



Neutral Citation Number: [2025] EWCA Civ 1481

Case No: CA-2025-002644

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE CENTRAL FAMILY COURT
HHJ Oliver
ZC23C50240

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19 November 2025

Before:
LORD JUSTICE PETER JACKSON
and
LORD JUSTICE MILES

C (Children: Premature Determination)

Giles Bain (instructed by **London Borough of Islington Children's Services**) for the
Appellant Local Authority
Rabia Mir (instructed by **National Legal Service Solicitors**) for the **Respondent Mother**
Neelim Sultan (instructed by **Divinefield Solicitors**) for the **Respondent Father**
Caitlin Ferris (instructed by **Hanne & Co Solicitors LLP**) for the **Respondent Children**
by their Children's Guardian

Hearing date: 13 November 2025

Approved Judgment

This judgment was handed down remotely at 10.30am on 19 November 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Lord Justice Peter Jackson and Lord Justice Miles:

1. This is the judgment of the court.
2. CPR 52.21(3) provides that the appeal court will allow an appeal where the decision of the lower court was (a) wrong; or (b) unjust because of a serious procedural or other irregularity in the proceedings in the lower court.
3. In this case, the ‘decision of the lower court’ was to stay its proceedings pending the outcome of an appeal for which it gave permission itself. That unusual state of affairs arose after the judge had (as we find) brought the proceedings to a halt by expressing a concluded view about the main issue in the case in the middle of the final hearing. The appellants argue that this was a serious procedural irregularity amounting to injustice. For the reasons that follow, we agree. Having heard submissions, we allowed the appeal and remitted the matter for rehearing by another judge. We now give our reasons.

Predetermination

4. In *Lanes Group Plc v Galliford Try Infrastructure Ltd* [2011] EWCA Civ 1617; [2012] Bus LR 1184; [2012] 1 EGLR 27; [2012] BLR 121 at [45-46], Jackson LJ noted that predetermination arises when a judge or other decision-maker reaches a final conclusion before they are in possession of all the relevant evidence and arguments. In practice, findings of actual predetermination are rare, because of the difficulties of proof, and most cases therefore concern apparent predetermination.
5. As Lewison LJ explained in *Re H (A Child) (Recusal)* [2023] EWCA Civ 860; [2023] 4 WLR 64 at [63-74], the classic authorities on the question of judicial bias are not always adequate to cover the various circumstances in which a judge may be asked to recuse themselves. The question that arises in a case where proceedings are ongoing is whether a fair-minded and informed observer, having considered the facts in the context of the proceedings as a whole, would conclude that there was a real possibility that a party would not receive a fair hearing.
6. There is an important difference between a judge disclosing their provisional thinking for the benefit of the parties and a premature arrival at a settled decision. The first is acceptable and may be beneficial, while the latter is inappropriate and may well be unjust. As Sir Thomas Bingham MR said in *Arab Monetary Fund v Hashim* [1994] 6 Admin LR 348 at 356a-c:

“In some jurisdictions the forensic tradition is that judges sit mute, listening to advocates without interruption, asking no question, voicing no opinion, until they break their silence to give judgment. That is a perfectly respectable tradition, but it is not ours. Practice naturally varies from judge to judge, and obvious differences exist between factual issues at first instance and legal issues on appeal. But on the whole the English tradition sanctions and even encourages a measure of disclosure by the judge of his current thinking. It certainly does not sanction the premature expression of factual conclusions or anything which may prematurely indicate a closed mind. But a judge does not act amiss if, in relation to some feature of a party’s case which strikes

him as inherently improbable, he indicates the need for unusually compelling evidence to persuade him of the fact. An expression of scepticism is not suggestive of bias unless the judge conveys an unwillingness to be persuaded of a factual proposition whatever the evidence may be.”

These observations were made in a fact-finding context, but they apply equally to an evaluative decision.

7. Disclosure of a judge’s current thinking may be positively helpful. In *Singh v Secretary of State for the Home Department* [2016] EWCA Civ 492; [2016] INLR. 679 Davis LJ put it this way at [35]:

“... such statements can positively assist the advocate or litigant in knowing where particular efforts may need to be pointed. In general terms, there need be no bar on robust expression by a judge, so long as it is not indicative of a closed mind. In fact, sometimes robust expression may be positively necessary in order to displace a presumption or misapprehension, whether wilful or otherwise, on the part of an advocate or litigant on a point which has the potential to be highly material to the case.”

8. However, as Peter Gibson LJ warned in *London Borough of Southwark v Jiminez* [2003] EWCA 502; [2003] IRLR 477; [2003] ILR 477, [2003] ICR 1176 at [40]:

“... I would add a word of caution for tribunals who choose to indicate their thinking before the hearing is concluded. As can be seen from this case, it is easy for this to be misunderstood, particularly if the views are expressed trenchantly. It is always good practice to leave the parties in no doubt that such expressions of view are only provisional and that the Tribunal remain[s] open to persuasion.”

9. It is unnecessary to make further reference to authority. For a judge to share their provisional thinking for the benefit of the parties in appropriate circumstances is a normal element of judgecraft, but premature determination that indicates a closed mind is not. A conclusion about which side of the line a judicial intervention falls requires a sensible, and not over-sensitive, assessment of whether it gives rise to a real possibility that the proceedings as a whole would not be fair. That calls for an understanding of the intervention and the context in which it arose.

These proceedings

10. The mother has had six children, none of whom are now in her care. The eldest two have been adopted. An application for care orders was issued in June 2023 in relation to the other four children, who were then taken into foster care. In December 2024, the elder two of these children, then aged 8 and 5, were made subject to special guardianship orders with a family placement in Ireland. The youngest children, R and A, were by then aged 4 and 2. They had been separated in February 2024, and the original care plan was for them both to be adopted. A five-day final hearing to determine their futures was listed for February 2025, when the matter came before His Honour Judge Oliver for the first time.

11. The hearing in February 2025 began with evidence being given by an independent social worker and a psychologist. The proceedings were then adjourned on the second day to allow the local authority to reconsider its care plan for R. It subsequently withdrew its application for a placement order in his case, and in August 2025, he was placed in a residential therapeutic unit, aged just 5. The judge conducted four further case management hearings in the summer before the final hearing resumed on 6 October 2025, with a time estimate of three days, allowing for four witnesses to be heard: the social worker, the mother, the family finder social worker, and the Children's Guardian.
12. The position of the parties at the resumed hearing was that the local authority sought a care order for R and a placement order for A. The Children's Guardian, who had represented the four children since the outset of proceedings, had originally recommended adoption for both R and A, but now supported the local authority's revised position. The mother sought the return of both children, and particularly opposed adoption for A. A's father also opposed adoption. R's father played no part.
13. The realistic options for A were therefore a return to her mother, long term foster care, or adoption. That was the main issue facing the court. The proceedings were by now in Week 122, so A, aged 3½, had been awaiting a decision for 27 months.

The October hearing

14. On Monday 6 October, evidence was given by the allocated social worker and the mother. At the end of the day the judge gave an indication that he did not favour adoption for A. There is as yet no transcript of those remarks (though one was directed) but the parties all accept that it was a proper judicial indication, shared with the parties so that they could consider it overnight. Had matters rested there, there would have been no complaint and no appeal.
15. However, by lunchtime on Tuesday 7 October the judge had stayed the proceedings and granted permission to appeal. How that came about can be understood from the electronic recording of that day's hearing, helpfully supplied to us by the Central Family Court, to which we and the parties have listened. It would clearly have been preferable to have had the official transcript that was ordered, but the salient parts of the recording have been informally but accurately transcribed by one of our judicial assistants. An adjournment to await the uncertain arrival of the official transcript was unacceptable to everyone and we are grateful to the parties for cooperating with the court to ensure that the appeal could be heard promptly. In fact, it was helpful to us to listen to the recording of the hearing, which gives a fuller sense of events than could be gained from a written transcript alone.
16. The parties came before the judge twice on the morning of Tuesday 7 October. The first appearance lasted from about 10.30 to 10.50. There was then a break until 12.40, followed by a second appearance that lasted for ten minutes before the hearing concluded. In the meantime the remaining witnesses, the family finder and the Guardian, had been standing by to give their evidence, which could have been comfortably completed during the course of the day. Following submissions, judgment could have been given on Wednesday 8 October, as anticipated.
17. The recording of the events on the Tuesday morning reveals that the judge started by asking whether the hearing was going to carry on as if nothing had happened after his

“bombshell” of the previous day. The advocate for the local authority, Mr Coutts, then delicately probed what it was that the judge was saying, whereupon the judge went further by making it clear that he was not going to make a placement order in relation to A, no matter what evidence he heard from the remaining witnesses. He twice described the hearing of further evidence as being a waste of time. This led the parties to seek further time to consider how to proceed, which the judge readily allowed.

18. From outside court, the local authority then sent a message to the judge asking for permission to appeal on the basis that he had predetermined the issue of adoption for A. It did not ask him to reconsider his stance and it did not frame the matter in terms of recusal. When the parties returned to court, the judge immediately granted permission to appeal without seeking the views of the other parties, and he stayed the proceedings. The family finder, whose evidence would long since have been completed had she given it, was stood down. The remaining day and a half of court time was lost.

The judge’s intervention

19. In order to explain our decision on the appeals, it is necessary to quote from the transcribed recordings.
20. The first appearance of the morning began with this five-minute exchange between the judge and Mr Coutts:

“THE JUDGE: Well how are we going to proceed after I dropped the bombshell yesterday? Carrying on as if nothing's happened?

LA ADVOCATE: Well I need to address you on that.

THE JUDGE: Please, yes.

LA ADVOCATE: Your Honour, yesterday afternoon you gave comments and quite significant comments...

THE JUDGE: Yes.

LA ADVOCATE: The problem I have is that your comments could be characterised as a preliminary determination of the application. I'm not trying to read Your Honour's mind, I know that Your Honour might have a different impression of the language with which that message was delivered.

THE JUDGE: No, Mr Coutts, I don't mind not beating about the bush, no, it's not a preliminary determination, it's a clear indication that I cannot at the moment accept the care plan, I decided to tell you at this stage in proceedings because I didn't want us to waste time hearing evidence that I cannot see in any way shape or form will change my view. We're going to hear from the family finder but that is not going to tell me anything about the principle of whether adoption is the correct course of action... it'll tell me how quickly it can be done. I don't say that the child should be returned to mother, I'm not in any way suggesting that that is my view at the moment but what I'm saying is

that I cannot at the moment... I can't think of any evidence that I'm going to hear from the Guardian that will change my mind.

LA ADVOCATE: I think Your Honour, that's the problem. Your Honour has in effect indicated at this stage of the case that you cannot see any way in which evidence that you now continue to hear at this hearing will affect your Honour's view that adoption is not in [A]'s best interests. Ergo, you have determined that, in my respectful submission, and if that is right, and I know Your Honour may disagree with me about that, if that is right, then it might be prudent for me to ask you to make a formal ruling about that...

THE JUDGE: Very happy to do that, yes. I've thought about it long and hard, read the Guardian's analysis, I see what she says... though I don't see the Guardian's position in this case will change from that which she has set out... I've tried to give people a heads up and I'd rather do it now, rather than at the end of the hearing everyone think "Why didn't he tell us earlier on? Waste of time".

LA ADVOCATE: Well I don't want to debate it with Your Honour...

THE JUDGE: No, no... I'm just trying to be upfront, I'm very happy to give it as a ruling if you like, yes, please, I'm very happy to do that, I stand by what I have said, I am entirely satisfied that at the moment the evidence I've heard and relating to evidence that is about to come, I do not see that there is any evidence that I would hear, could hear, that will change the view I have which is that adoption... it may appear to be the only realistic option, feasible option for the long term... but I'm sorry, I don't accept that this, doing the way it's been done with [R] staying in residential care... that [A] will not feel in the long term that her interests have been ignored by the court in reaching the decision and when I apply the criteria in section 1 subsection 4(f) [recites from checklist, with some comment]... I am just very, very concerned that if we go down the course of action proposed by the local authority and supported by the Guardian, we are going to have [A] in all sorts of difficulties as she grows older, because she's going to have abandonment issues, there are attachment issues and she potentially when she hears it I can envisage her self harming, becoming dysregulated and ending up in the DOLS court, and I'm sorry, I simply cannot in all conscience make an order which gives an adoption away... I can't do it. I usually am certain of cases, and I sleep at night, but I cannot sleep at night if I make an adoption order in this case. I really am sorry... I simply don't believe that it is the right course of action. Anyway, I've been even more strident probably...

LA ADVOCATE: You have, Your Honour, yes, and I'm obviously on behalf of the local authority I would prefer if at all possible that we carry on and hear the evidence and Your Honour will give a full judgment and have the opportunity to hear submissions, so I reserve my position for another tribunal...

THE JUDGE: Of course.

LA ADVOCATE: In view of what your Lordship has said...

THE JUDGE: Entirely so... it's because when I give them I do give these indications, I give them very rarely, it's because I know that... I would be concerned, I really wouldn't sleep at night, I always believe that I've made the right decisions for young people and I'm not convinced that adoption is the right decision...

LA ADVOCATE: Your Honour, thank you."

21. The was then this exchange between the judge and the Guardian's solicitor, Ms Little:

"CG ADVOCATE: ... The Guardian has filed a report in February and has thought about things very carefully since your indication. She has a lot to say but given your very strong indication, I think that we need to reflect on whether we proceed because you've said what you've said and taken a view... (inaudible) before making a final decision, and you have pre-empted that...

THE JUDGE: Has she changed her mind?

CG ADVOCATE: She hasn't changed her mind but she has thought about your concerns very carefully, as have I, and we've discussed them, we've done a lot of work over what you've said... she has a lot to say, but given your indication, I would need to reflect on whether we go ahead, because...

THE JUDGE: Fair enough, entirely, I do understand that.

CG ADVOCATE: ... I don't know whether we should have a little more time to think about how to proceed... Because what you're saying is whatever the Guardian says to you, whatever she says, and she's got a wealth of expertise, more than the social worker, much more, in all sorts of fields: long term fostering, social work, guardian work and adoption. So she thought about all the issues and the welfare of all the children, that's her duty, and the relationships between all the parties... she's reflected on the expert evidence but you have said, in terms, this morning that whatever she says to you won't make any difference what she says to you. So I do think some time is needed...

THE JUDGE: No no, I'm very happy..."

22. A short submission by the father's counsel, Ms Sultan, included this observation:

"M ADVOCATE: ... I'm bound to say, Your Honour, it's not right to say that Your Honour has come to a view, a phrase that is often used. Your Honour has been seized of this matter for a very long time and Your Honour has been the tribunal when we've been in this position before, and minds have been changed..."

Soon after that, the judge stated:

“THE JUDGE: Please feel free to go outside, and take as long as you want...”

23. When the parties returned almost two hours later, these relevant exchanges took place:

“THE JUDGE: Mr Coutts...

LA ADVOCATE: I have sent you an email, I don't know if you've...

THE JUDGE: Yes, yes I've seen it. Thank you very much indeed. I've read it. I am going to give you permission to appeal –

LA ADVOCATE: Thank you.

THE JUDGE: – not because I particularly think I am wrong, but because I don't want to waste time because I am acutely aware that my decision has sort of delayed things which is why I am going to give you permission to appeal.

LA ADVOCATE: Your Honour, I think it goes without saying, I hope, that the rest of the hearing this week is stayed.

THE JUDGE: Yes, of course yes. Although if the outcome is to overturn me, you might want it in front of another judge. But that's another story, and you know, I am quite relaxed about that. The other thing Mr Coutts that you might want to do is get a transcript of the bit of the hearing this morning where I, frankly, made the decision.

LA ADVOCATE: I absolutely would want the transcript, both of yesterday and today, and I think also it might be very helpful to have the transcript of the evidence we have had so far from this part of the final hearing (inaudible) what we probably do need is a transcript of [SS]'s evidence.

THE JUDGE: Okay well thank you. Obviously, Ms [G] we are not going to need you today.

MS G (Family Finder): Okay, thank you. Thank you very much, I'll leave. See you. Bye.

THE JUDGE: Bye, um, yes well obviously we will stay the proceedings and what we will do is find out what the Court of Appeal says. And when they say it, we will work out what we are going to do next.

LA ADVOCATE: Yes, your Honour, Thank you very much.

THE JUDGE: I'm sorry that I... well I'm not sorry that I've said what I've said because I actually believe quite firmly what I've said is right, but I am sorry that it is causing a further delay which I didn't want to

do but I thought it is better to do it at this stage than to do it, I think, at the end.

LA ADVOCATE: Your Honour I – thank you for those comments.

THE JUDGE: I'm not doing it because I'm being difficult, as I said I have only about three times in my career had the feeling I can't do something, and this is one of them... of my judicial career that is.

LA ADVOCATE: Nothing more for me to say.

THE JUDGE: No no, thank you. That's fair enough. Thank you for the application. Yes, as I say, granted, so that it can be brought on quickly. Anything else?

LA ADVOCATE: Not from me Your Honour."

24. The judge addressed the mother's counsel:

"THE JUDGE: I also said, I repeat it so you're clear, my indication was not necessarily thinking about a return to mother. That wasn't – that part of the exercise – I hadn't gone through that.

M ADVOCATE: Your Honour made that perfectly plain, obviously that is a matter that is still –

THE JUDGE: Subject to determination –

M ADVOCATE: And I say nothing about that because we are only dealing with this very specific – you made it very plain that it was not in (inaudible) I am not asking you to set those reasons out.

THE JUDGE: Well because all I was satisfied was that adoption was not the right decision.

M ADVOCATE: Precisely.

THE JUDGE: What the right decision was, was not then in my mind, it still isn't in my mind, I haven't reached a decision on that."

25. Finally, the Guardian's position was again clearly expressed by Ms Little:

"CG ADVOCATE: The Guardian is very worried about the delays for [A], she supported the Local Authority application to proceed with this matter in July, which your Honour refused. And, um, she's really concerned that the difficulties that [R] has have caused this series of events which lead to where we are today. [A] needs a determination of her future, she needed it – I mean the guardian's report was in February, that's a long time ago and she needs a decision. And so the Guardian has thought very carefully about her position today, she wanted to give evidence, she wanted to expound upon the matters that you were concerned about and she would've assisted the court in

relation to matters of [A]’s future, the relationships and contact of course. She is disappointed not to be able to do, but she does agree with the Local Authority that this matter should proceed on that course.

THE JUDGE: Yes, I fully understand that. We are all grown up adults and understand one another’s position. Thank you. Right, Mr Coutts, I think I probably need an order uploaded please, because we haven’t had one. Which probably just says, something like “application for permission to appeal, appeal permission granted, proceedings stayed pending outcome of appeal”. That’s I think all we need to do on that. What I would ask you to do is once you have the decision from the Court of Appeal, if they say it should come back to me, because sometimes they say it shouldn’t, then let me know and I can have a word with the DFJ and we will get someone to deal with it swiftly. If it is going to come back to me, we’ll find a date, and I’ll put it in for further directions and see where we go from there.”

26. The hearing ended shortly after that. The only substantive orders were the staying of the proceedings and the granting of permission to appeal. No timetable was set for the filing of an Appellant’s Notice

The Appeal

27. Even though it had been granted permission to appeal in a patently urgent case, the local authority took 20 days (27 October) to issue its Appellant’s Notice and file its skeleton argument. On 12 November, the Children’s Guardian lodged a Respondent’s Notice, seeking permission to appeal on additional grounds. That application was listed for hearing with the local authority’s appeal, which was heard on 13 November.
28. For the local authority, Mr Bain argued that the transcription of the hearing showed that the judge made a plain and obvious error. His remarks went beyond permissible signposting and, as he himself realised, amounted to a clear decision on a key issue in the proceedings. By removing the option of adoption from the table, he deprived A of a full (‘global holistic’) analysis of the options for her future. The family finder would not just speak of timescales, but also about questions of contact, while the Guardian, who was A’s independent voice, was unable to articulate her professional view or respond to the judge’s original indication.
29. For the Guardian, Ms Ferris supported these submissions: the transcript shows that the judge’s mind had closed. The Guardian advanced several additional grounds of appeal. These included, first, that the judge failed to properly consider the impact of further delay on children who had already experienced extreme delay. The course he took, with no clear onward timetabling, was unconscionable. A is now rising 4 and her need for permanence greatly concerned the Guardian. Second, the judge had no regard to the fundamental principle that specific analysis is required where the court departs from the recommendations of its appointed Guardian, which took account of wider considerations than those that he referred to. Third, there was no proper welfare checklist survey, with the judge’s approach being reflected in limited references to aspects of the checklist that supported his view.

30. Ms Ferris explained, and we accept, that the Guardian and Ms Little had carefully reflected on what the judge had said on the first day. They were hoping that he would row back from that, but instead he doubled down to such an extent that the proceedings could not be concluded. In answer to a question from the court, it was confirmed that the Guardian had not entered the witness box at any stage during proceedings that had continued for over two years. The judge heard no submissions. There was a perception of unfairness.
31. On behalf of the mother, Ms Mir spoke to the skeleton argument drafted by trial counsel, Ms May, who was unable to attend the appeal. They argue that the judge gave a robust indication, not a predetermination, as he himself said at the beginning of the first exchange on the Tuesday morning. On the Monday he had invited the Guardian to give evidence. These matters showed that he did not have a closed mind.
32. On behalf of A's father, Ms Sultan submitted that there would be real disadvantages in the proceedings having to be reheard by a different judge. The judge's previous handling of the case had not been subject to criticism, indeed his indication in February had been helpful and consequential. The remarks on the Tuesday were trenchant, powerful observations, but they were not a premature determination and the fairness of the trial process was not disrupted. It can be seen that the judge had the welfare checklist in his mind. He had said on the Monday that he was very happy to continue with the evidence if any party wanted to do so. The remedy had been in the hands of the local authority and the Guardian. They could simply have called the evidence, or they could have tried to change the judge's mind by explaining to him how that evidence would be likely to assist him. In the end it was the local authority's decision not to call the family finder and the Guardian's decision not to give evidence herself. The appeals did not meet the high test for judicial recusal.

Conclusions

33. We emphasise that this is a procedural appeal. It is not about the merits of the decisions that will be made about R and A's futures, and we express no view whatever about that. We are only concerned to ensure that these decisions are taken with a minimum of further delay.
34. We do not doubt that the judge had given anxious thought to the questions that he had to decide. Furthermore, his extensive knowledge of the case, gained over the course of several hearings, placed him in a good position to give a judicious indication of his preliminary thinking, if he thought that might help the parties. He had done that in February in relation to R, and they had responded. He did so again on the first day of the October hearing, having heard the local authority's principal witness, and no complaint is made about that. These matters are important context for what occurred on the second day, and we take them into account.
35. We also take account of the fact that, over the course of the care proceedings as a whole, aspects of the local authority's planning had been subject to what it accepts was justified criticism.
36. We nevertheless find the Appellants' submissions to be unanswerable. We reject the argument that the judge's statements on the second day of the hearing amounted to no more than a robust indication. He repeatedly said that he could not sleep at night if he

made an adoption order and that it would be a waste of time to hear further evidence. He said and repeated that he had “made the decision”. This was an unmistakeable predetermination by a judge who had closed his mind to the case being advanced by two of the parties in relation to a matter of profound and lifelong importance to A.

37. It is next said on behalf of the parents that the local authority and the Guardian could have averted the breakdown of the trial. On behalf of the father it is argued that they should have persuaded the judge to reconsider his position by elaborating on all the ways in which the further evidence might have assisted him. We do not accept that submission. The local authority offered the judge an opportunity to give reassurance that he remained open to persuasion, but he did not do that, and instead expressed his views even more strongly. This placed the parties in an impossible position. It would have been unrealistic to simply call the witnesses in front of a judge who had already made his mind up on the things they would be speaking about. We also reject the submission that the advocates should have tried to persuade the judge to keep an open mind until he had heard all the evidence. Parties are entitled to expect that of a court, and should not have to argue for it. In any event, as the transcription shows, further argument (in effect premature final submissions in favour of adoption) would have been futile.
38. We regret to say that the judge’s escalating intervention had the predictable effect of derailing the trial that he was conducting. The only way the hearing could have continued would have been if the local authority and the Guardian had fallen in with his view. That is clear from the one question that he asked of the Guardian: “*Has she changed her mind?*” A fair trial was now impossible.
39. The appellants are therefore entitled to succeed, but before concluding we express our concerns about what has occurred in this case.
40. First, whilst the staying of the proceedings became inevitable once the judge had declared his hand, we do not share the equanimity with which he made that order. The Guardian is right to describe the course that he took as unconscionable. If ever a set of care proceedings should not have been indefinitely stayed, this was it. These children’s lives had been on hold for years, and delays on this extravagant scale can become decisions by default as time forecloses on the range of available options. In creating the conditions in which the hearing could not continue, the judge deprived all parties of a long-overdue decision. Even if the case could now be remitted to him, several more months would pass before a final order could be made. As it is, it may take even longer, as another judge will now have to regather the evidence.
41. Second, we have considerable sympathy with the position of the parents. The judge’s statements will have led them to feel that they had fended off the prospect of placement orders, and it is understandable that they resisted the appeal. The mother is a vulnerable person who has been involved in proceedings since the middle of 2023 and now faces the prospect of more delay, and perhaps the prospect of having to give evidence again.
42. Third, the judge’s lack of interest in hearing from the Children’s Guardian was in our view unaccountable. Children’s Guardians are a cornerstone of our public law system. The decision was not straightforward. Even if the judge’s ultimate decision was to dismiss the application for a placement order, his understanding of A’s situation could only have been enhanced by hearing from her experienced Guardian. To determine the

issue without hearing that evidence was obviously procedurally unfair. We also agree with the local authority that brief evidence from the family finder might have assisted the judge's understanding of contact issues as well as timings, but the failure to hear that evidence was not of the same significance.

43. All these difficulties could have been avoided if the judge had performed his duties in the normal way, by listening to the evidence and submissions and giving a suitable judgment. He could not have been criticised for sharing his reservations about adoption with the parties during the hearing in a manner that allowed them to consider and address them. But in attempting to short-circuit the process and impose his own views without hearing important evidence and attending to submissions, his actions had the very opposite effect.
44. We therefore made an order:
- 1) Granting permission to appeal to the Children's Guardian.
 - 2) Allowing the appeals of the local authority and Children's Guardian.
 - 3) Remitting the proceedings to the Central Family Court for early determination by another judge, starting with an urgent case management hearing.
-