EDITORIAL NOTE: NAMES AND/OR DETAILS IN THIS JUDGMENT HAVE BEEN ANONYMISED.

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IN THE FAMILY COURT
AT TAURANGA

FAM-2015-070-000415
[2016] NZFC 3225

IN THE MATTER OF	THE CHILDREN, YOUNG PERSONS, AND THEIR FAMILIES ACT 1989
BETWEEN	CHIEF EXECUTIVE OF THE MINISTRY OF SOCIAL DEVELOPMENT Applicant
AND	OT First Respondent
AND	KP Second Respondent
AND	NT Born on [date deleted] 2015 Child or Young Person the application is about

Hearing:	14 April 2016
Appearances:	J Heerdegen on behalf of K Lellman for the Chief Executive S Edwards for the First Respondent No appearance by or for the Second Respondent T Bartlett as Lawyer for the Child (Excused) M Silver as Social Worker
Judgment:	14 April 2016

ORAL JUDGMENT OF JUDGE G S COLLIN

Introduction

[1] NT was born on [date delete] 2015. Her parents are KP and OT. Yesterday I heard the evidence in this matter and reserved my decision to be delivered orally today. Neither parent appears today to hear this decision.

[2] Before the Court for determination are applications for a declaration and on the making of a declaration, for disposition and in particular for the making of ss 101 and 110 orders.

[3] On 20 August 2015 the responsible social worker, Ms Silver, made a without notice application to the Court for a s 78 interim custody order. At the same time an application for a declaration that NT was a child in need of care and protection was made.

[4] NT was born prematurely. At the time of the application she remained in hospital. As a consequence of both her premature birth and of suffering from an illness which impacted her immune system, NT has never lived in the sole care of either of her parents.

[5] It is my understanding that on leaving hospital, she went immediately into the care of a Child, Youth and Family services caregiver pursuant to the s 78 custody order. The caregiver, Ms Currie is recognised as a specialist short-term CYF's caregiver, who provides specialist care often for young children and at times for those with special needs. It is clear from the information that I have received that Ms Currie has provided a high standard of care to NT, from which she has significantly benefited.

Family Group Conference

[6] On 11 September 2015 a family group conference was held. The record of the family group conference confirms an agreement by those present that NT was a child in need of care and protection pursuant to s 14(1)(a) and (b) of the Act. Various

agreements were reach, including that NT would be placed in a permanent placement, preferably in whānau care.

[7] Three potential caregivers were identified. Two whānau caregivers and one friend of Ms OT's. The whānau caregivers identified in order of preference were firstly HG and secondly [Mr and Mrs] RH. AS a friend of Ms OT was a backup if no whānau placement could be identified.

[8] In the course of the evidence yesterday, some dispute occurred regarding the accuracy of the family group conference record. I note however that no formal objection was taken, until yesterday. To the best of my knowledge, nothing has been filed or is present on the Court papers indicating that the family group conference record was in any way inaccurate. In addition to that, opportunities were provided to both Mr KP and Ms OT to file affidavit evidence setting out their positions and updating the Court as to their view, regarding NT's future care. Neither took that opportunity.

Issues:

[9] The matter was set down yesterday for a s 67 hearing, but this appeared to have been resolved by consent prior to the hearing commencing. It seemed at the commencement of the hearing that the issues that required resolution were:

(a) Whether or not a s 101 custody order would be made in favour of the Chief Executive;

(b) Whether or not there should be additional guardianship orders made in favour of the Chief Executive; or alternatively, in favour of Mr and Mrs RH.

(c) The approval of the plan that had been submitted to the Court by Ms Silver.

[10] The identified issues relating to the plan included:

(a) That it did not adequately provide for the religious aspects of NT's life, given that her parents identified as being [details of cultural/religious practice 1 deleted] in their culture and religious belief; and

(b) That the proposed placement with the RH's in the Kaitaia area was inappropriate, having regard to NT's medical needs and the fact that living in the four-bedroom house were the RH's together with [details deleted]. This information had, apparently, been unknown to the parents until only two or three days ago.

[11] In respect of Mr KP's position, he had an additional complaint that Ms OT had not been given a fair go at caring for NT. His view, quite well articulated by him, was that a child should first be with his or her parents and that every opportunity should have been given for NT to be cared for by one or other of them.

[12] Other issues which were raised during the course of the hearing included:

(a) The distance of the RH's from Tauranga, namely in Kaitaia.

(b) Some cultural issues which were not articulated in a clear way, but which emerged during the course of the hearing which I find to include Mr KP's own shame that the child has been taken off him and the sensitivity that he held around that from a cultural perspective, to the extent that this had never been disclosed to his parents.

(c) The hope of one or both parents and, in particular Mr KP, that some time in the future NT might be returned to either him or to Ms OT.

[13] The Ministry have in place a s 78 custody order. That order would have provided them with rights of placement but they have choice not to place outside of Tauranga, until final determination of matters by the Court. Having heard Ms Silver on this aspect of placement, I accept that it was a responsible and compassionate

thing to do and has provided an opportunity for both Ms OT and Mr KP to be involved and give them a chance to establish relationships with NT.

Parties' position:

[14] In relation to the s 67 declaration, the original grounds sought were under s 14(1)(a) and (b). At the commencement of the hearing, I was advised that there had been an agreement that a declaration could be made under s 14(1)(f), namely that the parents or guardians or other persons having the care of the child or young person were unwilling or unable to care for the child.

[15] The Ministry's position has remained reasonably clear throughout the duration of these proceedings. At the outset they have sought declarations and indicated that whānau placement was the goal. Following mediation there was a possible return home opportunity but apart from that the Ministry have maintained their position that whānau care in the care of Mr and Mrs RH was the preferred position and the one which they adopted.

[16] At the outset it was indicated that a declaration on that ground would be accepted by both parents. The issues which I thought would need to be determined at the hearing related to the ss 101 and 110 orders. Even in relation to these issues there appeared to be general agreement, but matters which had come to the notice of Ms OT within the last week seemed to change her position, to the point that she felt she was no longer able to agree, to the ss 101 and 110 orders.

[17] In relation to Ms OT, I note that she did file a notice of intention to appear on 29 September, indicating that she did not agree that NT was in need of care and protection. In support of that she filed an affidavit on 6 October 2015. I further note that nothing else was filed by her. Relevantly, at no time was any application filed to discharge the s 78 order, although her counsel, Ms Edwards, indicated by memorandum to the Court that such an application might have been made, if the proceedings had been adjourned before final determination.

[18] Ms OT readily acknowledged that she was currently unable to care for NT. This information was provided, both in her oral evidence given in Court but also contained in a memorandum filed by her lawyer in Court. The suggestion therefore made by Mr KP that she remained a care giving option, is not one that the Court could realistically have considered and a return home, in those circumstances, is not an option that was available.

[19] Mr KP filed nothing, despite being served with the application and the notice of response, and despite the explicit directions made by the Court on 19 January 2016 when he was present. Mr KP did, however, attend the family group conference on 11 September 2015, the mediation on 1 December 2015 and the Court hearing on 19 January 2016. He also attended yesterday at the hearing. I allowed him to give evidence because as the father of NT, I consider that he had a genuine interest in what would happen to his daughter and that because he is a guardian, he is my view entitled to have a say.

[20] I note also that Mr KP, although expressing that at some stage in the future he wanted NT to return to his care, made no proposal for that to happen on an immediate basis. The issues, therefore, were concerns regarding the religious practice of the proposed caregivers as [religious practice 2 deleted], the religious practices of Mr KP and Ms OT as [religious practice 1 deleted], and housing issues that were raised having regard to NT's special medical needs.

[21] During the course of his evidence Mr KP indicated he no longer agreed to the s 67 declaration being made. He was adamant he did not want NT to go north, he wanted her to be with her mother and wanted NT returned to him at some stage in the future. I accept that Mr KP had difficulties, because he was representing himself. He had taken no legal advice. Unsurprisingly he had limited knowledge about the law and the way to conduct a case in Court. In all likelihood, for Mr KP, there are cultural and language barriers which existed but not to the extent that they require the intervention of the Court by way of appointment of lawyer to assist.

[22] During the hearing I made it clear that I intended to make the declaration. I do that, firstly, by consent in respect of Ms OT.

[23] Secondly, in relation to Mr KP, I note initial consent but the fact he appeared to recant from that.

[24] I intend to traverse some of the evidence, but note that Mr KP took no formal steps. On that basis I am entitled to make a declaration, notwithstanding that he gave evidence. In any event in my view, the evidence given both orally and by affidavit from Ms Silver justifies the making of a declaration, particularly under s 14(1)(f). Even if neither party had consented, I am satisfied that the making of a declaration would have been appropriate in the circumstances outlined as set out in this judgement.

Background:

[25] In relation to NT, Ms Silver filed three affidavits 20 August 2015, 23 October 2015 and 12 February 2016. Ms Silver has been a social worker for some 25 years. She impressed as a careful and competent social worker and witness. Her evidence was in my view credible. Her affidavit sets out the concerns that she had in some detail.

[26] Ms OT is known to the Ministry and has a history of drug and alcohol misuse, although it is accepted that no drugs appear to have been used by her during her pregnancy. Ms OT also is known to have had suicidal tendencies. On [date deleted] 2015 whilst pregnant, Ms OT was admitted to Tauranga Hospital having drunk a cup of Rug Doctor Stain remover, following an argument with family members.

[27] On [date deleted] 2015 NT was born premature, she was also diagnosed as [health details deleted].

[28] On [date deleted] Mr KP admitted relationship difficulties and feelings of depression. There was a pushing incident described within the hospital. Both parties admitted some suicidal thoughts, but indicated that they had no intent nor had made any plans. Ms OT was observed to have had some self-harming by cutting her arms, and had acknowledged that.

[29] It appears as if Ms OT's grandmother with whom she had lived had died suddenly on [date deleted], removing a significant support for her.

[30] Shortly after her birth on [date deleted] NT was transferred to the newborn intensive care unit at Waikato Hospital. On the same day Ms OT is reported to have separated from Mr KP and to have been living in a car, having fallen out with her family.

[31] On 2 July Ms OT and Mr KP were apparently together working on an orchard but were homeless.

[32] On 6 August Mr KP reported having another girlfriend, but also at the time reported hopes of reconciliation and repairing his relationship with Ms OT. An argument occurred over money and the police were called, after Mr KP expressed concerns regarding an attempted suicide by Ms OT.

[33] On 10 August NT was admitted into hospital as a consequence of a sepsis infection, with her condition being serious. NT required amongst other treatment a lumbar puncture. Ms OT was informed that day, but made no visit for some two days.

[34] In her affidavit Ms Silver details hospital visits that were made by Ms OT and then, later, visits that Ms OT made to NT's caregiver. I acknowledge that the information provided by Ms Silver is disputed by Ms OT, who gave evidence that the schedules do not correctly set out all the visits that she made. In the absence of further information or details it is difficult to assess the weight that should be given to Ms OT's evidence that contradicts that provided by Ms Silver. Whilst I accept that the hospital may not always have noted Ms OT's presence. Even giving Ms OT and Mr KP the most favourable interpretation possible they demonstrate significant lack of commitment to their daughters care.

[35] Having said that I find that because of NT's high medical need it is unlikely that visits were made to NT without staff being present.

[36] The hospital notes disclosed that Ms OT visited NT on 25 June, on 1 July for one hour, on 2 July for a short visit and then again on 12 July when she visited on two occasions. Further visits occurred on 26 July, noted to be in the evening, on 27 July, and on 28 July following NT's transfer to Tauranga.

[37] For the three-week period, between about 25 June and 12 July, Ms OT appears to have been residing at Hilda Ross, which I understand to be hospital accommodation. During that period of time she appears only to have visited on about four occasions.

[38] If Ms Silver's information is current it appears that Ms OT's visit to NT on 28 July occurred at 6.50 pm and lasting only 10 minutes. On that occasion NT was seen only whilst Ms OT sat in the lounge. On 31 July a 30-minute visit occurred at 7.30 pm. NT was bathed by medical staff and watched by Ms OT. The next recorded visit was on 7 August and lasted two and a half hours. On 10 August, as I have already said, NT was admitted to hospital with sepsis infection and Ms OT was rung immediately.

[39] Ms OT did not attend hospital until two days later on 12 August 2015 when, for some unexplained reason, she attended at the hospital at 10.20 pm and visited for one hour.

[40] A number of phone calls are recorded to have occurred, some which urged Ms OT to attend on her daughter. Others recorded information being provided, regarding medical issues. I accept that phone calls were made by Ms OT to the hospital for various reasons, including to see how NT was but also to provide explanations as to why she was unable to be present.

[41] Following NT's release from hospital and going into the care of Ms Currie, visits are recorded as having occurred on 11, 18, 25 and 28 January and on 1 February. More importantly, visits which were available and not kept by Ms OT included visits scheduled for 14 and 21 January, 4, 8 and 11 February. Ms Silver gave evidence that there was a five-week period during which time there were no visits. I am unclear as to when that occurred, but cannot find from the evidence any

information regarding visits between 30 November and 28 January 2016. I accept that there may have been omissions in the information during that time.

[42] What is apparent however is that many visits were missed, principally as a consequence of Ms OT choosing or being unable to make the most of the time that was available.

[43] Various explanations have been provided by Ms OT for this, including financial problems, housing problems, a lack of support from Work and Income New Zealand, a difficult relationship with Mr KP and the eventual breakdown of that relationship sometime in December 2015.

[44] Even though I accept that the records of visits may not be entirely accurate and that there may have been additional visits made by Ms OT that are not recorded, I accept that the lack of commitment to frequent visits in itself justifies a declaration finding under s 14(1)(f). I have no hesitation in finding that Ms OT did not make the most of the opportunities that were available to her and, as a consequence, lacked the commitment to NT's care that would be expected for a child who was so young and who was vulnerable because of her health conditions.

[45] Particular care was needed to occur to ensure that NT's medical treatments were known and that the specialist help that she was receiving from physiotherapists was explained and known. All of this supports Ms OT's own evidence that she is not currently in a position to care.

[46] In addition to that, regard must be had to NT's special needs and the extra vigilance that is required, the difficult relationship of the parties, Ms OT's historical issues and the concerning mental health problems experienced by both parties. When a total picture is taken it has to be accepted that Ms OT, even if she was willing to care for NT, is unable to. Given all of the facts Mr KP's evidence that Ms OT may be able to care for NT is somewhat naïve.

[47] In this case a deep commitment to NT was needed in order to understand her medical needs. This needed to be demonstrated by regular frequent attendance,

active involvement the care and a demonstrated determine to participate in and plan any transition of NT back into the care of a parent. None of those aspects were evident in the way that either Ms OT or Mr KP approached the care of NT.

[48] All of those factors are relevant in considering the plan that has been proposed by the Ministry. In considering whether the plan is appropriate the beginning point, in my view, is the family group conference records of decisions. An agreement was reached with both parties in attendance and the outcome did not include a return home role. Rather, the overall goal and the long-term goal were for NT to be in the care of whānau in a stable environment, where she was safe and loved and where all her needs were met. The long-term goal was expressed to be for NT to be placed with a whānau member in a permanent placement.

[49] I accept immediately that a family group conference plan does not bind a parent who remains entitled to defend a s 67 application, despite an agreement having been reached. Having either consented to the s 67 order or in the circumstance where the order was in any event inevitable, I believe the matters contained in the family group conference plan are ones that can be taken into account in determining disposition.

[50] There was no suggestion within the outcome that a whānau member included either NT's parents and, in fact, preferred whānau were identified as previously indicated, being Ms HG, Mr and Mrs RH and the close family friend, AS.

[51] Ms HG, for her own personal reasons, is not in a position to care for NT. The social worker pursued the second expressed preference, Mr and Mrs RH. They co-operated with the social worker in what appears to be a responsible way and have now been approved as caregivers with very few, if any, flags as to their suitability.

[52] In all fairness to Ms OT, I need to briefly outline what occurred at the mediation conference on 1 December 2015. This conference appears to be the only time in which a return home goal was pursued. Judge Geoghegan in his minute noted that Ms OT would attend a residential programme in Rotorua of three to six

months duration, and that NT would be with her during that time. It was anticipated that, if that went well, a return to Ms OT's care could be explored.

[53] On the 18 January 2016 when this matter was next in Court it had become clear Ms OT could not attend the programme, because of NT's special needs. I accept that this was not Ms OT's fault as she could not attend because NT was unable to do so. The fact remains, however, that the opportunity for bonding between NT and her mother was lost as a consequence of this. No further alternative programme, which would have provided Ms OT with oversight and assistance in learning how to parent properly for NT, was identified.

[54] I also note by 18 January 2016 further issues had arisen which might have made a return to Ms OT's care untenable. The reasons are set out in Ms Silver's affidavit of 12 February 2016 and, in particular, the s 186 social work report attached to that affidavit as exhibit A. On 2 December the police were called to Mr KP and Ms OT's home. Mr KP had been drinking whisky and acknowledged in his own evidence in Court, was incredibly drunk to the extent that he had difficulty remembering what had occurred. Mr KP, however, advised the police that Ms OT's had cut herself, tried to set herself on fire and had been trying to hang herself in one of the kiwifruit sheds near the property.

[55] Whilst at the address police noted that there were things smashed inside, including a mirror. Clothes and bags were thrown around and that the place was dirty with dishes everywhere. Ms OT was located and she was upset. She denied however trying to commit suicide. Down her arm were fresh scratches and one was bleeding. She denied the allegations made by Mr KP. At that time, the relationship between Ms OT and Mr KP was called "toxic" by a close relative. The relationship came to an end shortly after that.

[56] The other factor highlighted in Ms Silver's report and affidavit, is Ms OT's failures to make the most of her contact visits and, therefore, to bond with NT.

[57] Given the possibility of a return home being available via entry to the residential programme, the lack of any recorded contact during this time is

surprising. The other notable factor about this report is Ms Silver's expressed preference that placement with by Mr and Mrs RH be pursued, on the basis that they had made their commitment known and that they were both willing and able to care for NT and had committed to a comprehensive transition to learn her about her routine and how to manage health issues. There can be no misunderstanding by the parents that from at least that point in time, Ms Silver's intention was that a transition occur to the RH's and that NT be located to Kaitaia.

[58] In a memorandum filed by Ms Edwards on 11 April 2016, she confirmed her client's consent to the s67 declaration, but for the first time raised issues relating to Ms OT's [religious practice 1 deleted] and the [religious practice 2 deleted] beliefs of the RH's. Prior to that time there had been no indication provided, by either Mr KP or Ms OT, that religious belief was an issue that needed to be considered. This was accepted by both of them in evidence.

[59] Until then it appears that no consideration has been given the religious issues by the parents until the strong [religious 2 practice deleted] faith adopted by the RH's had been raised by Ms Silver. Notwithstanding that Ms OT's position as paragraph 7 of the memorandum, filed by her lawyer, of Ms Edwards, is that:

> It is Ms OT's position that she does not disagree with NT being brought up in the [religious practice 2 deleted] faith. However her position is that she wants NT to have a strong understanding of her and Mr KP's cultural beliefs and therefore it is submitted that this must be included into any plan for NT so that NT has a full understanding of being [religious practice 1 deleted].

She goes on to say at paragraph 8:

> The consent position reached therefore is based on the legal position that Ms OT's guardianship rights will be not only upheld by CYFs but positive steps taken by them to ensure that they are given effect in practice.

There is no indication in the memorandum from Ms Edwards that the proposed placement was, in any way, in jeopardy, rather that proper consideration needed to be given to the parents beliefs in NT's care plan.

[60] Ms Silver filed a new plan on 12 April 2016. This endeavoured to deal with some of the issues that had been raised and dealt specifically with the religious issue

that had now been raised by Ms OT. In the responsibilities attributed to the RH's, an additional responsibility was included at paragraph 8 namely that Mr and Mrs RH would ensure that NT had accessed to cultural and religious beliefs from her [cultural/religious practice 1 deleted] background, as well as her Māori background. On the face of it this appears to deal with any objection raised by Ms OT, but I accept that further strength could be given to this responsibility, by way of an additional responsibility attributable to them.

[61] In the amended plan Ms Silver states:

> Her whānau caregivers [Mr and Mrs] RH are willing to bring their whānau of [details deleted] with them from north of Kaitaia to stay in [Tauranga] during the school holidays.

[62] Ms OT's evidence is that she had not, until that time, realised that her great-uncle and aunty had a whānau of [details deleted]. Ms OT identified this as a particular health issue for NT, noting that it would increase the risk of NT catching infections particularly as a consequence of [details deleted] of those children attending school with the potential they would bring into the home school-based viruses and infections. A concern was expressed that the plan was inadequate to protect NT from the health issues arising out of Mr and Mrs RH's full house.

[63] Ms Silver fairly acknowledged that this might be an issue, but was fully satisfied from the information that she had received, that the home environment of the RH's was entirely appropriate and that any risks could be mitigated by the care provided by the RH's to NT.

[64] I accept that evidence and have particular regard to some of the steps that the RH's have taken, to ensure that they can provide a safe home environment. I also take into account that the RH's are, in fact, the uncle and aunty of Ms OT, that Ms OT had lived there, although some time ago, and that Ms OT's father lives in close proximity, as do a number of aunties and uncles. Ms OT could, if she was deeply concerned about the environment, have made her own personal enquiries and gone up north to look for herself. She chose not to do so. It is difficult to accept that Ms OT was not aware that the RH's ran a house which was full of children, even if she was not aware of the exact details.

[65] Ms Edwards asked that additional time be provided for a reconsideration of the plan in light of the new information that had just come into the knowledge of her client, Ms OT regarding the presence of [details deleted] and the [religious practice 2 deleted] beliefs of the RH's coupled with the [religious practice 1 deleted] beliefs of Ms OT's and Mr KP. I declined that request.

Should the plan be approved:

[66] The answer to this is – yes. Although the exact circumstance of the RH's may not have been known to Ms OT and Mr KP, the RH's were preferred identified whānau caregivers from the time of the family group conference and remained so throughout the whole of the process. The circumstances were such, that Ms OT could easily have ascertained for herself information regarding her own whānau and the suitability of the placement.

[67] I am satisfied that Ms OT must have known of the [religious practice 2 deleted] beliefs of her great-uncle and his family, given that she resided at the address. In any event, even if she did not, their [religious practice 2 deleted] beliefs did not feature significantly in Ms Edwards' memorandum other than to the extent that the plan needed to take into Ms OT and Mr KP's [religious practice 1 deleted] beliefs.

[68] I am satisfied, on the evidence of Ms Silver, that the home of the RH's is a good one. The evidence is that none of the occupants in the home have criminal convictions, other than two shown against Mr RH's name, which are not his but those of his brother who wrongfully used his name. There are no domestic violence convictions, nor known domestic protection orders. No police family violence notifications are recorded and there has been no CYFs involvement in the lives of any of the [details deleted] children that are present. The information available indicates [details deleted] children are doing well at school, in their sport and, importantly, within their local community.

[69] The house is reported as being clean and well organised with the family enjoying close marae contact and having regular community involvement. The RH's

have displayed by their own actions a willingness to assume care. In Mr RH's case, he has held off taking employment so he is available to provide NT full-time care. The family have taken seriously the need to plan a transition which meets NT's needs and are all coming down to Tauranga, to ensure that this occurs in a child focused and appropriate way. The proposed placement is within whānau who are connected to the local marae.

[70] I accept that medical risks exist and this is not denied by the social worker. The reality is that for NT medical risks will exist in any placement. The real issue is how those are managed. In this case, Mrs RH is [details deleted], which indicates a concern generally for young persons. Perhaps more importantly she is [occupation details deleted] and so is, clearly, conscious of medical issues. The family have all agreed to obtain flu injections to minimise the risk of infection. A health plan has been formulated and the family have close connections to medical facilities and with local doctors. Although there is an infection risk. I accept that it has been mitigated as much as possible within the placement and will be managed particularly by Mrs RH.

[71] All of the information suggests that the RH's are good parents who are well organised, focused and with a family orientation. In those circumstances they are likely to provide careful oversight of NT's medical needs.

[72] Although there is no evidence directly from the RH's all of the information that is available suggests they are likely to be open to contact and ensure that it occurs. The RH's have expressed a willingness to learn about the [religious practice 1 deleted] and have already made some enquiries. There is some criticism that the enquiries were not correct and that their information came from the wrong source, but I have no doubt that having expressed a willingness to learn something and undertaken steps to do so, they would obtain further information if they were pointed in the right direction.

[73] With some amendment, I am satisfied that the plan adequately meets NT's need to be cared for in long-term and stable, safe environment. I note that Ms OT has expressed the possibility that she might be able to move north and also note that

there appears to be no close family ties left in the Tauranga area that would prevent her doing so, nor indeed, Mr KP from moving north if he chose to do so in the absence of family in this area.

[74] I express my concern that if there are further delays, which would be required if the matter has been adjourned, it is likely to have impacted on NT's well-being. There is a need for her to transition as soon as possible into a long-term environment. I am not convinced that any further investigations would in the end, have any impact on the final orders that I have made.

Additional Guardianship:

[75] Issues about additional guardianship have been raised. Two options exist. Either that the Ministry is appointed an additional guardian, or that Mr and Mrs RH are appointed additional guardians. In determining that the RH's should be appointed additional guardians, I have regard to NT's medical situation and the high likelihood that urgent medical treatment will need to be sought on her behalf. For her own welfare there can be no doubt that RH's should be additional guardians, so that decisions can be made on an urgent basis if necessary.

[76] I agree with the evidence of Ms Silver, that a s 101 custody order would provide them with all of the powers that they need if things went wrong. If the placement broke down for any reason they could still remove.

[77] It is important that decisions can be made in a timely fashion for NT. For that reason I am not satisfied that the current position should continue, with only the natural parents being guardians. Mr KP and Ms OT have proved to be difficult to get hold of and, at times are unreliable. This is no better illustrated by the fact they have failed to keep medical or contact visits, or attend hospital on 10 August when there was an urgent medical need.

[78] I note also that Mr KP and Ms OT failed to attend today to hear this decision. This indicates their lack of concern for NT's long-term care. I do not think Mr KP

and Ms OT can be trusted to respond in a timely fashion to medical emergencies and, therefore, additional guardians are necessary.

Order:

[79] Against all of that background I therefore make the following orders and directions:

(a) I make an order that NT is a child in need of care and protection on the grounds set out in s 14(1)(f).

(b) A s 101 custody order in favour of the Chief Executive is made.

(c) I make a s 110(2)(b) order appointing [Mr and Mrs] RH additional guardians of NT.

(d) This file is transferred to the Kaitaia Court.

(e) I approve the plan and direct a review in six months, but do make the following additions to the plan:

(i) As a responsibility of Mr and Mrs RH at paragraph 10, should be added:

1. "That Mr and Mrs RH will ensure that Ms OT and Mr KP are advised of all medical emergencies, in particular those requiring hospital admissions."

2. That Mr and Mrs RH will respect NT's background and ensure that she is provided with appropriate information and exposure to her [religious practice 1 deleted] and culture.

(ii) As a responsibility of Ms OT and Mr KP is to be added:

(iii) "That both Ms OT and Mr KP are to provide contact email and telephone addresses to both the responsible social worker and to Mr and Mrs RH to ensure that they can receive all guardian information they require."

(iv) "That Ms OT and Mr KP will provide Mr and Mrs RH with information regarding their practice of the [religious practice 1 deleted] culture and inform them of aspects of their culture and beliefs that are particularly important to them in order, to assist the RH's understanding of the religious and culture background of NT's parents."

G S Collin
Family Court Judge