**IN THE FAMILY COURT SITTING AT INSERT NAME OF COURT Case No.**

**IN THE MATTER OF THE ADOPTION AND CHILDREN ACT 2002**

**AND IN THE MATTER OF INSERT CHILD'S NAME (DOB: ??)**

**BETWEEN**

**PROSPECTIVE ADOPTORS**

**Applicants**

**and**

**BIRMINGHAM CHILDREN’S TRUST**

**First Respondent**

**and**

**Second Respondent**

**and**

**Third Respondent**

**(acting through the Children’s guardian)**

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**STATEMENT FILED BY BIRMINGHAM CHILDREN’S TRUST IN RESPONSE TO MOTHER'S/FATHER'S APPLICATION FOR LEAVE TO OPPOSE THE MAKING OF AN ADOPTION ORDER AND REVOKE THE PLACEMENT ORDER \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

1. **APPLICATION BEFORE THE COURT**
   1. The Court is concerned with the child Insert Name of child, aged ?? years/months.

1.2 Details of parents and their DOB, marital status and whether living together/still in a

relationship.

* 1. An adoption application has been made on Insert Date by prospective adopters with

whom Insert Name of Child has been placed since Insert Date.

* 1. Insert Name of child's birth mother/father has made an application for leave to oppose

the making of the adoption order. Directions were given in respect of this application at a court hearing on Insert Date. [The mother/father attended this hearing with a prepared statement which has been filed in support of her/his application.] [During this hearing, the mother/father was ordered to submit a short additional statement outlining her/his change in circumstances since the placement order was made on Insert Date and the basis on which she/he considers that she/he should be given leave to oppose the making of the adoption order by Insert Date.] This statement has not been received/ was received on Insert Date.

* 1. The Local Authority has filed and served an index and a bundle of relevant papers

from previous proceedings as directed by the court on Insert Date which outline the case history leading up to the making of the placement order. Give brief background information about proceedings including the date of conclusion and the orders made.

* 1. Following the prospective adopters' application for the adoption order, during the court

hearing on Insert date, the Local Authority were ordered to file a statement exploring the issues and Insert name of parent's change of circumstances to determine whether WCC consider the granting of leave to oppose the adoption is in the child's best interest, with reference to the welfare checklist and relevant case law. These issues are addressed throughout this statement. The statement must address the following:

1. The personal circumstances of the birth parent/s at the time that the placement order was made;
2. Any relevant case history leading up to the making of the placement order;
3. Whether the local authority accepts that there has been a change of circumstances and whether that change is of a nature and degree sufficient to re-open consideration of the issue;
4. Whether the local authority considers the granting of leave to oppose the adoption is in the child’s best welfare interests;
5. An analysis of the welfare checklist in section 1 of the Adoption and Children Act 2002; and A detailed discussion and analysis of the considerations referred to in the judgment of Munby P in Re B-S (children) [2013] EWCA Civ 1146 at paras [72] – [74
   1. The Adoption Agency was also ordered to file a Part 5 report by Insert Date.
   2. The Children’s Guardian from the previous proceedings, Insert Name has been

appointed as requested by the Court and has been ordered to file a short report addressing the changes asserted by Insert Parent's Name and to outline their opinion upon the merits of the application for permission to pose and the likely impact upon Insert Child's Name's welfare. This report is due to be filed on Insert date.

1. **THE LAW**
   1. The social work team has been advised of the legal issues in detail and in particular

that where a child has been placed by an adoption agency subject to a placement order an adoption order may only be made where no parent opposes the making of the order. A parent can't oppose without the leave of the court.

* 1. The court cannot grant leave unless satisfied that there has been a change in

circumstances since the placement order was made and if so whether the mother/father has a sufficiently solid case for the court to find it is in the interests of the child's welfare to grant the application to oppose. The change of circumstances test must not be set too high.

* 1. If leave to oppose is granted to a parent the effect is that the parent can oppose the

making of an Adoption Order and notwithstanding the making of the earlier Placement Order, the parent is able to have the question of whether parental consent should be dispensed with considered afresh and in light of their current circumstances.

1. **PERSONAL CIRCUMSTANCES OF THE PARENTS AT TIME THE ORDER WAS MADE** 
   1. Discuss the history leading up to the making of the placement order with reference to

the personal circumstances of the birth parent/s at the time the placement

order was made outlining parents' actions, the risks posed by any person parent was in a relationship with, whether parents accepted the risks and acted upon it.

3.2 Give an outline of the outcome parents sought at final evidence and the view the court took on this, discussing any positives identified during proceedings and what the Court considered the key issues were. In particular have regard to the agreed threshold document and any judgment and findings

1. **HISTORY SINCE THE CARE PROCEEDINGS AND THE CHANGE IN CIRCUMSTANCES ISSUE**

* 1. Insert Parent's Name submitted a statement at the Court Hearing on Insert Date which set out the following: Give a summary of how mother/father states they have

changed since conclusion of proceedings in their statement filed in the proceedings

* 1. Following the directions hearing the Local Authority set out to assess Insert Parent's

Name current situation and submit their statement to the Court by Insert Date. Discuss whether mother/father has engaged with this assessment and if not, what attempts have been made to explore the situation. Make enquiries with other agencies in order to verify information and set out the results of these enquiries here

**5. DO THE CHANGES GO TO THE REASONS UNDERLYING THE CARE AND PLACEMENT ORDERS?**

5.1When considering whether Insert Parent's Name has made significant changes since the care and placement orders were granted, it is important to balance the positive changes against the remaining risks. Discuss positive changes that have been noted, any evidence that the changes have been sustained and any remaining risks

**6. IS THE CHANGE IN CIRCUMSTANCES OF A NATURE AND DEGREE SUFFICIENT ON THE FACTS OF THE CASE FOR THE JUDGE TO ALLOW FOR CONSIDERATION OF THE WELFARE ISSUE TAKING INTO ACCOUNT THAT THE THRESHOLD SHOULD NOT BE SET TOO HIGH?**

6.1Express a view onwhether the changes parent has made are enough

to ensure that any child in his/her care would be safe from significant harm.

**7. SECOND LIMB OF THE TEST - LA VIEW ON WHETHER LEAVE TO OPPOSE IS IN THE CHILD'S BEST WELFARE INTERESTS**

If there has been a change in circumstances then the door to the exercise of a judicial discretion to give leave to the parent to defend the adoption proceedings is open and the decision whether or not to grant leave is governed by Section 1 of the 2002 Act i.e. the paramount consideration of the Court must be the child's welfare throughout his life.

**8. THE CHILD'S WELFARE NEEDS AND UP TO DATE VIEW ON RE B/S ANALYSIS**

**(a) the child’s ascertainable wishes and feelings in respect of the decision**

**(b)** **particular needs,**

**(c) the likely effect on the child (throughout his life) of having ceased to be a member of the original family and become an adopted person,**

**(d) the child’s age, sex, background and any of the child’s characteristics which the court or agency considers relevant,**

**(e) any harm (within the meaning of the Children Act 1989 (c. 41)) which the child has suffered or is at risk of suffering,**

**(f) the relationship which the child has with relatives, and with any other person in relation to whom the court or agency considers the relationship to be relevant, including:**

**i) the likelihood of any such relationship continuing and the value of the child of its doing so,**

**ii) the ability and willingness of any of the child’s relatives, or of any such person, to provide the child with a secure environment in which the child can develop, and otherwise to meet the child’s needs,**

**iii) the wishes and feelings of any of the child’s relatives, or of any such person, regarding the child.**

**THE B/S ANALYSIS REVISITED**

The questions the LA has in mind are

**7.1 What is their ultimate prospect for success in successfully opposing the making of an adoption order? - What is the solidity of the application?**

**7.2 Is there a solid evidence based reason to believe that the mother/father will make the necessary changes in the child's timescales?**

**7.3 Is he/she likely to maintain that given her/his history and all of the evidence?**

**7.4 Where is mother/father up to and what are the chances of her/him really turning her/his life round at this point?**

**What are all of the pros and cons of each of the two options**

What will the impact on the child be if the leave is granted bearing in mind that the older the child and the longer the placement the greater the adverse impacts are likely to be

Medium and long term development care taken in giving too much weight to immediate or transient problems

What are the overall merits without looking to hard a full welfare argument as this for the hearing

Does the B/S analysis still hold good ?

Is there any prospect that there could be a safe re-unification programme now?- Hindley etc used?

**9. CONCLUSION**

For Social Work consideration -Checklist of things the court has taken into account in deciding not to grant permission – are these present

Are their key things where there is no real evidence of change

Long term plan for adoption since care order made

Plan implemented through placement with adopters

Can it be said the child is older and has been placed for a long time so that there would be a real adverse impact in disturbing the arrangements?

Plan working well

All of the pros and cons of the options including

What was the impact on the child of the things that led to the child coming into care

Do the particular children need particular stability and care

What will the impact of delay be on the child

Is there such a change in circumstances that this is likely to outweigh other welfare arguments so that this should simply go forward to be heard at the adoption hearing

**I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.**

**I believe that the facts stated in this witness statement are true.**

Signed …………………………………………..

Social Worker

Dated: …………………………………………..