

IN THE FAMILY COURT AT BARNET

IN THE MATTER OF THE ADOPTION AND CHILDREN ACT 2002

4 July 2017

Her Honour Judge Rowe QC

BETWEEN:-

PAs

Applicants

-and-

A Local Authority

First Respondent

-and-

EF

Second Respondent

-and-

GH

Third Respondent

-and-

AB

(by his Children's Guardian PG)

Fourth Respondent

FINAL JUDGMENT

Ms Siobhan F Kelly counsel for the Applicants instructed by Michelle Flynn of Wilsons Solicitors LLP

Ms Ruth Cabeza leading junior and Ms Sarah Nuttall junior counsel for the Local Authority instructed by Olasumbo Aderinola

Mr Philip Eldin Taylor solicitor advocate for the mother instructed by Tyrer Roxburgh

Ms Allison Munroe counsel for the father instructed by Helen Macdonald of HMB Solicitors

Mr Robert Wilkinson counsel for the child instructed by Ritu Sood of Miles & Partners Solicitors

The Application

1. This is the final hearing of the application by the PAs to adopt AB, a little boy now aged two and a half, and placed with them at the beginning of 2016. Their application is supported by the local authority, and by AB's Guardian.
2. The application is opposed by AB's parents, EF and GH. By an order dated 22 December 2016 the father is caring for CD, AB's little brother who is now aged 16 months. The father wants AB to come to live with him and CD so that he can raise the brothers together with contact with their mother. The mother wants AB to come back to her care, and ideally, she also wants CD to move into her care so that she can care for the boys together. Each parent supports the other to care for AB in preference to him remaining in his adoptive placement.
3. In my judgment dated 23 March 2017 I gave both parents leave to oppose the adoption application. I refer to that judgment for the background to this case and to the reasons for my decision. In paragraphs 43 and 44 of that judgment I said this: -

"43..The evidence at a full contested adoption hearing may or may not be that one of the parents can care for AB, and it may or may not be that to move AB now would cause him lifelong emotional and psychological harm. But I conclude that the most difficult thing for AB would be to learn, as he grows into adolescence and adulthood, that his parents both wished to care for him, that both had improved their lives and the factors that led to his removal from them, that his father had just been approved to care for his little brother, but that the court did not even sanction the gathering of the necessary evidence and the forum for the necessary hearing.

44. I conclude that it is in AB's interests that his parents are given leave to oppose the adoption application. I emphasise that this decision is not in any way determinative of the substantive application."

The background

4. The local authority issued care proceedings 3 days after AB was born. The concerns in those proceedings were the mother's mental health and personality issues which had played a part in her three eldest children leaving her care, the father's continued use of cannabis to a level that impacted on his parenting ability, and the deceit of the couple who kept from the professionals the fact that they had resumed their relationship. The detail is set out in the judgment of Mr Recorder Goodwin QC dated 26 August 2015.

5. In the months from his birth to the final hearing of the care proceedings, AB had led an unsettled life. He and his mother moved to a residential unit shortly after his birth. Such were the local authority concerns that they applied for court approval to remove AB from the placement after just 3 weeks. That application was refused, but was granted 2 weeks later after AB had already been removed into foster care on an emergency basis following the discovery of marks on his leg that the mother could not explain. AB remained in foster care until his move to the home of the PAs 9 months later.

6. At the hearing in August 2015 the court had evidence about the mother from the assessment unit and from Consultant Forensic Psychiatrist Dr McClintock, and about the father from hair strand testing and from a parenting assessment completed by social worker Mr G. In respect of the mother, Recorder Goodwin's conclusions were that,
 - a. He accepted Dr McClintock's opinion that the mother had a personality disorder, and that she needed both medication and long-term therapy to address the impact of that on her parenting;

 - b. She had not been open about her relationship with the father;

 - c. He accepted the assessment unit's conclusion that the Mother's Day to day parenting of AB was not good enough.

In respect of the father, Recorder Goodwin's conclusions were that,

- a. The local authority assessment of the father was very positive, and clearly the father had *a lot to offer AB in terms of competent physical care and emotional warmth*;

- b. The first serious problem was that the father had continued to use cannabis and to lie about the extent of his usage;

- c. The second *“serious contradiction to the father caring for AB was his willingness to lie to the local authority about the resumption of his relationship with the mother..the bottom line is that he has demonstrated a willingness to place self-interest first despite this potentially placing his child at risk. I am not confident that he can be trusted not to do this again.”*
7. The Recorder evaluated the options for AB in detail. He evaluated the strengths and weaknesses of placement for adoption in detail in paragraphs 96 and 97 of his judgment. He recognised the weaknesses of that option for AB, namely the loss of his relationship with his parents and grandmother, the loss of a potential relationship with his then unborn sibling with whom the mother was pregnant, his loss of sense of identity, his loss of an ethnic and cultural match and the risk of the breakdown of an adoptive placement. He recognised the strengths as the probability that AB’s needs would be met by adopters who would have been assessed and matched to his needs, the fact that he *would not be exposed to the harm arising from the volatility and conflict inherent in his parents’ relationship*, and that *his very young age means that he could manage the transition from foster care to an adoptive placement without difficulty*.
8. The placement order was made, and the adopters were then identified and matched to AB. AB’s contact to both parents reduced following the hearing in August, and he last had contact with his parents in December 2015, his mother on 9 December and his father on 17 December. AB was placed with the PAs at the beginning of 2016.
9. CD was born in 2016 just after AB was placed, and he was made the subject of an interim care order and placed with foster carers on discharge from hospital.
10. The PAs issued their application on 7 April 2016. The mother applied for permission to oppose the application on 13 May 2016, and the father issued his application on 19 August 2016. I have already referred in my March judgment to the significant delay in this case and to its detrimental impact on AB.
11. In the course of CD’s care proceedings, the parents were again assessed.
 - a. The mother’s treating Psychiatrist Dr Gibbons reported a diagnosis of relapsing and remitting psychotic illness likely to be schizophrenia;
 - b. Consultant Psychiatrist Dr Lyall assessed both parents in a main report, an addendum and in answer to further questions. He initially agreed with the diagnosis

that the mother had a personality disorder, citing her capricious mood states, impulsivity, quarrelsome behaviour, anger and violence, her difficulty in sustaining a course of action which offers no immediate reward, her poor work history and her threats and acts of self-harm. In an addendum, he opined that the mother's functioning had improved and that by then she did not meet the criteria for an emotionally unstable personality disorder, though there remained significant difficulties with her interpersonal functioning. He agreed with the then diagnosis of paranoid schizophrenia. He concluded that the mother was at an early state of treatment. He concluded that if the father's account of his cannabis use at that point was to be trusted, he was at an early stage of abstinence.

- c. Psychologist Dr Dowsett assessed the father. He found no mental health difficulties but identified evidence that the father had been *stressed and overwhelmed by the painful and complex emotions relating to events of the last couple of years*.
 - d. In an addendum parenting assessment of the father, Mr G recommended that CD be placed with the father but with a robust transition plan. Mr G had concerns including the father's lack of settled accommodation at that point, August 2016, and he was troubled at the fact that the father had, as the mother already had, applied for permission to oppose AB's adoption. Mr G was concerned about the father's limited insight into the impact on AB of being removed into his care.
12. On 22 December 2016 Judge Stone gave judgment in the proceedings concerning CD. The Judge approved the transition plan for CD to move to his father's care, and he made a Supervision Order for the period of a year. During that time, the plan was for regular drug testing to ensure that the father remained abstinent of cannabis.
 13. In that judgment, the Judge had to consider the parents' competing cases to care for their son. Whilst concluding that CD should be placed with the father given that he had maintained abstinence from cannabis and he had now separated from the mother, the Judge acknowledged the positive changes in the mother's circumstances. He described the changes as *significant*, but considered that the mother's *impulsiveness, being quarrelsome, capriciousness, quickness to anger* continued to pose a risk to CD.
 14. CD moved to live with his father in early 2017. The transition plan included clearly defined contact between CD and the mother. That contact was to be supervised in a contact centre, where it remains even now, until such time as a relaxation of these conditions was agreed between the parents and the local authority.
 15. In fact, the parents changed those arrangements immediately, without telling the local authority. Neither parent has given me a full account in evidence of exactly what happened

and why, however it is likely that the father and CD met the mother on a day when the father was alone in the community with CD, and it is accepted that CD spent the first night that CD was meant to be with his father at the mother's home. It is not entirely clear whether the father stayed the night or not, but even on his own case he slept in the living room while CD spent the night with the mother in her bedroom. This was the very first night when the father had been entrusted with the sole care of CD; he completely ignored the agreement, and instead left his 11-month-old child for a whole night with a mother who was only meant to be having 2 hours of contact in a highly controlled setting with professional supervision. This happened exactly 14 days after Judge Stone had given his judgment.

16. At this point the father was in independent accommodation, small and shared but adequate. In February, however, he returned home to live with his parents.

17. On 24 March 2017 I gave judgment, giving the parents leave to oppose the adoption application. I also gave directions for further assessment. In particular, the order,
 - a. Provided for one further hair strand test of the father;
 - b. Approved the instruction of Mr Jeff Baker, ISW, to carry out a parenting assessment of both parents;
 - c. Provided for the mother to file any updating letters of reports from her treating clinicians.

I subsequently approved, on a consensual paper application, the instruction of Dr Juliet Butler, Consultant Child and Adolescent Psychiatrist to assess AB's attachment to the PAs, and the likely impact on him of being removed from their care.

18. Dr Butler reported on 19 May 2017. In her opinion,
 - a. AB is presenting with evidence of insecure attachment to the PAs. Her observations of the adopters were wholly positive, and she attributes the insecurity of the attachment to *the changes he has experienced within his short life and the current uncertainty, which I think he has a sense of...AB has learnt to be hyper-vigilant to the needs of adults around him as a result of the changes in his first year of life...AB is associating ongoing social work/ professional input with risk to his place with his parents. For AB, the couple are his parents and he is fighting hard to stay close to them...I think Mr and Mrs X have all the skills required to effect change for AB. In my opinion AB's disordered attachment would be resolved if they as a family were able to move forward. At the moment the state of uncertainty around AB is maintaining his anxious attachments.*

- b. *I would have significant concerns about moving AB from his current placement...to remove him from [the placement] means he will experience multiple losses. That will consolidate his insecure attachment and make it extremely difficult for him to settle within the next placement. It also risks traumatising him.*
- c. *With the father, AB would be placed with a younger child and AB's needs risk being overlooked....I am unaware if the father is aware of [AB's developmental issues] and the further demands associated with parenting a child with language delay, not to mind a traumatised grieving child. My concerns would be the significant risk that AB will become emotionally and behaviourally destabilised.*
- d. *I would have concerns about AB being exposed to his mother in an unsupervised manner. Given her own complex mental health needs if he was rejecting towards her she may find that too difficult to cope with, and may be angry or rejecting in her responses to him.*
- e. *This is a highly complex situation. The suggestion is AB be placed back within a family system with a great deal of vulnerability, from a situation where he is secure, is loved, and is making progress.*
- f. *If the court's decision is that AB is to be placed back in the care of his parents I think he would need to first go to a foster placement: to place him straight back with his father would increase the risk of placement breakdown. The foster carer would then need to work with the father to get to know AB and to understand what he will be bringing to him. That will include extreme levels of distress, probable trauma related to the loss of his prospective adoptive family, and the likelihood of emotional and behavioural disturbance including rejection.*
- g. *I have considerable concerns given the fragility of the father's placement with CD and the concerns highlighted by the social worker that to deal with as deeply traumatised a child will be will be beyond his capacity to manage. If he can't AB has lost his adoptive family, will have to be placed elsewhere and the risk to his mental health from multiple placement change is considerable. I think further adoptive placements would be at risk of not working. AB then remains in the care system.*

19. On 19 May 2017, at a session of supervised contact between CD and his mother, the parents are noted to have had an argument which concerned the contact supervisor, focussing on why the father had not brought a buggy to contact leaving the mother unable to take him out.

20. Mr Baker reported on 25 May and, in an addendum, on 30 May 2017. He concluded as follows,

- a. *It is difficult to know exactly what challenges there may be with regard to AB's emotional presentation if he is returned to the care of his father;*
- b. *With support from his family and guidance and monitoring from the local authority in at least the initial months or years, the father has the capacity to provide for the basic care and welfare needs of both children to a "good enough" standard if not better;*
- c. *I am not able to recommend the mother as a primary carer for AB...I am concerned that she does not have a sufficient focus on the impact of her actions and the consequences of these on her children, and that her focus instead is on the perceived injustice of all the foregoing proceedings, and her belief that there is "no reason" she should not be caring for all of her children;*
- d. *There is evidence that the father and mother could manage contact between them with support.*
- e. *[looking at the concerns if AB is not moved] The fact will always remain that one brother went with his birth father and the other did not, and for reasons I feel compelled to point out, may seem somewhat flimsy from the perspective of adolescents or young men trying to make sense of their identities.*

21. The final hair strand test results are dated 12 June 2017. The test, covering up to eight months prior to the collection date of 7 June 2017 is negative for cannabis.

The hearing

22. I read all of the documents in the trial bundle to which my attention was directed.

23. I heard the oral evidence of the following witnesses,

- a. Mr Baker, Independent Social worker;
- b. MS G, social worker;
- c. Dr Butler, Consultant Child and Adolescent Psychiatrist;
- d. The mother;

- e. The father;
- f. The Guardian. PG was also the Guardian in the 2015 proceedings concerning AB, and the 2016 proceedings concerning CD.

24. The evidence was given over three days 20, 22 and 23 June. As the evidence took longer than expected, the court was unable to receive submissions at the conclusion of the evidence. I received written submissions from the parties by the morning of 28 June, for which I am grateful.

The law

25. The application is governed by the provisions of section 1 Adoption and Children Act 2002. The court's paramount consideration is AB's welfare, throughout his life. The court must have regard to the matters, among others, set out in section 1(4) Adoption and Children Act 2002.

26. The key principles which I have to apply are set out in four authorities, the decisions of the Strasbourg court in R and H v UK (Application No 35348/06) [2011] 54 EHRR 28 and YC v UK (Application No 4547/10) [2012] 55 EHRR 33, the decision of the Supreme Court, applying the Strasbourg jurisprudence, in In Re B (A Child)(Care Proceedings: Threshold Criteria) [2013] UKSC 33, and the decision of the Court of Appeal in Re W (A Child) [2016] EWCA Civ 793.

27. The facts of this case are strikingly similar to the facts in the case of In the matter of W (A Child) [2017] EWHC 829 (Fam) in which the President had to decide whether a girl of four and a half would be adopted in the placement where she had lived for over three years or whether she should go to live with her father and three older siblings and have contact with her mother. The approach of the court in that case is of particular assistance in AB's case, and I respectfully adopt the President's summary of the relevant principles set out in paragraphs 59 to 92 of the judgment. Key principles include the following: -

62. [from R and H] *..measures which deprive biological parents of the parental responsibilities and authorise adoption should only be applied in exceptional circumstances and can only be justified if they are motivated by an overriding requirement pertaining to the child's best interests.*

63. [from YC] *...However, where the maintenance of family ties would harm the child's health and development, a parent is not entitled under Art 8 to insist that such ties be maintained.*

64. [From Re B-S] *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”

77. As a matter of domestic law it has long been quite clear that, in the final analysis and if there is a conflict between them, the child’s welfare, which is paramount, takes precedence over the claims and rights of even an unimpeachable parent.

79. [From YC] “once K was placed with a prospective adopter, he began to establish with her new bonds and his interest not to have his de facto family situation changed again became a significant factor to be weighed in the balance against his return to the applicant’s care.”

85. Despite any suggestions to the contrary, it is quite clear from the authorities I have referred to that there is in a case such as this no hierarchy of rights under Article 8.

The expert evidence

28. Mr Baker confirmed his assessment of and recommendation in respect of the mother. He agreed that in their discussions the mother was reasonable, calm, measured and not aggressive with him. He acknowledged the progress that the mother has made since the 2015 proceedings. He confirmed, however, that although he gave the mother lengthy opportunities to tell him anything she wanted him to know for the purposes of his assessment, but she used a great deal of the time to focus on feelings of injustice and unfairness and did not *naturally list towards insight into the impact of her actions on her children...even regarding the father she quite wanted to point him out as an amateur parent.* Unhelpfully, she offered negatives about the father’s care of CD without even being asked to do so.

29. Mr Baker has not met AB or the PAs, but he has assessed the father and CD at some length. At the heart of Mr Baker’s recommendation that AB should move to his father’s care is his assessment of the father as a warm, intuitive, thoughtful parent who is doing well with CD, and whose own experiences as an adopted child will help him to empathise with the trauma that AB will probably feel on leaving his placement. Mr Baker conjectures that AB may find a transition to his father less difficult than transition to a stranger because he will pick up on the difference in the father’s reaction towards him. Mr Baker assesses the father as very open to professional support, and he makes the important point that there would be a duty on the local authority to provide that support for as long as necessary. Mr Baker agrees that

there are still tensions in the relationship between the parents, but considers that these could be addressed with professional help and with the preparation of a parenting plan.

30. Mr Baker accepts that AB is likely to be traumatised and to react to a move in the way described by Dr Butler, however he says that this is not a definite fact. He has experience of such predictions in other cases and the predictions have not materialised. He considers that the father will be able to care both for CD and for a traumatised child given his skills as a parent and, importantly, his commitment to raising his sons. Mr Baker feels strongly that the other parties have underestimated the risks to AB of *not* moving, of learning in time that both his father and his mother wanted to care for him and that his father was caring for his brother but that he had to stay with his adopters.
31. Mr Baker accepts that Dr Butler is the expert tasked with assessing AB though not accepting that the impact of a move will necessarily be as profound as she predicts. He agrees that if AB moves and then cannot establish a secure attachment to his father this is potentially a disaster that would impact on AB throughout his life. He agreed that it is concerning that the father, who allowed the mother to keep CD overnight as described above and who currently thinks that CD would be fine with the mother for a couple of nights rather than the 2 hours supervised as advised by the social workers, still does not have a full understanding of the mother's issues. He said that there is a degree of risk in moving AB, and he is unable to quantify that risk. He agrees that if AB is to move, then a transition would have to be very gradual. If (as they say) they are unable to support AB through that transition, then AB would have to be moved first to foster care and then on to his father. If AB stays where he is then Mr Baker agreed that he would need to have a truthful narrative of his life and of these decisions, in which the father's *valiant battle to care for him* would be an important part.
32. Dr Butler assesses AB as a very, very stressed little boy with an insecure attachment to his carers. The different situations he went through from birth have all impacted on him to create that insecurity. Even in the safety of foster care, from April 2015 to early 2016, he had to establish a relationship with the foster carers, and to establish different and changing relationships through contact with his parents who then disappeared completely 18 months ago. Until he is free to settle fully into his current placement that insecurity will remain.
33. Dr Butler explained that for AB, his adoptive family is his family now; his adoptive parents are mum and dad. If he moves from them he will not understand why, and it will be as if every member of his wider adoptive family has died. He will not recognise his father as dad, and his birth family will mean nothing to him. They are strangers to him and the transition would be huge. They are also his fourth "family" – raising the question for him of "what does family mean?". He has been told that the PAs are his family, and so a move will damage his trust in adults to do what they say they are going to do. The damage could take years to repair, and AB will be left with a sense that relationships are always impermanent. The adopters say that AB cannot cope with change, and even when they moved home to be

closer to their family and to good schools, AB took a long time to settle, initially rejecting the new house and refusing to enter it.

34. AB will act in a way that demonstrates his trauma and grief, though it is not possible precisely to predict the detail of his behaviour. He will display heightened survival strategies in his new home – heightened arousal, anxiety and very demanding behavioural issues as well. It is very complicated for him. There is an extremely high risk that he will reject the father as he doesn't know him as dad, and given his response to a move of house the likelihood is that he will repeatedly demand to "go home". To put such a complex fragile little boy into a relatively new situation is very risky not just for AB but also for CD. Although the sibling relationship is important, there is a lot of assumption that everything will just be ok but you can't say that. CD is only 16 months old himself and he may find the situation overwhelming. AB has been used always to be the youngest child at home and he needs the attention that being the younger child brings; with his father for the first time he will be the older child, having to share his carer's attention with a younger child who has his own significant demands.

35. Dr Butler said that AB is a complex and more vulnerable child because of his experiences, his element of developmental delay, his slightly higher risk of mental health problems given his mother's diagnosis and every move increases risk to AB's emotional and mental health in the middle and long term. However good the father is at meeting CD's needs, he will need a whole new skillset to manage the change: this transition will be very different to taking over the care of CD. There is the additional difficulty of tension between the parents to which AB will be exposed. If AB does move then he and his father would need intensive professional support for at least a year if not more. He will need to move first to a foster placement which means that he will have to move not once but twice. It is difficult to tell if he would ever accept his new family.

36. Dr Butler told the court that of course there are risks either way, and an adoptive placement can break down. However, these adopters are caring well for AB, and they are also open to promoting AB's relationship with CD through direct contact once they feel settled and are happy that the contact is in AB's best interests. There are far fewer risks in leaving AB where he is.

The parents' evidence

37. AB's mother spoke passionately about her wish to care for her sons. Not only did she speak to her written statements but she had prepared a further statement in her own words that she read from the witness box. She spoke of the wide maternal and paternal families that AB will come to know if he returns home to her. She emphasised the progress she has made with her own mental health issues, and said that she is the person who can provide AB with structure, predictability and nurturing. She emphasised that when the court was deciding

the arrangements for CD the court might have chosen either parent and only chose the father on a fine balance. She said, among other things, that

I am expecting my son could possibly temporarily regress and go backwards in his behaviour or become clingy and dependent. But this would be his way of coping with these shifts and change. But at least he would be at home with his real mother, me.....

I could always seek help from professionals for advice if my child AB starts slipping backwards in development

It is [going to be tough] and I will work tirelessly to help my son AB through this as a family should.

38. She said that she is not saying that the father is a bad parent but that they have two different parenting styles. She would welcome some mediation as recommended by the Guardian to help the two to communicate. She told me that stress has in the past caused her mental health to deteriorate but that now she has learned ways to manage her stress.

39. The mother was asked many questions about how it came to be that CD stayed at her house as soon as he was with his father, despite the clear plan that she would only have supervised contact. She agreed that CD had stayed overnight with her but she said she had no memory now of how the plan was made, whose idea it was and where the father was when she was alone in her home with CD.

40. The father finished his evidence in his own words, telling me

AB and CD are both my sons. AB is the elder brother of CD. AB looks exactly like CD. I love them both so much and I want them to grow together and to have a stable life. I believe they will have a good perfect life. AB coming back to the parents is leading him to a more stable life with people who understand him. Love. With support, and more support, and more support. Remaining with the adopters is setting him up to fail. I can't say how big the failure will be. I do believe he can be fixed, rehabilitated if he comes back to family.

41. He described himself as a new young parent who is loving it, embracing mumsnet and using it to exchange experiences and ask for advice from other parents. He denied significant tensions with the mother, saying that the incident at contact on 19 May was not an argument, and attributing it substantially to the contact worker not him or the mother. He agreed that he had said in his statement dated 12 June that *the mother remains extremely hostile towards me* but said that while he would welcome mediation it isn't that bad.

42. He too was asked about the events when CD first came into his care and he too gave an unclear account. He said that he was very excited to have CD in his care and was showing him off to people when he met the mother and her sister by complete chance in a café. His

account appeared to be that he and the mother had met only once whereas since CD visited his father on one day then went to live with his father on a subsequent day and given the record of relevant conversations after the mother told social services that CD was with her it seems more likely it was twice. The father said that he now accepts he was reckless in leaving CD overnight with the mother against the terms of the transition plan, but he felt at the time that it was in CD's interests to let this happen.

43. The father spoke about the impact of a move on AB. He said that,

I can understand what the adopters must feel. I have been through losing AB. But I'm not them. Shattering. Devastating. They probably can't handle it.

AB is worse. He is going to lose everything. I don't know what is going to happen to him. It is really very, very hard for him. He won't know anyone. It would be very sad for him. All of this would happen – not could – it would happen. He will reject us. It will be really sad.

He doesn't know me but I know him. He is in a safe place. I would console him. I would try to distract him. Maybe bring his brother in. Absolutely I would need all the help I can get. All the help. Professionals, whatever needs to be done.

CD is bubbly and he shares, I am not worried so much about CD. I think CD will handle it

The father said that he mainly agreed with Mr Baker that a move to him will be different to a move to strangers. *I don't know if he will remember us but he will look like us, there will be a connection, a familiarity, maybe instinct.* On a scale of 1 (easy) to 10 (difficult) he expects AB's reaction to the move to be maybe 4. He leaves it to the professionals to decide whether AB could move straight to him or whether he should first go to a foster home.

Professional evidence

44. I also heard from AB's social worker Ms G, and from PG, AB's Guardian. PG was AB's Guardian in 2015 and CD's guardian in 2016 so she brings a very helpful professional continuity to her work in this case. PG acknowledged the father's success in parenting CD, however she is of the firm view that the father is unrealistic in believing that he can care for both boys in the circumstances of this case. It was put to PG that this case is about whether the father can manage AB's reaction to a move, but she disagreed. She said

We are talking about a child who does not have to go through this loss. If a loss has to happen then it can be managed to a degree but he can be spared this kind of loss and that is the big point. So we cannot reduce AB's circumstances to how one minimises the impact – there is a way here for AB to avoid going through this experience at all.

The risks of moving are such that the gains of being in the birth family would be obscured.

The parties' closing submissions

45. On behalf of the applicants, Ms Kelly has been careful to be respectful of AB's parents, and I am grateful to the local authority for taking the lead in presenting the case for AB to stay where he is. The adopters obviously wish to keep AB with them, but the last thing they want to do is to undermine the achievements of AB's parents. In her closing submissions, Ms Kelly focusses on AB, on his world now and on the impact on him of moving away from that world. She commends to the court the assessment of AB by Dr Butler which identifies AB's vulnerabilities, and the profound consequences for him of being removed from those he sees as his family to live with those he would see as complete strangers. The risks to AB, identified by Dr Butler, would be present however skilled the carers to whom AB would move. Ms Kelly acknowledges the love of the parents for AB and the passion and commitment each brings to their case to care for him. She submits, however, that for reasons elaborated by the local authority Mr Baker's assessment of the father is simplistic and fails to take account of the level of trauma and grief that AB is bound to experience. Ms Kelly relies on the legal analysis in the case of *re W*, and she identifies factual differences between the two cases which strengthen rather than weaken the case for AB remaining where he is. She emphasises the openness of the adopters to contact between AB and CD at the right time and if it is in AB's interests, and she wholeheartedly agrees in the need for a clear and truthful narrative of my decision to help AB to understand, age appropriately, why he is not living with his father and brother.

46. On behalf of the local authority, Ms Cabeza and Ms Nuttall seek findings on a number of matters which are not controversial. They are very helpful, I will confirm these findings and I set them out in full with very minor amendments,

- i. The father is providing a good level of care to CD, and CD is meeting his milestones and appears to be thriving in his father's care.*
- ii. The father is committed and motivated to being a full time primary carer for both of his sons.*
- iii. The father has remained drug free for at least 12 months.*
- iv. There has been no deterioration in the mother's mental health and presentation since the evidence of Dr Lyall at the hearing in December 2016.*
- v. The mother has attended contact with CD and her behaviour at contact has been appropriate and child focused and the supervising authority are considering allowing this contact to move on to unsupervised sessions within the contact centre.*
- vi. The mother has not yet undertaken the long term and intensive therapeutic treatment required to resolve the problematic aspects of her personality. The fact that this treatment has not been offered by the NHS does not ameliorate the risk for AB.*
- vii. The applicants have provided AB with child focused and attuned parenting since he was placed with them 17 months ago.*
- viii. There is a strong, mutual bond of love, trust and affection between the Applicants and AB, and he considers them to be his parents.*
- ix. AB has become fully integrated within the applicants' extended family and wider social network, including his nursery.*
- x. AB currently presents with:*
- xi. Insecure attachment, which inter alia manifests itself by the following behaviours:*
 - 1. hyper-vigilance,*
 - 2. increased anxiety around professionals,*
 - 3. pleasing behaviours, whereby he seeks to mask his anxiety by displaying behaviours aimed at pleasing adults around him, and*

4. *difficulty coping with change (demonstrated both by his outright rejection of significant changes such as the house move, as well as reaction to minor changes to his routine, such as his grandmother staying overnight.)*
- xii. *Irrespective of whether AB is adopted or returned to his birth family, both AB and CD will require a consistent and truthful narrative regarding their respective early life experiences, and the reasons for their long-term placements. Such a narrative being necessary to support the emotional and psychological development of both children throughout their respective childhoods.*
- xiii. *If AB is adopted, the father is willing, and with support, will be able to provide CD with a truthful narrative of the reasons why the court determined that it was necessary for AB to be adopted.*
- xiv. *The adoptive parents accept that they are unable to facilitate a gradual transition from their care to the care of either parent.*

I have not included the paragraph setting out Dr Butler's description of AB's developmental delay as the father takes issue with that evidence and so I deal with this elsewhere.

47. Ms Cabeza and Ms Nuttall commend Dr Butler's evidence. They invite the court to reject the recommendation of Mr Baker, submitting that it is based on the untenable expectation that the father will instinctively understand and meet all the needs of both of his children. They submit that Mr Baker's assessment was simplistic, approaching this case as a straightforward care case and failing to reflect the complexities presenting in a case where a child has been placed for adoption for almost a year and a half. They submit that Mr Baker has placed too much weight on the father's biological link to AB which he conjectures will qualitatively affect AB's experience of the father's care of him, the fact that the father is meeting CD's needs, the harm to AB if he becomes an adopted child, and the father's love for and commitment to AB. They submit that he has failed to place enough weight on Dr Butler's assessment of the impact of a move on AB, on the inability of the adopters to facilitate a transition and therefore the inevitability of two moves not one, on the fact that he had not assessed the father's ability to care for a child as traumatised as Dr Butler says that AB will be, on the significance of the father's poor decisions about accommodation, on the importance of the tension between the parents seen at the contact session on 19 May and of the actions of the parents in early 2017. They criticise Mr Baker for refusing to criticise the father's assessment of the risks to CD of contact with the mother, and for saying that he thought the mother could safely have several nights of overnight unsupervised contact when the social workers involved are cautious even now about any move from supervised to extended or unsupervised contact.
48. They respect the positives in the parents' respective cases but submit that neither parent demonstrated an understanding of the impact on AB of a move, or of the difficulties that any carer will experience in trying to meet his needs. They commend the reasoning in In re W, and they too submit that where the facts of AB's case differ from the facts in Re W, the differences all point yet more clearly to the need for AB to remain where he is.

49. For the mother, Mr Eldin-Taylor reminds the court that in the 2015 proceedings, the court made no finding against the mother in respect of the marks seen on AB's leg which led to the end of the placement at the assessment unit. The mother made progress in her own mental health between the 2015 proceedings relating to AB and the 2016 proceedings in respect of CD in which District Judge Stone regarded the placement as finely balanced between the father and the mother. Dr Lyall accepted in the 2016 proceedings that the mother no longer met the criteria for a personality disorder, and the mother was compliant with medication following the diagnosis of schizophrenia. Although there are risks about moving AB, it is very important to consider both the risks of him remaining where he is and the benefits of moving to the mother's care. If he remains in his current placement that placement may break down, and AB may not be able to cope with the knowledge that he is the only one of the mother's five children to be adopted and that his parents both wanted to care for him. Although Dr Butler could talk about AB and the adopters, she did not meet the mother or the father and CD and therefore she could not assess the ability of the parents to meet AB's needs. Although the events of January 2017 were regrettable, nothing similar has happened again and the parents are now managing contact well enough. Professional support can help them to work on their relationship. If AB cannot come to the mother, then she supports placement with the father given that the benefits for AB of being in his birth family, especially benefits apparent in the middle and long term, far outweigh the short-term difficulties if he has to move placement.
50. For the father, Ms Munroe highlights the positive and very real benefits to AB of being brought up in his birth family. AB is still only two, and therefore young enough to make a new attachment to a primary carer. The benefits of being raised by his father and with his brother, of a sense of identity and of a knowledge of his family, are both medium and long term; they will help him through adolescence and into adulthood as he grows in the heart of a wide loving maternal and paternal family. She emphasises the many positive features of the father's case: that he is caring for CD; that there were positive parenting assessments of him in both the 2015 and the 2016 proceedings; that the father has achieved and maintained abstinence from cannabis as shown by hair strand testing which includes a very recent test result; that he has separated from the mother; and that he has matured, as demonstrated by the practical steps he described in discussing his parenting experiences with other parents both at group meetings and on internet discussion groups. The judgments from 2015, 2016 and 2017 show the positive evolution of his parenting, and he is caring well for CD.
51. Ms Munroe comments the positive parenting assessment of Mr Baker. She relies on the fact that Mr Baker was well aware of Dr Butler's assessment and he took it into account, but she did not see the father with CD as Mr Baker was able to do. He alone assessed the father directly, and therefore the court should accept his assessment of the father's ability to parent AB as well as CD. Mr Baker assessed the father as warm, loving, committed, intuitive and with the benefit of understanding AB's situation having been adopted himself. Concerns about the father's accommodation plans were over-stated, and the father has amply demonstrated his ability to work with and take the advice of relevant professionals. Further, concerns about the mother's views and about the parents' relationship are also over-stated:

the father can now see plainly that he acted recklessly in early 2017, and nothing like that has happened again; while the mother would prefer to care for the boys, she accepts that CD is thriving in his father's care. Although there was an incident of some concern at contact this was an isolated incident of low level concern, and both parents would welcome some mediation or similar work to help them improve their ability to work together as a parenting team.

52. Ms Munroe submits that Dr Butler has fallen into the same trap as the social worker and Guardian as described in my March judgment. She has focussed on the perspective of the adopters and has failed to consider either the harm to AB of remaining where he is, or the benefits to AB of moving to his father's care. She has not seen the father and CD so she cannot assess his ability to meet AB's needs. She has over-estimated the evidence that AB has developmental delay and that that will compound the emotional impact of a move when in fact the evidence is that he had no developmental delay up until and at the time he was placed with the applicants. Further, AB's current insecurity may reflect the adopters' anxieties rather than indicating that AB himself is inherently anxious. It is simply not possible to say how AB will react to a move and to assume that he will act as extremely as Dr Butler predicts, and the evidence of developmental delay is inconsistent. In any event the father has shown his skill as a parent and his commitment to learning skills where he needs to. He will be providing AB with unconditional love, and has been assessed by Mr Baker as thoughtful, empathetic and sophisticated in his understanding of AB and the specific issues likely to arise. He will rise to the challenge, care well for AB, and provide him with the opportunity to return to his birth family with the lifelong advantages that that will bring.
53. In relation to the case of In re W, Ms Munroe points to factual differences which weigh against adoption in this case. She submits that every case turns on its own very specific facts, and that the court in Re W heard far more expert evidence than I have done; the child in W was 5, much older than AB, and the delay in the case – “on a grand scale” – was to an extent determinative of the outcome. At paragraph 4 of that judgment, the President refers to “*an outcome with might perhaps (I emphasise might) have been different had the case been resolved sooner.*” Ms Munroe also points to the fact that the father in the case of Re W was already caring for 3 older siblings.
54. The Guardian emphasises the high risk of serious emotional harm to AB if he moves, agreeing with the evidence of Dr Butler. She also considers that Mr Baker underestimates the risk of harm to AB and the difficulty of the task of anyone caring for him if he moves from his current placement and she is critical of Mr Baker for reaching his conclusions, therefore without discussing the detail of AB's likely behaviour and how to manage it with the father. AB has been building his relationship with the adopters, his family, for 18 months now and they are, to him, his family. The Guardian acknowledges the father's progress caring for CD, and the mother's achievements in her own life but submits that neither parent could care for a traumatised and deeply unhappy little boy. She is worried about the parents' ability to work honestly with professionals given the events of early 2017 and the lack of clarity in the parents' evidence, and she considers that the parents do still harbour

resentment against each other that might show from time to time especially over arrangements for contact. She is worried about the practicalities should AB move given the need to move first to a foster placement, and given that the father will be moving from his parents' home - itself under pressure given his father's dementia and his mother's caring role - to independent accommodation. AB finds change hard to accept. Fundamentally, the Guardian points out that AB simply does not have to make this move. The benefits for AB of remaining where he is and the risks of moving far outweigh the ultimate - and highly unlikely - possibility of a home within his birth family.

Discussion

55. I make no apology for drawing heavily on the President's analysis in Re W where appropriate.
56. The three possible outcomes for AB are (a) adoption by Mr and Mrs X, (b) a move to live with his mother or (c) a move to live with his father and brother. Each of those outcomes carries risk: the key issues are the identification of (i) the relevant risks and the relevant benefits, (ii) the degree of the relevant risks and the relevant benefits, (iii) the likelihood of them occurring and (iv) the severity of their consequences. The risks if AB moves to either of his parents are likely to manifest themselves very soon; the risks if AB is adopted are likely to manifest themselves, if at all, during or as AB enters adolescence. It is difficult to predict and quantify the precise detail of the risks to AB in this case, however if I accept the evidence of Dr Butler then AB is likely to suffer very significant distress and trauma if he is moved from his current placement.
57. The essential argument on the one side is that if AB is adopted by the PAs there will, from his perspective, be no significant change in his life; that any difficulties which may emerge will not do so for some years by which time AB will have become ever more settled and secure with the PAs; and that even though it is likely that there will be some difficulties, they are unlikely to be severe and may be no more serious than those which affect many adopted adolescents. Direct contact with his brother CD in due course will, if it can be achieved in AB's best interests, mitigate the risks. Conversely, say the proponents of adoption, if AB were to be rehabilitated to his birth family, whether with his mother or his father, the trauma of a move from everything he has known will be severe, will almost certainly manifest itself immediately and will very likely have consequences ranging from the severe, even assuming the placement does not break down, to the catastrophic were it to break down.
58. The essential argument on the other side is that if reunited with his birth family, AB will fairly quickly and successfully settle and move beyond any initial trauma with the love and commitment of either of his parents and with intense professional help and support and, having done so, will thereafter face a relatively unproblematic future, both throughout his childhood and into and through his adulthood. Conversely, say the parents, the difficulty of

creating an honest and meaningful narrative for AB which he will be able to accept if he remains with the PAs makes the likelihood of a future breakdown of the adoptive placement real and potentially very damaging. Further, he would be deprived of the profound benefits of returning to his proper place in his own family of origin.

59. I turn to my evaluation of the expert evidence.

60. Mr Baker, commended by the father (paragraph 51), has been criticised by the PAs (paragraph 45 above), by the local authority (paragraph 47 above), by the mother and by the Guardian (paragraph 54).

61. I accept Mr Baker's assessment of the mother, which I found to be balanced and fair. On the mother's behalf Mr Eldin-Taylor emphasised the mother's progress in relation to her mental health and he explored with the various witnesses their understanding of the progress she had made between the 2015 proceedings and the 2016 proceedings. Mr Baker did take that progress into account and he did not base his conclusions on a misunderstanding of that issue and that progress. He acknowledged the mother's ability to understand perfectly well the day to day needs of her children. The issues he identified, however – the mother's inability even now to accept that her children had ever been rightly removed from her care and her resentment of the father for having been chosen over her as the carer for CD – are similar to the issues identified as long ago as August 2015 in the judgment of Recorder Goodwin. Those issues are rightly of central relevance to the mother's ability to parent AB, a child who will be grief-ridden and traumatised as described by Dr Butler, to work with professionals on the intense basis he would need, and to manage contact with the father and CD.

62. I accept many of the observations of Ms Munroe about the value for the court of Mr Baker's evidence about the father. His assessment of the father was similar in many ways to that of Mr G carried out in 2016. I accept Mr Baker's assessment of the father as a warm, loving and often intuitive father who is caring well for CD and who has demonstrated love and commitment to him, not least in remaining abstinent of Cannabis. I accept Mr Baker's analysis that the father has also shown commitment to assuming the care of AB, and has thought hard about the options for AB, from his own perspective as an adopted child, and about the benefits to AB if AB moves successfully to his care.

63. I do, however, accept the criticisms of Mr Baker expressed in particular by the local authority and the Guardian. There is real force in Ms Cabeza's description of Mr Baker's approach to his task as if he were reporting in a straightforward care case, failing to reflect the complexities presenting in a case of a child placed for adoption for a year and half. I was especially concerned to hear Mr Baker say in evidence that AB's reaction is *probable/likely* to be as described by Dr Butler, and yet Mr Baker simply did not discuss with the father how he would manage that extreme behaviour himself or how he would protect CD from it.

Instead he appeared to base his recommendation substantially on the *possibility* that Dr Butler's "predictions would not materialise, *they are not a fact*". Although he agreed that it would be important for AB to be the youngest child in placement, for the parents to work calmly and well together, and for the father to have a full understanding of the mother's issues and the need to work openly with professionals about those, he did not appear to factor in to his own assessment the risks revealed by the evidence about those matters. He agreed that a transition would need to be *very gradual* but he did not deal in any depth with the fact that as the adopters could not face assisting AB through a gradual transition he would have to move abruptly to one and then on to a second home. He further did not appear to consider the real difficulty that AB would experience with this cluster of profound changes, given the difficulty he has already shown when his current carers simply moved house. He agreed that if AB could not form a secure attachment to the father then it would potentially be a disaster for AB impacting on his emotional and psychological wellbeing throughout life, however he did not appear to factor that into the balance. I conclude that he underestimated the profound impact that a move would have on AB and too readily concluded that the father's positive parenting skills would be enough to ameliorate it. It is unfortunate that he did not wait to write his report until he had received and considered Dr Butler's report, and that as he said in his report, when sent Dr Butler's report "I had yet to finalise my report, but it was already completed in its majority and I was unable to incorporate information from Dr Butler's report into my analysis". It was telling that although he was, as a result, asked to complete an addendum written report, at no stage after receiving Dr Butler's report did Mr Baker alter his conclusions. The implication from his addendum was that he thought Dr Butler's conclusions to be over pessimistic, despite the fact that she is the expert instructed to assess AB. He conjectured – and proceeded on the basis – that there would be a qualitative difference for AB in placement with his birth father and brother as compared to placement with strangers when this conjecture was not supported by Dr Butler's assessment. Overall and despite the quality of some of Mr Baker's assessment of the father, I accept the submissions of the local authority and Guardian that Mr Baker's assessment of the father's ability to meet AB's needs in this complex case was over simplistic and ultimately over optimistic.

64. Dr Butler's evidence is commended by the applicants, the local authority and the Guardian, and criticised by the mother (paragraph 49 above) and the father (paragraph 52). I found Dr Butler to be a very impressive witness. I do not accept that this highly experienced Psychiatrist has underestimated the impact on AB of a move from his adoptive placement, especially as Mr Baker accepts that the impact she predicts is *likely* and the father, to his real credit, described the impact on AB as *shattering. Devastating. AB is going to lose everything. I don't know what is going to happen to him. It is really very, very hard for him. He won't know anyone. It would be very sad for him. All of this would happen – not could – it would happen. He will reject us. It will be really sad.* I agree with Ms Munroe that the evidence about AB's developmental delay and the extent of it was somewhat unclear and inconsistent. Dr Butler actually saw AB, however, and although as she said she is not a speech and language therapist, nonetheless she actually observed an element of delay and I accept her evidence that he currently has an element of developmental delay in relation to his speech. In any event, although she considered that this element of AB's development added another layer of difficulty to his ability to make the proposed move, her primary focus

was on the difficulties arising from the quality of AB's attachment to the applicants and on the impact on him of losing that family abruptly and permanently. I accept unhesitatingly her evidence that he would feel as if every member of his family had died and disappeared. I further accept her opinion that the fact that a move would be, via his foster home, to his birth family would not mean that they would be *family* for AB. They would be strangers. If he moved to his father then he would have to hang the label of "father" on this strange man, but he would be at a loss to understand, by then, what a father actually is. The move would confirm for him that family relationships do not last, and that adults do not do what they say they will do. To the extent that Dr Butler identified this as a highly complex situation – I completely agree. To the extent that she identified a placement with either of the parents as *a family situation with a great deal of vulnerability* for reasons set out below I also agree.

65. Dr Butler was not asked to give an opinion on the parenting skills of these parents. Rather her focus was on the impact of AB of moving anywhere from these adopters. Although she assessed the family situation as vulnerable – correctly in my judgment - her focus was on the profound impact on AB and on the types of behaviour he would be likely to show after a move, which would test any parent. She was of the firm view that so unlikely would AB be to recover from a move, emotionally and psychologically, that he simply should not be put into the position of having to move at all.
66. Ms Munroe criticised Dr Butler for falling into the trap of ignoring or undervaluing the benefits for AB of a move to his father and the risks of staying where he is. Dr Butler gave lengthy evidence about the prognosis for AB if he stays where he is. In her opinion, once free of the uncertainty of these proceedings he would finally settle and securely attach in his excellent adoptive placement. I accept that evidence. As to the benefits for AB of a move to his father – or mother – I agree with Ms Munroe that Dr Butler did not specifically balance the benefits that arise whenever a child can be raised within their family against this adoptive placement. She was not asked to do so, and in any event her evidence was that this would be a damaging high risk move likely to leave AB unable to settle and ultimately adrift in the care system. The balancing exercise identified by Ms Munroe is an exercise for me to do, taking into account the evidence of every witness given from their perspective. Its specific absence from Dr Butler's evidence, unsought in the agreed letter of instruction, does not undermine the quality of Dr Butler's assessment which I accept in its entirety.
67. The starting point must be, as it was for W in the case cited above, AB's current reality. For him the PAs are his parents, and their wider family is his. He has lived with them for more than half his lifetime and they are in every sense other than biologically his parents. He will have no actual memory of his birth parents and of course he has never met CD. At his age and stage of development I accept Dr Butler's evidence that little could be done to prepare AB for a move to his father's care. It would not be possible to explain what was happening to him before, during or after the move. As described by Dr Butler, for AB it would be as if his whole adoptive family had died; he would bring with him *extreme levels of distress, probable trauma related to the loss of his prospective adoptive family, and the likelihood of emotional and behavioural disturbance including rejection*. I accept Dr Butler's evidence that for AB,

already vulnerable as a result of his early experiences, currently with an insecure attachment, the impact of a move, or rather two moves, would be long term. As set out above, it would teach him that family relationships do not last, that people he invests in emotionally will simply disappear and that adults cannot be trusted to do what they tell him they will do. Dr Butler, the social worker and the Guardian consider and I accept that if AB cannot attach securely to one of his parents, then he would have lost everything: he would have lost his adoptive family, he would be unable to settle with his birth family, he would have suffered permanent emotional harm and he would be left very vulnerable, adrift in the care system.

68. Centrally, I have to evaluate the likelihood that these consequences of a move will actually happen. Whether AB moves to his mother or to his father, all professional parties accept the likelihood if not inevitability that he will have to move first, abruptly, to a foster placement.

69. If the plan is for him to move to his mother's home, he will be moving to a home where he is loved, but to a home where his mother has not cared for any of her children for some years now, where she is still only having supervised contact to CD, where his parents' relationship is not free of tension and thus where contact with the father and CD may not run smoothly, and where the mother is likely to struggle with the intense and long term professional support that AB will need given her personality issues and given her enduring belief that the professionals should never have removed AB or CD from her care in the first place.

70. If the plan is for AB to move to his father's home, then he will be moving to a home where he is loved and where he will be with his father and also his little brother. I have already accepted, as did Judge Stone, that the father is a warm, loving committed and often intuitive father. The father has thought a lot about the impact on AB of moving from the adopters and empathises with his son's situation given his own personal experiences. The father will have to manage AB's likely rejection of him, however, he will have to manage the impact of extreme behaviour from AB on both himself and CD, he will have to support CD and protect him from the impact of AB's grief and trauma, and he will have to manage the mother's understandable and inevitable wish to be involved in the life of both boys more quickly than the professionals are likely to support.

71. I accept the concern expressed by the professionals about the ability of the parents to work honestly with them, given the parents' actions in early 2017 when CD first moved to live with his father. That has not happened again, and I accept having heard the parents' evidence that at least the father realises this should not have happened and should not happen again. I do find, however, that neither parent was honest with me when describing what happened. That is understandable given how badly the incident reflects on both of them, and I emphasise that I accept that they would both try very hard to do the right thing were AB to return home to either of them, however the incident does underline the continuing tense dynamic between the couple, the mother's difficulty in consistently accepting professional advice and the extent of the mother's wish to be involved in the lives

of her sons more than as advised by the professionals. Even to Mr Baker she was very critical of the father's care of CD. I conclude that the parents would struggle at times with complying with the agreements put in place around the arrangements for the boys. The mother does still believe, in her heart, that there is no reason why she should not be caring for both boys.

72. In this case as in *Re W*, however, the question of what will happen were AB to return to either parent would be much more about AB, about his resilience, adaptability and psychological functioning than about how either parent would care for him. I have already indicated my reasons for accepting in its entirety the evidence of Dr Butler that AB is not resilient given his early experiences and that there are concerns about his psychological functioning at the moment as well as extreme concerns about his functioning should he have to move. As to his adaptability, I was told that when his adopters moved house in order to be closer to family and to good schools for AB, he initially refused even to enter the house. He does not manage change well. In Dr Butler's opinion he senses something going on around him at the moment that threatens his current stability, a feeling which is affecting his behaviour around his adoptive parents who he is reluctant to leave, and he reacts badly to professionals appearing in his life. He associates them with change, and with risk towards his placement. The evidence is overwhelming that AB is not an adaptable little boy.
73. My overall conclusion is that there is a very high probability of immediate and significant levels of trauma and a high likelihood that placement of AB with either of his parents would break down. If that were to happen there is a high likelihood of emotional and psychological catastrophe for AB in the short, medium and long term.
74. If AB remains with the PAs, what are the risks of placement breakdown? Mr Eldin-Taylor and Ms Munroe ask the questions with force and with skill: what "narrative" could be prepared that would explain the complex events that have led to the decision of the court, and could be prepared in a way that would make sense to AB as he grows? Whether or not he is able to have direct contact to CD in due course, is there not a high risk that when he finds out that his parents both wanted to care for him and that CD is being cared for by his father he will question why CD has been able to live with his father while he, AB has not? Would he not consider the reasons "flimsy" (Mr Baker's concern) and is there not a risk that he would at that point reject the narrative and reject his adoptive placement? These real risks will increase in the middle and long term, especially as AB navigates the difficult waters of adolescence.
75. Everyone agrees in this case that there must be a narrative for AB, and that it must be completely honest. This judgment will form a key part of the narrative, whether summarised for AB or, in due course, made available to him. I accept that for AB it is likely to be hard to understand the different paths for him and CD if he, AB, is adopted. I accept that this is likely to be an additional complexity for these adopters to manage and that they may well need professional help at that stage to do so. This risk must, however, be seen in the wider

context of this case and kept in perspective. I accept the evidence of Dr Butler and of the social worker and Guardian, that the narrative will be prepared now and will be available to AB gradually and in an age appropriate way. Over time as this happens AB will, as Dr Butler concludes and I accept, be settling ever more securely into his adoptive placement. Dr Butler is confident that the removal of the stress of these proceedings and the quality of the placement together will help AB's attachment to become secure. I assess the risk of a breakdown of the adoptive placement as real but small.

76. How then do I ultimately balance the impact on AB of the high risk of grief and trauma at least in the short and medium term against the medium and long term gains if AB can be successfully helped through the move home to be raised throughout life in the heart of his loving natural family?
77. Mr Baker's opinion is that everyone else in the case has very significantly under-valued the medium and long-term benefits for AB of placement with his family. The social worker, Dr Butler and the Guardian all consider that a move is so high risk for this little boy that it should not be contemplated. They conclude that no parent, however skilful, could mend the short, medium and long-term damage caused to AB of losing his entire family without explanation. I conclude that whilst it is not impossible that a return home could work, bringing with it all of the benefits identified by Mr Baker, by Ms Munroe and well known and valued by every family court it is highly unlikely, and that the plan would be, as Dr Butler said, high risk for AB. For the reasons set out above I reject Mr Baker's opinion on this issue.
78. I have, considered carefully and borne in mind the guidance in the four authorities cited above. I have throughout this analysis had AB's welfare throughout life as my paramount consideration. I reach the clear conclusion that AB should remain with the PAs in his adoptive placement. In reaching that conclusion I have considered carefully the provisions of s1(4) Adoption and Children Act 2002, in particular the impact on AB of ceasing to be a member of his original family and becoming an adopted person, the ability of either of his parents to meet his needs, their wishes and feelings about his placement, and his relationship with the PAs and the value to AB of that relationship continuing.
79. AB moved from his original family when he was less than two months old, and he last had contact with them in December 2015 when he was 10 months old. He has not had a meaningful relationship with any member of his natural family since that time. For significantly more than half of his young life the dominating relationship for AB has been with the PAs and, over time, their wider family. The value for him of those relationships continuing is huge.
80. The parents have fought a valiant battle to care for AB. They both love him deeply. Both have made changes in their lives, the father to the point where he has proved himself as a parent for CD. Ultimately, however, I conclude that neither parent is able to meet AB's

needs, not principally because of concerns about their parenting – those concerns are especially limited in the case of AB’s father – but substantially because what would be demanded of anyone other than the PAs caring for AB would probably be too much for any parent given AB’s vulnerability and attachment to his adoptive family.

81. I have focussed long and hard on the middle and long term for AB, but I have already accepted that the harmful impact on AB of an unsuccessful move would last into the middle and long term. As the Guardian said in her perceptive evidence, the risks of moving AB from the PAs are simply too great, and potentially so unmanageable, as to demand that they not be run.

82. AB’s welfare continues to demand that he be adopted.

83. I had not understood that the issue of parental consent arose given that the court dispensed with the parents’ consent to placement for adoption in August 2015. If I am so required, however, then based on my conclusions in this case I would dispense with the parents’ consent to the making of the adoption order pursuant to s52(1)(b) Adoption and Children Act 2002.

84. I make the adoption order as sought by the applicants.

Her Honour Judge Rowe QC

4 July 2017