



**President of the
Family Division**

TRANSPARENCY IN THE FAMILY COURTS

PUBLICATION OF JUDGMENTS

PRACTICE GUIDANCE

ISSUED ON 19 June 2024

BY SIR ANDREW MCFARLANE, PRESIDENT OF THE FAMILY DIVISION

Introduction

This guidance is issued as part of the concerted move towards greater transparency which has been taking place in the Family Court over the past three years. Its aim is to provide practical advice to judges, legal advisors and magistrates so that all may be supported in publishing judgments on a more regular basis. Being transparent includes allowing the public to understand the range of cases in the Family Court and how they are dealt with. The publication of judgments is an essential part of that process.

This guidance, which replaces previous guidance issued on judgment publication in 2014 and 2018, was produced by a group, chaired by Her Honour Judge Reardon, made up of judges, legal advisers, practitioners, CAFCASS, ADCS and young people from the FJYPB. I am extremely grateful to each member of the group for the thought and time that they have committed to this task. The approach of the group and an account of its work is explained [here](#). Work continues to secure funding for an Anonymisation Unit to assist judges with the process of anonymisation.

The aim of the guidance is to shed more light on the ordinary, day-to-day, work of the Family Court, but to do so without compromising the confidentiality of the children and family members in any individual case. Advice is given on the balance to be struck between European Convention on Human Rights, Arts 8 and 10 when deciding whether or not to publish. There is a comprehensive guide to the process of anonymisation and how to avoid 'jigsaw identification', together with a step-by-step account of the process of publication is given, including:

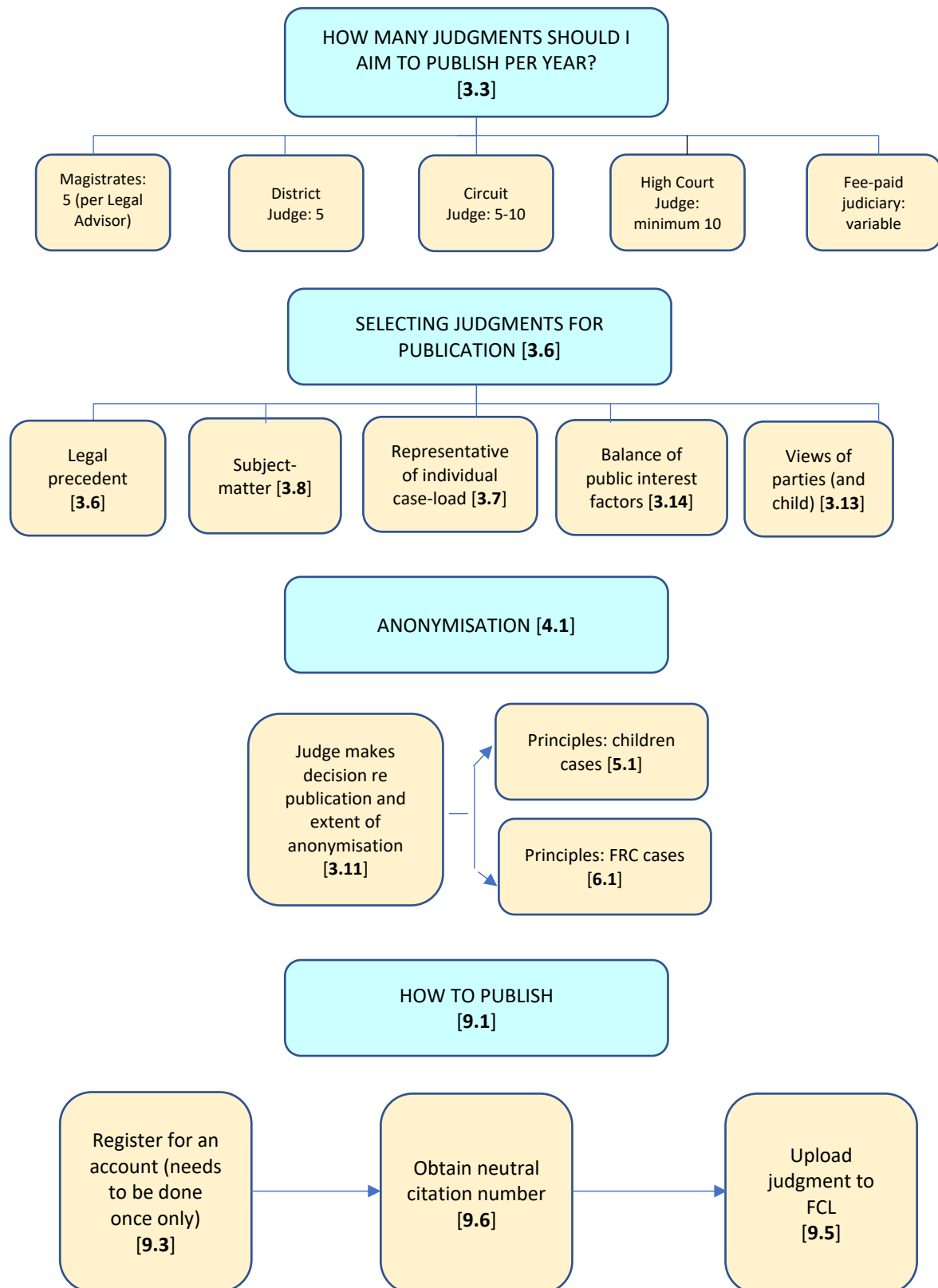
- Preparing and formatting a judgment for publication;
- Obtaining a neutral citation number;
- Uploading to the National Archives;
- What to do if a published judgment needs amending.

The number of published judgments has already increased, and I am most grateful to those judges who have taken the necessary time to do so. It is my hope that, with the support of the advice in this guidance, all judges will now play their part in this important endeavour.

Sir Andrew McFarlane
President of the Family Division

19 June 2024

Judgment Publication Guidelines: Summary Flowchart



References [XX] are to paragraph numbers in this document

PUBLICATION GUIDANCE

1. PURPOSE AND SCOPE

- 1.1. This guidance applies to all tiers of judiciary sitting in the Family Court and Family Division, and in all areas of its jurisdiction, including both children and financial remedy matters. It supersedes guidance issued in 2014 and 2018¹.
- 1.2. This guidance is intended to assist judges, parties and professionals to make sound representations and decisions about whether a particular judgment should be published and what anonymisation would be necessary and proportionate in order to facilitate that without compromising private and family life.
- 1.3. This guidance is intended to align with the courts' duties to balance any ECHR rights, and to be consistent with relevant statute where applicable, and acknowledges that in each case the court will need to consider whether an adjustment to the general approach / process set out in this guidance is required in order to strike the right balance.
- 1.4. Nothing in this Guidance affects the exercise by the judge in any particular case of any powers otherwise available to regulate the publication of material relating to the proceedings. For example, where a judgment is likely to be used in a way that would defeat any attempt at anonymisation, it is open to the judge to refuse to publish the judgment or to make an order restricting its use. In every case the terms on which publication is permitted are a matter for the judge and will usually be set out by the judge in a rubric at the start of the judgment.

WHAT THIS GUIDANCE COVERS

- DIFFERENT TYPES OF PROCEEDINGS
- SELECTING JUDGMENTS TO PUBLISH
- WHAT SHOULD BE ANONYMISED OR REDACTED?
- CATEGORIES OF INFORMATION AND THE GENERAL APPROACH IN CHILDREN CASES
- CATEGORIES OF INFORMATION AND THE GENERAL APPROACH IN FINANCIAL REMEDY CASES
- PREPARING JUDGMENTS ANONYMOUSLY
- THE ANONYMISATION PROCESS
- FINALISING A JUDGMENT
- HOW TO PUBLISH A JUDGMENT
- DEALING WITH ANONYMISATION ISSUES THAT ARISE POST-PUBLICATION

¹ Namely : *Transparency in the Family Courts, Publication of Judgments, Practice Guidance* [2014] 1 WLR 230, issued on 16 January 2014 by Sir James Munby, President of the Family Division, and *Practice Guidance: Anonymisation and Avoidance of the Identification of Children and the Treatment of the Sexual Abuse of Children in Judgments Intended for the Public Arena*, issued By Sir Andrew Macfarlane, President of the Family Division, In December 2018.

2. DIFFERENT TYPES OF PROCEEDINGS

- 2.1. The applicable statutory provisions and procedure rules will differ depending on the type of proceedings. This will potentially affect the court's approach to anonymisation.
- 2.2. Section 12 Administration of Justice Act 1960, section 97 Children Act 1989 and Family Procedure Rules 12.73/12.75 / PD12G will apply to most cases about child welfare and schedule 1 claims. However, not all of those provisions will apply to financial remedy cases. Other 'communication of information' PDs include PD9B and PD14E.
- 2.3. FPR 27.10 and 27.11 apply to all matters heard 'in private', which encompasses the majority of cases concerning children, financial remedy and domestic abuse injunctions.
- 2.4. The court's duty to act in ways consistent with the parties' competing ECHR rights pursuant to s6 HRA 1998 applies to ALL proceedings.

3. SELECTING JUDGMENTS TO PUBLISH

Number of judgments to be published

- 3.1. The starting point is the principle of open justice. It is generally in the public interest for judgments to be published, even where they arise from private proceedings, and even where there is no particular public interest in the individual case / judgment - subject to any countervailing Article 8 issues, which may justify some anonymisation but do not necessarily preclude publication entirely.
- 3.2. Alongside this important principle however, is the practical reality. It is not practically possible for judges to publish all or even most of their judgments. In reality there must be a process of selection. The expectations below are intended to strike a realistic balance.
- 3.3. It is recognised that the volume and complexity of cases, as well as the availability of time and administrative support, varies throughout the Family Court. Further to research and analysis undertaken by the Transparency Implementation Group², judges are expected to publish anonymised versions of their judgments as follows:
 - i. Legal Advisers: a guideline of five judgments from cases that they have sat on each year.
 - ii. District Judges: a guideline of five judgments each year.
 - iii. Circuit Judges: a guideline of five to ten judgments each year.

² Published on the TIG website at <https://www.judiciary.uk/wp-content/uploads/2023/02/Publication-Guidance-Subgroup-Report.pdf>

- iv. High Court Judges: a guideline of a minimum of ten judgments each year.
- 3.4. It is not possible to offer a guideline figure for fee-paid (part-time) judges, whose annual sitting commitment within the Family Court will vary significantly. These judges are expected to publish judgments in a number that is relative to their sitting commitments.
- 3.5. For the avoidance of doubt there is no upper limit on the number of judgments an individual judge may publish.

Judgments that should be specifically considered for publication

- 3.6. Judges should always consider publishing a judgment in any case where:
 - i. the judgment involves a novel point of law or establishes a legal precedent; or
 - ii. the judge concludes that publication would be in the public interest for a fact specific reason; and
 - iii. a written judgment already exists in publishable form or the judge has already ordered that the judgment be transcribed.
- 3.7. Save for the above, there is no requirement for a case to fall within a certain category for it to be deemed suitable for publication. A judge is invited to exercise their discretion to consider as potentially publishable such cases as are representative of the judge's individual caseload.
- 3.8. Categories of case where the judgment may be particularly suitable for publication include:
 - i. contested fact-finding hearings;
 - ii. final hearings on applications for orders under section 8 of the Children Act 1989;
 - iii. the making or refusal of an enforcement order under section 11J of the Children Act 1989;
 - iv. the making or refusal of an order under section 91(14) or section 91A of the Children Act 1989;
 - v. the making or refusal of a final care order or supervision order under Part 4 of the Children Act 1989, or any order for the discharge of such order;
 - vi. the making or refusal of a placement order or adoption order under the Adoption and Children Act 2002, or any order for the discharge of such order;
 - vii. the making or refusal of any declaration or order authorising a deprivation of liberty, including an order for a secure accommodation order under section 25 of the Children Act 1989;
 - viii. any application for an order involving the giving or withholding of serious medical treatment;
 - ix. any application for an order involving a restraint on publication of information relating to the proceedings;

- x. successful appeals;
- xi. final decisions in financial remedy cases;
- xii. Decisions, whether final or interim, involving significant litigation misconduct or disproportionate litigation;
- xiii. judgments in proceedings attended by a representative of the media or a legal blogger, where the court has granted permission to report the proceedings or where the media/ blogger has requested publication; and
- xiv. decisions in connection with reporting restriction or relaxation applications.

3.9. It is recognised that some judges may deliver relatively few judgments that fall within the categories above. Publication of judgments that are representative of that judge's caseload (for example, judgments delivered at the conclusion of low-value financial remedy or straightforward private law Children Act cases) will nevertheless be an important part of the process of increasing transparency.

3.10. A judgment may be published of the court's own motion, or as a result of an application by a party or interested person.

3.11. The question of whether a judgment should be published will inevitably be influenced by the options for anonymisation and redaction: see Sections 4 – 6 below. The court will need to consider both questions before reaching a conclusion on each. This is an essential part of evaluating the proportionality of interference with Article 10 rights, or with Article 8 rights.

3.12. In deciding whether and if so when to publish a judgment, the judge shall have regard to all the circumstances, the rights arising under any relevant provision of the European Convention on Human Rights, including Articles 6 (right to a fair hearing), 8 (respect for private and family life) and 10 (freedom of expression), and the effect of publication upon any current or potential criminal proceedings.

3.13. Before deciding to publish a judgment, all parties (including children who are represented, as appropriate) should be notified so that they have an opportunity to make representations about publication and anonymisation. The process need not generally be extended or complex, and may be capable of being dealt with at the conclusion of a hearing or by allowing a brief period for short email responses to be made.

The decision to publish: the balancing exercise

- 3.14. A balancing exercise is required between ECHR Articles 6, 8 and 10 (and, where applicable, other rights). The required balancing exercise is usefully summarised at paragraph 22 of *Re J (A Child)* [2013] EWHC 2694 (Fam), [2014] 1 FLR 523. In short :
- i. This necessitates 'an intense focus on the comparative importance of the specific rights being claimed in the individual case' (per Lord Steyn in *Re S (Identification: Restrictions on Publication)* [2004] UKHL 47, para [17]),

- ii. it is necessary to measure the nature of the impact ... on the child of the proposed publication,
- iii. The interests of the child, although not paramount, must be a primary consideration, that is, they must be considered first though they can, of course, be outweighed by the cumulative effect of other considerations (*ZH (Tanzania) v Secretary of State for the Home Department* [2011] UKSC 4, [2011] 1 FLR 2170, para [33]),
- iv. The court must conduct a proportionality check to strike the right balance.

3.15. The right to respect for private and family life can encompass the wellbeing and psychological integrity of the individual. This may require more than simple anonymisation.

3.16. The balancing exercise need not necessarily be laborious or time consuming. In some cases it will be comparatively easy to strike a balance between the public interest in publication and what is required in order to minimise interference with Article 8 rights to private and family life by anonymisation (or other pre-publication editing of a judgment). In other cases the balance will be less obvious, or the correct approach will be contentious.

4. WHAT SHOULD BE ANONYMISED OR REDACTED?

4.1. There is little point in publishing a judgment if it is so heavily redacted that it is unintelligible or its integrity is lost or distorted. In most cases it will be possible to publish a judgment that is a clear record of the issues in the case, the outcome and the court's reasoning, through the use of several techniques :

- i. Preparing or delivering a judgment in anonymised or semi-anonymised form to obviate or limit the need for retrospective editing and to reduce the risk of anonymisation error (see Section 7);
- ii. Replacing one potentially identifying word with another more generic marker (Somalian might be replaced with African, Finsbury Park might be replaced with North London or London, Truro with Cornwall or a town in the South West, twin might be replaced with sibling, a precise date of birth or incident might be replaced with a month, season or year);
- iii. Gisting a particular section that it is inappropriate to publish (for example summarising the nature of allegations of sexual abuse and evidence heard rather than providing the detailed analysis of graphic descriptions that might otherwise appear in the full judgment).

4.2. Some thought may need to be given to what is meant by identification or anonymisation. Is the court dealing with a generalised risk of identification, a risk of identification by peers or in the child's local community, or a risk of the child identifying him/herself as the subject of a published judgment? The court will need to consider the nature, likelihood and severity of any such risk and any potential mitigations in making a decision.

5. CATEGORIES OF INFORMATION AND THE GENERAL APPROACH IN CHILDREN CASES

- 5.1. The general process set out below (Table 1) is intended to represent a reasonable starting point for the approach to the anonymisation of children judgments for the purposes of publication. It is not intended to be a fixed or rigid default position, but in many cases this general approach or something close to it will represent good practice. It is the responsibility of the court to consider in each case whether the general approach set out is appropriate or if some adjustment is required.
- 5.2. Advocates are expected to consider whether the default position is consistent with their instructions and their clients' interests, and if not to raise these issues with the court when the question of publication becomes live, and in line with any directions the court may make for representations on the issue.
- 5.3. In children cases, if the name of a professional or expert witness is not mentioned in a published judgment, s12 Administration of Justice Act 1960 does not operate to prohibit identification of that professional by others (*Re B (A Child) v The Mother & Ors* [2004] EWHC 411 (Fam), [2004] 2 FLR 142). Any specific prohibition on identification of a professional will need specific justification (and a specific direction). Generally, protection of the identity of professional witnesses will be justified only where it is necessary to protect the Article 8 rights of the child / family concerned. Anonymisation may be justified on other grounds depending on the specific facts.
- 5.4. The court should consider each item in Table 1 below individually and in combination. By removing one identifying feature, it may be possible to leave another feature in the judgment, that will better preserve the integrity of the judgment or enhance a reader's ability to understand the case and reasons.
- 5.5. In summary however, the key principles of anonymisation are:
 - 5.5.1. The law in the Family Court is the same as in any other jurisdiction, including the application of the open justice principle.
 - 5.5.2. Anonymisation is only permissible where specifically justified on the facts of the case.
 - 5.5.3. Anonymise / redact where necessary to protect the identity of the subject child and family members (as a function of the child's Article 8 rights encompassing welfare)
 - 5.5.4. Anonymisation of professionals is only usually justified where its purpose is to ensure the anonymisation of the child/family. A speculative concern about harassment or criticism is insufficient.
 - 5.5.5. Anonymisation is not a zero sum game: removal of one fact or item may obviate the need to redact a more important fact or piece of information, thus facilitating publication of a more informative / useful version of a judgment.
 - 5.5.6. Avoid prejudicing criminal investigation / proceedings.
 - 5.5.7. Take particular care in cases involving complaints or descriptions of sexual assault or abuse.

TABLE 1

CATEGORY	GENERAL APPROACH	NOTES
Names of parties and family members	ANONYMISE	Consider appropriate pseudonym / initial (not their actual initial)
Dates of birth of children (incl twins)	REMOVE	Consider using month / season and year or years old, or descriptor of age bracket ('teen'). Consider removing references to multiple births ('twin') or age information that would identify as such
Precise numbers of children in some cases	CONSIDER	Large sibling sets or existence of multiple births might be identifying
Sex / gender of child	CONSIDER	In some cases the sex of a child will not be particularly material to the decision or the public's understanding of it. Removing references to the child's sex may increase protection against jigsaw identification, particularly in combination with removal of dates of birth and where there is a sibling group. Where sex or gender identity (if different) are relevant to the issues in the case or the decision, they should be retained and other features should be considered for redaction if necessary
Ethnicity, nationality and / or religion	CONSIDER	In some cases the ethnicity, nationality and /or religion of a family will not be particularly material to the decision or the public's understanding of it. Removing references to these factors may increase

		<p>protection against jigsaw identification, particularly where a family is in a minority in their particular local community and where there is a distinctive sibling group.</p> <p>Where these factors are relevant to the issues in the case or the decision, they should be retained and other features should be considered for redaction if necessary</p>
Precise dates of incidents or detailed descriptions of incidents otherwise in the public domain through criminal proceedings or otherwise	REMOVE	Caution required - can be used to cross reference and match children with news reports of criminal proceedings or to identify children amongst peers / local community
Home and school /placement addresses	REMOVE	
Locations (addresses of parties or owned properties, placements, hospitals or treatment facilities, other places attended by the family in the locality)	GENERALLY REMOVE	Consider whether generalised locality information can be safely retained (particular care may be required in rural locations)
Names of judge / court	INCLUDE	The identity of the decision maker is a matter of public interest
Name of local authority	GENERALLY INCLUDE	The identity of the arm of the state bringing an application is a matter of public interest. If the inclusion of the identity of the local authority is likely to be identifying (for example in a very small or rural local authority) consider removing – but consider whether the removal of other less important potentially identifying information

		about the characteristics / history of the family could mitigate / reduce the risks.
Other public bodies eg health trusts	CONSIDER	Large public bodies should generally be named unless there is a history or risk of harassment of staff, but consider removing the name if e.g. there is one identifiable specialist service in that area
Name of treating professionals	CONSIDER WHETHER INCLUSION OF NAME IN JUDGMENT IS APPROPRIATE	Consider whether naming will increase risk of identification of child /family. Consider whether criticism of the professional adds weight to the public interest in naming them (subject to the requirements of procedural fairness as per Re W (A Child) [2016] EWCA Civ 1140). Consider whether there is a specific justification for not doing so, such as a history or risk of harassment of professionals.
Name of individual social workers	CONSIDER WHETHER INCLUSION OF NAME IN JUDGMENT IS APPROPRIATE	Consider whether naming will increase risk of identification of child /family. Consider whether criticism of the professional (rather than the organisation who employs them) adds weight to the public interest in naming them (subject to the requirements of procedural fairness as per Re W above). Consider whether there is a specific justification for not doing so, such as a history or risk of harassment of professionals.

Name of children's guardian	CONSIDER WHETHER INCLUSION OF NAME IN JUDGMENT IS APPROPRIATE	Consider whether naming will increase risk of identification of child /family. Consider whether criticism of the professional adds weight to the public interest in naming them (subject to the requirements of procedural fairness as per Re W above). Consider whether there is a specific justification for not doing so, such as a history or risk of harassment of professionals.
Names of individual lawyers	GENERALLY INCLUDE	Consider whether naming will increase risk of identification of child /family. Consider whether criticism of the professional adds weight to the public interest in naming them (subject to the requirements of procedural fairness as per Re W above). Consider whether there is a specific justification for not doing so, such as a history or risk of harassment of professionals.
Name of expert	GENERALLY INCLUDE	Unless there is a specific justification for not doing so. Consider whether criticism of the professional adds weight to the public interest in naming them (subject to the requirements of procedural fairness as per Re W above). Consider whether there is a specific justification for not doing so, such as a history or risk of harassment of professionals.
Quotations from social media or other messages	CONSIDER	In some cases summarising the content of a message or

that might be identifiable or reverse searchable		piece of text may avoid this difficulty
Graphic content	REMOVE	This may be summarised or gisted where this is necessary to understand the judgment.
Complaints of sexual offences	CONSIDER	Ensure that publication of any judgment does not infringe a complainant's right to anonymity pursuant to s1 Sexual Offences (Amendment) Act 1993. Regardless of whether or not a complainant's allegations have been proved, or whether the protection of s1 SO(A)A 1993 has been technically triggered, the court should specifically consider the views of the complainant / victim before publishing even an anonymised judgment, and should consider their views on the appropriate level of detail. (including child complainants, as appropriate). However it should not be assumed that a complainant / victim will not consent to publication if properly anonymised or if an appropriate level of redaction is achieved.

6. CATEGORIES OF INFORMATION AND THE GENERAL APPROACH IN FINANCIAL REMEDY CASES

6.1. The law in respect of the reporting of financial remedies cases, including the appropriate approach to anonymisation in light of the open justice principle, is the subject of some controversy, with judicial and extra-judicial views split. As noted by the TIG FRC subgroup³, decisions of High Court level conflict, decisions are not binding

³ See this Subgroup's report at <https://www.judiciary.uk/guidance-and-resources/final-report-of-the-financial-remedies-court-frc-sub-group-of-the-transparency-implementation-group/>

on judges of the same level, and there is no definitive view from a binding appellate court. Clarification must come from the Court of Appeal as and when an appropriate case reaches it. At the moment, those decisions in the Court of Appeal which deal with issues of reporting, such as *Clibbery v Allen*, remain good law binding at first instance. See also the consideration of the issues by Peel J in *Tsvetkov v Khayrova* [2023] EWFC 130 (4 August 2023) endorsing that point.

6.2. In their April 2023 report, the TIG FRC Subgroup recommended that “a starting point of general anonymisation of reporting, be it by the media or in the form of final judgments, on publicly and freely accessible websites (e.g. BAILII or TNA) is the correct place to strike the balance between the need for:

6.2.1. The public interest being promoted by more judgments and reports with greater information being published. In turn this provides greater transparency and permits a better understanding and policing of the court’s functions to be available to the public; whilst

6.2.2. Suitably protecting the rights and welfare of the litigants, in particular their children; and

6.2.3. Guarding the integrity of the system and the necessary provision and use of information on which it relies, and the FRC’s ability to function fairly for all who have need of it.”

6.3. Notwithstanding the decisions of *BT v CU* [2021] EWFC 87, *A v M* [2021] EWFC 89, *Aylward Davies v Chesterman* [2022] EWFC 4, *Xanthopoulos v Rakshina* [2022] EWFC 30 and *Gallagher v Gallagher (No 1) Reporting Restrictions* [2022] EWFC 52 there are very few cases in which a first instance court has permitted reporting of a FR judgment in full other than in an anonymised form. Exceptions are *Uddin v Uddin* [2022] EWFC 75 and *X v C* [2022] EWFC 79.

6.4. In addition, whether or not the Judicial Proceedings (Regulation of Reports) Act 1926 applies to FR proceedings is also a matter of some considerable uncertainty.

6.5. See Chapter 12 of the April 2023 TIG FRC Subgroup report for a detailed analysis of the competing issues and arguments.

6.6. On the basis that the decision has been taken in a particular case to anonymise the judgment, the general process set out below (Table 2) is intended to represent a reasonable starting point for the approach to the anonymisation of financial remedies judgments for the purposes of publication. It is not intended to be a fixed or rigid default position, but in many cases this general approach or something close to it will represent good practice. It is the responsibility of the court to consider in each case (a) whether to anonymise, and (b) whether the general approach set out is appropriate or if some adjustment is required.

Table 2

CATEGORY	GENERAL APPROACH	NOTES
Names of parties	ANONYMISE	Consider appropriate pseudonym / initial (not their actual initial)
Names of children	USUALLY ANONYMISE	If referred to at all.
School or place of education	USUALLY REMOVE	If referred to at all.
Home address or address of other property owned by the parties	REMOVE	
Name of employer, business or place of work	CONSIDER removing/ redacting	
Details of bank accounts and/ or investments	CONSIDER removing/ redacting	
Identity of any private company or partnership in which either party has an interest	CONSIDER removing/ redacting	
Other commercially sensitive information	CONSIDER removing/ redacting	
Names of lay witnesses	USUALLY anonymise	
Names of expert witnesses	GENERALLY INCLUDE	Unless there is a specific justification for not doing so. Consider whether criticism of the professional adds weight to the public interest in naming them (subject to the requirements of procedural fairness as per <i>Re W (A Child)</i> [2016] EWCA Civ 1140). Consider whether there is a specific justification for not doing so, such as a history or risk of harassment of professionals.
Information likely to identify sexual assault complainant or to identify a party the court has concluded should be afforded anonymisation	REMOVE	Unless anonymity waived; but even if anonymity waived a balancing exercise may still be necessary (see also Table 1 above).

Potentially incriminating information	CONSIDER redaction, gisting or removal	Consider whether the publication of such information with or without identifying information risks prejudicing any pending criminal investigation or trial.
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7. PREPARING JUDGMENTS ANONYMOUSLY

- 7.1. Where possible, it is generally easier and more efficient to deliver or prepare a judgment anonymously rather than to go back over and amend. This also makes the process less susceptible to error. Whether and how this practice is adopted may depend upon the individual judge's own working processes, use of IT, preferences and caseload.
- 7.2. If you prepare a typed judgment for handing down, you can identify initials or pseudonyms at the outset which you can adopt throughout (but do not use initials that correspond to the individual's real name). You can include an anonymisation schema or key with your judgment, for use by those who need to be able to identify the anonymised people and information contained within it.
- 7.3. If you deliver a judgment orally, even if it is extempore, it is possible to begin by speaking a short set of instructions to the transcriber, telling them (for example) to replace the name Jane with the name Georgina throughout, and to replace any reference to Swindon with the words "City B".

8. FINALISING A JUDGMENT

Consider the rubric

- 8.1. An appropriate rubric in either a children case or a FR case might read as follows :

"This judgment was given in private [and a reporting restrictions order OR transparency order is in force.]. The judge gives permission for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of this judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court."

In some cases it will be appropriate to adjust the rubric, for example to make specific reference to the fact that details of sexual abuse have been excluded from the published judgment. For example:

“This judgment was given in private [and a reporting restrictions order OR transparency order is in force.]. The judge gives permission for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of this judgment the anonymity of the children and members of their family must be strictly preserved. If the judgment is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person. All persons, including representatives of the media and legal bloggers must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court.”

8.2. The typical rubric terms set out above may be appropriate in a case where no-one wishes to discuss the proceedings otherwise than anonymously. But they may be inappropriate, for example, where parents who have been exonerated in care proceedings wish to discuss their experiences in public, identifying themselves and making use of the judgment. Equally, they may be inappropriate in cases where findings have been made against a person and someone else contends, or the judge concludes, that it is in the public interest for that person to be identified in any published version of the judgment.

8.3. If any party wishes to identify himself or herself, or any other party or person, as being a person referred to in any published version of the judgment, their remedy is to seek an order of the court and a suitable modification of the rubric: *The Family Courts: Media Access & Reporting*, para 82⁴; *Re RB (Adult) (No 4)* [2011] EWHC 3017 (Fam), [2012] 1 FLR 466, paras [17], [19].

8.4. Where the decision is taken that a judgment should not be published, it may be sensible to use the following rubric:

“This judgment was delivered in private. The judge has not given leave for this version of the judgment to be published. Nobody may be identified by name or location. The anonymity of everyone other than the lawyers must be strictly preserved. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court.”

Recording the court’s reasons

8.5. It is good practice for the court’s published judgment briefly to record whether there was any opposition to publication, and the rationale for any redactions or for a departure from the general approach above (insofar as this is possible without defeating the purpose of the redactions/ departure).

⁴ [The Family Courts: Media Access & Reporting July 2011 \(judiciary.uk\)](http://www.judiciary.uk)

Transcripts

- 8.6. The court has a discretion as to how the costs of transcribing a judgment are to be met. In many cases, the parties will order a transcript irrespective of whether or not the judgment is to be published: for example, the transcript of a fact-finding judgment will usually be obtained by the parties because it is required for the subsequent welfare hearing, to inform future work by professionals with the family, or for the benefit of the child in future years. In such cases, any issue of costs should be determined without regard to the fact that the judgment will or may be published.
- 8.7. In cases where a transcript is to be produced for the purposes of publication you may consider it appropriate to direct that the transcript is prepared at public expense, in furtherance of the open justice principle.
- 8.8. Where a judgment is to be anonymised it is possible to request that the transcriber undertakes some or all of the anonymisation, although the final responsibility for checking the transcript will always be that of the judge. Where this is done, the transcriber will usually be assisted by a Key which tells them what information is to be removed and replaced. The court should direct the parties to provide this Key to the transcriber together with the EX107 form. For example:

Information to be replaced	Replace with
Mr Harrison	Mr P
Langdale Primary School	Z Primary School

- 8.9. When a transcript is returned for approval by a transcription company it is important to check :
- That any suggested rubric inserted by the transcriber accurately reflects the basis on which publication has been permitted. The rubric should be amended if necessary, or the correct rubric inserted if the transcriber has left the space for the rubric blank;
 - That the transcriber has followed your instructions (including within any direct quotations);
 - That any Key or confidential annex has been removed.

Naming the case

- 8.10. You may wish to include a short descriptor in the name of the case to enable someone searching on FCL to see what the case is about. If you wish to do so, you should include the case name on the front page of the judgment, either in place of or below the parties' (anonymised) names, as in the following example:

Before:

MR RICHARD HARRISON KC

Sitting as a Deputy High Court Judge

Re C (A Child) (Financial Provision: Non-disclosure)

BETWEEN:

LO Applicant

and

RO Respondent

9. HOW TO PUBLISH A JUDGMENT

The National Archives (“TNA”) and Find Case Law (“FCL”)

- 9.1. On 19 April 2022, responsibility for publishing all judgments passed from Bailii to the Find Case Law service (“FCL”) at The National Archives (“TNA”). The process for uploading a judgment is set out in detail in guidance available on the Judicial Intranet: [Judicial Intranet | Publication of Judgments by The National Archives \(judiciary.uk\)](#).
- 9.2. In summary, the steps are as follows.
- 9.3. If you have never had a judgment published by FCL before you will need to register for a new Transfer Digital Records (“TDR”) account. To do this you must request approval by sending an email to judgments@judiciary.uk from your ejudiciary account. They will send you a registration link which needs to be used within 12 hours. The registration link will allow you to set up a new TDR account. **You will only need to do this once.**
- 9.4. As part of the process of registration you will need to set up Multi-Factor Authentication using an authenticator app. This is similar to the process used from time to time to validate your ejudiciary login. You can use the same app.
- 9.5. Once you have an account, you can use it to upload judgments. The link to do so is here: <https://tdr.nationalarchives.gov.uk/>.
- 9.6. Each judgment will require a neutral citation number (“NCN”) before FCL will publish it. To obtain a neutral citation number you need to send the judgment to judgmentshelpdesk@judiciary.uk. They will allocate it an NCN.
- 9.7. Once you have your NCN, insert it on the face of your judgment and upload.

- 9.8. The Judgments Helpdesk team has offered to assist any judge having difficulty using the FCL portal. As an alternative to the process above, you can simply email your judgment to judgmentshelpdesk@judiciary.uk. The Helpdesk will then allocate the NCN and upload the judgment for you.
- 9.9. In January 2024 FCL introduced a new citation for judgments below High Court Level. These judgments are now reported as [2024] EWFC 1234 (B).

The judiciary.uk website

- 9.10. Some categories of judgment must be published on the Judiciary website (www.judiciary.uk) as well as by FCL. These include judgments that procedural rules or Practice Directions require to be published (for example contempt of court committal judgments.)
- 9.11. Other judgments which are “genuinely significant” or “of genuine public interest” may be published on the Judiciary website. There is guidance available on the Judicial Intranet on the type of judgment that is likely to be published on public interest grounds: see [Judgment Publication Guidance \(judiciary.uk\)](http://www.judiciary.uk). It is envisaged that judgments from courts below High Court level will only exceptionally be published on www.judiciary.uk.
- 9.12. The Judicial Press Office publishes a Media Guide for judges whose judgments have attracted/ may attract media attention: [Media Guide June 2022 \(judiciary.uk\)](http://www.judiciary.uk). Contact details for the Press Office are on page 5 of the Guide.

10. DEALING WITH ANONYMISATION ISSUES THAT ARISE POST-PUBLICATION

- 10.1. It is the responsibility of the judge to deal with any issues that arise following publication of a judgment.
- 10.2. If the published version of a judgment requires subsequent amendment the amended version should be uploaded to FCL using the usual process. The FCL editors will replace the original version and re-publishers (Bailii, Westlaw etc) will receive the amended version.
- 10.3. If it is necessary to remove a judgment from FCL, the judge should contact judgments@nationalarchives.gov.uk to alert TNA to the issue. TNA will also inform the re-publishers.
- 10.4. Data protection law applies to the publication of judgments, including anonymised judgments (where personal data is known as “pseudonymous data”). However, personal data processed by a judge acting in a judicial capacity is outside the scope of the Information Commissioner’s Office and instead falls within the remit of the Judicial Data Protection Panel.

- 10.5. Some data protection rights, such as the right to rectification and the right to erasure, do not apply where the court has processed the data in a judicial capacity – such as in the publication of a judgment.
- 10.6. The open justice principle means that personal data processed by the courts acting in a judicial capacity may be published in court orders and judgments. However, the court may, within legal proceedings, place restrictions on the information that may be published. If such a restriction is breached, through the inadvertent inclusion of restricted information in a published judgment, this may amount to a data breach. In those circumstances the judge should follow the process set out in the Judicial Data Protection Handbook, available on the judicial intranet [Judicial Data Protection Handbook \(judiciary.uk\)](#). Information on how to report a data incident is also available on the judicial intranet [Judicial Intranet | Data breach notification form for the judiciary](#).