
9.8 Public law: an example of a care case

It may be some time before you have conduct of a public law case, but it is important to get as much exposure as possible to this important area of the law. What follows, therefore, is a hypothetical care case which commenced in the Family Proceedings Court (ie, the magistrates' court) and was transferred to the County Court because of the estimated length of the hearing. It contains examples of documents you might expect to see including the initial application of an interim care order, the first interim care order and directions, and an example of a standard form of directions. We have not included every interim care order and the different directions which would have been made in the proceedings prior to the final hearing itself. By way of illustration, we have included the initial and final statements of the social worker who has performed a comprehensive assessment of the child, the statement of the mother and the care plan. Typically, you might also see statements by some or all of the following:

- the father, grandparents or other relatives who have been involved in the care of the child;
- the foster carer;
- a party's boy/girlfriend/cohabitee.

In addition, in every case there will be the report of the children's guardian unless the court thinks (exceptionally) that it is unnecessary. There may also be expert evidence (usually from a child psychiatrist) filed on behalf of one or both of the parties. It is important, particularly if you are acting for a parent, to examine the welfare reports and other expert evidence critically. Although often difficult to challenge, do not feel you have to accept uncritically the conclusions of the experts. Look carefully at the factual basis for their conclusions (which you may wish to dispute) and see if the conclusions can be justified.

Welfare reports in public law cases tend to be provided by the local authority officer who has been dealing with the child's case (known for these purposes as a 'welfare officer') rather than a child and family reporter. In any case, it is often unnecessary, certainly when they agree, to have a report from both the children's guardian and a welfare officer/child and family reporter. Usually the former's report will suffice.

Finally, we have included examples of skeleton arguments for the applicant and the respondent. There would also be one for the children's guardian but here she supports the local authority's application and so would repeat the same points. There is no prescribed way of drafting a skeleton argument, but it is important to identify the issues and your client's case in relation to each issue as precisely and persuasively as you can. Ideally, you should support each conclusion you draw with the relevant evidence in the bundle (refer to the witness statement, page and paragraph). Read the papers and then go through the two skeletons. Find the facts which support the conclusions and note the references.

We have not included all reports referred to in the papers for the sake of brevity. The documents contained in the case are as follows:

1. Court forms
2. Statement of Emily Cromack dated 4 June 2003
3. Statement of Frances James dated 20 June 2003
4. Statement of Emily Cromack dated 29 September 2003
5. Psychology Report by Dr Ralph Peters dated 18 July 2003
6. Pyschiatric Report by Dr John Head dated 19 September 2003
9. Care Plan dated 22 October 2003
8. Report of the Children's Guardian dated 24 November 2003
9. Skeleton Argument on behalf of the Applicant
10. Skeleton Argument on behalf of the Respondent.

When preparing for a care hearing, you are strongly recommended to refer to *The Guide for Social Workers Undertaking a Comprehensive Assessment* (known in practice as 'the Orange Book'). This will give you an insight into what steps the social worker should have taken. See also *Re E (Care Proceedings: Social Work Practice)* [2000] 2 FLR 254.

At the hearing itself, counsel for the local authority (the applicant) would open and call its witnesses. Counsel for the mother (the respondent) would cross-examine first (if there was another respondent, they would follow), with the children's guardian cross-examining last. Counsel for the mother then calls her witnesses and the local authority cross-examines first. Again, if there was another respondent, he or she would cross-examine second and counsel for the children's guardian would cross-examine last. Finally, the children's guardian may call any expert evidence he or she wishes to adduce. Then, he or she gives evidence and is cross-examined in turn by the applicant and the respondent(s).

Application for an order

Form CI

Children Act 1989

The court

Aardvark
Magistrates'
Court

To be completed by the court

Date issued 4.6.03

Case number FPC/2003/99/411

The full name(s) of the child(ren)

Child(ren)'s number(s)

Mark James

1 About you (the applicant)

- State • your title, full name, address, telephone number, date of birth and relationship to each child above
- your solicitor's name, address, reference, telephone, FAX and DX numbers.

Aardvarkshire County Council
 Aardvark Social Services
 Department
 2 Howard Road
 Aardvark
 AA1 1AA
 Tel: 01100 222 222

Ms Janet Grey
 Legal Department
 County Hall
 Aardvark
 Tel: 01100 333 444
 Fax: 01100 444 333
 DX: 0000 Aardvark

2 The child(ren) and the order(s) you are applying for

- For each child state • the full name, date of birth and sex
- the type of order(s) you are applying for (for example, residence order, contact order, supervision order).

Mark James (d.o.b. 2.2.00)
 Care order

3 Other cases which concern the child(ren)

If there have ever been, or there are pending, any court cases which concern

- *a child whose name you have put in paragraph 2*
- *a full, half or step brother or sister of a child whose name you have put in paragraph 2*
- *a person in this case who is or has been, involved in caring for a child whose name you have put in paragraph 2*

attach a copy of the relevant order and give

- *the name of the court*
- *the name and panel address (if known) of the guardian ad litem, if appointed*
- *the name and contact address (if known) of the court welfare officer, if appointed*
- *the name and contact address (if known) of the solicitor appointed for the child(ren).*

Na

4 The respondent(s)

Appendix 3 Family Proceedings Rules 1991; Schedule 2 Family Proceedings Courts (Children Act 1989) Rules 1991

For each respondent state

- *the title, full name and address*
- *the date of birth (if known) or the age*
- *the relationship to each child.*

Ms Frances James d.o.b. 1.4.73
(mother)
Amble House Hostel
Amble Rd
Aardvark

5 Others to whom notice is to be given

Appendix 3 Family Proceedings Rules 1991; Schedule 2 Family Proceedings Courts (Children Act 1989) Rules 1991

For each person state

- the title, full name and address
- the date of birth (if known) or age
- the relationship to each child

Mrs Beatrice James (maternal grandmother)
8 Eaten Rd.
Aardverk

Mrs Jean Brady (paternal grandmother)
2 Aylsham Rd,
Aardverk

6 The care of the child(ren)

For each child in paragraph 2 state

- the child's current address and how long the child has lived there
- whether it is the child's usual address and who cares for the child there
- the child's relationship to the other children (if any).

- currently residing with maternal grandmother (since 17.5.03)
- child's usual address is Amble House Hostel, Amble Rd, Aardverk, (mother's address).

7 Social Services

For each child in paragraph 2 state

- whether the child is known to the Social Services.
If so, give the name of the social worker and the address of the Social Services department.
- whether the child is, or has been, on the Child Protection Register. If so, give the date of registration.

- child's social worker is Emily Cromack, Aardverk Social services
- 19.2.03 child's name placed on the Aardverk Child Protection Register - "likely physical injury"

8 The education and health of the child(ren)

- For each child state*
- *the name of the school, college or place of training which the child attends*
 - *whether the child is in good health. Give details of any serious disabilities or ill health.*
 - *whether the child has any special needs.*

The child is too young for school.
His health is average with no special needs.

9 The parents of the child(ren)

- For each child state*
- *the full name of the child's mother and father*
 - *whether the parents are, or have been, married to each other*
 - *whether the parents live together. If so, where.*
 - *whether, to your knowledge, either of the parents have been involved in a court case concerning a child. If so, give the date and the name of the court.*

Mother - Frances James

Father - Richard Brady (deceased)

10 The family of the child(ren) (other children)

- For any other child not already mentioned in the family (for example, a brother or a half sister) state*
- *the full name and address*
 - *the date of birth (if known) or age*
 - *the relationship of the child to you.*

N/A

11 Other adults

- State
- the full name of any other adults (for example, lodgers) who live at the same address as any child named in paragraph 2
 - whether they live there all the time
 - whether, to your knowledge, the adult has been involved in a court case concerning a child. If so, give the date and the name of the court.

None

12 Your reason(s) for applying and any plans for the child(ren)

State briefly your reasons for applying and what you want the court to order.

- Do not give a full statement if you are applying for an order under Section 8 of Children Act 1989. You may be asked to provide a full statement later.
- Do not complete this section if this form is accompanied by a prescribed supplement.

The department is seeking an Interim Care Order in respect of Mark. Please see Form 13 for further information.

13 At the court

- State
- whether you will need an interpreter at court (parties are responsible for providing their own). If so, specify the language.
 - whether disabled facilities will be needed at court.

Signed
(Applicant)

Sarah Morgan
Practice Manager

Date 4. 6. 03

Supplement for an application for
a Care or Supervision Order

Form C13

Section 31 Children Act 1989

The court

Aardvark
Magistrates' Court

To be completed by the court

Date issued 4.6.03

Case number FPC/2003/99411

The full name(s) of the child(ren)

Mark James

Child(ren)'s number(s)

1 The grounds for the application

and

The grounds are that the child~~(ren)~~ [is] ~~(are)~~ suffering ~~or (is) (are)~~ likely to suffer, significant harm and the harm, or likelihood of harm, is attributable to

the care given to the child(ren), or likely to be given to the child(ren) if the order were not made, not being what it would be reasonable to expect a parent to give to the child(ren)

the child(ren) being beyond parental control

2 The reason(s) for the application

If you are relying on a report or other documentary evidence, state the date(s) and author(s) and enclose a copy.

Mark has suffered significant physical harm from his mother in the past, which led to his name being placed on the Child Protection Register on 19.2.03. A further Child Protection Investigation was carried out on 30.4.03 following mother's admission that she hit Mark over the head with a can of baked beans. The mother is unable to care for the child at present. Since February 2003 Mark has been subjected to at least 4 sudden changes of carers which has led to his suffering significant harm.

3 Your plans for the child(ren)

- Include*
- in the case of supervision orders only, any requirements which you will invite the court to impose pursuant to paragraph 1 Schedule 3 Children Act 1989
 - in all cases, whether you will invite the court to make an interim order.

- i) Interim Care Order for 8 weeks to Aardvorkshire County Council.
- ii) Interim Care Plan for Mark to remain with his maternal grandmother Mrs Beatrice James whilst a comprehensive assessment is undertaken of his short and long term needs.
- iii) Supervised contact between Mark and his mother, either by Aardvorkshire County Council or a person nominated by Aardvorkshire County Council at least twice weekly.

4 The direction(s) sought

Family Proceedings Rules 1991 Rule 4.14

Family Proceedings Courts (Children Act 1989) Rules 1991 Rule 14

Signed Sarah Morgan
(Applicant) Practice Manager

Date 4.6.03

In the
Aardvark
Magistrates' Court

Case Number:

Child(ren)'s Number(s):
FPC/2003/99/411

Order Interim Care Order
Section 38 Children Act 1989

The full name(s) of the child(ren)

Mark James

Date(s) of birth

2.2.00

The Court orders that the child(ren) be placed in the care of

Aardvarkshire

local authority

The order expires on

3 August 2003

[The Court directs

that a directions hearing take place on
2 July 2003 at 2.00 pm at Aardvark
Magistrates' Court to discuss venue
and timetable.

Warning

While a Care Order is in force no person may cause the child(ren) to be known by a new surname or remove the child(ren) from the United Kingdom without the written consent of every person with parental responsibility for the child(ren) or the leave of the court.

However, the local authority, in whose care a child is, may remove that child from the United Kingdom for a period of less than 1 month.

It may be a criminal offence under the Child Abduction Act 1984 to remove the child(ren) from the United Kingdom without the leave of the Court.

Ordered by

~~Mr/Mrs Justice~~
~~His/Her Honour Judge~~
~~District Judge [of the Family Division]~~
Justice[s] of the Peace
Clerk of the Court

Mr Alpha - Mrs Beta - Mr Orange

on

9 June 2003

In the
Aandvork Magistrates
Court

Case Number:
F.P.C./2003/99/411

The full name(s) of the child(ren)

Date(s) of birth

Child(ren)'s Number(s)

Mark James

2.2.00

[Order] [Direction]

Children Act 1989

Leave be given for the papers to be disclosed to a psychologist for the purpose of assessing the mother's mental state and intellectual capacity; and a report be prepared for the Court.

Leave be given for the CG to disclose the papers to Dr John Head for the purpose of preparing a report for the Court in respect of Mark.

Also leave for the CG to instruct Dr John Head for the same purpose. (The CG will agree a joint letter of referral to Dr John Head with all solicitors involved; in the event of a dispute as to the content of such a letter the CG will be the final arbiter.

Ordered by ~~Mr~~ ~~Mrs~~ Justice
~~His~~ ~~Her~~ Honour Judge
~~District Judge~~ [of the Family Division]
Justice(s) of the Peace
Clerk of the Court
~~Assistant~~ Recorder

on

9 June 2003

IN THE AARDVARK FAMILY PROCEEDINGS COURT

IN THE MATTER OF: AND
 AND CASE NUMBER
 RE THE CHILDREN
 BEFORE:
 PRESENT: (APPLICANT) (APPLICANTS SOL/CNSL)
 (Delete as (RESPONDENT)(RESPONDENTS SOL/CNSL)
 appropriate) (CHILDREN)
 (GUARDIAN AD LITEM)(G.A.L. SOL.CNSL)
 (WELFARE OFFICER)

IT IS DIRECTED THAT: (Tick as appropriate)

- 1. be joined as a party to the proceedings
- 2. Leave be given for the child/ren not to attend any further proceedings
- 3. Leave be given to disclose the papers to
- 4. A Guardian ad litem be appointed
- 5. As the parties agreed to mediation the Court Welfare Service is requested to make an appointment
- 6. The (Guardian ad litem) (Welfare Officer) file a report by
- 7. The (Guardian ad litem) (Welfare Officer) attend the (next directions hearing)(court hearing)(final hearing)
- 8. The time limit specified in the F.P. Rules is abridged (to) (to allow this application to proceed forthwith
- 9. (i) do (file and) serve a statement in accordance with F.P. Rule 17 (1) on the parties and the (Guardian ad litem)(Welfare Officer) by
 (ii) do (file and) serve a statement in accordance with F.P. Rule 17 (1) on the parties and the (Guardian ad litem)(Welfare Officer) by
 (iii) The additional witnesses listed overleaf do (file and) serve a statement in accordance with F.P. Rule 17 (1) on the parties and the (Guardian ad litem)(Welfare Officer) by
 In the event of non compliance with the time limit above, further direction need only be sought if agreement cannot be reached between the parties, and any amendment would not affect direction 11
- 10. The requirement to file statements under Rule 17 be amended to the need to file in accordance with direction 11
- 11. The (Applicant)(Respondent) to prepare, file and serve on the parties the following by 4.00 pm on
 a summary of the history of the case
 a summary of agreed facts and disputed facts
 a summary of the issues to be resolved between the parties
 a bundle, paginated and indexed, with as many copies as may be necessary including four for the court, of the statements and reports previously served
 a skeleton argument
 any references to case law sought to be relied upon
- 12. The oral evidence upon which the parties intend to rely at the final hearing of this matter is to be limited to themselves and the witnesses whose statements have been filed
- 13. Leave is given for the child to be examined by and the resulting report is to be filed by (Blood tests) (D.N.A.) be taken and the (Applicants)(Respondents) solicitors make the necessary arrangements
- 15. The application be listed for (further directions)(a court hearing)(final hearing) on
- 16. A draft consent order, including findings of facts and details of the order with supporting reasons be filed and served on the parties by
- 17. For the purposes of the final hearing, the Applicant shall prepare, with as many copies as may be necessary, including four copies for the court, (A) a historical chronology of the main relevant events in the child's life and these proceedings and (B) a bundle, paginated and indexed, of copies of all written statements, documentary evidence and experts reports served by the parties. Both (A) and (B) to be agreed as far as possible and indicating on the first page those facts and documents which are agreed and those that are not agreed and to be filed by

NOTE THE "STATEMENTS" REFERRED TO ABOVE ARE THE WRITTEN STATEMENTS OF THE SUBSTANCE OF THE ORAL EVIDENCE WHICH A PARTY INTENDS TO GIVE AT A HEARING WETHER FROM HIM OR HERSELF OR FROM WITNESSES CALLED ON THAT PARTY'S BEHALF SUCH STATEMENTS MUST BE DATED, SIGNED BY THE PERSON MAKING THE STATEMENT AND CONTAIN A DECLARATION THAT SUCH PERSON BELIEVES IT TO BE TRUE AND UNDERSTANDS IT MAY BE PLACED BEFORE THE COURT THE STATEMENT SHOULD BE NUMBERED PARAGRAPHS. EACH OF REASONABLE LENGTH FOR EASE OF REFERENCE AND PREFERABLY TYPED. "FILE" MEANS TO SEND THE STATEMENT TO THE COURT AND "SERVE" MEANS TO SEND COPIES TO EACH OF THE PARTIES.

These directions were given on and were (not) made ex parte

(Justice of the Peace) (Clerk of the Court)

Statement by Emily Cromack (1)

Statement of E. R. Cromack
Dated: 4.6.03
Filed on behalf of Aardvarkshire County
Council

IN THE AARDVARK MAGISTRATES' COURT

IN THE MATTER OF MARK JAMES D.O.B. 2.2.00

Case/FPC/2003/99/411

AND IN THE MATTER OF THE CHILDREN ACT

I, Emily Rosalind Cromack, make this statement believing the same to be true and knowing that it may be placed before the court in evidence.

Signed **Emily Cromack**
Dated **4/6/03**

STATEMENT OF EMILY ROSALIND CROMACK

I am Emily Rosalind Cromack. I hold the Certificate of Qualification in Social Work which was gained at the University of Leicester in 1985, and the Diploma in Social Studies. I am a social worker employed by the Applicant, the Aardvarkshire County Council.

In preparing this report I have consulted social services' files, visited and interviewed Miss Frances James, Mrs Beatrice James (maternal grandmother), Mrs Jean Brady (paternal grandmother) and I have seen Mark three times. I have consulted Dr Busby, general practitioner to Mark and Frances, Mrs Elsa Dredge, Aspen Family Centre worker and Miss Wendy Clerk, family assistant.

CHRONOLOGY — MARK JAMES

- 3.1.03 Referral to social services by Miss Frances James' solicitor asking for support for Frances in caring for Mark. Mark and Frances left family home and staying with friends in Hillside.
- 8.1.03 Assessment visit by social worker. Frances agreed to receiving support from Aspen Family Centre.
- 13.1.03 Request made to Aspen Family Centre for help for Frances in parenting skills.
- 28.1.03 Frances and Mark move from friends to Amble House Hostel, Aardvark.
- 11.2.03 Police called to Amble House Hostel because Frances had lost control and was slapping Mark around the head. Police removed Mark on a s 46 and he was placed with foster parents.
- 12.2.03 Foster mother reports that Mark is very distressed.
- 16.2.03 Mark returns to the care of his mother.
- 19.2.03 Child Protection Case Conference; Mark's name placed on Child Protection Register. Comprehensive package of support offered to Frances to include attendance at Family Centre, and home visits by family centre worker and family assistant. Category of Child Protection Registration 'Likely Physical Injury'.
- 24.2.03 Frances and Mark did not attend the family centre.
- 7.3.03 Mrs Brady tells social worker that Frances has always hit Mark around the head and they could not stop her.
- 9.3.03 Frances tells Aspen Family Centre that she is hitting Mark around the head and is worried that she could kill him. Mark goes to stay with Mrs Beatrice James (maternal grandmother).
- 26.3.03 Mrs James unwell. Mark returns to mother at Amble House.
- 25.4.03 Frances tells family assistant that she is still hitting Mark.
- 29.4.03 Frances hits Mark with a can of beans.
- 30.4.03 Child Protection investigation by social worker. Mark stays with Frances. Frances wants to prove that she can look after him.
- 2.5.03 Frances and Mark move in with Mr David Farley at 3 Waterside, Aardvark.
- 12.5.03 Mr Farley telephones social services asking that Frances and Mark be placed in other accommodation. Frances tells social worker she slapped Mark on the head. Mark goes to stay with Mrs Jean Brady (paternal grandmother). Frances returns to Amble House.

13.5.03 Social worker visits Mrs Brady and Mark. Mark is very distressed and asking for his mother constantly and crying.

15.5.03 Mrs Brady finding it difficult to cope with Mark.

19.5.03 Planning Meeting at Social Services. Miss Frances James, Mrs Beatrice James and Mrs Jean Brady invited. Mrs Brady unable to cope looking after Mark. Frances has not had contact with Mark since he moved to Mrs Brady's. Mark moved to Mrs Beatrice James. Frances says she will recommence seeing Mark.

INTRODUCTION

1. Frances James first came to the notice of social services on 3 January 2003 when her solicitor contacted the department asking for help in parenting skills for Mark following her departure from her mother's home with Mark. Frances first approached her solicitor regarding the administration of the estate of Mark's father, Mr Robert Brady (deceased).

2. Frances was reluctant to access resources available to help her. Therefore it was agreed that Mrs Elsa Dredge from Aspen Family Centre would provide outreach services to her at her friends' home in Hillside and Amble House Hostel upon accommodation becoming vacant.

3. On 13 February 2003 police were called to Amble House Hostel following a call stating that other residents had heard a child screaming. Mr David Farley, a friend of Frances, expressed his concerns on Frances' parenting. He had witnessed Frances hitting Mark about the head. Frances admitted hitting Mark. A police protection order was applied for and Mark was taken to foster carers.

4. Later that day Frances presented herself to social services and told the social worker, that she hits Mark and she does this because she does not know how to cope with him. Frances agreed to accept help and support if Mark were returned to her.

5. Mark was so distressed at the separation from his mother that he was returned to her on 16 February 2003.

6. A 'Child Protection' Case Conference was held on 19 February 2003. Frances did not attend. It was further concluded that Mark's name be placed on the 'Child Protection' Register under the category 'Likely Physical Injury'. A protection plan was agreed to include the following:

(i) Frances James should not be physically violent towards Mark. Work to be undertaken with her to explore alternative methods of discipline which do not involve physical chastisement.

(ii) A family assistant would make a home visit once a week to offer support of a practical nature.

(iii) Frances and Mark to attend Aspen Family Centre twice a week. The family centre worker to make one outreach visit per week to the family home.

THE FAMILY MEMBERS

7. MISS FRANCES JAMES

I understand that Miss Frances James has had many difficulties in her life which have resulted in a certain level of depression. Social services, together with Dr Busby, her G.P., have obtained psychiatric help for her and an assessment is underway.

8. MRS BEATRICE JAMES

Mrs Beatrice James has been very involved in Mark's upbringing since 3 February 2002, when Mark's father Robert Brady died and Frances together with Mark moved in to live with her mother. She has offered considerable encouragement and support.

9. MRS JEAN BRADY

Mrs Brady is very keen to offer every assistance for Mark and has found it very distressing that Frances resists her involvement in Mark's care. She also finds Mark a very difficult boy to comfort and console. She says that when Mark stayed with her he was extremely distressed by not being with his mother and she feels that she will not be able to offer Mark the care he needs.

10. MARK JAMES

Mark is a friendly and intelligent child. He has been disturbed by the events over the last year which is manifested by his showing aggression to other children on occasion. He has been found by both grandmothers to be very difficult to handle and he suffers enormous distress when he is parted from his mother. The Aspen Family Centre have noticed eating problems.

CURRENT SITUATION

11. I was appointed to be the social worker for Mark James on 5 May 2003. I was asked to co-ordinate the care plan and prepare a thorough assessment of risk for the first Child Protection Review. Sadly I have been unable to carry out these tasks due to the difficulties Frances experiences both in remaining at the same address and in keeping Mark with her. It is true that both have been ill — Frances with food poisoning and Mark with 'flu but this does not explain the series of crises with which social services have been confronted.

12. As will be seen from the Chronology, since 9 March 2003 Frances has asked for Mark to be placed with alternative carers three times. In the last year he has also moved many times with his mother.

13. It is particularly sad that Frances has not been able to avail herself of the help which has been offered; in particular she has only attended the Aspen Family Centre twice. The visits of the family assistant have not been frequent because Mark has not remained in Amble House Hostel but has been moved around.

14. Frances finds it very difficult to discipline Mark other than by physical chastisement and she has confessed on a number of occasions that she hits him on the head. She hit Mark on the head on one occasion with a can of baked beans on 29 April 2003.

15. As a result of this chastisement a further 'Child Protection' Investigation was undertaken. The decision of the social worker undertaking the investigation was that Mark should remain with his mother, who expressed a strong desire to prove that she could cope with Mark.

16. Social services have been keen to encourage Frances to learn to cope with Mark because he is very distressed when separated from her. However, this must be balanced against the risk of physical injury to Mark. In fact, Mark has been placed with his grandmothers on a number of occasions and when he was last placed with Mrs Brady, Frances did not contact him and resisted attempts of Aspen Family Centre to encourage her to do so.

CONCLUSION AND RECOMMENDATION

17. The Social Services Department is extremely concerned both at the number of times Mark has been separated from his mother and the abrupt way in which these separations have been organised. We also remain alarmed at Frances' difficulties in handling her son, and in particular at her frequent recourse to physical punishment.

18. As a result of the above, the department is of the opinion that the child has suffered significant physical and emotional harm.

19. In order to establish some stability and security for Frances we feel it is vital for the department to have a degree of control over the situation since it has been shown that at present she is unable to care for Mark.

20. With this aim we would respectfully ask the Court to make Mark James the subject of an Interim Care Order for eight weeks. Most importantly this would provide the child with a much needed period of security and would also enable the social services department to undertake a comprehensive assessment of the child's needs.

CARE PLAN

21. Were the Court to make such an order, the care plan would be as follows:

(i) Mark to remain in the short-term care of Mrs Beatrice James at 8 Eaton Road, Aardvark.

(ii) Supervised contact between Mark and his mother either at Aardvarkshire County Council or a person nominated by Aardvarkshire County Council, at least twice weekly.

(iii) Aardvarkshire County Council Social Services Department to undertake a thorough assessment of the long-term needs of Mark in order to help the family to plan realistically for his future.

Emily Rosalind Cromack

Aardvark Social Services

Date: 4.6.03

Statement by Frances James

First statement of
Frances James
Dated 20 June 2003

IN THE AARDVARK FAMILY PROCEEDINGS COURT

IN THE MATTER OF THE CHILDREN ACT 1989

Case/FPC/2003/99/411

IN THE MATTER OF MARK JAMES D.O.B. 2.2.00

BETWEEN

AARDVARKSHIRE COUNTY COUNCIL

Applicant

and

FRANCES JAMES

Respondent

STATEMENT OF FRANCES JAMES

I, FRANCES JAMES, of Amble House Hostel, Amble Road, Aardvark, Aardvarkshire make this statement believing it to be true and knowing that it may be used in Court proceedings.

1. I am aged 30 years and I was married to Mr Robert Brady on 2 February 1997. We lived with his mother at 2 Aylsham Road, Aardvark until Robert's death on 3 February 2002. Mark and I went to live with my mother at 8 Eaton Road, Aardvark until New Year's Day when Mark and I left to stay with some friends in Hillside.

2. I found it quite difficult looking after Mark on my own and mentioned this to my solicitor when I visited her concerning Robert's estate. It was at my request that the Social Services were contacted to help me look after Mark. Through Social Services I received support from the Aspen Family Centre. I also contacted the local authority and was provided with temporary half-way accommodation at my present address. It is a bedsit in a large house and bathroom and toilet facilities are shared with other residents. I had understood that as and when suitable Council accommodation became available this would be provided by the local authority for myself and Mark. Being on my own again I found it increasingly difficult to cope and this was why the Social Services became more involved again and led to the interim care order being made, to which I consented, and to which I refer to below.

3. I have been shown a copy of the initial report to this Court by Emily Rosalind Cromack dated 4 June 2003 and would, firstly, comment on the chronology as follows:

11.2.03 As stated above, I found it difficult on my own when I first moved into Amble House with Mark. On the afternoon/evening of the 11 February I returned to Amble House after doing some shopping and, for a reason that I cannot recall, I slapped Mark across the back of his head. It was only a light slap. I think that David Farley was in the bedsit with me when this happened. Understandably Mark cried and I understand that a neighbour or the warden called the police as I had also had an argument with a neighbour. Mark was placed with foster parents for a couple of days but returned to me soon because he was very distressed about not being with me.

24.2.03 I could not attend the Aspen Family Centre as I was unwell and could not get to a pay phone which is in the street outside.

9.3.03 I admit that I told Mrs Elsa Dredge of the Aspen Family Centre that I was having problems with Mark and had hit him around the head as a form of discipline. I did not say that I was worried that I could kill him. I accept that I asked for Mark to be looked after by someone else and was happy for my mother to look after him.

29.4.03 I admit that I hit Mark with a can of beans. I was cooking in the bedsit and Mark was crawling around my feet. I think that it is very dangerous to have Mark in the kitchen area when I am cooking and tried to encourage Mark to play on the bed. He refused and kept on twisting himself around my legs so that I nearly lost my balance. The can was in my hand and I did tap him on the head with it. I explained this to Wendy Clark and she seemed to understand my difficulties.

12.5.03 I did slap Mark twice on the head. They were only light slaps and I did admit this to the social worker.

4. I accept that I have had personal difficulties in the past. This was made worse because of the unsatisfactory accommodation arrangements living with my husband's parents when my husband was alive. I always felt that the house was run by my mother-in-law and there were constant stresses and arguments within the family and between my husband and myself. Likewise, after Robert's death, upon moving in with my own mother I found it very difficult to feel in charge of my own baby and my life. Whilst I felt that I had to get out of the situation I was lonely and found it difficult to cope in the bedsit at Amble House.

5. However, immediately upon explaining to my solicitor that I needed help and finding out that Social Services could help, I have kept in contact with them and freely told them about the problems and difficulties which I have had. The only exception is when I was ill.

6. It is my long-term intention that Mark should live with me. There is a very strong bond of affection between us. My present plans are that David Farley and I intend to live together. Prior to the interim care order being made I was told by the local authority that I would be allocated a council flat but I am worried that these arrangements may be delayed or cancelled because Mark is not with me. I am sure that if I had proper accommodation I would be able to look after Mark on my own. My situation would be much easier as and when David Farley and I live together and I accept that there may be the necessity for some initial supervision by the Social Services Department.

DATED this twentieth day of June 2003

SIGNED *F. James*

FRANCES JAMES

Statement by Emily Cromack (2)

Report of E. R. Cromack
Dated: 29/9/03
Filed on behalf of Aardvarkshire County
Council

TO THE AARDVARK COURT

IN THE MATTER OF THE CHILDREN ACT 1989

IN THE MARK JAMES D.O.B. 2.2.00

Case No. 03/CCO 222

Date of Hearing:

A REPORT TO THE COURT

Completed by:

EMILY ROSALIND CROMACK
B.A.DIP.SOCIAL STUDIES C.Q.S.W

This Report has been prepared for the Court and should be treated as confidential.

Signed ***Emily Cromack***

Dated ***29/9/03***

1. I am Emily Rosalind Cromack. I hold the Certificate of Qualification in Social Work which was gained at the University of Leicester in 1985, and the Diploma in Social Studies. I am a social worker employed by the Applicant, the Aardvarkshire County Council.

2. In preparing this report I have consulted social services' files, visited and interviewed Miss Frances James, Mrs Beatrice James and Mrs Jean Brady. Whilst Mark was living with his maternal grandmother I saw him three times. I also saw him once when he was living with Mrs Jean Brady.

3. I have also spoken to Dr. Alfred Moon, Consultant Paediatrician, Mrs Elsa Dredge, Aspen Family Centre worker and Miss Wendy Clark, family assistant.

INTRODUCTION

4. Following the granting of an interim care order on 9 June 2003, Mark remained in the care of his maternal grandmother, Mrs Beatrice James. On 15 June 2003 Mrs James suffered a mild heart attack and as a result was unable to look after Mark. Since this time Mark has been staying with an experienced foster carer, Mrs Annette Falls.

5. In early March Aardvarkshire County Council Social Services Department had started a thorough assessment of Mark's long-term needs in order to help the family to plan realistically for his future; this assessment was completed in August 2003.

6. The following is a summary of the assessment:

Problems experienced by the child, areas of concern about him and his upbringing.

(i) Repeated abuse resulting from lack of control

7. Miss Frances James makes no secret of the fact that she has frequently resorted to hitting Mark about the head (on one occasion with a can of baked beans) in her attempts to discipline him. This information has been corroborated by Mr David Farley and Mrs Brady who said that when Frances and Mark were living with them Frances frequently hit her child.

Attempts by members of the family to alter this behaviour were allegedly met with the response 'he is my child and I will do what I like with him'. On occasion, however, Frances was sufficiently concerned by her own behaviour to report it to the health visitor who unfortunately took no action.

8. Miss James has given two main reasons for the way she has treated Mark; one is that she herself was under considerable mental stress and often heard voices telling her to hurt the child; the other is that she admits she is unable to discipline Mark in more acceptable ways.

(ii) *Neglect*

Areas of concern centre upon the following:

(a) *Inappropriate food*

9. Mark was a very poor eater whilst in his mother's care. On a visit to Miss James on 25 April 2003 Miss James described a typical day's meals as cereals for breakfast, no lunch except crisps, and a pizza or sausage for supper. Miss James says that she cannot cook. The diet given to Mark when he was living with Mrs Brady was marginally better but Mrs Brady told me on 14 May 2003 that often he had no breakfast, a snack for lunch, a pizza, baked beans, sausages and chips, or spaghetti for tea. The only vegetables he liked were cabbage and peas.

10. Whilst living with Mrs Beatrice James, Mark's appetite increased markedly. He began to eat a wide and varied diet and put on weight. There have been no further problems with appetite whilst he has been with the foster carer.

(b) *Exposure to physical danger*

11. When I saw Mrs Brady on 15 May 2003 she reported to me that when Miss James and Mark lived with them Frances used not to keep a proper watch on Mark; for example, the child would follow his mother upstairs and the latter would not be aware of what he was doing. Twice Mark fell downstairs, once down a whole flight.

(iii) *Emotional Abuse*

(a) *Inappropriate handling*

12. Frances James' attitude towards Mark was reminiscent of a four-year-old with a doll; she would sometimes give him a lot of attention, relating to him most affectionately and playing with him patiently and appropriately. However, she would then become tired of him and pass him to someone else to look after. This behaviour was reported to me by both grandmothers and Mrs Brady on 15 May 2003 also said that if Frances was watching television and Mark wanted cuddles she would push him away. Frances' explanation for this was 'he winds me up'.

(b) *Serious over protectiveness*

13. Prior to the making of the Interim Care Order, the relationship between Mark and his mother was unhealthily close during the times when Frances James was paying Mark attention. When I first met them on 5 May 2003 Mark was physically clinging to his mother throughout the interview. On that date also the family center worker told me that, far from trying to foster some independence, Frances James seemed to be encouraging dependency.

(c) *Lack of continuity of care*

14. Before leaving the family home of her husband and mother-in-law, Frances James once went away for a week taking Mark with her. Mark was also placed with both his grandmothers since the incident of physical abuse on 9 March 2003. Since 3 January 2003 Mark was moved eight times and been cared for by three different carers.

(d) *Inappropriate non-physical punishment*

15. Mark has reported to Mrs Jean Brady that Mr David Farley used to lock him in his bedroom when he was naughty whilst he and his mother were staying with him, and one assumes that Frances James did nothing to prevent this.

(e) *Family conflict*

There is a good deal of conflict between Frances James and Mrs Jean Brady. When Mark was staying with his paternal grandmother Frances refused to have any contact with him. In her dealings with social services Frances James has shown herself to be of a volatile disposition; Mrs Jean Brady told me on 15 May 2003 that she and Frances would argue frequently in front of Mark and Mark would cry on these occasions.

(iv) *Physical problems exhibited by the child*

16. Mark is in average health and there has been no concern on the part of doctors or health visitors.

(v) *Behavioural or emotional problems exhibited by the child*

17. Both Frances James and Mrs Jean Brady reported sleep disturbance; they said that Mark was very restless in his sleep and tugged at his hair; Frances James told me that he often cried in his sleep as though he were having a nightmare. This problem has also now been overcome.

18. Frances James, both grandmothers and staff at the Aspen Family Centre have reported Mark to be aggressive, both to other children and to adults. He did not play well with other children and found it impossible to share.

19. Mark was prone to temper tantrums if he did not get his own way and there was also a suggestion that he started tormenting Mrs Jean Brady's cat.

20. Both the health visitor and I have noted that Mark is over-friendly to adults and seems extremely anxious to please.

21. The most positive features to emerge from this assessment are:

(i) the very real affection which each of the adults has for him, and the reasonably good understanding of ways to stimulate and play with him. He has always been kept clean and appropriately clothed.

(ii) the progress which Mark made whilst in the care of Mrs Beatrice James, a progress which has continued in his present foster placement. Mark's temper tantrums have diminished and he is relating better to other children. As well as overcoming his eating problems, the child now sleeps in a bed, and a room, of his own and has a strict routine for bedtimes. His temper tantrums are diminishing and he has responded well to clear boundaries of behaviour. He has grown in confidence; he no longer has a fear of adults and no longer clings to his mother.

FAMILY COMPOSITION

FRANCES JAMES (d.o.b. 1.4.73)

22. Miss Frances James has told me of continuing difficulties in her parents' relationship during her childhood. She recalls her parents frequently arguing and fighting. She has also told me of physical abuse in her childhood by her father who used to hit her around the head and sometimes throw crockery at her.

23. Frances James went to Hap School, Aardvark. This is a school for children with learning difficulties. She was never happy there and was bullied. As a result she used to truant. After leaving school she had a few jobs as a shop assistant but has not worked since her marriage.

24. Six years ago Mr and Mrs James moved to Cornwall to live for a year. Frances was so upset at being left and losing their support that she attempted suicide by taking an overdose. She was found by Mr Robert Brady who was living next door at the time. She remained in hospital for two weeks and then received psychiatric treatment as an outpatient.

25. Both grandmothers say that Frances James has always had difficulty in caring for herself and it appears that the stress of being expected to look after herself and Mark caused her to panic. Certainly she has become much more relaxed since this responsibility has been lifted from her.

26. The Social Services Department and Dr Busby, Frances James' general practitioner, had serious concerns regarding Frances' mental state, primarily caused by her assertions that she was hearing voices which had told her to harm herself. She was referred by Dr Busby to Dr Doogle, Psychiatrist at Aardvark General Hospital, who, in turn, referred her to Dr Farmer, a consultant psychiatrist for people with learning difficulties. It was Dr Farmer's opinion that Frances James was not suffering from a psychiatric illness.

27. I understand that there is a report before the Court in respect of Miss James, completed by Dr Peters, Community Clinical Psychologist. He detected no evidence of a psychiatric illness during the time of his assessment.

28. With regard to Miss James' parenting capacities I noted that he included the following: 'Miss James will need continuing support in parenting, home making skills, and organisation, setting boundaries for her child and emotional and physical support for her. Frances may find Mark's needs and behaviour very demanding and stressful and there should be some respite facility built in, even at short notice in order to give her a break before things reach a crisis situation.'

29. Miss James is currently living with her partner, Mr David Farley, and they have both told me that they intend to remain together, although I understand from Miss Wendy Clark, the family assistant, that the relationship is a volatile one and that Miss James has complained to her of the difficulties between them.

30. Mark does not like Mr Farley and has repeatedly expressed this dislike to the foster carer and to Wendy Clark. One example occurred on 11 August 2003 on a contact visit with his mother, Miss Clark noted that Mark refused to approach, or speak to, Mr Farley, and appeared quite uncomfortable throughout the visit and asked several times whether it was time to go home. Mark has not as yet been able to give any reason for this dislike.

MARK JAMES (d.o.b. 2.2.00)

31. Mark is an extremely attractive child, both in appearance and in personality. He is bright and lively and his behaviour is probably in advance of his age and stage of development. He concentrates well and is rewarding company. He responds well to affection and returns it happily.

32. Mark has been very upset by the lack of continuity of care, and in particular was quite devastated when first his mother and then his grandmothers appeared to abandon him. Despite this he settled in reasonably well in his current foster placement.

33. Mark is very attached to his mother. He is now friendly towards other children and plays well with them. He has started nursery school at Aardvark Nursery School three mornings a week.

34. Mark's capacity for adapting to changes in his circumstances is great, but I fear that, if major disruptions continue, this capacity will become superficial and may mask an inability to make and maintain close relationships.

CONCLUSION AND RECOMMENDATION

(i) OPTIONS AVAILABLE TO THE COURT

(a) *Making no order*

35. As will be seen from the chronology, between 3 January 2003, when Frances left her mother's home and 16 June 2003 when Mark was placed with his present foster carer, Mark has experienced 8 moves. It was with the prime intention of seeking some stability for Mark, pending the completion of the comprehensive assessment, that the local authority applied to the Court for an Interim Care Order. Sadly this stability was not achieved and not surprisingly Mark has now expressed the belief that 'nobody wants me'. The Court may now well take the view that making no order at all would return this child to the same chaotic situation from which we sought to protect him.

(b) *Making a residence order in favour of Miss Frances James*

36. There is genuine love between Miss James and her son but she is unable to care for him on a permanent basis as has been well demonstrated in this statement. The grounds for making the interim care order on 9 June 2003 were that it was reasonable to believe that the child would be at risk of significant harm were such an order not granted to the local authority.

37. Miss James maintains that she is now in a stable relationship and will receive assistance from her partner, Mr David Farley, in caring for Mark. However, this assertion in itself underlines her own doubts about her capacity to look after Mark without substantial assistance. Furthermore, Mark has no relationship with Mr Farley and indeed has taken a very strong dislike to him.

38. It remains the opinion of the local authority that the situation which obtained when the first interim care order was granted has not changed, and that Mark would still be at risk of significant physical and emotional harm in the care of his mother.

THE WELFARE CHECKLIST

39. Before taking a decision, the Court will wish to pay particular regard to the following factors:

(i) *The wishes and feelings of the child*

40. Mark is not yet four years old and is too young to take a long-term view of his situation. He has clearly demonstrated his affection for his family members and continued contact with them is a priority. However, he has also demonstrated feelings of anxiety and insecurity at his frequent moves and a fear that 'nobody wants him'.

(ii) *Physical, educational and emotional needs*

41. Mark has settled well in his present placement, has formed a good relationship with his foster carer, Mrs Annette Falls, and relates well to various relatives and friends of the foster mother, and to her grandchildren.

42. There is no doubt that Mark's physical and emotional needs are well met in his present foster placement. His educational needs will be met by local authority primary and secondary education.

(iii) *The likely effect on him of changes in circumstances*

43. Mark has experienced repeated moves in his short life and he must find it very difficult to understand why. Unfortunately, neither grandmother can look after Mark because Mrs Beatrice James is physically unable to look after him and Mrs Jean Brady cannot control him and Mark is very anxious and distressed from not seeing his mother.

44. Mrs Annette Falls is committed to caring for Mark until a permanent home is found for Mark. A further move is unavoidable and it is hoped that Mark will not be too distressed by this. Certainly, the next move must be the final move for Mark.

(iv) *Ability of the parent to meet the child's immediate and long-term needs*

(v) *Any harm which Mark has suffered or is at risk of suffering*

45. These are well documented in this Report.

GRANTING AN ORDER IN FAVOUR OF AARDVARKSHIRE COUNTY COUNCIL

46. It is my professional opinion that, without the granting of an order to Aardvarkshire County Council, Mark would return to the situation from which the local authority originally sought to protect him, a situation which comprised repeated moves and different carers and which caused him both physical and emotional harm. It is, therefore, the considered view of the local authority that Mark would be at risk of further significant emotional and physical harm were the Court not to make an order today.

47. It is of paramount importance that Mark is allowed to settle, as quickly as possible, with a family with whom he will remain throughout the rest of his childhood. This, in my opinion, would not be achieved through the means of a supervision order. Past experience has unfortunately shown that children under such an order do not experience the sense of security and permanency which are vital to their emotional development and well-being.

48. In my view, the only option which will confer upon the local authority parental responsibility is a care order which will enable the local authority to make long-term plans for Mark. His overriding need at present is for a warm, secure, stable environment where he can grow and develop to his full potential. In the longer term the local authority would seek to secure his future within a permanent alternative family, preferably in an adoption placement. The local authority plan is detailed in the care plan.

49. Mark has strong attachments to his family, particularly to his mother. However, the need for contact with her must be balanced against the need to find him a permanent alternative family. The latter need is a priority in Mark's life and cannot be allowed to be jeopardized by contact with his birth family which could undermine a permanent placement.

I therefore respectfully recommend to the Court that it grants to Aardvarkshire County Council a care order in respect of Mark James.

EMILY ROSALIND CROMACK

SOCIAL WORKER, AARDVARKSHIRE COUNTY COUNCIL

DATE: 29.9.03

Psychology report by Dr Ralph Peters

AARDVARK COMMUNITY HEALTH (NHS) TRUST
Psychology Department
Aardvark Hospital, Aspen Lane, Aardvark.
Tel: 03100 111111 ext. 2222 Fax: 03100 111113

Private & Confidential

PSYCHOLOGY REPORT

Name: Ms Frances James
Address: Amble House Hostel
Amble Road
Aardvark
DOB: 1.4.73
GP: Dr Busby
Aardvark

Background Information

Ms James talked about aspects of her past life including alcohol, drugs and also about the family situation quite candidly and accurately. She was reticent about her husband's recent death. She did not like living with his family. She said Mark was a 'handful' and would throw temper tantrums.

Ms James said that she had attended special school. Past occupation which was of short duration centred around cleaning work which she said she enjoyed. Ms James said that she would also enjoy working with animals.

I gained the impression that Ms James did not continually want her child with her. She said that her current boyfriend, David, was seeing another woman and might leave Ms James.

Presentation

Ms James presented as a slightly shy fairly well dressed person who was punctual for the assessment. She was quite articulate, friendly and polite. We got along well. Ms James reported accurately details of her life and was well aware of time and place. She spoke clearly in answer to questions. Most of the time she gave the impression of someone with a low average level of intelligence although occasionally there were signs of a borderline learning disability.

Ms James was co-operative and well motivated throughout, rarely losing concentration. This was for two one and a half hour sessions separated by one and a half hours.

Tests Given:

1. The Weschsler Adult Intelligence Scale — Revised (WAIS—R)
2. Ravens Coloured Progressive Matrices
3. Schonnel Reading Test

Tests Results:

1.	<u>WAIS—R</u>	
	<u>Verbal Sub Tests</u>	<u>Scaled Score</u> (Average intelligence is approximately 10)
	Information	3
	Digit Span	5
	Vocabulary	5
	Arithmetic	3
	Comprehension	5
	Similarities	6
	<u>Performance Sub Tests</u>	
	Picture Completion	6
	Picture Arrangement	4
	Block Design	6
	Object Assembly	2
	Digit Symbol	4
	Verbal IQ	= 70 (lower end of the borderline range of learning disability)
	Performance IQ	= 67 (top end of the mild range of learning disability)
	Full Scale IQ	= 67 (top end of the mild range of learning disability)
2.	<u>Coloured Progressive Matrices</u>	
	Mental Age	= 9.25 years
3.	<u>Schonnel Reading Test</u>	
	Reading Age	= 7.9 years

Discussion of Test Results:

Ms James presented as someone who is functioning intellectually within the mild/low borderline range of learning disability (IQ approximately 70 World Health Organisation classification) in both the verbal and performance areas of IQ. Her verbal abilities were very slightly superior to her performance abilities.

Out of interest I compared the current sub test scaled scores with those obtained by a psychologist in 1994. The Verbal IQ was an improvement this time. IQ 70 compared with IQ 61. The Performance IQ was very slightly poorer this time, IQ 67 compared with IQ 71. However if one scores the best scaled scores from the two assessments the result still shows Ms James to be just into the borderline range of IQ.

The Ravens Progressive Matrices concurs with the intellectual level reached on the WAIS. This test sees if a person is capable of forming comparisons and reasoning by analogy. In this test, Ms James was capable of solving some of the more difficult problems. The Ravens Coloured Progressive Matrices showed Ms James had a reasonable grasp of non-verbal reasoning. Such a person often learns to read and write, acquires a moderate vocabulary and adjusts not unsuccessfully to a stable environment, but lacks originality and finds difficulty in meeting novel situations effectively.

From the information subtest, Ms James' verbal skills and general knowledge ability are very limited which has a bearing on her educational background as well as a low intelligence. It could reflect a lack of academic opportunity or interest.

Ms James' immediate auditory memory was well below average ability. She showed difficulty in reverse sequencing of a series of digits which shows some spatial deficit; it showed that Ms James could hold only a few data bits in her immediate memory briefly and at the same time juggle them around mentally. Lack of perseverance seemed to be a factor here.

The Vocabulary Subtest which is a measurement of both verbal and general mental ability (intelligence) was well below average and reflects poor early socialisation experiences and schooling. Ms James was able to describe the meaning of 'assemble', 'fabric' and 'repair' but not 'regulate', 'terminate' or 'domestic'.

Ms James was only able to cope with the most simple mental arithmetic problems in the form of adding and subtraction. She showed only very basic numerical reasoning. This reflects poor early schooling attitudes or experiences. The arithmetic results may predict Ms James' ability to work with arithmetic problems in logical and daily problems. Although Ms James seemed to 'build up a barrier' and seemed defeated quite early, I feel that if so motivated Ms James could improve on her mathematics skills.

Ms James' low comprehension score showed a low social knowledge ability, common sense judgment and practical reasoning. An inability for Ms James to describe proverbs suggests poor practical reasoning and abstract abilities. The verbal factors on this subtest is influential and to some extent long-term memory and experience.

The similarity subtest is a test of verbal concept formation. Ms James was asked to explain what each of a pair of words had in common. She showed difficulty with more advanced logical and abstract reasoning parts of the test. This test showed that Ms James has low verbal skills and she responded in a concrete fashion generally to the questions. This was her best verbal subtest result and was well below average.

The Performance subtests were well below average ability. They showed Ms James to have limited planning ability and foresight, a limited ability to assess non-verbal social interactions and in her sequential thinking, including the ability to see relationships between events, establish priorities and order activities chronologically. She also showed difficulty with forming and testing hypotheses (possible stories) and in sequencing material in a logical order (Picture Arrangement). Ms James could describe each scene in the picture arrangement subtest, but was unable to link things together in a story scenario except for the simplest one. This suggests an inability to think through the consequences of an event, demonstrating somewhat a lack of ability to plan ahead.

Ms James' visual motor co-ordination was good on both the Block Design and the Object Assembly subtest. Her (non-verbal) reasoning and organisation ability on both tests however was well below average. Most of the simpler items on the Block Design test showed good basic planning, problem solving and pattern replication. The more difficult items gave more hit and miss responses with this test but Ms James persevered until the time was up on each design. Ms James followed instructions completely. There was evidence that she became defeated early on in the Object Assembly subtest.

The Digit Symbol subtest showed that Ms James quickly 'caught on' to what was required in that she was able to associate a particular symbol with a particular number. This test measures basic learning skills and visual memory. Her approach was accurate and very neat but very slow which penalised her. This test score can also be affected by anxiety, although none was detected by the examiner.

Conclusions and Recommendations:

Ms James presented on this occasion as a cooperative, quiet, cheerful, friendly lady with a mild/borderline learning disability. She was well motivated to attend the interviews, both lasting one hour and a half. She accepted the usefulness of such an assessment and responded to positive feedback. She was anxious to receive results. Ms James was well aware of time and place. She appeared to be well aware of her current situation and gave accurate descriptions.

Ms James from the assessment appears to be functioning at a concrete level and her short-term memory has some limitations.

I feel that Ms James in theory already has enough ability to act as a base for appropriate housekeeping and parenting. Her concentration seems to be good. A quiet and respectful approach would seem to be ideal in order to maintain her interests and maximise learning of which there were some evidence during the assessment. Ms James' reading ability is reasonable, although her comprehension level is lower than this. She would be able to read instructions given to her by experts regarding parenting skills, but I feel that the material would need to be presented in a very clear way and repeated a number of times. Any parenting intervention by care staff would, I feel, need to be tactfully and carefully implemented or else there could be a danger that it might be seen by Ms James as intrusive and hence possibly rejected. Her ability to change is possible but would be a slow process I feel. It would need careful planning with much repetition and consolidation. Mark needs consistency and a predictable and non-violent upbringing.

The arithmetic subtest results are such that Ms James, although being able to deal with basic arithmetic problems, would need help in some areas of budgeting for example.

It appeared to me that Ms James' feelings towards her child and her commitment to him is unclear. In any case, I feel that Ms James, would need continuing support in parenting, home making skills, and organisation, setting boundaries for her child and emotional physical support for her. I feel that Ms James' behaviour towards Mark and the consequences of this could be discussed with her in detail. I think that at times Ms James may find Mark's needs and behaviour very demanding and stressful and there should be some respite facility built in even at short notice in order to give her a break before things reach a crisis situation.

I am a bit concerned about the reliability, stability and commitment by Ms James' boyfriend from what she said. An earlier report talked of Ms James being beaten by her father in childhood. This early violent environment could have some impact on Ms James' parenting in times of stress. Any wish for Mark to live with Ms James in the future should be carefully planned, I feel, with a detailed risk assessment.

Assertiveness training could be useful for Ms James so that she may learn to communicate her needs and feelings more effectively and appropriately and would also presumably increase her self confidence. Counselling of Ms James could be offered to help her to come to terms with difficulties in her life and with her suicidal ideas of the recent past.

I detected no evidence of a psychiatric illness during the time of the assessment.

Further education classes (programmed) or sheltered employment/job training could be considered. A befriender could also be considered for Ms James.

RALPH JJ PETERS B.Sc., (Hons), C. Psychol., AFBPS
Principal Community Clinical Psychologist

18.7.03

Pyschiatric report by Dr John Head

**PSYCHIATRIC REPORT on
FRANCES JAMES D.O.B. 1.4.73**

REF: CASE/03/CCO 222

Applicant: Aardvark County Council

Respondent: Frances James

PREPARED BY DR JOHN HEAD
M.B., Ch.B., D.P.M.F.R.C.Psych.

TRAUMATIC STRESS CLINIC
AARDVARK COMMUNITY HEALTH SERVICES NHS TRUST

1. This report is by Dr John Head M.B., ChB., D.M.F.R.C.Psych. I have been a Consultant in Child and Adolescent Psychiatry for nineteen years and currently am Consultant to the Traumatic Stress Clinic, Aardvark. I have a special interest in the forensic psychiatry of my speciality and in particular concerning the effects upon children of psychological trauma.
2. The report is written in response to a letter of instruction from the solicitor to the Children's Guardian, Helen Goulding, dated 9.6.03, and should be read in conjunction with that letter and the list of documents supplied to me which is attached as an appendix.
3. This is a very sad story outlined only in brief detail in the documentation supplied. Throughout I have had the benefit of regular discussions with Helen Goulding and Ms Elsbeth Haps, Mark's solicitor, but regret that there has been no further written information from the Department of Social Services since Emily Cromack's statement of June 2003.
4. This report should be read in particular with that currently in preparation by Helen Goulding.
5. In brief summary, Mark was not known to the Department of Social Services until January 2003 when his mother's solicitor referred Miss James and her son to them to obtain support for Miss James in caring for Mark. Miss James and Mark had left the home where they had lived with Mark's father, Mr Brady, and paternal grandparents on the death of Mr Brady.
6. Ms Cromack's chronology describes subsequent events. It is puzzling to read this since on 9 March 2003 Miss James admitted to the local authority that she was 'hitting Mark round the head and is afraid she will kill him'. Mark stayed briefly with his maternal grandmother and then, even though the local authority had also heard from Mark's paternal grandmother that the child's mother was liable to hit the child on the head, he returned to live with his mother. Similarly, on 29 April 2003 Miss James hit the child on the head with a can of beans. Mark was taken to live with his mother at David Farley's flat on 2 May 2003 but Miss James was unable to look after Mark and Mr Farley telephoned Social Services asking for assistance.
7. The local authority commenced care proceedings on 4 June 2003.
8. There is common ground that Mark was a very disturbed little boy at the time he joined his maternal grandmother in May 2003, that he became able to eat and sleep better and to show less disturbed behaviour during his time with Mrs James and that he is in need of a permanent home.
9. My concern on reading the papers was that Mark already had had a number of moves, that little was known about the family history on either side and that the assessment by the local authority was as yet brief.
10. My original letter of instruction asked me to see Mark separately and with his mother and Mr David Farley. These interviews took place at the Aspen Family Centre in Aardvark. Helen Goulding arranged that Miss James and Mr Farley would arrive first and that Mark would be brought to the centre by his foster mother at a later part of the morning. In the event Mark arrived very soon after we had begun to talk to his mother, but was able, having briefly greeted his mother, to play within the family centre while we interviewed his mother and Mr Farley.
11. Miss James understandably was tearful and angry throughout our discussion though she remained in control of herself. She said that she was very, very upset and that she felt suicidal. Earlier that week she had been on her own while Mr Farley went to visit some of his family and she had just passed out and had not answered the phone. Mr Farley had been so worried he had thought of phoning the police and ambulance. Two months ago Miss James had attempted suicide and 'took a bottle full of tablets'. She only had outpatient treatment and would not consult doctors because she did not like them.

12. She spoke approvingly of Dr. Peters (clinical psychologist) who, she said, 'had given her a good report'.
13. I would like to have got a history of Mark's birth and development but understandably enough, Miss James was too distressed for this to be a possibility.
14. The picture I did get was a fragmentary one. She spoke of her own childhood. She said her parents 'dumped her'. She said 'I used to be an alcoholic before I had my kid'. She said she could not read. 'I was never at school — trying to sort myself out. My Mum reckons I shouldn't have kids'. Miss James said her own father used to hit her. I could not get her to say anything about her husband and his death and how it has affected her.
15. Mr Farley was very quiet during much of this except when he joined in to blame Social Services that Mark had been moved. I asked Miss James what could be said to a judge to show that things would be different and better for Mark if he were now to live with his mum again when things had gone so badly wrong this year. Miss James says that she has changed. Mr Farley said that she had 'stopped flying off the handle'.
16. Miss James said that Mark was different; Mark had held her hand crossing the road and she thought somebody must have been talking to Mark about this.
17. Mark then spent time with his mother, sitting on her knee and chattering. Miss James was very gentle and affectionate with Mark during this period.
18. Mark acknowledged Mr Farley with one brief, smiling look, otherwise his attention was entirely with his mother.

OPINION AND RECOMMENDATIONS

19. This is a very sad story, and one which is difficult to piece together. Miss James is reticent about her husband, and has struggled to look after Mark since his death. The grandmothers have tried to assist but the solutions are only piecemeal and Mark has been subjected to many moves this year.
20. The overreaching need now is for a coherent plan so that Mark has a stable and secure upbringing and that Mark's needs are also explored. He does not appear to have been affected by his father's death — see the report of his Child Psychologist, Dr Abby.

My recommendations are as follows:

- 20.1. There is need for sight of the evaluation and care plan concerning Mark which is in the course of preparation by the Department of Social Services.
- 20.2. It is a relief to read the report of Dr Abby but it is important that the little boy continues to receive detailed paediatric assessment and there may be need for psychological assessment to enable better planning of his early learning needs and emotional state.
- 20.3. There is need for a detailed life history to be put together of Mark whatever the decision of the court.
- 20.4. I was very concerned about Miss James and her high level of distress. There is as yet, I note, no psychiatric assessment available as was agreed by her solicitor and I hope that this will happen but the need also is for Miss James to receive some psychological help via her family practitioner and the National Health Service. If Miss James does agree to a psychiatric as well as a psychological assessment, I hope that agreement will be reached that this information is available to Miss James's general practitioner. I hope also that Miss James will seek help in her own right.
- 20.5. There should be a claim in respect of Mark to the Criminal Injuries Compensation Board and permission should be given for relevant documentation from the court proceedings to be used in this claim.
- 20.6. Whilst each grandmother has done her best to assist Mark in his upbringing, they are not able to have the daily care of him. It is very sad when a relative would like to but is unable to look after a child. It is saddest of all to talk to Miss James whose limited understanding, unhappiness and entirely unrealistic expectations of a new relationship indicate that she herself is very vulnerable and that a child in her care would be even more so.
- 20.7. I agree with the view of the Guardian that this little boy needs a legally secure home and that adoption is the best way forward. Thought must be given to the nature of the adoption, with at least indirect contact between Mark and his mother. However, Mark's need for reliable, predictable adult attachment figures must in my view overreach any other consideration.

SUMMARY

21. I support the making of a care order and that Mark James be placed for adoption.
22. I write this report believing it to be true and knowing that it may be made available in a court of law.

John Head
.....

Dr Head

19th September 2003

LIST OF DOCUMENTS

1. Statement of Frances James dated 20.6.03
2. Statement of Emily Cromack dated 4.6.03
3. Psychology report of Dr Ralph Peters dated 18.7.03
4. Application by the local authority for a care order dated 4.6.03
5. Report of Dr Abby dated 1.7.03

AARDVARK COUNTY COURT

CARE PLAN IN RESPECT OF MARK JAMES, DOB 2/2/00

This Care Plan is based upon the guidance contained in The Children Act 1999 Guidance and Regulations (Family Placements), Volume 3, Page 13, Paragraph 2.62.

1. MARK'S IDENTIFIED NEEDS

- (a) Mark is of white European origin, his parents do not practice any particular religious denomination and have not stipulated any particular religious preference for Mark.
- (b) Mark is a healthy child and has no particular health needs at present.
- (c) Mark is an intelligent child and is currently attending Aardvark Nursery School three mornings a week.
- (d) Mark may need specialist psychologist help in the future as a result of his experiences.

2. HOW THE ABOVE NEEDS MIGHT BE MET

The above needs can be met in a warm, stable, secure environment within a permanent family placement. Given Mark's age it is the view of the Local Authority that an adoptive placement would most appropriately meet his needs.

3. AIM OF PLAN AND TIMESCALE

- (a) By the date of the final hearing the Local Authority plans for Mark will be well on the way. Whilst not wishing to pre-empt the Court's decision, such plans have been undertaken to avoid undue delay.
- (b) The E Forms will have been completed and these will be presented to a Permanency Planning Meeting on 29.10.03. If the Department plans are approved in the Permanency Planning Meeting, a date will then be sought to present Mark's needs to the Adoption Panel. Until a suitable adoptive placement is found, Mark can remain in his present placement.

4. PROPOSED PLACEMENT (TYPE AND DETAILS)

This has already been dealt with in 2./3. above.

5. OTHER SERVICES TO BE PROVIDED TO MARK AND/OR FAMILY EITHER BY LOCAL AUTHORITY OR OTHER AGENCIES

Life story work is currently being undertaken to help Mark unravel the emotions of his past experiences and hopefully to develop an understanding of his true circumstances.

6. ARRANGEMENTS FOR CONTACT AND REUNIFICATION

- (a) At the present time Mark has contact with his birth family as follows: weekly supervised contact with his mother which takes place at the Aspen Family Centre and fortnightly unsupervised contact with his grandparents at their homes.
- (b) If the Local Authority application for a care order is granted, its intention would be to reduce contact with his mother to fortnightly contact.
- (c) Thereafter for the next four contacts, they will again be reduced to monthly contact. From this time onwards until an adoptive placement is identified, the Local Authority would seek to offer mother and the grandparents monthly face to face contact.
- (d) The Local Authority will make the utmost effort to identify an adoptive family who will be able to tolerate face to face contact. However, in the view of all professionals involved, in the event that such a family could not be found, Mark's need for a permanent family must take precedence over contact.

For this reason the Local Authority will seek leave at the final hearing of his care proceedings to refuse face to face contact between Mark and his mother. This will ensure that if a placement which could tolerate face to face contact cannot be identified within a time scale consistent with Mark's need for permanency, he could be placed with an appropriate family without delay. Clearly this option would be the last resort.

- (e) Alternative forms of contact, ie, exchange of photographs and progress reports, are considered to be an appropriate method of meeting the majority of Mark's contact needs.

7. SUPPORTING THE PLACEMENT
- (a) The present carers are being supported by the Family Placement Team.
 - (b) Mark continues to have regular input from social workers and an important focus of this work is compiling the life-story work.
8. LIKELY DURATION OF PLACEMENT IN THE ACCOMMODATION
- Unable to comment at this present time.
9. CONTINGENCY PLAN — IF PLACEMENT BREAK DOWN
- The Local Authority will seek to find an alternative placement.
10. WHO IS RESPONSIBLE FOR IMPLEMENTING THE PLAN (SPECIFIC TASKS AND OVERALL PLAN)
- (a) Life-story work — Emily Cromack, Social Worker
 - (b) Contact arrangements — Jane Fowler, Social Worker and Wendy Clark, Family Assistant.
 - (c) Jane Fowler is now the allocated Social Worker.
11. SPECIFIC DETAIL OF THE MOTHER'S ROLE IN THE DAY TO DAY ARRANGEMENTS
- The mother would be consulted, where appropriate, for example major decision making and the Local Authority will continue to work in partnership. However, as the mother is not the primary carer, it is envisaged that she would have only limited roles in Mark's day to day care.
12. THE EXTENT TO WHICH THE WISHES AND VIEWS OF MARK, HIS MOTHER AND ANYONE ELSE WITH A SUFFICIENT INTEREST IN THE CHILD HAVE BEEN OBTAINED AND ACTED UPON AND THE REASONS SUPPORTING THIS
- (a) Mark is too young to express a realistic view about his immediate and long-term needs. As far as Miss James is concerned she has been made aware of the Local Authority's plan and has indicated through statements to the Courts she will oppose the plan.
 - (b) The view of the Children's Guardian has been sought and it is understood that she supports the Local Authority proposal to seek an alternative family for Mark.
13. ARRANGEMENT FOR INPUT BY MOTHER, MARK AND OTHERS INTO THE ONGOING DECISION MAKING PROCESS
- Miss James would be consulted as described in Paragraph 11 and in addition would be invited to attend statutory reviews and planning meetings. The allocated Social Worker would be the first point of contact in the intervening periods in between these meetings.
14. ARRANGEMENTS FOR NOTIFYING THE RESPONSIBLE AUTHORITY OF DISAGREEMENTS OR MAKING REPRESENTATION
- The mother would be given a copy of the complaints procedure and would be advised of the Local Authority policies.
15. ARRANGEMENTS FOR HEALTH CARE (INCLUDING CONSENT TO EXAMINATION AND TREATMENTS)
- Currently Miss James has refused to sign medical consent for emergency treatment. The mother would be notified wherever possible of any planned medical appointments and, except in an emergency, her view would be sought.
16. ARRANGEMENTS FOR EDUCATION
- Mark's educational needs will be met by the Local Authority primary and secondary education. Mother can approach the school direct for progress report.
17. DATES OF REVIEWS
- The next Statutory Review is arranged to take place on 12 November 2003. At 12 midday.

Emily Rosalind Cromack
Social Worker
Children and Families

Aardvarkshire Social Services

22 October 2003

REPORT OF THE CHILDREN'S GUARDIAN FOR
AARDVARK FAMILY COURT
REGARDING

MARK JAMES (D.O.B. 2.2.00)

Case/03/CCO 222

DATE OF HEARING 3.12.03

REPORT PREPARED BY

HELEN GOULDING
AARDVARK PANEL OF CHILDREN'S GUARDIAN
REPORTING OFFICERS
AARDVARK

CONFIDENTIAL

It is an offence punishable by fine and/or imprisonment to reveal the contents of this report to any person who are not either a party to these proceedings or the legal advisor to such a party. In addition you may be liable for damages for the libel or slander on the publication of its contents.

INTRODUCTION

1. This is my consolidating report for the Final Hearing.

NATURE OF THE PROCEEDINGS

2. This is an application by Aardvarkshire County Council under s 31 of the Children Act 1989 for a Care or Supervision Order in respect of Mark James d.o.b. 2.2.00. The first hearing took place in the Aardvark Family Proceedings Court on 9 June 2003 and Mark was made the subject of an Interim Care Order. This was subsequently renewed on 3 August 2003, 29 August 2003 and 26 September 2003. The proceedings were transferred to the County Court on 27 September 2003 given the increasing complexity of the case and estimated length of a final hearing in excess of 5 days.

THE GUARDIAN'S INVESTIGATION

3. I was appointed to this case on 4 June 2003

4. I have interviewed or discussed the case with the following people:

Emily Cromack	Social Worker	4.6.03; 26.9.03
Sarah Morgan	Manager	4.6.03; 26.9.03
Frances James	Mother	26.6.03; 23.7.03; 30.7.03; 10.9.03; 19.9.03
Beatrice James	Maternal Grandmother	6.6.03; 10.7.03; 22.9.03
Jean Brady	Paternal Grandmother	11.6.03; 9.7.03; 29.9.03
Dr John Head	Consultant Child and Adolescent Psychiatrist	11.7.03; 8.8.03; 26.9.03
Annette Falls	Foster Carer	18.6.03; 18.7.03; 15.8.03

5. I have seen the following documents:
- a copy of the Local Authority's application for a Care or Supervision Order dated 4.6.03
 - statement of Emily Cromack, social worker, dated 4.6.03
 - statement of Frances James, mother, dated 20.6.03
 - statement of Emily Cromack, social worker, dated 29.8.03
 - Psychological Report by Ralph Peters dated 18.7.03
 - Medical Report by Dr Abby dated 1.7.03
 - Psychiatric Report of Dr John Head, Consultant Child and Adolescent Psychiatrist dated 19.9.03
 - Statement of Wendy Clark, family assistant
6. I have attended two Professionals meetings on 17.7.03 and 15.8.03 where issues were clarified.
7. I have had access to Aardvarkshire's records relating to Mark James on 17.6.03. It was helpful to see this material. I have received minutes of reviews and planning meetings I was unable to attend. This has also been informative.
8. At the time of writing this report I am not aware of additional evidence being relied on in this case.

EVENTS LEADING TO THESE PROCEEDINGS

9. Social Services contact with the James' family in the period preceding these proceedings is outlined in the chronology at the front of Emily Cromack's statement dated 4.6.03. The main events leading to the Local Authority's application are outlined in this statement. They may be summarised as:

- Mark James being placed by his mother with other carers on a number of occasions and has been unsettled by these temporary arrangements.
- Frances James' physical and emotional abuse of Mark.
- The concerns were emphasised by Mark's name being placed on the Child Protection Register on 19.2.03.
- Frances James' lack of co-operation with the help and services she was offered.

FAMILY HISTORY

10. I do not believe it is necessary for me to duplicate the basic information contained in Emily Cromack's statement or chronology.

THE CHILD

11. Mark James will be 4 next February. He is a white male child of British origin. He has short straight hair and blue eyes. He has an assertive personality, can be quite a chatter box and is not shy in asking questions about his circumstances and family.

12. Mark enjoys attending Nursery School three mornings a week. He gets on well with his peers. He can be stubborn and independent but is learning to co-operate and join in. He is interested in books and puzzles. He loves stories being read to him and is at his happiest at bath times — the quiet time of the day when he is particularly responsive. He has a good routine and frequently tests the boundaries. He can be very demanding and quite fixed in his stance sometimes but responds to individual encouragement. He needs a great deal of consistent and firm encouragement. It is clear that Mark's behaviour can at times be very challenging and may require additional input. Also, that urgent action as per the Care Plan is indicated.

THE WISHES AND FEELINGS OF THE CHILD

13. Mark is not old enough to express an informed view of his own. He had hoped to live long-term with Mrs Beatrice James, his maternal grandmother. In part, he feels let down by her. He enjoys contact with his mother but is not distressed on concluding these sessions and returning to his foster carer. Mark understands the plan is for his Social Worker to look for a family where he will be special and be able to stay there while he grows up. He likes the idea of being somewhere special but he does not fully understand what this means.

ASSESSMENT OF FRANCES JAMES AS A CARER

14. Frances James is 30 years old. She lives with her partner David Farley at 3 Waterside, Aardvark. This is a two bedroom flat. She has lived in this accommodation with Mark on a previous occasion and intends to look after Mark at this address.

15. At a general level I believe Miss James is fond of Mark. She has co-operated with Social Services and my own enquiries. She has also attended contact and planning meetings regularly. However, in the period between February and May 2003 Miss James' parenting of Mark fell below an acceptable level. This is the main thrust behind the Care Proceedings. Mark was subjected to physical abuse on a number of occasions. This resulted in Mark being temporarily separated from his mother. The physical assaults on Mark were the subject of Child Protection investigations. The serious view taken of the initial incident is reflected in Mark's name being placed on the Child Protection Register for likely physical abuse on 19.2.03. It is evident that Miss James felt Mark was beyond her control. Also that she was not able to make effective use of the help and support she was offered at the time.

16. When the Care Proceedings commenced Mark's behaviour was unsettled and disturbing. He appeared to lack sound boundaries in his daily life. He needed a basic routine, careful reassuring about sleeping in a bed by himself in a separate room, was prone to tantrums as a means of stubbornly obtaining his own way and had an unsettled sleep pattern. He frequently experienced nightmares. There is also an impression that his diet was inadequate and lacked quality and reasonable variety. This is not a positive reflection on his mother's parenting.

17. In her statement Miss James describes her early married life as being stressful living in the Brady household. It is clear that the marriage ran into difficulties and the couple were in frequent dispute. Also, that a number of their conflicts were unfortunately played out in front of Mark.

18. A separate tension is apparent — Miss James' commitment to developing her relationship with Mr Farley. In this respect Mark's needs did not come first. In discussions Miss James said her relationship with Mr Farley is of several months standing. It has already been through a number of crises as Mr Farley prevaricated over whether he would live with Miss James. The relationship is a relatively new one. I note Emily Cromack describes Mark's reticence toward Mr Farley and the allegations that he is said to have locked Mark in his room.

SUMMARY

19. Miss James has experienced a stressful life which has contained significant rejections and losses (parent, husband, daughters and sister). While she is fond of Mark she has not always been able to put his needs first. Her standard of parenting has been less than adequate and Mark's development has been harmed. At times Miss James subjected Mark to physical and emotional abuse. She is in the early stage of developing a relationship with Mr Farley. At present I have reservations about its stability. I do not believe it is in Mark's interests for him to be placed in this environment. Using the past as a guide to the future, there is a likelihood of harm to Mark.

THE LOCAL AUTHORITY PLAN

20. The Guardian is expected to comment on the Local Authority's activities and plans.

ACTIVITIES

21. This is an appropriate application by the Local Authority as the threshold criteria was met.

22. With hindsight it is clear that the focus on Mark's needs could have been sharper. In the February to May period there are a number of occasions on which Mark was hit by his mother. This is linked with Miss James' allegedly hearing voices telling her to do this and on 9 March 2003 she said she was afraid she would kill him. I do not understand why he was returned to his mother's care after the Police Protection Order lapsed in March. I am surprised the Local Authority did not adopt a more assertive approach given the background context of the Child Protection Registration on 19 February 2003.

23. Statutory Reviews took place satisfactorily and the case records were in good order.

PLANS

24. The Local Authority has provided a detailed Care Plan in relation to Mark.

25. The central thrust of the plan is to seek a permanent family placement for Mark outside his natural family, preferably through adoption. If a Care Order is granted the Local Authority intends to reduce current parental contact. Having attended the professionals meeting on 15.8.03 I understand the contradiction in paragraph 6(d) of the Care Plan has been clarified. When the right family has been identified the Department will return to Court to ask for permission to refuse contact and will plan goodbye meetings between Mark and his mother. It is not anticipated that face to face contact will take place beyond the permanent placement. However, an annual indirect post box contact will be offered.

26. There is nothing in the account of Miss James to indicate that Mark safely could be returned to her. Miss James appears to have limited understanding and has entirely unrealistic expectations of her new relationship. Miss James is herself of a vulnerable disposition and a child in her care would even more so.

27. I endorse the need for detailed life story work.

SUMMARY OF THE GUARDIAN'S ASSESSMENT

28. In reaching a decision about which course of action will best safeguard the child's welfare the Court must have regard to s 1(3) of the Children Act 2003.

s 1(3)(a) The ascertainable wishes and feelings of the child concerned considered in the light of his age and understanding

29. I have commented on this in paragraph 14.

s 1(3)(b) The physical, emotional and educational needs

30. *Physical* — Mark is making satisfactory developmental progress.

Educational — Mark has been harmed by his family's inability to offer him enduring security and affection. He is puzzled about his future and firming up the Care Plan is a matter of the extreme urgency. The provision of future psychological and health inputs needs to be borne in mind.

Intellectual — The early indications are that Mark has reasonable abilities and needs encouragement to use them to the full.

s 1(3)(c) The likely effect of any change in his circumstances

31. The plan is for Mark to remain in the beneficial foster placement until he has been prepared and is ready to move to the family (preferably adoptive) that will be special for him and is matched to meet his needs. This will need to be planned and carried out with suitable sensitivity.

s 1(3)(d) His age, sex background and any characteristics which the Court considers relevant

32. I have commented on this in paragraphs 12 and 13.

s 1(3)(e) Any harm which he has suffered or is at risk of suffering

33. Mark has been physically abused by his mother. It is also clear that Mark has been harmed by the many temporary moves he has already unfortunately experienced. His grandmothers are not able to look after him.

s 1(3)(f) How capable is the mother in meeting Mark's needs?

34. I have commented on this in paragraphs 16 to 20. Mark's long-term needs are most likely and effectively to be met outside his natural family.

OPTIONS AVAILABLE TO THE COURT

s 1(3)(g) The range of powers available to the Court

Is the making of an Order better than making no Order?

35. I believe the threshold criteria of significant harm is established in this case. Mark has been subject to physical and emotional abuse and there is a likelihood of future harm. I believe an Order is indicated so that he is protected by a statutory monitoring of his welfare. Also that the Care Plan is implemented with a sense of urgency to meet his future needs. Sadly his natural family is not able to meet them.

Section 8 Orders

36. I do not think the use of s 8 Orders (Residence, Contact, Prohibitive Steps or Specific Issue orders) are appropriate in this case.

Supervision Order

37. A Supervision Order would place the Local Authority under a duty to offer advice, assistance and befriending which would benefit Mark. The Order would last for one year in the first instance but could be renewed for a further period — up to three years in total — if appropriate. Social Services would have a statutory monitoring role in relation to Mark's welfare.

Care Order

38. Would share parental responsibility between the Local Authority and Frances James.

SUMMARY AND RECOMMENDATIONS

SUMMARY

39. This is an application by the Local Authority for a Care Order in respect of Mark James. The application is based on the harm he experienced in his mother's care (physical and emotional). It is likely Mark would be harmed by returning to his mother's care. Mark has been very unsettled by the rejections he has experienced. In key respects he is a rather anxious, insecure little boy whose urgent need is for a secure settled family that he can invest in, form attachments that will endure and where he will benefit from being offered structure, control and encouragement. Dr John Head supports this approach. The preferred course is with a carefully selected adoptive family. If the Court accepts the recommendation below the search for a special family can begin. Contact with his natural family will be gradually reduced and life history work will be undertaken.

RECOMMENDATION

40. I recommend that:

- (i) Mark James is made the subject of a Care Order. I understand the Local Authority will look for a suitable permanent family for Mark.
- (ii) No Order is made regarding Contact. Reasonable contact is assumed under the Children Act and the intention to offer diminishing contact is outlined in the Care Plan. In the circumstances I do not think it is necessary or beneficial for Mark to ask that contact be defined.

41. I believe these recommendations are the most effective way of ensuring that Mark's long-term needs are met.

H. Goulding

.....
HELEN GOULDING
Children's Guardian

24.11.03

IN THE MATTER OF SECTION 31 CHILDREN ACT 1989

AND IN THE MATTER OF MARK JAMES (D.O.B. 2.2.00)

SKELETON ARGUMENT ON BEHALF OF THE APPLICANT
AARDVARKSHIRE COUNTY COUNCIL

The Local Authority seek a Care Order combined with no order as to contact.

I THE THRESHOLD CRITERIA

It is submitted that Mark James has suffered significant harm attributable to the care given to him by Frances James. This harm has been of both a physical and emotional nature. The threshold criteria are met.

(i) Physical harm

It is submitted that Frances James has failed to control her own behaviour and has excessively physically chastised Mark.

(ii) Emotional harm

It is submitted that:

- Frances James has failed to provide any continuity of care. Between 3.1.03 and 19.5.03 Mark moved 7 times.
- Whilst Mark was in the care of his mother, he was emotionally over-protected to an excessive extent and Frances James' handling of him was inconsistent.
- Mark was not fed appropriately by Frances James whilst in her care.

II DISPOSAL

(i) Care Order

It is submitted that a Care Order should be made in this matter. Social Services, Dr John Head and the Children's Guardian believe that Mark needs a secure and dependable home environment, free from the chaotic, itinerant lifestyle which has characterised this year. It is submitted that a Care Order is the only way to safeguard this and that it is in Mark's best interest that he be permanently placed for adoption.

It is submitted that if the Court were minded to make either/Order or a Residence Order in favour of Frances James then Mark would be likely to suffer significant harm similar to that outlined in I above.

(ii) Parental contact

It is submitted that the overriding consideration for Mark's future is a suitable, permanent, adoptive family. It is proposed that contact between Mark and Frances James be gradually reduced to one monthly visit in preparation for this. It is submitted that it would not be in Mark's interest to have post adoptive parental contact because it may undermine future placement.

It is submitted that the Court should endorse the proposals for contact set out in the Care Plan and that the Court should make no order as to contact. It is argued that the Care Plan sets out reasonable provision for contact and a defined contact order would limit and prejudice Mark's prospects of a suitable and adoptive placement.

As regards Article 8(1) of the European Convention on Human Rights, it is submitted that the orders sought are 'necessary and proportionate' (*Re C and B (Care Order: Future Harm)* [2003] 1 FLR 611).

A BARRISTER

ADDRESS

IN THE MATTER OF SECTION 31 CHILDREN ACT 1989

AND IN THE MATTER OF MARK JAMES

SKELETON ARGUMENT ON BEHALF OF THE RESPONDENT
FRANCES JAMES

I HAVE THE THRESHOLD CRITERIA BEEN SATISFIED?

(i) Section 31(2) empowers the court to make a care order only if its satisfied:

‘(a) that the child concerned is suffering, or is likely to suffer, significant harm; and

(b) that the harm, or likelihood of harm, is attributable to:

(i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him ...’

Physical harm

It is conceded that Mark has suffered significant physical harm.

Emotional harm

It is denied that Mark has suffered significant emotional harm that is attributable to the care given to him by mother:

The Local Authority case is that from between 3.1.03 and 19.5.03 Mark moved 7 times. This is not a fair representation of the position:

11.2.03 — Mark stayed at foster parents for five nights.

9.3.03 — respite care with Mrs Beatrice James.

2.5.03 — mother and child both moved in with Mr David Farley.

12.5.03 — respite care with Mrs Jean Brady.

19.5.03 — respite care with Mrs Beatrice James.

Likelihood of future harm — physical or emotional

Although mother accepts that she had difficulty coping with Mark between 3.1.03 and 11.2.03 (first period); 16.2.03 and 9.3.03 (second period) and 26.3.03 and 12.5.03 (third period), it is important to consider the risk of future harm in the context of the following factors:

- recently widowed
- unsuitable accommodation (newly moved into bedsit in hostel in first period)
- mother’s illness (she had food poisoning in the second period)
- mother’s new relationship in the third period.

c.f. mother’s improved stability: permanent accommodation and permanent relationship with Mr David Farley.

Mother acknowledges the inappropriateness of her behaviour.

Mother accepts the need for future work.

II THE LOCAL AUTHORITY’S CARE PLAN

The Court must consider whether to make a Care Order, notwithstanding the concession by the mother that the threshold criteria have been satisfied.

The welfare of the child must be the paramount consideration and the welfare checklist applies (CA 1989, s 1(3)).

It is submitted that Mark should be returned to the care of his mother.

The proposed care plan for Mark, namely closed adoption, is not in Mark’s best interests, for the following reasons:

(i) The LA has a duty to attempt to make arrangements for Mark to live with his parents or a relative, friend or other person connected with him, unless that would not be reasonably practicable or consistent with his welfare:

see CA 1989, s 23(6)

CA 1989 Guidance (Vol 3), para. 2.6

There has been no attempt to rehabilitate Mark with his mother.

(ii) The Care Plan fails to take account of Mark's very close relationship with his mother.

(iii) The Care Plan advocates a further major change for Mark and will uproot him from all that is familiar to him.

It is the duty of the Court to scrutinise the LA's Care Plan. If the Court is not satisfied that the Care Plan is in the best interests of the child, the Court should refuse to make a care order.

Rehabilitation with mother

- Mother and Mark have a good relationship.
- Mother acknowledges that her behaviour was inappropriate. She should be given credit for reporting her problems with Mark to the LA.
- Mother has co-operated with Social Services and the GAL. She has demonstrated her commitment by attending contact and planning meetings regularly.
- Mother has enough ability to act as a base for appropriate housekeeping and parenting. Her ability to change is possible although a slow process.
- Mother accepts the need for support in parenting, and will co-operate with the LA in order to work for changes in her parenting skills. Mother also accepts the need for Mark to be introduced to Mr David Farley gradually.
- Article 8(1) of the European Convention on Human Rights guarantees the right to respect for family life.

Contact

- Mother seeks ongoing contact, including direct contact, in the event that a care order is made. Submissions as to the level of such contact will be made at the hearing.
- Family life, as protected by Article 8(1), involves regular contact.

IV CONCLUSION

1. There should be a residence order in favour of mother.
2. There should be a family assistance order.

O. COUNSEL, QC
ADDRESS