

IN THE FAMILY COURT AT BARNET

St. Mary's Court, 224 Regent's Park Road
Finchley, London, N3 1BQ

Date: 17th October 2023

Before :

District Judge Doman

Between :

Prospective Adoptors	<u>Applicants</u>
- and -	
Helen	<u>First</u>
	<u>Respondent</u>
-and-	
Simon	<u>Second</u>
	<u>Respondent</u>
-and-	
London Borough of Haringey	<u>Third</u>
	<u>Respondent</u>
-and-	
Frank	<u>Fourth</u>
(By his Children's Guardian)	<u>Respondent</u>

John Buck (instructed by **Lilywhite Williams solicitors**) for the **First Respondent**
Kirsten McNamara (instructed by **Solicitor to the London Borough of Haringey**) for the
Third Respondent

Sarah Chan (instructed by **Reeds solicitors**) for the **Fourth Respondent**
The Applicants, and Second Respondent did not appear and were not represented

Hearing dates: 11th & 17th October 2023

APPROVED JUDGMENT

This judgment was handed down at 3.00 p.m. on 17th October 2023 by circulation to the parties or their representatives by email and by release to the National Archives.

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on the 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.

District Judge Doman :

Introduction

1. This is the second hearing in the application by the Prospective Adopters' application to adopt Frank. In all matters I am concerned in the welfare of Frank, a boy who was born on 23rd September 2020, and is now just recently turned three-years-old. The applicants did not attend the hearing nor were they represented, as is the norm.
2. Frank's mother is Helen and his father is Simon. Helen did not attend this hearing but was represented by Mr Buck of counsel, instructed by Lilywhite Williams solicitors. Simon did not attend, was not represented and has not played any part in these proceedings.
3. The third respondent local authority is the London Borough of Haringey, represented by Ms McNamara, solicitor advocate, instructed by the solicitor to the local authority.
4. Frank himself was represented by Ms Chan, solicitor, of Reeds solicitors who took her instructions from Frank's Guardian.

Background

5. Frank was subject to care proceedings immediately following his birth and was cared for in foster placements throughout the care proceedings during which time he met all of his developmental milestones. Care proceedings were issued due to Helen's long-standing substance misuse problems, including an overdose during her pregnancy with Frank; her unstable mental health; and, her ability to safely parent her children.

Such was Helen's chaotic lifestyle that her two older children had also been subject to care proceedings and had been removed from her care.

6. The care proceedings concluded on 16th March 2022 before Recorder Honeyman who made Care and Placement Orders for Frank. Frank was placed with his prospective adopters, the Applicants, on 14th October 2022 and has been seen to thrive in their care since.
7. In January 2023 the Applicants made their application, and following the requisite notice to the parents was listed for a first hearing on 3rd May 2023 before Her Honour Judge Jacklin, K.C. At that hearing Helen attended with Mr Buck, her counsel, and indicated that she wished to apply for leave to oppose the making of an adoption order. At the same hearing Helen's sister, Linda also attended and indicated that she wished to be reassessed as a carer for Frank. It would appear that no formal application has ever actually been made, but despite this Her Honour Judge Jacklin K.C. set directions for Helen and Linda to provide witness evidence and for the local authority and the Guardian to respond. The application was then re-listed before me on 11th October 2023.
8. At this hearing Helen did not attend. Sadly, it was common ground that Helen was either misusing substances again or suffering a mental health decline or both. Neither Helen's lay advocate nor her sister, Linda, had had any contact with Helen since 13th June 2023.

Application for leave to oppose the making of an adoption order

9. As I indicated above a formal application appears not to have been made, despite the recital to Her Honour Judge Jacklin K.C.'s order of 3rd May 2023 that Helen had sent such an application to the Court. On 11th October 2023 no party could say when this application was made, and it was not in the hearing bundle.
10. Helen's application, as it was understood on 3rd May 2023, had two limbs to it. First, Helen averred there was a change in her circumstances in that her mental health was much more stable and that she was seeking help for her substance misuse addiction and had been abstinent for a number of months. Secondly, Helen averred there had been a change in her sister Linda's circumstances such that it warranted a re-assessment of Linda as an alternative carer for Frank.
11. In support of that application Helen provided evidence at **135-138** of the bundle and Linda provided evidence at **139-142** of the bundle.
12. On 11th October 2023 Mr Buck rightly conceded that it was impossible to advance a case on the application in respect to Helen being in a position to care for Frank. However, he contended that this did not preclude the Court's consideration of whether or not there should be a reassessment of Linda. Clearly Mr Buck is right about that, given the decision of Baker J. (as he then was) in *Re LG (Adoption: Leave to oppose)* [2015] EWFC 52. It was therefore solely on that limb of the application that Mr Buck advanced Helen's case.
13. I confess I was a little troubled by the fact that Mr Buck and his solicitors had been entirely without instructions for a number of months, indeed Helen was reported as a missing person on 13th June 2023. However, it seemed to me both churlish and inhumane to summarily dismiss the application on that basis given all attending parties were prepared to argue the case.

Legal framework

14. There is no dispute that, subject to Helen’s application for leave to oppose the making of an order, the Applicants satisfy conditions in section 42 of the Adoption and Children Act 2002 (“the 2002 Act”) for the making of an adoption order for Frank.
15. Helen’s application for leave to oppose the making of an adoption order is pursuant to section 47(5) of the 2002 Act. Leave, however, cannot be given by the court unless it is satisfied that there has been a “change of circumstances” since the placement order was made: section 47(7). To obtain leave therefore the parent must establish “a change of circumstances”.
16. In *Re P (Adoption: Leave Provisions)* [2007] EWCA Civ 616, the Court of Appeal gave guidance in relation to leave to oppose:
 - a. The decision whether or not to give leave to a parent to defend under section 47(5) of the 2002 Act was a decision relating to the adoption of a child under section 1(7) and was, therefore, governed by section 1 and the paramountcy principle.
 - b. An application for leave has two stages: (i) first, the court has to be satisfied on the facts that there has been a change of circumstances since the order was made which is material and of a nature and degree which is sufficient to open the door to a consideration by the court of its discretion to give the parents leave; and (ii) if the court finds such a change, the question of leave falls to be decided by the application of section 1 of the 2002 Act to the facts of the case, commonly called the welfare stage, where the paramount consideration must be the child’s welfare throughout his life.

- c. The Court of Appeal rejected the notion that change should be “significant.” It was held that the importation of the word “significant” was putting the test too high. A change of circumstances can embrace a wide range of different factual circumstances. The only limiting factor is that it must be change in circumstances “since the placement order was made.”
- d. In deciding either limb, the judge has a discretion whether or not to hear oral evidence. It would be perfectly proper for the judge in the appropriate case to assume as true the facts asserted by the parents and equally proper for him to dismiss the application on the ground that it was not in the interests of the child for the parents to be given leave. It is not necessary for the judge to conduct a full welfare hearing unless the issues which arise for decision positively require such a hearing.
17. This guidance was endorsed further by the Court of Appeal in *Re W (Child)* [2010] EWCA Civ 1535. It being held that an applicant for leave to oppose must persuade the court not only that there had been a change of circumstances sufficient to justify giving leave to oppose the adoption but also that the court would hold that to give leave was in the child’s best interests.
18. In *Re W (A Child); Re H (A Child)* [2013] EWCA Civ 1177 Sir James Munby P described the approach to the second stage under section 47(5):
- “20. In addressing the second question, the judge must first consider and evaluate the parent’s ultimate prospects of success if given leave to oppose. The key issue here (*Re B-S*, para 59) is whether the parent’s prospects of success are more than

just fanciful, whether they have solidity. If the answer to that question is no, that will be the end of the matter. ... In evaluating the parent's ultimate prospects of success if given leave to oppose, the judge has to remember that the child's welfare is paramount and must consider the child's welfare throughout his life. In evaluating what the child's welfare demands the judge will bear in mind what has happened in the past, the current state of affairs and what will or may happen in the future. There will be cases, perhaps many cases, where, despite the change in circumstances, the demands of the child's welfare are such as to lead the judge to the conclusion that the parent's prospects of success lack solidity. *Re B-S* [2013] EWCA Civ 1146 is a clear and telling example; so earlier was *Re C (A child)* [2013] EWCA Civ 431.

...

22. If the parent is able to demonstrate solid prospects of success, the focus of the second stage of the process narrows very significantly. The court must ask whether the welfare of the child will be so adversely affected by an opposed, in contrast to an unopposed, application that leave to oppose should be refused. This is unlikely to be the situation in most case given that the court has, ex hypothesi, already concluded that the child's welfare might ultimately best be served by refusing to make an order for adoption..."

19. Finally, but not least, the court must have regard to Frank's right to a family life pursuant to Article 8 of the ECHR.

Evidence

20. I have received a hearing bundle of 357-pages which contains, inter alia:
- a. Documents from the care proceedings, including Helen's parenting assessment, the local authority's final evidence, the final threshold, Frank's Guardian's final analysis, and the Care and Placement Orders.
 - b. Connected carers assessments from the care proceedings, including: Linda's viability assessment, special guardianship assessment of Linda by Sarah Norris, dated 11th July 2021, addendum special guardianship assessment of Linda by Sarah Norris dated 31st August 2021, special guardianship assessment of Linda by Sarah Stollard dated 24th December 2021, and an email message from Sarah Norris dated 2nd March 2022.
 - c. Witness statements of: Helen dated 31st May 2023, Linda dated 5th June 2023, and Hannah dated 5th July 2023.
 - d. Analysis of Frank's Guardian, dated 9th October 2023.
21. Additionally, I have had the benefit of submissions on behalf of the local authority, Helen and Frank's Guardian. I am grateful to each advocate for their thoughtful submissions.

Analysis

Change of circumstances

22. Linda was subject of three assessments during the care proceedings. There was an initial viability assessment which was positive [149-161]. Next Linda was assessed by Sarah Norris which was broadly positive and commented that despite a very chaotic early lifestyle surrounded by violence and criminality that Linda had been able to protect her own sons from the extended family and their behaviours and there would be no reason why Linda would not be able to do so. Linda, importantly, also had care of Frank's older brother, Adam, at the time.
23. However, from the email at 324 of the bundle it is clear that Ms Norris did not have all the information she required as she did not have access to the care proceedings in relation to Linda's son Zack or information pertaining to the wider extended family. Within the same message, and having considered Sarah Stollard's assessment, Ms Norris expresses her concern that "Linda was not open and honest with me during my assessment."
24. Ms Norris also agreed with Ms Stollard that placement of Frank with Linda was likely to expose him to the difficulties of the wider maternal family notwithstanding that she was providing good quality parenting to her own children and her nephew Adam.
25. In my judgment it is difficult for the Court to place much weight on an assessment in which the assessor believes that the person being assessed has not been open and honest with them. Information gathering is crucial to the assessment and if that process is deliberately altered by the concealment, deliberate or otherwise, it is very difficult to have confidence in any conclusions the assessment may come to.

26. Sarah Stollard conducted the third assessment of Linda. She concluded that although Linda would probably be able to meet Frank's day-to-day basic care needs there were very significant doubts about Linda's ability to protect Frank from his mother and the wider maternal family's chaotic lifestyle. Both assessors concluded that Frank could not be safely placed in Linda's care.
27. It is noteworthy that although Linda was given the permission to file and serve a witness statement setting out her objections to Ms Stollard's assessment and was joined as a party to the care proceedings she did not do so, nor did she attend the final hearing.
28. At the care final hearing the Court's realistic care options were care and placement orders or a special guardianship order to Linda. There were no gaps in the evidence at that final hearing and the protective factors about a placement with Linda was the most cogent risk Recorder Honeyman was assessing. Clearly, by the orders she made Recorder Honeyman concluded that Linda was not able to sufficiently protect Frank from the risks of significant harm from his mother and wider maternal family and that in terms of placement options nothing else would do other than to make a placement order.
29. In her witness statement in this application Linda states that Adam no longer lives with her thereby giving her more time to meet Frank's needs. Mr Buck criticises the local authority and Guardian on the basis there is no, or insufficient, analysis that change and how Linda might now more easily manage caring for Frank.
30. This is not a fair criticism because it was known by the time of Ms Stollard's assessment that Adam was making the transition to semi-independent living [280], and therefore in my judgment Adam was unlikely to have been the determinative

factor in Recorder Honeyman's risk assessment. Linda's ability to meet Frank's basic care needs have not, in my judgment, changed from the situation that either was the position or was reasonably foreseeable during a transition period at the care final hearing.

31. What remains is the dynamic risk factor of being able to protect Frank from the chaotic influences of Helen and the wider maternal family. Mr Buck characterised this as Linda disengaging from Helen and that Linda's perception of risk is good. I cannot agree with this characterisation. It is Helen who has disengaged from Linda and her wider family. Linda has not had to take any positive act to protect herself (and her children) from risks Helen presents. Moreover, a theme of both Ms Norris and Ms Stollard's assessments is to what extent Linda would be properly able to do so. Both assessors doubted that Linda would be able to resist the pressure from family or, given her deep Catholic faith, turn her sister away.
32. Sadly, the circumstances in which I consider the circumstances of the case is not very different from those that Recorder Honeyman was considering. Helen is not a realistic placement option. On the evidence available to me there is nothing new about Linda's ability to protect Frank other than Linda's witness statement that she would. I accept that Linda settled her witness statement in good faith but her practical abilities to protect have never been tested. In my judgment that is incapable of establishing that there has been a material change of circumstances of such a nature and degree that is sufficient to open the door to the court's discretion.
33. Lastly, the care proceedings considered Linda's lack of commitment to Frank given she did not take up the opportunity to provide her witness statement, or attend the final hearing.

34. During the care proceedings Linda's commitment to Frank was questionable. She often expressed her commitment to him in assessments but then the reality on the ground was that she struggled to make herself available for contact with Frank, missing sessions or attending late. That must have impacted Frank's ability to build a relationship with his aunt during those proceedings. The inconsistency resulted in the last contact between Linda and Frank being on 8th February 2022. After the care proceedings concluded, Linda did not respond to the local authority's letter sent on 16th June 2022 offering her a final contact with Frank.
35. It seems to me, and the advocates did not demur from this assertion, that Frank likely has no working memory of Linda. She is a stranger to him.
36. Additionally, I consider the local authority is right to be concerned about Linda's motivation given her previous lack of commitment. As I commented above the maternal family are Roman Catholic and the assessments demonstrate that Linda considers herself guided by her "intrinsic" Catholic faith. It was in a discussion with the local authority's social worker on 21st February 2023 with the maternal grandmother, that the local authority shared that Frank's prospective adopters were a same sex couple. The maternal grandmother's reaction was that she became very upset and commented that these circumstances were against her religion and that the family would oppose Frank being adopted by a same sex couple.
37. Whilst I respect the maternal family's religious beliefs, all the qualitative evidence and research available to the Family Courts, which I am not going to set out in this judgment, demonstrates that there is no difference in life outcomes when comparing same sex couples with mixed sex couples when all other factors are equal. Additionally, I bear in mind the fact that placement of the child with a same sex

couple will not, of itself, amount to a change of circumstances: *Re J and S (Care Proceedings: Appeal)* [2014] EWFC 4.

38. On the issue of change of circumstances, I am driven to the conclusion that Linda has not established there has been a change of circumstance that is material and of such a nature and degree which is sufficient to open the door to a consideration of giving Helen leave to oppose the making of an adoption order. This is because, first, the issue of Adam leaving Linda's care was known at the time the care and placement orders were known and; secondly, there is no material change in Linda's ability to protect Frank from the chaos of his mother and wider family's life and the emotional harm and instability that would cause him. Even if I am wrong that there is no material change I am not satisfied it would be of such a nature and degree that should cause the Court to ask for Linda to be assessed for a fourth time.

Welfare stage

39. No matter what my conclusions were to be on the change of circumstances the parties encouraged me consider the second stage of the application. I am happy to do so.
40. The application of section 1 of the 2002 Act demands that the Court place Frank's welfare throughout his life as the paramount concern: section 1(2). It is worth setting out the section 1(4) welfare checklist here:
- a. The child's ascertainable wishes and feelings regarding the decision (considered in the light of the child's age and understanding);
 - b. The child's particular needs;

- c. The likely effect on the child (throughout his life) of having ceased to be a member of his original family and become an adopted person;
 - d. The child's age, sex, background and any of the child's characteristics which the court considers relevant;
 - e. Any harm (within the meaning of the Children Act 1989) which the child has suffered or is at risk of suffering;
 - f. The relationship which the child has with relatives, with any person who is a prospective adopter with whom the child is placed, and with any other person in relation to whom the court considers the relationship relevant, including –
 - i. The likelihood of any such relationship continuing and the value to the child of its doing so;
 - ii. The ability and willingness of any of the child's relatives, or any such person, to provide the child with a secure environment in which the child can develop, and otherwise to meet the child's needs;
 - iii. The wishes and feelings of any of the child's relatives, or of any such person, regarding the child.
41. In respect of Frank's ascertainable wishes and feelings, he is too young to express those or having any understanding of these proceedings. I start from the position that any child would, if possible, want to be raised within their birth family and ideally by a parent. The reality in this case however, is that Frank has no working memory of his birth family. When the Guardian visited Frank and the Applicants on 13th

September 2023 she found that Frank was well settled in his new home and she observed that Frank had a good bond and attachment to both applicants. He demonstrated affection, responded to requests and was calm and engaged during that visit.

42. I also impute that a child would wish to have a stable home. Frank has already experienced two significant losses in his young life: his mother at the beginning of the care proceedings and his foster carer when he was placed with the Applicants. Those are two key attachment figures. In my judgment it is reasonable to assume that Frank would not want to experience another loss or change. I accept the Guardian's analysis that although Frank would be glad to see that his birth family have fought for him to be cared for by them, on balance, he would prefer to remain in his forever home with his adoptive parents who provide him with extremely good care.
43. In respect of Frank's particular needs he was born with neonatal abstinence syndrome due to Helen's substance misuse, his urine toxicology on birth was positive for opiates, benzodiazepines and cocaine. Initially he suffered terrors and sleep disruptions, he was also thought to have experienced separation anxiety.
44. He is now a physically healthy child, up to date with his immunisations and meeting all of his developmental milestones. The Guardian told me that Frank is a lively, active, sociable and inquisitive child. He recently started attending nursery on a part-time basis which I am told he enjoys but has also found the separation from the applicants difficult. This, of course, is normal for children of Frank's age, and I have no evidence that deeper early life experiences have exacerbated this in Frank.
45. However, given Frank's in utero harm the Applicants are alive to the need to closely monitor Frank's development throughout his childhood and adolescence. There is no

reason to suppose that in the care of dedicated, loving and attuned parents that Frank will not continue to thrive and meet his developmental milestones.

46. In respect of the likely effect on the Frank of ceasing to be a member of his birth family: adoption will permanently sever Frank's legal and practical ties with his birth family and that will have lifelong implications for him. Adoption can and does often provide for the adopted person all the security and stability that children require, but sometimes, often in later life, lead to an experience akin to loss or grief. Some adopted people feel a sense of rejection and have poor self-esteem or other mental health difficulties. Those experiences are rarely confined to the childhood and occur sporadically throughout the adopted person's life, particularly at major 'life events'.
47. The Guardian was confident that the applicants intend to be open and honest with Frank about how he became their son, and were very open to the life story work that the local authority can assist with. I was particularly touched by the fact that they articulated that they were grateful for Helen's application for leave to oppose the adoption because they feel it strengthens the narrative they intend to give to Frank by explaining how loved and wanted he was by them. Further, I was told during the hearing that the applicants are open to considering direct contact between Frank and his siblings in addition to their commitment to ongoing letterbox contact.
48. In terms of his age, sex, background and characteristics: Frank is now three years old. Helen has a white British/Irish heritage and Simon has a black British/Caribbean heritage. His linguistic background is English. In respect to religion the maternal family strongly identify as Roman Catholic. The applicants are committed to allowing Frank to follow his own religious beliefs when he is old enough to make those choices for himself.

49. In terms of harm Frank has suffered or is at risk of suffering: the final threshold document dated 8th February 2022 [77] sets out the significant harm that Frank suffered prior to his birth and the harm that he is at risk of suffering in the care of Helen. That final threshold formed the basis for Recorder Honeyman's order on 16th March 2022. There was no appeal of Recorder Honeyman's judgment. Further, it seems to me that the risks that the learned Recorder identified in March 2022 in respect of Frank being placed in Helen's care exist today given the events since 13th June 2023.
50. As I detailed above Linda seeks a re-assessment and for the reasons I have set out above I have concluded that there are not in fact any changes in her circumstances since the placement order was made. I have also concluded that even if I am wrong and that there has been some change in her circumstances they are neither material to the real issue of her ability to protect Frank from harm or of sufficient nature and degree that I should exercise my discretion and give leave. I remain unclear why she did not commit to Frank during the care proceedings or appeal the assessments if she says they are incorrect. Moreover, I accept the Guardian's analysis that, Linda, whilst well-meaning, does not appear to have considered the impact that a re-assessment would have on Frank.
51. I suspect that when the maternal family learnt of the adoption application it brought back the finality of the court's decision and when combined with the family's feelings about Frank being adopted by a same sex couple they felt compelled to make the application they did. I am not satisfied, when evaluating the evidence now available to me that the assessment landscape has changed and that Linda could provide Frank with a secure environment to develop. Given his young age and the vulnerabilities he

has I am not confident his needs will be prioritised and in my judgment Linda is likely to struggle if or when Helen re-engages with the family.

52. Lastly, in respect of Frank's relationship with his family: I again remind myself of the draconian nature of an adoption order; however, in this particular case it is ameliorated by the applicants' consideration of direct contact between Frank and his siblings. The reality in this case is that Frank has had no direct contact with the maternal family since February 2022, he was then seventeen-months old. He has no working memory of them.
53. Although willing, in my assessment Linda does not have the ability to provide Frank with a secure environment. If placed with her I consider that it is likely that Frank would be exposed to further emotional harm which would be detrimental to his welfare; there is no good reason to suppose that a further assessment of Linda would reach a different conclusion from Ms Norris or Ms Stollard.
54. I, of course, accept that Frank's birth family wish for him to remain a member of their family and that they oppose the adoption.
55. When I stand back and evaluate Frank's welfare throughout the course of his life I am driven to the conclusion that his welfare demands that there is a finality to court proceedings, that he has permanent attachments to his care givers, he has legal security and certainty to last all his life, and he has the ability to continue to thrive in the carefully matched prospective adopters' family without further disruption and uncertainty.
56. I have built into this evaluation the fact that if I were to conclude that Linda is to be re-assessed this would be a process that the advocates all agreed would last at least

four months. The parties would then need to file their own evidence in response to that assessment, and the Court would need to list the application for determination. The reality is that a contested adoption hearing would be unlikely to conclude in the next nine months, and in all probability take Frank beyond his fourth birthday. In my judgment this further disruption and uncertainty, including the possibility of another change of carer, would be emotionally damaging for Frank. I accept the Guardian's assessment that this would likely to lead to a regression in all aspects of Frank's development.

Conclusion

57. I am dismissing Helen's application for leave to oppose the making of an adoption order. This is a dismissal on the merits of the application because I did not consider it to be in the interests of justice to summarily dismiss the application on the basis that Helen's legal team had been without instructions since 13th June 2023 and it is clear she is misusing substances again and/or her mental health has deteriorated. I can only hope that she is as safe as she can be, and that in time she obtains the help she needs.
58. The focus of the application was for Linda to be re-assessed. This had two limbs to it: first that Adam, her nephew and Helen's older child, had left Linda's care; and, secondly, that she was able to prioritise Frank's needs.
59. My fundamental difficulty with Linda's case was that she was comprehensively assessed twice within the care proceedings and both assessors came to a similar conclusion:
 - a. That Linda was not open and honest about all aspects of her life

- b. That she would not be able to sufficiently prioritise Frank's welfare and protect him from the chaos and instability that his mother and the wider maternal family pose.
60. There were positive aspects of those assessments, particularly in respect of the basic primary care that Linda was able to demonstrate with her own children. Those negative aspects when combined with Linda's lack of commitment to Frank throughout the care proceedings and since outweigh the positive factors. When considering the circumstance that exist today and those that existed at the conclusion of the care proceedings I am not satisfied that there has been a change of circumstances. Even if I am wrong about that, in my judgment those changes are too insignificant to be material changes to the most cogent risks, namely protection of Frank from harm, and also not of a sufficient nature and degree that I should exercise my discretion to grant leave to oppose.
61. I fully recognise that decision will be crushingly disappointing to Linda and the rest of the maternal family. I cannot, however, escape Frank's lived reality: he has been placed with the applicants for over a year, they are all he knows and he is receiving extremely good care from them. If I were to have concluded that there had been a material change of circumstances of sufficient nature and degree I would still have to have considered whether or not to grant the application having considered the 2002 Act welfare checklist. Having conducted that analysis for myself I consider that Frank is at a crucial age of development and his lifelong welfare demands he have permanence as to where his life will be. His proceedings were already delayed by Ms Stollard's assessment, and I conclude that it is unconscionable that he should suffer further delay and uncertainty for what would be at best a speculative re-assessment.

In short, even if Linda had satisfied me on the first limb of the *Re P* test, given my conclusions as to Frank's welfare, I would have refused the application on the second limb.

62. This application will now be listed before me on the first available date after 21-days for an adoption final hearing.
63. That is my judgment.

Message to Frank

64. It is not uncommon in 2023 for judges to be told that when adopted children grow up they wish to read the judgment or transcript of the last major hearing before they are adopted. I am writing this message for you, in case you ever do read this.
65. I want to start by telling you that in many ways you are very lucky for two reasons. First, you have a birth family who dearly wanted to care for you, fought for you and to bring you up within their family. Secondly, your adoptive parents desperately wanted to care for you and wished for you to become their son; they withstood all the emotional turbulence that these proceedings bring to adoptive parents and were unwavering in their love for you and desire to give you the very best home they can.
66. I don't have a crystal ball; I can only make decisions about you based on the evidence I have available to me at the time I make it. That might sound obvious but sometimes emotions can overwhelm people. I think that emotions have overwhelmed your birth mother, Helen, and that caused her mental health to decline and she seeks solace in

drug misuse which only make things worse for her. Sadly, as you will have read, she was unable to break that cycle. I hope she does, and she heals and finds peace in her life. I also think that your aunt Linda, really wanted to look after you, but I think it would have been very difficult for her to say “No” to your birth mother when she needed your aunt’s support, causing you upset and potentially chaos in your life.

67. I want you to understand though, that was my decision, not theirs. You should not blame them. They fought for you.
68. Returning to my crystal ball: on all the evidence that I have available to me I am very confident that you will have a wonderful life with your adoptive parents. You are their number one priority. You are their son, and will be for your entire life. Their family life is your family life. They will love you, comfort and nurture you to become the person you are when you read this. When you do I hope that it provides an answer if there was a question, understanding if there was confusion and some comfort if there is hurt.
69. Lastly, I wish you all the very best in health and success in everything you do in your life.
70. Yours, District Judge Richard Doman.