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Neutral citation: [2023] EWFC 70 (B)

IN THE FAMILY COURT AT BRISTOL

Case Number: BS11/2023 (linked to GL36/19)

The Adoption and Children Act 2002

Before:

HHJ Stephen Wildblood KC

Bristol Civil Justice Centre

26th April 2023

Re C (Adoption – procedural irregularities)

(The identity of the parties is omitted in order to preserve anonymity)

Ms Jacqueline Roach, instructed by Helen Fitzsimons, Family Law

Ms Sarah Pope, instructed by the original Local Authority

Mr James Arthur Sharp, instructed by the home local authority

Ms Abigail Bond the mother, instructed by WSP solicitors on behalf of her litigation friend,
the Official Solicitor

The father in person

Ms Delia Thornton, for the child, instructed by Humfrys-Symonds Solicitors on behalf of the
guardian, Ms Liz Cowan.

JUDGMENT

HHJ Stephen Wildblood KC:

1. **Introduction** – These are complex and procedurally compromised proceedings in which people who have cared for a child ('C') for 5 years wish to adopt her. It has taken five years to get to a stage where the issue of adoption can be addressed. There have been adoption proceedings in existence, in one form or another, for about 3 ½ years. Although a placement order was obtained when C was six months old, the application for an adoption order was presented as a 'private' adoption application. That is, a fresh application was made by the prospective adopters based on the condition in section 47(2) of the 2002 Act, rather than on the making of the placement order and the condition in section 47(4) of that Act. Thus, the applicants applied, and still apply, as foster carers, registered with an agency other than the Local Authority, rather than Local Authority foster carers bringing the adoption application after the child was placed with them under a placement order.
2. The problems that have arisen have been compounded by the fact that the prospective adopters do not live in the area of the Local Authority that obtained the care and placement orders. As I describe, the confusion of procedures has had a cluster bomb effect on the case – notice was given to the wrong authority, the prospective adopters did not satisfy the provisions of section 42 of the 2002 in relation to the child living with them for the requisite period before the first application was made, the Annex A report was written by the wrong authority, etc.
3. Further, although no authority was referred to me where this situation had arisen before, it seemed to me that the effect of this procedure, which relied on the first condition in section 47 (see the next paragraph), was that the issue of consent to adoption had to be revisited. In a case that has a very high level of representation and has received input from a very wide range of professionals, nobody sought to suggest that it would be safe, on the facts of this case, for an adoption order to be made on the basis that the parents' consent *to the placing of the child for adoption* (and *not* to the making of an adoption order - see section 52(1) of the 2002 Act) had been dispensed with at the placement order stage. Given the lifelong and generational consequences of adoption, everyone agreed that the safest course was for the issue of consent to be readdressed based on a fresh, and procedurally sound, adoption application. That is what has happened.
4. In order to display the issue about consent, I will set out the terms of Sections 47 (1), (2) and (4) of the Act at the outset of this judgment. They are:
 - (1) An adoption order may not be made if the child has a parent or guardian unless one of the following three conditions is met; but this section is subject to section 52 (parental etc. consent).
 - (2) The first condition is that, in the case of each parent or guardian of the child, the court is satisfied—
 - (a) that the parent or guardian consents to the making of the adoption order,

- (b) that the parent or guardian has consented under section 20 (and has not withdrawn the consent) and does not oppose the making of the adoption order, or
 - (c) that the parent's or guardian's consent should be dispensed with.
- (3) ...
- (4) The second condition is that—
 - (a) the child has been placed for adoption by an adoption agency with the prospective adopters in whose favour the order is proposed to be made,
 - (b) either—
 - i) the child was placed for adoption with the consent of each parent or guardian and the consent of the mother was given when the child was at least six weeks old, or
 - ii) the child was placed for adoption under a placement order, and
 - (c) no parent or guardian opposes the making of the adoption order.
- 5. Of course, the Act then expands upon when a parent may oppose the making of an adoption order, where the second condition is fulfilled. One of the many difficulties in this case, therefore, is that the adoption application was not based on the second condition. Rather, it was based on the first condition, and the parents did not (and do not) consent to the making of the adoption order that is the subject of the application before the court. As the Official Solicitor submitted through counsel in October 2022: *'There is a live placement order applicable to this child, but she has never been subject to a decision to place her with the Applicants (or any other person) as prospective adopters, and the placement remains a foster placement rather than a prospective adoptive placement. Put another way she has never been 'placed for adoption'.*
- 6. To add to the difficulties, at times, the original Local Authority (i.e. the authority that obtained the care and placement orders), and others, used procedures in relation to the adoption application that would arise under the second condition, following a placement order, rather than a private adoption application based on the first condition. As a result of these difficulties, as I will describe later, a whole host of provisions within the 2002 Act were traversed. In addition, whilst treating this as a case under the second (placement order) condition in Section 47, the Local Authority identified that there were serious breaches of the procedure that would apply under such a placement – breaches that were of the same nature but more extensive than those identified in *Somerset CC v NHS Somerset CCG & Primary Cohort Children* [2021] EWHC 3004 (Fam).
- 7. So flawed and compromised were the original adoption proceedings that, after over three years, the decision was made, under my influence, that the only safe course was to start again. This now is the judgment that I give on the second set of 'private' adoption

proceedings that these prospective adopters have issued. Thankfully, all parties agree that the procedure is now correct, and it is now open to me to decide this case on the merits.

8. I also need to introduce that, during the confusion and exceptional delay of the procedures that were followed, the terms of the original care plan in relation to indirect (i.e. 'letterbox') contact between the parents and C were afforded little significance and became overlooked. The prospective adopters expressed entrenched opposition to any direct or indirect contact between the parents and C after adoption, notwithstanding that the care plan at the time of the care and placement orders had provided for twice yearly letterbox contact. For a long time, the original Local Authority and the guardian considered that the views of the prospective adopters were so entrenched that there was no point in seeking to oppose them, given that C's welfare militated so strongly that they should be C's long-term carers.
9. On 10th October 2022, the whole unfortunate state of the procedures became apparent at a hearing before me. Guided by very experienced counsel for the mother, as instructed by the Official solicitor, and for the guardian, the guardian and then the original Local Authority changed their stance in relation to whether orders for contact should be made to enforce the care plan arrangements for letterbox contact. They stated that, if the prospective adopters did not support letterbox contact, they would support the parents' applications for leave to seek contact orders under section 51A of the 2002 Act and for orders to be made that the letterbox contact should occur. Faced with that, the prospective adopters position changed, and they indicated that they would agree to some letterbox contact. That change in the position of the prospective adopters came so late in that day that the other parties were not able to consider it properly. Further, there remained issues in relation to the position of the father and the Official Solicitor wished to consider whether she wished to pursue applications on behalf of the mother. Further still, there needed to be consideration as to how and if the procedural errors might be rectified so as to allow the adoption proceedings to continue at all in their then format. As a result, the case was adjourned for a hearing on 4th January 2022.
10. On 4th January 2023, it was recognised that submissions could be advanced which might mean, possibly, that the then current adoption proceedings could continue despite the multiplicity of procedural breaches. However, I considered that it was unsafe to do so and that the only safe position was for the prospective adopters to issue a fresh application and for the procedural errors to be avoided in those new proceedings. That involved joining to the proceedings the Local Authority for the home area of the prospective adopters and making orders that the papers in the then adoption proceedings (GL36/19) would stand in the new proceedings on issue (now BS11/2023). Further, it involved the filing of documents in support of the application to dispense with the consent of the parents to the making of the adoption order (in particular, the statement of facts – Rule 14.9(2)(b) of the 2010 Rules). That is what has happened. Today, I gave leave for the original adoption application to be withdrawn and this hearing proceeded on the new application.

11. The position now is that the paperwork and procedure are in order. The two Local Authorities and the guardian support the making of an adoption order in favour of the prospective adopters. The mother does not oppose the making of the adoption order but does not consent to it.
12. The deeply distressed father does not consent to any aspect of the orders sought. He does not agree to the making of an adoption order and argues that a special guardianship order should be made instead. He seeks more contact with C than the annual letterbox contact that is proposed, whichever order defines C's living arrangements and relationship with prospective adopters. If an adoption order is made, he seeks leave to apply for more contact than that which is now on offer.
13. Therefore, it is necessary to consider whether I should dispense with the consent of the parents to the making of an adoption order under section 52(1)(b) of the 2002 Act. It is agreed (save by the father) that, if an adoption order is made, there should be letterbox contact once a year and that the prospective adopters will consider providing the parents with a photograph of C from time to time. The mother does not pursue applications for orders for contact with C or leave to apply for such; she is content for the arrangements for letterbox and possible photograph contact to be recited on the face of the order.
14. Now that the procedure has at last been corrected, the main issues that I have to decide are:
 - i) Whether the consent of the parents to the adoption of C should be dispensed with on the grounds that her welfare so requires.
 - ii) Whether I should make an adoption order.
 - iii) If I make an adoption order, whether the father should have leave to apply for a contact order and, if so, what contact should be ordered. If I do not make an adoption order, I have to decide what order should be made and what contact with the father should then take place.
15. I am giving this lengthy and anonymised judgment because I have never before encountered such a multiplicity of breaches of procedure in adoption proceedings or such difficulties over letterbox contact. Also, because this is an example of what happens when a care plan is overlooked. My preliminary view is that the judgment should be released for publication in this anonymised form; however, I will hear any contrary submissions if the issue is controversial. I would hope that, if the judgment is released, it may mean that other parents, children and prospective adopters are not faced with the unnecessary misery and exceptional delay that has been created in this case. Since releasing this judgment in draft, all represented parties have agreed that it should be published.

16. I suspect that this will not be the only case where a Local Authority has obtained a placement order and then arranged for the prospective adopters to make a ‘private’ adoption application (as I have called it, meaning an application that is based on the condition in section 47(2) of the Act). I am not, in any way, seeking to suggest that the making of a private adoption application in these circumstances is necessarily wrong – any suggestion to that effect would be way beyond my station. I am saying that, if applications such as this are made, it is essential that the correct procedure is followed and that some consideration, at least, is given to the care plan when discussions take place after a placement order is obtained. Nor, by this judgment, am I seeking to suggest as a Circuit Judge, that I am creating any sort of authority. Although I have consulted, and heard submissions, about whether I should publish this judgment, the responsibility in doing so is mine and it is with some trepidation that I realise that scrutiny in subsequent cases or by higher authorities may not support my analysis of the law.
17. Finally, by way of introduction, I wish to make this point. If proper and fair procedures are followed, it makes it less difficult for those involved to adjust to an adverse decision. Errors and unfairness within procedures matter. They also cause an unnecessarily heightened degree of frustration, controversy, cost, delay and distrust.
18. I will now give more detail of the case.
19. **The parties** - Involved in these proceedings now are:
 - i) The ‘original Local Authority’. That is the term that I use to describe the Local Authority that obtained the care and placement orders in relation to the child. Recently, a senior solicitor within the Local Authority has taken responsibility for this case and has put in a huge amount of hard work and commitment to getting this case back on the tracks; we are all indebted to her.
 - ii) The ‘home Local Authority’, which is the Local Authority for the area in which the prospective adopters live.
 - iii) The child, ‘C’, who appears by her guardian, ‘G’. G’s first report was written on 20th December 2022 and is at E41. Her second report is at E50 and is dated 19th April 2023.
 - iv) The birth mother of C, to whom I will refer as ‘the mother’. She lacks capacity and appears by the Official Solicitor with legal representation.
 - v) The birth father of C, to whom I will refer as ‘the father’. He has capacity and appears as a litigant in person.
 - vi) The ‘prospective adopters’ of C. They now appear with the benefit of legal representation. Their solicitor, Ms Helen Fitzsimons, has also put a considerable amount of time and commitment into getting this case in order;

she has only been involved since the procedural defects came to light and does not share in any responsibility for them. The prospective adopters' original adoption application was made on 19th December 2019 (and, like many other documents, is dated incorrectly in the bundle – A4 and A1). Notice of their intention to issue the application was given to the original Local Authority (not their home authority) on 1st October 2018 [A8]. When they became aware of the procedural errors, the prospective adopters gave notice of an intention to adopt to the home Local Authority on 9th December 2022 [A428]. Their second, and current, adoption application is dated 12th March 2023 and is at B63. At C52 a manager from the original Local Authority states: *'the prospective adopters are not formally approved as adopters by [the original Local Authority]. They are approved as foster carers under the Fostering Regulations 2011 by an independent fostering agency. I understand that they have previously been approved as adopters in relation to their other two children and were approved by their Local Authority. [The original Local Authority] has not seen or had access to the previous adoption assessments.'* All professionals involved in this case speak very highly about the love, devotion and care that the prospective adopters have given to C.

20. **Background** - C is less than six years old. She has a chromosome variant [A80 – chromosomal micro duplication 1q 21.1]. Its consequences are set out at E44. Following her birth, she and her parents went to a residential establishment together to be assessed; however, the father was asked to leave the placement as a result of his behaviour and, after the mother had spent some time at the establishment with C, the resultant report was that neither parent would be able to care for C in the community.
21. When she was three months old, C was first placed with the 'prospective adopters', initially as a fostered child. For a period of less than a month, the mother also lived with C and the prospective adopters [A76]. An important feature of this case, therefore, is that C has been with the prospective adopters since she was three months old, very nearly all of her life. Another important feature is that the mother knows the identity of the prospective adopters, having lived with them. The father also knows of their identity.
22. In November 2022, over four years after the placement order was made with the care plan for twice yearly letterbox contact, a letter was sent by the prospective adopters to the parents giving information about how C was doing. That was the first indirect contact that had been provided. The mother wrote back and the letter was forwarded to the prospective adopters. The father wrote back but his letter, which expressed his feelings, was not considered to be appropriate and was not shown to C.
23. Beyond the above exchange, C has had no contact, direct or indirect, with either of her parents since the mother left the home of the prospective adopters when C was four months old [A168]. A so-called 'good-bye' contact visit was organised for the parents over four years ago [the date is given at A169]; neither parent attended. The court directed that a photograph of C should be sent to the parents about 18 months ago and

that photograph was duly sent [A170]. On 14th October 2022 there was a review meeting when it was agreed that indirect contact would commence, following the hearing that had taken place on 10th October 2022 [E46]; that led to the letter that was sent in November, as I have described.

24. When C was six months old, the care and placement orders [A17] were made by the court. Therefore, at the time of those orders, C was already living with the prospective adopters. Plainly, given that a long-term placement with the prospective adopters was anticipated (or, at very least, possible), it was necessary for there to be discussion between the original Local Authority and the prospective adopters in relation to the care plan, including the arrangements for contact. Even if the plan for adoption by the prospective adopters was not fully formulated by then, the intention was that C would remain with them and so, whilst she did, their positions in relation to contact must have been discussed with them by the Local Authority.
25. There is a note of the judgment given by the District Judge when making the order [A175]. Neither parent proffered formal consent to the making of a placement order. The Judge dispensed with the consent of them both under section 52(1)(b) of The Adoption and Children Act 2002 (as stated by the judge in the judgment, despite the deficiencies of the order that was produced). The Judge approved the care plan.
26. The note of the judgment contains this: '*Contact Proposals...CG.... appropriate. Court adopts these proposals. Direct contact not in C's best interests. Court not of the view that that is helpful in this case. Very sad case. The Court has to look at what is best for C.*' 'CG' is a reference to the Child's Guardian. The guardian was recommending indirect, letterbox contact as set out in the care plan. The guardian expressly supported the care plan and recommended the making of the orders sought by the Local Authority. Therefore, this passage, however much in note form, signals that the court 'adopted' the proposal for indirect contact.
27. The care order is at I-5 of the bundle. The preambles include: '*Upon the mother being present at court for some of the oral evidence but leaving court before the conclusion of the case. Upon the father accepting that the court should make a care order on the basis of the threshold as agreed and attached to this order but opposing the making of a placement order for adoption. Upon the mother through the Official Solicitor, neither agreeing nor opposing the making of both care and placement orders. And upon the court having read the bundle and heard oral evidence of the witnesses, accepting that a placement order should be made and dispensing with the consent of the father to such order. And upon the local authority agreeing to assist the mother with her letterbox contact due to her learning needs.*' Thus the order also reflected the approval of the letterbox contact arrangements in the care plan.
28. The care plan contained the following:
 - i) *The following contact arrangements have been informed by research with particular focus on assessing what contact arrangements will best provide for the developmental needs of C....*

- ii) *Should an adoption order be made, the mother and father will be offered indirect letterbox contact twice a year. The adoption team will support the mother and the father to write letters to C.*
29. **Events following the making of the placement order** - 16 days after the making of the placement order, the prospective adopters expressed an intention to adopt C by sending an email to a social worker of the original Local Authority. Notice of intention to adopt was given by the prospective adopters to that authority either on the day that the email was sent or on another day some two months later [A8].
30. There is a document ('CLA [standing for 'Children Looked After'] Review minutes') at F9 where the prospective adopters were first being considered as potential adopters (the date is given at F9) The minutes include: *'direct contact with C's parents has now stopped. Parents were offered a goodbye visit but chose not to attend and have disengaged with the team. Letterbox contact twice yearly will be set up once adopters have been identified.'* At F12 of the same document there is an entry: *'Need: To develop their own identity...Action: Letter box contact to be set up. Explanation: C has the right to information about her background and to know who her parents are. She will need to know that they attempted to care for her and met her regularly until she was placed on a permanent basis.'*
31. A month after the above CLA meeting, an unnamed representative of Adoption West met with the prospective adopters in relation to their wish to adopt C. I cannot see how the care plan could have been other than central to their discussions – otherwise, what is the point of a care plan at all?
32. Then, there was a meeting three months later in relation to which there is a 'linking meeting' report at F1. At F5 it states: *'no direct contact proposed. x2 year letterbox with birth parents...Letterbox contact is proposed with C's ...adopted siblings, there is no indicating the frequency of this'*. The manager of the original Local Authority says in her statement at C53 that it was at this meeting that a decision was made that *'the foster carers would be supported to make a private application to adopt C... this was based on the fact that it was understood that, as C had been living with the foster carers for almost 12 months, they could legally choose to make a private application as opposed to being assessed as prospective adopters by the original local authority. This was a multi professional decision supported by all members of the meeting. The local authority now accepts this was incorrect as under Section 42 of the Adoption and Children Act 2002... a local authority foster carer can make an application for an adoption order when the child concerned has been living with them for a period of one year preceding the application. However, this provision only applies to applications by local authority foster carers and not to independent foster carers as is the situation in relation to this application.'*
33. It is at the point of this meeting, therefore, that the procedure began to go awry.

34. In a position statement at A161 the guardian said as follows:

'The guardian has noted with some concern that despite the fact that the final care plan with the local authority had confirmed the local authority's proposed plan for post adoption contact was twice yearly indirect contact, this was not a subject that was correctly discussed with the prospective adopters prior to them being approved as the prospective adopters for C. The guardian is also concerned that paragraph 4.6 of a statement, the social worker states 'in a linking meeting [i.e. the meeting that is documented at F1], minutes show the prospective adopters were in agreement with post adoption contact.' They did not attend this meeting and have stated that this was not the case, and they did not agree to post adoption letterbox contact with birth parents or siblings. To say the least, this is a very unfortunate situation to have arisen.'

35. Eight months later there was another 'CLA Review' of which there are minutes at F18. The meeting was held at the home of the prospective adopters, and they were present. At F19 there is a record that is written as if it were a letter from the social worker to C. It includes at F19: *'Identity - your birth family are an important part of your identity. As you were only little, you won't know who everyone is in your birth family, but as you get older this is something that will be really important. If you are adopted, you will have a life story book and later life letter which will help you understand who is your birth family, and the decisions made by the judge. [The prospective adopters] keeping a record of all the important things that happen whilst you are living with them including taking photographs which will be very important for your life story book.'* At F22 the document states: *'C is supported to maintain a positive sense of family and identity. [The prospective adopters] have stated that they only wish to exchange mailbox letters every 12 months; social worker to explore and discuss this further with them.'* This suggests, therefore, that by then the prospective adopters were contending for annual letterbox contact, rather than twice-yearly.

36. Two months after that meeting, the social worker had a discussion with the prospective adopters about post adoption contact and records at C5: *'their view was clear that they would complete one letter to birth parents post an adoption order being made but would not continue to provide updates.'* In a submission, Ms Reed KC said: *'It is clear from minutes of the LAC review that prompted the visit, that there must have been earlier discussions, as the applicant's changing position about the known plan for letterbox contact is recorded in various minutes. This appears to be a case either of incomplete disclosure or inadequate record keeping, only apparent since service of the LAC minutes some three months late, in September 2022.'* In a statement by the female prospective adopter [B403] it is said that this was the first time that *'the issue of post-adoption contact was formally discussed...by which time C had lived with us for over 18 months'*.

37. Whatever may be the position about earlier discussions, the minutes of this meeting show that, by then, the prospective adopters were contending for a significant departure from the care plan and would only support the sending of one, final, letter to the

parents. Missing from the documentation is any reference that I have found to the care plan or to the merits of letterbox contact. Having read as much as I have of this case, my opinion is that the professionals' approach to letterbox contact was that, if the prospective adopters did not want it, there was no scope for further discussion about it.

38. Six months later there are CLA Review minutes at F49. At F50 they include, in another letter as if written to C: *'We heard about your birth family and the prospective adopters will send a settling in letter to your birth parents when the judge makes the decision that the prospective adopters should become your adoptive parents. They have agreed with your social worker they will not send any further letters to your birth mum and dad. The social worker will tell the judge why this decision has been made.'* Thus, the social worker is recorded as agreeing with the prospective adopters, despite the care plan and despite the research about the benefits of letterbox contact.
39. A month after that CLA review, the original Local Authority filed the initial Annex A report in relation to the adoption application by the prospective adopters. It recommended that an adoption order should be made [A150]. Rather than the social worker agreeing with the stance of the prospective adopters over contact (as minuted above), different reasoning was advanced by the social worker who wrote the report. At A100 it stated: *'the prospective adopters do not agree to promoting contact between the siblings through indirect letterbox. Their view is that they do not see the relevance or benefit for C of once a year writing a letter. They agree that there may come a time when C and her siblings want to trace each other and would be supportive of considering this based on the best interest of C and her wishes and views...The female applicant is fixed on this view about letterbox contact and no further discussion around this has changed her position or supported her to see that this could be important for C's life story.... [A147] I do not agree with these views and feel indirect letterbox contact can play an important role in helping adopted children understand their history and in helping them feeling secure with their identity. For me, the overriding priority is C's permanence and this I feel is best provided for in the care of the prospective adopters. So, whilst I do not agree with their view on indirect contact, I accept that this is something they will not do, and it is my opinion that this should not impact on C being adopted by them.'* Therefore, the court was being informed by the Annex A report that the social worker did not agree with the position of the prospective adopters but, when faced with intransigence from the prospective adopters ('i.e. something they will not do') the benefits of the adoptive placement should prevail.
40. Much later, and on the basis that the procedure was not compliant with Regulations 15 and 17 of the Adoption Agencies Regulations 2005, a subsequent Annex A report was filed by the original Local Authority to try to correct that perceived non-compliance. At A323, the author of the report maintained the recommendation that an adoption order should be made. At the time that it was following the procedure that would arise following the making of a placement order, the Local Authority accepted that there had been breaches of the requirements of Regulations 15 and 17 of the Adoption Agencies Regulations 2005 and, also, a failure to obtain the consent of the parents to access their medical records [C45]. There is a statement about this from the Local Authority

Director of Safeguarding and Care [C40] and also from the Head of Service for Permanence [C44]. Measures were put in place to remedy those omissions, leading to considerable delay. Thus, overlooking, in error, that this was not a placement under the placement order, the Local Authority tried to follow the procedures that would flow from such an order. However, having done so, that mistaken procedure itself was riddled with errors. This can only be described, in my opinion, as having been a ‘plus’ version of Somerset CC v NHS Somerset CCG & Primary Cohort Children [2021] EWHC 3004 (Fam).

41. Then, having pursued a course intended to remedy the placement procedure defects on the basis that C had been placed for adoption by it, the Local Authority recollected that this was a ‘private’ adoption. It asserted that C *‘would normally have been placed for adoption after the matching panel but, because the Applicant prospective adopters made a private application, this skips being placed for adoption and would go straight to being adopted once an order is made’* [C48, per the Local Authority head of Service for Permanence]. In a short case summary from the Local Authority the following was stated: *‘At C46-48 the Head of Service, Permanence has set out the status of C’s placement with the prospective adopters, and the chronology leading to the decision made as to the suitability of the prospective adopters. C lives with the prospective adopters under a fostering arrangement. The prospective adopters made a private application.’* So, then and after considerable delay, the case reverted to the ‘private adoption’ procedure.
42. Four months after the filing of the first Annex A report, there was a further ‘CLA Review’ of which there are minutes at F24. The prospective adopters are not recorded as having attended that meeting. The passage at F25 is written, again, as a letter to C and includes, again: *‘We heard about your birth family and the prospective adopters will send a settling in letter to your birth parents when the judge makes the decision they should become your adoptive parents. They have told your social worker that they will not send any further letters to your birth mum and dad. The social worker will tell the judge why this decision has been made.’* At Page F29 under a heading ‘disagreements’ it is stated: *‘The prospective adopters agreed to send birth parents a settling in letter when the adoption is granted. They have not agreed to any annual letterbox contact to birth family.’*
43. Six months later there was another CLA meeting with minutes at F30. The minutes repeated, again in the form of a letter to C [F31], that the prospective adopters did not agree to send any further letters to the parents after one ‘settling in letter.’ By the time of the CLA meeting six months after that [F37], the letter to C stated at F38: *‘We heard about your birth family and your prospective adoptive parents have sent your birth parents a photograph of you as directed by the court. There are lots of conversations happening about what any future indirect contact (letterbox contact) would look like with your birth parents, so this is being discussed within the court arena and a decision will be made in what the judge thinks is in your best interests.’* There is a similar passage in the minutes of the CLA meeting six months after that [F44].

44. Initially the Local Authority asserted that the issue of letterbox contact was not discussed with the prospective adopters until C was 22 months old [C6]. The social worker said in her statement at C19: *‘I agree with the guardian that ‘the issue around indirect contact should have been discussed with the prospective adopters when they first expressed an interest in caring for C and in line with the Care Plan at that time.’*
45. However, the assertion that the issue of contact was not discussed with the prospective adopters until she was 22 months old then changed. At C23 the social worker gives this different account:
- ‘In my first statement, I state that the prospective adopters ‘told me that they have always held the same views around direct [sic] contact and cannot remember this being discussed directly with them.’ In a telephone call with the prospective adopter [date given], the prospective adopter stated that contact was discussed with them at the very beginning and that their view about not supporting indirect contact was made known. The prospective adopter is clear that this was never concluded and said they had always said ‘no’ to this [indirect contact] and the response they were given by professionals was in being asked to ‘think about it’. The prospective adopters have said that they have never changed their view and always gave the same answer. They were never told they would have to do this. It is my view that the prospective adopters have always been honest and open with me in terms of their communication and this misunderstanding may have resulted in terms of prospective adopters alluding to their views always being stated to professionals [sic] but there was no conclusion to their views around indirect contact post adoption.’*
46. The prospective adopters adhere to their account that, when the issue of indirect contact was discussed with them following the making of the placement order, they said that they would agree to send one letter to the parents after an adoption order was made but none thereafter. They maintained that position, notwithstanding the disquiet that I expressed in hearings which, by then, were taking place before me and the developing disquiet of the guardian, until the hearing on 10th October 2022. They said that they would agree to share life story information with C when she is older.
47. **The original adoption proceedings** were started by the prospective adopters when C was nearly two years old [A4]. At the time, it was considered that that the requirements of section 42 (child to live with Applicants for a period stated in the statute) and Section 44 (notice to the Local Authority of an intention to adopt) were fulfilled.
48. The application was first sent to a court in the area where the prospective adopters live. Then it was sent, before issue, to a court in the area of the original Local Authority. It arrived there on 4th October 2019. It was not issued by that court until December 2019, some two months later. Then, with the pandemic intervening, there needed to be a first directions hearing. By Rule 14.6 (1)(a) (i) *‘as soon as practicable after the application has been issued in proceedings, a) the court will...(ii)...set a date for the first directions hearing’*. The first directions hearing took place on 22nd January 2021, thirteen months after issue.

49. The procedural complications that emerged in relation to the first adoption application included:

- i) It was necessary to identify whether the conditions of residence in section 42 of the 2002 had been fulfilled. There was argument about whether the prospective adopters are Local Authority foster parents for the purposes of section 42(4) of the Act – the home authority did not accept that they were, and it now appears clear that they were not. That being so, Section 42 (5) requires that C should have lived with them for at least three years before the making of the application; she had not done so. The only way of circumventing that was if the court gave leave under section 42(6) of the Act.
- ii) It was necessary to consider whether appropriate notice had been given by the prospective adopters to the relevant Local Authority. Since this was a private adoption, the notice had to be given to the home Local Authority (see section 44 (9) (b) of the Act). The notice was given to the original Local Authority. Thus, notice was given to the wrong authority.
- iii) By section 44(3) *‘the notice must be given not more than two years, or less than three months, before the date on which the application for the adoption order is made.’* The first adoption application was dated 19th December 2019 (not 2021 as the bundle index states). Notice was given to the original Local Authority on 1st October 2018. Although the notice was given within the requisite period prescribed by statute, it was given to the wrong Local Authority. I was referred to the decision of Keehan J in Re A (A Child: Adoption Time limits s 44(3) 2020 EWHC 3296 Fam as to whether the court could disregard the notice periods if the circumstances appear to so justify. Notice to the home authority was not given until December 2022; indeed, the home authority knew nothing about the adoption application until they were informed of it by the original Local Authority on 21st October 2022 (nearly three years after the application had been made).
- iv) It was necessary to consider whether section 42 (7) of the Act was fulfilled. That subsection provides: *‘an adoption order may not be made unless the court is satisfied that sufficient opportunities to see the child with the applicant or, in the case of an application by a couple, both of them together in the home environment have been given: a) where the child was placed for adoption with the applicant or applicants by an adoption agency, to that agency, b) in any other case, to the local authority within whose area of the home is.’* Prior to a hearing in January 2023, the home Local Authority stated at A423 that it had not visited the prospective adopters and C since becoming aware of the initial adoption proceedings. It contended that there had been sufficient opportunity to see C with the prospective adopters through the agency of the original Local Authority. It argued that it was not proportionate or necessary to introduce a further social worker to C and the family. It

contended, by reference to Statutory Guidance that ‘*it is clear that the Local Authority with responsibility for investigating and preparing the report to the court may arrange for another Local Authority to carry out the investigation and prepare the report for the court.*’ The difficulty with the arguments that were advanced was that, in relation to the first adoption application, the home authority had not delegated this function to the original Local Authority. All that had happened was that the notice was given to the wrong Local Authority and then that authority purported to perform functions under the Act. The home authority could not arrange anything in relation to an investigation when it did not even know that the application had been made.

- v) Whether the Annex A reports, which had been filed by the original Local Authority, could stand or whether the home Local Authority had to file fresh reports. Again, it could not be argued that the home Local Authority had arranged for the original Local Authority to provide the Annex A report – that is simply not what happened.
- vi) Which authority would be responsible for the adoption support plan? The home Local Authority contended that this should remain with the original Local Authority. The original Local Authority said that it would be responsible for three years only following the making of an adoption order. Therefore, there were issues about where that responsibility lay.
- vii) Whether consent of the parents needed to be addressed given that the procedure that had been followed was not under the umbrella of the placement order but was a fresh and private adoption application. The effect of that was that the condition in section 47 (4) of the 2002 Act (which applies in cases where the ‘child was placed for adoption under a placement order’) was not fulfilled and the issue of consent needed to be addressed by reason of Section 47 (2) of the Act. As I stated at earlier hearings, that was a very significant point in the case as it was then.

50. Before setting out the events that occurred at the hearing on 10th October 2022 and thereafter, I will say more, now, about the parties.

51. **The prospective adopters** – Living with them are other children, as described at C10. In their initial statement, the prospective adopters said that their then position was as follows:

Following our adoption of C, we wish to carry on in the same way, moving forward together, planning our and the children’s futures, together as one united, closely bonded family, irrespective of our different colours, characteristics, talents or needs, where the children, irrespective of their differences or their origin are, in our eyes – equal. That includes C, who will take our name, share our life and values and be one with our family. This is what we believe adoption to be and should be and mean for everyone as it is the best thing for her.

If this is to be the case, as we strongly believe it should, we feel that keeping C linked to her past, of which she knows nothing, will not offer her any advantages. We understand that C's birth father is keen to have letterbox contact. While we understand and respect his viewpoint, we feel that this won't be of any benefit to C. When she is old enough to understand, she will learn that she is adopted... She will no doubt ask questions, and this will never be denied to her, but she will be in no doubt where she belongs and where her future lies.

Until now, we have been obliged to account for C's time with us. We attend meetings and reviews and complete reports on a regular basis. We accept this in our capacity as foster carers, as this is part of the role. However, to make our adoption of C real in our eyes and be able to feel she is a natural part of our family, our roles will have to change. To that end, we are very happy to furnish C's birth family with a final letter to reassure them that she will be cared for and loved and ask that it be left at that. We are aware that this may be unusual, but we have looked into the pros and cons of on-going letterbox contact and feel for us that the one-off final letter is the best option. Post adoption we would like to move forward with C as one of our family in a positive way without having to constantly look backwards.'

52. As I have stated, they have now moved on from that position and, having lost the support of the guardian and Local Authority for their original stance, have said that they will now engage in letterbox contact once a year and will consider sending a photograph of C to the parents from time to time.
53. I have sympathy for the prospective adopters for the immense burden that has been placed on them by reason of the flawed procedures that were followed. I pay a very full tribute to the care, love and commitment that they have shown to C and express my personal admiration for the family life that they have provided to C and their other children. However, at every relevant hearing that has taken place before me, I have expressed regret about the intransigent approach that they took to indirect contact prior to the hearing on 10th October 2022. Although I do have very strong opinions about the approach that they took to this issue, this judgment is not the place to express them. I also observe that, if the care plan had been followed and the post placement order procedures followed, the concatenation of procedural issues would have been avoided in the main (subject to the Somerset CC v NHS 'plus' issues, as I have called them).
54. **The mother** – There is a psychological report of her capacity at E1. The mother has a significant learning disability and functions intellectually in the extremely low range of ability. Her understanding of adoption is very limited – see E25 and E26 in the psychological report. About eight years before the birth of C, the mother (then in her late teens), gave birth to another child by another man. That child has been adopted [A100].
55. On 18th January 2022, counsel then instructed by the Official Solicitor on behalf of the mother filed an impressive position statement [A191] signalling that the mother did not

oppose the making of an adoption order but did seek indirect contact with C, if necessary, through orders of the court following the grant of leave under Section 51A of the 2002 Act. Counsel wrote at A192: *‘The mother has expressed the following wishes and feelings: a) she does not seek to oppose C being adopted; b) she would like to have indirect contact by way of letter and/ photograph once a year. The mother is not seeking to send a response to any such letter.’*

56. In her excellent opening submissions for the purposes of the hearing on 10th October 2022, Ms Reed (now KC) said this, amongst other things:

The Official Solicitor recognises that the circumstances in which a s51A order will be made are rare. On behalf of the mother, the Official Solicitor contends that if no concession is made vis a vis indirect contact, the court should grant leave and go on to make an order providing for indirect contact as provided for in the May 2018 care plan, for the following reasons:

- a. Whilst direct contact is comparatively unusual in the context of adoption, indirect contact once or twice annually is typically included in most care plans. It is facilitated via a letterbox system, which offers support and a protective barrier for both birth and adoptive family members. The risks associated with indirect contact are minimal. The longer-term benefits in terms of identity are well understood by the Court: they may enhance the resilience of the adoptive placement and assist the young person into adulthood. Whilst it would not be exceptional for adopters to be opposed to direct contact, it is highly unusual for adopters to be so strongly opposed to even indirect contact. As such the exceptionality test is met.*
- b. Indirect contact was considered by the Court, Local Authority and Guardian to be in the child’s best interests in 2018; but for the attitude of the adopters, that undoubtedly remains the case.*
- c. The fact that the adopters hold an unusual view regarding indirect contact and that they (allegedly) were not properly informed in respect of contact, is not something which should be visited on the Child or parents, (incidentally it seems likely that the adopters must have had some specific awareness of expectations upon modern adopters by virtue of their training / assessment, and that they were aware of the contents of the plan for this Child and initially accepted those terms).*
- d. In any event the Court must assume that the adopters were given general information about the expectations upon modern adopters in the course of the pre-assessment adoption approval process, as provided for in regulation 24 AAR 2005, and the LAC minutes seem to evidence their awareness of the specific plan and expectations for this Child.*

- e. *The mother does not oppose adoption and has not in any way attempted to disrupt the placement (in spite of knowing who the applicants are). In reality the likelihood of this mother taking steps independently to disrupt the placement or locate the Child, given her cognitive limitations, is very low.*
- f. *The letterbox system provides a secure, safe route through which indirect contact can be managed without giving rise to further security concerns.*
- g. *The recently disclosed LAC minutes sadly show that the mother has been effectively forgotten by all those responsible for the Child's welfare since the conclusion of the care proceedings in 2018, and no effort appears to have been made to involve her in LAC reviews (apart from possibly the first one post placement order), notwithstanding the fact that the Child has never been placed for adoption and the mother still holds parental responsibility. Without an order to ensure indirect contact takes place, it seems highly likely that the mother will continue to remain a 'forgotten' element of the Child's identity.*
- h. *Given the length of time that the Child has been placed with her carers, her age and the lack of any realistic alternative, it is not suggested that the contact issue should preclude continuation of the placement long term. The Child will remain where she is: it is clear therefore that there will be no contact in the absence of an order – an order is the only way in which the connection can be maintained for the benefit of the Child.*
- i. *The likelihood is that the adopters will, if required to do so by the Court, comply with that order.*
- j. *The likelihood is that if required to comply with an order, the adopters will adjust to those (minimally invasive) arrangements – parents have to adjust to the inconvenience and adult discomfort that comes with carrying out the Court's orders in respect of contact all the time. These are competent, experienced parents, who are no doubt able to facilitate the contact in a Child focused way, even if it runs counter to their wishes.*
- k. *The fact of contact being Court ordered should be of some assistance to the adopters in explaining (at the appropriate time and in an age-appropriate way) the difference between their approach to one adopted Child over and above others (should that be necessary).*
- l. *Regardless of the resistance of the adopters, in the longer run, the Child maintaining a connection with her birth Mother will be of benefit to her as she matures and begins to grapple with her identity.*
- m. *The lifelong consequences for the Child of having such a significant gap in their identity information are potentially greater (albeit less acute) than any potential adverse impact of an order being made. These might include seeking out a parent*

who is unsafe but has been idealised / unplanned contact, or anger towards / rejection of the adoptive parent for preventing contact / severing that link.

- n. *The fact that even if the order was not complied with, the making of it would in and of itself be an important part of the Child's life story record, marking formally the importance that the court placed upon an ongoing connection to birth family,*

In Re R, in what were described as 'energetic' submissions, the question was posed: if the Court will not make an order for contact in the circumstances of this case, when will it ever do so? The facts of this case justify asking that question again, particularly in light of the fact that all is sought on behalf of the mother is infrequent, once yearly, indirect contact, something which is usually entirely uncontroversial and cannot be said to pose a high risk to the placement, and which can potentially offer longer term benefits to her, even if her adopters cannot see that. The Official Solicitor has instructed that counsel explores various issues in evidence with the adopters and further submissions will be made thereafter.'

57. With the benefit of excellent advice and the guidance of the Official Solicitor as her litigation friend, the mother's position is now as I have stated it to be. She has been very well advised and remains so at this hearing, where Ms Bond has been her counsel.
58. **The father:** The father has parental responsibility for C, having been named as her father on the birth certificate (see section 4(1)(a) of The Children Act 1989). As such, he is a parent for the purposes of the 2002 Act (see section 52(6) of that Act). Therefore, by reason of section 47 (2) of the 2002 Act and of the fact that the father does not consent to the making of an adoption order, an adoption order cannot be made on this application unless the court dispenses with his consent. The ground upon which reliance is placed for dispensing with his consent is that stated in section 52(1)(b) of the Act – the welfare of C so requires.
59. The father also has another child by a different partner; he was in his mid-20's when that child was born. The child has also been placed for adoption [A99].
60. In a statement at C11 (written in his own hand and without legal advice) he said: *'I'm not going to feel intimidated into giving up my daughter for adoption. My love [is] as a father to my daughter. I cannot agree to you wanting to adopt my daughter. I have lost all my family due to health reasons. If my daughter was to be adopted without any photos or drawings, it would feel like I've lost all my family. I'm not asking for much. We are all here, father, mother, and professionals. We all have C's best wishes and interests for her to do well. ...This has been very difficult to write. I can't emphasise my feelings on behalf of C more than I have expressed. I would like to make it clear, I have been through most of this procedure with no legal advice or a solicitor. I have been very cooperative all through this process. Thank you for your patience through this difficult time.'*

61. At C12 there is another statement from him in which he said, amongst other things: *'From what I understand of this, the prospective adopters are making decisions that have not been authorised by the courts. As prospective adopters, until a decision has been made and finalised by a court, then they can act on that. Letterbox contact should have been set up ages ago when the mother left the placement. C should have the right to know who her parents are at an age when she can understand, it is important for her identity. C should be entitled to have photographs of us and vice versa. I understand the prospective adopters have other children under adoption but what has happened in their circumstances should not be influenced in your decision making today, Mr Wildblood. The prospective adopters had previously agreed to provide photographs of C, so I cannot see it being a problem in the future. I'm emotionally drained and on the edge of breaking down. I have done all my best I possibly can for my daughter, all I ask for is in direct contact to see my daughter grow up.'*
62. In his more recent statement [C13] the father said that, through Local Authority's error, he was provided with a bundle of papers that revealed the address and personal circumstances of the prospective adopters but has not used that information (and returned the papers to the Local Authority). The Local Authority accepts that it did make this error and that the 'full bundle' was returned by the father [C18] in accordance with a formal undertaking that he gave to the court [A154]. However, the father goes on to say:

'Obviously, I love C and only want what is in her best interests. At the end of the care proceedings, the local authority care plan was that C should be placed for adoption but with a proposal that there should be indirect letterbox contact twice a year. It is not my fault, nor the fault of C's mother, that the local authority did not speak to the prospective adopters about the recommendation for letterbox contact. This was an unfortunate error on the part of the local authority, for which they appear not to be able to give any explanation.

I fully understand that the prospective adopters have other children and that there is no indirect or letterbox contact between those other children and their natural parents. Whilst understanding this, my concern is with C and not with the other children that the prospective adopters have ...I have to make it clear to the court that I would support the adoption going ahead on just one condition. I appreciate that indirect contact by way of letters between myself and C could possibly disrupt the placement.

I have been made aware by the guardian that indirect contact and indeed sometimes direct contact is quite normal these days with adoptions. However, I am not even pressing for indirect contact by way of letters because, as I say, this might disrupt the placement. The only condition that I am asking for is that I should be sent photographs once a year by the prospective adopters. I am not asking for any letters to be sent backwards or forwards. I am not asking for me to be able to send photographs of myself to C. I simply ask that one photograph is provided to me once a year and I feel this is not much to ask for.

I cannot see how this could possibly disrupt C's placement as C would not even know that a photograph was being sent to me. I fail to see why the prospective adopters would not agree to such a proposal and on this basis, I would be happy to consent to the adoption proceedings.

If the prospective adopters cannot agree to this and the court does not feel that such an order should be made, then my position would be that I oppose the adoption and would ask that C remain with the prospective adopters, but as foster parents and I would then ask for ongoing direct contact with C once or twice a year. I appreciate that this position could be seen as being at odds with what I say above about not wanting to disrupt C's placement but if the prospective adopters and the court do not feel that my request for one photograph a year is reasonable, then this would be my stance. In recent times I've been trying to put some routine into my life and I have been doing voluntary work at a church...'

63. Prior to this hearing, the father wrote a letter, setting out his position. It includes this:
'I feel...I have nothing left to lose now. I've been representing myself throughout this court case. I am C's father that has tried to do the best for his daughter from day one. ...I am requesting to be re-assessed to have regular contact with C. I DO NOT agree with the application for C to be adopted or the order. But I would agree to a special guardianship order for [the prospective adopters] to take care of C until she reaches 18. I do understand that C would have the Local Authority in her life. But at least she wouldn't be lied to for the rest of her life...I would please...emphasise my frustrations throughout this procedure. I have found it difficult and represented myself in the politest and most well-mannered way that I possibly can.'
64. I have considerable sympathy and respect for this father. He has had to face these heart-breaking proceedings on his own, without legal advice. Every court hearing is deeply distressing for him. His mental health has suffered as a result. The exceptionally long period during which there has been litigation in relation to C has taken a heavy toll on him. At every hearing he has always been impeccably polite to me. He has now married and has begun to forge a new life. Although the pain of losing C will never be absent from his mind, I can only wish him well and thank him for his courtesy.
65. **The original Local Authority** - Prior to the hearing on the 10th October 2022, the Local Authority filed a position statement which contained the following passage at A170:
'The local authority is in agreement with the position statement of the children's guardian and believes C's interests are best served by her remaining where she is and for her adopters' wishes to be adhered to with respect to indirect contact. C is settled and thriving with her current carers and the priority for her must be to have legal permanence and that her plan should remain one of adoption and for her current carers to be her adopters.'

66. The social worker from the original Local Authority stressed that it is strongly in the interests of C that she should be adopted by the prospective adopters. Initially, it did not support the parents wish to secure orders for the letterbox contact to take place, being of the opinion that the wishes of the prospective adopters should not be over-ruled. In relation to contact, the Local Authority position was explained by the social worker in these terms:

i) [C20] *‘Whilst I understand the father’s wish to have updates about C, him receiving a photograph once a year of her, does not directly benefit her. In conversations with the prospective adopters, C’s life story will be shared with her, and they will listen and act on her views around this.’*

ii) In relation to a potential solution that I had asked to be discussed between the parties, the Local Authority said this at C26: *‘HHJ Wildblood suggested a possible way forward to the issues around indirect contact post adoption that the Local Authority should hold a file in C’s name. The birth parents would send a letter and a photograph once every six months to this file and this would be held for C to access if and when she is asking about her life story and wanting to know more information about her birth family.’* The social worker goes on to say that the Local Authority would implement that arrangement if it were to be ordered. It gives details of how the arrangement might operate through service called ‘Adoption West letterbox.’ As matters developed, that potential solution has not been implemented.

67. The change in the position of the original Local Authority in relation to contact took place on 10th October 2022, during the hearing. It was at that point that the Local Authority argued that letterbox contact should take place, if necessary by order of the court under section 51A of the 2002 Act.

68. **The Guardian.** On 14th July 2021, the guardian had filed a position statement in which she expressed her then opinion at A165:

The guardian is firmly of the view that direct and indirect contact should be considered in all cases where the plan is adoption. This was considered in respect of C at the time of the care and placement proceedings and indirect contact was recommended. It is unclear to the guardian why this care plan was not made perfectly clear to the prospective adoptive parents by the local authority at the time the prospective adoptive parents decided to apply to the court to adopt C. It is not clear what discussions the local authority has had with the prospective adoptive carers in relation to indirect contact and what research has been shared with them.

C is absolutely thriving with her prospective adoptive parents, and it is to their credit that she is excelling.

Whilst the guardian does not share the views of the prospective adoptive parents in relation to this issue of indirect contact, the guardian can see no benefit in making an order which will enforce this. The prospective adoptive parents would not be able to

promote something that they do not agree with and which they consider detrimental to their family. Their other children who are adopted do not have indirect contact with their birth parents. The guardian can appreciate how difficult it might be for the other children if C were to have indirect contact with her birth parents. A great deal of time has elapsed, there has been no indirect letterbox contact taking place. The guardian is not clear why no indirect contact has taken place.

This does seem a very unusual case. In effect C has been placed with prospective adoptive carers who do not believe in indirect contact or see the importance of a child having an open link with their family of origin which is actively promoted.

It is the guardian's view that it is not realistic for indirect contact to take place between C and her parents. The prospective adoptive parents are firmly set in their views. The guardian considers that there is no other option than to proceed with the making of an adoption order. The guardian would recommend that a life story book is compiled by the local authority for C that could be shared with her in the future when appropriate.'

69. On 18th January 2022 the guardian filed a further position statement in which she said that her position remained the same [A189].
70. On 8th March 2022 a 'note of the views of the Local Authority, Official Solicitor, the child's guardian and the father following an advocates' meeting on 3rd March 2022' was filed. At A211 the document included the position of the guardian in these terms:

Indirect contact is being considered and the guardian records that this was C's care plan which was agreed at the time of the original care proceedings. Two-way indirect letterbox contact is considered the norm in many adoptive placements. In research carried out by the University of East Anglia, the research points to a situation where, when two-way indirect contact works well, it can help to keep the birth family alive in the adoptive family, create opportunities for adoptive parents and children to communicate about adoption, reduce young people's sense of rejection, answer questions, provide information and help to prepare young people for the possibility of a future meeting.

For birth relatives, successful two-way indirect contact can provide reassurance about the child, lay a foundation for future meetings, give them hope that their letters reduced the child's sense of rejection and provide an opportunity to seek likenesses in the child.

The guardian points to how many young people inevitably now find out about their birth parents through social media and it may be unrealistic to think that that will not happen in C's case.

The guardian has noted that the prospective adopters are adamant that they will not reconsider their position, which is that they do not perceive indirect letterbox contact to be in C's interests.

The guardian's view is that it is in C's best interests to have two-way indirect contact for the reasons stated previously. It will not cause any disruption to C's prospective adoptive placement, in fact the opposite. C will have the opportunity in the future to know about her heritage and that connection will be available to her.

The suggestion that a file should be made for C with the adoption team which she can access at a time in the future, is no more than is available at the present time through most local authority adoption teams systems. The local authority has confirmed that that is the case insofar as this local authority is concerned.

The guardian would wish the adoption team to assist the parents to write a letter to C on an annual basis. They will need assistance in what is appropriate to write, given their difficulties. It would be up to the prospective adopters to decide when they feel it is right to share that information with C. ...

The guardian would therefore urge the prospective adopters to reconsider their position in the hope that they will come to the conclusion that sending information about C to her parents once a year will assist that relationship and will assist C's birth parents to feel reassured about C as she grows up. Sending this information should not undermine the placement nor disrupt it.'

71. Thus, at that point, the guardian was urging the prospective adopters to change their position but was not suggesting that there should be an order for indirect contact post adoption. The prospective adopters did not change their position in relation to contact, as a result of this.
72. **The hearing on 10th October 2022** – The hearing took place before me. I remember it very well indeed and had spent a long time reading the extensive papers and skeleton arguments for it. Following the filing of an excellent submission by Ms Lucy Reed KC on behalf of the mother and the instruction of experienced counsel for the guardian, Ms Judi Evans, positions changed considerably at the hearing on that day. The order is at B46 of the bundle. Amongst other things, it recorded that:
 - i) The Official Solicitor pursued an application on behalf of the mother for an order for indirect contact to be made under section 26 of the 2002 Act. Thus, she sought an immediate order for indirect contact pending the resolution of the longer-term applications under section 51A of the same Act.
 - ii) The advocates became aware at the hearing that the home Local Authority was different to the original Local Authority, thus raising the procedural issues that are set out in paragraph 3 of the preambles to the order and I have set out above, including – i) was notice of intention to adopt given to the right Local

Authority, ii) were the Annex A reports filed by the right authority; iii) which authority should be responsible for the adoption support plan and iv) which is the correct letterbox contact service); v) had C been cared for by prospective adopters for the requisite statutory period prior to the making of the adoption application (sections 44(3) and (5) of the 2002 Act); vi) how should the consent of the birth parents to the proposed adoption be addressed; vii) were the prospective adopters ‘approved adopters’.

- iii) The Local Authority and the guardian had changed their positions and both *‘confirmed today that, in the absence of agreement from the prospective adopters to facilitate two-way indirect contact twice annually (in accordance with the Court approved final care plan) they support the making of an order pursuant to section 51A ACA 2002 in those terms.’* The change of position by the Local Authority occurred in the face of the court (that is, in the middle of hearing as I very well remember), after the guardian had made submissions in support of orders, in the absence of agreement.
- iv) The guardian considered that, in the interim, indirect contact should start by agreement.
- v) The prospective adopters, faced with the position of the Local Authority and guardian, stated that they would facilitate ‘two-way indirect contact on an annual basis only but that letters to C would not be shared with her immediately but would be kept until she was old enough to understand them.’
- vi) The original Local Authority said that it would provide funds for the prospective adopters to have legal advice.
- vii) The home Local Authority would be invited to intervene, and essential documents would be provided to them. Up to that point, the home authority had no knowledge or involvement with this case.
- viii) Documents would be filed from the other parties in accordance with a timetable.
- ix) A further hearing would take place on 4th January 2023.

73. **Documents filed following hearing on 10th October 2022.** Following that hearing, further documents were filed prior to the hearing on 4th January 2023, which included:

- i) Statements by the prospective adopters [A402 and 408]. They proposed that the parents should each send an annual letter ‘that can be kept by us to share with C when appropriate to do so.’ They said that, within four weeks of receiving an annual letter from a birth parent, they would reply with a written update along with a drawing or painting from C. They set out their experience as parents and adopters and say that they are a ‘close and loving family.’ They

say: *‘we remain of the view that indirect contact is not right for our family, it will be disruptive, and it is against our better judgment...our position had support from the Local Authority and the guardian, so it was a shock when positions changed at the hearing on 10th October 2022. We have subsequently felt under pressure to review our own position regarding indirect contact which has been difficult and stressful.’*

- ii) Skeleton arguments from each of the parties.
 - iii) The guardian’s written analysis [E41]. In it, the guardian said: *‘I would recommend to the court that an adoption order is granted to [the prospective adopters] in respect of C and once yearly two-way indirect letterbox contact is agreed’* [E49].
 - iv) A statement by the manager of the original Local Authority as to how indirect contact would take place and as to the status of the prospective adopters [C52].
74. In addition to the paperwork that was filed, the prospective adopters gave notice of their intention to adopt to the home (i.e. correct) authority on 9th December 2022. Under the terms of section 44 (2) of the 2002 Act that meant that an application following on from that notice could not be made until three months thereafter – 9th March 2023.
75. **The hearing on 4th January 2023** - At that hearing the prospective adopters sought to argue that final adoption orders should be made. As the order [B54] recites at paragraph 3, that position was supported, initially, by the original Local Authority, the home Local Authority and the guardian. They argued that it might be possible to weave a thread through the many procedural errors in a way that might leave the court in a position where it might make the final adoption order sought. I expressed my considerable disquiet about the security of an order that was based on a following of that thread – if one of the arguments that were being advanced proved, at some point in the future, to be invalid, it could have a profound effect in C and others.
76. The mother’s position, expressed through her counsel as instructed by the Official Solicitor, was that she was not opposed to the making of an adoption order *‘subject to the court being satisfied that the statutory requirements were met.’* The father’s position developed during the hearing and, ultimately, became that he was not in agreement with the adoption order being made and was not in agreement with the indirect contact proposed by the prospective adopters.
77. The contact proposed by the prospective adopters was that the birth parents *‘are to utilise the support that they will be offered through the post adoption service to send appropriate letters or cards to C once a year and the prospective adopters will respond within a month with an update about C once a year...the prospective adopters will give consideration to providing each of the birth parents with a photograph of C from time to time.’* That proposal was supported by the original Local Authority, the home Local Authority and the guardian. The mother is recorded on the order as having wished for

letterbox contact to have taken place twice a year but, in the circumstances, it was said on her behalf that she would accept the proposal and did not wish to pursue an application for a contact order.

78. The order then records that the *'court identified a number of procedural irregularities within this case as a result of which, if an order were to be made today, it could be found to be an unsafe order which would not have been in C's best interests.'* The order then set out, in a large number of paragraphs the full array of procedural irregularities that had occurred. In relation to the issue of consent to adoption, the order recorded that there was no application to dispense with the consent of the parents and the necessary notice and documentation in support of an application to do so (see Rule 14.9(2), which is in mandatory terms due to the use of the word 'must') were both absent.
79. It was on that basis that I suggested that the only way to deal with the unfortunate state of affairs was, in effect, to start again – that a fresh adoption application should be issued by the prospective adopters. The order records that there was a recognition by all that the issue of a fresh application would lead to yet further delay. However, ultimately, that was the course that the two Local Authorities and the guardian agreed. The mother was neutral on the issue. The father questioned why the prospective adopters should be allowed to issue a fresh application; all of the legal representatives accepted that, in law, there was no reason why they should not do so. In my opinion, it is very clear that the issue of the fresh application was the only way forward. It was manifestly contrary to the interests of C to try to drive through the congested traffic of the procedural mess that had occurred in relation to the first application.
80. The order also recorded that *'the court noted that some of the procedural irregularities...could have been avoided if [the original Local Authority] had acted on the placement order.'* That is, having gone through the process of obtaining a placement order (and, amongst other things, putting the parents through that painful process), why did the Local Authority not follow it through by arranging for the prospective adopters to be Local Authority foster carers and by following the post-placement order procedures? Or, if, as the Local Authority with parental responsibility for C under the care order, they wished to support a private adoption, why did they get the procedure for that so wrong?
81. That, therefore, is the tortuous process by which this case now comes before me. I made orders on 4th January 2023 that were based on the premise that a fresh application would be issued by the prospective adopters and that the case would be heard by me today. The directions recorded that *'the prospective adopters shall issue a fresh adoption application forthwith after 10th March 2023. This will allow the required three-month notice period to the home authority, who were notified of the adopter's application on 9th December 2022.'* Amongst a raft of directions, I ordered that the prospective adopters must file an application to dispense with the consent of the parents to the making of an adoption order and must support that application with the necessary statement of facts (Rule 14.9 (2) *ibid*).

82. **The documents filed since 4th January 2023** – Many documents have been filed since that hearing. I will now refer to some of them:

- i) On 10th March 2023, the prospective adopters filed a lengthy statement of facts (it is 27 pages long). It is the bundle at B79-105. Included in the statement is reference to the fact that they have now been caring for C for over five years, C is a fully integrated part of their family, the natural parents accept that they cannot care for C, there has been no direct contact for over five years, the issues of contact are now agreed save in relation to the father and all professionals support the making of adoption orders.
- ii) On 12th March 2023 the prospective adopters filed a fresh adoption application. It appears at B63 in redacted form. At B72 the application to dispense with the consent of the parents under section 52(1)(b) of the 2002 Act is made. By reason of the date of the application, the requisite notice period in section 44(2) of the Act was observed.
- iii) On 14th April 2023, the Head of Service of the home authority filed a statement [C60]. He stated that the home authority adopts the Annex A report that has been filed by the original Local Authority social worker and that his authority has had sufficient opportunity to see C with her prospective adopters, in accordance with section 42 (7) of the 2002 Act.
- iv) On 18th April 2023 a further Annex A report was filed [B187]. It is written by the social worker for the original Local Authority on behalf of the home authority. The bundle version of it is redacted. It recommends that an adoption order is made – B294.
- v) On 19th April 2023, the guardian filed her final analysis. It is at E50 of the bundle. Included within it are the following passages:
 - a) *I spoke with [the father] on the telephone on 29/03/23. He immediately said to me that he doesn't want anything more to do with the situation and that he will not be attending the hearing. He told me that he had had a breakdown after the last Court hearing and his mental health is currently poor. He told me that his GP has advised him not to talk to anyone about the case. He said he did not want to talk to me about it anymore. He was polite and he said he wanted to end the conversation which we did.*
 - b) *I take the view that it is in C's best interests to be adopted so that her emotional and physical needs and her need for protection can be met for the duration of her childhood. I support the Local Authority's request that the agreement of [the mother] and [the father] be dispensed with on the grounds specified in 52 (1) (b) of the Adoption and Children Act 2002. I believe that the welfare of C requires such an Order to be made. I*

recommend to the Court that an adoption Order is now granted to [the prospective adopters] in respect of C and that once yearly two-way indirect contact takes place as agreed by [the prospective adopters] at the Hearing in October 2022. I have noted that in January 2023 [the prospective adopters] indicated that they would give consideration to providing each of the birth parents with a photograph of C from time to time. I would support such a course of action.'

vi) On 24th April 2023, the Official solicitor filed a position statement on behalf of the mother. It recites the agreement in relation to indirect contact and photographs that is recited within the order of 4th January 2023 and states: '*on [that] basis..., the Official Solicitor no longer seeks to pursue an application for a contact order, and, for the sake of clarity, the Official Solicitor does not seek leave, for [the mother], to challenge the making of an adoption order.'*

vii) On 25th April 2023 a position statement was filed on behalf of the prospective adopters. It includes the following:

If letters and/or cards are sent to them they would absolutely honour the trust placed in them both to share these with C but also to respond. Whilst they had hoped to avoid indirect contact, they have agreed to once a year indirect letter box contact on the terms laid out previously (being that they respond to communication from each birth parent within a month of receipt) ...

Even as experienced parents and foster carers, they say these proceedings have really taken a toll on them and their family. Although they have done their utmost to keep the difficulties for them this process has created away from C and their other children.

C is a child with particular needs given her chromosomal abnormality and she is assessed to be cognitively performing at an age of two and a half. How she develops in the future in terms of her understanding and her emotional and physical needs remains to be seen. It is unlikely that she will develop in line with her peers.

For the avoidance of doubt, [the prospective adopters] do not consider that an order is necessary regarding contact. However, the order can include a recital as to the expectation regarding contact which they have indicated. This has been recorded as a recital to the order of 4th January 2023. There can also be a note on C's file for her to view in later life if she so wishes of what was agreed by [the prospective adopters] as far as contact is concerned....'

viii) Also on 25th April 2023, Ms Pope filed a helpful and brief position statement on behalf of the original Local Authority.

83. **Law** – The making of an adoption order amounts to a very significant interference with the right to respect for the family life of each of the parents and of the child for the purposes of Article 8 of the European Convention on Human Rights (even though, of

course, the prospective adopters have also now acquired a relevant and Convention recognised family life with C). Therefore, if an adoption order is to be made, it must be demonstrated by those seeking it that the order is:

- i) Necessary for the protection of the welfare rights and freedoms of the child.
- ii) A proportionate response to the proven circumstances of the case.
- iii) Legal. In this case, legality would be conferred if the order is in accordance with our Convention compliant Adoption and Children Act 2002.

84. When considering an application for a non-consensual adoption order, the court must recollect the considerable jurisprudence that emphasises its extreme nature. In *Re B-S* [2013] EWCA Civ 1146, Sir James Munby, P, put it in this way, having referred to the Supreme Court decision in *Re B* [2013] UKSC 33: *‘The language used in Re B is striking. Different words and phrases are used, but the message is clear. Orders contemplating non-consensual adoption – care orders with a plan for adoption, placement orders and adoption orders – are “a very extreme thing, a last resort”, only to be made where “nothing else will do”, where “no other course [is] possible in [the child’s] interests”, they are “the most extreme option”, a “last resort – when all else fails”, to be made “only in exceptional circumstances and where motivated by overriding requirements pertaining to the child’s welfare, in short, where nothing else will do”: see Re B paras 74, 76, 77, 82, 104, 130, 135, 145, 198, 215.*
85. *Re B-S* and subsequent authorities have stated that the court must make the least interventionist order that is compatible with the child’s welfare. A non-consensual adoption order should only be made where no other form of order, compatible with the welfare of the child, presents itself. As Sir James Munby said at paragraph 26 of *Re B-S*: *‘although the child’s interests in an adoption case are paramount, the court must never lose sight of the fact that those interests include being brought up by the natural family, ideally by the natural parents, or at least one of them, unless the overriding requirements of the child’s welfare make that not possible.’* If I may be impertinent enough to put it into my own words: nature, law and common sense require that it be recognised that the best place for a child to live is with a natural parent unless proven and proportionate necessity otherwise demands.
86. Section 52(1) of the 2002 Act states: *‘The court cannot dispense with the consent of any parent...of a child...to the making of an adoption order in respect of the child unless the court is satisfied that...b) the welfare of the child requires the consent to be dispensed with.’*
87. In the case of *Re B-S*, Sir James Munby, P, said: *‘Section 52(1)(b) of the 2002 Act provides... that the consent of a parent...can be dispensed with only if the welfare of the child “requires” this. “Require” here has the Strasbourg meaning of necessary, “the connotation of the imperative, what is demanded rather than what is merely optional or reasonable or desirable”: Re P (Placement Orders: Parental Consent) [2008] EWCA Civ 535. This is a stringent and demanding test.’*
88. In *Re P*, Sir Nicholas Wall went on to say: *‘Section 52(1) is concerned with adoption – the making of either a placement order or an adoption order – and what therefore has*

to be shown is that the child's welfare 'requires' adoption as opposed to something short of adoption. A child's circumstances may 'require' statutory intervention, perhaps may even 'require' the indefinite or long-term removal of the child from the family and his or her placement with strangers, but that is not to say that the same circumstances will necessarily 'require' that the child be adopted. They may or they may not. The question, at the end of the day, is whether what is 'required' is adoption.'

89. In analysing the welfare of the child for the purposes of section 52(1)b and on any issue that arises on the question of whether an adoption order should be made, the '*paramount consideration of the court...must be the child's welfare throughout [her] life*' - section 1(2) of the Act. The necessary analysis, therefore, requires a long-term perspective as well as consideration of current and medium-term factors. In considering her welfare, I must have regard to the matters set out in section 1(4) of the 2002 Act, the welfare checklist.
90. In conducting my welfare analysis, I must identify the realistic options that exist and consider the pros and cons of each of them in a holistic and balanced exercise. It is particularly important to avoid linear analysis, since that can lead to the most invasive order being made by default.
91. Section 51A of the 2002 Act applies in circumstances, amongst others, where the court is '*making or has made an adoption order in respect of the child.*' By section 51A (2) (a) the court may make an order '*requiring the person in whose favour the adoption order is or has been made to allow the child to visit or stay with the person named in the order under this section, or for the person named in that order and the child otherwise to have contact with each other.*'
92. By section 51A (3) (c) of the Act, the range of people who may be named in an order under the section includes '*any person who had parental responsibility for the child immediately before the making of the adoption order.*' Thus, this would extend to the naming of either parent in this case, if an order were to be made.
93. By section 51A (4), a parent requires the leave of the court to apply for an order under the section. Section 51A (5) states:

'In deciding whether to grant leave under subsection (4)(c), the court must consider

-
- (a) any risk there might be of the proposed application disrupting the child's life to such an extent that he or she would be harmed by it (within the meaning of the 1989 Act),*
 - (b) the applicant's connection with the child, and*
 - (c) any representations made to the court by—*
 - i) the child, or*
 - ii) a person who has applied for the adoption order or in whose favour the adoption order is or has been made.'*

94. In the case of [Re B \(A Child\) \(Post-Adoption Contact\)](#) [2019] EWCA Civ 29, Sir Andrew MacFarlane P said:

‘The starting point for any consideration of this issue must be the settled position in law had been reached by the decision in Re R, which was confirmed by this court in the Oxfordshire case and in Re T. The judgment in Re R was, itself, on all fours, so far as imposing contact on unwilling adopters, with the position described by Lord Ackner in Re C.

As stated by Wall LJ in Re R, prior to the introduction of ACA 2002, s 51A, the position in law was, therefore, that "the imposition on prospective adopters of orders for contact with which they are not in agreement is extremely, and remains extremely, unusual."

Although s 51A has introduced a bespoke statutory regime for the regulation of post-adoption contact following placement for adoption by an adoption agency, there is nothing to be found in the wording of s 51A or of s 51B which indicates any variation in the approach to be taken to the imposition of an order for contact upon adopters who are unwilling to accept it. Indeed, ...both the Explanatory Note and the fact that Parliament only afforded the court power to make orders of its own motion if such orders are to prohibit contact, Parliament's intention in enacting s 51A was aimed at enhancing the position of adopters rather than the contrary.’

95. **Welfare analysis** - There are only two primary options that are advanced – special guardianship order or adoption. I agree that those are the two realistic options that need to be addressed. There are no suggestions that orders should be made that would lead to C living with either parent. Nobody suggests that long-term fostering is a realistic option. Fostering would mean that C remained in the care of the Local Authority as a child in care, she would not be integrated within the family of the prospective adopters and at 18 she would have no legal standing in relation to the prospective adopters’ family. There are no advantages that fostering could bring over adoption or over a special guardianship order (if adoption is to be refused).
96. I will now work through the factors contained in the welfare checklist.
97. C’s feelings are of a child who has been in the primary care of the prospective adopters since she was only a few months old. She is integrated within their family and is deeply attached to them and to the other children in their household. She has no experience of any other family life. She has not seen her parents, or anyone from her birth families since then. She has no knowledge of them. All of her current feelings and emotions as a young girl have their foundations in the family life that she has with the prospective adopters, the other children in the family and their extended families. They also provide her with her home environment and security. Her educational and health arrangements all come from them, too.
98. The possibility of C being brought up by her parents was tested following her birth. Sadly, they were not able to meet any of her needs and so she came to live with the prospective adopters. The prospective adopters have provided for her emotional,

physical, medical and all other needs. Due to her chromosome variant, C has very particular needs which will continue into adulthood. Therefore, she has a particular need for protection against the demands of life and for devoted and secure care that can only come from adoption. A special guardianship order would not give that to her and would end on her majority. C needs to have a full integration into the lives of the prospective adopters that will continue throughout her life, given her particular characteristics.

99. The effect on C of becoming an adopted person will be that her needs, as set out above, will be met. No lesser order would provide that. She will see herself as a child who has a full and rightful place within her adoptive family, supported by the commitment that is evident from adoption. She will also be perceived by other people, including her peers, as belonging to the family of the prospective adopters; a sense of belonging is very important to a child (and to this child in particular). A special guardianship order would not give that.
100. Although C is now much older than she was when the first adoption application was made, she already sees the prospective adopters as her parents. She sees their home and families and being hers, also. At her current age, and afterwards, she will become increasingly aware of her own status and should not have to face the sense of vulnerability that would arise if the adoption order were not made.
101. The risk of harm that now arises is if she is not given the security and full integration of adoption but is made subject to some order of lesser effect, such as a special guardianship order. Thus, the risk to C is of emotional harm if the order sought is not made. That is a very significant risk, in my opinion.
102. C has a strong and beneficial relationship with the prospective adopters, whom she regards as her parents. To diminish that perception or convert it to one where she was a child subject to a special guardianship order would be contrary to her welfare. She does not have any emotional relationship with either of her parents. As she gets older, she would be able to understand the difference between a special guardianship order and an adoption order and the status that they confer. To make a special guardianship order so as to maintain her natural identity as a child of her birth parents would not reflect her childhood to date or her emotional make-up.
103. The prospective adopters are devoted to her care and understand what she needs. They are now accepting of letterbox contact between C and her birth parents. The environment that they give to her is secure and will remain so, on the basis of all of the professional evidence that has commented on it. That is the best environment for her to develop and for her needs to be met. Her need to be part of that environment will continue beyond her childhood, given her own characteristics.
104. The wishes of the prospective adopters are to be adopters. They do not wish to be special guardians and have good reason for those wishes. The wishes of C's mother are for her to be secure and happy, and her mother is not opposed to adoption on that basis.

Her father's wishes are understandable because he wishes her to know the love that he feels for her; however, his wish for there to be a special guardianship order does not reflect C's paramount welfare, however well-intentioned he is.

105. Overall, I consider that the benefits of making an adoption order far outweigh any benefits that might arise for C from a special guardianship order. No order, other than an adoption order, would be consistent with C's welfare.
106. That being so, I dispense with the consent of both parents to the adoption of C on the ground that her welfare so requires, and I make an adoption order.
107. In relation to contact, it has taken a great deal of time and persuasion for matters to get to the current stage where the prospective adopters accept that there should be letterbox contact (albeit only once a year, rather than the twice originally intended in the care plan). There is no prospect whatsoever of the prospective adopters agreeing to more contact than that, in the current circumstances. Therefore, any orders that did direct greater amounts of contact would be contrary to the wishes and opinions of the adopters.
108. Turning to the provisions of section 51A (5) of the Act, there is a very significant risk that an order for greater contact would lead to such disruption to C's life that she would be emotionally harmed by it. Any such order would be in direct conflict to the profoundly held beliefs of the prospective adopters and would see C caught up in that conflict. In my opinion, it is unthinkable that C should be put into that position. I also think that it would be impossible for the father, after everything that has occurred, to conduct any greater amounts of contact in a way that would be to C's benefit. Perhaps understandably, he was not able to write a letter to her without expressing his own distress and emotions and without asserting his status as her birth father. Greater amounts of contact would magnify the difficulties and sadness that the father feels and put C in a deeply damaging position.
109. The father's connection to C is as a result of his status as her natural father. However, she does not have an emotional relationship with him and has not had any involvement with him since she was a few months old. When, as a baby, she was in the care of the father and the mother, they were not able to sustain her care. On a psychological and emotional basis, the prospective adopters are the adults who have provided C with the parenting that she needs and have done so to a very high and committed standard.
110. The representations of the prospective adopters could not be clearer. They would oppose any grant of leave and would oppose any greater contact than the annual letterbox contact (and possible photograph) that they have accepted. That is an immutable position, in my assessment, and has to be respected now.
111. I do not consider that it is necessary for there to be an order to record the annual letterbox (and possible photographic) contact that the prospective adopters now accept. As I stated during the hearing, I accept that they will honour that agreement. If they

were not to do so, of course, that might well provide a cogent reason for the grant of leave under section 51A(1)(b) of the Act. The court may make orders for contact under the section when it is ‘making or *has made* an adoption order.’

112. That being the position, I refuse the father’s application for leave to apply for a contact order and approve the proposed arrangement for letterbox (and possible photographic) contact that I have set out above. That arrangement must be recorded as a recital to the order.
113. I did consider the order within which the issues should be addressed in this judgment – should the issues of contact have been considered first before analysing whether the adoption should be made? I can see arguments in favour of both approaches. That being so, I wish to stress that, if I had considered the issue of contact first, it would have made no difference at all to the outcome of this case. Further, of course, I thought through the orders that I would make before typing this judgment.
114. I need to record that, after I announced the outcome of this remote hearing, the father left the room from which he had joined it, without hearing the parts of this judgment that I read out. He then sent emotionally charged messages by text to the social worker which included that the ‘party’ that he imagined would be held by the prospective adopters would be ‘gate-crashed.’ Given that he knows where the prospective adopters live, they were anxious as a result of that message and applied for an *ex parte* non-molestation order to be made. With the help of Ms Bond, it was identified that the father and the prospective adopters are associated persons for the purposes of the 1996 Act (see section 62(5) of that Act). I gave a short judgment referring to the provisions of sections 42 and 45 of the 1996 Act and made an order that will remain in place for 14 days. If there is an application for continuing injunctive provision, there will have to be a formal application for it. Knowing the geographical distance between where the father lives and where the prospective adopters live (and the difficulties that will arise over service), I did question whether time would be better spent informing the local police in the area where the prospective adopters live. I gave permission for the prospective adopters to give such information as is necessary to ensure that the police were informed adequately.
115. **Conclusion** - I have dispensed with the agreement of both parents to the making of an adoption order in relation to C. I have made the adoption order that is sought. I have refused the father’s application for leave to apply for an order for contact under section 51A of the 2002 Act. I have directed that the proposed arrangement for letterbox and photographic contact should be recited on the face of the order.
116. Finally, if this judgment should ever be seen by, or explained to, C in later life I hope that she will understand that she is a deeply loved and valued person. She is very fortunate to have the love and commitment of the prospective adopters who have done so much to promote her welfare and enable her to be happy and secure. I hope that she will be able to acknowledge that her birth parents both love her and are deeply

disappointed and frustrated that, for reasons that are not their fault, they have not been able to care for her.

HHJ Stephen Wildblood KC
26th April 2023.