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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

IN THE MATTER OF THE CHILDREN (NORTHERN IRELAND) ORDER 1995

BETWEEN:

ZH

Applicant;

-and-

MR AND MRS H

Respondents;

-and-

A HEALTH AND SOCIAL CARE TRUST

Notice Party.

(Post adoption contact: Article 8 application: leave)

KEEGAN J

Introduction

[1] In order to protect the interests of the children who are referred to in this judgment, their identities and those of the other parties have been anonymised. I direct that nothing is to be published or reported which may lead directly or indirectly to the identification of the children or the parties.

[2] This case involves an application for leave to bring a contact order application by the applicant ZH. The application is brought in relation to two children of ZH namely C and J both of whom have been adopted by the respondents. C is now aged 7 and J is 5. The purpose of the application is to deal with issues of post adoption contact.

[3] The applicant was represented by Ms Murray BL, the respondents by Ms Hughes BL and the notice party by Mr Magee BL. I have been greatly assisted by

the oral submissions and the written arguments provided by each of the parties. I also commend all counsel for the focussed way in which they dealt with the issues in this case.

Background

[4] The history of this case is undisputed and that allows me to summarise it in relatively short compass. The two children who are the subject matter of this application were removed from the applicant's care at the beginning of January 2012. That was as a result of her failure to provide appropriate care for the children due to a variety of issues such as addictions, poor mental health, domestic violence, instability within relationships, and an unsettled lifestyle. The identity of C's father has not been disclosed. The identity of J's father is known but he was never a party to the proceedings in relation to J and he has no contact. The children were removed into foster care on a voluntary basis in January 2012. At that stage J was just over 6 months old and C was 2 years and 6 months old. As a result of the length of time that C spent in the applicant's care, he is reported to be a damaged child who has required specialist assistance. In relation to that issue, a report has been provided from a Dr Brigid Tierney from scaffolding services dated 24 March 2016. This report sets out the difficulties that C experiences and the fact that he requires on-going therapeutic intervention.

[5] Both children were placed together in the respondent's care on 11 January 2012 and they have remained there since that date. Initially the respondents were approved foster carers. They cared for the children whilst rehabilitation was attempted with the applicant. Rehabilitation was unsuccessful and as a result the Trust brought the proceedings for care and freeing orders in relation to the children. The respondents applied to be adoptive parents. They were successful and they put themselves forward as the adoptive carers for the children if the care orders and freeing orders were granted.

[6] The care and freeing orders were heard together by His Honour Judge Sherrard at the Family Care Centre and on 4 August 2014 he granted both orders. The care plan contained a plan for both post freeing and post adoption contact and that was approved by the court. In relation to post adoption contact, the plan was for one direct contact to take place between the children and the applicant once a year and for one indirect contact once a year. On 2 July 2015 adoption orders were granted in favour of the respondents.

[7] It is relevant to note that on 22 March 2015 the applicant gave birth to another child, CR. That child has remained in her care. This factor forms a large part of the application to the court. The application is for leave to commence proceedings to seek a contact order under Article 8 of the Children (Northern Ireland) Order 1995. It is dated 26 February 2016. On 4 April 2016 this application was transferred from Craigavon Family Care Centre to the High Court.

[8] The applicant filed a statement in support of her application. At paragraph 4 of that statement she states:

“At the outset, it is important to state that I am pleased that the respondents have become the children’s adoptive parents. The respondents are doing an excellent job of raising the boys and I will always be very grateful to them for this. The respondents have been very committed to the boys throughout their lives and have demonstrated their commitment to the boys at times when I was not committed to the children. I do not wish to interfere with the making of the adoption order in any manner whatsoever. I accept the court’s decision and I am grateful that the children have gained such committed carers who will love and care for them as their own throughout their lives.”

[9] The statement also expands upon the C2 which sets out the grounds for the application. In the C2 the applicant states that she enjoys direct post-adoption contact with the children once a year for one hour. The applicant asks the court to give consideration to increasing her level of contact with the children. The applicant states that at the time of the freeing order she had a significant number of issues arising in her life that impinged upon her ability to care for the children on a full-time basis and to have a good level of contact with them. The applicant however says that over the past number of years, she has taken significant positive steps to address these issues. The applicant sets out her engagement with the Community Addictions Team with Women’s Aid and with the Community Mental Health Team. The applicant also refers to the fact that she has another child and that she successfully completed a Thorndale family assessment and that she resides in the community with that child. The applicant states that CR’s name was removed from the Child Protection Register and that this demonstrates the significant improvement she has made over the past number of years.

[10] The applicant also states that the subject children have had limited contact with their half sibling and she applies to the court to give consideration to that issue. The applicant asks that she is provided with photographs of the children on a more regular basis. Finally, the applicant asserts that post-adoption contact has been difficult. She states that the respondents have cancelled contact on a number of occasions and that they have also requested to be present at contact. The applicant states that she has been advised that she must not bring any toys for the children to contact and she states that she has tried to resolve issues by way of correspondence with the Trust to no avail. The applicant states that she is willing to attend mediation with the respondents.

Submissions of the parties

[11] Ms Murray referred me to the statutory test in Article 10(9) of the Children (Northern Ireland) Order 1995. She submitted that Articles 10(a) to (c) applied. She also accepted that as the applicant's parental responsibility was extinguished on the making of the adoption orders that this resulted in a loss of her Article 8 rights to a family life with C and J.

[12] Ms Murray relied upon a case of Re B (A Child) [2012] EWCA Civ 737. In this case the Court of Appeal in England and Wales allowed an appeal where an adopted child was seeking contact with a younger sibling. As a result of this authority, Ms Murray said that there was a strong argument for leave based on the sibling issue. She also referred to the applicant's change of circumstance. She submitted that in itself was enough to pass the leave threshold. Ms Murray reminded me that leave is the first hurdle. Realistically, Ms Murray accepted that the application was very recent in time to the adoption orders being made. She also accepted that post-adoption contact has actually taken place although dates and arrangements have changed from time to time. Ms Murray ended her submissions by referring to the applicant's suggestion of mediation and she stated that the purpose of the application was to find common ground.

[13] Ms Hughes directed me to her skeleton argument and the statement lodged on behalf of the respondents. She pointed to the timing of the application in that the adoption orders were made on 2 July 2015 and this application was made just over 6 months later. Correspondence issued from the applicant in September 2015 through her solicitors and then the C2 application was lodged in February 2016. Ms Hughes stressed the fact that the actual post-adoption contact plan has been adhered to. She referred me to expositions of the considerations in determining leave as set out in a number of decisions of Thorpe J/LJ and variously articulated as a fundamental change of circumstance and a situation that merited investigation.

[14] Ms Hughes addressed the position of the new child CK and she pointed to the fact that J and C actually know about this child, they have photographs of him, and they will be undertaking life story work. Ms Hughes placed emphasis upon the fact that this issue is going to be kept under review by the Trust. She referred to the report from Dr Brigid Tierney regarding C and the potential disruption to him if there was a hearing. Ms Hughes reiterated the point that the adopters are committed to contact and that they have not prevented contact. She said that this was not a case where there was reneging from a contact agreement. In summary, Ms Hughes argued that leave should be refused. In support of that proposition she relied upon an overall consideration of the facts of this case applying Article 10(9), the timing of the application, the purpose of adoption, the attitude of the adopters and the circumstances of the children.

[15] Mr Magee, on behalf of the Trust, referred to the social work report filed in the application. He began his submissions by highlighting the context of this case.

He submitted that as the case was an adoption case it was important to note that the first year was crucial in terms of the children settling into their permanent placement. He said that the contact arrangements would be managed by post-adoption services. Mr Magee submitted that issues will inevitably arise and have to be teased out given the nature of any adoption.

[16] Mr Magee referred to the fact that adoption contact orders are unusual due to their inflexibility and that the jurisprudence reflects this. He said that this was not a case where there was reneging upon an agreement. He submitted that the feasibility of contact with the new baby would be subject to ongoing review. The Trust priority was to maintain the stability of the placement. Mr Magee referred me to the statement made by C in relation to ZH 'was she able to keep the baby'. Mr Magee focussed upon the purpose of post-adoption contact to maintain identity and not to re-establish a mother and child bond. He said that leave should not be granted at this point in time. Mr Magee referred to the potential damage and unsettling nature of an application being heard at this stage.

Legal context

[17] It is common case that upon the granting of freeing orders the applicant ceases to have parental responsibility for these children pursuant to Article 12(3) and Article 18(3) of the Adoption (Northern Ireland) Order 1987. Article 42(2) of the Adoption (Northern Ireland) Order 1987 provides that an adopted child shall be treated in law as if he is not the child of any person other than the adopters therefore only the respondent adopters have parental responsibility for the children.

[18] In the case of Seddon v Oldham MBC [2015] EWHC 260 the issue of whether or not the former parent has maintained a right to private and family life was the subject matter. Peter Jackson J in that case at paragraph [60] states:

"I conclude that the making of an adoption order always brings pre-existing Article 8 rights as between a birth parent and an adopted child to an end. Those rights arose from and co-existed with the parents/child relationship, which was extinguished by adoption. There is no right to re-establish family life that has ended in this way."

[19] It is correct to say that the court did consider whether there might be circumstances in which an Article 8 right to family life would exist beyond adoption and found at paragraph [54] as follows:

"It is difficult but not impossible to imagine a rare case (entirely different from this one) where the post-adoption ties between a former parent and an adopted child might be close enough to found family

life. For example, an intra-family adoption: if in this case A had been adopted by her father and her aunt (his partner) with Ms S playing an aunt-like role in her upbringing; or an unprecedented case where there was a significant post-adoption contact order. However, any family life that arose in this way would owe nothing to the extinct parent/their parent-child relationship but be a new and distinct creation based on the altered relationships.”

[20] Ms Murray did not mount any argument based on the Article 8 rights of the applicant. Ms Murray did however make a case in relation to the issue of the half-sibling having a potential right to family life with these children. As this is a leave application, the court is not considering a question regarding the upbringing of a child. That is a matter for any substantive hearing and so the welfare of the child is not the paramount consideration at the leave stage.

[21] The test to be applied when granting leave is found in the Children (Northern Ireland) Order Article 10(9) and that states as follows:

“(9) Where the person applying for leave to make an application for an Article 8 order is not the child concerned, the court shall, in deciding whether or not to grant leave, have particular regard to –

- (a) the nature of the proposed application for the Article 8 order;
- (b) the applicant’s connection with the child;
- (c) any risk there might be of that proposed application disrupting the child’s life to such an extent that he would be harmed by it; and
- (d) where the child is being looked after by an authority –
 - (i) the authority’s plans for the child’s future; and
 - (ii) the wishes and feelings of the child’s parents.”

[22] It was agreed between counsel that (a) to (c) of Article 10(9) are relevant to this case. I was also referred to a number of cases dealing with applications for leave. In Re C (Article 8 Order: Article 10(2): Grandparents’ Application for Leave)

[2003] NI Fam 13 considered a previous decision of Re M (Care: Contact: Grandmother's Application for Leave) [1995] 2 FLR 86. In that case, it was suggested that the applicant had to satisfy a court that there is a serious issue to be tried and present a good arguable case. The imposition of such a test was criticised in a case of Re J (Leave to Issue Applications for a Residence Order) [2003] 1 FLR 1114.

[23] In Re B (Grandmother: Joinder as a Party) [2012] 2 FLR 1358 Black LJ considered the case law in relation to applications for leave and she made a number of important observations in relation to Section 10(9) of the Children Act 1989. At paragraph [33] she states:

“It can be seen that Section 10(9) does not contain anything in the nature of a test by which an application should be judged, nor even criteria which must be satisfied before leave can be given, nor is anything of the kind to be derived from the rest of Section 10. Neither does the sub-section circumscribe the factors that can be taken into account in determining the leave application; it leaves the court to take into account all the material features of the case and merely highlights certain matters which are of particular relevance.”

[24] At paragraph 40 Black LJ also states that ‘a feature which is not specifically picked out in Section 10(9) but has been acknowledged in the authorities to be of relevance is the merit of the proposed application’. At paragraph 48 Black LJ states that it would be wrong to try to limit or list the factors in any consideration as they will vary from case to case. She states that one factor is the prospect of success and in her opinion an arguable case may not necessarily be sufficient to justify leave. Another observation of Black LJ's is that cases may proceed without wholesale investigation and that the court has a broad discretion to conduct the case as is most appropriate given the issues involved and on the evidence available. Finally, Black LJ made reference to delay as a potentially disrupting factor.

[25] RE B was a case involving grandparents however the principles regarding leave have an application to all cases. The factual circumstances of each case must then be examined in determining the outcome. A case where a former parent is seeking post adoption contact has specific features and is a rare occurrence.

[26] I was referred to a number of authorities by counsel in relation to adoption. The first case referred to was Re C (A Minor Adopted Child: Contact) [1993] Fam 2010. This was a case where a mother sought to apply for contact with a child who had been adopted. In that case Thorpe J noted that the mother did not seek an order for indirect or direct contact at the proceedings. The mother's application was dismissed and Thorpe J noted that:

“Adoption orders are intended to be permanent and final. A fundamental question such as contact, even if confined to the indirect, should not be subsequently opened unless there is some fundamental change in circumstances”.

[27] Re C is obviously a very different case where contact was not initially requested at the adoption hearing. In the case of Re B (Adoption: Contact Order) [2011] EWCA Civ 509, relied upon by Ms Murray, the issue also arose. The circumstances of this case were that in care proceedings an elder child was removed from the mother’s care and adopted. However, following the separation of the parents and improvements in the mother’s capacity a younger child was permitted to stay with her. The original care plan for the elder child had provided for an open adoption but there had been no direct contact between the mother and the elder child since placement. The mother made an application for permission to bring a contact order application. The court at first instance refused the application. An appeal was allowed and the mother was granted leave to proceed. The younger child was joined as a second applicant and there was a guardian ad litem appointed for the younger child. The judge in that case referred to the fact that there was something that merited investigation, not only in the mother’s case but also and with even more force in the case of the younger brother who had a strong right under Article 8 of the European Convention for the Protection of Human Rights to have a relationship with his brother as opposed to knowing of his brother’s existence: this was sufficient to cross the threshold. Thorpe LJ determined that this was a family situation that merited sensitive investigation and that there was no principled basis upon which the mother could be refused permission.

[28] I was also referred to a decision in Re J (A Child) (Adopted Child: Contact) 2010 EWCA Civ 581. This was a decision of the Court of Appeal in England and Wales. It is important to note that the case relates to a substantive application as the local authority appealed an order providing an annual photograph of a child. This order was made against the wishes of adopters. In that case the court did consider welfare as the paramount consideration. The court also considered that it would be extremely unusual to impose upon adoptive parents, some obligation which they were unwilling to assume after adoption.

[29] In this jurisdiction, O’Hara J has dealt with a similar issue in the case of BB v Mr A and Mrs A which is reported at [2015] NI Fam 17. It is clear from that decision that the leave hurdle was not disputed. However, in that case the issue of post-adoption indirect contact was determined against the applicant and the judge decided that it was not appropriate to make any order for contact. In that case the judge had obviously the benefit of the oral evidence of the applicant. He also referred to the child’s limitations which he considered were important and that even limited indirect contact was potentially disruptive and unsettling.

[30] The issue of post-adoption contact was considered by the House of Lords in Down Lisburn Health and Social Services Trust and Another v H and Another [2006] UK HL 36. Baroness Hale at paragraph [6] of her opinion sets out the following context which bears repeating at length:

“Freeing for adoption was introduced in England and Wales under the Adoption Act 1976, following the Report of the Departmental Committee on the Adoption of Children chaired by Sir William Houghton in 1972 (Cmnd 5107). At that time, the conventional picture of adoption was still prevalent: it was the consensual if reluctant placement of a baby, usually born to an unmarried mother, with strangers who would step into the shoes of the birth family, making a clean break with the past. Yet even then times were changing fewer and fewer babies were being surrendered for adoption. The use of adoption for older children who might otherwise spend their childhoods in the care of local authorities was increasing. Concern that children should not be left without a permanent home led social workers to strive to achieve 'permanency' - either by reuniting them with their own families or by finding them a new 'family for life'. These adoptions could bring great benefits for the child but they also brought a new set of challenges for social work and for the law. The children were older. They had a history. This might well include damaging experiences from their past. But it might also include significant relationships with members of their birth family. The use of compulsory adoption, dispensing with the need for parental agreement, was increasing. But the fact that these children had a history also meant that their best interests might require that any significant links with the birth family be preserved in a more 'open' form of adoption. It was increasingly recognised that there could be more ways than one of achieving the desired permanency for the child. Research (see, for example, J Triseliotis, *In Search of Origins*, Routledge and Kegan Paul, 1973) had also shown how adopted people often felt the need to discover more about their origins when they grew up.”

[31] At paragraph [7] Baroness Hale continues:

“Interest began to develop in preserving some limited contact between an adopted child and her birth family. This might serve two rather different functions. One, which can often be accomplished by life story books and occasional letters and cards, is to help the adopted child develop her sense of identity and self as she grows up. Another, which may indicate the occasional face to face meeting, is to preserve significant attachments, prevent the feelings of loss and rejection which the child who remembers her birth family may feel if she is completely cut off from her past and help her not to worry about the family she has left behind, including siblings (see Department of Health, Adoption Now Messages from Research, 1999). This form of contact requires the birth parents to be able to put their own feelings of grief and anger aside so that they do not use their contact to undermine the adoptive placement. But if they can do this it can be a great help to the child in making the transition to her new ‘family for life’.”

[32] In paragraph [8] Baroness Hale also says:

“Hence the case for some form of post adoption contact may be strongest when the adoption itself is particularly contentious. The parents may rightly feel that they have something to offer the child even if she can no longer live with them. The problem for the court is to enable all the competing issues to be properly tried and resolved.”

[33] These comments encapsulate the relevant context which forms a backdrop to any consideration of post adoption contact. I summarise this as follows. Firstly, as adoption has changed so there has been a drive towards a more open form of adoption. Baroness Hale sets out the reasoning for this in her opinion. She also points to the fact that there has to be a requirement on the part of the former parent not to undermine the placement by means of post adoption contact otherwise the contact cannot take place. However, Baroness Hale does say that if the birth parent can co-operate, post adoption contact may be a very beneficial aspect of adoption. In Northern Ireland, these sentiments are echoed in our practice.

[34] The practice in Northern Ireland has been for the courts to consider post adoption contact at the freeing stage. It is obviously easier to do that when adoptive parents are identified as in this case. In other words, the views of the adoptive parents can be taken into account along with the birth parents and it is therefore easier to reach a consensus about the appropriate way forward.

[35] The issue in the Down Lisburn case was that the prospective adopters had not been identified and that did pose a problem in terms of the setting up of post-adoption contact. In most cases adopters are now identified and they are often the foster carers with whom children are placed. Once the issue of contact has been worked out between the various parties the courts are keen to look at the arrangements. In this jurisdiction there is often an agreement written out between the parties which can be kept on file. There is also an established practice whereby the post adoption contact arrangements can be checked by the judge at the adoption hearing.

[36] It is correct to say that in our jurisdiction it is unusual for a contact order to be made in adoption proceedings. That is because of the inherent inflexibility of an order. Usually, agreements are reached and the court may offer a view as to the way forward. The agreements in post-adoption contact, drafted by experienced lawyers with the assistance of social workers and guardians invariably include conditions that contact depends upon the birth parents not undermining the placement, on contact being beneficial for the children and that it is subject to review. In Northern Ireland we have the assistance of the post-adoption service which has also assisted the process. So the issue of a contact order has arisen infrequently and similarly it is a very rare case where the court would consider making conditions to an adoption order.

[37] The process in Northern Ireland has also been that where possible the birth parent should be encouraged to meet the prospective adopters because in the experience of the courts that has led to a better understanding of adoption and a mutual respect. The issue of the frequency of post-adoption contact is often a contentious matter. This requires a determination of the level of contact which serves the best interests of the children in adoptive placements. In this analysis consideration should be given to the fact that any contact requires a preparation and a recovery period and so it is important not to set a level of contact that is too high or unmanageable.

Consideration

[38] The context of this case is that all parties accept that post adoption contact should take place on a direct and an indirect basis. Direct and indirect post adoption contact has taken place on a number of occasions. It is a very early stage in the adoption process. The core issue is whether the applicant should be able to bring an application for an order increasing and redefining the contact. Having considered the oral and written submissions of the parties and the authorities that have been referred to me I conclude that leave should not be granted on the facts of this case for the following reasons.

[39] I begin by considering the test to be applied in relation to a grant of leave. I have been assisted by the dicta of Black LJ in RE B at paragraph 22 herein when she

states that there is no strict statutory test in determining leave. I am not convinced that either dicta of Thorpe J/LJ in the cases referred to me establish a legal test. It seems to me that those cases simply set out the judge's exposition of whether leave should be granted on the particular facts of the cases. As Black LJ states, cases will vary and so there should not be a limit to the factors to apply. Each of the authorities referred to me have different factual circumstances. In my view, the judge must simply weigh up the factors which are relevant in each case and have particular regard to the considerations in Article 10(9)(a) to (d) in order to decide whether a case merits leave to proceed to a substantive hearing.

[40] In this case, applying Article 10(9)(a) it is relevant that the application is for an order for post-adoption contact. As I have said, this is an unusual order given the inflexibility it provides. In this jurisdiction there has been a steady move towards open adoption. That is seen to be a good progression from the point of view of maintaining identity for adopted children. However, the practice in this jurisdiction has not been to make adoption contact orders on a regular basis. It is often the case that an agreement is set out in writing or in a care plan as in this case. It is the practice in this jurisdiction that contact arrangements are managed by post-adoption services operated within the Trusts. I consider that orders are really only employed when agreements have been broken or where the court considers that may be a possibility.

[41] The second part of Article 10(9) at (b) is the applicant's connection with the child. It was agreed by all counsel that she does not have any rights to family life with the children. The nature of adoption is such and the statutory framework makes that clear. This is undoubtedly a very difficult situation for any natural parent to find themselves in. However, the relationship between the birth mother and the child changes significantly once an adoption order is made because parental responsibility is vested in the adopters. They become the parents and the birth mother becomes a former parent.

[42] Under Article 10(9)(c) an issue arises as to a consideration of any risk in terms of disruption to the child's life. In this case there is an issue about C because of the report I received from Dr Tierney and I consider that there is a risk to the emotional welfare of that child. Whilst the application is not specifically referred to by Dr Tierney I cannot contemplate that C would not pick up on the issues by virtue of the fact that a hearing would necessitate reports and by reason of the effect a hearing would have upon the adults in his life. I cannot determine the level of risk however the statute enjoins me to consider any risk of harm. It does not apply directly to J but given that the two children live together it is reasonable to assume that there would be a knock on effect to him.

[43] I then consider other factors which arise in the particular circumstances of this case. I bear in mind that the applicant and the adopters know each other. The adopters were foster parents and they had a relationship with the applicant. There were court proceedings whereby the post-adoption plan was approved. That in my

view is an extremely strong factor in this case. It is also significant that the principle of post-adoption contact has been adhered to. Inevitably there will be changes made to arrangements. For instance, in this case the first direct post-adoption contact was put back by two months to allow for C's start at school. That seems to me to be eminently sensible and it does not represent any renegeing from the arrangements. In this case, indirect contact has also been shared. These circumstances point to good will on the part of the adopters to promote the contact that was agreed. In my view these factors highlight the underlying problems with this application. I cannot accept that leave should be granted in these circumstances.

[44] I consider that the case made by the applicant that post-adoption contact should be increased because she has another new child who is living successfully with her at the moment, is misconceived. This relates the issue of post adoption contact to the applicant's situation rather than that of the adopted children. In my view, the argument is contrary to the purpose of post adoption contact as implicit in the application is an aspiration to re-establish bonds. There is an obvious concern that this approach may undermine the adoptive placement. The applicant's stable situation may also change or fluctuate. In any event, I consider that the argument offends the principle of legal certainty and it does not seem to me to be a case that has any real prospect of success. I reject the argument that the applicant's current situation in itself should result in leave being granted.

[45] Much of the applicant's remaining case in relation to the post-adoption contact has been about the nature of the arrangements, for instance the times of contact, the bringing of presents, the issue of the location of contact and whether the adopters should be present. I also note that an issue is raised about the regularity of photographs however that is in the context of a problematic history of material being shared on social media. These are all practical matters which should be addressed by post adoption services with the adoptive parents. The views of the adopters are critical given that they are the parents of the children. These issues are dynamic in nature as they will be subject to change depending on the prevailing circumstances. In this case, where there is ongoing contact, I do not consider that the imposition of conditions is appropriate in relation to any of these issues.

[46] I also place considerable weight upon the timing of the application because it was very close to the adoption taking place. In my view this application was most likely an emotional reaction on the part of the applicant. I can understand her position however I do not consider that it finds a place within the legal framework for post adoption contact. I consider that the grant of leave and a full hearing at this time would risk disrupting and harming these children who are at an early and sensitive stage in the placement process. I also consider that a full hearing could damage relationships between the adults and that would be very unfortunate given the history of this case.

[47] I do understand Ms Murray's point about the half-sibling CR and it seems to me that this was the stronger argument made before the court. There is an Article 8

consideration in the case of this half sibling in terms of his family life. However, contact between the children and this half sibling has not been ruled out. This case is distinguishable from the authorities including RE B that Ms Murray relies upon. CR is an infant and the issue is being investigated and kept under review. There has been no breach of agreements. The children also know about their half-sibling. They have photographs of him and they will be doing life story work which will include reference to him.

[48] I note that sibling contact is an item placed upon the agenda for preparation/consultation prior to the next direct contact in August 2016. I consider that this issue should be allowed to develop and should not be forced. The children need to be ready and properly prepared if this contact is to happen. It is something which requires careful handling given that CR lives with the applicant and given the comment that has been attributed to C about his half-sibling. There is also an obvious concern about the timing of any contact. I am sure that post adoption services are alive to these issues and that they will carefully consider all matters when determining the feasibility of sibling contact on a direct or indirect basis. It may be that this matter can be revisited in the future but a consideration by the court at this stage is premature.

[49] The thrust of Ms Murray's very measured closing submission was that the applicant's aim is to find a common purpose. It does seem to me that a factor contributing to this application being brought has been a perceived lack of communication about arrangements. It is important that this is rectified. I am confident that the experienced practitioners within post-adoption services can assist the applicant. It is also important that her concerns are addressed promptly. It will understandably take some time for the applicant to understand that her role in the children's lives has changed as a result of their adoption. I am also hopeful, that with some reflection, a better sense of the purpose of post adoption contact may be reached by the applicant. I consider there should be a further process of education, counselling and communication between all parties to enable matters to progress smoothly. Ultimately, the emphasis is upon establishing a settled placement for the children and I am confident given what I have read in the papers that all parties can achieve that.

Conclusion

[50] Accordingly, I refuse leave. The application is dismissed.