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Neutral citation number: [2023] EWFC 77 (B)

Case No: ZE21C00561

IN THE EAST LONDON FAMILY COURT

Hearing dates: 2nd May 2023 to 4th May 2023
Judgment given on: 10th May 2023

Before :

District Judge Coupland

Between :

A Local Authority

Applicant

- and -

A Mother

1st Respondent

-and-

A Father

2nd Respondent

-and-

Z

(a child, through his Guardian)

3rd Respondent

Representation:

Ms Homer of counsel for the Applicant

Ms Simpson of counsel for the 1st Respondent

Ms Ogunrinade of counsel for the 2nd Respondent

Ms Logan-Green of counsel for the 3rd Respondent Child

The background

1. I am dealing with proceedings relating to Z, a little boy who was born on 15.03.2020 and so now three-years-old. These are public law proceedings issued by the Local Authority. Z's interests in the proceedings have been represented through his Guardian.
2. These have been extremely protracted proceedings that began back in December 2021 and have therefore been ongoing for over sixteen months now. There have been very many hearings since the proceedings began.
3. Z has been known to the local authority since pre-birth. This was a result of the mother's history as a child where there was social care involvement due to concerns around her own experiences of neglectful parenting, parental drug use, domestic violence and exposure to unsafe adults. As a teenager, there were safeguarding concerns for the mother around child sexual exploitation, drug use and her own mother being unable to care for her. Both the Local Authority and the Guardian have talked about "inter-generational neglect" in the mother's family.
4. The parents became parents to Z when they were very young and were both teenagers.
5. The father is a care leaver himself. There are significant concerns related to his history of criminality, exploitation, and possible links to gangs. There remains a query over whether he still awaits trial for possession of Class A drugs with intent to supply. He also has a history of mental health difficulties, namely low mood and suicidal ideation. The father has only sporadically engaged in the proceedings but has been

represented throughout and has spoken to his counsel on each day of this final hearing, although has decided not to attend.

6. There are previous reports of significant domestic abuse in the relationship between the parents and the father has had no known direct contact with Z since October 2021, around two months before these proceedings commenced.
7. Z had remained in his mother's care under an Interim Care Order until last year, when the Court sanctioned his placement into foster care. During the proceedings, Z has had three placements, as well as a mother and baby placement prior to the proceedings. Z moved with the mother to a respite foster placement after the first placement broke down due to allegations made about the foster carer and the mother not working with the written agreement that she had agreed with Local Authority. The next placement was another mother and baby foster placement and although this was initially a respite placement, the mother and Z actually remained there for several months. This placement raised similar issues to the previous placement, namely that the mother would be out of placement with Z every day until late at night. There had been two written agreements and a schedule of work and undertakings that the mother was unable to adhere to. The Local Authority had serious concerns for the safety and welfare of Z during these times. Concerns were heightened further by a number of injuries that Z had sustained whilst in his mother's care including, for example, when Z sustained burns to the front of two fingers. The mother reported she had been at a family member's home where she was using the oven and Z burnt them by touching the oven door. In discussion with the mother, she reportedly stated that she had told Z not to touch the oven, but he did it anyway. The mother was asked if it was her view that Z understood her request and she stated that he did but touched the oven anyway.

The mother did not accept that it was a lack of supervision and maintained her view that Z, who was then aged two, knew what he was being told. On another occasion, Z had sustained a cut to his head when a picture frame fell from a height and landed on him whilst at a family member's house.

8. There was no suggestion that these injuries had been inflicted intentionally but there was concern that the mother's insistence on taking Z to the home of the maternal grandmother and taking him away from the placement, contrary to the written agreements, and then her failure to properly supervise him there, was placing Z at risk of further injury.
9. On the 16th May 2022, with the Court's approval, the mother and Z moved to a residential unit ('the unit') for a specialist parenting assessment. By this time, it was clear that another mother and baby placement would have served no purpose and was not in the best interests of Z's welfare. It was clear that the mother had struggled to comply with the written agreements and boundaries of such placements, and the mother was just using the placements to sleep there but was not accepting any support or guidance offered to her, which was clearly needed. The unit had completed an initial assessment. Despite the mother's initial reservations and reluctance to move to the unit, she did make the move with Z. Whilst in the unit, the mother reportedly received a high level of support and intervention which, according to the unit, were delivered at an appropriate level for the mother to understand in light of her cognitive functioning. Sadly, the assessment was terminated early, around six weeks after it began. There were concerns raised regarding the mother's basic care of Z, her behaviour towards staff and other residents, as well as her lack of cooperation with the assessment. On one occasion, the mother was heard to threaten to burn down the

unit. There were three disruption meetings held within a space of two weeks, which resulted in the assessment then being terminated.

10. In June 2022, Z was separated from the mother and placed into his foster placement. The Court concluded that the high test for the interim removal of Z from his mother was met following the breakdown of the placement at the unit and the reasons for it, which I will come on to.
11. Since Z has been with his foster care, he has reportedly thrived. Z has settled well into a routine and the foster carer has not raised any concerns about his behaviour; she describes him as a joy to care for.

The hearing

12. This has been the final hearing of these proceedings. It has taken place over four days, with the fourth day being listed for the handing down of this judgment. I have however already given a short overview of this judgment, as recommended in the intermediary assessment. The mother, as I will come on to, is a highly vulnerable individual. She has been assessed previously as to whether she requires the assistance of an intermediary and she has been assisted by an intermediary throughout this final hearing. Ground rules were considered at the Pre-Trial Review and again on day one of this final hearing. Ground rules have included the mother having regular breaks approximately every thirty minutes during the evidence, the questions that were planned to be asked of the mother in cross-examination being sent to the intermediary in advance, and everyone using straightforward, every-day language as much as possible. I hope the short summary of the judgment that I have provided will assist the mother in understanding how and why I have reached my decision in respect of Z.

The Law

13. The burden of proof is on the Local Authority to prove their case and the standard of proof is the balance of probabilities.
14. It is clear that the Article 8 rights of both Z and his parents are squarely engaged and any orders I make that interfere with those rights must be necessary and proportionate. It is well established that a child has a right to be brought up within their biological family wherever possible and so any interference with that right can only be justified where it is necessary and proportionate. Where there is conflict between the rights of the child and their parents, it is the child's right that prevails.
15. I make it clear that, at all times, Z's welfare is my paramount consideration and I have kept that at the forefront of my mind at all times. As the Local Authority seek a Placement Order, it is Z's welfare throughout his life that is my paramount consideration.
16. In any case where I am being asked to make a public law order, there is a two-stage process to be followed. I remind myself of the comments made in Re DAM [2018] EWCA Civ 386 by Lord Justice Peter Jackson who stated:

'In every care case, the Children Act 1989 and the Human Rights Act require the court to address a series of questions. What are the facts? Has the threshold been crossed? If so, what order is in the child's best interests? Is that outcome necessary and proportionate to the problem? There is much authority from the appeal courts about each of these questions but at its simplest every valid decision will answer them.'
17. Firstly then, I must be satisfied that the criteria in s.31(2) of the Children Act 1989, the 'threshold criteria', are met. If so, I must then go on to consider what order, if any,

I should make in respect of Z's welfare.

18. Turning to the threshold criteria, I can only make a public law order if the conditions in s.31(2) of the Children Act 1989 are met. The relevant provision in this case is whether

(a) the child concerned is suffering, or is likely to suffer, significant harm; and

(b) that the harm, or likelihood of harm, is attributable to—

(i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him;

19. When considering threshold, I have regard to the comments made by Mr Justice Hedley in re L [2006] EWCC 2 (Fam): *“society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent. It follows too that children will inevitably have both very different experiences of parenting and very unequal consequences flowing from it”*.

20. If I am satisfied that the threshold criteria is made out, I must then turn to the issue of Z's welfare. The fact that the threshold criteria is established does not mean that I must go on to make a public law order or indeed any order at all. I remind myself of the 'no order' principle is s.1(5) of the Children Act 1989 and that I should only make an order if doing so would be better for the child concerned than making no order at all.

21. When considering Z's welfare, I have had regard to the welfare checklist in s.1(3) of the Children Act 1989. As I also have an application for a Placement Order before me, I must consider the welfare checklist at s.1(4) of the Adoption and Children Act

2002. I again remind myself that when considering the making of a Placement Order, Z's welfare for the whole of his life must be my paramount consideration.
22. When considering what orders to make, I must scrutinise the Local Authority's final care plan in accordance with s.31A Children Act 1989. In this case, the plan is one of adoption.
23. If I endorse a plan of adoption, I must consider dispensing with the parent's consent to the making of such a Placement Order under s.52(1)(b) ACA 2002 on the basis that the child's welfare requires me to do so.
24. A Placement Order is a draconian order. It permits a Local Authority to place a child for adoption and the making of an Adoption Order effectively ends a child's relationship with their biological family and hands parental responsibility to their adoptive parents. It is therefore the most significant interference with Article 8 rights of a child and of their parents.
25. I have had regard to the case of *Re G (care Proceedings: Welfare Evaluation) [2013] EWCA Civ 965; [2014] 1FLR 670* and the comments of McFarlane LJ that I must conduct a *"global holistic analysis of each of the options available for the child's future upbringing before deciding which of those options best meets the duty to afford paramount consideration to the child's welfare"*.
26. On the issue of proportionality, I have regard to the case of *Re C and B (Care Order: Future Harm) [2001] 1 FLR 611* and the comments that *"Intervention in the family must be proportionate, but the aim should be to reunite the family where the circumstances enable that, and the effort should be devoted towards that end. Cutting*

off all contact and ending the relationship between the child and their family is only justified by the overriding necessity of the interests of the child”.

27. I have regard to the case of *Re B (Care Proceedings: Appeal) [2013] UKSC 13 [2013] 2 FLR 1075* and the comments of Baroness Hale that; *“It is quite clear that the test for severing the relationship between parent and children is very strict and only in exceptional circumstances and where motivated by overriding requirements pertaining to the child’s welfare - in short where nothing else will do.”*
28. I, of course, have regard to the case of *Re B-S [2013] EWCA Civ 1146* and the well-established principles, which were drawn out from *Re B*, that although the child's interests are paramount, these interests include being brought up by their natural family. Further, that the relevant statutes impose a requirement that the Court "must" consider all available options when coming to a decision and that the court's assessment of the parents' capacity to care for the child should include consideration of support that the authorities could offer them in doing so. The judicial task is to evaluate all the options, undertaking a global, holistic and multi-faceted evaluation of the child's welfare which takes into account all the negatives and the positives, all the pros and cons, of each option
29. When considering the available options, I also have regard to the comments of Ryder LJ in *Re W (a child) [2013] EWCA 1227* that *“the local authority is required to provide the evidence to enable the judge to undertake the welfare and proportionality evaluations. That includes a description of the services that are available and practicable for each placement option and each order being considered by the court”.*

The evidence

30. I make it clear that I have read and considered the Court bundle. I have had the unique advantage of hearing the oral evidence of the Team Manager from the Local Authority and from the Guardian. It had been anticipated that a worker from the residential unit would attend on day two to give evidence on the basis that the mother sought to challenge their evidence. On day one however, I was told that this witness was no longer required, and the mother did not seek to cross-examine anyone from the unit. The unit's assessment has therefore not been challenged and I have proceeded on that basis. The mother was also due to give evidence but ultimately decided that she did not wish to do. The mother is, of course, represented by experienced counsel. The other parties were content for the mother not to give evidence. I have therefore not heard from the mother, although questions have been asked on her behalf of the Team Manager and of the Guardian.
31. Given the length of time that these proceedings have been ongoing for, it is not surprising that there have been a very significant number of assessments undertaken.
32. Substance misuse is a significant issue in this case and there have been numerous hair strand tests undertaken of the mother. In a test covering the period December 2020 to May 2021, before proceedings commenced, the mother tested positive for cannabis and cocaine. A further test covering the period July 2021 to January 2022 concluded there had been repeated cannabis use at medium levels during the most recent month tested and at high levels over the oldest five-month period. Another test from the end of May 2022 to the end of July 2022 were positive for cannabis use in the medium range for the period tested, but negative for cocaine use.
33. The most recent results are from only a few weeks ago. These results cover the period from mid-September 2022 to mid-March 2023. The results are positive for cannabis

use during the entire period tested - in the high range for the first five months and then the medium range for the most recent month tested. It should be acknowledged that the mother has been open about her cannabis use, albeit that she had not taken steps to address it by engaging with an organisation such as Change Grow Live (CGL) until December 2022. It is however to the mother's credit that she does now seem to be working with CGL and I have seen the letter from CGL dated 16.03.23.

34. The mother has undergone a psychological assessment from Dr Y dated, followed by an addendum. An application was made last week, on the last working day before this final hearing, by the mother for Dr Y to be called to give evidence but that application was ultimately not pursued at this hearing.
35. The mother did not prioritise her meetings with Dr Y and attended only one of her four interview appointments. Dr Y assessed the mother as meeting the criteria for an intellectual disability and considered that her "*cognitive development is likely to have been adversely affected by poor engagement in formal education*", this being in addition to neglect, instability as a child and a lack of a positive role model.
36. Given her own childhood experiences, Dr Y described how the mother has come to normalise violence within relationships, as well as drug use. In Dr Y's opinion, it will be difficult for the mother to make and sustain changes as she is enmeshed within a "*disordered and unsafe*" network for support and guidance, especially her mother (Z's maternal grandmother).
37. Further, Dr Y was of the view that the mother struggles with "*logical reasoning, proactive independent thought*" and has "*limited ability to critically appraise her own behaviour or understand the world from the perspective of others, including Z*". The mother would find it difficult to make changes as she struggles to see the need for

change, hold Z central or mentalise his experiences and needs, as being separate to her own. Dr Y concluded that *“the information available strongly suggests that [The mother] will parent as she was parented herself and that, in her care, Z will be exposed to violence, neglect and poor role models. It is likely that his life experience will be limited and he will fail to reach his potential”*.

38. Dr Y did not recommend intervention or support for the mother as it is unlikely to be successful until such a time the mother was able to disentangle herself from her own mother and her wider network. It is worth noting that, even today, the mother continues to reside with Z’s maternal grandmother.
39. I have read the two reports of Dr Y. In my judgment, Dr Y has undertaken a comprehensive and detailed assessment. She has identified the mother’s very significant difficulties, which are largely not of her own making, and has carefully considered how the impact of these difficulties will significantly impact upon the mother’s capacity to meet Z’s needs. Dr Y is clear that the mother’s support network, particularly the maternal grandmother, is a significant barrier to the mother being able to acknowledge and to begin addressing her difficulties. I found Dr Y’s reports to be extremely useful and insightful when reaching my decision in respect of Z’s future.
40. The final report from the unit is dated 23.07.2022. As I have already set out, this placement broke down after only a few weeks due to various difficulties. The assessment from the unit has not been challenged during this final hearing.
41. Some positives were identified, including that the mother is able to practically carry out care tasks with Z and Z has presented as being content in the mother’s care. On occasions, the mother was observed to be warm and affectionate with Z, who has been observed to respond well to this, and some play and stimulation was offered.

42. There were however a number of concerns and challenges identified, namely the mother was not consistently able to meet Z's needs to a good enough standard without staff carrying out a significant co-parenting role alongside her. Emotional warmth and play was said to be inconsistent and the mother did not offer Z warmth or comfort on a consistent basis and required a high level of support to incorporate play into the family's daily routine. The mother did not consistently work with staff in a helpful manner or implement the tailored support and intervention provided. This resulted in the mother remaining on high levels of support with regards to all care tasks with Z. The mother had spent extended periods of time away from Z, meeting her own needs at the expense of Z's needs, including cigarette breaks or making phone calls. The mother was verbally aggressive towards residents, made threats to residents and threatened to burn the unit down. The mother did not have a secure daily routine for herself or Z and did not wish to engage in support and discussions with regards to this. The mother was unable to adhere to the rules within the unit. The mother was unable to hold Z or his needs in mind, and she did not appear motivated to meet his needs. The mother also lacked insight into the concerns held and her role within these. She was unable to really acknowledge the need for a residential assessment and did not engage with the process to a level that was hoped and expected. Overall, the unit concluded that the mother had made limited progress within the residential assessment due to her lack of engagement in the process and unwillingness to implement the advice and support offered to her.
43. The final conclusion reached by the unit was: *“Based on the 6 week assessment completed The unit is unable to recommend any further assessment of The mother by ourselves either on a residential or community basis. Based on the assessment completed over the 6 week period, The unit has little confidence in the mother’s*

capacity to meet Z's holistic needs to the level he requires now or in the future within a fully supervised or community setting."

44. I have considered the assessment from the unit. It is clear to me that they were well aware of the mother's difficulties and endeavored to take these into account when working with the mother. The unit are a unit that specialise in working with parents who have cognitive difficulties, and I am satisfied that the mother's difficulties were taken into account and that this assessment was pitched at the right level for her. It is clear to me that the mother was simply unable to accept the monitoring, support and guidance provided by the unit. She was resistant to the assessment from the outset and her approach did not seem to shift a great deal in the six weeks that she was there. This led to Z's needs not being met consistently and to the staff at the unit having to intervene to keep Z safe and ensure his needs were met. The unit attempted to work with and assess the mother while she was there and have filed what I consider to be a detailed and well-reasoned assessment, which sets out why the mother is not in a position to meet Z's needs and why he would remain at risk in her care. I accept that assessment.
45. The Local Authority's final care plan is one of adoption. The Team Manager gave evidence in respect of this. The Team Manager did in fact used to be the mother's own social worker and has provided managerial oversight in respect of Z since prior to his birth. It is clear that the Team Manager therefore has extensive knowledge of this case and the background to it.
46. It was put to the Team Manager, on behalf of the mother, that things had changed since the final care plan was formulated, particularly because the mother has now completed the Triple P parenting course and has been working with CGL since

December 2022. The Team Manager was very pleased to hear that the mother has now completed the Triple P course and is now working with CGL, and was very hopeful that the mother will continue this positive engagement. The Team Manager was however very clear that she did not believe this work meant that the mother was now in a position to care for Z or that any further assessment of her was required. The Team Manager pointed out that the Triple P course is a fairly basic course in terms of teaching parenting skills and felt that the mother requires something much more specialised and detailed in light of her difficulties, as identified by Dr Y and by the unit. The Team Manager was of the view that the unit would have been a very good organisation to provide the mother with the guidance and learning that she requires but, unfortunately, the mother had not been able to engage with them. In respect of CGL, the Team Manager was of the view that it is still early days and was concerned that as recently as March 2023, the mother told the Guardian that she was still smoking one or two spliffs of cannabis a day, which the Team Manager considered to be a high level of ongoing usage. The Team Manager was also clear that professionals had been encouraging the mother since before Z was born to engage with parenting courses and with CGL, but it was only at the very end of these proceedings and with the final hearing imminent that she had decided to do so. The Team Manager felt that, while commendable, the mother's efforts had come far too late, that insufficient progress had been made and that Z simply could not wait any longer for final decisions to be made for him.

47. In respect of the mother's support network, the Team Manager explained that this had always been an area of significant concern since the Local Authority began working with the family when the mother was a child herself. The Team Manager confirmed that there remained extensive concerns about the maternal grandmother and issues

relating to neglect, a poor home environment, drug misuse and domestic abuse, all of which pose a direct risk to a young child living in or coming into regular contact with such an environment. The Team Manager remains very concerned that despite extensive work being undertaken with the mother, she had never accepted these concerns, let alone taken any steps to address them, as evidenced by the fact that she continues to live with the maternal grandmother now. In short, The Team Manager was of the view that the mother simply cannot accept the long-standing concerns held by professionals about her own mother and the care that the mother herself received as a child. The mother remains unaware of the fact that she was exposed to poor quality parenting when she was a child.

48. The Team Manager was clear that all of the work undertaken by professionals had been undertaken with the mother's cognitive difficulties in mind, including the pre-proceedings cognitive assessment from October 2021. The Team Manager was entirely confident that professionals had done everything possible to engage with the mother appropriately in the hope of supporting her to make and sustain positive changes. The Team Manager said that lot of conversations with the mother had been rather repetitive, with professionals trying to help the mother gain an understanding of concerns but the mother largely being unable to take this on board.
49. The Team Manager remained concerned that the mother is unable to work consistently with professionals. She has been unable to comply with written agreements previously, including consistently leaving the mother & baby foster placements with Z and not returning until late at night, meaning that the Local Authority often did not know where Z was despite them holding an Interim Care Order for him.

50. The Team Manager did not dispute that Z is very much loved by his mother and extended family members. She further accepted that contact was generally a very positive experience for Z and the sessions had largely gone very well. She confirmed however that the very significant concerns outweighed the positives, and, in her view, it would be unsafe for Z to be returned to the care of the mother.

51. The Team Manager was asked about the father having a 'goodbye contact' with Z. The Team Manager pointed out that the father has had no contact with Z at all since June 2022 and no direct contact since October 2021, albeit there was then some indirect contact via video call between October 2021 and June 2022. The Team Manager was concerned that despite having ample opportunities, the father had not engaged in a risk assessment in these proceedings and was very concerned that for Z, it would be extremely confusing for his father to suddenly appear again in his life, after having had no contact for eleven months, only to then disappear again. For those reasons, the Team Manager opposed there being a goodbye contact but did confirm that the Local Authority could provide the father with a photograph and possibly a short video of Z.

52. In respect of the plan of adoption, the Team Manager confirmed that a potential placement for Z has been identified and this will be presented to the matching panel shortly, hence the plan for contact to be reduced rather quickly if a Placement Order is made.

53. I found the evidence of the Team Manager to be extremely balanced and fair. The Team Manager knows the mother and this case very well, having been involved for many years now. She has a clear grasp of the issues in the case, the mother's vulnerabilities and how these translate to a risk to Z. The Team Manager was able to

acknowledge the positive aspects of the mother's relationship with Z and the recent work she has done, while also being clear as to why it would be wholly unsafe for Z to be placed in the care of the mother now and why further assessment was not warranted. I found The Team Manager to be an extremely impressive witness and I have no hesitation in accepting her evidence.

54. The mother then declined to give evidence. I have however considered her written statements, including the most recent one, which was filed on 28.04.23. This statement sets out the mother's work with CGL and the Triple P course, and makes it clear how much she loves Z and why she believes that she is now in a position to meet his needs and for him to be returned to her care. She opposes the plan of adoption and seeks for Z to be returned to her care immediately or, in the alternative, after some further assessment.
55. The Guardian then gave her evidence. She confirmed her continued support for the Local Authority's final care plan and, while keen to acknowledge the positive recent steps made by the mother with the Triple P course and engaging with CGL, she did not think there was any evidence of sufficient change for her to conclude that Z should be returned to his mother's care or that there was any need for further assessment. The Guardian remained concerned about the mother's relatively high level of cannabis usage, which the mother accepts, and the Guardian was concerned that the mother may be continuing to use this as a form of self-medication.
56. The Guardian fully accepted that the mother loves Z and agreed that when she observed contact, this had largely been positive for Z, with good interactions between him and his mother.

57. In respect of the father's position on having a goodbye contact, the Guardian was in full agreement with the Team Manager and felt that this would be very confusing for Z after such a long period of time with no contact.
58. I found the evidence of the Guardian to be extremely helpful. Once again, the evidence was balanced and fair, but also realistic. The Guardian gave the mother credit for her positive recent steps but was also very clear that it remains very early days and the early progress made by the mother is very far away from satisfying the Guardian that she has made sufficient changes to enable Z to be placed back in her care now.

Threshold

59. I was told on the morning of day one that threshold is now agreed between the mother and the Local Authority. The father did respond to the initial threshold document but has not responded to the final threshold document, despite being given repeated and extensive opportunities to do so. At the previous hearing, the Court therefore deemed that he had accepted threshold was crossed.
60. I have considered the finalised threshold document, which sets out the basis for the Local Authority's application in respect of Z suffering or being at risk of suffering significant harm when these proceedings commenced. The document is annexed to this judgment and so I will not repeat all of it here. The document highlights the risk of significant harm to Z arising from neglect of his needs by his mother, the vulnerabilities of his parents and their involvement with criminality, drug use on the part of his parents and domestic abuse between his parents. The document highlights many specific allegations, which are cross-referenced to the evidence in the Court bundle.

61. I have considered this agreed document and the evidence filed in support of it. I am entirely satisfied that threshold is crossed as set-out in this document. I give the mother credit for acknowledging and accepting that threshold is crossed, and I appreciate that doing so will not have been easy for her.

Welfare

62. Turning to the issue of welfare and reminding myself again that Z's welfare throughout his life is my paramount consideration and a global and holistic analysis of the options for Z is required. It is therefore necessary to consider what Z's welfare needs are and I do that by reference to the relevant parts of the welfare checklist.
63. With reference to the welfare checklist in s.1(4) of the ACA 2002:
64. (a)the child's ascertainable wishes and feelings regarding the decision (considered in the light of the child's age and understanding). Z is three years of age. He is therefore too young to express his own wishes and feelings, but it is right to say that if he could do so, he would want to be raised by his parents if that was safe and if his needs could be met by them. Alternatively, it is likely that Z would want to be brought up within his extended family but again, that would be on the basis that it was safe, and his needs could be met. As I will come on to, at Z's age, his primary need is a placement that is attuned to his needs, prioritises those needs and keeps him safe.
65. (b)the child's particular needs. At such a young age, Z is dependent upon his carers to meet all of his physical, emotional, health and education needs. He has all the needs that one would expect a three-year-old little boy to have. Z requires a permanent home where he knows that he is loved, settled, safe and where his needs can be met both now and as he grows up. Z is a boisterous and playful toddler, and he will need a

placement that will promote and encourage his personality as he grows older, while also ensuring that appropriate boundaries are in place. There are presently no identified health concerns impacting upon Z's development and preventing him from meeting his key developmental milestones.

66. (c)the likely effect on the child (throughout his life) of having ceased to be a member of the original family and become an adopted person. The loss of being a member of their original family will be significant for Z. As I have already mentioned, being brought up within their family is the most natural place for a child to be and is important in respect of their identity needs and cultural backgrounds. If Z is adopted then this is something that he would need to be supported to understand, not just now, but in the future too.
67. (d)the child's age, sex, background and any of the child's characteristics which the court or agency considers relevant. Z is 3 years old and is White British. His first language is English. The mother does not follow any specific religion but does celebrate holidays such as Christmas and Easter. Whatever decision is made for Z, it is important that he grows up understanding his background. Z was living with his mother until June 2022 and so, if placed for adoption, this will be a significant loss for him, which he will require support to come to terms with.
68. (e)any harm (within the meaning of the Children Act 1989 (c. 41)) which the child has suffered or is at risk of suffering. As I have already said, Z was at risk of suffering significant harm in the care of his mother. This point is not in dispute. As I have already set out, the assessments of the mother completed during these proceedings show that Z would remain at risk in her care. The key areas of risk, as identified by the various professionals prior to the proceedings and as set-out in the threshold relate

to drug misuse, domestic abuse and an inability on the part of the mother to meet and prioritise Z's needs over her own considerable needs. All of these matters pose a real risk of Z's needs being neglected, through his mother being unavailable to meet his needs due to her significant ongoing cannabis use, through him witnessing and being exposed to domestic abuse, which is known to be emotionally harmful to children, and from the mother being unable to focus on Z's needs, which is likely to lead to those needs not being met and Z's safety potentially being placed at risk. The assessments of Dr Y and of the unit have explored whether these matters have been addressed and whether the risks have reduced. Sadly, the conclusion of those assessments is that very little has changed, and the risks remain as high now as they were at the outset of these proceedings. I accept the conclusions of those assessments and that Z would, sadly, be at risk of emotional harm and neglect if placed in the care of his mother. Z, of course, needs a placement where he can be protected from harm and the evidence, from the psychological assessment and parenting assessments suggest this would not be the case with his mother. The mother has significant vulnerabilities, as outlined by Dr Y and those difficulties were part of the reason that the placement at the unit had to be terminated. The mother experienced a poor level of parenting herself but her lack of understanding or insight into that, despite the best efforts of professionals, means that she is likely to replicate something similar with Z. I therefore remain concerned that the mother does not have any real understanding of the risks to Z of experiencing neglectful care, the mother's own support network, drug use and domestic abuse. It is positive that she says that she has separated from the father but whether that can be sustained and whether the mother can remain free from abusive relationships remains to be seen. Based on the evidence of Dr Y, which I accept, it is unlikely that the mother has developed the necessary level of

understanding to protect herself and Z from such situations. The mother has recently engaged with CGL and Triple P, which I commend her for, but those are small and relatively early steps on a long road for the mother to develop the skills and understanding to meet and prioritise Z's needs over and above everything else. As things stand, she continues to lack those important skills and is not equipped to identify and manage risks arising from this range of issues. If Z was placed with her now then, for the reasons outlined by Dr Y and by the unit, it is clear that Z would be at significant risk.

69. The father's engagement with the proceedings has been limited and sporadic. He has had no contact with Z for around eleven months. He has not attended this hearing and has not filed any final evidence. He has not engaged with the Court-directed assessments, including a risk assessment. There is therefore no evidence before the Court of any positive change whatsoever. The risks identified relating to the father, which are outlined in threshold document, in my judgment, remain completely unaddressed and in all likelihood, he is continuing to use illicit substances, engage in criminal behaviours and has done nothing at all to reduce the risk he poses as a perpetrator of domestic abuse.
70. (f)the relationship which the child has with relatives, with any person who is a prospective adopter with whom the child is placed, and with any other person in relation to whom the court or agency considers the relationship to be relevant, including—
71. (i) the likelihood of any such relationship continuing and the value to the child of its doing so. The loss of Z's relationship with his mother will be significant for him. Letterbox contact will allow them to stay in touch as Z gets older, but it would be

wrong to suggest that this is a replacement for consistent and regular direct contact. Z did, of course, live with his mother until June 2022 when he moved into foster care. If Z is placed for adoption, then life story work will be extremely important for Z. At the age of three, Z knows his mother and losing her will be very significant for him. Likewise, Z probably knows who his father is, albeit that they have no existing relationship at present.

72. (ii) the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the child can develop, and otherwise to meet the child's needs. The assessments of Z's extended family members have concluded that they cannot meet his needs. I will deal with these in more detail in a moment. Whilst I do not doubt that these family members would dearly love care for Z, the assessments have shown that they are unable to do so, and that Z would be at risk in their care. Those assessments have not been challenged and I accept the conclusions of what I consider to be comprehensive and well-reasoned assessments of these family members.
73. (iii) the wishes and feelings of any of the child's relatives, or of any such person, regarding the child. Z's family members, I am sure, do not want him to be adopted and would very much want for him to remain cared for within his biological family. That is entirely understandable. Those views must, however, be balanced against Z's wider needs and, in particular, that primary need for him to have a permanent home where his needs can be consistently met.
74. In coming to a decision relating to the adoption of a child, a court must always consider the whole range of powers available to it in the child's case (whether under this Act or the Children Act 1989); and the court must not make any order under this

Act unless it considers that making the order would be better for the child than not doing so. I have regard to the ‘no order’ principle and of the various options available to the Court in this case.

75. Z could be returned to the care of his mother, who I have no doubt at all loves him very much. Being brought up within their family is the most natural place for a child to live and this allows them to maintain their relationship with their biological family, which is important to ensure their identity and cultural needs are met as they grow up. I accept that if Z could express his own wishes, he would ideally want to live with his mother, so long as that was safe. Losing his relationship with his mother, father and extended family will be significant for Z, not only now, but for the rest of his life. The loss of that is something that the Court does not take lightly.
76. In my judgment, however, it is overwhelmingly clear that despite genuinely wishing to care for Z, the mother is sadly unable to meet his needs and Z would sadly be placed at risk of harm in her care. The very sad reality is that the mother’s own significant difficulties and vulnerabilities, which are not entirely of her own making, mean that she cannot prioritise Z’s needs and would be unable to do so within Z’s timescales. Given Z’s age, he needs a decision to be made and it would not, in my judgment, be in the best interests of his welfare to delay matters for many months, and possibly longer, to see if the mother is able to make and sustain the required changes. Having considered the evidence of the professionals, which I accept, there is no amount of support that could realistically be provided on a consistent and long-term basis by the Local Authority or any other organisation that would enable Z to be safely cared for by her mother. In any event, the evidence overwhelmingly shows that the mother is unable to accept such support. I am entirely satisfied that everything

possible has been done to try to support the mother in caring for Z through the various placements, including the specialised placement at the residential unit. In short and very sadly, the vulnerabilities and risks of placing Z with his mother are far too high.

77. I have considered the evidence relating to the father. He has not engaged with these proceedings to any great extent and has not attended this final hearing. As I have already mentioned, he has a very troubled past and it would be impossible for the Court to consider that he was able to care for Z without there being some significant work and assessment undertaken of the father. For whatever reason and most likely due to his own difficulties, the father has not been able to engage with the proceedings. In my judgment, it is therefore clear that the father is unable to meet Z's needs and Z would be placed at a very serious risk of harm in his care. The father clearly has very many of his own difficulties to address before he could be considered as a possible carer for Z and he is not yet at the point where he can engage with professionals or in these proceedings, let alone being able to acknowledge his difficulties and to start addressing them.
78. Sadly, there are no alternative family members to care for Z who have been positively assessed. Viability assessments have been completed of two family members, which were negative. They have not been challenged. A Special Guardianship assessment was undertaken of the paternal grandparents, which is an extremely thorough assessment. This reached a negative conclusion and in fact raised some quite serious concerns. This assessment was never challenged. It is, of course, always better for children to be brought up within their family and while such a placement would promote Z's cultural and identity needs, while maintaining a relationship with their parents and wider biological family, the assessments that have been undertaken are, in

my view, thorough and fair. These assessments sadly conclude that Z cannot be cared for within the wider family and I accept those conclusions.

79. Given that Z is just three years of age, he needs permanence and so options such as long-term fostering and residential care are not realistic for him as such options would potentially consign Z to a childhood of changing placements and of ongoing professional involvement. While long-term fostering would allow Z to maintain a relationship with the parents and potentially their wider family, this needs to be balanced with his other welfare needs. When considering those needs, Z clearly needs a permanent placement where he can attach to carers who are attuned to his needs and who are able to keep him safe in a settled and safe home environment. In my judgment, that is Z's primary welfare need, both now and throughout his life.
80. The final care plan is one of adoption. As outlined already, I must consider Z's welfare for the rest of his life. Adoption will mean a change of placement. but there is nothing to suggest that he will be unable to attach to new carers. Nevertheless, Z's relationship with his parents and wider family will be significantly impacted by a plan of adoption and so that loss and the emotional impact of it upon Z, must be carefully balanced against the potential benefits that an adoptive placement will bring. Such a placement will provide Z with a forever home where his needs are met consistently and as a priority, and where he will be kept safe.
81. Having weighed all of the evidence and all of the realistic options in the balance, I am satisfied that only a plan of adoption will do for Z. I am satisfied that Z's primary need now is a permanent loving home where his needs will be met for the rest of his childhood and beyond, and where he can be kept safe. For the reasons I have set out, only a plan of adoption can achieve that for Z.

82. I therefore make a Care Order to the Local Authority. I approve the plan of adoption and dispense with the consent of the parents to the making of a Placement Order on the basis that Z's welfare throughout his life demands that I do so. I therefore make a Placement Order.
83. In respect of contact, there is a need to balance the important of Z understanding his life story and being able to maintain some level of contact with his parents, against the need for an adoptive placement to be found as soon as possible and for Z to be given the opportunity to settle into that placement. Whilst direct contact is something that could be considered in the future by Z's adoptive carers or by Z himself once he is older, I am not satisfied that it is in the best interests of Z's welfare to make an order. To do so would potentially undermine the search for an adoptive placement and, as I have already found, finding such a placement is now a priority for Z. In my judgment, the proposals for indirect letterbox contact strike the right balance between meeting Z's needs to understand his life story and maintain contact with his parents, while also finding and settling in to his new, permanent home.
84. As regards the father's application for a 'goodbye contact' with Z, I do not consider this to be in best interests of Z's welfare and I entirely accept the evidence of the Local Authority and the Guardian on this point. Z has not seen his father for around 18 months now and has not spoken to him at all for almost a year. In my judgment, reintroducing the father to Z for one session of contact is likely to be confusing and upsetting for Z at a time when he is already about to go through a significant change of circumstances. That transition is now the priority for Z. The Local Authority have offered to send the father a photograph and/or a short video of Z, which I consider to be appropriate in the circumstances.

85. Finally, I am grateful to the witnesses and the four advocates for their assistance at this hearing. I appreciate that today will be a very hard day for the mother, but I hope she is now able to focus on the future and on starting to address her own difficulties. She has her whole life ahead of her and in my view, it is very important that she focuses on that and gets the help that she needs.