Bristol proposals took six months, even that is a short time when seen in the context of each child's whole life. I accept it would be harmful to Y if, Y had to move from the current foster carers to bridge the gap while waiting. I would urge Y's foster carers to do whatever they can not to cause Y to have to move because of the harm Y will suffer if Y does have to be moved before placement with her adoptive family. As I have said, those carers are committed and experienced and they appreciate the importance of what the court is requesting of them and will follow through on their commitment if they possibly can. I must assume the worst-case scenario and that Y has to move to a bridging placement but that does not alter my view.

34. The negative aspects of the delay of even six months would be offset by the advantages of the siblings living together. The delay that will result is proportionate to the benefits of placement together. The delay does not justify depriving these siblings of the opportunity to grow up together. If the siblings are placed together, it is likely to be sequential with one child being placed before the other. It is not knowing which child will be placed first because of the many variables and unknowns. The factors include geography, that Y is the eldest child, their respective needs, and any developments in respect of Y's current placement.
35. It is said that there is a risk that the adopters might decline to take the second child after placement of the first child. I consider that to be unlikely because the carers will be matched to the specific children. They would be told what the problems might be following placement of the first child and the introduction of the second child. If it was thought that there would be serious problems in adding the second child, the together plan would have to be abandoned. It would be an evolving situation and re-evaluation would be necessary. There would have to be very powerful evidence before such a plan was abandoned.
36. There is a risk that one or both siblings will not securely attach to the carers. That is the argument of Brighton. There is no real reason to think that they will have any difficulty attaching to carers. The same observations apply. Prospective adopters are carefully assessed, trained as necessary, and are subject to approval as suitable to adopt a particular sibling pair within a particular age bracket. The matching process is robust and there is a thorough process of introductions information sharing and proper planning support. The adoption team is skilled and experienced to do everything to ensure that the placement is successful.
37. The risks of not placing the siblings together are that the siblings will lose out on an exceptionally valuable and important relationship with each other which they may resent. Provided that it is consistent with their welfare, they have the right to have a proper relationship with each other beyond what would be a weak relationship if contact was only for six times a year. The Brighton plan cannot guarantee sibling contact. It follows that the siblings might never meet each other or spend time together and have a relationship with each other at any time in their lives. That is a powerful argument against placing them separately.
38. Y's Guardian, focuses particularly on Y's interests, as she should being Y's Guardian. Y's Guardian submits that to place the siblings together does not allow for each of their needs to be prioritised individually. Y's Guardian says that that forces compromises. Y's Guardian feels it is a gamble for Y. Saying that Y deserves the best possible move on which to base the rest of Y's life. The Guardian considers that

Y needs a unique, bespoke, care plan, and that Y requires minimal delay. The Guardian adds that no timescale should be placed on Y's period to settle and it should be at a pace Y can manage. The Guardian adds that if these things are done, then Y has optimal chance to have a strong, secure relationship with the primary cares. Y's Guardian deals with the sibling issue by saying that there needs to be a good plan to sustain sibling contact.

39. Y's Guardian is worried that there will be a misreading of how Y is doing in the family and Y could be assessed as being fine and ready for the upheaval of another introduction into Y's world and Y's world changing again. The way the Guardian puts it is that Y may seem fine because Y has the full attention of new parents but it will be putting Y under further stress, diverting Y's new parents' attention from Y and risking jeopardising Y emerging attachment security. Y's Guardian feels that the plan for the siblings to be placed together is tenuous with lots of variables along the way.
40. In my judgment, it is the case that a placement together, especially with sequential joining by the siblings, is one which is more difficult to find. However, that does not take into account the effects on the siblings throughout their lives of not being placed together. The Brighton plan gives more certainty in the short term without looking at the medium to long-term or doing so sufficiently. What may be considered to be right for Y now may not be right for Y later in life. It is Y's welfare throughout Y's life which is the paramount consideration, not short-term difficulties that have a reasonable prospect of being overcome. Y's Guardian is a very experienced and competent children's guardian. Y's Guardian has discharged her duty to promote the welfare of Y whilst doing the best to do the same for Z.
41. Ms Cann on behalf of Z's Guardian refers to the polarised positions of the two local authorities having been exacerbated by an adversarial court process. That adversarial approach has continued into the written submissions. I have not found it necessary to address every point raised specifically. I do think that Brighton has focused on Y's more short-term needs and reached a conclusion and then marshalled arguments to explain and justify what is a perfectly respectable position. That was demonstrated by Y's social worker in evidence when the social worker said the need was to evidence that Y being placed alongside the sibling would not meet Y's needs. That is looking for evidence to justify the conclusion rather than considering evidence and then coming to the conclusion, but it is an understandable approach.
42. As is said so very frequently, sibling relationships are often the most enduring of all familial relationships. A tremendous richness is derived from those sibling relationships, from a shared history and shared experience of growing up with each other. That cannot be replicated by contact four times a year or even six times a year. There is no guarantee that the siblings will even maintain a contact relationship of any value as they could be placed at very distant parts of the country. Contact, in any event, on a face-to-face basis, whether for siblings or for parents, is very difficult to maintain in an adoption.
43. The argument that if the siblings had stayed with their mothers they would have been unlikely to have had a relationship with each other is unattractive. They have not remained with their mothers and they do have the opportunity of being together throughout their childhoods and the rest of their lives as long as they wish. They will be a source of mutual support for each other throughout their lives. As Ms Cann says, having someone who is like them is likely to assist them in understanding why they are where they are. They would be in a unique and irreplaceable position to support

one another throughout their childhoods and beyond. That includes mutual support in coming to understand their shared history in their father and the risks that he posed.

44. Z's Guardian, was very impressive in evidence. I was struck by her measured assessment, particularly when she checked herself for unconscious bias when considering the evidence and arguments against what she was recommending. I value this evidence as I value all the evidence in the case.
45. Z and Y deserve and require creative thinking from the corporate parents. There is a need to make this work. They need to find solutions to challenges rather than seeing them as insurmountable barriers. As the mother of Z argues in her submissions, the distinction between the two options before the court is whether a delay four months is acceptable. I find that it is and that it is necessary.
46. So far as the placement application is concerned, in respect of Y I rely upon the judgment which I delivered in the care proceedings. It plainly follows from that that there is no realistic alternative to the care plan of adoption. Indeed, the welfare of Y positively demands it. I dispense with the consent of Y's mother.
47. So far as Z's placement order application is concerned, the parents did not oppose the full care order that was made. They were not in a position to care for Z. The threshold was found to be crossed such that Z was suffering or likely to suffer significant harm. In Z's case also, there is no realistic alternative other than a placement order following a care plan of adoption. Z's welfare also positively requires Z to be placed for adoption and I dispense with the mother's consent in Z's case also. Nothing other than adoption for each of these siblings will do.
48. I hope that face-to-face contact can take place, particularly for Y's mother and Y but I do not say any more than that other than there are a lot of variables to consider. For Z's mother, she has requested letterbox contact and has requested a goodbye contact.
49. I will reserve this case to myself for future hearings, including the adoption proceedings.
50. That is the end of the judgment.

(This Judgment has been approved by the Judge.)

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