



Neutral Citation Number: [2025] EWFC 49

Case No: [XX]24C00011

IN THE FAMILY COURT
SITTING AT THE ROYAL COURTS OF JUSTICE

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 7 March 2025

Before:

MRS JUSTICE THEIS DBE

Between:

A Local Authority
- and -

Applicant

(1) X

(2) Y

Respondents

**(3) B (4) C (by their Children's Guardian, Faye
Robertson)**

A

Intervenor

Mark Twomey KC and William Dean (instructed by **Hugh James**) for the **Applicant**
The First and Second Respondents in person
Jo Delahunty KC and Fiona Holloran (instructed by **Lord, Cox and Salt Solicitors**)
for the **Third and Fourth Respondents**
Sam King KC and Callum Brook (instructed by **Hogans Solicitors**) for the **Intervenor**

Judgment date: 7 March 2025

Approved Judgment

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This judgment was delivered in private. The judge has given leave for this version of the judgment to be published. The anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.
These proceedings are subject to a Transparency Order dated 20 May 2025.

Mrs Justice Theis DBE:

Introduction

1. The court is concerned with an application by X and Y in ongoing care proceedings for an order excluding Ms Summers, an accredited journalist, from attending any further hearings. X and Y are the parents of the children the proceedings are concerned about. The other parties are the local authority, the children through their Children's Guardian and an older child who is an intervenor.
2. Ms Summers is an accredited journalist and is permitted to attend the hearings pursuant to rule 27.11 (f) Family Procedure Rules 2010 (FPR 2010) unless excluded by the court under rule 27.11(4) FPR 2010 on one of the grounds specified in rule 27.11(3) which provides that the court can do so if:
 - (a) *This is necessary*
 - (i) *in the interests of any child concerned in, or connected with, the proceedings;*
 - (ii) *for the safety or protection of a party, a witness in the proceedings, or a person connected with such a party or witness; or*
 - (iii) *for the orderly conduct of the proceedings; or*
 - (b) *justice will otherwise be impeded or prejudiced.*
3. The application was made by email to the court by X and Y on 13 February 2025. This followed an earlier email to the court on 6 February 2025 from X and Y attaching copies of screenshots of social media posts. Both emails were copied to the other parties.
4. On 14 February 2025 I directed that the email dated 13 February 2025 was treated an application pursuant to rule 27.11 (4) FPR 2010, that the other parties and Ms Summers should make any written representations, with the opportunity for X and Y to respond. I would then consider the matter further and either determine the application or make further directions. At the request of Ms Summers I extended the timetable.
5. Written representations have been made by all the parties and Ms Summers. I am grateful to the local authority for providing all the relevant material in one pdf bundle. The email and attachments sent on 6 February 2025 were not included in the bundle but I am satisfied all the parties had seen it as they were copied in to the original email and comment on the content and attachments in their written representations.
6. I am determining this application on the papers. This judgment sets out the reasons for my decision.
7. The grounds of the application can be summarised as follows:
 - (1) It is made on the basis of rule 27.11(3) (a) (ii) and (iii) and (b).

- (2) The email dated 13 February 2025 sets out X and Y's '*significant concerns with regards to the links between Ms Summers and others with Ms Delahunty*' as set out in their email (which is taken as referring to the email dated 6 February 2025) as from the tweets attached to that email '*there are very clear links and expressed friendships between Ms Summers, Ms Tickle, Mr Barnes and Ms Delahunty. We believe these links demonstrate bias and unfairness to this process*' such as to bring matters within rule 27.11(3)(b).
- (3) That X and Y do not know how Ms Summers became aware of these proceedings and attended the hearing on 31 January 2025.
- (4) The adjournment of the proceedings from 16 December 2024 to 31 January 2025 during which time the new transparency rules came into force nationally on 27 January 2025.

8. The application is opposed by all the parties and Ms Summers.

Relevant background

9. For the purposes of this judgment it is only necessary to give a brief summary of the background.
10. These care proceedings were commenced in January 2024 and were originally listed for a 3 week fact finding hearing in December 2024. The three children who were the subject of the proceedings had made allegations of physical and emotional abuse against X and that Y had failed to protect them from that abuse. That time estimate was reduced in November 2024 as a result of X and Y stating that they did not wish to cross examine any of the witnesses relied upon by the local authority, including one of the children who was the subject of the proceedings, would not be giving evidence themselves and would not be calling any of their witnesses. At that time X and Y were separately represented by leading and junior counsel.
11. As a consequence of X and Y's position, the time estimate for the hearing was reduced. The court heard oral submissions from the parties and the matter was listed for the hand down of the judgment on 16 December 2024, the draft judgment having been circulated to the parties beforehand. In that judgment the court made findings that X had behaved in the way alleged by the children and Y had failed to protect them.
12. On 15 December 2024 X and Y sent an email to the court informing the court that they had dispensed with their respective legal teams and would not be attending the hearing on 16 December 2024. That email was seen by all the parties on 16 December 2024 before 10.30 am. I adjourned the hearing to 2.30pm and made an order backed with a penal notice directing X and Y to attend court at 2.30pm that day. They did not attend court. Due to a number of matters that required further consideration by the parties, including the email from X and Y sent on 15 December 2024 the court had to adjourn the hearing to 31 January 2025. An accredited member of the press attended the hearing on 16 December 2024.
13. The hearing on 31 January 2025 had to be adjourned to 14 and 15 April 2025, in particular to consider the competing positions of the parties regarding anonymisation of the judgments and to enable notice to be given to the press.

14. Two accredited members of the press attended the hearing on 31 January 2025, one of which was Ms Summers.
15. On 6 February 2025 X and Y sent the email referred to above to the court. It stated as follows:

Please can this email be forwarded to Her Ladyship. We have copied the other parties into this email.

As provided for in the Order of the 31st January provision was made for disclosure of documents to Hannah Summers and the Press Association.

We have, since the hearing discovered significant information which we wish to tell the Court about urgently. This information is very important in relation to the fairness of the process and in relation to our Article 6 rights to a fair trial.

The Court will be aware of the recent high profile case of Tickle and Summers (Hannah) v BBC, PA and Others. In that case Ms Tickle and Ms Summers were represented by Counsel, Chris Barnes.

We are attaching screenshots of tweets sent on X, formerly Twitter, made by Jo Delahuntey, Louise Tickle, Hannah Summers that also relate to Chris Barnes.

There is a clear indication in these Tweets by Jo Delahuntey that both Louise Tickle and Chris Barnes are her personal friends.

There is also indication of some two way communication, interaction and praise given to Hannah Summers by Jo Delahuntey of articles written by her.

We were already concerned by the appearance of Hannah Summers at the most recent hearing which was completely unexplained. We raised the presence of the press more generally before the hearing in our position statement.

As we also said in our position statement lawyers talk and gossip about cases that they are involved in. We have become increasingly concerned by the possible conduct of those involved in this case which has led to disclosure of information to journalists in light of the information that we have discovered.

We consider there to be a clear bias already by the indication of Hannah Summers that she wanted exclusivity on this story. We are concerned that this also may have been attempted to be engineered by parties involved.

We have significant concerns that our article 6 rights have already been infringed as well as a breach of the rules and principles of confidentiality and privacy.

We have further concerns that these connections and bias in opinion and positions adopted will impact on the Court's final determination of the question of our anonymity. This is particularly the case, as we have previously set out, that the presumption of transparency should be anonymity.

We are concerned that the recent high media profile on transparency, compounded by the role of some of those individuals and their relationships outside of the court, is potentially leading to a loss of focus on the real issues in this case.

[B] and [C's] welfare is the Court's paramount consideration. Their voices and role in this case are getting quieter and smaller by the minute.

We ask that Her Ladyship considers these issues urgently and makes any directions that she feels are necessary.

We have raised them with the other parties at the same time as notifying the Court because of their urgency.

The 15 screenshots attached to the email cover a period from October 2023 to February 2025 that include a post by Ms Delahunty commenting on a recent case that Ms Summers was involved in, comments on a book by another journalist and reposting of events or posts by Ms Summers or another journalist.

16. On my direction the court responded that I had seen that email and attachments and *'The court made comprehensive directions on 31 January 2025 leading to the hearing on 14 and 15 April 2025 and the legal framework pending that hearing is clearly set out in the order. If there is any specific direction sought or application being made by [Y], that should be set out in an email to the court copying in all the parties.'*
17. Following that X and Y sent the email on 13 February 2024 that I treated as an application under rule 27.11(4) FPR 2010.

Legal framework

18. Rule 27.11 (2)(f) and (ff) FPR 2010 provides those categories of person who can attend specified hearings as of right, subject to the court being able to exclude them under rule 27.11 (4) where it is satisfied that any of the grounds set out in rule 27.11(3) are established.
19. The relevant parts of rule 27.11 FPR 2010 are supported by the provisions in PD 27B FPR 2010, in particular paragraphs 5.2 - 5.4.
20. In *Louise Tickle v Father* [2023] EWHC 2446 at [42] – [52] Lieven J set out the relevant principles when considering an application for reporting of a Family Court hearing. The principles at [43] – [46] are relevant in considering this application and I do.

"43. Firstly, although Family Court proceedings are normally held in private the press and legal bloggers are entitled to attend under FPR27.11(2)(f).

44. Secondly, such a person can be excluded, but only where it is "necessary" in the interests of the child, the safety or protection of parties or others, or the orderly conduct of proceedings, FPR27.11(3).

*45. Thirdly, I agree that in approaching the test of "necessity", what was said in *Re H-L (a child)*, albeit in a different legal context, is a useful guide.*

46. Fourthly, it will rarely, but not never, be appropriate for the Court to inquire as to why the journalist is seeking to report, or how s/he became aware of the hearing. In general, as Mr Barnes submits, this will be a matter for the journalist who would not be expected to reveal a "source". However, if the Judge becomes concerned that one party is seeking to use reporting as a litigation strategy, particularly in the context of issues around coercive control, the Judge may wish to inquire into the background to the application to report. This can only be considered on a case specific basis."

Submissions

21. The application is opposed by all the other parties and Ms Summers.
22. The local authority submit the application is founded on speculation arising out of a small number of publicly-visible messages on X/Twitter from which X and Y seek to suggest that founds a suggestion that one of the counsel in this case improperly divulged information to a journalist before that issue had been resolved. They submit this speculation does not found any of the grounds set out in rule 27.11 (3) (a) and (b) FPR 2010 and there is no evidence that Ms Summers has not adhered to the relevant legal framework. The local authority submit that this application is part of a pattern of the litigation conduct of X and Y during these proceedings.
23. On behalf of the Children's Guardian it is submitted that the circumstances of this application do not fall under the contemplation of the guidance set out in PD27B. Instead *'the parents appear to rely on a perception that justice will be impeded or prejudiced due to Ms Summers having a 'connection' with leading counsel for the children due to the fact that (a) they did not know how Ms Summers became aware of the proceedings and chose to attend the hearing on 31 January 2025; b) Ms Delahunty KC has commented openly on social media on unconnected matters in a way that suggests 'links and friendships' between her, Ms Summers and other unconnected persons'*.
24. On behalf of the Children's Guardian it is submitted the press attended the hearing on 16 December 2024 under rule 27.11 FPR 2010. That the court raised with the parties whether wider notification should be given to the press on 30 January 2025 in the light of the position statement filed by X and Y. The order dated 31 January 2025 provided for notice to be given to the press. The reference by X and Y to 'clear links and expressed friendships' and 'demonstrate bias and unfairness to this process' appears to relate to the earlier email with the screenshots attached. It is submitted X and Y make generalised and unsubstantiated claims on the basis of the screenshots and fail to make reference to the fact that when Ms Summers suggested at the hearing on 31 January 2025 there was no need for wider notice to the press that was opposed on behalf of the Children's Guardian. They submit the role of counsel is as an advocate who act on the instructions of their client and in accordance with their Bar Council Code of Conduct. They submit there is a clear distinction between the views of a particular barrister and those they represent, as well as the roles and relationships which exist out of court and those within it.
25. Ms King KC on behalf of A, an intervenor, submits the speculation relied upon by X and Y falls far short of the evidence required to satisfy the requirement of any of the grounds in rule 27.11 (3). A legal representative expressing a personal view does not directly translate to bias and X and Y have failed to acknowledge that the Children's

legal team take their instructions from a professional client, the Children's Guardian. The fact that the individuals concerned know each other is hardly surprising when they all work in the same area and some are in the same chambers. The tweets refer to comments on unrelated cases and on the publication of a book by another journalist. She submits they are insufficient to provide an evidential foundation to exclude on any of the grounds set out in rule 27.11(3) FPR 2010.

26. Ms Summers in her written submissions sets out that there is no general requirement on journalists to explain their attendance at court. She refers to the comments of Lieven J in *Tickle* at [46]. Ms Summers submits that *'there is nothing unusual about legal professionals and journalists working in the same sphere following each other on social media or having a shared interest in their work'*. In summary, she submits that X and Y rely on speculation and assumption and their application is *'misguided, lacks substance and is entirely without merit'*.
27. In their response X and Y maintain they have raised *'legitimate concerns about potential bias and unfairness due to Ms Summers' connections with individuals involved in the case. The fact that Ms Summers has a mutual contact with a barrister involved in the case raises questions about impartiality. We believe these connections lead to a perception of bias, which impedes justice.'* In support of that they rely on Ms Summers stating at the hearing on 31 January 2025 her position to name X and Y, resisting the wider press being given notice and referring to the public interest issues in the case show *'her motivation and intent which of themselves go well beyond the parameters of these proceedings and her knowledge of the facts so far'*. Continuing in their written submissions that Ms Summers position that favours naming them *'could influence the Court's decision in April and prejudice our right to a fair determination of the issue'*. They submit the social media links create a *'reasonable perception of bias'* in circumstances where Ms Summers is reporting on a case in which Ms Delahunty is representing one of the parties.

Discussion and decision

28. One of the issues the court will need to determine at the hearing on 14 and 15 April 2025 is whether to accede to the application by X and Y for the judgment to be anonymised in ways that may impact on the provisions in s12 Administration of Justice Act 1960 which, in the absence of any further order, will be the legal framework that will govern what can or can't be reported at the conclusion of the care proceedings, when the protection provided by s97(2) Children Act 1989 falls away.
29. As a result of a combination of the email sent to the court by X and Y on 15 December 2024, their non-attendance at the hearing on 16 December 2024 and their position statement dated 29 January 2025 if the court accepted X and Y's position a reporting restriction order may be required. It was as a result of this position that the court directed on 30 January 2025 for the parties to provide representations as to whether the wider press should be given notice of the hearing on 31 January 2025. One of the directions made on 31 January 2025 included a timetable for the wider press to be given notice.
30. Rule 27.11 FPR 2010 sets out the framework that enables accredited members of the press to attend hearings. They can attend as of right and can only be excluded on one of the grounds specified in rule 27.11(3) FPR 2010 being established.

31. There is nothing in the rules or accompanying practice direction that requires any journalist attending to provide details as to how they knew about a hearing or why they chose to attend a particular hearing. In *Tickle* at [46] Lieven J set out the limited circumstances in which the court may wish to inquire into the background to the application to report, which do not apply here.
32. What X and Y seek to do is to make a link between the screenshots attached to their email on 6 February 2025 as supporting their submission of ‘links and friendships’ between leading counsel for the Children’s Guardian and Ms Summers to amount to actual or apparent bias so that justice would be impeded or prejudiced. This appears to be based, at least in part, upon what X and Y consider to be *‘clear bias already by the indication of Hannah Summers that she wanted exclusivity on this story. We are concerned that this also may have been attempted to be engineered by parties involved’*.
33. There is, in my judgment, no evidence to support that. The social media comments relied upon relate to matters unconnected with this particular case. The duty of counsel is clearly set out in the relevant parts of the Code of Conduct, which are a matter for counsel and their respective regulatory professional body. It is noteworthy that one of the matters relied upon by X and Y as supporting their submission of bias in fact counsel for the Guardian opposed the submission of Ms Summers for the wider press not to be notified. In those circumstances it is difficult to understand how that could found X and Y’s submission that this may have been engineered by the parties. X and Y appear to confuse Ms Summers stating what her position will be as evidence of bias or leading to a perception of bias that establish grounds for ordering that Ms Summers shall not attend future hearings under rule 27.11(3) FPR 2010.
34. I am satisfied that the application made by X and Y for an order that Ms Summers not attend future hearings should be refused. None of the grounds for such an order under rule 27.11(3) (a) or (b) are established. The tweets relied upon and the conclusions X and Y seek to draw amount to unsubstantiated speculation by them in relation to public comments made regarding an unconnected case or individuals and is separate from the professional obligations of counsel instructed in any particular case. There is no evidence to suggest that Ms Summers has done other than comply with orders of the court and the legal framework these proceedings are continuing within. Any suggestion that Ms Summers has demonstrated bias or a perception of bias by stating what her position is going to be is rejected. The court has made comprehensive directions that provide for written submissions from all parties and a two day hearing when the court will hear oral submissions and will carefully consider the respective positions of the parties and undertake the necessary balance between the EHCR rights engaged. The Article 6 rights of all those who attend and take part are safeguarded.
35. Due to the delays in determining the outstanding issues there should be an updated report from the Children’s Guardian filed and served by 4pm 17 March 2025.