

IMPORTANT NOTICE

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the child and members of his family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Case No: LS18C00449

IN THE FAMILY COURT SITTING IN LEEDS

IN THE MATTER OF THE CHILDREN ACT 1989 AND THE ADOPTION AND CHILDREN ACT 2002

AND IN THE MATTER OF L, A CHILD

Date: 18 February 2019

Before :

HHJ Lynch

Between :

A Local Authority

Applicant

- and -

The Mother (1)

The Father (2)

L

(through her Children's Guardian) (3)

Respondents

Patricia King for the Applicant
Colette McManus for the 1st Respondent
Phil Ainge for the 2nd Respondent
Fiona Hedar for the Child

Hearing date : 18.2.19

JUDGMENT

Introduction

1. These proceedings are about L who is just over a year old. Her parents are M and F, although only M has parental responsibility for her. M has older children who live with M's mother due to problems M had with her mental health earlier in her life.
2. This court case began because people were worried about M's mental health which had got worse again after a time when she had been quite well. L at the beginning went to stay with M's mum but eventually she said she could not manage any longer. M realised at that time she was still not well enough to look after her daughter and so L went to live with foster carers. After this court case began, an interim care order was made, which gave parental responsibility to the local authority alongside M and meant they could decide where L lived. Since that time L has stayed living with foster carers.
3. In this court case, an order was made to get a report from a psychiatrist who had not been involved with M before, to make sure we had independent information about how she was doing and how things might go in the future. The social worker has also tried to assess M but M has understandably found things very difficult and did not get fully involved in that process. A psychologist was also asked to meet with M to help the court understand what was going on inside her but M did not turn up.
4. L's father was not aware that she existed before he was contacted by the social workers during this court case. He too is a patient at a hospital for people who are mentally ill, as he suffers from a mental health condition. He has always been honest in saying he knows he could not look after a child but asked the social workers to think about whether he could have some contact with her.

The Issues and the Evidence

5. In preparing for this hearing, given nobody was arguing about what I should do, I read the written evidence, and I know L's case well because I have been responsible for it all the way through. Nobody has given evidence in court, but I have heard from the lawyers about what the different people involved in this court case think should happen. I am going to try to write this judgment in a way that will make sense to L's parents, and indeed to L when she sees it later in her life, so the language I am using is maybe not as formal and legal as usual.
6. L's social worker, supported by her children's guardian, tells me that it would not be safe to return this little girl to her mum's care. M has had problems with

her mental health throughout her life. She has twice been sectioned (taken to hospital against her wishes) and has made attempts on her own life. When ill, she has been violent to people. She had however been better mentally since 2015, so when L was born social workers looked at the situation and decided it was okay for her to live with her mum. Sadly though M's mental health got worse, causing her to think about hurting herself, and workers were worried L might be at risk of harm, and that led to L moving to live with her grandmother and eventually going into foster care.

7. During the court case the social worker has tried to meet with M enough times so that she could work out if M would be able to look after her daughter. However M has found things very difficult and did not turn up to all the appointments, meaning the social worker could not get all the information she needed about M. M failed to turn up to appointments with a psychologist who was trying to get a better understanding of her. M also stopped going to see her daughter in the arranged contact visits, again because she was finding it hard.
8. The social worker accepts that M when seen with her daughter in contact sessions was able to look after her. M also has a good understanding of her own mental health and has been able to ask for help when in crisis. The fact that M has reached the point she has in accepting that her daughter should be adopted shows to the social worker that she is able to put L first. The social worker, when considering all the options for this little girl, concludes that her mum is not able to meet her needs throughout her life. The guardian for L also agrees with that.
9. More information was also sought about F to see what involvement he could have in his daughter's life, from both the social worker and a psychiatrist who was asked to meet with him. Both say that he could not meet his daughter's needs. In respect of his mental health, the psychiatrist says that he needs specialist help so that he can understand his mental illness and the risks that brings. The illness that F suffers from is one that he will have throughout his life and the psychiatrist says he will need ongoing supervision. The social worker concluded that F's difficulties mean he could not bring up his daughter, and indeed the reality is he is currently in hospital and has been for some time. Again, the guardian agrees with that view of F's situation.
10. L's social worker spoke to other people in the family to see if anybody was in a position to care for L but very sadly no one has been able to offer that. As a

result the social worker and guardian agree that the best option for her would be if she were to be adopted. Both of them in their final reports to the court go through the options for her, what would be good and bad about each one, and they both reach the conclusion that the only way that this little girl will have what she needs growing up is if she is adopted.

11. M, as I have already said, has found being involved in this court case very difficult and for a long time did not want to meet the social worker or even her solicitor to talk about the case. She also stopped going to see her daughter at the times planned for contact because that was too painful for her. However just before the last hearing M did get in touch with her solicitor and made an extremely brave decision, to accept that she was simply not well enough to be the kind of mum she needed to be to her little girl. M realises that her mental health is not good and is still very up-and-down. I cannot explain her position any better than she did in her statement to the court and so I am going to quote from that. M says: "At the current time one minute I am poorly and the next I am not. One minute I could care for her and then the next minute I would not be able to. I do not feel that this would be good for L." She goes on: "I feel incredibly sad about the situation but I know L is going to go to a family who will love her and give her what I cannot give her at the moment. She will have stability in her life and will not be one minute with me and then with somebody else. She will grow up being happy and cared for (for) the rest of her life." And again: "L needs to be in a home where she can stay and not be moving around all the time. I have not had contact for some time now, not because I do not love L, but because it is simply too hard for me to go and leave her again. I am sad that this situation is happening and it really hurts me but I am doing what is right for her. I will always love her, she is my daughter but I am doing this for her. I hope she gets placed with a really good family who will love her how I love her and will bring her up right and protect her. I hope she gets all the attention in the world from her new family. When she is matched with a prospective adoptive family I would like the opportunity to meet them if possible so that they know that L is loved by me and can tell her this. I am really sorry that it has come to this position but I know I am doing the right thing and I just want her to know that I love her and always will."

12. I found this statement incredibly moving. M has been able to understand what her daughter needs and to realise that very sadly she is not able to give her that. I cannot imagine how painful this is all been for her. It is obvious from

her statement how much she loves her daughter and how she has only made the decision she has because of that love. There is nothing I can say that will make that pain any less, but hopefully by recording her words in this judgment I can make sure that L when she is older hears what her mum decided and why, in her mum's own words.

13. F has taken a very similar approach to M's, although rather than saying he agrees to the orders he has said he won't argue against me making them. He remains living in hospital where he has been throughout this case. He understands there is still a long way to go before he is likely to leave hospital. He is very sad that his daughter cannot go back to live with her mum but he understands why M has made the decision she has. He too is putting his daughter before what he would like. He says in his final statement to the court that he hopes when L is old enough she will be told she had been very much loved by her parents and it was only because he was ill that he had not been able to fight for her. As she gets older he would like to know what is happening in his daughter's life but he does understand that will be up to the people she is living with.

My Decision

14. I now turn to think about what orders if any are needed for L. Wherever possible, children should be brought up by their parents and if not by other members of their family. A judge should only ever agree to a child being adopted if that is absolutely necessary, where no other order would be good enough for the child, "when nothing else will do". I know that L and her parents have a right to a private family life. And when I make my decision I must remember that what is best for L throughout her life comes first in my thinking.
15. The social worker asks me to make a placement order in respect of L, the first step towards her being adopted. Given that M has not signed the necessary form recording that she agrees to her daughter being adopted, I can only make that order if I am satisfied that I should get rid of the need for M to agree. That does not make obvious sense, given M does agree to this, but the lack of the form means I have to act as though she has not consented. I know that I cannot do that unless L's welfare requires me to do so. Because F does not have parental responsibility, I do not have to consider his consent in quite the same legal way.

16. All the evidence I have read in this case tells me that L is not going to be able to live with either of her parents because of their mental health difficulties. Obviously, if they were well, it would be best for her to grow up with one of them but here that is not possible, through no fault of their own. There is no one in the extended family who can care for her.
17. If a child cannot live in her family the options available to a judge are either for her to spend the rest of her childhood in foster care or for her to be adopted. The problem with foster care is it creates a very uncertain situation for a child. Placements can end for a number of reasons and the child then has to move on, which causes harm. The child also has to have a social worker for life and there are certain things the social worker has to do, for example checking out anyone the child wants to stay with overnight, and that can make a child stand out, something most children do not want. The only advantage of foster care would be that L would be able to see her parents when they are well. Against that I consider the option of adoption. The disadvantage of this as it cuts her off for the rest of her life from her birth family, including her older half-siblings, other than indirect contact by way of an exchange of letters and information. It means however L will have a “forever family”, people who will care for her throughout her childhood and beyond. Research tells us that is the best and most secure way for a child’s needs to be met, particularly one who is as young as this little girl.
18. I have gone through in my head the possible outcomes for L and balanced up the pluses and minuses of each. When doing that, I have thought particularly about the list of things in what is called ‘the welfare checklist’ in the most important Act of Parliament about children’s cases. Looking at the options for L, I do agree that the right thing for her is for her to be adopted. I am satisfied that the local authority’s final care plan for her is the best thing for her and is proportionate. **I therefore make a care order.** I am also satisfied that L’s welfare means I should say that I do not need the written consent of her mum to her being placed for adoption. **I therefore make a placement order authorising the local authority to place L for adoption.**
19. There is one further direction I wish to make. I think it is hugely important for children who are adopted that they have information available to them, through their adoptive parents, so they can make sense of their early life. This judgment, in setting out what I have read and heard in court today, gives at least a summary of that start. I propose therefore to order that **this judgment**

must be given by the Local Authority to L's adopters so that she can see it when she is older. That however is on the basis that they should keep it private so apart from looking at it themselves they may only show it to any medical or therapeutic staff working with L or the family. It is very important therefore that the judgment is passed on to the Adoption Team to give to them. I have written this not for the benefit of the grown-ups but for L and I wish to be sure it reaches her. I have also written a 'later in life' letter to L, something she can read if she needs to sooner than she would be able to understand this judgment, and that should also be given to her adopters.

20. Finally, I also make the **usual order about court costs** in this matter.

THRESHOLD CRITERIA
AS AGREED BY THE PARENTS
AND APPROVED BY THE COURT

At the time when the local authority issued proceedings, on 29 June 2018, L was suffering and was likely to suffer significant harm (emotional abuse and neglect) pursuant to Section 31(2) of the Children Act 1989, and that harm or likelihood of harm was attributable to the care likely to be given to her not being what it would be reasonable to expect a parent to give. This is based on the following:-

1. M has poor mental health, which affects her ability to function and adequately parent. She has been sectioned twice since 2011.
2. Due to M's poor mental health, she has had four older children removed from her care. All four children are now cared for by their maternal grandmother.
3. On 22 May 2018, M's mental health deteriorated significantly. She was unable to care for L and so L went to live with her maternal grandmother on a short-term basis.
4. M was visited by social workers and she admitted that her mental health had deteriorated. She said that she felt low and emotional. She described L having difficulty sleeping and not taking her milk. M described not being able to manage this situation.
5. Shortly before this case began, M contacted the Emergency Duty Team, saying that she was not coping and felt like harming herself. M went on to say that if this happened, L would be placed at risk as M would be unable to care for her. L therefore went to stay with her maternal grandmother.

6. Shortly before this case began, during a home visit, M stated she was not in a position to care for L. She talked of not being able to keep L safe or being able to meet her basic care needs due to how she was feeling. M was admitted to hospital following this visit.
7. M has previously been diagnosed as suffering from a personality disorder.