

Neutral citation number: [2022] EWFC 91

**IN THE FAMILY COURT SITTING AT MANCHESTER**

Date: 11 February 2022

Before: DISTRICT JUDGE HESFORD

Between:

**A Borough Council**

**Applicant**

**-and-**

**N (Mum)**

**1<sup>st</sup> Respondent**

**-and-**

**M (Dad)**

**2<sup>nd</sup> Respondent**

**-and-**

**The Children X and Y**

**3<sup>rd</sup> Respondent**

**by their Guardian**

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Mr McCall for the **Applicant**

Ms Kaur for the **1<sup>st</sup> Respondent**

Ms Edwards for the **2<sup>nd</sup> Respondent**

Mr Webb for the **3<sup>rd</sup> Respondent**

Hearing date: 8 – 10 February 2022

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**JUDGMENT**

This is a judgment written in plain English for the benefit of the mother, immediately following the hearing

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**District Judge Hesford:**

**What the case is about**

1. I have to decide what should happen to X and Y who are now 4 and 2 years old. The Council has asked me to make orders so that X and Y can be adopted. These are called care and placement orders.
2. I am going to give my decision now and explain my reasons after. I would usually do a much longer and more complicated judgment but by agreement, I am going to write this in straightforward language and try to keep it as short as possible. I am going to make care and placement orders so that X and Y can be placed for adoption.

**Who is everybody?**

3. The lawyer for the Council is Mr McCall. The social worker is Jeanette Midgley
4. X and Y's mum is N. I am told she prefers to be called N than Ms [.....]. Her lawyer is Ms Kaur. N has a learning disability which makes things difficult for her. N was in care herself and has an Advocate, a Tenancy Support Worker and a personal adviser. N also has some mental health issues and in the past she has been in an abusive relationship with the father. N finds reading and writing difficult. Dr Aslam and Sue Atlas have previously spoken to N and they wrote reports. N also has had support from Rachel Dando who is an intermediary and has written a report. This has helped everybody to make this hearing fair.
5. Y's dad is called M. X's dad is not known. M's lawyer was Miss Edwards but as M has not contacted anyone about the case for a long time she did not stay at court after the first morning. M has not taken part in the hearing and not seen the children for a long time.
6. X and Y's Guardian is Steve Hornby. Their lawyer is Paul Webb.

7. I want to thank everybody who has helped at court this week. I think that the lawyers have given sensible advice and have done their best for their clients. I know this has been very difficult for N. She did not come to court for 10am on the second day when we were due to have the Social Worker speak and she could not be contacted despite people trying. We waited and then decided to start the hearing at 2pm. Just as we were about to start, N phoned and she explained that she had been unable to attend as she had lost her purse. She still opposed the local authority plans and wanted to come to court to give evidence.
8. I was not able to list the matter on the Friday when the Intermediary was available due to having a completely full diary and so we either had to deal with the case the next day or in a few months time. The Council, the Guardian and I were worried about delay and delay is not good for the girls so I decided it would have to be the next day. Instead of an intermediary, N would have her advocate, her barrister and her solicitor/paralegal and I said that we would make sure that she was able to understand by going slowly. I would make sure that the hearing was fair. I did this by letting N have breaks whenever she wanted and allowing as much time as she needed. Miss Jones and Miss Cropper came to court with her and they were able to speak to her and take notes during the hearing.
9. I will not write about the law in here as it is complicated and can be hard for people to understand. Everybody agrees on what the law says and I have thought about it when making up my mind. The lawyers agreed that I did not need to talk about the law any more in this judgment. It was agreed that I would write my judgment down in simple words so that it was easier for N to understand.
10. I have read all the papers in the case and I have listened to what everyone has said to me this week.
11. I heard evidence from N, the social worker and the Guardian.

12. I have very carefully read the excellent document provided by Ms Kaur called “written submissions” which set out lots of things about N’s position. I have thought about everything she said when I was writing this judgment even if I don’t repeat it all here.

### **The background**

13. X and Y are lovely and happy children. They are well, healthy and apparently quite boisterous. X may have some extra needs.
14. Social workers have been involved with mum and dad since about 2017, before the children were born. They were worried about mum and dad and their relationship, which could be violent, and their ability to care for X and Y when they were born. They were worried that they might not be able to care for them properly due to the worries about domestic abuse (fighting), their personal problems, behaviour and not working properly with social workers.
15. On 7 May 2020 the court decided that X and Y needed to be looked after by foster carers. This was not what mum and dad wanted. They wanted to look after them at home.

### **What does everyone say?**

16. Social services are worried that X and Y might suffer if I was to let them go home to N and that they need better and safer care than she is able to give them. That’s why they have asked me to decide what should happen to X and Y.
17. The social workers say that N can be very angry at times and loses her temper. The police have been involved. N also finds it hard to keep her house clean and tidy. This could be harmful to the children and this will not be safe for X and Y. They also say that mum doesn’t really understand the worries that the social workers have about her. They think it will be too hard for her to care for X and Y.

18. They say that the children have suffered from different sorts of harm, including some injuries as they were not being looked after properly and also some emotional harm as they were seeing people who were not good for them. They also say that mum does not work honestly with the social workers all the time and does not listen to good advice.
19. They say that there is no more support that can be given to N that would make things safe and better. They say they have tried everything that they could.
20. N doesn't agree with everything that social services say about her care of X and Y but everybody agrees that when the court case was started in May 2020 more information was needed about N and M. They then both wanted to look after X and Y, now it's just mum.
21. Mr McCall has written down what the social workers say went wrong in the past in a 'threshold document'. It also says what they are worried about now. I am told that the threshold document is agreed and I too agree with everything in that document. I put a copy of it at the end of the judgment which I gave to the parties but it is not attached here for the sake of privacy. I agree that those things are serious enough for the court to think about making a care or placement order. I have to decide whether or not that is the right thing for X and Y, or whether I can do what is right for them without taking them away from their mum.
22. The social worker from the Council, Jeanette, did an assessment of N when the case started and then another social worker, Alison Lee did another assessment of N. She was not on anyone's side and she wrote reports to help me decide what might work for X and Y.
23. Rachel Dando is an intermediary. She wrote a report about N and said she would need support with the court hearing. She has been at court on occasions helping N to understand things but could not be there when N gave evidence.

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24. I have read reports by Alison Lee who is the social worker that the court ordered to do more work with N.
25. I have read the report of N's GP.
26. I have also read N's recent statement which sets out what she wanted to say to the court. I have also read the statements from the social worker, a report from the Guardian and some other things.
27. X and Y have been in foster care since 7 May 2020. N would prefer them to come home with her when the court case ends. She says that X and Y would be safe and happy in her care.
28. The social worker Jeanette says that things haven't really changed since proceedings started. She has tried to do a lot of work with N but sadly N has not been available or willing to do the work regularly. She is worried that N won't be able to maintain her home conditions and her distance from dangerous people for long enough for the children to grow safely. All the assessments say things haven't really changed enough and the other social worker Alison agrees with the Local Authority.
29. The Guardian says the same.
30. Sadly, all the professionals involved in the case tell me that X and Y would not be safe at home, even though her mum loves them very much.
31. This is the last hearing in this case. This was the second time that N has had help from an intermediary. With help from her lawyer, advocate and intermediary, N decided that she only wanted to ask the Social Worker Jeanette and the Guardian questions. She didn't want her lawyer to ask the other social worker Alison or anyone else any questions. She also wanted to talk to me. N has written a statement. She told me about X and Y and her wish to have them home.
32. N told me in her statement that

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- i) She accepts that she has problems working with Social Workers because of what happened when she was a girl, but says that Jeanette has not tried hard enough to work with her.
  - ii) She does not think that the decision is fair and she has not been given a proper chance.
  - iii) Things have changed. She agreed that the house conditions were not okay before – but they are better now. She would like a different house if the girls came home.
  - iv) She wasn't able to do the work with Alison due to her mum and auntie dying and as her grandmother was ill and she was worried and had to look after the horses.
  - v) She says she can care for X and Y properly with support.
33. N told me that she would now be happy to go to a Mother and Baby Unit with the girls. N's case is that she does not feel that she had enough support to have a chance of caring for her girls. She told me that she loves them dearly and that she would do anything to look after them. I believe her and I am sad that she has had such a difficult childhood and has recently lost both her mum and auntie.
34. Everyone agreed they didn't need to ask N any questions.
35. I also heard from Mr Hornby, the Guardian. He agreed with A Council that sadly N could not look after the girls safely. He said that he thought there was enough information to make the decision now and that further assessment of the mother was not necessary.

**What I have to decide today**

36. The law tells me what I can and can't do. Because of what is in the threshold document I have to decide whether I should make care and placement orders. X and Y have been kept safe because they have been

in foster care. I have to think about what might happen to them if they went home to live with their mum.

37. This week I heard from all the lawyers about what I should do. Nobody is asking me to put off a decision.

**Do I need any more information before I decide?**

38. I am satisfied that I have all the information that I need to decide what should happen. I am satisfied that this matter has been done fairly throughout.

**What I think of the evidence**

39. A Council have written a summary of the history of this case and the evidence that they say is important to help me make my decision. This is called their “written opening”.
40. Jeanette, the Social Worker’s evidence was the same as she has written in her statements. She told me that she would have liked to meet with N more, but it was not possible as N was not available. She told of trying to get N to do some work with 4 other social workers to have an assessment of her support needs, including housing, but this did not happen. She said that N did not take part with the teaching assessment properly. She said that it was very hard to meet with N but that she tried many times. N had also left her home and did not give her a new address. She said that she had not failed to assess N but was unable to as N would not work with her and others. She had considered all options for the girls.
41. Jeanette said that some people thought that N was taking drugs. There is no evidence of her taking drugs and N said in her own evidence, very strongly, that she does not take drugs. Suspicion is not enough. I accept what N says.



42. The Social Worker also said that N needs daily help to feed the children and keep them clean but the PAMS assessment did not say this. The Guardian also said in his evidence that he did not worry about that. There is no evidence to support what the social worker said and I do not accept it.
43. I think that N has done the very best that she can for X and Y. She has been good at going to contact and the contact has been very nice for everyone. She is warm and loving. I know that she loves X and Y very much and they love her too. She is a lovely young woman.
44. N wants me to let the girls come home with her with support and any court order which would allow this. I understand her wish for this but we have already had reports from the second social worker – who was not on anyone’s side (independent). Her reports said that N could not care for X and Y without doing work and that N had not done the work when it was offered to her. She was given lots of opportunities to work with the social workers but did not do so. If I agreed to wait to see if more work could be done either in a new house or at a Mother and Baby Unit it could cause delay and harm to X and Y and I don’t think it would tell me anything that I don’t already know. If I let N go to a Mother and Baby Unit it would only be for a short time anyway and that level of support could not happen forever. Sadly N has not been ready or able to do the work required to make things better and safe for the girls.
45. I do not think that N would ever deliberately harm X and Y. I know she loves them dearly. X and Y are little and vulnerable young girls. They are completely dependent on their carers to meet all their needs. They have been shown lots of love and affection by their mum and she has taken joy from their time with them. Very sadly, the care offered in the safe, supervised contact would be much harder in the mother’s home where there would be distractions and other things to do. I agree with the Guardian that the responsibility of day to day care of X and Y is more than likely to be too much for N and that she can’t provide them with a

safe and secure home. I agree with the Guardian and the social workers that any neglect would not be deliberate, but it would still harm X and Y.

46. I have read all the information in the bundle and listened to what everyone has said. I don't think that there is anything more that social services could do that has not already been tried to help N so that X and Y could be safe at home. I need to make a decision for X and Y now, they have been in foster care for almost 2 years and need to move to their forever home as soon as possible. I do not think that delay will be helpful and the next move must be their last one.
47. I think that A Council have done all they could to support and assess N and that she has failed, not refused, to take part properly.

### **Realistic options**

48. I only really have four choices:
- i) send X and Y home to their mum,
  - ii) delay making my decision, to give N another chance to do more work or go to a Mother and Baby Unit
  - iii) make a care order so they live with foster parents but are not adopted,
  - iv) or make care and placement orders.

I have already said that I don't think a delay would be useful. The Guardian says that there is no realistic prospect of N doing the work and maintaining any progress and I agree. It would just be delaying this matter and delay is never good for children. Sadly I do not think that there is any way of letting N look after the girls without constant support. This has been tried and failed before removal.

N was not happy to go to a Mother and Baby Unit in April 2020 and I think that it is now too late to consider that. Also I know that N has

actually done this before the legal case started and she went missing sometimes. I don't think it would help me make my decision.

Even if X and Y can't go home I don't think foster care would be the best option for them unless they can't be adopted. If possible they need a family to care for them until they are grown up.

### **Welfare checklist**

49. Before I can make a placement order I have to think about X and Y's welfare throughout their lives - not just now when they are little, or even when they are 18. What will they think when they are 30, or 50 or 70? Whatever I decide will affect them for a long time.
50. If X and Y are adopted they will stop being part of their biological family. They won't see their mum and dad. They will lose a chance to grow up with their biological family and do normal day to day things with them, which might be sad and confusing for them as they get older. It is important that my decision is explained to them as they get older. The guardian's report and the social workers statement mention X and Y's welfare throughout their lives, and the impact of being adopted.
51. The law also gives me a list of other things I have to think about to help me make the right decision for X and Y. This is called the welfare checklist (actually there are two). X and Y are normal healthy little girls (but X is being assessed) and don't seem to have any particular needs or difficulties. Although they don't have any special needs, like any other little girls they will need to be physically looked after, to live in a safe clean home, and to be ready to join in at school with work and play. I also have to think about change – but whatever I decide they will have to move to a new carer which will be confusing for them.
52. Finally, the welfare checklist says I have to think about what harm X and Y might suffer in future – that is really important. Sadly, I don't think that there has been enough change since the start of the case for X and Y to

be safe from harm with their mum. All of the evidence tells me that they would be at risk in the future as they grow up.

### **My decision**

53. I have decided that if X and Y went to live with their mum, their needs would not be met and they would not be safe. The harm they might suffer could be physical or emotional harm. The plan for X and Y to be adopted is the only one that can meet their needs now and in the future, and I agree that it is in their best interests.
54. I approve the care plans and make care orders.
55. I understand why N (and probably M) don't agree to me making this order. The law says I can make the decision for them even though they don't agree, if X and Y's welfare demands it. I think it does. I dispense with their consent (I decide for them).
56. I make a placement order for X and Y

### **Contact**

57. Contact for X and Y and their mum will reduce after this hearing and when a home is found for them will be by letterbox contact. I would like both parents to write or send cards to them every year so that they can get these letters or cards when they grow up. I would like the social workers to help N with this because she will need some support as she isn't very good with words or at reading and writing. I will make sure that they do help N by making them put this in the care plan and in the court order.

### **Other important things**

58. X and Y's mum would like me to let her look after them. It is very sad that I haven't been able to agree to that. She is their mum and if there was any way she could care for them safely she should be allowed to do so. My job is to put X and Y first at all times. Sadly the problems that I have

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read about were so serious that I decided these orders had to be made – the law says I should not make such a serious decision unless there is no other option. I don't think there is another option that is good enough for X and Y.

59. I would like N to know that I understand she loves X and Y very much. I know she has attended contact which has been very nice. I know that she has done her best and X and Y will know that too when they are older.
60. I would like N to meet the adopters if this is possible so that they can see that she is a nice person.
61. N's lawyer and intermediary are going to read this through with her. I've tried to write it simply, so that she can understand it with help.

District Judge Hesford 11 February 2022