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Case No: LV18C00616 / LV706/18

**IN THE FAMILY COURT AT LIVERPOOL**

35 Vernon Street,  
Liverpool, L2 2BX

Date: 8 November 2018

**Before:**

**HIS HONOUR JUDGE GREENSMITH**

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**Between:**

**S**

**Applicant**

**- and -**

**Wirral Borough Council (1)**

**GM and GF (2)**

**A (A Child) (3)**

**Respondent**

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Miss Deans appeared for the Applicant  
Mr Spencer appeared for the **First Respondent**  
Mr Gorton appeared for the **Second Respondent**  
Miss Lamb appeared for the **Third Respondent**  
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## **JUDGMENT**

**HIS HONOUR JUDGE GREENSMITH :**

1. The court is concerned with the welfare of A, a child who is two years of age. The mother of A is M who is the applicant in these proceedings; her application was first in time, she applies for a discharge of a care order. The father of the child does not have parental responsibility and his whereabouts are unknown. A is in the care of her

maternal grandparents GM and GF under the terms of a care order granted to the local authority. The local authority gave notice of its intention to remove the child from the grandparents and subsequently, during the course of these proceedings, made an application for a placement order.

2. The child was the subject of care proceedings which were issued upon her birth and which resulted in a care order being made on 2 February 2017 on the basis of a care plan of her being placed with her maternal grandparents: A has remained in the grandparent's care since.
3. Concerns regarding the conditions in which the child was living at her grandparents grew during 2017. The concerns were such that the Fostering Panel refused to re-approve the placement in January 2018. The concerns crystallised following a visit by the Independent Reviewing Officer(IRO) to the grandmother's home in February 2018. On 6 February, the IRO raised a formal escalation under the local authority's Policy for Dispute Resolution.
4. The local authority at a meeting held on 9 February 2018 informed the mother that it was the local authority's intention to remove the child from the care of the grandparents within 14 days. The mother instructed solicitors to prevent the child's removal and following representation from those solicitors and the IRO (who considered immediate removal to be a disproportionate step), the local authority confirmed that it would not remove pending a court order.
5. The key issue of this case was said to be the home conditions of the grandparents which the local authority was alleging were inappropriate to meet the child's needs.
6. The grandmother has a learning disability. This was formally diagnosed by Dr Allen in his report filed on the 17<sup>th</sup> of May 2018. During the course of these proceedings the mother and the grandmother have been assessed by an independent social worker. The grandmother has also been assessed by a psychologist for the purpose of a cognitive assessment.
7. To assist her to challenge the local authority's position, the grandmother sought directions from the court for further evidence to be filed from the local authority to demonstrate how her home conditions had improved since the visit by the IRO in February. Pursuant to a court direction, the local authority filed a report, shortly before the final hearing from a family support worker (FSW). The FSW had been visiting the grandmother's home on a very regular basis and was familiar with the grandmother's

home circumstances. The FSW confirmed that the conditions were significantly different to those as witnessed by the Independent Reviewing Officer in February.

8. The child's guardian, who had up until just before the commencement of the final hearing, supported the placement order application, changed her position to one of supporting the continued placement of the child with the grandparents. It was the statement from the FSW that prompted the Guardian's change in position. Following the court's request for additional evidence from the local authority including evidence of how the guidelines in respect of parents with a learning disability had been followed and direct evidence from the independent reviewing officer (in the form of a statement confirming her position in the light of the new evidence), the local authority reviewed its position. The local authority asked the court for permission to withdraw its application for a placement order on the basis that the child would remain in the care of the grandparents. The mother was invited to withdraw her application for a discharge of the care order which she agreed to on the basis that the child would remain with the maternal grandmother.
9. All parties have collaborated to formulate a sustainable care plan for the child to ensure that A's placement with the maternal grandmother remains sustainable and the court willingly approves the agreed care plan.
10. The court has considered the detail of the new care plan and is grateful to the local authority for its clear determination to meet the needs of the grandparents which has full regard for the grandmother's learning disability. Key features of the care plan are:
  - a) the ongoing support of a family mentor who is a trained foster carer and has knowledge of working with parents with learning disabilities – she/he will visit 2 or 3 times a week;
  - b) assistance for the grandmother in gaining alternative housing;
  - c) payment of a cleaner who will carry out a deep clean of the grandparents' home;
  - d) weekly visits by a family support worker, and 4-6 weekly visits by a social worker;
  - e) the local authority supporting an advocate to accompany the grandmother when attending school and health meetings;
  - f) a referral to adult social care for an assessment under the Care Act 2014.

11. The court is confident that this package of support demonstrates a determination on the part of the local authority to secure the placement for A and that it meets the obligations of the local authority to follow the Good practice guidance on working with parents with a learning disability (2007) revised September 2016 (The Guidelines)

Role of the Independent Reviewing Officer (IRO)

12. According the National Association of Independent Reviewing Officers, the role of an IRO is,

*“ ... to oversee the child’s care plan and ensure everyone contributing to the care plan fulfils their legal obligations to the child.”<sup>1</sup>*

13. The work of the IRO is governed by the IRO Handbook.<sup>2</sup> As outlined in paragraph 2.10, the primary task of the IRO is to ensure that the care plan for the child fully reflects the child’s current needs and that the actions set out in the plan are consistent with the local authority’s legal responsibilities towards the child.

14. The court is assisted by a statement filed by the IRO (following the conclusion of the final hearing) in which she demonstrates how she has maintained an active involvement in the case; being involved in all key stages and giving advice to the local authority where appropriate. The IRO confirms that she had not visited the grandparent’s home since February and was reliant upon information from others in this regard. This would not necessarily be an issue, but for the fact that the “current” condition of the property, was known to the Family Support Worker, and this was not communicated to the IRO prior to the hearing. The IRO’s statement concludes, “I do acknowledge that the latter submissions to court and the revised conclusions a result were not part of the evidence presented to myself.”

15. The critical evidence which had not been presented to the IRO, was that from the Family Support Worker who on 30 October 2018, says she has been visiting the home since March 2018, twice a week. Regarding aspects of neglectful care which have been highlighted specifically in the evidence of others, the FSW says:

*“I have never smelt odours on [the grandmother];... [the child] has always presented as clean and dressed appropriately; ... [The*

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<sup>1</sup> [www.nairo.org.uk](http://www.nairo.org.uk)

<sup>2</sup> Department for Education 2010

*child's] speech is developing and she can now have a conversation with an adult; ... The home has always been warm; ... The living room has always been warm and dust free;... the downstairs toilet and kitchen have always been clean and tidy."*

16. It was without this information that the IRO told the Guardian on 10 October 2018 that the home conditions were such that she was in full support of the plan for adoption. It is reported the IRO said:

*"To leave (the child) to live in neglectful and unsustainable home conditions for the rest of her childhood was inconceivable."*

17. The IRO Handbook places a high burden on social workers to ensure that the IRO for any child is continuously equipped with information that is needed for the function of the IRO to be carried out effectively. It is the court's view that this case emphasises the need for social workers, on the ground, to ensure that all relevant and up to date information is passed to Independent Reviewing Officers to ensure they are fully informed and able to perform their role.

#### Analysis

18. In deciding whether the care plan which is proposed for the child serves her welfare the court must have regard to the welfare checklist. With this in mind I make the following observations:
19. With regards to the wishes and feelings of the child, because of her age, it is appropriate that these have not been canvassed. To do so would have risked causing stress to her. Considering the child's age and understanding I am entitled to assume that if she were to be asked that she would want to be brought up in a loving, safe and stable environment. The child has all the usual emotional and educational needs of any three-year-old. I must consider what would be the effect on the child if she were to be removed from her current environment and placed with strangers. It has been stressed by the Guardian that the child has a strong bond with her grandmother and her extended family and it is reasonable to assume that a change in placement would have an unsettling effect on her. The Independent Reviewing Officer is of the view that the child has a strong attachment to her birth family and this will stand her in good stead in forming new attachments if she were to be moved. Whilst this may be the case it is nevertheless entirely reasonable to assume that a three-year-old will find it difficult to understand why she has been removed from the only family and carers that she has known from birth. The child's mother is the subject of a negative parenting

assessment. There is no other family member who could meet the child's needs apart from the maternal grandparents. I am entirely satisfied that with the care plan which is now being put forward the emotional and physical needs of the child can only be met by her remaining in her grandparents' care. The court grants permission to the local authority to withdraw its application for a placement order and permission to the mother to withdraw her application for an order discharging the care order.