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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

OFFICE OF CARE AND PROTECTION

Between:

A HEALTH AND SOCIAL CARE TRUST

Plaintiff

-v-

A MOTHER AND A FATHER

Defendants

IN THE MATTER OF RH (A FEMALE CHILD AGED 21 MONTHS)

Ms S Simpson KC with Ms L Murphy BL (instructed by the Directorate of Legal Services) for the Trust
Mr H Toner KC with Ms E Ryan BL (instructed by Brendan Kearney & Co solicitors) for both parents
Mr G McGuigan QC with Ms C McCloskey BL (instructed by Quigley, Grant & Kyle solicitors) for the guardian ad litem on behalf of the child

McFARLAND J

Introduction

[1] This judgment has been anonymised to protect the identity of the child. I have used the cipher RH for the name of the child. These are not her initials. She has an older half-sister who I will call NG and a younger full sister who I will call GA. Nothing can be published that will identify any of the children.

[2] RH was born in January 2021 and is now 21 months old. She is the child of the mother and the father who are unmarried, although the father in evidence said that they may marry in the near future. The mother has six older children born in 2010, 2011, 2014, 2016, 2017, and 2019 by another man. All those children were the

subject of social services intervention in the Republic of Ireland and are now being cared for in long-term foster placements in that country. The mother does not have contact with any of them. GA was born in April 2022 and is also subject to care proceedings. She is currently living in foster-care under the provisions of an interim care order. Her case is likely to come on for hearing in April 2023.

[3] The father has an older child by another woman. NG was born in 2006 and was made the subject of a care order with a care plan of long-term foster placement. The decision of O'Hara J in *Re: Rose* (unreported 3 October 2019) sets out the background. It is not necessary to rehearse the contents of that judgment, however the role of the Trust, and in particular the role of a social worker employed by the Trust, has become a long-running sore for the father and it has infected his approach to RH's (and GA's) case.

[4] The mother presented herself at her local hospital when 36 weeks pregnant so ante-natal care for RH was extremely limited. She was born several weeks later.

[5] Given previous involvement by social services, north and south of the border, with each parent there was a rapid pre-birth assessment. RH was released from hospital three days after birth into foster care by voluntary agreement, although the Trust had care proceedings issued at that stage and with tensions arising within the voluntary agreement, an interim care order was applied for and granted on 22 January 2021 with the matter then transferred to this court.

[6] The Trust applied for a freeing order on 1 February 2022, and the two matters came on for hearing as a consolidated hearing on 3 October 2022.

[7] The Trust's application is for a care order, with a care plan of permanency by way of adoption, and for an order freeing RH for adoption, dispensing with the consent of both parents. The Trust's applications are supported by the guardian ad litem ("the guardian") but opposed by each parent.

[8] All issues in the case – threshold, care plan of adoption, dispensing of the parents' consent and contact - are contested.

Threshold

[9] The date of intervention was on the release from the maternity unit of the hospital in January 2021. A threshold document has been produced by the Trust. It focussed on three aspects, the historic concerns about the mother, the historic concerns about the father, and the current concerns about the couple. The document runs to 14 paragraphs and I do not propose to itemise each point. Courts in the Republic of Ireland in respect of the mother and the High Court in respect of the father have already made findings in respect of the historic issues and in the absence of any new evidence to undermine those decisions I am content to adopt those findings on historic issues.

[10] In *Re UR & NG* [2022] NIFam 4 I referred to the judgment of McFarlane LJ in *Re J* [2012] EWCA Civ 380 which dealt with the correct approach to findings in earlier cases. At [81] it was stated:

> "A judge hearing a fresh [Article 50] application, some years later, about a new family unit which involves a parent about whom adverse findings have previously been made in another family context, should be exposed to the full detail of the available evidence and be permitted to come to her own overview and determination taking into account all of the material insofar as she considers it to be relevant and giving it such weight as she may see fit at the time of her determination. Artificially to limit the judicial exercise in a manner which invites the court to ignore part of the evidence in the case, might well set up the legal point for determination in a clinically clear and legally accessible manner, but it cannot, in my view, represent a proper exercise of the judicial task. In determining whether the threshold criteria are satisfied in relation to each of these three children as at 3rd March 2011 a judge must be under a duty to acquaint herself with all of the available evidence and then bring it to bear on the ultimate question of whether, in the context of this case, each or any of these three children can be said to be "likely to suffer significant harm" attributable to failures in parental care likely to be given to him as at that date."

[11] In respect of the recent history and in respect of the parents as a couple, the document at paragraph 13 refers to the failure to disclose the pregnancy until 36 weeks and at paragraph 14 refers to the couple's presentation being focussed on confrontation with statutory agencies which impeded their ability to develop insight, to work in partnership and to make the necessary changes to ensure the child would receive safe and secure care.

[12] The mother did not give evidence and did not file a statement. She was legally represented and through her counsel it was indicated that she would rely on the father's evidence. It is recorded that on 21 December 2021 she told a midwife that the reason for the delay in presentation of her pregnancy was her difficulties in registering with a GP when she came to live in Northern Ireland. The father did file a statement and he gave evidence. His evidence relating to the late disclosure of the pregnancy was that the mother was slight of build and therefore neither parent was able to discern that she was pregnant. Although the evidence indicates that RH was a small baby (2.2 kg), I reject the father's excuse for several reasons. The first is that the mother has at no time indicated that up until she was 36 weeks' pregnant she

was unaware of the pregnancy and when asked by the midwife she gave a reason which contradicts the father's excuse. Second, this was the mother's seventh child and I reject any suggestion by the father that she was unaware of the changes that would have been occurring to her body during the pregnancy. It is also inconceivable that having been aware of the pregnancy she did not mention it to the father, even if he was unaware due to his own observations. The third reason is that, in general terms, I regard the father as an unreliable witness and an inaccurate historian.

[13] I came to the conclusion about the father's unreliability after reading the papers, and from observing and listening to him in the witness box. One section of his evidence exemplifies this. In his examination-in-chief he criticised the guardian for only speaking to him on two occasions on the telephone. When cross-examined by counsel for the guardian, it was put to him that he had in fact had two meetings with the guardian and had spoken to him on five occasions on the telephone. When giving his evidence the guardian was able to give details concerning these calls and meetings, with times, dates and the content of the discussions.

[14] Even when confronted with this detail the father appeared reluctant to accept the evidence. I do not necessarily consider that the father is an untruthful witness, in other words he tells deliberate untruths or lies. I feel that he is a man who is so focussed and absorbed in the perceived correctness of his own position, that any fact, or opinion, that is contrary to that position is just rejected in his mind. He is a person who has a fixed view and his recalling of events is based on that view. His view is that the guardian does not represent the interests of RH, has had no real engagement in the case and he therefore concludes that he only spoke to the guardian twice on the telephone. The other three telephone calls and the two meetings are obliterated from his memory. I have concluded that he is a person who has difficulty in recognising accurate evidence and struggles to distinguish fact from fiction.

[15] This finding feeds into the consideration of the paragraph 14 threshold criterion – the confrontation with statutory agencies. Again, it is not necessary to quote chapter and verse but the entire history of engagement with the Trust is that when engaging with the Trust both parents have been at times highly confrontational, aggressive, threatening, non-cooperative and just plainly hostile to social work and administrative staff. There have been occasions when this has been less marked and there have been occasions when there have been periods of general dis-engagement but the general trend has been consistent.

[16] I consider that this is largely due to the father's approach, and his fixed views. I did not have the opportunity to assess the mother in the witness box, I would consider that although she has the capability of acting on her own in an aggressive manner as shown by the content of some of her emails, she is largely subservient to the father and is unlikely to act in an independent manner which is contrary to his approach.

[17] In the circumstances I am satisfied that the facts upon which the Trust bases its threshold criteria are proved.

[18] Article 50(2) of the Children (NI) Order 1995 ("1995 Order") provides:

> "A court may only make a care or a supervision order if it is satisfied—
>
> (a) that the child concerned is suffering, or is likely to suffer, significant harm; and
>
> (b) that the harm, or likelihood of harm, is attributable to—
>
> (i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him;
>
> (ii) … "

[19] The Trust's case is that RH in and after January 2021 was likely to suffer significant harm attributable to the care that was likely to be given to her by her parents had she remained in their care. That harm could arise from a repetition of the neglect evidenced earlier by the mother's parenting with poor, unhygienic and chaotic home conditions. Although such conditions were largely absent from recent times, the inability to work with professionals would prevent proper monitoring and advice being given and received from Trust officials.

[20] The main concern would be emotional harm to the child and her being exposed to potential acrimony at home and when in the presence of her parents and Trust officials and health workers. The father's previous relationship was characterised by volatility and aggression with incidents taking place in the presence of NG. The aggression with Trust staff (both medical and social work) is well documented and was occurring at the time when RH was born. It is inconceivable that this volatility and aggression would not have continued had she continued to live with the parents. The volatility and aggression is not restricted to social work professionals. The historic evidence indicates that the father was extremely aggressive towards medical staff in a hospital in England. This occurred when the staff were actually treating his daughter NG and was at such a level to necessitate the local hospital trust having to obtain an injunction against the father which banned him from physical presence in its premises for 10 years.

[21] The father asserted in evidence that the parents are able to work with other professionals referring to his GP. No evidence was provided from the GP to support this contention, however there is a large body of evidence which suggests an

inability of both parents, and particularly the father, not only from working in a constructive way but also in a direct confrontational way.

[22] Unfortunately, the subsequent events and history since the removal of RH from the parents' care has only served to confirm that had she remained in their care, she would have suffered significant emotional harm.

[23] The consequences of this likely harm being visited upon RH would be a very unstable upbringing within an extremely volatile home setting. That would have a significant impact on her social development and general well-being. Again, the history of each parent's parenting experience assists the court in measuring the potential impact on RH. It is not a matter of mere speculation. All of their nine children have been the subject of court interventions and removal from their care, seven under final orders and two under interim orders with both awaiting final determination.

Care Planning

[24] The current care plan is one of adoption, and freeing proceedings have been issued to facilitate the progress of that care plan.

[25] The recent decision of the Supreme Court in *Re H-W* [2022] UKSC confirmed that the consideration of any care plan for a child which involves the removal of the child from its parents engages Article 8 ECHR and must therefore be both necessary and proportionate to satisfy the state's obligation under Article 8(2). A proper holistic evaluation of the realistic options for the child is required. This evaluation should consider the likelihood that if left in the parents' care RH would suffer harm, the consequence of such harm arising, the possibility of reducing or mitigating the risk of harm and the comparative welfare advantages and disadvantages of the options presented (see [52]–[56]). This evaluation should also be conducted through the prism of the well-known observations of Lord Neuberger and Lady Hale in *Re B* [2013] UKSC 33 that adoption should always be considered as a "last resort", and when "nothing else will do."

[26] The evaluation is relevant to both the making of the care order with a care plan of adoption and the first, or welfare, stage of the decision in the freeing application. It has also some relevance to the second stage of the freeing application dealing with the dispensing with a parent's lack of consent.

[27] I have already dealt with whether RH was likely to suffer harm in the care of her parents and the consequences of that harm for her.

[28] I have also considered the possibility of reducing or mitigating the risk of harm. The dominant issue as far as the father is concerned is the conduct of the Trust in relation to the removal of NG into foster care. That matter was dealt with in some detail in the judgment of O'Hara J in *Re Rose*. The judgment refers to the

extremely difficult home conditions which necessitated the removal of NG from her parents' care. There is no real issue about this and no real complaint that such a course of action was required. The difficulty arose later. Because of the special needs of NG and what were described as extreme difficulties in finding specialist placements for her and the failure of some placements, including with the father with significant support worker provision, a proposed carer put herself forward. She was a member of the Trust's social work staff who had been working on the case. Again, that can be a situation which has the potential to develop when a member of a caring profession such as social work who is dealing with a vulnerable child develops a bond with that child. If the bond is mutual it can result in a best interests welfare decision being made that the child should be cared for by the social worker.

[29] The difficulty in that case was that the social worker remained directly involved on behalf of the Trust and in a decision-making role. As O'Hara J stated at [21]:

> "I accept that the father's sense of grievance is genuine and well-founded. [The social worker] should have withdrawn from the case in a professional context the moment she contemplated putting herself forward as a carer. Her senior manager/s should have insisted on that course of action. Not only did they fail by not doing so but they put Rose's welfare at risk by complicating and diverting the proper course of decision-making."

[30] It is not evident that the Trust carried out a full investigation as to how this had been allowed to develop. A social worker when giving evidence at the NG hearing before O'Hara J did acknowledge the inappropriateness of what had happened and had apologised, but this contrition was not evidenced at a higher level.

[31] This was then the basis of the father's subsequent engagement with the Trust, both when RH was born but also when GA was born.

[32] In acknowledgment of this problem the Trust did endeavour to ensure that any Trust staff who had been involved in the earlier case of NG or otherwise associated with the social worker currently caring for NG would not have a direct involvement in RH's case, but the reality was that occasional involvement did arise. The social worker herself was not involved but others involved in NG's case did, from time to time, have a role mainly in the supervision of contact sessions during the early stages of RH's life.

[33] The evidence is that this involvement was occasional in nature and not in any way arising from a deliberate confrontational approach. Staff pressures during the Covid-19 pandemic meant that the flexibility in providing social work staff was restricted. The critical issue is that those staff members with previous involvement

in NG's case did not have any decision-making role in RH's case.

[34] I acknowledge that the presence of these particular members of Trust staff could have triggered resentment on the part of the father, but evidence would suggest that on occasions it did not but when the father wished it to be an issue then it was an issue. In the case of one social worker within this category, she had direct involvement on two occasions, the first without incident but the second led to confrontation.

[35] Had staff resources been available the Trust could have been in a position to manage this situation in a better way, but I do not consider, viewed objectively, that it was as severe an antagonism as the father suggests. For example, the father presents the Trust intervention in GA's case as the correct approach and stated that the relationship with the Trust staff who are working out of a different location and unconnected with RH's team, is very good with positive results. The Trust's evidence is that although the relationship with the parents in GA's case is better it is not without its difficulties.

[36] It is not for parents to dictate to a Trust which staff they are prepared to work with and which staff they will not work with. However, social work does involve the need for working with vulnerable people and this can require adapting the approach to be taken and sometimes involving staff who are better suited to that approach than others.

[37] Having considered the history of involvement in RH's case I do not consider that the Trust staff have acted inappropriately. Staff have been allocated to the case who were able to deal with it in an adequate fashion, and the engagement of any staff member with previous involvement in the NG case was unavoidable in the circumstances at the time, and in particular, was at a very modest level.

[38] I am therefore of the view that a change in Trust practices and personnel is unlikely to reduce or mitigate the risk of harm to RH should she be returned to her parents' care.

[39] What is clearly evident from the *Re Rose* judgment is that there is strong evidence of the father's intransigence and antagonist approach. Dr Kennedy, a consultant clinical psychologist, is recorded at [9] and [10] as reporting that:

> ".. the father views the world in a concrete way, that he can behave unacceptably and aggressively, that he focusses on his own perspective and that he fails to recognise the effect his turbulent and volatile relationship with the mother had on [Rose] who witnessed some or the rows and confrontations … A constant theme with the father is his significant mistrust of others – not just his own family and the mother but medical staff caring for

[Rose] and social workers."

O'Hara J summed up at [23] the father's inability to protect NG from emotional harm. The expressed opinion was that:

> "I do not believe he is ever likely to change. There is certainly no reason at all to think he will do so in the next few years."

Events have shown that that prediction was correct. The father has not changed and still displays identical personality traits which had been identified by Dr Kennedy and acknowledged by O'Hara J. This is also evidenced by the conclusions of a Motivation and Capacity to Change assessment on both parents relating to GA's care and dated 7 September 2022 – "[the parents] clearly struggle to be motivated in aspects of meeting the needs of [GA] as well as working in partnership with the Trust." The failure of the parents to turn up to any of the four appointments offered for their motivation assessment could well have coloured the outcome.

[40] I have also considered whether support work at a therapeutic level or even a practical level could be put in place to assist the parents. The first major difficulty is that neither parent has really acknowledged their own deficiencies in their parenting ability. The second is the lack of motivation to change. The third is the continuing engagement with Trust staff and outside agencies is likely to be fraught with difficulties, particularly with the history of non-cooperation with Trust staff generally. I entirely agree with O'Hara J's assessment at the conclusion of [23] that the father just cannot manage the constant interaction with support services, carers and medical professionals. On a personal level he is, and will remain, volatile and unstable.

[41] Much of the evidence has focussed on the father. I regard him as the significantly dominant partner in the relationship. The mother is however capable of exercising volatile conduct in both her behaviour and use of spoken and written language.

[42] The father is 46 and the mother is 30. They are both well set in their ways lacking motivation to change notwithstanding the recent removal of two babies from their care. I therefore consider that we have now reached a stage of there being no prospects of a realistic possibility of reducing or mitigating the risk of harm to RH should she be returned to her parents' care.

[43] This brings me finally to an evaluation of the advantages and disadvantages of the options presented. It is not necessary for the court to consider fanciful options, but only those that are both realistic and which would enhance the welfare of RH (see the judgments of Munby P and McFarland LJ in *Re R* [2014] EWCA Civ 1625).

[44] The identifiable options are rehabilitation to the parents, and a long-term placement outside the family, either in a foster-placement or in an adoptive placement. The Trust care plan, as supported by the guardian, is the final option of adoption.

[45] No suitable person from within the family or within any close friendship group of either of the parents has been identified as a possible carer.

[46] Whether rehabilitation is considered a realistic option is a matter for evaluation. The Trust did offer supports and assessments to both parents. These included 'signs of safety' to explore family and friendship support, educative work, referral to Woman's Aid for the mother, referral to Men's Action Network for the father, and a PAMS assessment in respect of both. I reject the assertion by the parents that this assistance and the Trust reporting has somehow been infected by the baggage from the earlier engagement in respect of NG.

[47] The engagement with the parents with contact with RH is a significant issue. The father has not seen RH since December 2021 and the mother since January 2022. These are significant periods in her young life, approaching nearly one half. The contact history has been difficult. There was an arrangement of three times a week for two hours each time. These contact sessions did throw up ongoing issues with some difficult presentation by both parents. The relevant statistic was however a 50% attendance rate. In September 2021 contact was suspended but was reintroduced in October at two times a week for three hours each time, but this did not see any improvement in attendance by the parents.

[48] When RH was moved to her current dual-approved placement in January 2022, this necessitated a change in venue to a location approximately 30 miles away from where the parents lived. The change was necessary because of the impact on RH of the potential increased travel and time. In the usual way the cost of the travel was covered by the Trust.

[49] The excuse offered by both parents was that they did not get the travel vouchers from the Trust. The Trust's evidence was that they were posted out in advance. After the indication that they were not arriving in the post (a fact that was accepted in the absence of any real evidence) a system was set up which required the parents to indicate their intention to attend, and then the vouchers were hand-delivered to the office of the parents' solicitors for collection or onward transmission. The parents claimed that even through this fool-proof system they did not get access to the vouchers.

[50] I reject the case put forward by the parents that they had been denied access to travel vouchers. Vouchers would have been available to them should they have wished to avail of contact. Nor other excuse, plausible or otherwise, is offered for the failure on the part of either parent to wish to have contact with RH.

[51] This speaks volumes about both their motivation to care for her and concerning the developing lack of attachment between RH and both of them. The parents, through their own decision making, are becoming less relevant people in the child's life.

[52] The obvious advantages of RH being brought up within a family home consisting of her father and mother are significantly undermined by factors already set out above – the deficits in each parent's parenting ability, an inability and refusal to seek assistance, and antagonism towards Trust staff and other professionals, and more recently, a failure to avail of contact with RH.

[53] I therefore consider that rehabilitation to the parents' care is not a realistic option both now and into the near to mid future, and certainly within a period that would fit into RH's timescales.

[54] The evaluation of the long-term fostering placement and adoption is the final issue to determine. In this regard the general observations of Black LJ in *Re V* [2013] EWCA Civ 913 at [96] are important as they set out the principle differences for the child of fostering and adoption:

> "i) Adoption makes the child a permanent part of the adoptive family to which he or she fully belongs. To the child, it is likely therefore to "feel" different from fostering. Adoptions do, of course, fail but the commitment of the adoptive family is of a different nature to that of a local authority foster carer whose circumstances may change, however devoted he or she is, and who is free to determine the caring arrangement.
>
> ii) Whereas the parents may apply for the discharge of a care order with a view to getting the child back to live with them, once an adoption order is made, it is made for all time.
>
> iii) Contact in the adoption context is also a different matter from contact in the context of a fostering arrangement. Where a child is in the care of a local authority, the starting point is that the authority is obliged to allow the child reasonable contact with his parents (section 34(1) Children Act 1989). The contact position can, of course, be regulated by alternative orders under section 34 but the situation still contrasts markedly with that of an adoptive child. There are open adoptions, where the child sees his or her natural parents, but I think it would

be fair to say that such arrangements tend not to be seen where the adoptive parents are not in full agreement. Once the adoption order has been made, the natural parents normally need leave before they can apply for contact.

iv) Routine life is different for the adopted child in that once he or she is adopted, the local authority have no further role in his or her life (no local authority medicals, no local authority reviews, no need to consult the social worker over school trips abroad, for example)."

[55] I consider that one of the important disadvantages in fostering is the issue of parental responsibility. If the parents continue to share parental responsibility this will be a major impediment for RH to establish a safe and secure upbringing. The provisions of Article 52(3)(b) of the 1995 Order which allow a Trust to restrict the exercise of parental responsibility by parents of a child in care may operate to mitigate the impediment, but the problem will still remain. It cannot be ignored that the father is capable of extreme action when approaching parental responsibility issues, for example the incident at the English hospital in 2012 (see [20] above). This is a stark example of the father's conduct. He has not expressed any real remorse for his conduct and has sought to justify it. The sharing of parental responsibility matters, which will require ongoing engagement with the parents regarding routine issues such as non-emergency health, schooling and education, holidays etc will be a significant negative factor when considering a long-term placement. It will impact on the child's well-being and on the carers. It has the potential to undermine the placement. Contact with the parents, despite their current decision not to engage, will require regular review with the parents' rights in this regard protected by Article 53(1) of the 1995 Order.

[56] Adoption will have the effect of severing the familial tie with the parents, although the impact is reduced because RH has not spent any period of time in her parents' care and has established no real or strong attachments to either parent.

[57] I have considered the Trust's evaluation of the various options at paragraphs 75 -98 of the application for freeing. It is an accurate evaluation based on credible evidence. It correctly weighs in the balance the advantages and disadvantages of all the options.

[58] In the circumstances I believe that the care planning in this case has reached a conclusion which is in the best interests of RH. The proposal of adoption engages the right of respect for the child's and each parent's private and family life and the proposed interference must be shown to be both necessary and proportionate. I consider that the Trust has shown that it is.

[59] I therefore will make a care order approving the care plan for adoption.

Adoption

[60] For the reasons given above I am also of the view that the Trust have satisfied the test provided for in Article 9 of the Adoption (NI) Order1987 which provides:

> "In deciding on any course of action in relation to the adoption of a child, a court or adoption agency shall regard the welfare of the child as the most important consideration and shall—
>
> (a) have regard to all the circumstances, full consideration being given to—
>
> (i) the need to be satisfied that adoption, or adoption by a particular person or persons, will be in the best interests of the child; and
>
> (ii) the need to safeguard and promote the welfare of the child throughout his childhood; and
>
> (iii) the importance of providing the child with a stable and harmonious home; and
>
> (b) so far as practicable, first ascertain the wishes and feelings of the child regarding the decision and give due consideration to them, having regard to his age and understanding."

[61] The final issue is the determination relating to the failure on the part of the parents to consent to the adoption. This can be dispensed with if the court considers that it is being withheld unreasonably. This is an objective test and requires the court to consider the circumstances of the parents in this case but endowed with a mind and temperament capable of making reasonable decisions (to adopt the description of Lord Wilberforce in *Re: D* [1977] AC 602 at 625).

[62] It is not just a simple 'best interests' solution. Although a reasonable parent is bound to give significant weight to what is in the best interests of his or her child, there may be other countervailing factors of more weight. The Court of Appeal of England and Wales said in *Re: C* [1993] 2 FLR 260 at 272:

> "the law conjures the imaginary parent into existence to give expression to what it considers that justice requires as between the welfare of the child as perceived by the judge on the one hand and the legitimate views and

interests of the natural parents on the other."

[63] A significant factor in this case is the grievance held by the father. It has no direct impact on the mother but I acknowledge that it may be a factor operating in her approach. Higgins J in *Re E & M* [2001] NI Fam 2 set out a number of factors to be taken into account as to how to assess the approach of a reasonable parent:

> "A reasonable parent would consider the welfare of the child and look at all the circumstances and apply the test to the circumstances as they exist at the date of hearing … the prospect of rehabilitation, the level of contact if any, the nature and security of the present placement of the child. The prospect of rehabilitation is relevant as is the failure of a parent to seek rehabilitation. The degree of responsibility for the current situation which is attributable to the parent would be relevant as would be the extent and regularity of contact. The age of the child and the length of time he is in care as well as the length of time the child has been cared for by the parent or not are relevant. Those are factors which a reasonable parent would consider. Often parents feel a sense of grievance against Social Services for the way they perceive they have been treated by them. In some cases that sense of grievance may be justified. But the sense of grievance itself is not a relevant factor, difficult as it may be for a reasonable parent to ignore it. However, the factors giving rise to that sense of grievance are relevant and would and should be taken into account by a reasonable parent".

[64] The factors a reasonable parent in this case would take into account would be the welfare of the child and how that would be promoted by adoption, the limited prospect for rehabilitation, the lack of contact for a significant period, the lack of any real attachment between the child and the parents, the age of the child and the length of time she was in their care and in the care of the prospective adopters. As for the grievance, a reasonable parent would take into account first that although the process in respect of NG had become flawed, the actual decision making in the context of NG's welfare was meritorious leaving aside the actual personnel involved, second that it related to another child, and third it was a significant period of time since the decision was made.

[65] In all the circumstances I consider that a reasonable parent would consent to the freeing of RH for adoption and will dispense with the consent of each parent.

Post-freeing contact

[66] There still is a need for some arrangement to be put in place which secures the contact with RH. Obviously the parents cannot be forced to attend contact, but should they change their minds, either collectively or individually, I am satisfied that the Trust have put in place a plan to first confirm the motivation of the parents to engage with contact with their child, and if they are suitably motivated then contact will be re-introduced at a pace which is acceptable to RH's overall welfare, to the Trust and to her carers in the context of a freeing order. The conclusions of the September 2022 Motivation Report in respect of GA does not bode well in this regard. I approve the contact arrangements.

Conclusion

[67] For the reasons stated above I make a care order, approving the care plan of adoption and the proposed contact arrangements. I also free the child for adoption dispensing with each of the parent's consent.

[68] I will discharge the guardian ad litem in respect of both applications in relation to RH.

[69] There will be no order as to costs save for taxation orders in respect of legally assisted parties.