



Neutral Citation Number: [2018] EWFC 72

Case No: WR18Z00057

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 30/11/2018

Before :

MR JUSTICE KEEHAN

Between :

COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL	<u>Applicant</u>
- and -	
A	<u>1st Respondent</u>
- and -	
B	<u>2nd Respondent</u>
(by her Children's Guardian)	
- and -	
C	<u>3rd Respondent</u>

Mr T Marks (instructed by **Herefordshire District Council**) for the **Applicant**
Ms Judi Evans (instructed by Huw Jones of **Humfrys & Symonds**) for the **1st Respondent**
Ms Judi Evans (instructed by Huw Jones of **Humfrys & Symonds**) for the **2nd Respondent**
 The third respondent did not attend and was not represented.

Hearing dates: 11th October 2018

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....
MR JUSTICE KEEHAN

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

The Hon. Mr Justice Keehan :

Introduction

1. I am concerned with two young women A and B. A and B were made the subject of care orders and placement orders on 2nd May 2008 in favour of Herefordshire Council. Neither were ever placed for adoption. A's care order and placement order ceased to have effect when she attained majority on 1st September 2017. The local authority made an application to revoke the placement order in respect of B on 26th April 2018. I revoked the placement order at a hearing before me on 11th October 2018. B attained her majority the following day. I reserved judgment.
2. The care of and care planning for both these young people by Herefordshire Council has, over the last ten years or so, been woeful.
3. The mother of both young people is C. The father of A is D and the father of B is E. They have played no substantial part in their children's lives for many years save C has had occasional contact. Neither C nor D have taken any role in these proceedings. E died on 1st February 2011.
4. At the hearing on 11th October 2018 the local authority conceded that the serial failures in the care provided, or not provided, to either A or B amounted to breaches of their respective Article 8 rights. I urged the local authority to reach an agreement with both young people in short order in respect of:
 - i) the acknowledged breaches of their Article 8 rights; and
 - ii) the quantum of damages which should be paid in settlement of their Human Rights Act claims.

Background

5. The care proceedings were initiated because of the mother's substance abuse, her poor mental health and the number of abusive relationships in which she had engaged.
6. The care proceedings were issued in mid 2003 and both children were made the subject of interim care orders on 14th August 2003. They were placed together in foster care. On 5th April 2004 a s.34(4) Children Act 1989 order was made permitting the local authority to refuse contact between B and E.
7. For reasons I do not begin to understand, it was not until 5th February 2008, over four and a half years after the proceedings had been commenced, that both children were made the subjects of care orders and placement orders. The care plan at this time was for both children to be placed together for adoption with an identified prospective adopter.
8. On 2nd March 2009 the Adoption and Permanence Panel met to consider the future plans for A and B. It was agreed by the members of the panel that the care plan should change to one of long term fostering for both children. I do not know the reasons underlying this decision other than the bald assertion that it resulted from the 'complexities of matching' the children with prospective adopters.

9. The local authority have acknowledged that no consideration was given at this time, nor subsequently, to make an application to revoke the placement orders until December 2016. Yet this application was only made nine years after the children had been made the subject of placement orders in May 2008 and 14 months after these orders had been ‘rediscovered’ by the local authority.
10. In furtherance of the revised care plans A and B were placed with a long term foster carer, Ms. G, on 4th April 2009. It was intended they should both remain in her care until they attained the age of 18.
11. From about 2009 the chronology of events and the explanation for the planning for these children becomes extremely confused and contradictory.
12. In B’s care plan dated 19th September 2018 the explanation given for the plan of adoption not being pursued in 2008/2009 was because the prospective adopter was proposing to relocate to Antigua. Yet in the local authority’s chronology it is asserted that a plan to relocate to Antigua was first notified to the local authority by the foster carer in October 2013.
13. The prospective adopter and the foster carer, Ms G, are one and the same person. Given A and B were placed in her care in April 2009 why was it not as an adoptive placement as per the 2008 court approved care plan as opposed to long term foster placement? I do not know.
14. In the records relating to B the following account of events is given, on 18th October 2013 a strategy meeting was held to discuss the foster carers then recently notified decision to relocate abroad. This was followed by a LAC Review held on 13th December 2013 at which it was decided to place A and B in separate foster placements. I do not know the reasons why this important decision was made nor the evidence on which it was made. A and B were never again placed together. I have no explanation as to why not.
15. In marked contrast a completely different chronology and account is given in A’s records. The notification that the foster carer, Ms G, was going to relocate to Antigua is said to have been given to the social worker on 3rd January 2013. At A’s LAC review on 8th January 2013 it is recorded that Ms G asserted a relocation had always been her plan and she had told previous social workers. Ms G had previously expressed a desire to apply for Special Guardianship orders (SGOs) in respect of A and B. She expressed the view that she had hoped by this time to have adopted both of the girls.
16. A’s records note a conversation between the social worker and Ms G on 17th December 2013 about her intention to apply for a SGO in respect of both A and B. This is the day A left the placement.
17. I have been given no explanation for these utterly contradictory versions of events. It, however, demonstrates the chaotic and irrational approach of this local authority to the care of and care planning for A and B.
18. At the LAC review on 3rd December 2013 A and B made a complaint about the local authority’s failure to make clear plans for their future care. It was to no avail.

19. On 17th December 2013 A was moved to a respite placement after she had, the previous day, made an allegation against Ms G. She then moved to a residential placement in the North of England on 15th April 2014 because she had been a victim of prolific child sexual exploitation in the Bedfordshire area. She moved to other placements in August and then November 2014 before being placed with a foster carer on 10th October 2015.
20. It was not until 14th June 2014 that B moved to her new foster placement.
21. B was then moved to a placement in the South of England in February 2016 because she had been a victim of child sexual exploitation in Bedfordshire and because of her contact with known risky adults.
22. On 19th November 2016 A and B had their first face to face contact since 2014. This has been requested by A who was pregnant.
23. On 12th March 2017 A gave birth to her first child, F. She had no secure or stable accommodation. A whilst pregnant and after F was born had been living in an annexe at her former foster carer's home. In May 2018 A reported to the local authority that she and F had been evicted by her former foster carer and that she had nowhere to go. The local authority's response to the plight of this young mother and care leaver was wholly inadequate. The response was so poor that, the Head of Service, Gillian Cox, accepted that the local authority had failed A and her daughter.
24. In March 2018 B moved to live with her boyfriend and his mother. As Ms Cox has conceded this is an unusual arrangement for a child in the care of the local authority.
25. Over the years they were each in care A and B had maintained some contact with their mother either by indirect contact, telephone contact or direct contact in accordance with their wishes as expressed from time to time. More latterly A has initiated telephone contact with her father D.
26. Between December 2013 and 1st September 2017, when she had attained her majority, A had had at least 5 changes of placement in various different areas of the country. There is no doubt that the instability in A's life during these formative years, including the numerous changes of placement, have caused her significant emotional and psychological harm.
27. Between February 2016 and 6th March 2018 B endured 7 changes of placement in various different areas of the country. The harm suffered by B as a result of these changes in placement in terms of her emotional and psychological wellbeing are incalculable.
28. Between November 2008 and May 2018 A has had 6 different social workers allocated to her case. Between June 2014 and August 2018 B has had 8 different social workers allocated to her case. I accept the reallocation of case in October 2016 to a social worker in the 16+ Team was inevitable. There is, however, no good or cogent explanation for the high turnover of the other social workers which, to put it mildly, must have been unsettling and unhelpful.

29. From the time the children were made the subject of care orders and placement orders in February 2008 until October 2018 this local authority has had eight different independent reviewing officers (IRO) responsible for the oversight of their care plans.

Evidence

30. I was so concerned at the failures of the local authority in respect of A and B that I ordered Ms Cox, the Head of Service, to file a statement setting out an explanation for the same. Her statement is dated 1st November 2018.

31. In respect of A, Ms Cox said as follows:

“In my view our service has failed to support [A] as I would expect since she first became homeless and in particular I would identify the following:

- a. In May when [A] first contacted our team to say that she was homeless we should have offered her supported lodgings accommodation in Herefordshire with [F] on a temporary basis whilst a longer term solution was identified. We should also have pro-actively supported [A] to search for private rented options in Birmingham and made it clear to her that we would financially support her with a bond and act as a guarantor if required.
- b. As time progressed and [A] continued to ask us for help and was not able to obtain suitable accommodation for herself in Birmingham we should have revisited these options and again offered her short-term solutions in Herefordshire and proactively supported her to find private rented accommodation. On the 15th June [A] specifically requested to return to Herefordshire but I can find no evidence of this being responded to which is unacceptable.
- c. The situation should have been escalated through Heads of Service to our Assistant Director and Director who have all asked to be kept informed of any young person who is placed in Bed and Breakfast accommodation. In the turnover of team managers and Heads of Service this expectation was not understood.
- d. On the 18th June [A] was informed that the local authority decision was that we would not pay a bond for her to secure private rented accommodation for her. This was not the case as this was agreed by the Head of Service when she was made aware of the situation. It is concerning that the team lack clarity about the support they are able to offer and did not escalate the situation earlier.

- e. There was a delay of almost a month in authorising a placement request made in July and this is unacceptable. The delay was due to further information not being provided to the Head of Service but in the circumstances the Head of Service should have been more pro-active in gaining the information she required.
- f. On the 11th October the personal advisor supported [A] and [F] to move from the Travel lodge to Northbrook hostel but did not look around the shared facilities. She described the accommodation as “basic” but did not raise concerns about the suitability of it for [A] and [F]. Having seen the photographs that [A] sent via her legal representative I was appalled by the state of the accommodation she was living in and was very clear that this was unsuitable and she should not have been left there.

4. [A] is currently living in a supported lodging placement in Herefordshire with her daughter, [F]. She moved there on Tuesday 23rd October as an interim arrangement whilst suitable private rented accommodation for [A] and [F] is sourced in Birmingham. I received photographs and an email that [A] had sent her legal representative on the 23rd October and I was appalled at the state of the accommodation that she was living in. I telephoned [A] directly myself and asked if she would be willing to move to a supported lodging placement in Herefordshire if I could arrange that whilst we sorted out a suitable place for her to live in Birmingham. [A] was concerned about moving away from Birmingham but I was able to reassure her that this would be for just a short time. [A] agreed and so I made arrangements for our fostering team to find a placement for her and [F] and for her personal advisor to go to Birmingham to collect her that day.

5. [A] was supported by her personal advisor to view flats in Birmingham on Thursday, 25th October and found a flat that she liked in an area that she is happy to live in. Herefordshire Council has paid 6 months’ rent up front and all relevant administrative fees to enable [A] to move into the accommodation. [A] will pay the housing benefit that she receives to the local authority as she receives it. At the time of writing this statement the plan is that [A] and [F] will move into their new home on Friday, 2nd November.

6. [A] will continue to receive the support of her personal advisor. She is being referred for “floating support” and the most suitable provider for this is being investigated. The local authority will fund this support if [A] is not entitled to receive the support at no cost.”

32. In respect of B, Ms Cox observed in respect of the current placement that:
- “[B] continues to live in a supported lodging placement with her boyfriend and his mother. She has lived there since March 2018. She is reported as happy living there although understands it is unusual to be living in the same home as her boyfriend at such a young age and is keen to move to live independently soon after she turns 18. She has been supported to register for housing and in the meantime can remain where she is. [B] will continue to receive the support of her personal advisor.”
33. I was told by Ms Cox that substantial steps have now been taken by the local authority to ensure:
- i) the mistakes and serious errors made in respect of A and B are not suffered nor endured by any other child or young person in the care of Herefordshire; and
 - ii) far more robust procedures are now in place to ensure issues are escalated to more senior managers and, where appropriate, to the assistant director and/or the director of children’s services.
34. I was also troubled by the failure of the local authority to apply for revocation of the placement orders when or after the care plans were changed from one of adoption to long term foster care. Further there appeared to be no action having been taken from 2009 by the independent reviewing officers in respect of:
- i) the lack of any coherent care planning for either child; nor
 - ii) the failure of the local authority to make applications to revoke the placement orders.
35. Accordingly I ordered the Head of Service, Safeguarding and Review (i.e. the head of the IRO service for this local authority), Cath Thomas, to file a statement. I am grateful to Ms Thomas, as I am to Ms Cox, for providing the court with a statement dated 1st November 2018. I regret to note that the statement contained a number of matters which caused me very profound and grave concern.
36. The statement of Ms Thomas concluded with the final paragraph:
- “It is very clear that the issue of revoking [B]’s placement order continued without resolution for a significantly long period of time, both prior to and since the data error was realised in early 2016. This length of delay is absolutely unacceptable and I apologise unreservedly to [B] and her sister. The IRO service failed to fulfil its statutory responsibilities to [B]. I failed to robustly challenge the views of my assistant director at the time, which I recognise I should have done and as head of service I take full responsibility for these failings and apologise unreservedly to the court.”

This is a frank acceptance of a proper degree of responsibility by Ms Thomas. I accept her apology without reservation. Some of her actions or more properly her lack of action may be explained or, at least, put into context by a number of events set out in her statement which I shall now turn to consider.

37. In the autumn of 2008 Children's services in Herefordshire moved from paper files to electronic records. It was not discovered until January 2016 that the placement orders made in respect of both children had not been recorded on their electronic records. This may explain why subsequent IROs did not raise the issue of revocation of these orders, but it does not explain why the IRO at the time the care plan was changed in early 2009 from one of adoption to long term fostering did not do so.
38. Ms Thomas asserted that in an unrelated case an IRO had concerns about a child's case and wished to obtain independent legal advice and/or refer the matter to Cafcass. She said she raised this issue with the then senior lawyer and the then assistant director in January 2017. The response from the assistant director to Ms Thomas was that she was not to seek independent legal advice nor to refer the matter to Cafcass. She was further told that if she did not comply with this 'advice', disciplinary procedures would be invoked. Ms Thomas asserted that this assistant director did not recognise the independent nature of the IRO service.
39. It is not for me to determine the truth of these assertions, not least because I have not heard from the former assistant director. The council's legal department did, however, immediately upon receipt of Ms Thomas' statement invoke a whistleblowing investigation which has been reported to the Chief Executive of the local authority and members of the council. I note that the then deputy county solicitor agreed with Ms Thomas' recollection of events.
40. Ms Thomas asserted that it was because of the 'advice' given by the former assistant director that she did not escalate the case of A and B beyond the Head of Service level, did not seek to obtain independent legal advice and/or refer the matter to Cafcass. As Ms Thomas readily acknowledged this was, to say the least, deeply regrettable.
41. The former assistant director left this local authority in March 2018.
42. I was told by Ms Thomas that new and more robust procedures are now in place including the ability of the IRO service to seek independent legal advice without obstruction and a dispute resolution process.
43. Ms Thomas reviewed the actions of all the IROs allocated to this case between July 2009 to date. There was no robust scrutiny of or challenge to the lack of a clear permanence plan for either A or B. The issue of applying to revoke the placement orders was not raised until the LAC review in December 2016 when the then social worker advised the review that she had prepared a statement in support of an application to revoke the placement orders and had submitted the same to legal services. At the following LAC review in May 2017 the IRO was told that legal services had requested further information from the social worker which she had not been able to obtain and was awaiting a response from the legal department. The IRO made a recommendation that an application to revoke the placement should be made as a matter of urgency. Nothing was done.

44. The IRO raised the issue of a failure to apply to seek revocation of the placement orders with Ms Thomas in October 2017. Despite the best endeavours of the IRO and Ms Thomas in contacting the team manager of 16+ team and local authority's senior solicitor and raising the matter with the Head of Service, the application to revoke the placement order in respect of B was not made until 26th April 2018. By this time A had attained her majority and therefore the placement had lapsed.

Discussion

45. The IRO appointed to the case of any looked after child performs a vital role to ensure the local authority is a good corporate parent, that appropriate care plans are in place and that these are effectively implemented in a timeous fashion: see *A and S v. Lancashire County Council* [2013] 2 FLR 803 and *S (A child Acting by the Official Solicitor) v Rochdale Metropolitan Borough Council and the Independent Reviewing Officer* [2009] 1 FLR 1090.
46. The appointment of an IRO in respect of every child a local authority is looking after is a statutory requirement: s.25A Children Act 1989. The functions of an IRO are set out in s.25B of the 1989 Act which provides as follows:
- “(1)The independent reviewing officer must—
- (a) monitor the performance by the local authority of their functions in relation to the child's case;
 - (b) participate, in accordance with regulations made by the Secretary of State, in any review of the child's case;
 - (c) ensure that any ascertained wishes and feelings of the child concerning the case are given due consideration by the local authority;
 - (d) perform any other function which is prescribed in regulations made by the Secretary of State.
- (2) An independent reviewing officer's functions must be performed—
- (a) in such manner (if any) as may be prescribed in regulations made by the Secretary of State; and
 - (b) having regard to such guidance as that authority may issue in relation to the discharge of those functions.
- (3) If the independent reviewing officer considers it appropriate to do so, the child's case may be referred by that officer to—
- (a) an officer of the Children and Family Court Advisory and Support Service;
- (4) If the independent reviewing officer is not an officer of the local authority, it is the duty of the authority—
- (a) to co-operate with that individual; and
 - (b) to take all such reasonable steps as that individual may require of them to enable that individual's functions under this section to be performed satisfactorily”

47. These provisions are supplemented by Care Planning, Placement and Case Review Regulations 2010. The relevant regulations relating to the functions and duties of an IRO are set out in regulations 36, 37, 45 and 46 which provide as follows:

“The IRO must—

- (a) so far as reasonably practicable, attend any meeting held as part of the review (“the review meeting”) and, if attending the review meeting, chair it,
- (b) speak to C in private about the matters to be considered at the review unless C, being of sufficient understanding to do so, refuses or the IRO considers it inappropriate having regard to C’s age and understanding,
- (c) ensure that, so far as reasonably practicable, the wishes and feelings of C’s parents, or any person who is not C’s parent but who has parental responsibility for C, have been ascertained and taken into account, and
- (d) ensure that the review is conducted in accordance with this Part and in particular—
 - (i) that the persons responsible for implementing any decision taken in consequence of the review are identified, and
 - (ii) that any failure to review the case in accordance with this Part or to take proper steps to implement decisions taken in consequence of the review are brought to the attention of an officer at an appropriate level of seniority within the responsible authority.

(2) The IRO may, if not satisfied that sufficient information has been provided by the responsible authority to enable proper consideration of any of the matters in Schedule 7, adjourn the review meeting once for not more than 20 working days, and no proposal considered in the course of the review may be implemented until the review has been completed.”

“The responsible authority must—

- (a) make arrangements to implement decisions made in the course, or as a result, of the review, and
- (b) inform the IRO of any significant failure to make such arrangements, or any significant change of circumstances occurring after the review that affects those arrangements.”

“(1) The IRO must ensure that, having regard to C’s age and understanding, C has been informed by the responsible

authority of the steps C may take under the 1989 Act and in particular, where appropriate, of—

- (a) C's rights to apply, with leave, for a section 8 order (residence, contact and other orders with respect to children) and, where C is in the care of the responsible authority, to apply for the discharge of the care order, and
 - (b) the availability of the procedure established by them under section 26(3)(1) for considering any representations (including complaints) C may wish to make about the discharge by the responsible authority of their functions, including the availability of assistance to make such representations under section 26A(2) (advocacy services).
- (2) If C wishes to take legal proceedings under the 1989 Act, the IRO must—
 - (a) establish whether an appropriate adult is able and willing to assist C to obtain legal advice or bring proceedings on C's behalf, and
 - (b) if there is no such person, assist C to obtain such advice.
- (3) In the following circumstances the IRO must consider whether it would be appropriate to refer C's case to an officer of the Children and Family Court Advisory and Support Service—
 - (a) in the opinion of the IRO, the responsible authority have failed in any significant respect to—
 - (i) prepare C's care plan in accordance with these Regulations,
 - (ii) review C's case in accordance with these Regulations, or effectively implement any decision taken in consequence of a review,or are otherwise in breach of their duties to C in any material respect, and
 - (b) having drawn the failure or breach to the attention of persons at an appropriate level of seniority within the responsible authority, it has not been addressed to the satisfaction of the IRO within a reasonable period of time.
- (4) When consulted by the responsible authority about any matter concerning C, or when informed of any matter relating to C in accordance with these Regulations, the IRO must—

(a) ensure that the responsible authority have ascertained and, subject to C's age and understanding, given due consideration to, C's wishes and feelings concerning the matter in question, and

(b) consider whether to request a review of C's case."

"(1) The IRO must be registered as a social worker in a register maintained by the General Social Care Council or by the Care Council for Wales under section 56 of the Care Standards Act 2000(1), or in a corresponding register maintained under the law of Scotland or Northern Ireland.

(2) The IRO must have sufficient relevant social work experience with children and families to perform the functions of an independent reviewing officer set out in section 25B(1) and under these Regulations in an independent manner and having regard to C's best interests.

(3) The responsible authority must not appoint any of the following as the IRO—

(a) a person involved in preparing C's care plan or the management of C's case,

(b) R,

(c) C's personal adviser,

(d) a person with management responsibilities in relation to a person mentioned in sub-paragraphs (a) to (c), or

(e) a person with control over the resources allocated to the case."

48. The government issued guidance for IROs in the form of the IRO Handbook. For present purposes the relevant guidance is set out in paragraphs 1.12, 2.8, 2.10, 2.15, 2.18, 3.39, 3.65, 3.73, 6.3, 6.4, 6.5, 6.13, and 6.14 which provide as follows:

"The IRO's primary focus is to quality assure the care planning and review process for each child and to ensure that his/her current wishes and feelings are given full consideration. To be successful, the role must be valued by senior managers and operate within a supportive service culture and environment. An effective IRO service should enable the local authority to achieve improved outcomes for children."

"IROs then are well placed to assess the quality and effectiveness of local authority planning and support for children. The IRO has a crucial role to play in ensuring that the local authority fulfils its responsibilities as a 'corporate parent' for all the children that it looks after. The IRO should ensure

that the child is offered stable care that is sensitive and appropriate to each individual's personal needs so that the child is able to flourish and achieve. The plan for each child must demonstrate how the services provided have fully taken account of the child's wishes and feelings."

"The primary task of the IRO is to ensure that the care plan for the child fully reflects the child's current needs and that the actions set out in the plan are consistent with the local authority's legal responsibilities towards the child. As corporate parents each local authority should act for the children they look after as a responsible and conscientious parent would act."

"The role of the IRO is a specialist one which stands alone in the local authority. It is a role that may involve challenging senior managers and may require the IRO to seek legal remedies if the local authority fails in its duties."

"The independence of the IRO is essential to enable him/her to effectively challenge poor practice. The Regulations do not prescribe the position of the IRO within the local authority but do prescribe minimum levels of independence"

"The IRO is responsible for setting any remedial timescales if actions have not been taken and there is a risk of drift in the delivery of a plan that will meet the child's needs and planned outcomes within the child's timescale."

"In addition to advising the child of his/her right to make applications to the courts, the review must consider whether there should be any change to the child's legal status. The IRO should read all the assessments that have informed the current legal status, including the core assessment, and be satisfied that the child's welfare continues to be safeguarded and promoted by this status. If the legal status of the child appears to be no longer appropriate, the IRO should request confirmation from the social worker and their manager that the local authority has given due consideration to the issue and if the response to this is not satisfactory s/he will need to resolve the issue through other routes or through implementation of the local dispute resolution process"

"The IRO must identify the person responsible for implementing the decisions and the IRO must alert the accountable manager to any failure to take proper steps to implement decisions"

"The IRO has the power to refer the matter to Cafcass at any point in the dispute resolution process [**regulation 45**] and may consider it necessary to make a concurrent referral to Cafcass at

the same time that s/he instigates the dispute resolution process.”

“The individual IRO is personally responsible for activating the dispute resolution process, even if this step may not be in accordance with the child’s wishes and feelings, but may, in the IRO’s view, be in accordance with the best interest and welfare of the child, as well as his/her human rights.”

“There will be times when the IRO may be advised that obstacles in the way of resolving the issue are outside or beyond the control of the local authority, for example in relation to staffing, interagency or resources issues. However, if these are impacting on the ability of the department to meet the needs of a child as identified in the child’s care plan, the IRO should continue to escalate the issue.”

“Each local authority should have a system in place that provides its IROs with access to independent legal advice. The reason for this is that the IRO works within a complex legal framework, with a number of other professionals and adults who have access to their own legal advice. The IRO may feel isolated and vulnerable in this position. It is essential that the IRO too can access independent legal advice, in addition to seeking the advice and support of the IRO manager. In the past some local authorities have been of the view that Cafcass duty lawyers provide this service. However, Cafcass duty lawyers can only provide guidance, not legal advice. Other local authorities have considered it sufficient for an IRO to seek advice from its own legal department. This is clearly not independent.”

“It is important that this service is easily accessible by individual IROs and that IROs do not have to struggle to access it.”

49. I make no apology for having set out the statutory and secondary legislative provisions and the guidance at such length. Taken as a whole they set out the hugely important function that an IRO performs to ensure that a looked after child is well served and whose needs are met by the local authority as his or her corporate parent.
50. I am appalled at the manner in which and the serial occasions on which the social workers and their managers have failed these two young people. The fact that I have chosen in this judgment to focus on the role and actions of the various IRO’s should not be taken in any way to diminish the failures of the social workers and/or their managers in this case. Rather the failings of the IROs has been so stark and grave that, in my judgment, it was appropriate to focus on the failings of the IROs and the IRO service in this case.
51. Once a court makes a care order it entrusts, as by statute it must, the future care of the child to the local authority. The essential safeguard the court and the public at large

have that a local authority will be a good corporate parent is the function and role of the IRO. Any obstruction of an IRO performing their statutory role or any diminution in an IRO, or their manager, feeling empowered to do so, is a matter of the utmost consequence. For otherwise a looked after child is subject to the vagaries of social work practice and the local authority's different pressures and priorities. The IRO is, or should be, the child's protector or advocate. If the IRO is silenced or pressured not to act as the child's interests demand and require, it is the child who will suffer – just as these children, A and B have suffered.

Conclusions

52. This local authority, as it has accepted, failed both young people in the errors made by its social workers and their managers over a very prolonged period of time.
53. The IROs failed them on a serious and serial basis.
54. I entirely accept and acknowledge that in these straitened financial times all local authorities are stretched. Furthermore I recognise that this local authority, like very many around the country, have difficulties recruiting and retaining social workers. As a consequence many social workers have to carry very heavy case loads, may not have sufficient experience to deal with the more complex cases and/or have limited time to work on a particular case.
55. These difficulties, however, do not begin to explain the wholesale failure of this local authority, in its role as a corporate parent to plan adequately or appropriately for the care of these children. I simply do not know or do not understand why the care plan was changed from adoption to long term fostering in 2009. The explanation given in B's 2018 Care Plan is plainly false or, at best, inaccurate.
56. This means that neither A nor B can now be given a clear and cogent explanation of why they suffered such instability when in the care of this local authority. I find this to be profoundly regrettable.
57. The fact that the local authorities are under financial pressures, and there too few social workers who carry too many cases, increases the importance of the role performed by the IROs. When it is known deadlines may be missed, visits not undertaken, assessments not completed or other actions in furtherance of a child's care plan not addressed, the IROs must take active steps to ensure a child's welfare and future care is not disadvantaged by these omissions.
58. Whatever opposition or obstruction the IRO or Head of Service faced from a local authority, the IROs and their managers must remember that their first and foremost duty is to the children and young people that they serve. If this is ignored or obstructed, it is only the children or young people, who are our future, who will be harmed.
59. The clear message must go out that IROs serve a vital and essential function to ensure that a child's or a young person's interests are met post the making of a care order or other orders. If those functions and roles are not exercised in a clear, robust and untrammelled fashion, the children or young people will suffer.

60. For clear and obvious reasons, I conclude these proceedings by affirming the revocation of the placement order in respect of B as I made on 11th October 2018.
61. The local authority have rightly agreed to pay A and B's costs of these proceedings.
62. My findings in this case merit my judgment being sent to the Secretary of State of Education, the Senior Social Worker, Ofsted and the Chief Executive of Herefordshire Council.