Neutural Citation no. [2004] NIFam 11 | *Ref:* **MCLF4199**

Judgment: approved by the Court for handing down | *Delivered:* **5/7/04**
(subject to editorial corrections)

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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FAMILY DIVISION

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OFFICE OF CARE AND PROTECTION

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IN THE MATTER OF THE CHILDREN (NI) ORDER 1995

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BETWEEN:

HOMEFIRST COMMUNITY HEALTH AND SOCIAL SERVICES TRUST

Applicant;

-and-

A R AND G R

Respondents.

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McLAUGHLIN J

[1] This is an application for a care order in respect of JR, a child of the respondents, born on 9 December 2003. AR and GR are married although divorce proceedings have been initiated by AR. They separated in or about November 2003. There has been no resumption of co-habitation since that date.

[2] The first respondent is the mother of four children, including the subject child JR, and the second respondent is the father of the three youngest of those children. The children are:

(i) MV born 25 May 1991, now aged 13.

(ii) VR born 2 October 1998, now aged 5.

(iii) JLR born on 24 September 1999, now aged 4.

(iv) The subject child JR.

[3] MV is presently in long term foster care and there are no plans to rehabilitate him to the care of his mother. VR and JLR were subjects of care orders but were subsequently freed for adoption and now live with their adoptive parents.

[4] The Trust has concluded that it is contrary to the best interests of JR to be rehabilitated with his mother and envisages that he will become the subject of freeing proceedings in due course and, if successful, the long term intention is to place him with his brother and sister and to be adopted by their adoptive parents.

[5] Both parents oppose this plan although GR, the father, has taken no part in the proceedings. On the first day of the hearing Mr Edmundson of counsel indicated that his solicitor had not been able to obtain instructions from his client since 25 May 2004, that he had failed to attend appointments since and that on the morning of the hearing he had left a message to the effect that he was ill and would not be attending. Efforts were made on the morning of the hearing to make contact with the second respondent by mobile phone but he could not be contacted. Mr Edmundson was satisfied that he was aware of the proceedings and of their importance, that he had made a conscious decision to stay away from the hearing and therefore asked for permission to withdraw and for his solicitors to come off the record. I granted the applications and directed the hearing should continue in the absence of the second respondent.

[6] AR is adamantly opposed to the future care planning of the Trust. She has indicated that she wishes to parent JR as soon as possible and that to facilitate the decision-making process I should direct the Trust to arrange for a residential assessment together with therapeutic intervention and to postpone any final decision about a care order until that process has been completed.

Family background

[7] AR has a long history of involvement with the social services in respect of deficits in her care of her children. The papers before me show that as far back as June 1996 MV was made a ward of court and the applicant Trust was named as guardian. An emergency application was necessary because of

concerns raised by his grandmother (MGM) who wished to ensure that her grandson remained in her care. This order was discharged in November 1997. In 1999 however his name was placed on the Child Protection Register under the category of "Potential for Emotional Abuse". By that point VR and JLR were born and their names were also placed on the register under the category "Potential for Neglect". On 8 February 2000 VR and JLR were placed in foster care and they remained there until adopted.

[8] MV has remained a matter of deep concern to the family of AR, and the Trust, over the entire period under review. It is clearly established, and indeed has not been disputed, that he was witness to outrageous scenes of drunkenness on the part of his mother and her various partners: complaints were made repeatedly of her drunken behaviour when looking after MV and her own family were so concerned that they intervened repeatedly. He is a child with special educational needs and an assessment was completed in 1996 confirming this. He has mild to moderate learning difficulties with a short attention span and has been diagnosed as having Attention Deficit Disorder. In addition to witnessing scenes of drunkenness he was subject of physical and emotional abuse, witnessed repeated serious episodes of domestic violence between the respondents and on one occasioned witnessed AR slash one of her wrists with a razor blade.

[9] His grandparents made efforts to look after him but he had to be moved to foster carers eventually. Although the carers were amongst the most experienced on the panel of the Trust they could not cope with his needs and problems and he was moved to a residential unit where he has remained since. I accept the evidence of Miss Hewitt and the Guardian, who was also involved in the care proceedings in his case at an earlier stage, that he is a seriously damaged child and has had to undergo two years intensive psychotherapy. He is an extremely nervous boy who worries constantly about the fate of his mother and of the possibility that her husband, who is not his father, might have returned to the matrimonial home. Clearly he is a boy in need of intensive care and nurturing.

[10] AR has abused alcohol from she was 15 until she became sober about the end of 2002. She has been "dry" therefore for approximately 18 months. As JR was born in December 2003 she was abstinent during the entire period of her pregnancy, a short time before that and for the six months since. I am satisfied by the evidence that she remained sober also during the course of her pregnancies with VR and JLR but after the birth of each of those children she relapsed into alcoholism and did so within a matter of days of the birth of each of those children. The fact that she has not done so some six months after the birth of JR is clearly significant.

[11] In addition to her alcoholism she has suffered from depression, there have been episodes of attempted and actual self-harm, she has had a number

of hospital admissions and her health has suffered as a result of her long term abuse of alcohol.

[12] In those circumstances it is hardly surprising that the Trust took the decision prior to the birth of JR that it would be unsafe to leave him in the care of his mother. Accordingly he was removed from her care within a few days of his birth and was placed in short term foster care where he has remained to date.

[13] The picture that has prevailed in the last number of years indicates deep seated problems in her life and had that picture not altered very significantly it would have been unarguable that JR should return to her care and the progression through the steps of care and freeing would have been inevitable. That suggestion has not been contested.

[14] It has been argued on behalf of AR however that major changes have occurred in her life which have had the effect of transforming her to such an extent that it is now the obligation of the Trust to work comprehensively towards rehabilitation of JR to her care. The Trust oppose this and are supported by the child's Guardian.

[15] The first significant event was when AR decided to stop drinking at the end of 2002. She has maintained sobriety for 18 months now through a series of significant crises and everyone concerned with this case has acknowledged the massive effort made by her and agreed that she must be given full credit for what she has done. I have made it plain in the course of the hearing that I join in those sentiments wholeheartedly and hope, along with everyone else, that she will be able to maintain her present course into the future. In addition she has managed to cope with the pressures of pregnancy and ultimately made the final decision to terminate her relationship with her husband in or about November 2003. They have remained apart since that time although his decline appears to have continued unabated. I am satisfied that there is no contact between them, clandestine or otherwise. The mental health of AR has also improved significantly, no doubt assisted by the absence of alcohol from her life, and I accept the evidence that her depression and anxiety, although very real, are treatable. This does not appear to be a particularly significant feature as such but it does have implications for her ability to maintain sobriety.

[16] Dr Ciaran Mulholland, Consultant Psychiatrist, has been responsible for treating her over the last number of years. Prior to that she was looked after by Dr Duke. He gave evidence at an earlier hearing in May and by agreement his evidence was taken into account in the current hearing. He refers to AR's tumultuous lifestyle between 2000-2003 when she would abstain from alcohol for periods but relapse with foreseeable consequences. He was satisfied that she had remained abstinent since the end of 2002 or

beginning of 2003. He recorded that there was little doubt that she was alcohol dependent which rendered her capacity to maintain an ordered life practically impossible then. When sober however she appears to be able to maintain a much more normal lifestyle. Her condition was however on the severe end of the spectrum. He said that AR had good insight into her problems and recognised that she must avoid alcohol completely in future. If she did so there was no reason to believe that she would not be an adequate parent. She also recognised the importance of severing her connections with GR in order assist her to remain sober. He found her to be well motivated, receptive to advice and with good insight into her problems. He concluded that "I would be cautiously optimistic that she will continue to abstain from alcohol over the coming weeks, months and years." He also stated that he was unable to comment on the issue of "emotional availability" of AR as a mother as this was outside his field of expertise.

[17] AR also relied on the opinion of Dr Quigley, also a Consultant Psychiatrist, who assessed her in November 2003 (one month before the birth of JR) and he was of the view that if she maintained sobriety for a "significant (perhaps 12 months) period of time after her delivery, her long term prospects may be viewed with more confidence". He did say that, however, in the context that the probabilities dictated that she would relapse. It would be unfair to build too much on that latter statement however given that his original opinion was proffered more than seven months ago. In any event it is common case that the depths of AR's problems with alcohol are such that relapse is an abiding risk. It is the extent of the risk that is of concern.

[18] I also heard very helpful evidence from Miss Virginia Fahy, Registered Psychiatric Nurse, who has some 20 years experience especially in the field of addiction problems. I have little doubt that she is one of the persons most responsible for helping AR to stay off alcohol. She has done so by befriending AR and counselling her throughout her battle with addiction. She has also ensured that she has in place other supports, such as attendance at AA meetings, medical help and family support. She has been able now to reduce her visits to a monthly basis. She said that AR is now much more able to cope with stress and her current problems would be more akin to low mood rather than anything more serious. Initially AR blamed others for her drinking problems but now is more aware that she is responsible for the damage which has been caused to her children and the circumstances which gave rise to their removal from her care. She considered there was strong internal motivation to remain sober and that the removal of VR and JLR into care, and ultimately being adopted, was the turning point in AR's life. The future is optimistic, she said. She felt that the ability to maintain sobriety through pregnancy, the removal of JR from her care within a few days of birth, the break-up of her marriage and the stresses of current litigation indicated strong motivation and an optimistic prognosis. She had recognised that she has problems of such severity that she could not "carry" her husband any longer and that he must

find his own solution to his problems so that the separation would be permanent. The re-involvement in her life of her mother and father was also a strongly positive factor. The fact that they have made it clear that they would withdraw their support if she relapsed is further added motivation. Miss Fahy made a strong plea that AR be given a chance to demonstrate her capacity to parent JR rather than that he should be removed from her care permanently.

[19] The mother of AR supported the evidence of Miss Fahy. I found her to be an honest and direct woman who was fully aware of the shortcomings of her daughter. I consider that she demonstrated that over a considerable period by intervening to have children removed from her daughter's care in order to protect them. I am also satisfied that she is experiencing great joy at the sobriety of AR and the re-establishment of their relationship. I accept her evidence that she will do whatever she can physically and practically to support AR should JR be returned to her care. I do not place any weight on the suggestion that she was sick as a result of intake of excessive alcohol on one occasion.

[20] The principal professional evidence before me in support of AR came from Miss Marcella Leonard, an independent social worker, who has considerable experience in therapeutic programmes for persons caught up in child care disputes such as this. She has given evidence before me on a number of occasions in the past, often at the request of Trusts, and she was an important witness

[21] Miss Leonard found AR to be open and honest about her degree of addiction and dependency. She felt that there were clear markers for significant change by AR recognising the extent of her problems with alcohol, the need to terminate her relationship with her husband and her ability to avoid trying to pass blame to others by accepting her own part in the loss of her children. She felt she was motivated internally to achieve the return of her children. The extent of the period of sobriety was also a significant pointer together with her ability to do so through the various stresses and strains outlined earlier. She did have concerns about the degree of understanding of the emotional impact of her behaviour on her children and with that in mind suggested that an assessment should be made to update currently available information. This should be done by way of a residential assessment lasting approximately three months and should be accompanied in parallel by therapeutic intervention which should be carried out over 6-8 sessions in order to assess her reaction to the process and her ability to benefit from it. Miss Leonard also accepted that JR should not be returned to the care of his mother immediately as she would be unable to cope but should be done initially in the setting of a residential assessment. She was cross-examined about this and accepted that the Trust was not making the case that AR was unable to look after the physical needs and requirements of her children,

rather that the concerns now centred on her inability to empathise with them properly and ensure their emotional well-being and development. Miss Leonard replied that in a residential assessment observations would enable one to assess the degree of empathetic behaviour and the extent to which she might be able to demonstrate a capacity to deal with the emotional needs of her children. She also conceded that after a residential assessment, if JR was allowed to remain in her care, that she would be under a lot of stress and therefore would need a raft of backup measures, or props, to support her, such as Family Aid, Surestart Programme, AA, her mother and broader family and social work intervention. She also conceded that all of these proposals had to be seen in the context of a timescale which fitted the needs of JR.

[22] The evidence on behalf of the Trust was based to a substantial degree on the past history and behaviour of AR towards her children. The picture before the birth of JR was so bleak that I consider it beyond dispute that AR was unfit to be left in charge of children. When JR was taken into care the Trust was faced with this dreadful history coupled with at least two previous examples of sobriety being maintained during the protracted period of a pregnancy with breakdown soon afterwards. Intervention at that time was necessary but the real crux of the dispute in the case is whether they should have carried out further assessments at that stage, or should do so now. The evidence of the Trust, as presented by Miss Hewitt was to the effect that even with the changes in the life of AR, and even if they were to be continued into the future, the time required to give sufficient assurance of the permanent nature of these changes could not fit the timescales of a child such as JR. They also relied upon the treatment of her previous children, and in particular MV, before the birth of JR, and since, to demonstrate that she is incapable of securing the emotional development of JR. She was of the opinion that AR did not take full responsibility for MV being in care and for his plight at present. She stated that AR continued to ascribe his problems to the side effects of learning difficulties rather than her failures. She also failed to demonstrate a proper understanding of her responsibility for VR and JLR being adopted.

[23] One of the methods by which the Trust sought to demonstrate the continuing deficits of AR in parenting was by reference to her continuing treatment and attitude to MV. I am satisfied by the evidence which I have heard, which was contradicted on a number of occasions by AR, that she has not been a good timekeeper, on at least quite a few occasions, and has been significantly late on at least two, since contact became supervised about six months ago. She also appears to have had the attitude on a number of occasions that she was entitled to be given lifts to and from the contact by social workers even though travel warrants were provided for her. One particular episode was dwelt upon, namely the events surrounding the day of MV's thirteenth birthday. The normal pattern is for AR to have contact with

MV once per fortnight for one hour between 4.00-5.00pm. On the day of his birthday she did not turn up at the appointed meeting place and the social worker had to telephone her to be told by AR that she had failed to make the rendezvous because she had fallen asleep. She eventually arrived at contact 40 minutes late. In view of the fact that it was his birthday and so much of the allocated period had been missed, the contact was extended but for a significant period towards the end of the contact AR spent the time on her mobile telephone. I am satisfied that on other occasions she was distracted by the use of her mobile phone during these short, and what should have been precious, periods of contact. She was observed on a number of occasions composing text messages and otherwise using the phone. When this evidence was given by Miss Hewitt there were interruptions whilst AR passed instructions to counsel and she flatly contradicted this version of events. Later production of contemporaneous contact records showed that she was quite wrong about that and I am satisfied that Miss Hewitt's evidence was accurate. I am also satisfied that AR was fully aware of the point that was being made by the giving of this evidence despite her later protestations when she was in the witness box.

[24] The Guardian ad Litem Ms McDonnell, was, as in so many cases, a critical witness. She has had long connections with the family stretching back through the care proceedings involving each of the older children. She acted in the care proceedings in respect of all of them, the freeing proceedings in respect of the middle children and the current proceedings. She is also a highly experienced Guardian. I am satisfied that she has agonised over the recommendation which she has made to the court that I should approve the care plans of the Trust, reject any proposals for a further assessment, avoid further delay and ensure the rapid placement of JR in a permanent home away from his mother. I am also satisfied that she has taken into account, and given full weight to all of the many changes in the life of AR. Her conclusion was ultimately influenced by her assessment of the inadequacies of the emotional care which AR is able to offer JR. Her evidence is particularly important because of her detailed knowledge of MV over several years. She told me that the interaction of AR with MV holds the key to her opinion of AR's parenting. She has discussed his state with his therapist, Miss McCambridge, and reported that it is considered MV is "parentified", that his mother is unavailable to him emotionally and that this has been catastrophic for the development of MV. He is constantly anxious for her welfare, whether she has returned to drinking, whether GR is still a feature in her life and is concerned less he should return to the matrimonial home. He is able to appreciate the potential of GR to trigger a return to alcohol by AR.

[25] Miss McDonnell stated further that AR was fully aware of MV's fragile emotional state. She has had the opportunity to redress her past wrongs towards him and to assist in repairing the damage but there is no evidence that she has taken this on board or taken steps to correct the damage. Further,

she believes that AR has further damaged him by engaging in inappropriate conversations with him, such as telling him that GR had wrecked the house and the proposed ultimate fate of JR. Although she sees him for just one hour per fortnight she felt that being late, or keeping bad time, was particularly significant because she was fully aware of the distress and upset which he suffered when he was awaiting her arrival for contact. Lateness can cause anxiety and concern because he was aware of all of the bad reasons that might contribute to it. She was particularly struck by the description of the events on his birthday and of the reference to the use of her mobile phone during such a short contact period. She thought that the events on his birthday spoke for themselves because of what being late did to him. Not seeing fit to turn up on time and being distracted by her phone was a further insult to his emotional security. This pattern had continued despite being asked to consider her approach to contact with MV and to understand the damage that might be caused. Ultimately the Guardian felt that she had not demonstrated a capacity to absorb advice she had been given or to act upon it.

[26] In the light of the continuing inability to empathise with MV Miss McDonnell thought there was nothing to indicate there could be an early resolution of this deficit. She did not accept that three months therapy could turn around her present inability to make necessary changes to alter her parenting ability significantly. Ultimately, after much soul-searching, she had determined that, even if AR could change sufficiently, the timescale involved in reaching a sufficient state of certainty and reassurance about it could not be consistent with the needs of JR. She emphasised that a delay of up to six months to complete the residential assessment, therapy and some observation in the community and not to have any guarantee, on the balance of probability, of a satisfactory outcome, would be too dangerous for JR. She felt that the prospect of good parenting emerging in that timescale was not strong enough and the better option for him would be to accept the care planning outlined by the Trust. This would have the additional reassurance that, although he would be removed from the care of his mother, he would be able to grow up with his brother and sister and the close connection with blood relatives would assist in providing him with the security and sense of permanence to which he is entitled.

[27] In cross-examination by Miss McGrenera QC, on behalf of AR, it was suggested to Miss McDonald that perhaps her long involvement in the case, through all the bad times, had clouded her judgment and that she was not able to see in proper prospective the significance of the changes which had occurred in the life of AR. It was also suggested she had failed to take account of the opinions of Dr Mulholland, Miss Fahy and Miss Leonard. This suggestion was rejected bluntly by Miss McDonnell. She explained that she had approached the matter with an entirely open mind, that she had read all the papers, spoken to all the professionals and had reviewed her opinion most recently in the week prior to the hearing. I am satisfied that Miss McDonnell

has kept an open mind and has acted in a most impeccable professional manner throughout bringing all her skills and experience to bear on this difficult case. It is clear to me that she did go through a process of soul-searching and that if there was any reasonable prospect of a satisfactory outcome within a reasonable timescale she would have fully supported, indeed demanded, rehabilitation of AR with his mother. She said that if AR had demonstrated some insight into the emotional needs of her children that she would have taken a different view in the present application and I accept that evidence as being truthful. I am satisfied that she rejected the possibility of rehabilitation, or further assessment, because a period of 12 weeks or so in a residential unit would not provide enough evidence that AR could parent JR consistently in the long-term. I also consider that evidence is supported by Miss Leonard's own observation that a subsequent period of assessment in the community would also be necessary.

[28] In this case I had the distinct benefit of hearing from AR. I had also heard and observed her give evidence at the earlier hearing. I wish to place on record that I found her to be a sincere woman who has climbed a personal Everest in reaching the point of rehabilitation which she has. To cope with such profound alcoholism, marital problems, domestic violence, removal of her children into care, depression, associated ill health and severance of relationships with her birth family and to come out alive was almost an achievement in itself. She has achieved sobriety in the face of great adversity and much testing along the way. I am satisfied that she has resolved to remain off alcohol and to maintain her separation from her husband. That does not preclude the realistic possibility that a relapse or reconciliation might occur. I consider that she still has some degree of sympathy for her husband although I believe that she will now proceed to maintain her separation from him. I accept her evidence that she did not want to take him back and that having done so many times before she wanted to move on in her life. I am sure these are ideas which have been promoted with her through her through her attendance at AA and the various forms of advice and counselling which she has received, not least from Miss Fahy. I also accept her evidence that she has a great feeling of confidence with JR and that she has attended all of her contacts with him which take place four times per week for two hours. She also attends all of the contacts well equipped and prepared and engages well with JR.

[29] On the other hand I do consider that she was wrong in her recollection of the events which occurred at the contact on MV's thirteenth birthday and she was particularly unconvincing when denying that she had encouraged MV to tell social workers that he wanted to come home to her. I was also surprised to hear her say that she wanted to have MV and JR come back to live with her. She clearly demonstrated a lack of insight into the problems suffered by MV and that I think was an outlook consistent with the attitude that she would encourage MV to keep open the idea that he could return to

her care, thus making it ever more difficult for him to settle and begin to get his life on track. I consider that she has a rather superficial notion that because she is off drink and has expelled her husband from the matrimonial home there is no risk to either JR or MV should they return home to her care. Under some pressure of cross-examination she did agree that perhaps she could not look after both of them at once.

[30] The fact that the hearing has been conducted approximately six months after his birth is said to provide an optimum opportunity to carry out the assessments now suggested by AR. On the face of it this may be an attractive proposition because so many of these cases are heard at a time when a child is much older. This however appears to me to fail to give proper weight to the evidence of the Trust contained in the report of Miss Priscilla Corbett, Adoption Development Officer, which is supported by the Guardian. In her report (Bundle 2 page 93) Miss Corbett sets out details of her background, her experience in this field and the documents to which she had access. I am satisfied that she is highly experienced and authoritative in this field. She emphasises that it is widely acknowledged that the first 12 months of a child's life is a period of extensive growth and learning. It is during this time that the infant gains control over its body and leads to physical developments such as being able to walk without support. The child also develops socially and emotionally however and does so rapidly through the first year of life. She then states:

> "By the 6-9 month stage he begins to identify strangers and to exhibit stranger anxiety. He is able to respond to his own name and to differentiate between members of his family. By 12 months of age, the infant is capable of repeating performances for attention, demonstrating a range of emotions such as fear, anger and anxiety and developing a sense of humour.
>
> Perhaps most significant, however, the first year of life is also when the young child learns to trust others and begins to develop attachment relationships with key care givers. As highlighted by Fahlberg, Howe and Others a close relationship with one or more parent figure teaches the child that care givers are available and that he is worthy of the attention and concern which they give. The child is reassured that his needs will continue to be met when he repeatedly experiences consistent parenting. It is this confidence in others to meet his needs which forms the basis for the child's development in all other areas. The process is

> commonly referred to as attachment behaviour which Howe (1998) defines as 'a biological response that ensures children seek close proximity to selected adults when their level of anxiety begins to rise."

[31] Because of this she states it is crucial that trauma and disruption are minimised for the developing child if he is to reach his full potential. She continued that for babies who enter the care system each move entails separation and loss of important relationships during a critical development stage. It is vital therefore that babies should be settled into a permanent family at the youngest possible age with the fewest moves possible. Clearly the longer he resides in his present short-term foster care placement the stronger will become his attachments. Separation from a parent figure even at 6-9 months may interrupt the child's developmental progress.

[32] She also quotes Rutter (1981), who concluded that children aged between the ages of 6 months and 4 years are most vulnerable when separated from their primary attachment figures. He suggests that very young children may, to some extent, be protected from the impact of separation because they have not yet developed selective attachments while older children benefit from their capacity to have some understanding of what is happening.

[33] Further guidance is also available from government sources in Local Authority Circular, LAC(98)20 "Adoption – Achieving the Right Balance" on the importance of avoiding delay:

> "The Government is concerned about the length of time some children have to wait before being able to join an adoptive family. The social and emotional development of children is strongly influenced by their early childhood experiences, especially the quality and security of their attachment relationships with their birth family, relatives and carers. Allowing children to 'drift' is never in their best interests and is likely to make successful placements all the more difficult to achieve. It has to be recognised that certainty is rarely possible: professional judgement has to work with the balance of probabilities. The longer a child spends in temporary care, before being placed with permanent carers, the more difficult it is likely to be for that child to make the necessary social and emotional adjustments within the new family."

[34] Ultimately Miss Corbett expresses her belief that JR urgently requires placement with permanent carers, who have the potential to adopt him and can meet his needs now, throughout his childhood years and into adulthood.

[35] She also points to the impact of delay on her other children VR and JLR. VR is described by her teacher as an anxious child whilst JLR is described as "the most immature 4 year old she has ever known". Both children continue to be affected by their past experiences of trauma, disruption and delay. The problems may impact on those two children throughout their lives. Their adoptive parents are fully aware of these problems and are trying their best to overcome them but have expressed the view that they are anxious to avoid any further delay in receiving JR into their care.

[36] The Guardian has expressed similar views in equally trenchant terms.

[37] There is no easy solution to this case. It is the worst possible position for the Judge to be put in. There is professional opinion expressing views each way. I have listened to the evidence as carefully as I can and tried to assess the written evidence in detail. I have reminded myself repeatedly of the way in which AR has attempted to deal with her many problems. I can only repeat my admiration of her efforts. There is little doubt that if we were asked does AR deserve to be given a chance we would say 'Yes' instinctively. That is not the question that I must answer however. I must give priority to the needs of this child. In doing so I must have regard to the general principle that it is best for a child to be brought up by its natural parents. I must also have regard to the welfare checklist and consider whether I should make no order at all, or if I make an order which order is appropriate.

[38] Before any public law intervention is justified in a case of this kind the threshold criteria set out in Article 50(2) of the Children (NI) Order 1995 must be met. Miss Hewitt on behalf of the Trust has prepared a statement of the proposed threshold criteria which are set out in her report of 30 April 2004 (bundle 2 p. 105). I am satisfied that all of these criteria have been established and indeed it is difficult to see how any coherent case to the contrary could be made out. There appeared at times to be an acceptance of these, at least by the legal representatives of AR but it became less clear in the course of her own evidence that she accepted their validity. This lack of clarity became more acute when she seemed to suggest that MV and JR could be returned to her care without danger. I am fully satisfied that public law intervention was fully justified following the birth of JR and the justification continues until the present.

[39] In *Re H and R (Child Sex Abuse: Standard of Proof)* [1996] 1 FLR 80 Lord Nicholls emphasised that when dealing with the prospect of future harm where the court must evaluate the risk of something happening in the future

the test is whether or not there is a real possibility that the child will suffer significant harm? I am satisfied that if JR were to be returned to the care of AR in the foreseeable future that he would suffer significant harm, not just that a real possibility of it exists. I consider this amply justified by virtue of the fact that we are in the early stages of her recovery from the depths of alcoholism, her continuing failure to meet the needs of MV, the evidence to the effect that she requires considerable therapy to help her begin to address the deficits in her ability to meet the emotional needs of a child and continuing inability to take to heart advice proffered by social services in relation to coping with MV's needs. Her apparent belief that she could parent JR, and perhaps MV, safely, adds further to the difficulties in her path.

[40] Any decision which I make must be informed by having regard to the so called welfare checklist set out in Article 3(3) of the 1995 Order. I do not consider it necessary to examine each of these in detail. Because of his age it is not possible to ascertain his wishes and feelings; his physical, emotional and education needs are within the normal range at present as it is not possible to determine whether anything in particular must be taken into account at present. I do not consider there was anything particularly relevant arising by virtue of his age, sex, background or characteristics other than those matters which I have set out before. He is in my opinion at risk from suffering significant harm and for the reasons which I have already indicated I do not consider that either parent is presently capable of meeting his needs.

[41] After trying to make this process as child-centred as possible, ensuring that JRs needs are the paramount consideration and balancing all of the evidence and the principles which I am required to take into account, I have reached the conclusion that it is essential to achieve a state of permanence for JR at this stage and not to delay that decision further. Should I direct the therapeutic and residential assessments requested by AR I cannot be sure of the outcome. Applying the balance of probabilities to the evidence, and having regard to the protracted history, the difficulties in shaking off the spectre of alcoholism and the demonstrated emotional detachment of AR I am unable to say that delay is likely, on the probabilities, to enable AR to demonstrate her capacity to parent safely. I am unwilling to allow a further period of 3-6 months to pass with all of the uncertainty and potential damage that would accompany such a delay. I am satisfied that the best interests of JR require that he should move as quickly as possible to a permanent home. The fact that one is readily available now and that it will enable him to grow up with his brother and sister in a placement which has been successful for them, gives added impetus to that decision.

[42] I am satisfied that to do so would be both necessary and proportionate. The right of the mother to respect for her family life is of course a most important consideration but I must also take into account the right of JR to a family life which is secure, permanent and will ensure his physical and

emotional development. I am satisfied after trying to balance all of these factors that the appropriate step is to make the Care Order sought by the Trust, refuse to direct the residential and therapeutic assessments requested by AR and to approve the Trust's proposed care planning for him. A supervision order would not suffice as the Trust would not have parental responsibility and clearly their continuing intervention is necessary for the future until permanence can be achieved for him: for that reason a No Order order is not an option either.