

NOTE: PURSUANT TO S 437A OF THE CHILDREN, YOUNG PERSONS, AND THEIR FAMILIES ACT 1989, ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B TO 11D OF THE FAMILY COURTS ACT 1980. FOR FURTHER INFORMATION, PLEASE SEE [HTTP://WWW.JUSTICE.GOV.T.NZ/COURTS/FAMILY-COURT/LEGISLATION/RESTRICTIONS-ON-PUBLICATIONS](http://www.justice.govt.nz/courts/family-court/legislation/restrictions-on-publications).

**IN THE FAMILY COURT
AT MANUKAU**

**FAM-2015-055-000167
[2016] NZFC 2101**

IN THE MATTER OF THE CHILDREN, YOUNG PERSONS, AND
THEIR FAMILIES ACT 1989

BETWEEN CHIEF EXECUTIVE OF THE MINISTER OF
SOCIAL DEVELOPMENT
Applicant

AND NH
Respondent

AND PH
born on [date deleted] 2015
Child or Young Person the application is about

FAM-2015-055-000157

AND BETWEEN CHIEF EXECUTIVE OF THE MINISTRY OF
SOCIAL DEVELOPMENT
Applicant

AND NA
ER
HH
AM
Respondents

AND NH
born on [date deleted] 1999
Child or Young Person the application is about

Hearing: 11 March 2016

Appearances: C Mutavadzic for the Chief Executive
Respondent NH appears in Person
No appearances by or for the Respondents A, R, HH and M
J Davies as Lawyer for the Child
P Ginnen as Counsel to Assist
M Ringi as Social Worker

Judgment: 11 March 2016

ORAL JUDGMENT OF JUDGE A-M SKELLERN

[1] In respect of PH, who was born on [date deleted] 2015, the Ministry of Social Development seek a Declaration that he is a child in need of care and protection. They seek a discharge of the s 78 Order and in its place an Order under s 101. They seek the appointment as the Chief Executive of the Ministry of Social Development as Additional Guardian of PH

[2] The matter was the subject of a Family Group Conference on 8 March 2016. I will return to the manner in which that progressed shortly.

[3] First of all, there has been something of a disconnect between what I intended in terms of PH's mother's legal position and the Orders that have been made. In fact, what I intended was for Ms Ginnen's brief to be extended to provide legal support to NH in these proceedings. Unfortunately, the situation is that there is now an appointment as Litigation Guardian. That appointment can be cancelled and Ms H is able to conduct the litigation herself. She has clearly had some good support from Ms Ginnen but she understands, in fact, what is involved here and, to her great credit, is participating fully in the changes that need to be made.

[4] She attended the Family Group Conference and entered into the clear agreements that were reached on that day. It was, in fact, on 8 March 2016. She is accepting that PH is a child in need of care and protection but under s 14 (1) (a) and (b) rather than including (f). She agreed that there should be a Custody Order for PH to be in the custody of the Ministry of

Social Development and also an Additional Guardianship Order. The goal of the plan is very clear. It set out the Family Group Conference agree for Mum, NH, and baby PH to be together. There were certain very clear arrangements agreed to and the decisions of the Family Group Conference, as far as I am concerned, reflect a careful and thoughtful consideration of what is best for this little family.

[5] There is consent, as I have said, from NH as to the making of these Orders. I need to be satisfied that the Orders are in fact appropriate. Particularly first of all, with regard to the Declaration. It is clear from the background to this matter that the Declaration is appropriate and is the least interventionist manner. In fact, of assuring the safety of PH and, very importantly, the implementation of the supports and assistance that are needed for NH.

[6] Accordingly, I make the following Orders and Directions:

- (a) There will be a Declaration that PH is a child in need of care and protection on the grounds set out at s 14 (1) (a) and (b) Children, Young Persons 2004, and Their Families Act 1989.
- (b) There will be a discharge of the s 78 Order.
- (c) There will be a s 101 Order placing PH in the custody of the Chief Executive of the Ministry of Social Development.
- (d) There will be an Order appointing the Chief Executive of the Ministry of Social Development Additional Guardian of PH.
- (e) This matter will be reviewed in six months.

[7] That deals with the matter of PH. I should add that that Ms Davies supports the manner in which I have proposed to deal with the matter today and what was sought by the Ministry of Social Development.

[8] Now, in terms of Mother, NH herself, there is a review of NH's proceedings today. There is a plan and report received by the

Papakura Court on 27 November 2015. There has been some delay in dealing with this matter. There was an adjournment to enable the Lawyer for Child to file an updating report, and the social worker to file certificate of service. Once all documentation had been received, the matter was to be referred to the duty Judge for Directions. That has not happened for some reason and the certificates of service dated 24 February 2016, have now been filed.

[9] The review of NH's own plan is based on the proposal by the Ministry that the Custody Order in favour of the Chief Executive under s 101 should continue and that the Order appointing the Chief Executive as an Additional Guardian of NH should also continue with the plan reviewed in six months. NH herself consents to those Orders continuing in that matter and, as I say, service has now been completed. Ms Ginnen was intending to file a report on behalf of NH this afternoon but she is here today. She is clear that she also supports the Orders and approves of the plans that are very full and comprehensive.

[10] In order to retain PH and NH's situations together, I will deal with this matter today. There will be a review in six months to enable both situations to be looked at at the same time.

[11] Accordingly, the Custody Order in favour of the Chief Executive under s 101 is to continue. The Order appointing the Chief Executive as Additional Guardian is to continue. The plan and report are approved and the new plan is to be reviewed within six months. In fact, I am going to actually consolidate these two files so that there is no question in the future.

[12] The files of NH and PH will be consolidated to ensure they are not separated off again.

A-M Skellern
Family Court Judge