

Neutral Citation: [2017] NIFam 5

Ref: OHA10248

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

Delivered: 09/03/2017

16/43268

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

**APPLICATION UNDER ARTICLE 57(6) OF THE CHILDREN
(NORTHERN IRELAND) ORDER 1995 FOR ASSESSMENT**

BETWEEN:

A HEALTH & SOCIAL CARE TRUST

Plaintiff;

and

C

Respondent.

O'HARA J

[1] The identities of the parties to these proceedings have been anonymised in order to protect the interests of the child to whom the proceedings relate. Nothing may be publicised or disclosed which reveals the identity of the child, directly or indirectly.

[2] M is 15 months old. He was born to C who has now indicated that she is transgender and wishes to be regarded as a man called J. The identity of M's actual father is unknown.

[3] J was on the Child Protection Register as a child. As that fact indicates, he had an exceptionally difficult childhood and has had a recent history of drug abuse and mental health problems. He now says that he is no longer abusing drugs and that his mental health issues have improved considerably because in 2016 his medication for ADHD was corrected. Some support for this is found in a psychiatric report dated 2016 obtained in the course of these proceedings. This improvement prompted the Trust, quite properly, to row back from a decision taken early in 2016 to rule out rehabilitation of M to J. That point had been reached after M and C (as she then was) had been in Thorndale together on an assessment which ended unsuccessfully in February 2016. It is fair to record the fact that C recognised and accepted the issues at that time and agreed that M be taken into care.

[4] In light of the evidence of positive changes in J's life since then, the Trust agreed an alternative way forward. At a review on 25 November 2016 in this court, Ms Simpson QC on behalf of J indicated that her client agreed to engage in the Trust's Home on Time assessment but wanted reassurance that after M moved to concurrent carers time would be allowed for settling in before the actual start of the assessment.

[5] Home on Time is an assessment scheme which is now advanced by all Trusts in Northern Ireland. It involves placing a child with concurrent carers who are approved to foster and adopt children in the event that those children cannot return to the birth family. The thrust of the scheme is to reach decisions about the future of children earlier and avoid multiple disruptive placements of children which can be very damaging to them. The birth parent is assured of intensive work to address whatever the areas of concern are during the assessment. There is also regular contact for the parent with the child for the duration of the assessment. If sufficient progress is made, the parent is better placed to seek the return of the child. If such progress is not made within a reasonable time, the concurrent carers are more likely to become long-term carers and potentially adoptive parents provided that the placement of the child with them is progressing satisfactorily.

[6] The scheme is not activated in cases in which the prospects for the parents are regarded as hopeless by Trusts. It is only used in cases in which social workers have very serious concerns about the parent's ability to provide an acceptable level of care for the child within a reasonable timeframe but recognise that there is at least some prospect of parental progress. Accordingly the scheme gives a parent such as J the opportunity to prove that, with appropriate advice and support, he can make and maintain improvement to a sufficient degree to provide good enough long-term consistent parenting for M.

[7] M has been placed with his concurrent carers since 3 February. The assessment itself is not due to start until 20 March. However on 27 February an application was made on behalf of J to move M from the concurrent carers with whom he has settled well to Thorndale for the purposes of a second assessment with J. J contends that because of his improved circumstances he is better placed to show that he can care for M than he was one year ago. I accept that there is some truth in that contention but that has been the position for some time. The real basis for the application at this point is that J has raised issues about how the very early pre assessment stages of the Home on Time project have gone as a result of which he wants to bring it to an end.

[8] The concerns which J has raised are as follows:

- (i) That he doesn't have, or doesn't yet have, the same good relationship with the concurrent carers as he had with the couple who fostered M for the last year. I do not regard this as an issue of any substance. I would not expect him to

have the equivalent relationship, certainly not at this stage. By all accounts the previous foster carers were unusually open and accessible. That may or may not develop with the concurrent carers as time goes on (hopefully it will) but it is not critical and it cannot be the basis for an application to bring the current assessment to an end.

- (ii) His trust in social workers has been broken as a result of a “lie” told by a contact worker after an incident on 21 February 2017. Before that day’s contact started, the contact worker encouraged J himself to ask questions to the concurrent carers when they arrived with M e.g. how M had slept, when did M last eat, what sort of form was M in. Despite this advice J did not engage with them – it was left to the contact worker to ask these obvious and important questions. The carers then left and returned towards the end of contact to collect M. When the contact worker saw them, she said words to the effect “there’s the parents” or, according to J, “there’s mum and dad”. J was rightly upset and exercised about this. That language was inappropriate and hurtful. However the contact worker herself then did three things:
 - (a) She apologised on the spot to J.
 - (b) She included this incident in her record of the contact.
 - (c) She reported what she had said to the senior practitioner.

J asserts that the contact worker is lying and that she did not just say parents, she said mum and dad. In light of the corrective steps which the contact worker took, I am sceptical about that contention but without hearing from her directly I cannot reach a conclusive view. I can however conclude that in light of those steps there has been a gross overreaction by J to this incident. I am concerned that it has been exaggerated by J in order to justify terminating the Home on Time assessment.

- (iii) There are other general concerns about how contact starts and ends and where the handover should be. None of these is or should be especially difficult to make progress on and none of them touches on whether Home on Time should continue.

[9] In conclusion, what has been applied for in this case is a removal of M from concurrent carers within weeks of him being placed with them and after J had been on notice for more than 2 months of that intended move. A further move at this point would inevitably be disruptive for M and, in my view, contrary to his best interests. Accordingly I reject the application.

[10] The original Thorndale assessment failed despite the fact that J showed some ability to care for M. The problem, if it can be summarised, is that as C, J was not able to provide consistent and stable emotional care to M. This current assessment

allows him to show that he is more stable than before. If he does prove that, then the possibility of rehabilitation of M to his care will increase.

[11] It will be interesting to see how the Home on Time project develops. It is a relatively new scheme which has its attractions but this Trust (and all Trusts) should appreciate that unless the scheme results in an appreciable number of children being rehabilitated questions will be raised about it. It is important that it does not just become a mechanism for speeding up care and freeing applications by setting parents up to fail.