

Case No: BS23C50019
BS23C50044

BS76/2024

Neutral Citation Number: [2025] EWFC 21 (B)

IN THE FAMILY COURT SITTING AT BRISTOL

9 January 2025

Before :

HHJ Cronin

Between :

South Gloucestershire Council

Applicant

- and -

Mother

Respondent

-and-

Father

-and-

O and G and L

(by their Children's Guardian, Daniel McGhee)

Mr and Mrs K (foster carers)

-and-

Mother

-and-

Father

-and-

O and G and L

(by their Children's Guardian, Daniel McGhee)

Susan Hunter (instructed by Rose Cormack of South Gloucestershire Council) for the Applicant Local Authority

Sam Shepherd for the First Respondent Mother instructed by Victoria Shufflebottom at BRGP LLP

Emma Roberts for the Second Respondent Father instructed by Amayi Hampson at Lyons Davidson

Jayne Harrill for the Foster Carers instructed by Georgina Hancock at RWK Goodman
William Heckscher for the Children instructed by Daniela Nickols of Stone King

Hearing dates: 6, 7, 8 and 9 January 2025

JUDGMENT

HHJ Cronin:

1. I am concerned with a family of five children, all of whom have been the subject of concern by South Gloucestershire Council over a number of years. In this judgment I am asked to make decisions about the final arrangements for the three youngest children. Mother's oldest son, T, is living independently in supported accommodation and is described as doing well and being very attentive to all the children when they have family time, bringing snacks for them and demonstrating a good relationship, particularly with the oldest of these three children. The Mother's only daughter, Ta, is living with her father and sees her mother from time to time and I made orders in respect of her arrangements last year. She is described as a very nurturing young woman and the youngest of the three children with whom I am concerned has a particularly close relationship with her.

2. These three children are O, G, and L. O will be 10 years old this summer, G will be 4 at the end of May and L will be two years old next month. Each of them is in a separate foster placement although O and G have previously been placed together but could not return to the same placement after an attempt at rehabilitation to their mother broke down. The father of all three of these children has taken very little part in the proceedings and did not attend the final hearing nor accept any communication by telephone to attempt to find out what his position is, although he has previously indicated that he was supportive of the Mother's position. The Mother had acknowledged at the issues resolution hearing in September that she was not able to look after her own children, but she had more recently said that she wanted to contest the proceedings, and a conference had been arranged for her with counsel last week. She was not able to continue the conference by telephone and did not come to court. A further attempt to contact her by telephone was made on the evening before the last

day of the hearing but she cut off the call without giving clear instructions. She has previously indicated that if she could not look after the children herself, she would hope that at least L could remain in his current placement. I am satisfied that it is most likely that her non-attendance here today indicates an awareness that she was unlikely to succeed in contesting the proceedings and could not bear to be here.

3. The first set of proceedings was issued on 24th January 2023, before L was born. The second application was dated 14.2.23, the date of L's, birth. The local authority described a significant history of social care involvement including proceedings in 2010, based on a cycle of relapse and recovery and risk in relation to domestic abuse, alcohol, and substance misuse. The Mother has been a long-term drug user and the Father is a long term user of alcohol. The Mother's family have provided support but as early as these proceedings were issued the Mother was able to recognise that she could not meet her children's needs because of her addiction and she consented verbally to a section 20 arrangement. The relationship between the Mother and the Father has been violent and abusive and the Father has damaged property in the home when he has been drunk: all of the children have been exposed to this behaviour and have been neglected by their Mother when she has been intoxicated and unable to make rational decisions or meet their needs. The most recent test results in the bundle indicate excessive consumption of alcohol by the Father in November 2023 and it is not suggested that anything has changed. For the Mother, the hair strand test results in December 2023 and March 2024 were clear for all the drugs tested, but unfortunately her behaviour has demonstrated that she has relapsed into drug use and she has apparently given instructions that she has used crack cocaine in the last month. The Father has previously lacked litigation capacity but on the most recent assessment by Dr P dated 22.9.23 he was found to have capacity. An advocate was appointed to

support him at court. The Mother was assessed by Dr S in May 2023 and found to have capacity but also to need the support of an advocate: she had had a specialist diagnosis of ADHD and perinatal depression and she has a lengthy history of alcohol and drug misuse. Both parents' lay advocates attended the first and second days of the hearing in case they were needed.

4. These difficulties of addiction and substance misuse combined with domestic violence and some cognitive difficulties have resulted in a number of incidents taking place which had been identified in the local authority's threshold document.
5. In order to make any orders under section 31 of the Children Act 1989 the court must be satisfied that the threshold criteria are met: ie: can the court make findings that the child concerned has suffered or is at risk of suffering significant harm due to the care he has received or would receive if no order was made not being what it was reasonable to expect a parent to provide? I am satisfied the threshold for making public law orders in relation to these children is passed on the basis of the following findings, drawn from the draft threshold document and from what I was told had been conceded by the parents in the past.
 - i) The children's Mother has a long-standing addiction to heroin and crack cocaine, with a repeating pattern of addiction and recovery. There were care proceedings in respect of her older children in 2010 which concluded with supervision orders but the children were removed in 2019 when Mother relapsed and became involved in a violent incident with the children present. They were returned but in May 2022 Mother relapsed and the local authority took protective measures by way of a Child Protection Plan.

- ii) In January 2023 Mother relapsed to crack cocaine and heroin use. The children, L then in utero, were exposed to mother's unregulated behaviour and mother became homeless and for a period no contact with her could be established.
- iii) L was exposed in utero to Mother's chaotic lifestyle and drug use. Mother refused antenatal checks during her pregnancy. L was at risk of suffering physical and emotional harm. In particular, on 07.01.23 Mother was found by police: she had vaginal bleeding and was coughing: she initially refused to attend the ante-natal department. On 21.01.23 Mother attended Southmead hospital very sleepy and appearing to be under the influence of drugs.
- iv) Domestic Violence: on 21.01.23 - There was an altercation between the parents. Mother had returned to the home and an argument escalated which resulted in shouting, property being damaged, threats being made with a hammer and physical assault. The Father was arrested on suspicion of offences of assault, affray, aggravated taking a vehicle without consent and driving with no insurance. The children were exposed to the incident, (L in utero) which was frightening and upsetting.
- v) Since the issue of proceedings Mother has continued to become involved in incidents of abuse with her oldest son, in front of the younger children, causing them distress and emotional harm, including during a trial period of rehabilitation on 13.12.23 and again on 24.12.23 when the police were called, and mother agreed that her older son would not return to the property. Mother subsequently permitted him to be at the property on occasion including on 31.12.23 and 01.01.24.

- vi) Neglect: On 31.12.23 Mother left the children at home in the care of Ta (aged 15) and drank alcohol. During the night of 14/15.03.24 Mother left the children at home without an adult present. O was seen in the street wearing only his underwear and crying at 1.30am. The police were unable to contact mother.
 - vii) Dysregulated behaviour: On 31.03.24/01.04.24 Mother and another male were observed to be shouting and swearing and causing disturbance.
 - viii) The Father became homeless and relapsed to drinking alcohol. He recognised that he was unable to care for the children.
 - ix) The parents have both relapsed to drug and alcohol use and have not filed drug and alcohol test results as permitted by the court and despite the warning that inferences would be drawn from any such failure.
6. Having crossed the threshold, the court must then consider whether it is necessary to make any orders to protect or enhance the children's welfare, bearing in mind the 'no order' principle and the obligation on the court to interfere in the family life of the parties and the children to the least extent compatible with the children's safety and welfare. In assessing welfare, the court has regard to the checklists in the Children Act 1989 and the Adoption and Children Act 2002. The court takes into account the party's parties' views and the views of any other relevant person which might include the views of other relations including siblings as well as the informed and expert views provided by the social workers and the children's guardian.
7. I was provided with a summary of the relevant legal principles prepared and agreed between the advocates. There is no simple formula either in social work practice or

law for choosing between the competing rights of minor children where those are seen not to be consistent with each other and the court has to assess the benefits and disadvantages to each child alongside the others. The aim is always to achieve the best possible outcome for all the children concerned and not to make decisions which promote one child's welfare at the risk of disproportionate disadvantage to another.

8. The parties' positions at trial were that the local authority sought care orders for all three children and placement orders for G and L on the basis that O would remain in long term foster care but in a different placement, and that G and L would be placed for adoption together, after a period of transition (in which they could develop their sibling relationship) with G's foster carer: the Guardian supports the application for care orders and a placement order for G but supports an application which has now been made by L's foster carers to adopt him, and the parents' positions were not put before the court at this hearing but have previously been an acceptance of their inability to care followed by the mother's express wish to recover the care of her children. Mr and Mrs K, the foster carers, are now parties to the proceedings.
9. I analyse below the application for the care orders and the content of the threshold criteria. I have come to the conclusion that the threshold is crossed and that the welfare of all three children requires that orders are made to provide for each of them to be cared for other than by their parents. In O's case, because of his age and because he is already very aware of and connected to his birth family, long term fostering will meet his needs and it is unlikely that an adoption placement would be found for him so that the only realistic option for him is long term fostering.
10. The core question for the court at this hearing has been whether to make orders for L and G to be placed together for adoption or whether the court ought to make an order

for L to be adopted by Mr and Mrs K and G to be placed for adoption with a family yet to be identified.

11. The local authority makes no criticisms of Mr and Mrs K or the care that they are able to provide and I take as given that any prospective adopters with whom L and G might be matched would be equally able.
12. Any decision the court makes is governed by the welfare checklist in Section 1 of the Children Act 1989. The court has to consider all of the evidence and set it in the context of the rest of the evidence. Any finding of fact has to be made on the balance of probabilities, which means that the court has to be satisfied that it is more likely than not that something has happened. Findings have to be based on evidence and any discretion which the court has, has to be exercised reasonably taking into account the evidence and the opinions of the informed experts, in this case the social workers and the guardian. Where a court is asked to consider making a placement order or placing a child for adoption, the court has to be satisfied that there are no other arrangements which meet the child's needs (Re B-S [2013] EWCA Civ 1146) taking into account the presumption that the involvement of a parent in a child's life is in his best interests, that a child should be brought up in his natural family if that is safe, and that any necessary practical support should be provided to allow child to remain within his family.
13. The Adoption and Children Act 2002 requires the court also to have regard to the impact on a child of ceasing to be a member of his birth family and of the consequences of the decision that the court makes for him throughout his life.

14. A person is entitled to respect for his family life under Article 8 of the Human Rights Act 1990. Each of the three children with whom I am concerned has family life with each other, their older siblings and their mother to differing extents And I find in L's case that he has an established and settled family life with Mr and Mrs K, relying on *Uddin V Secretary of State for the Home Department* [2020] EWCA Civ 338.
15. I have been provided with a convenient summary of cases in which the Court of Appeal has considered decisions relating to placing siblings together or apart and the government statutory guidance issued in 2013 which provides such siblings should be placed together unless there are overriding reasons not to do so.
16. The local authority evidence in this case was given by SW1, who was the children's social worker and is now the team manager. She spoke with empathy about the children's positions and modestly demonstrated detailed knowledge of the case. She accepted that the local authority's decision in relation to seeking to place L and G together rather than supporting the foster carers to adopt L and seeking a sole placement for G was a very finely balanced decision. There had been a PAMS assessment of the parents carried out by an independent social worker, ISW, filed on 13.9.23. This was an extensive piece of work which concluded that mother had excellent parenting knowledge and her ability to put her knowledge into practice was only inhibited by her drug use, which derived from her unmet needs within her emotional health. Very sadly, her continuing drug use means that she is not able to meet her children's needs. The report concluded that the Father had a basic understanding of a child's needs but was not able to recognise failings in his own parenting and blamed others for any problems. In the early part of these proceedings, in late 2023, the mother was able to reduce her drug use and her progress had been

such that a transition plan for the three children to return to her care was in place from 30.10.23 and O and G returned to her care on 10.12.23. L went to have overnight stays on Christmas Eve and New Year's Eve. It emerged that the mother's older son had been in and out of the property despite an agreement that he should not go there anymore, that the mother had not been in the home overnight on New Year's Eve, and then that mother had gone out on the night of 14.3.24 leaving the children on their own and O was found wandering in the street dressed only in his underwear. Ta said this was not the first time that this had happened. SW1 conducted a community-based assessment dated April 2024 in which she wrote sympathetically and with understanding about the Mother but concluded that she was not yet able to meet her children's needs safely and she could be considered to be in the precontemplation stage of effecting change. The local authority's plans developed from this stage and the foster carers indicated their wish to adopt L when it became clear that he could not return home, although they had been supportive of the plan for reunification.

17. The most recent information available to the court is that mother admits to using crack cocaine in the last month, there has been a police report of her involvement in a domestically violent incident with her current partner on about 7.12.24, and observations of her at contact in relation to her behaviour suggest that she has been under the influence of some substance or another although that was not initially apparent and so it may be that planning for her to spend time with the children needs to be managed very carefully.
18. The social workers and the guardian agree without hesitation that there is no prospect of any of the children returning to their mother's care and I agree with that view. The

options for alternative care for children of these ages who needs to be placed in family environments are long term foster care and adoption.

19. The local authority and the guardian agree that O, at the age of 9 1/2, with his strong family links and understanding of his wider family network should not become an adopted child and so the recommended plan for him is long term fostering. Unfortunately, he cannot remain with his current foster carers. He has a close relationship with G and the local authority has considered carefully whether or not they could be placed together, but because of the gap in their ages, and recognising that O may have difficulties as a teenager due to his past experiences, it was considered that it would be in neither child's interests to be placed permanently together in foster care. SW1 told me that O has thrived in his placement where he is an only child: he has significant emotional needs as a result of his experiences so far, but he has begun to talk about those. He has refused to see his father and has only been willing to see his mother once since last March: he is expected to see T and Ta each month once he is in his long-term placement. I endorse the plan for O to be placed in long term foster care and he must have contact with all of his siblings and his mother. He has a close relationship with G and it will be important that they continue to have direct contact.

20. The local authority's plan for L and G is for them to be adopted together, and the guardian agrees that both should be adopted. In the absence of their parents, I have to consider on the children's behalf whether or not there is any other arrangement which will be good enough for them. There are no other family members able to care for them. I am satisfied that their ages both L and G can be expected to form lasting bonds with alternative carers in adoption and that it would so clearly not be in their

interests to be fostered that I can say that nothing else will do but adoption. Having come to that conclusion and without any direct contribution from either of the birth parents, I am satisfied that it would be right to dispense with the parents' consent.

21. The more complicated part of SW1's evidence concerned the decision to recommend that L and G be placed together for adoption as opposed to each being placed separately. The local authority's view is that at their ages, nearly two and rising four, both are better served by finding a route to permanence through adoption and they should not be placed in long term foster care. SW1 highlighted the artificiality of foster care, particularly the six weekly meetings, the six-monthly medicals until the age of 5, and the stigma that attaches to children who are in care. The local authority's plan is that the children should be placed together with G's foster carer, J, whilst they develop and strengthen their sibling relationship, and move from there to an adoptive placement which it is assumed will not be difficult to find. The local authority would adopt the transition plan developed by the University of East Anglia, first in moving L from his current placement to be with G and then again moving them both on to the adoptive placement: a transition plan had been drawn up on the working day before the hearing. The two foster carers are friendly, and the local authority has instigated weekly contact between the two boys since the issues resolution hearing in September. SW1 as team manager has not observed this contact herself, but she is satisfied on the basis of the reports that she has had that "there are no red flags" to cause concern about the children being placed together. They play together and get on with each other, and there is a shift in G recognising that L is his brother although I note that the foster carer thinks that G thinks that she is L's mother. She recognised that this move for L would constitute a loss and would be traumatic but she considered that he would overcome those harms and the detriment would be

outweighed by the positive benefit of being brought up with his sibling and having shared experiences with him. She referred to his right to be adopted with his sibling with their shared identity although she accepted that his relationship with his foster carer was more established than his relationship with G. She dealt calmly with the points made on behalf of the guardian, particularly paragraphs 35, 38 and 45 of his last report, and she emphasised the value of a sibling bond and reiterated the local authority's acceptance that the decision was very finely balanced. She emphasised the local authority's view that the foster carers could not be criticised in their care of L or for making their application.

22. The annexe A report for L was prepared by SWA, who gave evidence on the second day of the hearing. She was careful when she undertook the task to make it plain that she must be allowed to form her own opinion regardless of any views already taken within her department and she produced a long and thoughtful report recognising that the court might take a different view and identifying steps to be taken in the event of either outcome. Much of her report confirms and supports what the foster carers say, in particular that L is already integrated into their family and community and that their adult birth children as well as their younger birth children at home and the three foster children living there all support the idea of L being adopted into the family. She has also observed L and G playing together and having a positive relationship with each other, consistent with the evidence I had already had that there were no red flags about their relationship to cause me concern about placing them together. The report is not an assessment of the foster carers as prospective adopters. The reason for her conclusion that L should not be adopted by them and should instead be placed in a separate adoptive placement with his brother G is because her view is that the best outcome for both children would be for them to be placed together and to have the

opportunity of a close enduring sibling relationship. She emphasised both in her report and in her evidence that it was a finely balanced recommendation and it was clear in her oral evidence that if it were not for the three foster children in that placement and the uncertainties about their future and their potential impact on L she would say that the benefits to L remaining where he is would slightly outweigh the potential risks in moving him and placing him with his sibling. This is based on her experience that foster children often develop more difficulties in long term placements which cannot be predicted at this stage. Adopted children almost inevitably reach the stage at which they are coming to terms with and making sense of their identity with more or less struggle and her caution is that the difference between L as an adopted child and the three foster children will exacerbate any issues that any of them experience. She told me in terms that if it were not for G – if L did not have a brother so close in age - she would have recommended that his foster carers adopt L. The report does recognise that there might be a risk of disruption due to L and G being placed together, but it includes statistics which show that this is relatively rare in the work undertaken by Adoption West in the last three years.

23. Both SW1 and SWA used the phrase “no red flags” to indicate that there was nothing in the observations of G and L together to suggest that they would not get on with each other if living together and I find that it is likely that G’s foster carer would be able to bring L and G into a compatible relationship such that they would be able to move to a new placement together. However, their actual experience of each other so far has been in whole family contact, when they do not seek each other out, during the failed rehabilitation (2 hours on each of three days all day on Sundays for four months, with the other children) and in the one to one contacts with their own carers since September. They have not yet achieved a close relationship so the transitional

work would be important and their effective separation if placed apart would not be a further significant trauma.

24. I heard from each of the foster carers and I had read the statement which the foster mother had prepared on behalf of both of them. She is an exceptional foster carer who has undertaken training and continues to access information out of sheer interest in the task which she has undertaken. They are a couple who work very well together and they have managed a range of needy children in their role as foster carers. It was clear that their motivation in applying to adopt L was because they love him as if he were their son already. He has integrated into their family and fits as if he was meant to be there. The foster mother has accessed a great deal of specialist training in relation to her role and continues to develop her interests in information and training relevant to fostering. There was nothing about the foster carers in any assessment or in their presentation to the court that would make me hesitate to place a child in their care.

25. The guardian has filed two reports. In the first, in August 2024, the rehabilitation of the children to their mother had just broken down and he identified the potential for L to remain with foster carers and it was clear that he was supportive of that possibility being properly investigated. In his final report he is very clear that the right decision for both L and G is that they should be adopted separately. CG has been a guardian for seven years and before that a social worker for 10 years so that whilst he does not have the current experience of SWA, he has worked with children on what he described as the adoption journey including children whose adoption has broken down and he has experience of young parents in his role as guardian who have themselves been adopted. He accepted that he had not seen as much of L and G

together has the social work team has. I do not find that there is anything to choose between the professional experience and expertise of CG and SWA. SWA's role was only to consider the adoption of L by Mr and Mrs K, whereas CG had to consider the options for all of the three children. SWA acknowledged that the decision was very finely balanced and for Mr McGee the balance fell on the other side.

26. Analysis

The guardian accepted as a fundamental principle of the work which he and the social workers share that, where possible, siblings should be given the opportunity of growing up together, particularly if they cannot grow up with their parents. This is an essential part of the 2013 statutory guidance on adoption. A court will generally expect that siblings should be placed together, although an individual child's needs and wishes may dictate that different plans are made for them, perhaps particularly in the private law context where there may be more choices open. In this case, however, there is only one option for O and that is for him to be fostered in a long-term placement which will allow him to continue to have family time with his older siblings and his parents and, perhaps with L and G. I bear in mind that once an adoption order is made the amount of any family time for an adopted child with birth family may not be in the control of the court. L and G are so young that it is accepted by the local authority and the guardian that they cannot be placed with their sibling O and must be placed for adoption. The only realistic options for them is adoption together or adoption separately.

27. In most cases, siblings for whom adoption is proposed have entered the local authority's care together: the reasoning for keeping them together is that they may provide each other with lifelong relationships, longer lasting than relationships with

parents or intimate partners or their own children, they support each other's sense of identity and heritage, and they may understand each other's experiences better than anyone else because those experiences have been shared or repeated in similar ways.

28. I come to weigh up the benefits and disadvantages of the two proposals.
29. If L and G are to be placed for adoption together, there must be a bridging placement and there is a transition plan now available to explain how that would be undertaken. G's foster carer, J, who was described to me as experienced and very skilled, would receive L and support L and G to develop their sibling relationship, L can overcome any sense of loss of his first foster home, and their routines can be synchronised and I am satisfied that she would be able to do that to the extent that it can be achieved and so that they would be able to move on to an adoptive placement together.
30. L's transition to J is planned to take place over 6 weeks and the boys would be together in the bridging placement for at least three months before the transition to the prospective adopters begins. That would not take less than two weeks. The local authority submits that any issues between the children of resentment or competition would be resolved during the bridging placement.

However, moving L from his current foster carers with whom he has lived since birth will be a very significant loss for him at a vulnerable stage in his development. Children who are removed from their parents into local authority care experience harm in that separation but it is often ameliorated by the child's awareness that care is better in the new placement: that will not be the case for L. I am urged to consider that some short term difficulty for L will be worth the longer term benefit of being brought up with his full sibling who is only two years older than he is. It is argued that G will

benefit very much for being brought up with his sibling. However, the Guardian points out that G may in the short term find that his secure place as currently the only child and always before that the youngest child in any placement is undermined by the entry into the family of a younger child who will be very needy because of the loss of his previous family: I agree that that is most likely what will happen and that it is likely that G will find that difficult and that will both be a disadvantage for him and a risk to their developing relationship.

31. The local authority emphasises the benefits of the boys growing up together and having that lifelong relationship and I agree it might be very valuable. Knowledge of each other is possible through contact and the effect of modern communications and social networks is that children who are aware of each other's existence will be able to maintain or initiate contact even if their carers let them down. Both may have life long relationships with other children in individual placements, L with the 5 children with whom he lives now and G with other children in a new family, but both will have ongoing relationships with Ta and O and T. Those relationships may not be as close if they do not live together.
32. It is suggested that L might find his legal status in a household where other children are fostered and his parents have birth children confusing. I reject that: the blended family is so common nowadays that children are able to understand that their peers often have different labels attached to their relationships and, of course, if L is adopted he will be Mr and Mrs K's son, equal to their birth children.
33. The local authority argues that placement with G will enhance L's identity and vice versa. It is not clear what sense of his own identity G has at the moment, apart from it being as the youngest child and now the only child cared for by J. I think it is certain

that L's identity is as a member of the foster carers' family. We often talk about a psychological parent when describing a biologically unrelated parent, and I am sure that L is psychologically the child of the foster carers rather than either of his birth parents and the sibling of the children in that household. In relation to either child's identity as the son of their birth parents and the sibling of O, T, and Ta, placement with each other will not add very much to that understanding or that identity which will be mostly supported by ongoing contact.

34. In relation to the potential disruption of G's placement, I bear in mind that the arrival of a younger sibling is an ordinary occurrence in many families, and older children are often a bit put out but overcome that initially selfish reaction to become protective and caring big brothers: however, most younger siblings arrive as eagerly anticipated babies rather than fully grown and charming but needy toddlers.
35. G has had some very difficult experiences, having in particular being through the failed rehabilitation and at the end of it being separated from O to whom it is clear he is still more closely attached than he is to L. He needs a nurturing environment and he needs to be permanently placed as soon as possible. The process of the bridging placement, although what is proposed is the best available model, will inevitably delay any actual placement for adoption, taking him further out of the bracket at which adoption is likely to succeed.
36. SWA told me that she does not have a crystal ball. Nor does the court. What we do know is that life is unpredictable and that weight needs to be given to any certainties that currently exist. The certainty in relation to L is that he has had as good an experience as any fostered child could have, having been effectively fostered to adopt, and that his integration into his foster family is true and absolute. The next certainty

is that there will be damage in the process of moving him even to J and even to an excellent adoptive placement after that.

37. The immediate unknown is what the impact the presence of the three foster children in L's household will be. Currently they are all happy siblings together but other problems may develop. Equally unknown is what may go wrong in an adoptive placement: secure employed able people have relationship breakdowns, health issues, and financial problems. The argument that those risks are less than the risk of problems emerging with the foster children does not persuade me that the presence of the foster children in L's home is a risk that outweighs the benefits of his remaining in that stable placement or that it is a greater risk because it can be anticipated than the unknown risks of unforeseen disruption that may occur even in a well prepared adoptive family over the next 16 years or longer.
38. It is certain that L will suffer loss and confusion if he is moved from his current placement: satisfying a child whose family life is as good as his is that it is going to be better for him to have a temporary home with J and say good-bye to Mr and Mrs K and go onto another family will take the most skilled work and the likelihood of it succeeding is, in my judgment, uncertain.
39. L's actual experience of trauma so far has been limited: the local authority's proposed move would be more damaging than anything he has experienced so far.
40. G's is greater: he has been removed from his mother twice and placed in foster care with different arrangements, with O and on his own. L's arrival will be disruptive, if not severe, but the overall load on him will be greater than L's.

41. For both children, the move to the shared adoptive placement will be another trauma, which we expect will be short lived and effectively forgotten as they settle and mature. However, for L the move from Mr and Mrs K will be the most significant trauma he has yet suffered.
42. Would that short term harm for L be worth it in the long term? Life often requires short term pain for longer term benefit - unpleasant medical treatment, tough training, reconstituting a family after divorce – and the local authority says that the long-term benefit of growing up with their full siblings outweighs each of L and G’s losses. Would G’s displacement as the only or youngest child in his home be overtaken by the benefit of growing up with his brother? Siblings are often competitive with each other for attention, acutely aware of favourites and resentful of one having more attention than the other. Both are likely to connect their immediate losses with each other. I am not persuaded that the opportunity of growing up in the same household as G as opposed to simply spending time with him two or three times a year is sufficiently valuable to outweigh the loss on separation from his foster family.
43. However, I have to think of G. I have not been persuaded that it is so much more to G’s advantage or at all to have L move into his space that I should sacrifice L’s very positive start in life. I am concerned that the delay involved in bringing L and G together before seeking an adoptive placement will be damaging for G, who might otherwise still be placed in time to start school with his peers in September, and leaves him undergoing a further period of about six months of uncertainty.
44. Having reviewed the various arguments raised in support of and against the alternative arrangements for L and G, I turn to the identified factors in each of the Children Act 1989 and the Adoption and Children Act 2002.

- Wishes and feelings: I have no doubt that if L could express his wishes and feelings and was able to understand the question that he would prefer to stay in his current placement permanently. It is not so clear what G would want and I need to be careful not to speculate, but it would at least be a safe and permanent placement with as little change as was required to achieve that permanence, combined with a wish to remain in contact with O, T and Ta. When they are older it is likely that both boys would wish to have been able to know each other, and that wish can be granted under either of the proposed arrangements because there should be contact between them even if they are not placed together.
- Needs: Both L and G need certainty about their arrangements, stable placements, and to be protected from any harm. These are available immediately for L by allowing him to remain where he is, and more quickly for G by planning for him to be placed on his own. A proper sibling relationship as in the case of brothers who are brought up together is a bonus rather than a need and at this stage in their relationship there is no need to protect either of them from the loss of an existing relationship with the other.
- Change: the impact of change on L in the short term for him to move will be negative, and I am not confident that the long term benefit of being brought up with G will wipe out the confusion and sense of loss which he will experience on leaving his present foster carers and the exacerbation of that experience on leaving the bridging placement: the impact of change on G of L coming to live with him is uncertain and probably not as significant as the impact on L of leaving his current placement. The parallel provision in the adoption and

children acts requires me to consider the effect on both boys of ceasing to be members of their birth family: this will be more significant for G under either plan because he has a more developed sense of who the members of his birth family are, but will be less under either plan for L who is hardly integrated into his birth family. If L remains with Mr and Mrs K and is adopted, his actual loss as opposed to his loss of legal status will be minimal because he will maintain contact with Ta, T, G and O and with his mother. If they are placed together, this loss will be ameliorated by the development of the sibling bond.

- The children's characteristics: I have described both children in relevant terms above: the significant characteristic that I take into account for L is that he has lived all his life with Mr and Mrs K, whereas he has not lived with G, and for G his significant characteristic is that he has had a disrupted experience so far and may continue to have difficulties as a result. Just as there is concern that placing L with the three foster children may expose him to the sort of developing problems that children who have been fostered have, I am concerned that G may also have difficulties arising from his disrupted experience in the future.
- Risk of harm: apart from the risk of harm within their birth family, which I have taken into account in coming to the conclusion that other plans have to be made for them, L is at risk of harm if he is moved from Mr and Mrs K with whom he has a secure attachment, and G is at risk of not being able to develop a firm attachment at all if his final placement is extensively delayed. There is a risk of harm in the sense of disappointment or grievance for each of them not

being able to be brought up in their birth family or with each other, but this will be managed by ongoing contact and the important factor here is that they will know about each other and have time with each other.

- Ability of any relevant person to meet the child's needs: Nobody cast any doubt on the ability of Mr and Mrs K to meet L's needs, and there is no basis on which I could have any doubt about the ability of approved adopters to meet the needs of L and G together or G separately: the parents are not able to meet either child's needs and there is nobody else relevant for my consideration here.
- The final consideration under the Adoption and Children Act checklist is of the existing relationships that each child has with their relatives and other people, the prospects of those relationships continuing, the willingness of any person to provide a secure environment, and the wishes of a list of relevant people. The only known expression of wish on behalf of the parents is mother's expression that if she could not care for her children herself she would like L to stay with Mr and Mrs K. The significant relationship that L has is with Mr and Mrs K, who are willing and able to provide him with a secure environment and wish to do so. G does not have such a relationship. Both children have relationships with their older siblings and the beginning of a relationship with each other.

45. On considering the two checklists and reviewing the evidence, in my judgment it is overwhelmingly in L's better interests to stay with Mr and Mrs K and it is not clear to me that it would be in G's interests to have L move to be with him and for them to move on together. I have been careful not to allow the clear advantage of L's

placement with Mr and Mrs K to obscure the potential benefits of placing him with G or to neglect the importance of finding the best outcome for G. I recognise the guidance, which is based on professional research as well as nature, but the preference to be given to placing children together is capable of being overridden by proper considerations based on evidence. On the evidence available to us, it is much more certain that L will have a good outcome in the sense of having lifelong relationships in a secure home if he remains with Mr and Mrs K than not: it is not certain that L and G would do well together, because that is untested, it will involve a transitional period which will bring about delay and it will involve disadvantage to L in the short term and probably also to G in the short term. I agree with the guardian that G may very well do better remaining as the youngest child in a placement, at least until he is properly settled with his adoptive family.

46. This is not a simple decision: I am comparing one plan which is clear for one child and less clear for the other with a plan which is not so clear for both. Adoption of the two boys together would be good enough in B-S terms, and so would adoption of each of them separately, but adoption of L by Mr and Mrs K would be better than good enough and adoption of G on his own will still be good enough and may turn out to be better than adoption with L could have been.
47. I propose to make an order in favour of Mr and Mrs K on the s44 application and a s26 order for them to make L available for contact as has been agreed between the parties with each of his siblings and his mother. I make this order not because I have any doubt about Mr and Mrs K's willingness to promote those relationships, but because I want to emphasise to any future court making decisions about G that contact is important.

Family Court Approved Judgment

48. I make an order for O to be placed in the care of the local authority on the basis of a plan for long term fostering.

49. I make a placement order for G, authorising the local authority to place him for adoption on his own.

HHJ Tacey Cronin