

IN THE MILTON KEYNES FAMILY COURT

Neutral citation: [2025] EWFC 365 (B)

Case No. MK25C50019

Courtroom No. 6

351 Silbury Boulevard
Witan Gate East
Milton Keynes
Buckinghamshire
MK92 2DT

Friday, 29th August 2025

Before:
MR RECORDER STOTT

B E T W E E N:

BUCKINGHAMSHIRE COUNTY COUNCIL

and

U & V

MS K DUNCAN appeared on behalf of the Applicant
MR D COOPER (Solicitor) appeared on behalf of the Respondent Mother
MS R VAUGHAN (Solicitor of PS Law LLP) appeared on behalf of the Respondent Father (1)
MS E GRIFFITHS (instructed by Boardman, Hawkins & Osborne LLP) appeared on behalf of the Respondent Father (2)
MR A T SMITH (Solicitor of Blaser Mills Law) appeared on behalf of the Children by their Children's Guardian

JUDGMENT

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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 children and members of their 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.

RECORDER STOTT:

1. I am concerned with the welfare of UU, a boy born in February 2021. The application before me for a care and placement order is brought by Buckinghamshire Council who are represented by Ms Duncan of counsel. U's mother is MM and she is represented by Mr Cooper, her solicitor, at the hearing today. Ms M did not attend the hearing, despite permission being given for her to attend remotely. Also in Court is Mr FO. He is V's father, and V was born in August 2018. Whilst she is subject to these proceedings, I am not concerned with her welfare today for reasons I will go into in due course. He is represented by Ms Vaughan, solicitor, at the hearing today. U's father is FT. He is represented by Ms Griffiths of counsel. Mr T is not in Court today; his permission having been excused as he has a medical appointment. Both children are represented by their Guardian, Ms Richer who in turn instructs Mr Smith as solicitor for the children at the hearing today.

Chronology and Background

2. I turn to a brief chronology and background. I propose only to provide such background as is necessary to give context to my judgment which I am giving *ex tempore*. There is a long history of Children's Services involvement. U and V have been known to the Local Authority all their lives, with concerns centred around long term neglect, parental substance misuse and domestic abuse. The home conditions where U and V were living were inadequate. They had a poor diet and suffered significant harm. Both children have been subject to two periods of child protection planning as well as two Public Law Outline processes. There was a lack of progress in the second Public Law Outline process which led to proceedings being instigated as both T and A were suffering ongoing neglect and emotional harm.
3. On 28 February 2025, an interim care order was made, and they were both placed together in foster care. Assessments were undertaken which concluded that neither child could return to their mother's care. The mother attended some of the family time sessions provided by the Local Authority but only sporadically. She attended five out of 14 sessions. I understand that she saw V yesterday but has not seen U since the start of June 2025. The mother has engaged in hair strand testing which was positive for cannabis, cocaine and codeine and I

have read that she has been discharged from her Talking Therapy due to a lack of engagement.

4. Mr O, V's father, has been positively assessed to care for V. V is now in his care and is reported to be doing very well. This is very pleasing to hear.
5. U has been recently introduced to his biological father and there have been two sessions of contact. Mr T did not have parental responsibility for U and was not on his birth certificate. However, within these proceedings a declaration of parentage has been made, and he now has parental responsibility.
6. The proposed Local Authority care plan for V is for her to ideally be with her father and that is subject to a testing period at this stage but she moved to his care I understand on 24 July this year and certainly over the last few months has been in the full time care of the father which I have said is going well.
7. The care plan for U is very different. It is a care plan for adoption, and the agency decision maker ratified this plan on 9 June of this year. U has two paternal half siblings, W and X and sadly I have read that Y died aged six months and that U and V also have an older brother who I understand lives with his father and is not subject to these proceedings.

Positions

8. I turn to the parties' positions because the positions have changed from the documents filed with the Court yesterday. The Local Authority sought a care and placement order for U but they were opposed to a section 26 Adoption and Children Act 2002 contact order being made for sibling contact and are also opposed to Mr T's application for a section 26 contact order for direct contact between himself and U and also direct contact between U and X. The Guardian sought a section 26 order for sibling contact but was opposed to any order for direct contact between U and Mr B and direct contact between U and X.
9. It is important in my judgment to record that Mr T positively supported the Local Authority care plan for U being placed for adoption because Mr T had his own experiences in foster care and he wished for U, if he could have a lifelong family to care for him, then that is what Mr T would wish for. Mr O supported an order for sibling contact between V and U. The mother was not in a position to give firm instructions, but her last instructions were that she did not oppose the Local Authority's care plan and would want sibling contact to take place.

The Law

10. I do need to set out the law in respect of the applications before me. Before making any public law orders I must firstly consider whether the threshold for making any orders as provided for in section 31 of the Children Act 1989 is crossed. If the Local Authority establishes threshold, then the Court goes on to consider what orders it should make having regard to all the circumstances of the case and where there is a care plan for adoption, section 1 and section 1(4) of the Adoption and Children Act 2002. In making my determinations, U's welfare is my paramount consideration and I must have regard to the particular factors set out in section 1(3) of the Children Act 1989, the Welfare Checklist. I have to have regard to the principle of delay in determining questions regarding the child's upbringing and the likely prejudice to their welfare and I also remind myself that I should not make any order unless I consider that it would be better for U than making no order at all.
11. When considering the application for a placement order, my paramount consideration is U's welfare throughout his life, section 1(2) of the Adoption and Children Act 2002. I must also have regard to the factors set out in section 1(4) of the Adoption and Children Act 2002 which include additional factors to those provided by the Children Act 1989. Section 52 of the Adoption and Children Act 2002 sets out the Court can only make a placement order in the absence of parental consent where it is satisfied that the child's welfare requires that consent be dispensed with. I remind myself that a care plan for adoption of a child must be an option of last resort and will not be ordered unless it is demonstrated that nothing else will do and having regard to overriding requirements of the child's welfare.
12. The Court must grapple with the realistic competing options, and I have of course the case of *Re: B-S (Children)* [2013] EWCA Civ 813 firmly in my mind. The Court should not make any orders unless it is satisfied that it is both necessary and proportionate for such orders to be made to secure the child's welfare and have regard to Article 6 and Article 8 rights of the European Convention on Human Rights of the parents and of course U.
13. I have regard to section 26(2) of the Adoption and Children Act 2002 which provides that while an adoption agency is so authorised where a child is placed for adoption (b) the Court may require an order under this section requiring the person with whom the child lives or is to live to allow the child to visit or stay with the person named in the order or the person named in the order and the child otherwise to have contact with each other. Sub section (3) sets out the locus of who may apply for such an order and indeed provides under sub section

(4) when making a placement order, the Court may on its own initiative make an order under the section.

14. I am grateful for the documents provided by the advocates in respect of section 26 because I am aware that it is a developing area of law and I have been referred to the case of *Re: S* (Placement Order: Contact) [2025] EWCA Civ 823 which considered post-placement contact and sibling contact. The case of *Re: S* considered a number of key decisions and invites a distinction to be drawn between cases where continuing direct sibling contact is considered to be necessary for the child's future welfare and cases where the achievement of an adoptive home is the overarching goal meaning that future sibling contact would be desirable as opposed to being a pre-requisite. I have been referred in particular to paragraphs 71-78 of that judgment. That judgment suggests that there is a responsibility on the Court to set the template for contact at the placement order stage and that if the Court determines that a measure of direct sibling contact should continue, the Court should stipulate that in the order and moreover that Parliament has specifically placed that responsibility on the Court. Paragraph 78 provides that it is helpful for the Court, or may be helpful for the Court, to consider two phases of contact, a phase running up to where a placement for adoption has been identified and a second phase thereafter and that any order might be framed in this way.
15. Whilst I do not propose to go into any detail Mr Smith has referred me to section 31(f) of the Matrimonial and Family Proceedings Act 1984 which I read with some interest.
16. I am also aware of the Public Law Working Group report dated November 2024 setting out recommendations for this practice in respect of adoption and the need to show greater consideration to be given throughout the child's minority as to whether there should be face to face contact with those persons who are significant to them.

Threshold

17. I turn to threshold. I have considered the section 31 threshold document in the Court bundle. Mr T proposes one amendment in that he was unaware of the Court making a non- molestation order of its own motion and therefore he does not contest that non- molestation order. That amendment was agreed, and I am content for that to be made. The document that I have read in the bundle does require a little tidy up in respect of the first two paragraphs because the Court will find the threshold criteria is met pursuant to

section 31(2) of the Children Act 1989 and the document needs to reflect that and for the threshold criteria to be recorded in the order I am going to make today. As I understand it there is no opposition to section 31 being crossed, and in any event for the avoidance of doubt I determine that the section 31(2) threshold criteria are met, and the gateway is open for me to make public or private law orders. As I say there has been a large amount of agreement reached between the parties this morning and I have heard submissions from each party.

Welfare

18. The exercise I have to carry out leading to my decision is this. U's welfare throughout his life is my paramount consideration and I have all the factors of section 1(4) of the Adoption and Children Act 2002 firmly in my mind when coming to my decision and in particular the likely impact on U throughout his life having ceased to be a member of his original family and become an adopted person.
19. I turn to the relevant Welfare Checklists. U is four and he is too young to fully understand what is happening around him, how this may influence his future and to express his own wishes on the various options. It is assumed that he would wish to be cared for by a parent if they could care for him safely and meet his needs and also to be with his siblings. He would also want a secure, stable and loving home and a proper bond and direct relationship particularly with his sister. Equally if he is placed outside the family, I can assume that he would want to carry on seeing his family and siblings if at all possible. It is also to be assumed that he would wish to be protected from harm and living in an environment free from drug misuse and frightening or confusing experiences with good routine and stimulation and his basic care needs being met. He will need consistent love and affection from his carer and to be a part of a family to which he belongs and ideally without state intervention.
20. U has all the usual needs of a child of his age. He has physical needs that need to be attended to consistently as well his emotional needs and social development which needs to be nurtured by provision of predictable care and stimulation. I have read that he has not yet reached his developmental milestones and is displaying some speech delay. Again, I do not think he is yet toilet trained. He is still very much reliant on the person caring for him to respond to his needs and to keep him safe. He needs determination of where he is going to live and by whom he is going to be cared for. He has experienced a lot of loss and change in

the recent past. He has settled well with his foster carer which shows that he can build positive attachments. He also has a strong need to have a sibling relationship with his sister. He needs to be settled with permanent carers with whom he can forge a trusting relationship that can endure throughout his childhood and of course his life.

21. I have read that U suffers from a high level of anxiety and can become quickly dysregulated with new changes and be hypervigilant. He is of white British heritage. His developmental delay remains unclear. It may be related to his early life experiences, or it may be an organic cause. He is described as an anxious boy and whilst at times can be happy and smiling at other times he can present as being withdrawn or present much younger than his chronological age.
22. U will remember his mother and her partner. He has only just met his biological father. He will grow up knowing he is adopted and will want and need to know about his birth family. The mother is a significant person in his life as is his father and his sister. He will need to understand why he cannot be cared for by his mother and father. Life story work will assist U and direct contact is also likely to be extremely beneficial to supplement this.
23. Whilst in the care of his mother U suffered significant neglect. His mother has been assessed as being unable to care for him and his father too has made a brave decision not to put himself forward to care for U as he knew he was not able to provide U with the care and support U needs and deserves. In short, neither parent is able to meet U's short and long term needs and he requires a placement outside of his birth family. I have no doubt that both the mother and U's father love him very much, but the evidence is overwhelming that neither are able to provide the care that he needs and is entitled to receive. I recognise that the relationship with U's mother, father and birth family will largely be lost if he is adopted by another family although contact will be aimed at a level allowing him to understand his life story and identity work and having a much lesser relationship with his family. He will grow up knowing that he is adopted and he will of course become a legal member of a new family who would constitute his family life and not just for his minority.
24. U has of course an established relationship with his sister and his mother although I note he has not seen his mother for some considerable time. The relationship with V is a particularly important one and of course I have to consider this when I make any section 26 order for contact. The Local Authority are seeking a care and placement order and they now agree that a section 26 order for sibling contact is proportionate and necessary.

25. A care order on its own of course would mean that their decision about U's future welfare certainly in terms of his legal status is delayed for some considerable time. A care order would allow the Local Authority to keep U in foster care but only a placement order will permit the Local Authority to pursue the identification properly for an adoptive placement for him. When I look as to whether or not it is necessary and proportionate to make a care and placement order I have considered the benefits and detriments, the advantages and disadvantages of the options open to the Court in a holistic way. The only real possibilities for U bearing in mind his age are a care order with a plan of long term fostering or a care plan of adoption.
26. When I have considered the evidence and U's age, I agree that it would be wholly contrary to his welfare interests to be placed in long term foster care by way of a care order on its own. It would have considerable disadvantages and I record that no party is asking me to consider this as an option now but I have considered it, because a placement for adoption would give U a secure, permanent, stable, safe and loving home where he would be able to gain a tangible sense of belonging throughout his life and so that is the realistic option. It would sever the legal relationship with his mother, father and sister for his life and that of course is a significant disadvantage, and I have said his relationship with V requires careful consideration. That is a balance which I have to undertake.
27. Of course, this will leave U with questions about his birth family and the reasons for adoption. Life story work will ensure that he is given support by his adoptive parents about his identity needs, together with ongoing direct and indirect contact as proposed with the parents. As I have said, in this case his direct relationship with his family remains open. I am satisfied that the only option which would meet U's welfare best interests throughout his life is a care plan authorising the Local Authority to place U for adoption. It is his welfare interests that lead me to endorse the Local Authority's care plan to determine that care and placement orders are proportionate and necessary for the Court to make.

Contact

28. I turn briefly to contact. I have had to consider whether sibling contact is a pre-requisite for U or simply desirable. The Local Authority has identified that sibling separation is likely to make both children sad and upset and create a longing for each other causing distress and that will mean a high level of contact in particular for U. I note the children have always lived together, they moved into foster care together, they have not had contact, or U

certainly has not, had contact with his mother and has only recently been introduced to his biological father who is different to who, as I understand it, he believes his father was. U has been subject to an enormous amount of emotional harm and change. The Guardian is of the firm view that any adopter who cannot see the value of an enduring sibling relationship between U and his sister, would not be the right carer for U. Of course, the argument for finding an adopter who is willing to comply with an order for contact certainly between matching and the making of an adoption order is likely to potentially reduce the pool of adopters, notwithstanding the work that has been undertaken with potential adopters in terms of the research that has been undertaken and the real benefits associated with what can be described as a more open adoption.

29. Having considered the position carefully this morning, the Local Authority now say and agree that an order is required and that they will explore and find adopters who are able to promote sibling contact. The Local Authority, the parties and the Guardian in particular are all now agreed that an order should be made for reasonable contact. Contact will remain monthly until an adoptive family is found, followed by a wish you well contact with the parents. The direct sibling contact will then move to a minimum of three times per year, and I fully recognise the need to secure the sibling relationship is of lifelong importance and enduring, especially when there is a proposed care plan for V to live with her biological father.
30. Of course, the potential benefits of not making an order may allow the potential adopters to not facilitate sibling contact. This may increase the chance of U finding a forever family in light of his age, background and early life experiences but in my judgment, there is an overriding need for sibling contact which must be preserved which would in essence only allow adopters willing to facilitate this contact to be considered.
31. When I consider the authorities, the Working Group Guidance and the position which is now agreed, I am entirely satisfied that the circumstances of U's welfare throughout his life are so fundamental that potential adopters who are unwilling or unable to facilitate direct sibling contact should not be considered. Having reached agreement Mr T now through his counsel Ms Griffiths seeks permission to withdraw his application for a section 26 contact order both direct contact for himself and also for X. As I said Mr T recognises that U needs the permanency that only adoption can offer and I note the quality of contact sessions which did take place and the interactions between U and his father. Accordingly, I grant permission for Mr T withdraw his section 26 application for contact.

Conclusion

32. In conclusion, I have scrutinised and evaluated the evidence and undertaken a holistic evaluation of the realistic options which I must do. I understand that the mother is not able to attend this hearing as it is simply too difficult for her, but I am sure that she wants the very best for U. U needs a decision made for him now and the opportunity to secure a forever home and therefore I make the following orders; a care and placement order to the Local Authority, I dispense with parental consent for U to be placed for adoption on the basis that his welfare requires it, notwithstanding Mr T's position; I approve the plan of monthly contact and for post-adoption contact as now agreed and approve the amend recitals to the proposed order including the making of section 26 order for sibling contact. I will approve the time for a revised care plan with threshold to be filed by the Local Authority. There will need to be a transcript of short *ex tempore* judgment to be arranged and funded by the Local Authority and if necessary, permission for a copy of my judgment and the Guardian's final analysis to be provided to any prospective adopters. I will consider of course any other documents which may wish to be disclosed.
33. My I extend my appreciation to the advocates for their assistance and ability to work collaboratively to reach what is in my judgment the best welfare outcome for U.
34. That concludes my judgment.

End of Judgment.

Transcript of a recording by Acolad UK Ltd
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