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Neutral Citation: [2020] EWHC 1996 (Fam)

Case No: LU18C03683

**IN THE HIGH COURT OF JUSTICE**  
**FAMILY DIVISION**  
**Sitting Remotely**

Date: 23<sup>rd</sup> June 2020

**Before:**

**MR JUSTICE NEWTON**

**Between:**

**BEDFORD BOROUGH COUNCIL**

**Applicant**

**- and -**

**(1) CD (Mother)**

**(2) CP (Father)**

**(3) J (Child)**

**(4) THE GUARDIAN**

**Respondents**

**D (Maternal Grandmother)**

**Intervenor**

MISS E ISAACS QC and MR T BOWE appeared on behalf of the **Applicant**  
MISS A GRIEF QC and MISS M HYDE appeared on behalf of the **1<sup>st</sup> Respondent**  
MISS L MURPHY and MR A DUNCAN appeared on behalf of the **2<sup>nd</sup> Respondent**  
MISS A COURTNEY appeared on behalf of the **Child**  
MISS A MOORE appeared on behalf of the **Guardian**  
The **Intervenor** appeared in person

**Approved Judgment**

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**MR JUSTICE NEWTON:**

1. This is the judgment in the case of D. On 12<sup>th</sup> June 2018, so just over two years ago, H - who was just eight weeks old - was found dead in her cradle at home. Whilst initially it was thought she had died from a cot death, later inquiries revealed extensive multiple injuries. Subsequently her parents (CD and E) were arrested and later still charged with murder. Very much later, considering the evidence including two psychological reports, the prosecution offered no evidence against the mother and she was acquitted on 3<sup>rd</sup> October 2019, after nearly 16 months. H's father E was convicted of murder and sentenced to life imprisonment with a minimum recommendation of 20 years.
2. The court is concerned with the welfare of J, born on 17<sup>th</sup> June 2006. He (J) is H's much older half-brother. He is the son of the mother and CP and has lived with - as they were at the time - very close friends of the mother (Mr and Mrs X) since those events in June 2018.
3. This case has followed a trajectory unlike any other I have been involved with in over forty years. The final hearings for one reason or another have been adjourned, and the mother's acquittal in October last year which one might have thought to have substantially cleared the way to reunification has not in fact occurred. Uniquely, this case has required a hearing - in fact a remote hearing - which began on 8<sup>th</sup> June 2020 to establish J's expressed wishes and feelings with regard not just to contact but more importantly to where he would live. That has become necessary because his expressed wishes and feelings changed, at least as far as the court was concerned, apparently very abruptly in January 2020, and in particular in relation to his mother and his mother's family. It is now clear to me in fact that those perspectives were founded in much earlier events when there were clearer expressions of what was taking place within his foster carer's home, and it has become necessary for there to be an inquiry as to the role of his foster carers Mr and Mrs X, they after all have been caring for him. J has moved from a position of having supervised contact with his mother and family to a position where in fact he was refusing to have any contact at one stage at all, and those expressions were impervious to further inquiry.
4. The way in which this inquiry has come about has been significantly fuelled, indeed I suspect triggered, by Mr and Mrs X's and J's refusal to comply with my order of 20<sup>th</sup> January which envisaged a modest and uncontroversial gradual and gentle reintroduction of unsupervised face-to-face contact. However, there was also a growing body of evidence - which as far as I can tell only slowly came to light - which justifiably gave rise to question whether the placement with Mr and Mrs X was or indeed has been in reality the right placement for J at all.
5. In the event during the course of this hearing, having heard Mrs X giving evidence over some two days, what had previously been unfathomable and apparently inexplicable, became much clearer, and indeed I commented as much, through the prism of Mr X's evidence. Importantly, additionally Mr X at the conclusion of his evidence - having been cross-examined by Miss Grief QC, in enquiries made by me - made it clear that he thought that it was ludicrous that J was still living with them after two years and that it should be sorted out and that he should be living with either of his parents.

6. The local authority - whose position has not always been completely easy to understand at least from my perspective, and about which I make no findings at this stage because much of the evidence is untested - nonetheless now say that it is their clear view that J should leave the home where he has been living for the last two years.
7. Nonetheless, it is clear that the situation where he has been living with Mr and Mrs X has been - at least to the court - somewhat masked, and the situation in my judgment has become increasingly toxic. It is a strong word which I believe I may have used earlier in this case, but which I am satisfied properly portrays the environment in which J has been living.
8. The local authority maintains - and indeed there is no contest about it - that it is necessary for J to leave Mr and Mrs X's home and go and live somewhere else. In fact, the current situation is urgent and inevitable. No one submits to the contrary. Whilst the parties or some of them have made submissions on the evidence as to the current circumstances, in fact the issue of placement, significantly, has rather resolved itself during the course of the last 10 days. The reality is that this hearing has not just cleared the mist on J's perspectives but has in fact been the key which has unlocked the door to the way forward.

#### Short Background

9. Mrs X and the mother were the best of friends but, as became clear during the evidence, the relationship had a closeness - indeed an intensity - which was unusual. The loss of that friendship, for whatever reason, continues to cause enormous, seismic even, emotional upset and disturbance for Mrs X. Inevitably when the mother's life unravelled two years ago, it was Mrs X to whom she turned, and it was in fact the Xs who cared for J where as I say he has remained. The Xs were of course not approved as foster carers, so the whole statutory process was invoked leading ultimately, after assessment, to approval. It does make what subsequently appears to have developed all the more surprising, but that is undoubtedly for another day.
10. I cannot ever recall having heard or conducted such a hearing, and I regret very much not being able to do so earlier. My instincts - honed over four decades in family law - told me, when I heard of the reactions to my order of 20<sup>th</sup> January 2020, that it was necessary for J to move home, whatever its advantages or his expression, and that is especially so since of course I then learnt that Mr and Mrs X gave notice of terminating the placement. The evidence which I have heard subsequently, revealed and demonstrates comprehensively and conclusively that those initial thoughts and instincts were entirely correct.
11. I make no apology for recording that but for prescience and determination of the mother's team, I am not convinced that this situation would ever have been properly revealed. I also wish to record without embarrassment that it is a very long time since the court has heard such effective inquiry into two witnesses. It may be the material was there, but the material needed marshalling, and the approach taken revealed layer by layer how the household run by Mr and Mrs X functions and functioned, both its strengths and its vulnerabilities. Importantly, it revealed almost completely those aspects which I was primarily concerned with, which is why J expressed himself in the way in which he did and why in fact it was so unfathomable.

12. In relation to my consideration of the issues which I am about to deal with, I adopt much of the written submissions of Miss Grief QC which I incorporate into this judgment, I hope it is understood not through any sense of idleness, but because the court in fact agrees with many of them and cannot improve upon them.
13. The evidence itself consisted of Mr and Mrs X. Mrs X gave evidence over two days, and it was not a straightforward experience. Mr X gave evidence over one, but his evidence was not completed because by that stage the conclusion of the court was inevitable. I do not underestimate the difficulty of giving evidence remotely over long days, nor of the strain of the proceedings, nor of the strain of their own personalities and priorities. However, inevitably it seems to me that I conclude that it is clear beyond any doubt that Mr and Mrs X have, have had and continue to have strong negative views about the mother and that was evident from everything that they told the court: from their demeanour, from their affect, from the way in which they gave evidence, and from the content of their evidence. Indeed Mr X made really no attempt to conceal it. He demonstrated what seemed to me to be little short of open hostility and barely controlled anger.
14. Mrs X's feelings were more complex, partly because of the intensity of the relationship which she had had with the mother. However, her anger was still obvious, and was clearly interwoven with very intense and highly charged emotions and feelings: frustration and anger and disappointment, and of the loss of the friendship which was so important to her.
15. Whilst I have yet to hear evidence about it, those strong feelings as far as I can tell were not challenged by those supporting Mr and Mrs X from the local authority until very recently when Mr X insisted on J wearing headphones or not wearing headphones, and that was an issue about which it seemed to me that the authority rightly - if belatedly - finally understood that something needed to be done, and now.
16. In any event, the position of Mr and Mrs X is demonstrated by so many parts of the evidence that it is difficult to select all of them, but I highlight some simply because it gives some colour to the canvas.
17. Firstly, Mrs X was clearly very affected by the breakdown of her friendship which she said was at least akin to sisters, closer than a friendship to a partner. She was obviously angry that she felt that she had let her own children down by them being present with Mr E, though she herself had seen nothing that suggested he posed a risk. Mrs X is - if she does not mind me saying so - a highly emotional woman who clearly does suffer from significant anxiety.
18. Secondly, she felt anger in respect of the mother's acquittal, and said several things to a number of professionals about that.
19. Thirdly, she told the mother in no uncertain terms what she thought about the situation.
20. Fourthly, very early on Mr and Mrs X believed that the mother had known the detail or some of the detail of E's previous conviction in respect of a child, and that was known early on, probably by early July 2018.

21. Fifthly, both Mr and Mrs X were extremely angry at the outcome of the criminal trial, frustrated; angry and disappointed that the mother had “got away with it.”
22. Sixthly, Mrs X continues to have strongly negative and muddled views about the mother, and I am satisfied that J could not possibly but be aware of them.
23. Seventh, Mrs X has shared her views about the mother in detail in front of J as she accepted during the course of some of his therapy sessions, and it is inconceivable - having regard to the closeness of their relationship - that he would not be aware of them, whatever she might say to the contrary.
24. Eighth, Mrs X had what she described as “a meltdown” in one of the joint sessions. Had J been in any doubt before, from then on could not possibly have had any doubts. As I have said earlier, Mr and Mrs X took the view that the mother was aware of Mr E’ very serious past and the conviction, and therefore that she should take responsibility, at least to that extent, for the death of her daughter. Currently and indeed historically, Mrs X has refused to sit in the same room as the mother” on the basis of all the lies that the mother has told in the criminal trial.”
25. Eleventh, Mr X agreed (and as it was recorded at the time), that they told J that CD was going to get away with it and everything she has done, and that is exactly what has happened. Oddly Mrs X sought to deny that, claiming she thought she had said no such thing to the social workers, but I prefer the recordings. Mrs X also suggested that the references to anger at the criminal trial related to the impact of the arrest and subsequent events on J, but frankly that was completely unconvincing and seemed to me to be a rationalisation after the event.
26. Understandably Mrs X sought to portray herself in a better light than events and recordings might demonstrate. Her clear sense of anger and betrayal, stemming I suspect from her belief in the mother’s guilt and the mother’s culpability for the death of H, is something which has affected and corroded her perspective of everything to do with J. However, it is just one of many instructive parts of the evidence. Mrs X sought to suggest that her anger had evolved, and clearly it has. However, it is clear that many of the complaints raised by Mrs X were not reflected by J himself, and I am sure that that lies at the foundation of his apparent confusion.
27. There has been wide disparity between what Mrs X says on the one hand and what J says on the other, and there are several examples. I simply highlight a few.
28. There were the recordings of 15<sup>th</sup> and 17<sup>th</sup> April 2019 which do not reflect what has been said to others. Mrs X spoke of her own feelings of anxiety in relation to the contact, and indeed went on to say that she was exhausted by the relentless game play, notwithstanding the fact that J appeared to enjoy contact and contact went well, and there is nothing to suggest the contrary. Mrs X was unable to even sit in the same room as the mother, so a performance had to take place whereby all the LAC reviews took place on different days, and it was clear that Mrs X requiring notice of who was to attend any meeting and who was to attend at contact meetings was about her own anxieties and had got really nothing to do with, it seemed to me, the welfare of J.
29. All those aspects were reflected in the evidence that I heard from Mr X, which I found really quite troubling. It can be summarised as follows. Mr X has policed - in every

sense - what has taken place, in supporting his wife as best he sees it. He was unable to think of any reason why J might feel uncomfortable, or conflicted in having video contact ; it seemed to me he was either misleading me or utterly devoid of insight, or ultimately, I have concluded, more likely both. He was hostile during the course of evidence. His evidence was difficult to listen to. He seemed to me to be a strong forceful barrier, frustrating contact at every level, choosing not to comply with court orders. He was the one who made it quite clear that he was not going to have anything to do with “that woman” that he did not trust her as far as he could throw her, and in relation to a number of issues - for example the most recent issue which finally led the local authority to finally do something ( the situation in relation to the headphones) - speaks volumes. Whilst he said that he remained present because J needed that support, in reality it was because Mrs X got wound up when any contact was taking place. I am satisfied that his conduct in this case has become increasingly obstructive, belligerent and offensive, deliberately so, it was designed to affect the relationship between J and his mother, and even J and the social worker. So within the household, there were two very different dynamics: someone who is very close to J who was highly emotional and found it very difficult to deal with the situation, and her husband who was supportive of her and controlling. J somehow had to make sense of both of those dynamic pressures.

30. That leads to the issue of the contact, which is what ultimately evidenced the growing problem and about which I am especially anxious. On the evidence that Mr and Mrs X - and Mrs X in particular - have always been opposed to unsupervised contact. Mr X was at least prepared to accept that when that principle was put to him, but Mrs X was not, and about that I consider she is wrong. It is clear from the records that there are many examples. Again, I only highlight a few.
31. In January 2020 Mrs X had said that she had been clear for 18 months about this, that is to say there was to be no unsupervised contact. It is clear that as soon as Mr and Mrs X were forewarned about the prosecution offering of no evidence in the criminal trial at the end of September 2019 - curiously even before the mother knew herself about it - they indicated that they would not support unsupervised contact. She set out her position to the social worker on 30<sup>th</sup> September 2019, saying that whilst they no longer wished to put themselves forward as long term carers – (that also was not disclosed to the court or indeed anybody else, as far as I can tell, until much later - with the mother out of prison), any sort of unsupervised or supported contact would not be manageable. She said the mother would approach them and make them feel uncomfortable, Mrs X was worried about her reaction to the mother in front of J. As far as I can remember, none of that was brought to the court’s attention. On the same occasion Mrs X was saying that she would not have anything to do with mother and that they were no longer really prepared to help in, for example, transport and the like.
32. All of those seem to me to be examples, and there are many others for example, on 13<sup>th</sup> December 2019, on 7<sup>th</sup> January 2020 when J said that he was prepared to try out unsupervised contact, the reaction of Mr and Mrs X was “Well, we won’t be having that. There will be no unsupervised contact in our house. We have always made it clear there will be no unsupervised contact, and it is an absolute no-no”, that they did not want” that woman” infiltrating their family and their home, they did not trust her, and they did not want her to have any unsupervised contact. Frankly, by that stage at the absolute latest, the situation could not have been clearer.

33. Having now heard the evidence, those trenchant views developed over a period of time, starting probably in July 2018 with the police allegations and the formation of the mother's culpability and being reinforced by subsequent events, in particular the mother being acquitted, and the mother - as they saw it - getting away with it.
34. So, I turn to the evolution of J's wishes and feelings which is the headline for this hearing. Everything that I have recorded - and there is a great deal more - colours the canvas that has been J's living experience and at a time when he has been fast developing and has been an emotionally susceptible teenager. It is in that environment that J's wishes and feelings have developed.
35. It is worth recording that the mirror for J, has been that not only that H died, but his mother was arrested, subsequently charged with murder, remanded in custody - albeit only for a short period - and then bailed, and for a very extended period only able to see her in supervised contact, so in very restricted and controlled circumstances. So the two extremes of his environment could not be more marked.
36. The background is of course that the mother and J and the X family had historically become very close. They spent a great deal of time with each other. J had made it perfectly clear that his biggest concern was the relationship between the mother and Mrs X. In fact, he now sees it as his responsibility. So, in that context of trying to take things slowly and trying to avoid feeling awkward, it is entirely understandable how the enormous negativity that has arisen or apparently arisen as expressed through him - although in fact not really evidenced.
37. I only refer to a few events, because it is clear that J has been drawn into this very complex relationship between these two women. He of course has been spoken to on many occasions by many different professionals. In the middle part of 2019 in relation to a discrete inquiry (as to whether or not he ought to be living with his father,) it is especially troubling that after the earlier interviews Mrs X developed a nonverbal signal or system whereby J could indicate if he was not comfortable with something and therefore either the specific inquiry or even I think the entire meeting could be terminated.
38. On 30<sup>th</sup> September, when J had not been told that his mother was going to be acquitted, J was clear that his only options were either Mrs X or his mother, but only if she lived where he could stay at school. He was clear that he wished to see his father, but did not want to live with him because he did not "not massively know him," and indeed his position today is that he very much values the relationship with his father but it is a developing one. Of course, all those expressions were on the basis that in fact he did not know (and indeed I had not been told) that Mr and Mrs X were not putting themselves forward as carers, indeed I think he only learnt that as far as I know within the last few days.
39. The turning point was the way in which the information dealing with the mother's acquittal was dealt with. The social worker - I think most unwisely - tasked Mrs X with telling J that his mother had been acquitted. Even at that stage it should have been clear that she was probably the least appropriate person to deal with it. His reaction was interesting. He immediately reacted, he did a little victory dance, "Yes, I knew it".



40. Yet by the time he saw his mother, only the following day, that interview - which should have been a celebratory interview - was the most difficult exchange. It was difficult because Mrs X had clearly made it her business to point out - she herself working through the website and the information that had been given to her - that the mother had lied in the criminal trial, ( indeed that was her reason for not sitting in the same room with her,) and that the conversation and details that she had discussed with J - wholly inappropriately – were of the different levels and standards of proof; because when J was discussing it with his mother ,and the mother tried to explain it to him, it clearly was at odds with what he had already been told, and indeed the meeting became increasingly difficult , when it should not have been. It should have been quite the reverse. So, J was upset, he took the view that his mother had lied to him in the meeting. The only basis I conclude for him coming to that conclusion must have been what he had been told by Mrs X. There cannot be any other conclusion. This should have been a seminal meeting for the mother and J, but that was not to be.
41. That view is reinforced by Mrs X’s very unhelpful conduct, because the mother subsequently of course was engaged in the criminal trial and she clearly could not attend contact. Mrs X’s response to the mother’s request to have contact on a Saturday instead of fortnightly - entirely reasonably, it seems to me – was to respond that the mother was manipulating to get some control and this was abusive, and that J should feel able to feel safe and secure, and cannot do so when the boundaries he has asked are always being moved to fit the mother’s agenda. She described it as a “pantomime” that would flair up his anxiety, she described the mother’s reasonable request as “mind games”. Shortly after that, the funeral of H occurred and when there is no suggestion that anybody behaved inappropriately.
42. At the LAC review on 6<sup>th</sup> December, Mrs X sent in a written update, the plan of the local authority was for J to return to his mother subject to the proposed home being approved, and for the transition to be implemented. However, that was delayed until January in order for assessments to occur, and J himself asked that it should be delayed until after Christmas.
43. At that time J wrote a letter to the court dated 3<sup>rd</sup> December in which he said that he wanted a transition plan and that he would like to live with his mother, but he needed some time to get used to big changes. He was concerned to stay at the same school, and he wanted contact to stay the same until after Christmas and for it to remain supervised.
44. If I put that in the context of the court hearings, on 16<sup>th</sup> December 2019, whilst the mother continued to say that she wished for the family to be reunited, I do not think I was told that Mr and Mrs X were not putting themselves forward as carers, and I was certainly not told that they were fundamentally opposed to unsupervised contact.
45. The meeting on 7<sup>th</sup> January with the guardian and Mrs Thompson was the last occasion when J expressed a preference to live with his mother but only on condition that he could stay at the same school, his second choice was with Mrs X, and his third choice was with his father. I do not think J even knew that Mr and Mrs X were not putting themselves forward, and indeed I am not even sure that the children’s guardian knew that either. J indicated that he wanted to try out unsupervised contact and he would like to start off with some tea and then have a day, but not any overnights yet, all of which seemed to me to be a perfectly natural progression.

Interestingly, J was unable to articulate - let alone explain - why it was that he wanted the supervised contact to continue in the short term, but was also saying he wished to live with his mother. It is now completely clear to the court why that was, which is because of the approach of those looking after him (Mr and Mrs X).

46. Each exchange that took place became more complicated. On that day in fact (7<sup>th</sup> January) there was a very surprising exchange in interview when J entered the room where discussion was being had with Mr and Mrs X, he was asked how he would feel if he did not move to unsupervised at the moment but moved to extended supervised contact, and J is recorded as almost shouting "Yes." That discussion clearly came about partly because of those who were present and partly because he already appreciated the strength of view.
47. The next pivotal moment occurred on 15<sup>th</sup> January 2020. Despite the fact the guardian had visited J only a week earlier, the social worker also visited J and interviewed him alone. It seems to me that the value of that discussion was correctly observed to be undermined by Mrs X's actions that day, because she made it clear during the email which she sent shortly after the school run that she had been feeling really anxious about the whole situation with court and unsupervised contact; and of most significance, J asked her if he stayed with her would she allow him to have contact with the mother, and Mrs X had replied "Well, yes, but only if it was supervised." J understandably had asked her why. She said it was because she was unhappy with the mother's behaviours. Asked if she would consider letting him having unsupervised contact with the mother later on but only if he felt comfortable with it, Mrs X said that she would but only if she saw a marked improvement in the mother's behaviour, "We would reconsider it at a later time." I think she put that at "at least six months". J immediately acquiesces with her view. He said "Well, it's not important to have unsupervised contact at the moment", and he preferred it to be supervised. It is clear later - as she said in evidence - that she assumed that he wanted her (Mrs X) to verbalise it for him.
48. The social worker's discussion with J revealed - as was the case before the court on 20<sup>th</sup> January when I made the decision - that J was unable to explain some of the things that he was saying, and there was that dichotomy which was before the court. He consistently shrugged his shoulders and said "I don't know" when asked about the possibility of unsupervised contact. He said he could not say why he wanted to extend the transition plan now to the summer, and he could not explain what his reservations were. His main reason was not to feel awkward. Obviously and inconsistent with what he was saying was that he had expressed an entirely different view until just a few weeks before, and indeed all the observations of contact were such that contact seems to have gone well and he appears to have enjoyed it.
49. The social worker understandably found it hard to get a sense of what J really wanted because his presentation did not match what he was saying, she had a strong sense that he was not allowed certain things that were important to him if he was returned to the mother, and the social worker described him - correctly I think - as conflicted. That was how it was presented to the court.
50. So doing the best that I could at the time, it seemed to me to be largely a conflict of loyalties; and having no idea in fact of the real situation and of the strength of what was taking place in his foster placement, I concluded that some unsupervised contact

should take place. In fact, so much of the information was not made available to me. However, it seems that my view was imparted to Mr and Mrs X, and there was some discussion with them I understand by telephone that day. They were called from court precincts. They were described, I have noted, that they were "giving some leeway on some conditions", all of which indicates pretty clearly what was going on, although perhaps the full significance of it was not apparent. None of that was brought to my attention.

51. Later, however, it is clear that Mr and Mrs X were firm in their position of not agreeing to supported unsupervised contact if J remained in their care, although Mrs X was resigned to J eventually returning to the care of his mother.
52. Curiously, J did not even attend the scheduled supervised contact that day which should have occurred whilst the hearing was going on. That was an unhelpful development, and the first time that I think that he had actually refused to go to contact.
53. Once Mr and Mrs X were told of the contents of my order, they gave notice to terminate the placement on 22<sup>nd</sup> January. They spoke of not being complicit in the destruction of a child's boundaries and having to endure unsupervised contact. Mrs X had told the social worker that J was upset at the outcome of the hearing and wanted to tell her himself.
54. So, a meeting which took place at school, at which J now gave a totally different account. He said - amongst other things - he did not want to go home, he did not want unsupervised contact, he would not go unless it was supervised, and that the judge was forcing him. He said that he did not feel safe, he said that he could not be himself, and that the mother would "overstep his boundaries and ask me personal questions". He was not able to explain in really any detail what that meant. He said that he would know that boundaries had been stepped over by the feeling he gets, and he struggled to explain what he meant by "be myself". He further said that he did not want to live with his mother because "I don't know if she will move to Oxford, and I probably won't have contact with my father", it is clear that there were a number of other discussions which were not recorded and which I have subsequently been made aware of.
55. That night (23<sup>rd</sup> January), Mr and Mrs X had a long conversation with J in which they reported that he had told them that he now wished to remain with them long term, and only wanted supervised contact because in that way he would feel safe. He did not want unsupervised contact because the mother can be controlling and he did not trust her.
56. The guardian spoke to J two days later on 26<sup>th</sup> January, and he told her that a return to his mother's care was not his first choice anymore, partly because he realised he would not see both Mrs X (Kate) and his father, and he did not want unsupervised contact with his mother.
57. On 27<sup>th</sup> January the court was confronted by a really very delicate situation. Despite intuitively suspecting what was going on and taking a really very dim view of the approach of Mr and Mrs X, absent any evidence about what was actually taking place

(‘though all the evidence was there), it seemed to me that I had to take a pragmatic decision, anxious about the apparent fragility of J in his current placement.

58. Extraordinarily, whilst I am told still giving judgment late in the day, Mrs X then went to school and met J from contact where he was about to be taken to contact but for some reason did not go, and it was the following day on 28<sup>th</sup> January that a letter was produced from J to the court saying that he did not want unsupervised contact and wanted to stay with Mr and Mrs X. Of course, subsequently, it seems, to me there were the events of the Covid 19 pandemic which have made matters even worse.
59. Having listened to and recorded only some of the events , I conclude without any doubt as follows: that J was party to, and fully aware of the negative views held by Mr and Mrs X of the mother; that as late as 7<sup>th</sup> January of this year he was actively expressing the view that he wished to live with his mother, but that has to be seen in what he was saying in relation to unsupervised contact; and that everything I have seen and the context of what I have heard and seen was that he was shielded from nothing by his carers, and was only too painfully aware of their views.
60. I acknowledge of course that Mr and Mrs X - well, Mrs X - sought to justify her position as to some of ways in which the mother had conducted herself. However, I conclude that all of those assertions are subsequent justifications for the anxieties which Mrs X herself had and which had in fact arisen from the early information in 2018 and the tension caused by her acquittal (or the knowledge of the acquittal at the end of September). I conclude that J was spoken to about the criminal trial and the acquittal of the mother in which she had” told lies. “ The way in which Mrs X has expressed herself both then and later about her view about the relationship speaks volumes.
61. I record that the depth and feeling of fear and of hostility by Mrs X towards the mother is to my mind absolutely extraordinary and is not and has not been for a long time in the best interests of J. All of which of course underscores and explains J’s total inability to articulate reasons for not wanting unsupervised contact. His change of view in saying that living with the mother is not his first choice anymore , came about because he was aware - either because he had been told or he had heard or otherwise somehow knew- that Mr and Mrs X had given notice on the placement, even though they say that he was not aware of it. It is inconceivable that he was not, having regard to the strength of feeling and of how affected they were by my decision. But it was the court’s decision, not theirs.
62. The only conclusion that I can come to is that the lack of explanation from an otherwise highly articulate and intelligent, and emotionally intelligent young man is that he was simply unable to resolve the experience of living with Mr and Mrs X and of his mother, and that he was deeply conflicted between his main carer Mrs X and his mother. As he says, “I have now realised that I won’t see them.”
63. So , finally, bringing these threads together, I am clear that the evolution of J’s wishes and feelings has been affected , subverted, by the environment in which he has now lived for two years, and that his assertions - that is to say what he has been saying more recently - cannot now be relied upon as a true expression of in fact what he thinks at all. It is clear beyond all doubt from the nature of the evidence of Mr and Mrs X that they have sought either expressly or otherwise to undermine J’s

relationship with his mother, all of which had its foundation at the latest in the information which was supplied to them in July 2018. If one thinks about it, when they gave notice on 22<sup>nd</sup> January 2020 when the final hearing was not then until March demonstrates the depth of their feeling and how in fact they did not have J's best interests at the forefront of their mind. It seems to me he would have had to go and live somewhere else. It might have been with his father, it might have been in foster care. None of this was about him. It was all about them.

64. I make it clear I shall give close consideration about how it was that Mr and Mrs X clearly took the view that the local authority supported their stance, and it is only very recently that that has been changed. All of that - much of which seems to me to be overwhelmingly obvious from the evidence that has now been available - has been supported by events that have unfurled over the last few days. The situation which was plain to me on 20<sup>th</sup> January, had all the evidence been made available, had there been some decent and proper evaluative thinking and decision, and which has become so crystal clear during examination of the evidence of Mr and Mrs X., could have largely been avoided.
65. Finally - and demonstrating how acute that situation was - since that time, J having been told that he will no longer be staying with Mr and Mrs X, he has chosen the option that he would want to live primarily in a house provided by his mother and cared for by his grandmother, and it should be remembered that his grandmother was someone with whom he has had a close relationship but who even with her he was also expressing some reservation.
66. I have not heard the grandmother giving any evidence, but I have of course seen and heard her during the course of this hearing. She strikes me as a thoroughly sensible, intelligent, sensitive and forthright individual in whom J properly has considerable trust and affection. He obviously loves her, and it is clear that he "does not mind" being cared for by her.
67. All of that illustrates again beyond doubt that his expressions were created by the environment in which he lived, and which were, if I may say so, infected and manipulated by those that cared for him. It is a good example of the danger of being primarily led by a young person's expressed wishes and feelings when all the other evidence and objective evaluative judgment suggests the opposite. It clearly demonstrates that it needs to be put in the context of what is known at the time, and that may be something which will require further inquiry. I do not know. But at the present time, that is all I have to say.
68. J clearly has to leave his current placement. He clearly has to go and live somewhere else until I can decide further. I very much hope that that can be done by and at the hearing at the end of July. I see no reason why it cannot be. I know nothing about the house secured by the mother or the circumstances of his care. Various proposals have been put forward, of J being cared for by his grandmother for now in his mother's new property, all of which seems to be very sensible and constructive. In fact there seems to be a consensus between all of the parties as to what should occur, but the detail clearly needs working out.

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**This judgment has been approved by the Judge.**