

IN THE FAMILY COURT AT SHEFFIELD

Sheffield Designated Family Court
48 West Bar
Sheffield
S3 8PH

BEFORE:

HER HONOUR JUDGE PEMBERTON

BETWEEN:

CITY OF DONCASTER COUNCIL

APPLICANT

- and -

A mother

(1) RESPONDENT

A father

(2) RESPONDENT

A CHILD (VIA THE GUARDIAN)

(3) RESPONDENT

Legal Representation

Miss Harriet Jones (Counsel) on behalf of the Applicant Local Authority
Miss Ruth Richards (Counsel) on behalf of the First Respondent Mother
Miss Abi Saunders (Solicitor) on behalf of the Second Respondent Father
Miss Jane Wheatley (Counsel) on behalf of the Third Respondent Child (via their
Guardian)

Judgment

Judgment date: 6 December 2023

Reporting Restrictions Applied: No

“This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.”

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Her Honour Judge Pemberton:

1. In this judgment the names of the parents and the child have been changed to avoid them being identified.
2. I am concerned with the welfare of Leah, who is a little girl born in July 2019 and now four years old. It is an application by the Local Authority for a Care and Placement Order in respect of Leah. That application is supported by Leah's Children's Guardian.
3. Leah's mother is Karen. She was in attendance and has been represented by counsel today. Whilst she accepts that she is not in a position to care for Leah at the moment, for reasons that I will come onto, she does not agree with a plan of adoption and invites me to make a Final Care Order but to refuse the application for a Placement Order.
4. Leah's father is Paul. He has not attended today, although he was represented. He has not given his solicitors instructions for some time now but when he last did, which I believe was in October, he indicated that he agreed with the Local Authority's plans for Leah.
5. Both of these parents have had significant difficulties for many years. During the course of these proceedings, there have been detailed parenting assessments of both parents which, sadly for both parents, concluded negatively. The parents' difficulties relate to drug and alcohol use and for both parents, they seem to be longstanding difficulties.
6. Leah was known to social care before her birth. Karen's older two children had been brought up by other family members and it is clear from looking at the history of the mother that the problems that she has in relation to drug and alcohol misuse are extremely longstanding, her elder children having been placed with family members in 2007.
7. The Local Authority became involved with Leah prior to her birth and attempted to support the parents in caring for Leah for the first few years of Leah's life. However, at the beginning of this year, matters came to a head and the Local Authority issued these current proceedings and sought removal of Leah from her parents' care. Leah was initially placed with her paternal uncle and aunt but sadly, they decided that they were not in a position to care for Leah in the long term and Leah was moved to an alternative carer, who fortunately was somebody that was known to Leah. That move took place at the beginning of November.
8. During the course of the proceedings there have been parenting assessments completed in respect of both parents. Those identify the longstanding nature of Karen's difficulties. It seems that many of her problems stem from her own childhood. Her drug and alcohol use has resulted in her being unable to maintain suitable home conditions, either for herself but more particularly for Leah.
9. The interim threshold criteria records Leah not being taken to important health appointments, her clothes and her belongings smelling of cannabis when she attended at nursery and the home being very untidy. Because of Karen's problems with drugs and alcohol, it meant that Leah was exposed to her mother's own erratic behaviour and there were occasions when her mother shouted at professionals and

became involved in altercations with other family members. A further concern in was that she was allowing Leah to be cared for by family members who were deemed unsuitable to care.

10. Paul also had significant difficulties in respect of his mental health and has been diagnosed with paranoid schizophrenia.
11. As I have said, it is clear that the problems that Karen has had have been very longstanding. A concern that has arisen perhaps more latterly during the course of these proceedings and the assessments of Leah is that Leah herself may now be suffering from foetal alcohol syndrome. Time will tell as to the extent of any damage that was caused to her in utero.
12. Karen has attended court today. It is perhaps an indication of some of the difficulties she has in managing her life that she arrived very late for what was supposed to be a 10.30 hearing, arriving not until after 11.00am. She tells me, and I accept, that there were problems with the trains and with transport generally, but again, I think her very late arrival is an indication that her life remains chaotic.
13. To her absolute credit, she has accepted today that she is not in a position to care for Leah because she accepts that she still has some reliance on cannabis and on alcohol. Whilst she says that that is much reduced, and she has indeed been engaging with Aspire, who have been working with her to address her problems, she has not been able to achieve abstinence.
14. For a mother with such a longstanding history in relation to drugs and alcohol, and a woman for whom the impact of her usage is clear from the papers, it seems to me that she does need to achieve abstinence in order for anybody to have confidence that she could resume care of Leah and meet Leah's needs. Her aspiration is to be able to be a social drinker. I agree with the Guardian that that is perhaps an unrealistic aspiration at this stage against such a long history of problems.
15. Whilst accepting that she is not in a position to care for Leah today, Karen would invite me to make a Care Order rather than approving the Local Authority's application for a Placement Order. She says that Leah should remain in long term foster care, which would enable her to maintain the relationship that she has not only with her mother, which I accept entirely is a very positive relationship when the mother is in attendance and when the mother is well, but also with her older siblings, (despite a significant age gap between Leah and her siblings). Those are all valid and important points and points that I have taken into account.
16. The threshold criteria was agreed at the last hearing and forms part of my bundle and effectively reflects the interim threshold criteria. Again, it is to Karen's credit that she has accepted the problems that she has had and the way in which those have impacted upon her lifestyle and upon her care of Leah. The fact that the threshold criteria are crossed does not automatically lead to the making of the orders that the Local Authority seek, it is simply a gateway and enables me to make public law orders should I feel that those are consistent with Leah's welfare.
17. When looking at what orders I should make, I take into account both the welfare checklist in the Children Act but given that this is a placement application, I also take

into account the welfare checklist in the Adoption and Children Act and the significant differences in that it is Leah's welfare throughout her life that I must be mindful of, and also I must take into account, as I have already referred to, the ability and willingness of her family members to care for her, but also the relationships that she has and the likely impact on those relationships with the making of a Placement Order.

18. I must, and do, consider whether or not there is any further assistance or support that the Local Authority or other agencies could provide to enable Karen to safely care for Leah. Sadly, I am drawn to the conclusion which Karen accepts, that unless and until she is able to address her own difficulties, it is very hard to see how professional support could enable her to care for Leah in a safe way.
19. When looking at a plan of adoption, I remind myself that adoption is and must be seen as a very last resort, it is an order that should only be approved if nothing else will do. Children should be brought up by their birth families whenever possible unless it is unsafe for them to do so. Any interference by the state must be proportionate to the needs of the child and the welfare interests of the child, the making of a Placement Order is the most significant interference that a court can impose upon family life.
20. I have already referred to the fact that the contact between Leah and her mum can be very positive indeed, although sometimes Karen struggles to remain for all of the contact and there are occasions when she has attended and has appeared to be under the influence of alcohol or drugs or has attended with alcohol in her bag. Those matters are indicative of her ongoing problems and in no way reflect upon her love for Leah. I entirely accept how much she loves Leah and how much she would dearly wish to care for her.
21. I must and do look at all of the options for Leah. She could return to her mother's care. I have no doubt she would be much loved in her mother's care but would be placed at further risk of neglect of her needs and exposure to her mother's drug and alcohol use.
22. She could remain in long term Local Authority foster care. She has moved relatively recently, that is her third move during the course of these proceedings, as she had to go to a respite placement for a short period of time as well.
23. Her current carer, whilst known to her, is unable to at this stage say whether she can commit to her throughout her childhood. That is understandable, she has only recently taken on her care. That, as the Guardian points out, reflects the nature of foster care and the fact that foster care is seen as a short term commitment. Even placements that are identified as long term foster placements can and do come to an end, sometimes very abruptly when the circumstances of the foster carers change unexpectedly.
24. Foster care, by its very nature, does not have the same degree of commitment and level of belonging for a child as alternatives. However, foster care does have the advantage of enabling Leah to maintain relationships with her birth family and to remain a member of her birth family, and I recognise those as important and significant matters.

25. I should say at this stage that there are no other family members that have been identified as able to meet Leah 's needs and care for her throughout her childhood, so the final option that I can and do consider is the option that the Local Authority and the Guardian say is the option that best meets Leah 's welfare needs, and that is the option of a Placement Order.
26. What a Placement Order will give Leah is the opportunity to be adopted into a family where she will become a permanent legal and emotional member of that family. She will not have ongoing social work visits, she will not have restrictions on her life as a foster child would. However, she would cease to be a member of her birth family and the Local Authority plan would mean that her contact would become indirect only with her birth family. Those are important matters to consider.
27. I accept entirely that adoptive placements can and do come to an end but on the whole, adoption gives a greater sense of permanence to children and is a very different position to that of children in foster care. I take into account Leah 's age and the fact that her birth family are well known to her. She is a little girl who, on what I read, knows her own mind and is quite forceful in expressing it. She knows who her mum is, she knows who her dad is and she knows who her siblings are.
28. I accept that these are matters that would need to be addressed if Leah was to be placed for adoption but my understanding and experience in terms of children being placed for adoption in this day and age is that they are placed with knowledge of their birth family and it is very important and part of their life story work that they have that knowledge, so I do not see that in itself as a reason for rejecting that option.
29. On the whole, when I look at the three realistic options that are available for Leah (Paul does not suggest that placement with him is an option), I am entirely satisfied that the one that best meets her welfare needs is the one that the Local Authority propose, supported by the Guardian, and that is that she be given the opportunity to be placed for adoption and to become part of a new and forever family.
30. I accept that there will be difficulties in identifying an adoptive placement for her and I agree that the search should be time limited for six months, as is suggested, so that if an adoptive placement is not identified within that time, Leah can be given the opportunity to be introduced to a long term foster placement.
31. I said there were three options. For the reasons I have set out, placement with Karen was always going to be difficult and Karen herself accepts that she is not really in a position to care for Leah at this time but it may be that her position will change in the future. However, I say now that given her very longstanding problems, I think for any professionals and for this Court to have confidence in her ability to maintain sobriety and meet Leah 's needs in the longer term, I would need to see a very different picture from the mother, one in which she had achieved abstinence and maintained abstinence for a good period of time. She is far from that at the moment.
32. For all of those reasons, I agree with the Local Authority's proposals. I grant a Care Order in respect of Leah and dispense with both parents' consent to the making of the Placement Order and authorise the Local Authority to place Leah for adoption.

33. I would like the Local Authority to explore with any prospective adopters whether there can be some ongoing contact between Leah and her mother over and above that which is proposed in the final care plan. Whilst I do not make it a condition of any order I make today, I think it is important that it is explored and the option of Leah being able to maintain some form of relationship with her mother is given very careful consideration by any prospective adopters.
34. This mother is not a bad mother, she is not a deliberately harmful mother, she is a mother with her own longstanding difficulties, probably arising from the parenting she herself received. I think it is something worth exploring and my understanding is that adopters coming into adoption now come with an expectation that face to face contact must be considered and can often offer children a real sense of the family they have come from and where they fit in the world in general.