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*Judgment: approved by the court for handing down
(subject to editorial corrections)**

Delivered: 11/03/2026

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION
OFFICE OF CARE AND PROTECTION

Between:

A HEALTH AND SOCIAL CARE TRUST

Applicant

and

AB
and
WP

Respondents

and

NORTHERN IRELAND COMMISSIONER FOR CHILDREN
AND YOUNG PEOPLE

Intervener

Claire MacKenzie (instructed by the Directorate of Legal Services) for the Applicant
Martina Connolly KC & Sean Devine (instructed by Gillen & Co) for the first Respondent
Suzanne Simpson KC & Patrick Gillen (instructed by Duffy Solicitors) for the second
Respondent

Neasa Murnaghan KC & Lee Brown (instructed by Flynn & McGettrick) for the
Children's Court Guardian

Monye Anyadike-Danes KC (instructed by NICCY) for the Intervener

HUMPHREYS J

This judgment has been anonymised as it involves a child. The ciphers given to the parents and the child are not their initials. Nothing must be published which would identify the child or the parents.

Introduction

[1] These proceedings concern a child, SB, who is now aged six years. The story of her young life is an extraordinary and troubling one. Her mother, AB, the first respondent, is a Nigerian national who came to Northern Ireland in September 2019 in circumstances where she was wanted under a European Arrest Warrant (“EAW”) by French authorities for offences of human trafficking. She had travelled using false documentation. She was subsequently convicted in absentia by the French courts in October 2022 and sentenced to nine years’ imprisonment.

[2] At the time of SB’s birth, AB was a remand prisoner, contesting a claim by the French authorities to have her extradited to meet the charges. Trust involvement began on 3 January 2020 when a pre-birth case conference was held and the child was placed on the Child Protection Register (“CPR”). The baby was returned to live with her mother in prison on the basis that this would be reviewed in accordance with the extradition process. AB and SB remained in a special wing also occupied by two convicted murderers. McFarland J described this environment as:

“an eclectic mix combining to provide a pool of moral turpitude of uncertain depth for this child to live in during her formative years.”

[3] On 16 July 2020, SB’s name was removed from the Child Protection Register and on 30 July 2020 social services closed the case on the assumption AB would be extradited to France imminently and that some provision was available for babies to remain with mothers in French prisons.

[4] On 15 July 2022, a referral was made by the prison to the Trust, at which stage SB was aged two and a half. Care proceedings were commenced on 13 January 2023, shortly after her third birthday.

[5] In June 2023, McFarland J considered an application for an interim care order and, in doing so, heard evidence from Dr Victoria Bratten, Child Psychologist, Emma Picken, social worker, and Julie Johnston, the Court Children’s Guardian. He found that the threshold for the making of such an order was met and approved a care plan of removal of SB from prison into the care of a foster couple. The mother’s appeal against the making of the interim care order was dismissed by the Court of Appeal in August 2023.

The applications

[6] Before this court were consolidated applications made by the Trust for:

- (i) A care order in respect of SB pursuant to Article 50 of the Children (Northern Ireland) Order 1995 (“the Children Order”); and

- (ii) An order declaring SB free for adoption pursuant to Article 18 of the Adoption (Northern Ireland) Order 1987 (“the Adoption Order”).

[7] At hearing, it was agreed between all parties that the case could properly be determined on the basis of submissions without the requirement for oral evidence. The court had the benefit of a substantial body of written evidence in the form of reports from the Trust, the Guardian and retained experts and statements and position papers from the parents.

Chronology of events

[8] The chronology of events in this case is lengthy and complex. It is not necessary for the purposes of this judgment to recite this in detail but a summary of the background provides necessary context for the applications before the court.

[9] AB was herself the victim of abuse and exploitation. She was trafficked into France in 2011, leaving behind her two children in Nigeria in the care of her family, and became a sex worker under the auspices of a criminal organisation. Sadly, she herself became involved in the trafficking of other young women into the sex trade. Arrests of members of the criminal gang took place in 2018 and in March 2019 an EAW issued in respect of AB. It appears that AB spent some time in Italy and was in a relationship with the second respondent, WP, at which time SB was conceived.

[10] AB was arrested on her arrival in Northern Ireland and brought before the extradition court.

[11] Following SB’s birth, mother and baby were discharged from hospital to prison in accordance with the extant Northern Ireland Prison Service (“NIPS”) policy which foresaw this arrangement would last for no more than nine months. It was at that time expected that in the event of AB being extradited to France, she would be accompanied by SB.

[12] Significant delays ensued in the extradition process. The application was repeatedly adjourned at the mother’s request as further information and medical evidence were sought.

[13] An updated policy was implemented by NIPS in March 2022 but, for reasons which remain unclear, the terms of neither this policy nor its predecessor were put into effect by NIPS.

[14] In October 2022, AB was convicted and sentenced to nine years in custody by the French courts for:

- (i) Aggravated procuring (multiple victims);

- (ii) Aggravated procuring (victim handed over for prostitution upon arrival on French territory);
- (iii) Aggravated procuring (use of coercion, violence or deceit);
- (iv) Aiding the irregular entry, movements or residence of a foreigner in France; and
- (v) Human trafficking with remuneration or advantage committed with threats, coercion, violence or deceit towards the victims or their entourage.

[15] The conviction led to a new EAW being issued and this was executed on 7 February 2023. An application for bail was advanced on behalf of AB but refused by His Honour Judge Miller KC on 10 February 2023.

[16] Following the making of the ICO, SB was removed from prison and introductions started with her foster carers for the first time in late June 2023 and she was placed with them on 18 August 2023. On 24 August 2023, following a contested hearing, HHJ Miller ordered the extradition of AB to France. On 9 January 2024, AB's appeal against this decision was dismissed. Representations were made to the Secretary of State in a plea to permit AB to remain in the UK despite the extradition order but this was refused. An application for leave to apply for judicial review of this decision was dismissed and AB was extradited on 22 March 2024.

[17] Contact was achieved between SB and her mother in prison in France through telephone calls. By June 2024, the Trust had changed the care plan for SB to one of permanence outside parental care with a plan of adoption.

[18] SB's father, WP, was joined to the proceedings in September 2023 and in May 2024 his paternity was confirmed by DNA testing. He lives in Italy where his status is uncertain. He does not enjoy parental responsibility in relation to SB. He has never had any direct contact with SB during her lifetime.

[19] On 10 October 2024, the Best Interests Panel endorsed the recommendation of the care plan of adoption. An application to free SB for adoption was issued on 14 October 2024. However, a decision was not made by the Agency Decision Maker until 25 October 2024. This represented a breach of regulation 11 of the Adoption Agencies Regulations (Northern Ireland) 1989 which require the decision to pursue a freeing application to be made by the decision maker, not the best interests panel. As a result, a fresh freeing application issued on 13 June 2025.

[20] On 15 May 2025, the foster carers were approved at adoption panel and an informal match made to SB.

[21] In August 2025, AB was released from prison and taken to a detention centre. She was then released from the detention centre on 22 November 2025 and remains in

France, residing in accommodation sourced by WP. She has not been deported but remains subject to signing requirements twice per day, which will be reviewed in 45 days. She has video contact with SB on alternate weeks.

The legal principles

[22] Article 50(1) of the Children Order provides that a court may make a care order but only, by Article 50(2), if it is satisfied:

- “(a) that the child concerned is suffering, or is likely to suffer, significant harm; and
- (b) that the harm, or likelihood of harm, is attributable to—
 - (i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or
 - (ii) the child’s being beyond parental control.”

[23] Before a court can consider whether to make a care order it must therefore determine that, at the date of intervention, the child had been likely to suffer significant harm and that this likelihood was attributable to the care likely to be given to her if the order were not made, not being what it would be reasonable to expect a parent to give to her. Once this threshold test is met, the court then turns to the welfare stage of the inquiry. In considering the paramountcy principle of Article 3 of the Children Order, the court must also take into account the impact of the making of a care order on the article 8 Convention rights of parents and children and can only do so when the making of such an order represents a necessary and proportionate interference with those rights.

[24] By Article 9 of the Adoption Order:

“In deciding on any course of action in relation to the adoption of a child, a court or adoption agency shall regard the welfare of the child as the most important consideration and shall—

- (a) have regard to all the circumstances, full consideration being given to—
 - (i) the need to be satisfied that adoption, or adoption by a particular person or persons, will be in the best interests of the child; and

- (ii) the need to safeguard and promote the welfare of the child throughout his childhood; and
 - (iii) the importance of providing the child with a stable and harmonious home; and
- (b) so far as practicable, first ascertain the wishes and feelings of the child regarding the decision and give due consideration to them, having regard to his age and understanding.”

[25] Article 18 of the Adoption Order states:

“(1) Where, on an application by an adoption agency, an authorised court is satisfied in the case of each parent or guardian of a child that his agreement to the making of an adoption order should be dispensed with on a ground specified in Article 16(2) the court shall make an order declaring the child free for adoption.

(2) No application shall be made under paragraph (1) unless –

- (a) the child is in the care of the adoption agency; and
- (b) the child is already placed for adoption or the court is satisfied that it is likely that the child will be placed for adoption.

(3) Paragraphs (3), and (5) to (7) of Article 17 shall apply to an order made by a court under paragraph (1) as they apply to an order made by a court under Article 17(1).”

[26] Article 16(2) provides that the grounds for dispensing with parental agreement are that the parent:

- “(a) cannot be found or is incapable of giving agreement;
- (b) is withholding his agreement unreasonably;
- (c) has persistently failed without reasonable cause to discharge his parental responsibility for the child;

- (d) has abandoned or neglected the child;
- (e) has persistently ill-treated the child;
- (f) has seriously ill-treated the child (subject to paragraph (4)).

[27] By Article 17(6):

“(6) Before making an adoption order or an order under paragraph (1) in the case of a child whose father does not have parental responsibility for him, the court shall satisfy itself in relation to any person claiming to be the father that—

- (a) he has no intention of applying for —
 - (i) an order under Article 7(1) of the Children (Northern Ireland) Order 1995, or
 - (ii) a residence order under Article 10 of that Order, or
- (b) if he did make any such application, it would be likely to be refused.”

[28] An order freeing a child for adoption represents one of the most draconian orders a family court can make since it permanently severs the relationship between parent and child. In *Re B (A Child)* [2013] UKSC 33, Lady Hale said:

“it is quite clear that the test for severing the relationship between parent and child is very strict: only in exceptional circumstances and where motivated by overriding requirements pertaining to the child’s welfare, in short, where nothing else will do. In many cases, and particularly where the feared harm has not yet materialised and may never do so, it will be necessary to explore and attempt alternative solutions.” (para [198])

[29] The phrase “nothing else will do” has been the subject of further judicial comment and analysis. As McFarlane J explained in *Re W (A Child)* [2016] EWCA Civ 793:

“The phrase is meaningless, and potentially dangerous, if it is applied as some freestanding, shortcut test divorced

from, or even in place of, an overall evaluation of the child's welfare. Used properly, as Baroness Hale explained, the phrase 'nothing else will do' is no more, nor no less, than a useful distillation of the proportionality and necessity test as embodied in the ECHR and reflected in the need to afford paramount consideration to the welfare of the child throughout her lifetime."

Threshold

[30] There was no dispute in this case that the threshold provided for by Article 50(2) was met at the date of intervention on 13 January 2023. Proposed statements of proposed threshold criteria were placed before the court. They stated that the evidence substantiating threshold was as follows:

- (i) AB was herself vulnerable, having suffered adverse childhood experiences and significant trauma and abuse/exploitation as an adult whilst in France up until 2018;
- (ii) SB experienced a delay in the development of her age-appropriate social and emotional skills due to her continuing placement at the age of three in a restrictive prison environment with her mother;
- (iii) SB was at risk of further significant harm to her further global emotional and social needs should she have continued to reside with her mother in a prison environment given her age and stage of development;
- (iv) The circumstances of the above social and developmental harm and risks of harm at paragraphs (ii) and (iii) were a consequence of SB remaining in her mother's care in prison well beyond infancy;
- (v) Following illegal entry on false papers into the UK, AB was arrested on a EAW and remained in prison from 27 September 2019 until 22 March 2024. Her arrest related to her offending history in respect of her involvement in a Nigerian human trafficking organisation in France. On 27 October 2022, AB was convicted in absentia and received a nine year custodial sentence (see paragraph 14 above).
- (vi) On 10 February 2023, AB was refused extradition bail by HHJ Miller KC from Hydebank on the grounds that she represented a potential flight risk.

[31] In terms of the father, the evidence relied upon was:

- (i) WP has demonstrated an ability to utilise and access false identity documents;

- (ii) AB has stated that WP was involved with securing false identity documentation. The Italian authorities had indicated that he had been in possession of fake identification papers;
- (iii) WP's legal status in Italy and the nature of or basis for his application for residence in Italy were unknown;
- (iv) WP was aware of SB's circumstances. He had been having indirect contact with her prior to the proceedings being issued but has never had direct contact. WP has not travelled to Northern Ireland to see SB as he does not have the appropriate documentation to enable him to do so.

[32] I was satisfied, on the evidence and having heard the submissions of all parties, that the Article 50(2) threshold was met in all the circumstances and the statement of threshold criteria met the justice of the case and adequately reflected the basis for the justified intervention of the Trust.

The care order application

[33] The next question for the court to answer was whether it was in the best interests of SB to make the orders sought by the Trust. In doing so, the court must have regard, in particular, to the "welfare checklist" in Article 3(3) of the Children Order.

[34] The evidence in this case reveals that AB provided SB with a relatively good level of care whilst mother and baby were together. This was strengthened by the significant levels of support available in the prison environment. However, when Dr Bratten carried out her initial analysis in May 2023, she concluded that SB was experiencing a delay in the development of her age-appropriate social skills and her emotional literacy was deficient.

[35] Following the making of the interim care order, SB moved into the full time care of her foster carers in August 2023. She had direct weekly contact with AB until the extradition order was carried into effect in March 2024. In October 2024 Dr Bratten carried out a further assessment and observed that the foster home had provided a secure and safe environment which had facilitated the development of SB's self-esteem and confidence. It was felt that SB would benefit from therapeutic work in due course to address her relationship with her mother and others with whom she formed bonds during her time in prison.

[36] Dr Bratten also identified a need for SB to develop a relationship with her culture, which differs from that of the foster carers. Embracing her cultural identity would be beneficial to SB and would be assisted by the foster carers learning about the culture of SB's birth family. At that time, Dr Bratten was of the opinion that it was in SB's best interests to remain in the long term care of her foster family.

[37] The Trust has identified the following factors in favour of its proposed care plan of permanency through adoption:

- (i) Adoption is permanent and certain, unlike long term foster care under a care order which is subject to the ongoing Looked After Child ('LAC') review process;
- (ii) In the event an adoption order is made, SB's foster parents will acquire parental responsibility and the Trust will cease to play a significant role in her life;
- (iii) Adoption would automatically lead to SB acquiring UK citizenship thereby settling her legal status;
- (iv) The foster carers have indicated their firm desire to adopt and they see SB as a member of their family; and
- (v) SB has developed strong relationships with her foster carers and a move to permanent adoption would not involve any further transition in her life.

[38] As against the proposal:

- (i) SB will not be raised by her birth parents;
- (ii) SB's culture would not be naturally promoted in her everyday life;
- (iii) Her mother will lose parental responsibility; and
- (iv) The contact between SB and her birth parents will be less frequent and typically move to indirect.

[39] The Trust has also explored whether a move towards adoption by more "culturally appropriate" parents would be a viable option. As matters stand, there are no current approved adoptive carers in the Trust area who would provide a cultural match. Even if there were, the benefits which may accrue from this relationship would have to be carefully weighed against the negative impact of a further transition and the loss of the strong relationships built up with the existing foster family. This is not likely to be in SB's best interests.

[40] The Trust has also considered the option of the making of a residence order in favour of the existing foster parents. This would ensure permanency of the relationship until SB is aged 18 and also allow for some ongoing involvement of the Trust. AB would continue to enjoy parental responsibility and the door would be open for WP to seek to acquire same. There would remain the potential for the birth parents to seek to disrupt the placement and further applications to the court could follow. The making of a residence order would not resolve SB's citizenship status.

[41] Rehabilitation back to AB has also been the subject of analysis. It would have the benefit of restoring the birth parent/child relationship and, as has been observed, AB is capable of providing a good level of care to SB, albeit in a supported environment. However, the Trust has identified a number of negative features:

- (i) There is no identified lawful basis for AB returning to the UK given her legal status and criminal record;
- (ii) A return of SB to France would place her in significant jeopardy since AB faces deportation from that country;
- (iii) If SB were to travel to France, it is likely that she would be the subject of the care system in that country;
- (iv) There is no current assessment of how AB would be able to parent SB in her present situation;
- (v) AB was convicted of very serious criminal offending involving the abuse and exploitation of young women; and
- (vi) Both SB's birth parents have engaged in international travel using false documentation and SB would be exposed to this risk if re-united with AB.

[42] The Trust has concluded that rehabilitation to AB cannot be in the best interests of SB and, on its analysis, these would be served by the making of a care order with a plan of adoption.

[43] In AB's evidence and submissions to the court made on her behalf, it was recognised that the court should make a care order but the plan of adoption was disputed. In the mother's submission, this was not a case where there should be a permanent severance of this relationship but one where the plan ought to be for long term foster care.

[44] AB maintains that she is fully committed to SB and, even during her incarceration in France, this has remained steadfast. A strong bond developed between AB and SB during the first 3½ years of her life and a good standard of care was provided in the unique environment.

[45] AB also stresses the importance of SB's cultural identity. The foster parents, whilst undoubtedly committed and well-motivated, would not be able to ensure that this forms an important part of SB's upbringing and development.

[46] AB is critical of the Trust in limiting its options analysis to those of adoption, residence order or rehabilitation. AB advocates for a long term fostering arrangement which has not been subjected to the same level of consideration by the Trust. This

would provide for a permanent home but continue to maintain a meaningful role in SB's life for her birth parents.

[47] AB states that she remains committed to returning to Northern Ireland although no evidence has been adduced as to how this might be lawfully achieved.

[48] Counsel on behalf of WP accepted that it had not been possible to bring any legal clarity to his immigration status. It will not, in any event, be possible for him to leave Italy. WP has had contact with SB through the medium of video calls but these have been of variable quality.

[49] WP agrees with AB's submission that a care plan of adoption is neither necessary nor proportionate, and he advocates a return of SB to AB's care.

[50] The Children's Court Guardian, Ms Johnston, has provided a series of five reports on behalf of SB from February 2023 to November 2025. The court has derived a considerable level of understanding and insight from this detailed body of work.

[51] In her December 2024 report, the Guardian addresses the issues around cultural identity. She records that the foster carers have embraced these questions and are willing to learn new ways to support cultural difference. Already they have explored ethnic foods, attend a diverse church, talk about SB's family and country of origin and have friends with adopted children in a similar position.

[52] In the Guardian's analysis, SB's greatest need is for permanence which would deliver belonging, security, stability, safety and predictability. She has concluded that long term foster care would fail to deliver this degree of permanence and would maintain SB's status as a looked after child for the next 12 years.

[53] Recognising that a plan of adoption represents the highest level of interference in the article 8 rights of AB and WP, the Guardian has nonetheless concluded:

"Adoption is the only option that gives her a lifelong secure home where she belongs; this is what [SB] needs most now. Further delay of this decision is not purposeful, is not in [SB]'s best interest and cannot be considered acceptable for [SB]"

[54] In her most recent report, the Guardian records the observations which she made during video call contact between SB and her parents. The experience with her father was poor. Engagement was better with her mother but still limited. The general experience has presented a mixed and confused picture. At times SB has refused contact or has been tired, upset and dysregulated after contact has taken place. On these occasions, she presented as somewhat disconnected and frustrated.

[55] Recognising SB's age and level of understanding, the court will pay heed to her wishes and feelings. The Guardian has observed her strong attachment to the foster carers, the fact she calls them "mum and dad" and talks about her future with them. SB has told the carers she wants to live with them forever and will "look after them when they are old."

[56] The Guardian has noted significant progress in SB's emotional and social development. She is very settled and content in the placement. The Guardian is concerned that, whilst SB has no awareness at the moment, the time would come when she does realise that she is a looked after child. This carries a certain stigma, and corporate parenting brings an intrusion upon private life.

[57] In making any decisions with respect to a looked after child, Article 26(3) of the Children Order requires due consideration to be given to, inter alia, the child's racial origin and cultural background. Ms Johnston looked again in detail at the cultural issues surrounding the proposed adoption and found:

"I am confident this placement will work hard to meet [SB]'s cultural identity needs. The carers are attuned, flexible, and warm. They are curious and want to learn. [SB] has developed excellent attachments to her carers, they are clearly bonded to her. It is these excellent attachments, secured permanently through adoption, that will enable [SB] to continue to make progress in the months and years ahead, preparing her to deal with the challenges her ethnicity and identity will bring. This placement can offer a permanent home to [SB] from which she can thrive and where her ethnic and cultural background is respected and celebrated."

[58] The Guardian concludes that SB has been out of parental care for over two years and a move to permanence is now long overdue. She remains emphatically of the view that the care plan of adoption is manifestly in SB's best interests.

[59] Having considered the substantial body of evidence available to the court, I have no hesitation in concluding that the Trust care plan of permanence outside parental care with a plan of adoption is in the best interests of SB. I do so bearing in mind the very significant interference which this represents into the family lives of the birth parents. However, this is a case where, in the words of Lady Hale, nothing else will do.

[60] I make this finding for the following reasons:

- (i) Whilst I do not doubt AB's love and commitment to SB, she is simply not in a position to provide any form of stable or secure environment for her daughter. Her legal status remains precarious and she faces deportation from France.

There is no clear picture of what the future holds for her and the prospects of her ever entering the UK lawfully seem remote.

- (ii) WP is similarly in a legally uncertain position. It seems clear that he cannot leave Italy. He has never met SB and the contact between father and daughter has been of limited quality. There is no prospect whatsoever of him providing a family life for SB.
- (iii) Counsel for each parent accepted the realities presented by this factual scenario. No party doubted the need to make a care order and the only issue was whether the care plan ought to be one of adoption or long term foster care.
- (iv) In the circumstances of this case, adoption has many advantages which outweigh long term foster care in the welfare analysis. It provides for a permanent solution without the attendant issues of ongoing Trust involvement and potential future litigation which are part and parcel of a foster care arrangement. It also fully embeds SB into the family life which has already provided her with such a stable and valuable environment in which to spend some of her most formative years. It also resolves the issue of SB's citizenship.
- (v) There remain issues in relation to the respect for SB's cultural heritage but, in light of the detailed analysis carried out by the Guardian, I am satisfied that these can be properly reflected within the existing placement. There will also be a need for a properly constructed narrative for SB as she continues to mature and for therapeutic work to be carried out in due course. Again, it seems clear that the foster carers will seek to deliver these services with the benefit of proper support.

[61] I will therefore make a care order and approve the Trust's care plan.

Freeing for adoption

[62] Much of the foregoing analysis carries through to the application in relation to freeing for adoption. The plan for adoption is, as I have concluded, in the best interests of SB.

[63] I am also satisfied, on the evidence, that the likelihood test in Article 18(2)(b) of the Adoption Order is met in this case.

[64] The next question is whether the mother, as the only holder of parental responsibility, is unreasonably withholding her consent to the making of an adoption order.

[65] As has frequently been observed, the statutory language used is, at best, unfortunate. It could rarely be said that a parent who does not wish to give a child up for adoption is behaving in a manner which is subjectively unreasonable. However,

the test for the court is an objective one. In *Re C* [1993] 2 FLR 260 the test was described:

“[H]aving regard to the evidence and applying the current values of our society, [do] the advantages of adoption for the welfare of the child appear sufficiently strong to justify overriding the views and interests of the objecting parent or parents.” (at 272)

[66] The advantages of adoption for SB have been clearly set out. She would be fully integrated into her new family, without the stigma of being a looked after child or having to undergo regular statutory reviews. She would also enjoy a safe, secure and permanent environment without the prospect of court applications being made by her birth parents. SB’s adoptive parents would be able to make all the relevant decisions in her life without reference to the Trust or to her mother. There will still be support available from social workers as and when required. The making of an adoption order will resolve the issue of SB’s citizenship.

[67] In all the circumstances of this case, I am satisfied that these advantages are sufficiently strong to outweigh the interests of the objecting parent.

[68] Finally, I am satisfied in this case that the father, who does not have parental responsibility, has no intention of making an application under Article 7 of the Children Order to acquire parental responsibility nor an application under Article 10 for a residence order in respect of SB. No indication of any such potential application was made by his counsel. In any event, such an application would, on these facts, be doomed to failure.

[69] For these reasons, I make the declaration sought by the Trust that SB is free for adoption.

Contact

[70] The proposal put forward by the Trust for maternal contact is that this will reduce over time to a level of three video contact calls per year together with other indirect contact by way of cards, drawings, photographs, etc.

[71] It is recognised that should AB be lawfully in the UK at any time in the future that consideration would be given to direct contact.

[72] In terms of WP, the poorer quality of the contact and the non-disclosure by him of a half sibling has led the Trust to the position that a meeting is required to discuss the provision of contact. The outline proposal, subject to review, is for two video calls per year.

[73] Bearing in mind the approved care plan and the freeing order made, I approve these outline plans for parental contact.

Northern Ireland Commissioner for Children & Young People ("NICCY")'s submissions

[74] Counsel acting on behalf of the intervener, NICCY, highlighted three issues:

- (i) The time spent by SB in the prison environment;
- (ii) The delay in concluding these proceedings; and
- (iii) The cultural and heritage considerations.

[75] NICCY has noted the terms of "The Management of Mothers of Babies" policy, dated 2006, which was in operation at the date of SB's birth. It provided, in particular:

- (i) "The prison is not equipped to care properly for children above nine months. Advice on child development suggests that children can become institutionalised if they remain much longer" (para 1.6)
- (ii) "All children are expected to leave at around the age of nine months" (para 3.5)
- (iii) "Where separation has to take place, it may be damaging and preferable for the child's interests that it happen early in the child's life. Ideally, the separation should take place when the child is under nine months old or earlier if the child is not being breast fed." (para 3.18)

[76] By the time of the change of policy in March 2022, SB had been in the prison environment for over two years. Whilst it would seem that there was an anticipation that extradition would be dealt with expeditiously, there does not seem to have been a meaningful review of the situation of SB until the referral to the Trust was made in July 2022.

[77] This is an obvious matter of significant concern, both in the individual case of SB and more widely. However, this court is being asked to adjudicate upon Trust applications in respect of care and freeing and it would be inappropriate to comment further on the issues around policy, particularly since neither NIPS nor the Department of Justice were parties to these proceedings.

[78] It is correct to observe that these proceedings have been beset by delay. The removal from parental care occurred in August 2023 and it is unacceptable that final judgment in this case is not being delivered until March 2026. There are a number of unusual features to this case, including the original prison setting, the extradition proceedings, the mother's immigration status and the uncertainty which permeated

all aspects of the birth parents' lives. Having said that, the Trust's care plan for SB has been one of adoption since June 2024 and these proceedings ought to have been heard and determined many months ago.

[79] A review of the history of the litigation reveals that most of the delays were prompted by applications by AB, based on some hoped for early release or return to the UK. The final hearing was the subject of a similar application which was rejected. Some delay was also occasioned by the procedural error made by the Trust in relation to the freeing application. There can be no doubt, with the benefit of hindsight, the case should have proceeded to hearing at an earlier date.

[80] NICCY has expressed concerns around the lack of detail as to how SB's background and cultural identity are to be considered and preserved in the proposed adoption setting. It is accepted, however, that this does not outweigh the other considerations in play in the case but rather it continues to need to be a focus of her life as SB grows older.

[81] These are important considerations, and it may well be that NICCY can play a direct role in providing assistance and guidance to the Trust and the prospective adoptive parents in ensuring that SB's culture and heritage is respected and cherished.

Conclusion

[82] I make the following orders:

- (i) A care order in respect of SB;
- (ii) An order declaring SB free for adoption;
- (iii) An order discharging the Guardian; and
- (iv) No order as to costs save for the taxation of the costs of legally assisted parties.