WHITE PAPER CONFERENCE 2.10.18

Adoption
What are the unresolved issues - both legal and practical – of birth parents being notified about adoption applications? How are the judges reacting?

Susan Campbell QC
Pump Court Chambers, Temple

1. **Adoption: a reminder of the basics**
   - The days of "freeing' for adoption are gone. Placement orders as part of care proceedings are the norm.
   - FPR 2010 Part 14 sets out the procedural framework for adoption hearings
   - A child has to have been placed with adopters for at least 10 weeks before the application can be made.
   - Natural parents with parental responsibility have to be notified of the adoption application.
   - There are two hearings; what is sometimes called the "natural parent hearing" or "first hearing" and then the adoption application itself that the parents do not normally attend.
   - Leave to oppose, however, can be granted to a respondent upon their application.
   - The parents do NOT normally have access to confidential information about the adoptive parents and placement and only have access to the adoption application if the court so orders. Sensible redactions would be needed.

2. **Respondents to an adoption application** FPR 2010 r14.3(1)(2)(3)
   - Each parent with PR or guardian of the child (unless he has given notice of not wishing to be informed under ACA 2002, s 20(4)(a))
   - A person in whose favour there is provision for contact
   - Any adoption agency that has parental responsibility under a placement order
   - Any adoption agency involved in the adoption arrangements
   - Any local authority to whom notice has been given under ACA 2002, s 44
   - Any local authority or voluntary organisation which has parental responsibility for, or is looking after or caring for, the child
   - The child in specific circumstances
   - The court may direct that the child or any other person be made (or removed as) a respondent

3. **President's Guidance 10 April 2018: Listing Final Hearings in Adoption Cases**

   First Directions Hearing

   "5 Once an application for an adoption order is issued, notice will be given to those identified in rule 14.3 (including birth parents with parental responsibility), and rule 14.4 (but note that a parent will not automatically receive a copy of the adoption application form: see para 1 PD14A FPR 2010, though the court may direct this). The court may at

any time direct any other person to be a respondent to the proceedings (rule 14.3(3)); this may of course include a birth father without parental responsibility.[1] The obligation is on the court to ensure that each respondent to the application is thereafter given notice of each hearing and that they are kept informed of the progress of the case.[2]

> *1 For example, the father without PR who has nonetheless played a full part in recently concluded placement order proceedings; or the father who has indicated to the Local Authority (while discharging its functions under Regulation 14 of the Adoption Agencies Regulations 2005: see specifically regulation 14(3)) a wish to apply for party status; or the parent without PR who properly asserts ECHR rights: see Keegan v Ireland (No 16989/90) (1994) 18 EHRR 342, Re H; Re G (Adoption: Consultation of unmarried fathers) [2001] 1 FLR 646. See also Re A and Others (Children) (Adoption) [2017] EWHC 35 (Fam), [2017] 2 FLR 995, at paras 62–65 generally, and specifically in relation to parents who have a contact order.*
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> *2 See X and Y v A Local Authority (Adoption: Procedure) [2009] EWHC 47 (Fam), 2 FLR 984."*

4. The Practice Direction continues:

> "8 If a first directions hearing is held, the court will give consideration to the matters set out in rule 14.8. If a birth parent with parental responsibility (see section 52(6)) attends that hearing and seeks leave to oppose the adoption under section 47(3) or section 47(5) of the 2002 Act, or otherwise notifies the court (generally in writing, though not necessarily by way of formal application) of a wish to oppose the application, directions will be given for the listing of that application. If it appears that there is no opposition from the birth parent to the adoption, and everything else is in order, the court will list the application for a final hearing.
>
> ***Notice of final hearing***
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> 9 Section 141(3) of the 2002 Act and rule 14.15 place an obligation on the court officer to give to the persons listed in rule 14.3, including birth parent(s) with parental responsibility (unless that parent has given notice under section 20(4)(a) of the 2002 Act), notice of the date and place of the final hearing of an adoption application.
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> 10 The requirement to give notice is mandatory; the general rules about service in Part 6 FPR 2010 apply save as directed by the court or otherwise provided by PD. Notice of the final hearing must be given to any person listed in rule 14.3. If a person to whom service should be effected cannot be found, a formal application should be made for an order that notice of the hearing on that person be dispensed with; this application will be treated as being made under rule 6.36. It is unlikely that service will be dispensed with in relation to a parent with parental responsibility unless there is evidence that significant efforts have been made to trace such a person. The provisions of rule 6.36 (power of court to dispense with service) will be applied exceptionally in relation to notice of the final hearing. By rule 14.16 any person who has been given notice under rule 14.15 has the right to attend the final hearing and, except where rule 14.16(2) applies,[3] to be heard on the question of whether an adoption order should be made.

3 A person whose application for the permission of the court to oppose the making of an adoption order under section 47(3) or (5) of the 2002 Act has been refused is not entitled to be heard on the question of whether an order should be made."

Application for leave to oppose

11 The court shall never list the parent's application for leave to oppose the adoption application, and the final hearing of the adoption application on the same day.

12 If an application for leave to oppose the adoption is listed and determined, and is unsuccessful, the court may then list the application for final hearing.

13 No fewer than 21 days shall elapse between the refusal of leave and the listing of the final hearing[4] (which is now likely to be the final 'adoption' hearing). It is not appropriate to abbreviate this time-period.

4 McFarlane LJ in Re B [2013] EWCA Civ 421.

14 While it may be possible for the judge to indicate, when dismissing an application for leave to oppose an adoption application, that an adoption order is likely, on the basis of the current information, to be pronounced at the next hearing,[5] it should not be forgotten that at the listed final hearing it is still open to another party (ie one who has not been refused permission to oppose the adoption application) to 'attend ... and, subject to paragraph (2), be heard on the question of whether an order should be made' (Rule 14.16).

5 See Sir James Munby P in Re W (Adoption Order: Leave to Oppose); Re H (Adoption Order: Application for Permission for Leave to Oppose) [2013] EWCA Civ 1177, [2014] 1 FLR 1266, at para 30; Re W (Adoption: Procedure: Conditions) [2015] EWCA Civ 403, [2016] 1 FLR 454."

Adoption visit

"25 An adoption visit ('adoption visit') which follows the making of an adoption order is an informal celebratory occasion held at the discretion of the judge for the benefit of the adoptive parents and child if they desire it.

26 The adoption visit shall not be held prior to the expiry of the appeal period (generally no fewer than 21 days, or more safely 28 days) following the making of the adoption order. Save for the exceptional circumstances referred to in para 24 above, it is not appropriate to abbreviate this time-period. "

5 Conditions to satisfy: Parental Consent or Placement Order ACA 2002, s 4

Re P [2008] EWCA Civ 535 clarifies that where a placement order is in force, the court is not required to dispense with parental consent unless and until the parents, having been notified of the application, apply for and are granted leave to oppose the application. (Thus correcting **Re T [2008] EWCA Civ 542**.)

s47 Conditions for making adoption orders: ACA 2002

(1) An adoption order may not be made if the child has a parent or guardian unless one of the following three conditions is met; but this section is subject to section 52 (parental etc consent).

(2) The **first condition** is that, in the case of each parent or guardian of the child, the court is satisfied –

. (a) that the parent or guardian consents to the making of the adoption order,

. (b) that the parent or guardian has consented under section 20 (and has not withdrawn the consent) and does not oppose the making of the adoption order, or

. (c) that the parent's or guardian's consent should be dispensed with.

(3) A parent or guardian may not oppose the making of an adoption order under subsection (2)(b) without the court's leave.

(4) The **second condition** is that –

. (a) the child has been placed for adoption by an adoption agency with the prospective adopters in whose favour the order is proposed to be made,

. (b) either –

. (i) the child was placed for adoption with the consent of each parent or guardian and the consent of the mother was given when the child was at least six weeks old, or

. (ii) the child was placed for adoption under a placement order, and

. (c) no parent or guardian opposes the making of the adoption order.

(5) A parent or guardian may not oppose the making of an adoption order under the second condition without the court's leave.

[*The **third condition** relates to Scottish Permanence orders and Northern Irish freeing orders*.]

(7) The court cannot give leave under subsection (3) or (5) unless satisfied that there has been a change in circumstances since the consent of the parent or guardian was given or, as the case may be, the placement order was made.

(8) An adoption order may not be made in relation to a person who is or has been married.

(8A) An adoption order may not be made in relation to a person who is or has been a civil partner.

(9) An adoption order may not be made in relation to a person who has attained the age of 19 years.

6. By way of **summary:**

(1) In the case of each parent with PR or guardian of the child that either he, with full understanding, agrees unconditionally to the making of an adoption order or that his consent should be dispensed with under ACA 2002, s 52(1); or

(2) An adoption agency placed child for adoption and either the placement was with consent of each parent, or it was under a placement order and no parent has leave to oppose the adoption (if leave is granted, condition (1) must be used); or

(3) Child is subject of Scottish permanence order with authority to adopt, or a Northern Ireland freeing for adoption order

7. Dispensing with consent: the two stage test

s 52(1)) Dispensing with agreement involves the court in a two-stage process:

(a) is adoption in the best interests of the child?

(b) If so, is a ground for dispensing with agreement established?

s52 Parental etc. consent

(1) The court cannot dispense with the consent of any parent or guardian of a child to the child being placed for adoption or to the making of an adoption order in respect of the child unless the court is satisfied that –

. (a) the parent or guardian cannot be found or lacks capacity (within the meaning of the Mental Capacity Act 2005) to give consent, or

. (b) the welfare [1] of the child requires the consent to be dispensed with.

(2) The following provisions apply to references in this Chapter to any parent or

[1] In the now well-known *Re B-S (Adoption: Application of s 47(5))* [2014] 1 FLR 1035, CA, the court emphasises stressed the following points set out in *Re B (Care Proceedings: Appeal)* [2013] 2 FLR 1075, SC:

- although the child's interests are paramount, a court must never lose sight of the fact that those interests include being brought up by the natural family, unless the overriding requirements of the child's welfare make that not possible;
- the court must consider all of the realistic options before coming to a decision;
- the court's assessment of a parent's ability to provide good enough care for a child must take into account the assistance and support that the authorities would offer.

guardian of a child giving or withdrawing –

. (a) consent to the placement of a child for adoption, or

. (b) consent to the making of an adoption order (including a future adoption order).

(3) Any consent given by the mother to the making of an adoption order is ineffective if it is given less than six weeks after the child's birth.

(4) The withdrawal of any consent to the placement of a child for adoption, or of any consent given under section 20, is ineffective if it is given after an application for an adoption order is made.

(5) 'Consent' means consent given unconditionally and with full understanding of what is involved; but a person may consent to adoption without knowing the identity of the persons in whose favour the order will be made.

(6) 'Parent' (except in subsections (9) and (10) below) means a parent having parental responsibility.

(7) Consent under section 19 or 20 must be given in the form prescribed by rules, and the rules may prescribe forms in which a person giving consent under any other provision of this Part may do so (if he wishes).

(8) Consent given under section 19 or 20 must be withdrawn –

. (a) in the form prescribed by rules, or

. (b) by notice given to the agency.

(9) Subsection (10) applies if –

. (a) an agency has placed a child for adoption under section 19 in pursuance of consent given by a parent of the child, and

. (b) at a later time, the other parent of the child acquires parental responsibility for the child.

(10) The other parent is to be treated as having at that time given consent in accordance with this section in the same terms as those in which the first parent gave consent.

8. Judges are taking the notification provisions seriously…. they should - significant changes in circumstances could mean that adoption should not proceed

Re W (Children) [2015] EWCA Civ 403 The father sought permission to appeal against adoption orders made in respect of two of his children. Findings had been made against both parents in care proceedings regarding the couple's five children. Long term foster

care was approved for the three eldest children. The younger two were made subject to placement orders.
During the course of the proceedings the mother gave birth to another child. A paternal aunt put herself forward as a carer for the newborn child. The local authority assessment of her was negative.
Prior to the final hearing of the adoption order application, the paternal aunt made clear she should also be considered as a potential carer for the two children now subject to the placement orders. The trial judge made the adoption orders, but the father was granted permission to appeal.

The Court of Appeal set aside the adoption orders. Munby P identified several problems.

a. The trial judge made the adoption orders without complying with rule 14.15 of the FPR 2010. The rule requires an order setting down an adoption application for hearing to set out clearly the nature of the application to be heard and the orders to be sought.
b. It was wrong for the trial judge to consider the father's application for permission under s.47(5) and the adoption application at the same hearing on the same day. Also in *Re B (A Child)* [2013] EWCA Civ 421, CA, where McFarlane LJ criticised the practice, and Re W (A Child) (Adoption Order: leave to oppose) [2013] EWCA Civ 1177, [2014] 1 WLR 1993, paras 30 and 31. (The 2008 PD also required separate hearings.)
c. The CA believed the trial judge should have considered whether the aunt's change of position regarding an offer to care for the two children subject to the application was a "change of circumstances." She had a duty to consider whether the aunt's change was a sufficient change of circumstances to convince the court to grant the father permission under s.47(5) AACA 2002 to seek to oppose the making of the order. None of these issues had been addressed.

So the case reminds us of the importance of making certain that all birth family members are considered and ruled out as reasonable prospects before the court makes adoption orders. In this case, the aunt had already been negatively assessed as a potential carer for one child. That she was now seeking to care for two made the likely success of the application seem small. The judge hearing an adoption application *must* go through the reasons why this change in circumstance is not sufficient to justify granting leave to oppose the making of the adoption order. It has to be in the judgment.

9. **Where does the balance fall between assessing positive change in the parent and the welfare of the child?**

Two cases help us as to how judges approach this problem.
Re L (Leave to Oppose Making of Adoption Order) [2013] EWCA Civ 1481 - Mother had given birth to a baby when she was just 15 years old. She had a period in care and an alcohol problem. Following the making of care and placement orders the child was placed with prospective adopters. Having applied for an adoption order the prospective adopters separated and only the male adopter continued to apply for an adoption order.

- The judge failed to consider the instability of the prospective adopters' family when considering Mother's prospects of success. The context of the disruption of the prospective adoptive family was relevant to the question of whether the mother's prospects of successfully opposing the adoption had "solidity".

- The judge when considering the prospects of success under s 47(5) is doing the best he or she can to forecast what decision the judge hearing the adoption application will make. They e the same factors as at the leave stage.
- The judge must also consider "whether the welfare of the child will be so adversely affected by an opposed, in contrast to an unopposed, application that leave to oppose should be refused" (as per **Re W**)

Re LG (Adoption: Leave to Oppose) [2016]1FLR 607 – Child had been with foster carers since a few weeks old after a mother and baby placement failed. Father didn't inform his family about the baby's existence and he claimed that his family were abusive. Care and placement orders were duly made and the child had been placed for 8 months with adopters. When the family found out about the child, they contacted children's services and the Father applied for leave under s47(5) ACA2002. and was granted leave to oppose the adoption application. The court was satisfied that enough of a change of circumstances had occurred to open the door to further assessment. The greater the change in circumstances for the positive, the more solid are the parent's grounds for seeking leave and the more compelling the grounds for leave to oppose become. The poor prospective adopters withdrew and the baby was placed with paternal grandfather. The judge had to look at the welfare "throughout the child's life."

9. Getting service right…beware!

Re T (A Child) [2017] EWFC 19 - An application for adoption of a four-year old child, living with the adoptive carer for 10 months before application. The father was given notice of the carers' application for adoption and successfully sought leave to oppose the application. It turned out that the mother had not been served notice of the adoption application as her whereabouts were unknown. The embassy of her home country could not help and no further efforts were made to locate the mother.

Only 2 days before the hearing, the father's partner found the mother using…. wait for it…Facebook! The father's partner subsequently spoke to the mother by telephone and it became clear that the mother had no knowledge of the adoption application; she had wrongly believed that the child had already been adopted.

The court reminded itself of the rules of service set out in 14.3 and 14.5 of the Family Procedure Rules 2010, as well as r.6.36, which allows the court the power to dispense with the service of any document. The judge said that r.6.36 must be a judicial decision, based on proper evidence as to the attempts that have been made at service, and at no time had any of the parties invited the court to make this decision.

He criticised the local authority and the Guardian for not taking proper steps to locate the mother and stated that there must be a positive duty on the Guardian on behalf of the child to seek to ensure that there is proper service on the birth mother. Facebook could be a "route to somebody such as a birth parent whose whereabouts are unknown and who requires to be served with notice of adoption proceedings". Despite the effect that the delay might have to the child and to the 's prospective adopter, as well as the waste of public and private funds, the Judge held that the hearing had to be abandoned and the matter re-fixed to start from scratch in front of another judge.

10. What about "relinquished" babies?

Relinquished baby cases are very different from forced adoption cases where children are removed by the state against the will of the parent(s). Here we consider the central point - that even if the parent wants adoption for the child what are the article 8 rights of the child?

RA (Baby Relinquished for Adoption - Case Management) [2016] EWFC 25

RA, relinquished by his parents at birth was settled in the care of his prospective adopters, where he had been since birth. His grandmother in Latvia expressed interest in caring for the baby and the Latvian authorities completed an initial assessment which was positive. The birth parents were opposed to RA being placed with grandmother, the mother indicating that she would rather put herself forward than see RA being cared for by her mother in Latvia. The Latvian authorities strongly opposed adoption and wished to promote the grandmother as a carer. The child's guardian recommended full assessment of grandmother. The LA opposed further delay on the basis that even if the grandmother was a realistic placement option, this was outweighed by RA's current settled home with the carers he had lived with all his life.

Cobb J ordered

- the Latvian authorities to make a full assessment of grandmother;
- an expert report on RA's nationality be obtained,
- and the child's guardian to prepare an analysis and report on the adoption application.

He gave guidance was given on steps that should be taken by local authorities to avoid delay occasioned by the late emergence of a family member.

So it is clear that even in relinquished baby cases, it is still necessary to undertake thorough analysis of the realistic options, and a high degree of justification is required before determining adoption. Analysis, however, of the realistic options may be possible without necessitating assessment in appropriate cases and it may be possible in some cases to carry out that analysis without notifying the wider family. If RA's adoption proceeded after consideration of grandmother's assessment, that would be with due regard to the Art 20 UNCRC factors. If the adoption accords with the paramountcy test, then interference with the Art 8 UNCRC rights and Art 8 ECHR rights is lawful.

The court was sending a clear message that LAs should examine the availability of family members as carers at the earliest opportunity, and not simply rely on what the parents say about the wider family.

NB **Practice point:** rule 14.21 FPR 2010 contemplates the invoking of the inherent jurisdiction where no proceedings have started and an adoption agency or local authority requires "directions on the need to give a father without parental responsibility notice of the intention to place a child for adoption". In this situation, Part 19 also provides a mechanism. Part 19 of the FPR 2010 derives from Part 10 of the Family Procedure (Adoption) Rules 2005; the procedure under Part 19 for an application to be made without naming a respondent (rule 19.4 FPR 2010 and FPR PD19A, para 2.2).

11. Different factors won the day in the following case and the natural father never knew about the existence of the baby…

Re TJ (Relinquished for adoption: sibling contact) [2017] EWFC 6 - Cobb J gave the views of the mother and in particular of the prospective adopters considerable weight. A baby was relinquished at birth and the mother did not want her family to know she had given birth to another child. She particularly didn't want the father and his family to know, as she feared harassment by the father. The baby was placed at 3 weeks old with the adopters. Issues of sibling contact arose.

The judge considered whether Article 8 rights come into play. He agreed with the comments made of Baker J in *Re JL & AO (Babies Relinquished for Adoption)* [2016] EWHC 440 (Fam) (at [55]), he concludes that they do not. The mother had relinquished the baby for adoption; the order was not being made against her wishes. The two siblings had no knowledge of each other and no legal relationship, that having been extinguished by the adoption of the other child. The adopters, on the other hand, had clear Article 8 rights, the strength of which required their views to be given serious consideration. Moreover, the mother had made it clear that she wished for a 'dignified and swift' decision to be made in this case, which would not be possible if the feared harassment by PL's father were to occur by reason of him being made aware of the situation. The judge therefore made the declaration sought by the local authority that the father should not be served.

12. And in a 2018 case the facts clearly dictated the decision:

Re A (Relinquished baby Risk of domestic abuse) [2018] EWHC 1981 (Fam)

In this case, the mother gave birth to a child, A, and immediately agreed to him being placed in foster care. She had not been aware she was pregnant till shortly before the birth. Later she said she was worried about the father who had a history of violence. The social worker discovered that the father had unstable mental health with a history of threatening self-harm and suicide and that he was well-known to the police for abusive and threatening behaviour towards partners. Also, the wider maternal and paternal family members were said to have a history of poor parenting with much past input from social services. The LA applied for a declaration that it would be lawful for them to make arrangements for the adoption of A without seeking to notify the putative father, paternal or maternal extended family members, or assess them as carers for A.

13. The procedure to be followed was under Part 19 (rule 19.1(2)(b)) FPR 2010, is that set out in rule 14.21 of the FPR 2010, as per *Re RA (Baby relinquished for adoption)* [2016] EWFC 25, [2017] at [50].

At para Cobb J says [19]

"The law in this area is now well-rehearsed in a growing number of authorities, specifically *Re JL & AO* [2016] EWHC 440 (Fam), *Re RA* [2016] (see above), *Re TJ* [2017] EWFC 6, *Re M & N (Twins: relinquished babies: Parentage)* [2018] 1 FLR 293, and *A Local Authority v the mother and another* [2017] EWHC 1515 (Fam). I summarise the cardinal principles as they apply in this case as follows:

i) Each case is fact-sensitive (*Re RA* at [31]);

ii) The outcome contended for here is "exceptional" (A Local Authority v the mother at [1]-[7])

iii) The paramount consideration is the welfare of A; section 1(2) Adoption and Children Act 2002 ('ACA 2002')

iv) The court must have regard to the welfare checklist in section 1(4) ACA 2002;

v) It is a further requirement of statute (section 1(4)(f)(iii) ACA 2002) that the court has regard to the wishes and feelings of the child's relatives;

vi) Respect can and indeed must be afforded to the mother's wish for a confidential and discreet arrangement for the adoption of her child, although the mother's wishes must be critically examined and not just accepted at face value; overall the mother's wishes carry "significant weight" albeit that they are not decisive (*Re JL and AO* at [47], [48] and [50], and see also *Re RA* at [43(vi)]);

vii) Article 8 rights are engaged in this decision; however, in a case where a natural parent wishes to relinquish a baby, the degree of interference with the Article 8 rights is likely to be less than where the parent/child relationship is to be severed against the will of the parent (*Re TJ* at [26]];

viii) Adoption of any kind still represents a significant interference with family life, and can only be ordered by the court if it is necessary and proportionate (*Re RA* at [32]);

ix) A high level of justification is still required before the court can sanction adoption as the outcome, and a thorough 'analysis' of the options is necessary (*Re JL & AO* at [32]); 'analysis' is different from 'assessment' – a sufficient 'analysis' may be performed even though the natural family are unaware of the process (Re RA at [34]). As I said in *Re RA* at [38]:

"in order to weigh up all of the relevant considerations in determining a relinquished baby case it may be possible (it may in some cases be necessary) and/or proportionate to perform the analysis without full assessment of third parties, or even their knowledge of the existence of the baby. The court will consider the available information in relation to the individual child and make a judgment about whether, and if so what, further information is needed".

The reality was "there is no realistic prospect of A being placed safely and securely in the care of any member of the maternal or paternal family (section 1(4)(f)(ii) ACA 2002)." [23] and that on the evidence before him there was "a very real risk of harm to A (section 1(4)(e) ACA 2002) from domestic abuse by F" and an equivalent risk of harm to M from F (and significant interference with her and her children's Article 8 rights) if F were advised of A's existence [24]

14. **Is there a difference between consensual and non-consensual adoptions in judicial approach?** In relinquishment cases, the adoption order is not being made against the wishes of the parent and different considerations apply with regard to the parent's article 8 rights.

It is perhaps not clear, however, why the article 8 rights of the child might take something of a "back–seat", not requiring such thorough assessment of other family members' capacity to care for or have contact with them. In reality, the relinquishment cases seem to be be proceeding on

a sensible fact by fact basis very different to the scenario in non-consensual adoptions, In contested care proceedings LAs are required to make proper assessments of family members who put themselves forward.

It is notable, however, that it seems to be only in consensual adoption applications where the court is convinced that the wider family needs no further assessment - and that there are risks involved in doing so - that the family are not notified and a pragmatic attitude is being taken.

Are these consensual cases potentially widening the ambit of notification about the adoption application? De facto notice is being given to much wider family who have no PR but it comes through the parent who seeks leave to oppose. The rationale is presumably that in relinquishment cases the first "sift" of care proceedings has not served the useful purpose of ensuring that all of these family members were properly considered. That may signal a need for greater social work vigilance in relinquished baby cases to ensure all family members are properly considered well in advance of the adoption application.

Susan Campbell QC

Pump Court Chambers, Temple
28.9.18

Footnote: Appeal

Re H (Adoption: Appeal) 2018 EWFC 8. A father applied to appeal against an adoption order well out of time. An adoption order had been made in favour of the step-father in 2013. Father was not served and Cobb J was satisfied that his article e 8 ECHR rights were engaged and that he should have leave to appeal out of time pursuant to r 30.4 and 30.7 FPR 2010. His engagement what the child had been affected by periodic depression and he had no inkling of the adoption application. Mother and step-father had wrongly told the social worker that they did not know his identity or whereabouts.