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*Judgment: approved by the Court for handing down (subject to editorial corrections)** | *Delivered:* **29/07/10**

Judgment of Dungannon Family Proceedings Court

Southern Health and Social Services Trust

v

F
(Permanency Planning)

1. Bearing in mind the No Delay principle enshrined in Article 3(2) of The Children (Northern Ireland) Order 1995, the Court means to allow social workers to have The Conversation with child G in this case without further prevarication. He had been raised by his mother until January 2009, when he was approaching 8. He then found himself removed into kinship care, then into foster care within a matter of a few months, where he has since remained.

2. Throughout that period, he has been experiencing uncertainty of the most fundamental kind, going to his sense of safety, of place and of value. He has been kept uncertain as to what is to become of him each night he goes to bed, whether he will be re-united with his mother, or whether he will be looked after by somebody else; if it is to be by somebody else, he has not known whether that is to be by the people who have been looking after him thus far, or by somebody else.

3. This is not a situation to be wished upon any child and all that we have learnt tells us that this period of uncertainty must not be protracted needlessly. A child in this situation must be wondering always what is to become of him and the key feature of this interim phase is that no-one can tell him for sure – cannot open The Conversation with him. That will obviously cause him stress and potential harm, emotionally, to a degree which will vary in the circumstances of each case.

4. All information which might tend to identify the family concerned has been removed from this text, in order to protect the rights of the family and of the child concerned. This judgment is being distributed on the strict understanding that in any report no person may be identified by name or location, other than as disclosed in this text, and in particular the anonymity of the subject child and of his mother must be strictly preserved.

5. This Application first came before the Court on 18th February 2010. Papers filed by the Trust detailed the circumstances in which a Care Plan for permanency by way of long term foster care had been reached in respect of child G, then turning 9 years of age. The sole Respondent is his mother. His father has had no real involvement in his life and his present whereabouts in England are unknown.

6. Full details of the case history were set out in the court papers, but, by way of synopsis, his mother, Ms. F, had been known to Social Services since her move back from England in May 2003, accompanied by reports from her former partner of alcohol abuse, impacting upon her parenting of G. In mid-2004 there was a similar report from a neighbour. In December of that same year, she was referred for therapeutic work following an assault upon a female, but the work was not carried out by the Child Protection Services. Papers offered no other excuse than "circumstances and delay". Ms. F was at least assessed then as posing no risk to children in her care.

7. Ms. F made a number of house moves since May 2003, related to a tempestuous relationship with her partner. That relationship featured both domestic violence and alcohol abuse and it entailed several house moves for G as the parties broke up and reconciled from time to time. There were allegations and cross-allegations, but the overall picture was of an unstable situation, impacting upon G's parenting. In particular, G's education has been significantly affected and he has had to repeat a year, due to his many absences.

8. Matters came to crisis point in September 2007. The Police had to be called to assist in securing access to Ms. F's home. She was found drunk and there was no food in the house. G had eaten nothing substantial that day. Ms. F confirmed that she had been

using the house merely as a base, while she went from place to place, drinking. In addition, G was found to have a bruise on his arm from where Ms. H, his mother's partner, had nipped him. He, then aged 6 1/2, spoke of Ms. H humiliating him on other occasions over having wet his bed. From that point, through to January 2009, the Trust would say that matters were stable; G was back in Ms. F's care. She was home every day, had no further contact with Ms. H, was abstinent from alcohol and made arrangements for G to start school, again. While this proved to be a period of respite, it is to be noted, in light of issues arising at Hearing, that it lasted some 15 or 16 months, but still fell apart again.

9. On 10th January 2009, the Police had to be called in once more and Ms. F was found drunk at Ms. H's home. G was moved to his Aunt M and, from there, to his Aunt K the following month, since Aunt M was not able to offer temporary care any longer. Ms. F undermined that placement, forcing the resort to Trust foster carers in late April. At that point Ms. F made at least partial admission of the allegations of continuing alcohol abuse as reported by these Aunts, who also complained that G was being let down by her non-attendance at a number of contact visits. The Respondent did not see it as a problem that she was spending time in Town A at Ms. H's home, since G was not in her care. On 21st April 2009, G was placed with short-term foster carers, all under the "voluntary accommodation" route. He was moved again, to his present placement, with a family approved for long term fostering, in February 2010.

10. From May 2009, Ms. F's attendance for contact was erratic. There were clear indicators that she was drinking more than she admitted and the Trust's account is that the placement, as at June 2009, was unstable, due to her threatening to take G home. The Trust failed to seek a Care Order in such circumstances.

11. The Trust did set about the appropriate assessments at that stage, with a view to determining what would be in G's best interests, with regard to his long term care and on the basis, naturally, that a return to his mother's care would be the most desirable outcome, but Ms. F was not co-operative. A protective parenting assessment was arranged, but Ms. F did not turn up for her appointment. The Guardian was to assert at Hearing that, in her experience, a psychological assessment would take place before

any such parenting assessment was undertaken. We see no grounds for such a contention in a case like this.

12. An appointment was also arranged with the Community Addictions Team for 10th August 2009. Ms. F sent a text message to say she was sick and had to cancel. Further efforts to get that assessment underway were likewise thwarted by Ms. F and, indeed, on 4th September 2009 she refused to break away from packing her belongings (for another house move) to attend contact with G, following on from a violent episode involving herself, Ms. H and Aunt K the previous month. She also missed a Protective Parenting Assessment on 7th September without any explanation. On 7th December (the gap reflecting the long waiting list for this particular service), she and Ms. H failed to attend their appointment at Diamond House. The purpose of this referral had been for Ms. H and Ms. F to complete work on their relationship, domestic violence and on appropriate ways to discipline a child, together with educative work around protective parenting. Diamond House warned that if this happened again the work would cease (which indeed is how things turned out). At the same date it was found that Ms. F did not attend the GP to check her alcohol levels. She failed to attend again on 12th December.

13. These were the circumstances in which a LAC Review was convened on 17th December 2009. At that point, the child G had been in voluntary accommodation for some 11 months. Ms. F had failed to co-operate with any of the services offered to her and her explanations were not credible, in our view. She had failed to maintain regular attendance with her GP to check alcohol levels where there were reasonable grounds to believe that this was because such tests would reveal that she was continuing to abuse alcohol. She had failed to attend the Addiction Treatment Unit. She had failed to attend the Protective Parenting Assessment, aimed at assessing whether she had the capacity to spare G from the effects of domestic violence and, as already mentioned, she was on a final warning in respect of her failure to attend Diamond House. Thus, while the LAC review considered, very understandably, that rehabilitation was still the aim, Ms. F had to sort herself out and co-operate with these assessments or else "... the Trust would have to consider Permanency", which is to say long term arrangements for G's care, other than by being returned to his mother.

14. Even this was not enough to achieve the result that everyone would have wished. On 21st December, it was reported to Diamond House by Ms. H that Ms. F had gone on the drink again and had to be put out of the house for the sake of both G and Ms. H's two children. That was the last straw and resulted in a decision, at a Pre-Proceedings Meeting, to seek a Care order.

15. Over the following days, Ms. F's life was in nose dive. She was reported to have taken up with some man, which may or may not be true. She was refusing the offer of shelter for Christmas from Ms. H on condition that she remained sober. She was declaring herself unwilling to engage with Diamond House and could not even organise herself to get Christmas presents for G; Ms. H had to do that in her stead. Ms. H then made telephone contact with Ms. F at Social Services offices, with staff in earshot and, in effect, it was established that Ms. F was drinking and was not willing to account for her whereabouts. Nonetheless, arrangements for supervised contact on Christmas Eve were made. Ms. F attended and, in the opinion of three Social Workers, smelt of drink, though she denied this. She did not re-surface until 4th January 2010. At that point, poignantly, she spoke to Social Work staff of her binge, which she associated with the forthcoming anniversary of G being taken away and of how she now planned to attempt a reconciliation with Ms. H, notwithstanding the Social Worker's advice that she first needed to resolve differences in their respective accounts of what Ms. F had been up to in the meantime. For her part, Ms. F had attributed all negative reports about her from Ms. H in the period since their latest breakup as malicious and had not retracted this.

16. At the First Directions Hearing on 18th February 2010, the Guardian was not able to participate, having only been designated by the Northern Ireland Guardian Ad Litem Agency on the 16th. The court therefore adjourned the application for a first Interim Care Order to 11th March on that account. It was however directed that the respondent mother file her Response to the Trust's allegations by 5th March and that the Guardian file her preliminary Analysis by the 9th.

17. I must also record here that, during that Court appearance, I had noticed that there was another person seated beside Ms. F at the perimeter of our small courtroom. Sometimes I do query the

presence of an unknown person, sometimes, as on this occasion, I let it ride. It is essentially a question as to whether one is going to open an embarrassing situation for the Bench. Anyway, throughout the Hearing, I and my colleagues, then, were afforded the opportunity to observe these two. They were seen to share pleasantries with each other, the dark-haired nudging the blond from time to time, savouring anything which they evidently might construe as a point against the Trust. It was clear that the dark-haired was the dominant in these exchanges. Overall, we were not impressed with their "insight" into the issues being considered. Upon the case being concluded, I did then make enquiries and found that the dark-haired person was Ms. H. While Ms. F's response to the gestures of Ms. H in the course of those proceedings could not fairly be described as frankly gleeful, neither could they be said to be wane and certainly not censorious.

18. Absent an intervention from Court staff, it is incumbent upon legal representatives to draw the attention of the Bench to the presence of persons other than the parties to the proceedings in family cases. This particular episode illustrates why the strict adherence to that precept will be to the parent's advantage. While Ms. F's lawyer was assuring the Court that she had taken on board the Trust's concerns, her client's behaviour directly behind her, in response to her companion's promptings, cast serious doubt upon that contention.

19. The Court had the benefit of both Ms. F's Statement and the Guardian's Analysis when the case was again listed, at Dungannon, on 11th March. The respondent mother's declared position, in a Statement dated 9th March, was that she had now received the "wake up call" and accepted that her problem with alcohol meant she must engage with all available services in order to have her child returned. Among other things, she was willing to undergo a psychological assessment " ... which could inform ... [the Court] ... of my motivation and capacity to sustain change."

20. For her part, the Guardian filed an Analysis dated 10th March. She had not been able to complete her investigations, arrangements to read the full case files having been cancelled "... due to Court commitments and adverse weather conditions." Nonetheless, the Guardian did raise a number of issues, amongst

which the authenticity of the respondent mother's consent to the care arrangements over the past year was perhaps the most significant. She conceded that the Respondent had had a "... significant amount of time ..." to address her difficulties and that "Whether Ms [F] should be afforded further opportunities is an issue to be addressed by the Court." She further contended that G's placement or the arrangements for his care would not be prejudiced if she had further "...time limited opportunities to address her alcohol dependency ..." Among other things the Guardian noted that Ms. F would be seeking a psychological assessment "... however no information or details on such an assessment are available." The Application for a First Interim Care order was adjourned to 11th March in these circumstances, while the case was timetabled through to the Case Management Hearing on 8th April, later deferred to 29th April on the application of the Trust and in order to allow for an extension of time for the filing of proposed directions. These reflected the fact that the Trust was not willing to afford Ms. F a psychological assessment at this stage.

21. There was particular consideration given as to whether the Final Hearing should be listed before the summer holiday period. The Court was advised that the Respondent was working toward an application for release of papers, with a view to additional Reports. The Trust, on the other hand, was stated to be very anxious to have the case listed before summer, for two reasons. First, the Social Worker having carriage of the matter was due to go off on maternity leave by end-June. Secondly, a decision was needed, in any event, before September. The subject child, we were informed, was travelling between Town B and Town C for school each day, a round trip of 40 miles, until the school could be changed in accordance with the Care Plan and he could not integrate into the Town A in the meantime. In all the circumstances, the Panel concluded that the Final Hearing should be fixed for 17th June. There was an administrative renewal of the Interim Care Order on 27th May, with no issues raised.

22. As the case approached that Final Hearing, however, the Guardian's Solicitor filed a C2, seeking a psychological assessment of the Respondent and an adjournment of the Final Hearing on that account. The C2 was filed early in the preceding week, so that staff did well to issue a C3, listing it for Thursday 17th June. Nonetheless, that meant that I and the Magistrates had

the paperwork simply put before us on that day, which, as always, was well filled with other matters. It was not an issue upon which we were prepared to give a decision without due consideration, so it was adjourned to the next available court. That was of course Monday, 21st June, the date upon which the Final Hearing was listed. The dash to get papers into a court sitting immediately preceding the Final Hearing did not alter the situation, whereby an application for the retaining of an expert and also the adjournment of the scheduled Hearing came far too late to be compliant with the *Guide to Case Management*.

23. Ms. F gave her evidence on 2nd July. It was concentrated, for the most part, on the issue of alcohol abuse, as opposed to domestic violence. She also adopted her Statement of Evidence dated 25th May. It must be recorded that Ms. F clearly continues to resist giving an honest account of her drinking history. She conceded that the Trust had made clear since January 2009 that she needed to address the issue and that this has been raised at every LAC Review. She always understood that, before rehabilitation could be considered, she needed to be abstinent for a long period of time, which she would understand to be a matter of months.

24. Nonetheless, she claimed in Court to have attended the Community Addictions Unit twice, which is untrue. She denies having told the Trust she had not been drinking when challenged; she claimed to have told the Trust in May 2009 that she had been drinking. Of the meeting with 3 Social Workers on 24th December 2009, she maintained what she had then said to those Social Workers, namely that she had not had a drink since the previous Sunday. She maintained in her evidence to us that this was the true position. She denied having suggested that the smell was that of hand wash. She could not explain why G should have said on 27th April 2010 that he believed she had been drinking. She does not remember liver tests on 5th May showing she had been drinking. She admitted that she probably suggested that the results might have been the effects of medication she was taking. Upon being told that the GP had been consulted and had advised that she was not on medication, she promptly changed her evidence and denied having blamed medication in her discussion with the Social Worker and could not explain why the latter should claim that she did. It must be pointed out that such a level of disagreement with the Trust's factual evidence was not reflected in the cross-examination of the

Trust witnesses on behalf of the Respondent. We have to bear that in mind when evaluating this conflict on the facts. Ms. F seeks to back-date her abstinence to January 2010. On the other hand, she told the LAC Review just the Friday before her testimony in Court that her current abstinence dates from April; that one gleans from the Trust record as put to her in re-examination by the Trust's counsel. In response, Ms. F asserted that she had told the Review that it was January, then shifted to an assertion that she did not recall what she had said.

25. As Ms. F's testimony unfolded, the Panel formed the view that she was unwilling or unable to be truthful about her drinking history, even at this stage, even where the probability is that she has been abstinent since sometime during the month of May - something in the order of 6 weeks prior to her testimony. That much was supported by a letter from her GP dated 14th June last. Even with the commencement of these proceedings, Ms. F's situation remains as given in evidence taken on 10th March last; she has never been abstinent for any continuous period of 3 months since G became a looked after child. This feature of her evidence, though, did lead the panel to the view that she was still far too close to the last period of extended alcohol abuse to have yet set aside defence techniques of dissimulation and displacement (attributing unwelcome counter-assertions to her former partner's alleged vindictiveness, for example). It goes to corroborate the Trust's view that it is not yet time to offer a psychological assessment.

26. In her Statement dated 9th March 2010, Ms. F stated that, whereas "the Trust identify issues between my partner and I", they were enjoying a positive relationship overall, as reflected in the fact that she and Ms. H had been together since October 2002 or thereabouts (a misleading statement, without more). She mentions specifically that G gets on very well with Ms. H and her children. H had informed the Trust of her alcohol abuse and Ms. F regards her as a protective force acting in G's best interests.

27. In just a few months, the relationship with Ms. H had again broken asunder. Ms. F now asserts that Ms. H is vindictive and dishonest in her reports of alcohol abuse. All connection between Ms. H and G has again been terminated by Ms. F, as with his equally longstanding relationship with Ms. H's children. While there remains a dispute as to which of the former partners was

the predominantly violent, each pointing to the other, it is no longer denied that domestic violence was a feature; all this is by way of illustrating that, even at 9th March 2010, Ms. F was patently not prepared to be honest about the risks to G, even when characterising the institution of proceedings as the ultimate wake up call. Bearing in mind that the Court finds that she continued to abuse alcohol and continued to make false claims about this for several weeks thereafter, it is particularly sad to find her assert in that Statement of 9th March; "I know [now] that my use of alcohol [only] has been the reason why G is not with me and that if I fail to address this now, I run the risk of my son not being returned to my care."

28. In moving on, then, to the contentious issue as to a psychological assessment, one should not lose sight of the context. Ms. F has only embarked, within a matter of weeks past, on a period of abstinence and only time will tell whether it will prove successful on this latest occasion. On the immediate issue of alcohol abuse, all witnesses - Trust, Ms. F, the Guardian - have been somewhat coy as to how long a period of time would constitute sufficient assurance that positive efforts at rehabilitation should be renewed - "a matter of months", "a substantial period" are about the clearest signposting to the Court.

29. I must emphasise here that this is not one of those cases where the contentious issue is whether a mother is or is not already capable of resuming adequate parenting of the subject child by the time the matter comes before the Court for a ruling on the Trust's Plan. Neither is it one of those more complex cases where the elucidation of the family dynamics have yet to be fully or adequately investigated. This is a case where the respondent mother has been unable to offer adequate parenting to her son for the last 18 months by virtue of persisting alcohol abuse and her involvement in violent personal relationships and, by all accounts, remains unable to do so at this time. The imprecations for more time, from both Respondent and Guardian Ad Litem, beg the question as to just how long one should wait before making a plan for permanency in respect of a child, in accordance with the precepts contained in The Children (NI) Order. It is never part of a family court's legitimate function to simply sit back and see how future events on the ground unfold. Watching how events unfold and re-evaluating plans accordingly is a function of Social Services, not courts.

30. In addition, even now, Ms. F is not prepared to be honest about the details and extent of her alcohol abuse and, thus, there will of necessity be a pronounced element of caution in assessing any claim Ms. F may make about how well her recovery is proceeding.

31. Distinct from this, in any event, is the issue about her failure to protect her son from the risks associated with her violent relationships. The many house moves, together with the consequential changes in G's schooling associated with her somewhat chaotic lifestyle had led to G having to repeat a year in primary school. As recently as 9th March 2010, however, she is on record as being entirely dismissive of this issue. She willfully failed to take up the offer of a course at Diamond House, jointly with Ms. H, and it is only very recently that she has been put back on a waiting list in respect of this highly limited resource, this time for work with her alone, to address her problems in this regard.

32. The Guardian's position, from inception of proceedings, is that (a) work toward rehabilitation needs a psychological assessment and (b) G is in a stable placement which would be his long term foster placement if rehabilitation should not be achieved. Therefore, it would "do no harm" (her phrase at Hearing) if the proceedings were continued to allow for such an assessment. The purpose of that assessment, as promoted both on behalf of Ms. F and by the Guardian, is to "get to the root" [the words of Ms. F's counsel] of what has caused Ms. F to succumb to alcohol abuse. The Guardian would add that, in her experience, a parenting assessment is not offered until a psychological assessment has first been carried out. Implicitly, this is to suggest that the rehabilitation efforts by the Trust since June 2009 have been lacking an appropriate steer so as to be fully efficacious.

33. The Guardian defines herself, in her evidence to the Court, as the advocate of the subject child's wishes and feelings. Although he understands and accepts why he has not been able to live with her recently, he very much wants to return to his mother's care; he loves her very much. He wrote a letter to the Court to that effect. The Guardian feels bound to ensure that no stone is left unturned (her metaphor) before giving up on rehabilitation. Her

basic issue is with the concept of "permanency" in the Trust's Plan at this stage. In essence, so far as a plan for permanency be concerned, it is too soon to give up on rehabilitation, on the Guardian's approach.

34. It is important to recognise that the psychological assessment is not a mere event, complete in itself. It is not merely an assessment which would detail what its author finds in respect of a variety of key issues. The kind of issues upon which a Psychologist is asked to comment, following interview with the subject, are very familiar to any family court. More than this - though this was never articulated by either proponent - such reports will end by setting out what services might be made available to the subject, in order to address the deficiencies which have been identified. The discrete agenda, then, both for the Respondent and the Guardian, is to secure that list of recommended services in hope that it will include something which has not already been offered (another stone to turn over, as it were). Thereafter, the issue would be whether a Care Plan could be considered adequate where any such additional piece of work had not been completed (assuming the parent's co-operation in that respect).

35. The Trust's considered position is that, having regard to the Respondent's failure to make any significant changes in her lifestyle throughout the calendar year of 2009 and her failure to co-operate in any of the assessments arranged since June 2009, a psychological assessment will be undertaken only after she has shown herself abstinent for a significant period of time. The impression gained by the Court, to put it no higher, is that the period of time in question would depend in part upon how consistent and reliable Ms. F proves to be over the next several months in her determination to remain abstinent.

36. One must also place this issue in a wider context. There have been intensive efforts over recent years, both on the Social Services side and on the court side, to drive out needless delay in securing stable and long term arrangements for children who have faced unacceptable risk of significant harm within their birth families. Cases where children have been left in uncertainty for periods of several years, while their situations have been analysed to the finest point in protracted court proceedings are a matter of proper public concern. By the same token, cases in

which Trusts, or Local Authorities in England and Wales, have patched up unstable placements for such children for far too long before finalising arrangements for permanency are equally recognised as contrary to any child's best interests. Indeed, one might add that where these two bureaucratic vices conjoin, the result can only be described as distressing.

37. The path to reform on the Social Services side has been the *Regional Policy on Permanency*, to which all Trusts in Northern Ireland signed up in May 2007. On the administration of justice side, it is the *Guide to Case Management in Public Law Proceedings*, now found in Section 3, Appendix 1 of the Children Order Advisory Committee's *Best Practice Guidance* (2nd Ed., 2010), building further on the well-known precept contained in Article 3(2) of the Children (NI) Order 1995 and known as the No Delay principle. Fundamentally, these reforms have each been concerned to place the child's timescale at the heart of the combined processes. They are each about the timing of The Conversation.

38. Both policy documents address the principle that children need a sense of safety and a sense of place if they are to have a sense of security. Children who have to be removed from the parent or parents whom they love, notwithstanding all that has been done to them, including serious violence or abuse in some cases, undergo deep distress. In court, this is referred to by professionals as "trauma". Where they are then moved, once, twice or more between kinship- or foster-carers, their fears about being unwanted or unloved are only compounded. Each such move leaves its own scars. (One might add, in passing, that it is only natural that any child should cling to the hope that they might be allowed back to their own mother as the most natural and obvious solution to all this uncertainty).

39. In moving to the child's sense of time, it is important to recognise that the statutory functions of a Trust in such cases and the legal processes in court are not two disconnected processes. The *Regional Policy on Permanence* aims to have Trusts reach a permanency plan before - not during - subsequent court proceedings. The *Guide to Public Law Proceedings* aims to build upon this and to ensure that the judges, magistrates, lawyers and Guardians do not see it as their function to start all over again and to embark upon another run at exploring the prospects of

rehabilitation, just because they were not parties to previous planning.

40. In the overlap between the two policy documents, the common objective is that all appropriate assessments should be carried out by the Trust before the initiation of formal court proceedings. In the ideal situation, they are to be carried out before the child is removed from the birth family. This is all about "front-loading" such applications. In an ideal world, mindful of the trauma entailed, no child is removed from his or her birth family until court proceedings are launched and a Guardian Ad Litem has been brought in to assure best interests with particular regard to the child's voice. For that reason, there is now provision for a pre-proceedings letter, aiming to set out, for parents who have not yet grasped the gravity of the situation, why the Trust, following assessments, is seriously contemplating that removal and what would be required of the parent to avoid such a catastrophic event.

41. Indeed, in cases where a Trust, for whatever reason, has gone down the route of securing "voluntary agreement" to the removal of a child and has completed all appropriate assessments, in its opinion, and only then considers that an application to the court is appropriate, I for one question the point of a pre-proceedings letter. There is something existentially false about a situation in which a Trust has reached the determination in such a case that either long term fostering or adoption is the only suitable option, but where it only then writes to the parent, inviting her to a meeting, with the stated aim of persuading it to abandon its intentions. There is a real risk that we have thereby created yet another opportunity for bureaucratic delay.

42. Pre-proceeding letters are intended for cases in which the child is still at home.

43. I have already detailed the range of services which were offered to Ms. F through the second half of 2009. The Panel which presided on 11th March, learning of discussions about deferring the case so as to allow for a psychological assessment, was unable to identify any obvious omission from that list, except perhaps a recommendation that Ms. F attend AA on a regular basis, in order to consolidate her stated resolve to achieve abstinence. No-

one, then or since, has identified any service or assessment which the Trust ought to have offered, except this psychological assessment. The Panel on that date had the particular advantage of including a Lay Magistrate with particular experience in social work practice, commissioned on a number of occasions to audit the professional performance of certain Trusts or Authorities, North and South. The Panel as a whole was very clear from the outset that the Trust had not failed to carry out any appropriate assessments in such a case as this.

44. In Mahendra's *Adult Psychiatry in Family and Child Law* (Jordan Publishing, Bristol, 2006), page 105, the following sets out the position with regard to treatments for alcohol dependency;

> The actual treatment is more problematical than allowed for by many lay persons. The truth is that there is little by way of any specific treatment for alcohol-related problems. What there is is advice and support to assist such a person to bring his problems under control. It is *par excellence* a problem which requires self-help. It follows that the single most important determinant of success in treatment is the motivation and attitude shown by the individual. Without this, all help will be futile and fail. The patient must accept with true insight - mere lip service is insufficient - that he has a problem with alcohol and has to take steps to counter this problem and bring it under control. This means the patient must also feel he has the necessary incentive to turn over a new leaf.

45. Mahendra also advises (*ibid.,* page105) that 2 years is considered by clinicians to be an appropriate period before one can sign off a patient as being "cured" of alcoholism, "... albeit only for the time being." Further, (page 106), he explains that it is *after* alcohol abuse has been overcome, even on a short-term basis, that the patient should be reassessed in terms of his mental state. "It is obviously more rational to treat any underlying condition which might have been a significant causative factor in the previous drinking in its own right rather than leave the patient at risk of relapse into further drinking."

46. The Court does not accept the Guardian's proposition, in the specific case of alcohol abuse, that a psychological assessment

should be undertaken at the outset of the intervention. The proper time for such an assessment is after Ms. F has demonstrated that her current abstinence is reasonably stable. In other words, the Court endorses to position adopted by the Trust.

47. The issue as to what drives Ms. F into abusive relationships, or what drives her to alcohol abuse is secondary to the imperatives, not just that a child be protected from the notorious consequences of all this, but that the opportunity given to a parent to work with the Trust in addressing her issues and achieving change must be time-limited. In her Analysis of 9th March 2010, the Guardian set out her position at para. 5.1;

> 5.1 Ms. [F] has had a significant amount of time to address her difficulties in order to parent her son [G]. Ms. [F]'s motivation to do so has not been sustained. Whether Ms. [F] should be afforded further opportunities is an issue to be addressed by the Court. In considering [G]'s needs his placement or the arrangements for his care will not be prejudiced if Ms. [F] has further time limited opportunities to address her alcohol dependency which is the core issue in this matter. There appear to be many positive aspects in the parent and child relationship and [G]'s presentation, behaviour and conduct indicate that he did receive a good enough standard of care.

48. Three things stand out. First, the context of this analysis is that the Guardian had met with Ms. F and reported her then as accepting the seriousness of the situation for herself and G. The Guardian portrayed her as being then committed to abstinence and to co-operating with all assessments of her progress in this respect. Sadly, this premise has since proven not to have been well-founded. Ms. F was in fact continuing to abuse alcohol at that time. What is more, the Panel considered that her affirmation of commitment to both abstinence and co-operation during her evidence at hearing to have been formulaic, driven by heavily leading questions and at no point sparked with conviction. This is not to say that she was being insincere, merely that the Court's confidence about the force of Ms. F's commitment and her capacity to sustain it over the next few months remains guarded.

49. Secondly, no effort is made to specify what the appropriate time limit would be. One infers that it would have begun at that point in time (March 2010), if not at such a point in January last as Ms. F was claiming to have started her current period of abstinence. By the same token, the Guardian's position at Hearing on 2nd July, it is equally to be inferred, was that it should be taken to begin with an adjournment of that Final Hearing. On any reading, this is to sweep away the time afforded Ms. F since January 2009, to disregard what now amounts to 18 months, without abstinence being achieved, even though she has suffered the absence of the son she loves in all that time. As late as 15th June 2010, the Guardian states (para. 7.15)

> It is in [G]'s interests that if Ms. F can commit to a process of change that Ms. F should be able to evidence that any changes have been consolidated and tested over a significant period of time.

50. On that basis, it would certainly be many months from now before any return of G to his mother's care could be countenanced.

51. Thirdly, the Guardian has allowed herself in the passage quoted to go so far as to suggest that G received a good enough standard of care from his mother. The Court rejects that proposition, expressed in such terms. What does seem clear is that Ms. F and her son enjoyed a warm and loving relationship in her sobriety and one has no reason to doubt that he has a strong attachment to her. There is no suggestion that Ms. F has ever willfully caused harm to her son. On the other hand, it was not in fact suggested by the Guardian - or by Ms. F for that matter - that G can return home at this point in time. This is precisely because Ms. F is not shown capable of providing a good enough standard of care.

52. The Guardian, in her Report dated 15th June 2010, highlighted why it would not be in G's interests to return to his mother's care;

    - Ms. F has not been able to sustain commitment to any area of support, service or assessment, which would alleviate or reduce concerns as reported by the Trust

- The status and the relationship between Ms. F and Ms. H changes frequently. They both have reported their relationship as abusive and aggressive

- Given G's condition [Noonan's Syndrome, involving significant heart defect, mild developmental delay and some particular physical features] he requires a standard of care greater than that afforded to a similar child of his age or developmental stage.

53. To come to the basic issue, the Guardian made clear at the Hearing on 2nd July that her fundamental reason for lobbying on G's part for a further, undefined but yet time-limited period of further assessments was that she had "a problem with the word "permanency"". She need not. In this context, "permanency" is not "finality". Where the Court approves a permanency Plan, by way of long term foster care, for a child of G's age, and with the strength of his attachment to his mother, this in no way amounts to an order that he is now to remain with his present foster carers until eighteen. I mentioned at Hearing the case which came before the Court just the previous week. It was an application by the Trust for discharge of the Care Order. Some years back, the Court had approved a Plan for permanency by way of foster care. That decision was in no way being impugned. Nevertheless, the children had been returned to their mother some 2 years ago. Everything had worked out well. The family was stable; the mother had co-operated with the Trust in every respect and it was felt that the Care Order no longer served any useful purpose. The Application to discharge was of course granted. All this is by way of illustrating the proper role of the courts and Trusts, respectively.

54. Such Applications to Discharge by a Trust are by no means unknown. They illustrate that "permanency" does not mean that the issue of rehabilitation is closed. The Trust in this instance has made clear that it has recently persuaded Diamond House to reinstate Ms. F to its waiting list on her own account. Likewise, the Trust accepts in principle that a psychological assessment should be made available to Ms. F at the appropriate time, that being after she has shown herself abstinent for a reasonable period. I hope very much that Ms. F will take heart from this and understand that it is still open to her to show that she really has resolved this time to stop abusing alcohol and to desist from

abusive relationships in her own life. In approving the Trust's Plan in this kind of case, the Court still hopes that, one day, an Application to Discharge may be made, on the basis that G has been returned to his mother.

55. That is the sense in which one can endorse the Guardian's appraisal that it is too soon to give up on rehabilitation. One should never give up on that prospect in this kind of case, for the child's sake. However, that is very different from any suggestion that the Trust in this case was in some way precipitate in arriving at its Plan for permanency in December 2009, approaching a full year since G's home life was disrupted. That would be to fly in the face of *The Regional Policy on Permanency,* which states;

> 12.1 Reasonable length of time
> Parents must demonstrate an ability to change within a "reasonable length of time" which will be determined on the basis of the child/young person's best interests. Parents' potential to rehabilitate "over time" is not sufficient reason for delay in decision making in respect of their child(ren). The timeframe of the child must be the test by which "reasonable length of time" is judged. Social Workers should be mindful of Articles 6 & 8 of the Human Rights Act 1998 in terms of parents' rights to family life and also the child's right to family life.
>
> Evidence demonstrates that the longer the placement in care, the less likely it is that the child/young person will return home.
>
> Research indicates that one year or less is the period of time in which to make decisions about a child/young person's permanent placement. For young children, 6-12 months is the longest they should have to live with such uncertainty.

56. A child's need to have a sense of permanence restored to him is a core need and, just as it must guide the actions of a Trust, so also it must be at the heart of a court's deliberations. Structures and Guides have been put in place to promote better systems, but the challenge remains, in each individual case, to find the right balance and arrive at a conclusion without unreasonable delay and, at the same time, to discharge the court's proper function.

57. I want to return, then, to the Guardian's emphasis, in this case, that she saw her role as representing the wishes and feelings of the boy, a child of 9. G is described by the Guardian as very articulate. He has a good understanding as to why he is in care ("mummy drinks"). He has stated that when his mum drinks he feels afraid and sad. His wish list, with respect to outcomes is, first, that he return to his mother, or, if not, to his former foster carers. At the same time, he is looking forward to his change of school and is reported as seeing this as a way of enhancing his sense of belonging, in that he can then travel to school with the foster carers' son. So there he is, both saying, very understandably, that his preferred foster carers would be those with whom he stayed for such an extended period up to February 2010, while also cheerfully planning the consolidation of his current placement. Then again, in his letter dated March 2010, he wrote that he would like to see Ms. H's children, stating "They were like brother and sister to me". Now that his mother has broken away from Ms. H again, however, G no longer articulates a wish for contact with her children. Asked why by the Guardian, he simply shrugged. By the same token, Ms F has now reunited with her own family. As though in tandem, G has developed a new wish to have contact with his granny X, his Aunt M and cousin K.

58. The impression one gets is that G is not just stoic, as the Guardian describes him, but decidedly pragmatic. He seems accustomed to perceiving his mother's latest re-alignments and changes his view on preferred contact options accordingly. Unfortunately, it cannot be said that Ms. F has shown any insight into what is taking place in this respect. Where she was quite content to deny her son meaningful levels of contact with her family while she was alienated from them, she now urges that he be afforded all such contact. The problem is that Ms. F has a history of dysfunctional relationships with her own family and it is by no means clear that, should there be another breakdown in that respect, that G will not find himself as abruptly cut off from such relatives as he has been from Ms. H's children.

59. We therefore endorse the Trust's rather more cautious approach, whereby it is proposed to engage such family members in discussions and to establish quite clearly that they understand the need to sustain any new relationship with G, even if they

once again fall out with his mother. As for contact with his mother, the Plan is that he sees her once a week and has daily telephone contact. (Ms. F's advisors should be able to spot the message behind such an exceptionally high level of contact in a case of long term fostering.)

60. The core point, though, is that one must treat the declared wishes of a 9-year-old who is in such a complicated situation - all the more complicated by the conduct of his mother - with a degree of circumspection. In reaching her conclusion that it would do "no harm" to G to protract the present proceedings for many months whilst any changes in his mother's situation are consolidated and tested, we have to say that the Guardian has given rather too much weight on this occasion to the child's wishes and not enough to his best interests. In particular, she has failed to give due weight to the *Regional Policy*.

61. Ms. F opposes the school move for G, scheduled for this September if the Care Plan be approved. In this respect, she produced a Report from his current Primary School dated 23rd June 2010. This shows that G is doing very well indeed there. The personal note at the end declares "You are a joy to teach". Throughout the Report, G is portrayed as a happy little boy. He "increasingly reads with fluency and accuracy". He is "... growing in confidence every day". He "... always joins in enthusiastically when singing". He is "... beginning to develop a good sense of empathy toward the situation of others... He particularly enjoyed our work on Difficult Feelings this half-term". He is "an extremely enthusiastic child" in PE. He "adores information books." He "loves Circle Time too." This is not the portrait of a child suffering any deep unhappiness about being in foster care. Moreover, it is to be hoped that Ms. F will reflect upon the difficulties which were placed in G's way by her in past years with regard to consistent schooling and the consequences which arose from her own frequent changes to his school placement. In any event, we perceive Ms. F's opposition to this school move as being tactical; she would see it in the most simple of terms as consolidating the foster placement. For our part, we agree with the Trust that the move is appropriate, bearing in mind, among other things, that G himself is looking forward to it.

62. In conclusion, we find that the Trust's intervention in the family in January 2009 was warranted by reason of;

- Ms. F's abuse of alcohol, which impacted upon her ability to care for her son.
- Her frequent house moves, causing numerous school moves which have impacted upon his educational and emotional needs.
- Ms. F volatile relationship involving domestic violence with her partner whilst G was in his mother's care.
- Ms. F demonstrated a lack of understanding in relation to the impact on G of her alcohol abuse, mental health issues and relationship difficulties and was not motivated to work with the Trust to address them.
- Ms. F failed to prioritise G's needs above her own.

63. Since the intervention in January 2009, when G was placed in care, the Trust sought to work with Ms. F in order to address these issues and thereby secure rehabilitation. We find that all appropriate services were offered to her in this regard and that she consistently refused to engage. Permanency planning had to and did move forward and Ms. F was properly informed on all appropriate occasions as to the consequences, should she not address both the alcohol issue and the matter of domestic violence in her relationships. It was almost 12 months before the Trust ultimately resolved that rehabilitation was not attainable within the appropriate timescale and that long term fostering was the necessary arrangement. Even then, and over the ensuing 6 months, Ms. F did not effect such changes as might have secured a revision of the Plan thereafter and before this Final Hearing. In short we approve the Trust's Plan and grant the Care Order on that basis.

64. I do not propose to adumbrate here the welfare checklist, nor the various human rights issues as are here engaged. Suffice to say that all these have been considered by the Panel in reaching its conclusions.

Dated this 29th July, 2010

Judge John Meehan
District Judge (Magistrates' Court)
Dungannon Family Proceedings Court