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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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FAMILY DIVISION

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IN THE MATTER OF THE ADOPTION (NI) ORDER 1987

Between:

A HEALTH AND SOCIAL CARE TRUST

Applicant

and

Ms. Y

Respondent

_____

IN THE MATTER OF Z (A MINOR)
FREEING FOR ADOPTION

_____

Mr Ritchie BL (instructed by DLS) for the Trust
Mr McGuigan QC and Mr O'Brien BL (instructed by John Fahy & Co, Solicitors) for Respondent
Ms Smyth QC and Ms McCloskey BL (instructed by M T O'Neill, Solicitors) representing the Guardian ad Litem on behalf of the child

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ROONEY J

[1] I have anonymised this judgment. Nothing must be published which would identify the child or the family in this case.

[2] I express my gratitude to counsel for their comprehensive oral and written submissions at the conclusion of the hearing of the Trust's application for a freeing order in respect of the child (hereinafter referred to as Z). The respondent (hereinafter referred to as Y) is the mother of Z.

The Application

[3] Z is now aged six years old. Since his birth Z resided with Y until August 2019, when Y agreed to a voluntary accommodation order for Z pursuant to Article 21 of the Children (Northern Ireland) Order 1995 ("the 1995 Order"). Z was duly placed in a Trust Foster Care.

[4] In December 2020, Keegan J made a final care order in favour of the Trust. Although the learned judge approved the Trust's care plan of permanency by adoption, she made it clear that Y would have the opportunity to address parenting issues with a view to making a case for rehabilitation in advance of the application for a freeing order.

[5] Following the final order, Z was moved to a concurrent placement with M and D, who are dually approved as foster carers and adoptive carers. M and D will adopt Z if a freeing order is granted.

[6] The application by the Trust is for a freeing order pursuant to Article 18 of the Adoption (Northern Ireland) Order 1987 (hereinafter "the 1987 Order"). If granted, a freeing order has the effect of extinguishing parental responsibility of natural parents in respect of their child. It is a most draconian order which will only be made in the most exceptional circumstances when nothing else will do.

[7] A court will only make an Article 18 freeing order (without parental consent) if it is satisfied, firstly, that adoption is in the best interests and welfare of the subject child as per Article 9 of the 1987 Order and, secondly, the court is satisfied that the child's parent(s) are unreasonably withholding consent to adoption as per Article 16(2)(b) and Article 18(1) of the 1987 Order.

[8] The Trust argues that, following a detailed consideration of the factual circumstances and the evidence, adoption is in the best interests and welfare of the child. The Trust further submits that, applying the test of reasonableness to the evidence, the court should make a finding that Y is withholding her consent unreasonably.

[9] Y denies that adoption is in Z's best interests. She makes two proposals which, in her opinion, better meet her child's welfare needs. Firstly, Y proposes that Z should be rehabilitated into her care. Secondly, in the alternative, Y argues that it would be in the best interests of Z to remain with his current carers under a long term foster care arrangement with Y providing a dedicated authority to the carers.

Statutory Framework

[10] In deciding whether to make a freeing order, the court is under a statutory obligation to have regard to the welfare of the child and be satisfied that adoption is in the child's best interests. If so satisfied, the court must decide whether the parents are unreasonably withholding their agreement to adoption.

[11] The relevant provisions of the Adoption (Northern Ireland) Order 1987 are as follows -

> **"Welfare of children**
>
> **Duty to promote welfare of child**
>
> 9. 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."
>
> **Parental agreement**
>
> 16.—(1) An adoption order shall not be made unless—
>
> (a) the child is free for adoption by virtue of an order made in Northern Ireland under Article 17(1) or 18(1), made in England and Wales under section 18 of the Adoption Act 1976 (freeing children for adoption in England and Wales) or made in Scotland under section 18 of the Adoption (Scotland) Act 1978 (freeing children for adoption in Scotland); or
>
> (b) in the case of each parent or guardian of the child the court is satisfied that—

(i) he freely, and with full understanding of what is involved, agrees—

(aa) either generally in respect of the adoption of the child or only in respect of the adoption of the child by a specified person, and

(ab) either unconditionally or subject only to a condition with respect to the religious persuasion in which the child is to be brought up,

to the making of an adoption order; or

(ii) his agreement to the making of the adoption order should be dispensed with on a ground specified in paragraph (2).

(2) The grounds mentioned in paragraph (1)(b)(ii) are that the parent or guardian—

(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 duties 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)).

Freeing child for adoption without parental agreement

18.—(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."

Legal Principles in relation to Freeing Orders

[12] A substantial volume of jurisprudence has developed identifying the core principles and factors for a court to take into consideration in reaching its decision as to whether adoption is in the best interests of the child. It is considered helpful to highlight the said core principles prior to applying same to the facts of this case.

Exceptionality of Adoption

[13] Freeing Orders can only be made in very exceptional circumstances. In *YC v The United Kingdom* [2012] 55 EHRR 33 at paragraph 134, the ECtHR held as follows:

> "[134] The Court reiterates that in cases concerning the placing of a child for adoption, which entails the permanent severance of family ties, the best interests of the child are paramount (see *Johansen v. Norway*, 7 August 1996, § 78, *Reports of Judgments and Decisions* 1996 III; *Kearns v. France*, no. 35991/04, § 79, 10 January 2008; and *R. and H.*, cited above, §§ 73 and 81). In identifying the child's best interests in a particular case, two considerations must be borne in mind: first, it is in the child's best interests that his ties with his family be maintained except in cases where the family has proved particularly unfit; and second, it is in the child's best interests to ensure his development in a safe and secure environment (see *Neulinger and Shuruk*, cited above, § 136; and *R and H.*, cited above, §§ 73-74). It is clear from the foregoing that family ties may only be severed in very exceptional circumstances and that everything must be done to preserve personal relations and, where appropriate, to "rebuild" the family (see *Neulinger and Shuruk*, cited above, § 136; and *R. and H.*, cited above, § 73). It is not enough to show that a child could be placed in a more beneficial environment for his upbringing (see *K and T.*, cited above, § 173; and *T.S. and D.S.*, cited above). However, where the maintenance of family ties would harm the child's health and development, a parent

> is not entitled under Article 8 to insist that such ties be maintained (see *Neulinger and Shuruk*, cited above, § 136; and *R and H.*, cited above, § 73)."

[14] In *Re B* [2013] UKSC 33 at paragraph 198, Baroness Hale stated:

> "[198] It is quite clear that the test for severing the relationship between the 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."

[15] In *ML v Norway (Application Number 64639/61)* [2020] ECHR 927, the European Court of Human Rights (ECtHR) stated as follows:

> "80. Furthermore, the Court reiterates that in instances where the respective interests of a child and those of the parents come into conflict, Article 8 requires that the domestic authorities should strike a fair balance between those interests and that, in the balancing process, particular importance should be attached to the best interests of the child which, depending on their nature and seriousness, may override those of the parents. Moreover, family ties may only be severed in "very exceptional circumstances" (see *Strand Lobben and Others,* cited above, §§ 206 and 207). …
>
> 89. The Court finds reasons to stress, however, that an adoption will as a rule entail the severance of family ties to a degree that according to the Court's case-law is only allowed in very exceptional circumstances (see paragraph 80 above). That is so since it is in the very nature of adoption that no real prospects of rehabilitation or family reunification exist and that it is instead in the child's best interests that he or she be placed permanently in a new family (see, for example, *R. and H. v. the United Kingdom*, no. 35348/06, § 88, 31 May 2011)."

Proportionality and Necessity

[16] Pursuant to Article 8 of the European Convention on Human Rights (ECHR), both the children and the parents have the right to respect for family and private life. Any interference with family and private life can only be justified in accordance with Article 8(2). Firstly, the interference must be in accordance with the law. Secondly,

the interference must be proportionate to the legitimate aim of protecting the welfare and interests of children. Thirdly, the interference must be necessary.

[17] As stated by Hale LJ in *Re C and D (Care Order: Future Harm)* [2011] 1FLR 611 at paragraph 34:

> "[34] There is a long line of European Court of Human Rights jurisprudence on that third requirement, which emphasises that the intervention has to be proportionate to the legitimate aim. Intervention in the family may be appropriate, but the aim should be to reunite the family when the circumstances enable that, and the effort should be devoted towards that end. Cutting off all contact and the relationship between the child or children and their family is only justified by the overriding necessity of the interests of the child."

[18] In the seminal case of *Re B (A Child)* [2013] UKSC 33 the Supreme Court gave further consideration to the question as to when an adoption will be proportionate for the purpose of justifying interference with Article 8. At paragraph [34] Lord Wilson stated that Article 8 demands a high degree of justification before a child should be adopted or placed in care with a view to adoption. At paragraph [78], Lord Neuburger stated that a high threshold had to be crossed before a court should make an adoption order against the natural parents. At paragraph [198], Baroness Hale stated as follows:

> "[198] Nevertheless, 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. "

[19] Lord Kerr at paragraph [130] agreed with Baroness Hale's statement above, emphasising the stringent requirements of the proportionality doctrine where family ties must be broken in order to allow adoption to take place.

[20] In *Northern Health and Social Care Trust v AR and BR (In the Matter of a Child MR)* [2018] NI Fam 2, at paragraph 25, Weir LJ provided a commentary on the interplay between the issues of proportionality in light of *Re B.* He stated the following,

> "[25] The decision of the Supreme Court in Re B (A Child) Care Proceedings: Threshold Criteria) [2013] UKSC 33 caused a considerable fluttering in the dovecotes of family practitioners and much judicial and other ink has since been spilled by those anxious to offer their own gloss upon its message. It was thought by some that the Court had erected a new and much higher hurdle for

> forced adoption and others supposed that they discerned in the differing language employed by the Justices divergences of importance and of emphasis. However, the many feathers ruffled by what was initially thought to have been a strong wind of legal change became smooth again as it began to be appreciated that Re B simply unearthed, blew the dust off, restated and re-emphasised the existing law of proportionality which had in places fallen into a state of greater or lesser desuetude as exemplified by the many judgments in which only a faint and formulaic passing nod in its general direction is to be discerned. "

[21] In *XY v Health and Social Services Trust* [2018] NIFam 1, Keegan J stated as follows:

> "[17] RB has caused some consternation in legal circles and a suggestion that it has made the test for freeing for adoption or adoption more difficult. However, in my view, this case represents an articulation of the Article 8(2) test under the European Convention and is a reminder that any application must be proportionate in pursuance of the legitimate aim which is to secure the best interests of the child throughout his childhood as stated in the Adoption (Northern Ireland) Order 1987."

The Holistic Balancing Exercise

[22] The decision of the court in *Re B* was the subject of a comprehensive assessment by Sir Munby in *Re B-S* [2013] EWCA Civ 1146. At paragraph [22] Munby P stated as follows:

> "[22] The language used in *Re B* is striking. Different words and phrases are used, but the message is clear. Orders contemplating non-consensual adoption – care orders with a plan for adoption, placement orders and adoption orders – are "a very extreme thing, a last resort", only to be made where "nothing else will do", where "no other course [is] possible in [the child's] interests", they are "the most extreme option", a "last resort – when all else fails", to be made "only in exceptional circumstances and where motivated by *overriding requirements* pertaining to the child's welfare, in short, where nothing else will do": see *Re B* paras 74, 76, 77, 82, 104, 130, 135, 145, 198, 215.
>
> [23] Behind all this there lies the well-established principle, derived from s 1(5) of the 1989 Act, read in

> conjunction with s 1(3)(g), and now similarly embodied in s 1(6) of the 2002 Act, that the court should adopt the "least interventionist" approach. As Hale J, as she then was, said in *Re O (Care or Supervision Order)* [1997] 2 FCR 17, [1996] 2 FLR 755, 760, [1997] Fam Law 87 "the court should begin with a preference for the less interventionist rather than the more interventionist approach. This should be considered to be in the better interests of the children … unless there are cogent reasons to the contrary.""

[23] Munby P emphasised that the court, when contemplating non-consensual adoption, must consider, "proper evidence both from the local authority and from the guardian and the evidence must address *all* the options which are realistically possible and must contain an analysis of the arguments *for and against* each option. … What is needed is an assessment of the benefits and detriments of each option for placement and, in particular, the nature and extent of the risk of harm involved in each of the options" (paragraph [34]).

[24] Munby P further stressed the necessity for "global, holistic evaluation." At paragraph [44] he stated as follows:

> "[44] We emphasise the words "global, holistic evaluation." This point is crucial. The judicial task is to evaluate *all* the options, undertaking a global, holistic and (see *Re G* para 51) multi-faceted evaluation of the child's welfare which takes into account *all* the negatives and the positives, *all* the pros and cons, of *each* option. To quote McFarlane LJ again (para 54):
>
> > 'What is required is a balancing exercise in which each option is evaluated to the degree of detail necessary to analyse and weigh its own internal positives and negatives and each option is then compared, side by side, against the competing option or options.'"

[25] In *Re M-H* [2014] EWCA Civ. 1396, at paragraph 11, Macur LJ provided further guidance for the court when undertaking the "holistic" balancing exercise of available options. He stated as follows:

> "[11] The "holistic" balancing exercise of the available options that must be deployed in applications concerning adoption is not so as to undertake a direct comparison of what probably would be best but in order to ascertain whether or not the particular child's welfare demands adoption. In doing so it may well be that some features of

> one or other option taken in isolation would produce a better outcome in one particular area for the child throughout minority and beyond. It would be intellectually dishonest not to acknowledge the benefits. But this is not to say that finding one or more benefits trumps all and means that it cannot be said that "nothing else will do." All will depend upon the judge's assessment of the whole picture determined by the particular characteristics and needs of the child in question no doubt often informed by the harm which s/he has suffered or been exposed to."

[26] In this case, the respondent mother submits that the court should not endorse adoption on the basis that it would probably provide the best outcome. Rather, if the options of long-term foster care and adoption are available to the court and are both viable in the sense that they meet the child's needs, it is submitted that the court should endorse a less draconian option of long term foster care. It is argued that this is the essence of the proportionality exercise.

Unreasonably Withholding Consent to Adoption

[27] In Article 18 freeing for adoption proceedings, if the court is satisfied that adoption is in the best interests of the child, the court should then consider whether it has been established that there are grounds to dispense with parental consent. In this case, the ground relied upon by the Trust is that the respondent mother is unreasonably withholding her agreement to Z's adoption.

[28] The test of "unreasonableness" was considered by Lord Hailsham in *Re W (An Infant)* [1971] 2 AER 96 when he stated:

> "The test is reasonableness and nothing else. It is not culpability. It is not indifference. It is not failure to discharge parental duties. It is reasonableness and reasonableness in the context of the totality of the circumstances. But although welfare *per se* is not the test, the fact that a reasonable parent does pay regard to the welfare of his child must enter into the question of reasonableness as a relevant factor. It is relevant in all cases if and to the extent that a reasonable parent must take it into account. It is decisive in those cases where a reasonable parent must so regard it."

[29] In *Down Lisburn Health and Social Services Trust v H and R* [2006] UKHL 36, Lord Carswell gave the leading judgment. With regard to the test of "reasonableness", Lord Carswell stated at paragraph [70]:

> "[70] The difficulty facing a court is obvious: it has to apply an objective standard of reasonableness, looking at

the circumstances of the actual parent, but supposing this person to be endowed with a mind and temperament capable of making reasonable decisions. It was this difficulty which moved Steyn and Hoffmann LJJ to say, in their joint judgment in *In Re C (A Minor) (Adoption: Parental Agreement: Contact)* [1993] 2 FLR 260, 272:

> "…making the freeing order, the judge had to decide that the mother was 'withholding her agreement unreasonably.' This question had to be answered according to an objective standard. In other words, it required the judge to assume that the mother was not, as she in fact was, a person of limited intelligence and inadequate grasp of the emotional and other needs of a lively little girl of 4. Instead she had to be assumed to be a woman with a full perception of her own deficiencies and an ability to evaluate dispassionately the evidence and opinions of the experts. She was also to be endowed with the intelligence and altruism needed to appreciate, if such were the case, that her child's welfare would be so much better served by adoption that her own maternal feelings should take second place.
>
> Such a paragon does not of course exist: she shares with the 'reasonable man' the quality of being, as Lord Radcliffe once said, an 'anthropomorphic conception of justice.' The law conjures the imaginary parent into existence to give expression to what it considers that justice requires as between the welfare of the child as perceived by the judge on the one hand and the legitimate views and interests of the natural parents on the other. The characteristics of the notional reasonable parent have been expounded on many occasions: see for example Lord Wilberforce in In re D (Adoption: Parent's Consent) [1977] AC 602, 625 ('endowed with a mind and temperament capable of making reasonable decisions'). The views of such a parent will not necessarily coincide with the judge's views as to what the child's welfare requires. As Lord Hailsham of St Marylebone LC said in Re W (An Infant) [1971] AC 682, 700:

> 'Two reasonable parents can perfectly reasonably come to opposite conclusions on the same set of facts without forfeiting their title to be regarded as reasonable.'

> Furthermore, although the reasonable parent will give great weight to the welfare of the child, there are other interests of herself and her family which she may legitimately take into account. All this is well settled by authority. Nevertheless, for those who feel some embarrassment at having to consult the views of so improbable a legal fiction, we venture to observe that precisely the same question may be raised in a demythologised form by the judge asking himself whether, having regard to the evidence and applying the current values of our society, 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. The reasonable parent is only a piece of machinery invented to provide the answer to this question."

Sense of Grievance or Injustice

[30] The court recognises that a sense of grievance or injustice on the part of the mother may be a relevant factor affecting the mind of a reasonable parent on the question of consent. (See *Re BA (Wardship and Adoption)* [1985] FLR 1008).

> 'A bona fide and reasonable sense of injustice may be a relevant factor affecting the mind of a reasonable parent on the question of consent.'

[31] In *XY v A Health and Social Services Trust* [2018] NIFam 1, Keegan J also discussed the issue of grievance in the context of a parent who did have some cause to feel a level of injustice due to late assessment/identification of a need for therapy. Critically this was in the context of expert assessment saying that long term work was needed, although the expert remained pessimistic as the chances of success:

> "[24] A further element in relation to this test is a justifiable sense of grievance. However, the Court of Appeal in Re E (Minors) (Adoption: Parents' Consent) [1992] FLR 397 said that there is a distinction between the sense of injustice which is irrelevant and the facts which give rise to the sense of injustice. A mother was entitled to say that she did not have a proper opportunity to

> demonstrate that continued access could benefit her children and the court's decision had been pre-empted by the premature issue of a freeing application which in turn prevented her access application being considered. In those circumstances the mother's proper sense of injustice led to a decision that she was not withholding her consent unreasonably, despite the fact that the court also held that at the date of the hearing, the child's welfare required that there should be no further contact with the mother. Where there are grounds for a parent to have a sense of grievance, that factor has to be weighed alongside the other circumstances of the case, in particular the welfare of the child and the advantages of adoption (see Re E (Adoption: Freeing Order) [1995] 1 FLR 382.
>
> [25] Well in this case the mother can realistically say that she has some sense of grievance because her therapeutic needs have not been met. That is notwithstanding her efforts to access therapy which are to be encouraged although I recognise that these were late in the day. However, I have to weigh that in the balance against the other factors in deciding if she is unreasonably withholding her consent.
>
> [26] The assessment by Mr Quinn is really the lynchpin of this case and his evidence was quite clear in relation to a number of important signposts. Firstly, he talked about the magnitude of the task for the mother given her history. Secondly, he talked about the potential for some work but the fact that it would take a long period of time. Thirdly, and most importantly, he clearly said that he was pessimistic about the chances of success. Overall, and on the basis of the evidence, I have to conclude that there is no realistic prospect of rehabilitation in this case. Even if this expert had been cautiously optimistic I could have seen a way forward. But I am afraid that his written reports and his oral evidence point towards a very different conclusion and bearing that in mind I regretfully cannot find in favour of the mother in relation to the various legal tests."

[32] In *Western Health and Social Services Trust v K and L* [2015] NIFam 15 Maguire J in his consideration of the test of "reasonableness" and a sense of grievance, stated at paragraph [64]:

> "(iv) A reasonable parent, in the court's view, in considering the issue would have to bear in mind the

> overall context and not over-react or act disproportionately. Such a parent would treat the outcome for the children as the most important factor and would not allow any sense of grievance to cloud their judgment in this regard.
>
> (v) The court does not believe that L and K have approached the matter in the way described above. In the court's view, there is no sign that they have in any way engaged with the issue of what best serves the interests of M and N in this context, notwithstanding the events under discussion. They have not sought to draw any distinction between how best to secure those interests, on the one hand, and their sense of grievance, both historic and in respect of how the Trust have dealt with them in the context of the referral issue, on the other. The latter factor, in the court's view, is so strong that L and K have been unable to see beyond it. That was true before the specific issue of the referral came along and it has been true since."

Factual Background

[33] Social Services have known Y since she was a young child due to adverse parenting and exposure to parental poor mental health and addiction issues. Social Services were concerned about the ongoing physical and emotional neglect of Y and her siblings and it is clear that Y experienced trauma in her own childhood due to her mother's chronic alcohol misuse and her parents' anti-social behaviour.

[34] Z was born in 2015. His natural parents are Y (his mother) and DR (his father). They are not married and were not married at the time of Z's birth. DR is not named as the father on Z's birth certificate. Indeed, DR was only confirmed as the father following DNA testing. On 16 February 2020, DR indicated that he did not want to be involved in Z's upbringing and that there is no one in his family who would be willing to be assessed as a kinship option, including his sister who was contacted directly by the Trust. DR has not applied to be joined to these proceedings.

[35] Social Services initially became involved with Z and Y in August 2015, when he was only two months old. The documentation refers to an incident when Z was left in the care of a neighbour for two nights whilst Y went out drinking. Z became unwell and when Y was not contactable, the neighbour took Z to hospital. Concern was expressed when a small mark was noted on Z's face and he had a swollen testicle. Y arrived at the hospital in an intoxicated state. Following this incident, care transferred to the Family Intervention Team until May 2016.

[36] Between 2015 and 2018 the documentation provided to me demonstrates clearly the ongoing concerns that the Trust had for Z's well-being. The concerns

related principally to Y's alcohol problems and lifestyle issues, particularly with regard to relationships with other men. There is a specific reference in the documents to a named individual hitting Z and serious incidents of physical, emotional, sexual and financial abuse.

[37] On 3 December 2018 an Initial Child Protection Case Conference was convened and a protection plan for Z was put into place. The relevant plan included the following:

(a) Y was to spend more time with Z in their home environment.

(b) Y was to ensure that Z was being cared for at all times by an appropriate adult. Z was to inform Social Services of any individuals with whom she may leave Z, so the relevant checks could be made.

(c) Y was to make increased efforts to play with Z in their home including imaginative play, story-telling and creative play, i.e. arts and crafts.

(d) Y was required to inform Social Services of any males she was dating or involved in a relationship with.

(e) Y was to ensure that Z was cared for by an appropriate adult if she was to consume alcohol.

[38] Within a short period of time, Y had breached the said child protection plan. Relevant and concerning incidents of the breaches are detailed in the documentation.

[39] The Trust convened a further RCPCC on 28 February 2019. Records from the conference highlight Y's dishonesty with Social Services and the decision by Y to ignore the advice of professionals.

[40] From April 2019 to August 2019 the same pattern of concerns continued whereby Y would place Z in the care of inappropriate adults; Y's inability to manage Z's behaviour; Y's continuing alcohol abuse and her admission to the Trust, on 5 August 2019, that she had been dishonest about her relationship with a male from June 2018 to October 2018 and the fact that this male would have stayed in her home three to four nights per week.

[41] On 6 August 2019 Z was placed in foster care with Y's consent.

[42] At a LAC review on 20 November 2019 it is noted that between 12 August 2019 and 20 November 2019 there were seventeen anonymous referrals to the Trust/Police in relation to Y drinking to excess and ongoing relationships with males. A record from the LAC review states that:

> "[Y] often does the opposite of what she says she is going to do and she was advised that if she doesn't start to do

> the work then it is unlikely that [Z] will be returned to her care."

[43] A report from the Trust dated 11 May 2020 is revealing. It would appear that patterns of concerning behaviour in respect of Y continued to persist since Z's placement in August 2019. The said report includes significant events since the initial Social Work statement dated 14 August 2019. Reference to the chronology highlights continued alcohol abuse, relationship concerns and altercations and the disclosure by Y that Z would have been in his cot at the bottom of Y's bed occupied by two males.

[44] In a Trust report dated 30 September 2020, the chronology details incidents of Y's continued alcohol abuse, relationship issues involving intervention by the Police and Y's continued involvement with a male who is alleged to have inappropriately touched Z.

[45] In the Trust report dated 25 February 2021, the chronology of events from late 2020 until early 2021 records Y's admission that she had been dishonest about a previous relationship with a male and an alleged admission to an Alcohol and Drug Service that she had continued to drink alcohol despite stating that she had remained abstinent from alcohol since October 2020. On 25 January 2021 the Trust also received correspondence from Women's Aid stating that Y had been discharged from their service on 13 January 2021 as she had failed to answer calls.

[46] The Trust continued to monitor Y in order to assess whether there was any evidence of changes to her behaviour. The Trust report provides that Y has not engaged in any meaningful way and has failed to appreciate the serious shortcomings with regard to the care she provided to Z. The conclusion reached was that rehabilitation was not a viable option.

[47] Since the court hearing on 6 May 2021, the Trust filed a further updated report dated 20 September 2021. It is noted that Y had been engaging with the Alcohol and Drug Service and told them continuously that she had been abstinent from alcohol from October 2020. Y had attended with a psychologist and an individual counsellor.

[48] On 31 August 2021, NIVHA undertook a hair follicle test of hair taken from Y. The results of the tests were strongly suggestive of chronic excessive alcohol consumption. NIVHA concluded that there was a moderate use of alcohol evidenced by the sample taken. The Trust maintain that when Y was told the results of the test, she continued to deny any alcohol use. However, on 18 September 2021, following a legal consultation, Y told the Trust that she had continued to drink alcohol from May 2021 until very recently.

Care Planning

[49] The Trust has emphasised its duty to ensure that Z's welfare is paramount. The Trust maintains that pre-proceedings child protection plans identified the steps that Y was required to take and to evidence an ability to change. The Trust recognises that there are references in documentation which shows that Y was trying her best and that she had identified the changes that she needed to make. However, as set out in the factual analysis above, according to the Trust, Y has not been able to action change.

[50] The documentation identifies the work of Surestart and Lifestart with Y, the said services having lasted from Z's birth until 2019. These services identified that Y was engaging and took on board the advice, appreciated the relevant issues and steps to resolve the said issues. Unfortunately, the problem was one of implementation of the advice.

[51] Documentation indicates that Y was referred to Psychological Therapy Service (PTS) and specifically by Dr Jennifer Galbraith. Dr Galbraith provided a report dated 20 November 2019. Dr Galbraith identified the patterns of concern, but gave an opinion that Y, although accepting the said patterns of concern, was unable to action any lifestyle changes. She also identified the need for Y to engage in therapy. She considered that Y had the intellectual ability to understand the advice.

[52] A motivational assessment was carried out by the Social Worker, Sharon Robb. The report addressed Y's childhood relationships, Z's needs, Y's insight into Trust concerns, Y's alcohol use, family relationships and networks and Y's capacity to change. Essentially, Ms Robb's report concluded that Y had not demonstrated a suitable degree of motivation or capacity to change and accordingly stated that she would not recommend that Y proceed to a full parenting capacity assessment.

[53] The Trust states that, on the basis of the collaborative assessment by Sharon Robb and Dr Galbraith, the parenting assessment was not advanced. This was debated at the LAC review on 20 November 2019.

[54] The Trust identified that from January to July 2019 and from August to October 2019 Y engaged with ASCERT. The engagement was not consistent. Y reported alcohol use was a high risk with medium dependency, but it is stated that Y did not consider that alcohol was a problem. Also, in March 2020, Y was referred to Community Addictions but failed to attend the appointment offered.

[55] As stated above, the Trust reviewed the Care Plan in March 2020 and prepared an option analysis. The Trust considered that rehabilitation could not be achieved for Y. Accordingly, the Trust changed the Care Plan to permanency by way of adoption and Best Interest Panel was convened on 25 June 2020 which recommended adoption.

[56] The Trust filed a Final Report and Care Plan on 5 May 2020. The Care Plan confirmed that rehabilitation had been ruled out and, in the absence of kinship placement options, the proposal was that Z should be placed for adoption. Since

preparations for a final hearing were severely disrupted by the Covid-19 pandemic between March and June 2020, the Trust made a decision to proceed with an application for a Freeing Order with a view to consolidating the Care and Freeing proceedings.

[57] A question of law arose as to whether a court could make an Interim Care Order to allow the Trust to make an application for Freeing Order in circumstances where the welfare of the child would not otherwise require an Interim Care Order to be made. Due to the complexity of this issue the proceedings were transferred from the Family Care Centre to the High Court. On 10 November 2020, Keegan J decided that Care and Freeing proceedings should not be consolidated. The court made an Interim Care Order and listed the care proceedings for a final hearing on 8 December 2020.

[58] Following a hearing on 8 December 2020, Keegan J made a Final Care Order in favour of the Trust. Whilst the Trust had set out a care plan of permanency by way of adoption, Keegan J stated that further arrangements for Z had not been settled and that Y would have an opportunity to address the parenting issues with a view to making the case for rehabilitation in advance of the hearing on the application for a Freeing Order.

Evidence in the Freeing Proceedings

[59] The Freeing proceedings were initially listed for hearing on 6 May 2021. On this date, the court heard evidence from Brenda O'Neill, Social Worker. Proceedings were adjourned until September 2021 and further evidence was to be collated in the interim. Proceedings resumed and the court heard evidence on 21 September 2021, 27 September 2021 and 29 September 2021 from Brenda O'Neill, Social Worker, Ms Rebecca Demirkol (Guardian Ad Litem) and Y.

[60] It should be emphasised that, given the broad agreement on the basic facts as detailed above prior to the making of the Care Order, the evidence primarily focused on events since the final hearing of the care proceedings on 8 December 2020 to September 2021. The evidence will be considered in detail below.

Decision

[61] Pursuant to the statutory provisions and jurisprudence considered at paragraphs [12] to [32] above, in reaching this decision, this court will focus on the following two questions in conjunction with the documentary evidence and the oral testimony of the witnesses.

(i) Is the court satisfied that adoption will be in the best interests of Z (a child)?

(ii) Is Y (a mother) withholding her agreement to adoption unreasonably?

Both questions will be considered seriatim.

(i) Is the court satisfied that adoption will be in the best interests of Z?

[62] The question for the court is whether, having considered the extensive documentation and also the evidence of Ms Brenda O'Neill, Social Worker, Ms Rebecca Demirkol (GAL) and Y, adoption is in Z's best interests. In its determination to reach a fair and proportionate decision, the following analysis is relevant.

[63] Firstly and with regret, it is the court's view that rehabilitation is not a viable option. The evidence is clear that returning Z to the care of his mother is not in the best interests of the child. In fairness to Y, although ultimately she wants Z to be returned to her care, she accepts that this cannot be immediate. Y makes the case that although much work needs to be done, she is committed to rehabilitation.

[64] The court must take into consideration the fact that on 8 December 2020, Keegan J made a full Care Order for Z, having determined that Z had suffered and was likely to suffer significant harm in the care of his mother. Although Keegan J provided Y with an opportunity to address parenting issues with a view to making the case for rehabilitation, the evidence is convincing that Y has failed to adequately address those issues and that rehabilitation must be ruled out in the circumstances.

[65] It has been submitted on behalf of the Trust and the GAL that Y has had a number of years to address her parenting issues and has failed to do so. The Trust, in particular, highlights that Z's childhood has been impacted by poor lifestyle choices on the part of his mother.

[66] The court heard evidence from M. Brenda O'Neill, Social Worker. She adopted into evidence her reports and statement of facts, details of which have been considered above. In essence, Ms O'Neill considered that Y had a very limited understanding of Z's needs. Ms O'Neill considered that Y had been unable to make changes to her life, she had not been honest about her poor lifestyle choices and had failed to appreciate the extent to which her ongoing lifestyle patterns could impact on Z's life experiences.

[67] Ms O'Neill gave evidence that the focus must be on Z's needs. Z requires security, stability and harmony and to be part of a family where he receives focused parenting and where his sense of belonging can be nurtured and supported during his childhood. The Trust submit that experiences within a stable and loving family will re-set the trauma he has suffered and create the optimum basis for a stable future.

[68] It is clear from a best interests perspective that Z cannot wait until his mother makes the necessary changes. The evidence is clear that Y has demonstrated a lack of honesty with regard to her abstinence from alcohol. Y had insisted that she had remained abstinent from October 2020. However, following inconsistent statements and the recent admission of using alcohol from May 2021, it is clear that Y remains at the beginning of a difficult road of addressing her harmful and toxic relationship with alcohol. A live issue still remains about her honesty, given the results of the hair follicle test and her prior and subsequent claims that she had been abstinent.

[69] Ms O'Neill accepted that Y loves Z very much and has consistently stated that she wanted Z to return to her care. Ms O'Neill also accepted that Y had engaged with professionals involved in the case in an amicable manner but maintained that Y was unable, in her view, to action the supports she needed. For example, Ms O'Neill referred to positive letters from Women's Aid which highlighted that Y had been proactive in assessing support services and had engaged in the process with honest and self-reflection. However, Ms O'Neill was more critical of Y's engagement with the Drug and Alcohol Service.

[70] An issue arose during the course of Ms O'Neill's evidence as to whether Y was adequately prepared for the important Looked After Children (LAC) reviews on 28 November 2019 and 4 March 2020. The pivotal LAC review on 4 March 2020 recommended permanency by way of adoption. During this review, Y was not legally represented. It was submitted on behalf of Y that the minutes of this LAC review had incorrectly assumed that there was an agreement for this recommendation and that it had failed to note Y's clear objection to the plan. In response the Trust drew the court's attention to material which indicated that Sharon Robb had arranged a meeting with Y on 18 November 2019 and that was Y was fully aware of the issues to be debated. It was also argued by the Trust that in advance of the 4 March 2020 LAC review, Ms Katie Farrell, Social Worker, had met Y on 2 March 2020 and that Y was prepared and fully aware of the issues to be debated.

[71] A particular focus of the evidence related to the availability of psychological therapies for Y. It is clear that the Trust had identified Y's need to address her core lifestyle concerns, namely, alcohol problems, inappropriate relationships and the impact on Z. The documentation reveals that the Trust was concerned about the need for Y to engage in therapy to address the root cause of the lifestyle issues. In this regard, a referral was made to Dr Galbraith and thereafter the Psychological Therapy Service on 16 August 2019. It is noted that Y failed to attend the psychological therapy appointment on 10 March 2020. It would appear that Y's GP recommended that before Y engaged in therapy, she had to complete work with the Addictions Team. It now seems that this recommendation was wrong. Dr Sharon McElroy, Consultant Psychologist, made it clear that addiction issues need not be fully addressed prior to working on trauma as many people struggle with abstinence due to the impact of trauma. It is noted that since 2021, Y had commenced a programme which intended to focus on trauma and addiction stabilisation skills. After completion of the six week programme, Dr McElroy's intention was to complete a session to assess Y's engagement with the therapeutic process in order to assess whether Y is motivated to engage in further one-to-one sessions.

[72] With regard to assessing the best interests of Z, the court gave careful consideration to Y's evidence. Y is plainly an articulate and intelligent individual. The court's view was that Y accepted that, at this point in her life, she had not reached a stage in which rehabilitation was a viable option. She emphasised that she loved her son and described losing him as akin to a bereavement. Y maintained that

adoption was not in Z's best interests and steadfastly argued that Z's needs and interests would be more appropriately considered under a long term foster care arrangement with Y providing a delegated authority to the carers.

The Holistic Balancing Exercise

[73] The authorities considered earlier in this judgment refer to the necessity of the court to carry out a "global, holistic evaluation" of all the options which are realistically possible and to analyse the arguments for and against each option.

[74] In *Re V (Long-term fostering or adoption)* [2014] 1FLR 109, Black LJ highlighted some of the material differences between the options of long-term foster care and adoption at paragraph [96]:

> "[96](i) Adoption makes the child a permanent part of the adoptive family to which he or she fully belongs. To the child, it is likely therefore to "feel" different from fostering. Adoptions do, of course, fail but the commitment of the adoptive family is of a different nature to that of a local authority foster carer whose circumstances may change, however devoted he or she is, and who is free to determine the caring arrangement.
>
> (ii) Whereas the parents may apply for the discharge of a care order with a view to getting the child back to live with them, once an adoption order is made, it is made for all time.
>
> (iii) Contact in the adoption context is also a different matter from contact in the context of a fostering arrangement. Where a child is in the care of a local authority, the starting point is that the authority is obliged to allow the child reasonable contact with his parents (section 34(1) Children Act 1989). The contact position can, of course, be regulated by alternative orders under section 34 but the situation still contrasts markedly with that of an adoptive child. There are open adoptions, where the child sees his or her natural parents, but I think it would be fair to say that such arrangements tend not to be seen where the adoptive parents are not in full agreement. Once the adoption order has been made, the natural parents normally need leave before they can apply for contact.
>
> (iv) Routine life is different for the adopted child in that once he or she is adopted, the local authority have no further role in his or her life (no local authority medicals,

> no local authority reviews, no need to consult the social worker over school trips abroad, for example)."

[75] Mr McGuigan QC on behalf of Y, argues that if the options of long-term foster care and adoption are available to this court and are both viable in the sense that they meet Z's needs, then this court ought to endorse the less draconian option of long-term foster care, notwithstanding a court's potential view that adoption is better tailored to meet those needs. Mr McGuigan submits that such an exercise is the essence of the proportionality test and urges the court to endorse the less interventionalist approach. The critical question is whether the less interventionalist approach can be said to adequately meet the child's best interests and welfare.

[76] Y proposes that long-term foster care would be preferable to adoption. The court notes that Z has been placed with his concurrent carers for approximately nine months. The carers are committed to looking after Z whether they are designated as his adoptive carers or long-term foster carers. The agreed evidence before this court suggests that Z is adapting very well to his new home life and is said to be thriving. There is no doubt that his concurrent carers, M and D, are providing a nurturing, loving environment for Z and he has been most fortunate to find such a placement.

[77] Mr McGuigan QC urges the court to take considerable comfort in the sustainability of this placement, whatever the legal designation. Mr McGuigan does not deny that M and D would prefer to adopt Z. Furthermore, Mr McGuigan accepts that there would be some measure of inconvenience caused by continuing Trust involvement if Z was to remain subject to a Care Order.

[78] Mr McGuigan QC submits that there is no evidence before the Court that long-term foster care poses a threat or would undermine Z's welfare. Rather, he submits that the concurrent carers (M and D) and Y have been able to establish the beginnings of a good working relationship in a short space of time without the tensions that are so often evident between carers and biological parents. Since Z was placed in foster care in August 2019, at no stage has Y, intentionally or unintentionally, acted in a manner that would be disruptive to Z's placements. Mr McGuigan QC also submits that Y is committed to signing a delegated authority should the court decide that Z should remain with his carers pursuant to long-term foster care. Y is committed to all, save the most major decisions, being the subject of designated authority. The major decisions to be reserved would include matters such as significant elective medical intervention or long term removal of Z from the jurisdiction. It is proposed that it would be reasonable for Y to be consulted upon such matters.

[79] Mr McGuigan QC further argues that the evidence in relation to contact suggests that the current arrangements are working well. A Freeing Order would result in contact being reduced from once every month to once every three months. It is argued that this will undoubtedly fracture the relationship between Y and Z and, for a child of six years old who enjoys a loving relationship with his mother, this could potentially be detrimental to his well-being.

[80] The Trust and the Guardian Ad Litem raise serious concerns in relation to the suitability of the placement remaining under long term fostering. It is submitted that the overwhelming evidence before the court is that adoption will be in the best interests of Z; that it will safeguard and prompt his welfare throughout his childhood; and that it will provide him with a stable and harmonious home.

[81] The benefits of adoption are highlighted by Ms O'Neill, Social Worker and Ms Rebecca Demirkol, Guardian Ad Litem, in their extensive reports and evidence to this court. In essence, it is submitted that long term foster care would not meet Z's need for security and total integration into family life with his carers. It is also submitted that long-term foster care would expose Z to a lifetime of possible court actions and Trust involvement. Foster carers do not hold parental responsibility for Z. Under the Children (NI) Order 1995, if Z remained a child in long-term foster care, the Trust and the mother would continue to share parental responsibility for Z. Foster carers are expected to make basic day-to-day routine decisions and meet Z's needs, but they cannot exercise parental responsibility. Delegated authority, to include reserving major decisions to Y, cannot overcome the regulatory and policy processes within the Trust to safeguard a Looked After Child. Delegated authority does not confer parental responsibility on the carers. The onus remains on the carers to liaise with and then seek Trust authority regarding necessary parental decisions for Z. In such circumstances, the Trust has a duty to consult with Y about the decisions for Z and to ensure that Y provides the applicable consent.

[82] The court takes into consideration the proposal by Y to draw up an agreement to allow less statutory intervention in her son's life. However, as stressed by the Guardian Ad Litem, such an agreement can be changed at any time. Not all matters can be subjected to delegated authority. Such an agreement would still entail statutory involvement with Z, including monthly social work visits, six monthly LAC reviews, LAC involvement in Z's personal education plan and regular medicals. These processes will undoubtedly impact on Z because they touch on his ability to feel secure, stable and in harmony with M and D as his primary parental figures.

[83] The Trust submits that if Y retains parental responsibility for Z, then it remains open for her to bring applications to this court. She could apply for an Article 53 contact order, an Article 58 discharge of care order application and she could issue a Human Rights Notice to stop the Trust making a decision about Z with which she disagrees. The said applications can be made at various times and stages during Z's life.

[84] Reflecting on Y's evidence, it is relevant that Y remains determined to return Z to her care. It was implicit from her evidence that further applications to the court would not be ruled out. It was also plain that Y was unable to appreciate the extent to which such an approach would undermine Z's sense of security and sense of family with M and D. In other words, Y's focus on Z's return to her fails to take into consideration the detrimental effect of Z remaining in long-term foster care and the insecurity and destabilising effect that this would have on Z.

[85] Mr McGuigan QC on behalf of Y, argues that, despite setbacks, Y continues to make progress, particularly throughout 2020. He refers to the fact that Y has engaged with Women's Aid and has commenced psychological therapy with Dr Sharon McElroy. However, the evidence from the Guardian Ad Litem is that Z had a turbulent start to his life and that the documentation demonstrated instability, insecurity, neglect, inconsistent parenting and Y's alcohol use. It was stated that Y was not able to prioritise Z's needs which impacted on his overall development. Furthermore, the Guardian Ad Litem gave the following evidence:

> "I don't believe Y has evidenced change which in anyway changes my view of her parenting capacity. She loves [Z] and I am clear and alive to this, but love on its own is not enough. At this stage, and with the recent lack of openness and honesty, I query her insight and motivation to make changes. I believe she would like to have a different lifestyle and her isolation and loneliness make it difficult for her to address her own issues and she lacks supports and she tries to manage on her own emotionally."

[86] In her evidence, the Guardian Ad Litem further stressed that adoption was about emotional security and a sense of belonging. Z needs to know that he is part of the family and adoption allows Z to know who will provide for him in his childhood and later life. On the other hand, according to the Guardian ad Litem, long-term foster care is different. A stigma attaches to long-term foster care and even with delegated authority, a sense of belonging and emotional security is absent with the potential detrimental impact on future development. Ongoing Trust involvement for the next twelve years would mean that Z will be subject to scrutiny in respect of every aspect of his life and the older he gets, the more difficult it will be for Z to engage with Social Workers and to integrate in the placement.

[87] Having carefully considered the extensive documentation provided by the Trust, the evidence of Ms O'Neill, Social Worker, Ms Demirkol, Guardian Ad Litem and Y, and the written and oral submissions of Counsel, it is the court's view that adoption is in the best interests of Z. It is the court's view that adoption is proportionate to the legitimate aim of protecting Z's welfare and best interests. Rehabilitation is not a viable option. It is clear that the only options realistically possible are long-term foster care or adoption. Adopting the holistic balancing exercise, the court remains convinced that adoption best provides for Z's interests and welfare. Adoption will best safeguard and promote his welfare through childhood. It will provide him with emotional security, a sense of belonging and a stable and harmonious parental environment.

(ii) Is Y withholding her agreement to adoption unreasonably?

[88] The relevant jurisprudence is considered at paragraphs [28]-[31] above.

Essentially, in its analysis as to whether parental consent to adoption has been unreasonably withheld, the court must look at the totality of the circumstances and apply an objective standard of reasonableness. As stated by Lord Carswell in *Down Lisburn Health and Social Services Trust v H and R* [2006] UKHL 36, this test is not easily applied to the central question, namely, whether the advantages of adoption are sufficiently strong to justify overriding the views of the objecting parent. As stated by Lord Carswell at paragraph 70:

> "The reasonable parent is only a piece of machinery invented to provide the answer to this question"

[89] In consideration of this issue, this court remains cognisant of the written submissions made on behalf of Y and also Y's statement dated 22 September 2021. To her credit, Y accepts and acknowledges that Z was removed from her care due to continual breaches of the Care Protection Plan which was put in place in December 2018. The plan highlighted neglect, potential physical harm and suspected emotional abuse. Y accepts that, prior to Z's removal into care on 6 August 2019, her parenting of Z was inadequate and potentially detrimental, particularly due to her drinking habits and leaving Z in the care of strangers. It is also significant that Y admits that she has not been entirely honest regarding her alcohol intake and general lifestyle. However, she states that she has come a long way since 2019 and asks for a chance to prove herself. Although Y is prepared to accept long term foster placement and has established a good relationship with the concurrent carers, her ultimate wish is for Z is to be rehabilitated to her care. In many respects, the letter demonstrates Y's sense of grievance.

[90] Mr McGuigan QC., on behalf of Y, argues that it is reasonable for Y to seek rehabilitation of Z to her care in the future. A Freeing Order would permanently end the possibility of rehabilitation as it would extinguish the parental relationship in law. He states that Y remains a significant figure in Z's life and that a Freeing Order would result in Y's contact being reduced to one third of its current level. He argues that one contact every three months is a high level for an adoption but that the attachment between Y and Z will be further fractured by such a reduction in contact and would be contrary to his best interests.

[91] Mr McGuigan further argues that although the failure to provide Y with psychological therapy was made in good faith, the fact remains that this has had a catastrophic impact on Y's progress in dealing with her trauma. It is claimed that the lack of provision for therapeutic work to deal with that trauma has undermined Y's inability to maintain her abstinence from alcohol use. For this reason, it is reasonable for Y to have a sense of grievance about this missed opportunity. Furthermore, given her positive engagement with Dr McElroy, it is reasonable for Y to seek to complete the therapeutic work and determine its outcome before considering whether to give her consent for an adoption.

[92] Having considered the extensive documentary evidence, the oral evidence of the said witnesses and the detailed written submissions, this court concludes,

applying the test of reasonableness, that Y is unreasonably withholding her consent. Although Y acknowledges fundamental problems with her previous parenting of Z she has not demonstrated any significant motivation to change or shown an insight into Z's overriding needs and requirements. From a best interests perspective, Z cannot wait until Y makes changes. Alcohol consumption remains a problem. Y remains a vulnerable individual. Issues in respect of her lifestyle persist. The court is encouraged that Y remains at the start of the road in addressing her harmful relationship with alcohol.

[93] In the court's view, a reasonable parent, having carefully weighed in the balance the welfare of Z, would come to the conclusion that, for the reasons highlighted above, the advantages of adoption significantly outweigh any other option. Applying the principle of proportionality, it is the court's view that in the particular circumstances of this case, adoption is a proportionate measure.

Contact

[94] At present, Y's contact with Z occurs once a month. The Trust proposes that, if a Freeing Order was made, contact would be gradually reduced to once a month for two months and ultimately one hour every three months until an adoption order is granted.

[95] The court requires further submissions in respect of contact.

Conclusion

[96] The court will make a Freeing Order under Article 18(1) of the 1987 Order in respect of Z.