Neutral Citation Number: [2025] EWHC 1525 (Fam)

Case NoFD24P00591

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Date: 24/04/2025

Before :

MR JUSTICE POOLE

- -

X v Y v LB of Hillingdon (Transparency: Restrictions on Disclosure of Information by Parties)

Between :

(1) X (Father)
(2) Y (Mother)

Applicants

- and -

(1) London Borough of Hillingdon
(2) and (3) F and G (Through their Children's Guardian, HH)

Respondents

- -
- -

The Applicants appearing in person
Lauren Bovington (instructed by the Council) for **the First Respondent**
Lorna Cservenka acting Pro Bono for **the Second and Third Respondents**

Hearing date: 8 April 2025

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Judgment

This judgment was handed down remotely at 10.30am on 24 April 2025 by circulation to the parties or their representatives by e-mail. Time was then taken to submit corrections and anonymisation and for judgments of DJ Hussain and HHJ Downey referred to in the judgment to be anonymised and approved for publication. All three judgments were then sent by the Court to the National Archives for publication.

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This judgment was delivered in private and a transparency order is in force. The judge has given leave 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 the 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.

Mr Justice Poole:

Introduction

1. Judges in the Family Court are given the power to authorise the removal of children from their parents' care. The exercise of that power is a heavy responsibility. Such decisions have lifelong consequences for the children, whose welfare is the Court's paramount consideration, and they have a profound impact on the parents. Parents respond in different ways to the removal of their children and some become very angry with those whom they consider responsible for a wrong caused to them. A few journey to a fringe territory of extreme beliefs and conspiracy theories. Every action by a social worker or Court decision entrenches their conviction that they are victims of a corrupt system. For these parents and their supporters, the fact that Family Court hearings are conducted in private adds to their belief in a widespread cover up.

2. The Applicants are parents of F and G who are now three years old. They are twins conceived through IVF and born very prematurely at about 25 weeks. At four months they were made the subject of interim care orders. On 2 May 2024, after an eight day hearing, DJ Hussain sitting in the Family Court at West London handed down a detailed 101 page judgment – [2024] EWFC 453 (B) - and made final care and placement orders in respect of each child, meaning that steps would be taken to find an adoptive family for the children. Adoption orders have not yet been sought and so the children still await adoption. The Applicants have now applied to the High Court to lift all reporting restrictions in relation to the proceedings concerning their children in the Family Court. They have alleged that the Local Authority, social workers, judges and lawyers, financially benefit from the abduction, sale, and abuse of children including their own. They want to be able to publish what went on in the Family Court proceedings because they believe it will expose widespread corruption and abuse. Restrictions on their ability to do so will be regarded by them as further evidence of a criminal conspiracy . However, as is the norm, the Family Court proceedings were heard in private. Statutory provisions protect children who are the subject of such proceedings from being identified and, unless the Court orders otherwise, no person may publish information relating to the proceedings and anyone who does so risks being found to be in contempt of court. The issue for the Court to decide is whether and to what extent restrictions on disclosing and publishing information relating to the proceedings involving F and G should be lifted.

3. Parliament has decided what can and cannot be disclosed and published in relation to what I shall call for shorthand 'children proceedings' heard in private. Statutory provisions include the Children Act 1989 ("CA 1989"), s97 and the Administration of Justice Act 1960 ("AJA 1960"), s12. One means available to the Court to relax some of those restrictions is the making of a Transparency Order. As from 27 January 2025, the Family Court, except for Lay Justices, may make a Transparency Order in public law cases (mostly applications for care or supervision orders) and from 1 May 2025 that will apply to private law cases. From 29 September 2025, the new rules will also apply to Family Court proceedings before Lay Justices. Prior to this national roll out, the Family Court at various locations has been encouraged to make Transparency Orders within a Transparency Reporting Pilot. As it happens, the

Family Court in West London was within that Pilot when on 9 February 2024, during the course of the public law proceedings concerning F and G, DDJ Elliott made a Transparency Order upon the attendance of a reporter at the hearing before him that day. Later, after the final orders had been made, HHJ Downey gave judgments on 24 July 2024, refusing permission to appeal, and on 30 July 2024 refusing the parents' application to revoke the placement orders – [2024] EWFC 452 (B). A different reporter attended that latter hearing. HHJ Downey was concerned that the revocation application was within Part 14 proceedings and therefore outwith the Reporting Pilot such that the Transparency Order would not apply. She allowed the reporter to observe the hearing but directed that she could not report on it unless or until a High Court Judge ordered otherwise.

4. On 5 December 2024, the Applicants came before me as the urgent applications judge in a busy list with various applications for orders, including injunctions, to require the immediate return of their children to them. They had already exhausted the appeal process and I dismissed their applications as totally without merit. However, the Applicants also applied to "lift reporting restrictions" in the Family Court proceedings. That application was without notice and I gave directions seeking to clarify the nature of the application, for notice to be given to the Local Authority and the Children's Guardian, and for the AP media alert system to be triggered. For various reasons which I need not record, the hearing of the application did not take place until 8 April 2025. In January 2025, the hearing of the application listed before me had been vacated but regrettably the Applicants had not been so informed. They arrived at the Royal Courts of Justice with a large group of supporters. During the hearing before me on 8 April 2025, Y suggested that the Applicants were supported by a group of military veterans and a large number of members of a particular religious Community (which I have redacted to avoid identification of the parents or children). She implied that there was little point in the Court trying to protect the identities of various individuals because the Applicants' supporters would find out who they were and where they lived. I have not enquired into whether these supporters have already been given information relating to the proceedings. No evidence was put before me that they have.

5. The Applicants have challenged virtually every decision made in the Family Court. The Court of Appeal has refused them permission to appeal against the interim care orders, interim contact orders, case management orders (four different applications for permission to appeal), and the decisions of HHJ Downey on both 24 and 30 July 2024. Four of their applications for permission to appeal were certified as totally without merit and I so certified their applications in December 2024 to reverse the care and placement orders by way of injunctions. On 17 December 2024, after the application to lift reporting restrictions had been issued, Peter Jackson LJ made an Extended Civil Restraint Order ("ECRO") in respect of both Applicants restraining them from issuing claims or making applications in any court concerning any matter involving or in relation to or touching upon or leading to the proceedings in which the order was made, namely proceedings which concern their children, without first obtaining permission from the nominated judge.

6. In advance of the hearing on 8 April 2025, the Applicants purported to make a number of further applications seeking the immediate return of their children but they

had not first obtained permission from the nominated judge and, in accordance with the ECRO, those applications are automatically dismissed.

7. ECROs are made only very rarely. All current ECROs are listed on the government website. By my count there are currently 156 ECRO's in force in the jurisdiction of England and Wales which is very few considering the tens of thousands of people involved in civil and family litigation. In the case of the Applicants, Peter Jackson LJ recorded on the face of the ECRO that their "submissions show that they reject the decisions of the court concerning the children and that they reject the system within which the decisions have been taken. The submissions contain no coherent legal argument and there is every reason to believe that [they] will directly prejudice the planning for the children by continuing to issue unmeritorious applications unless an order is made. An ECRO for two years is a proportionate response."

8. As noted, the ECRO was made after the Applicants had issued their application to lift reporting restrictions and after I had given directions for that application to be heard. At the hearing on 8 April 2025, the Applicants appeared in person but with McKenzie Friends. The Second Applicant Mother, Y, began by asking for screens to be used in court to separate her from Counsel but she then decided not to pursue that application. She applied for a police office to be present in court in case she was to be arrested but I reassured her that there were no contempt of court proceedings before me, and no warrant for her arrest. Y spoke for both Applicants and made submissions for over two hours. I allowed X's McKenzie Friend to speak briefly on his behalf because he did not appear able physically to speak for himself. I have read the judgments in the Family Court and although there is evidence regarding X's cognitive functioning, there was no evidence that he lacked capacity to conduct the proceedings. There was no issue about his capacity in these proceedings – indeed I was assured of that when the issue was raised by Y at the hearing – but he needed assistance to add his own submissions. In their written material and in the Second Applicant mother's oral submissions, it was made clear that the Applicants reject the authority of the court. The Family Court was referred to as a mere office, DJ Hussain as "Arbitrator Hussain", her judgment as "an article", and the Guardian as a "Guild Guardian" whatever that is. It was submitted that the "common law of the land" overrides any statutory provisions. I was told that there is no "Parent Act", and that I should have regard to the "Jurisdiction of Commonwealth Nations". When I referred to the Administration of Justice Act 1960, I was told that the court should not be concerned with matters of administration.

9. Y was fluent and passionate in her oral submissions but with respect to her, she has chosen not to grapple with the law that governed the proceedings under Part IV of CA 1989 which was applied when DJ Hussain made the care and placement orders in respect of her children. DJ Hussain explained in her judgment why she had found the threshold for making Care Orders to be met, why Care Orders were to be made, and why Placement Orders were in the lifelong best interests of each child. The history involved information given to authorities by Y about X and observed failures by the parents in meeting the children's needs. Y's personality traits and history of mental illness, her threats to individuals and hostility to engagement with professional help, and X's inability to care for the children alone, were major factors in the Judge's decisions. Y was indignant that I would not consider whether the care and placement orders were justified. I had repeatedly to remind her that I was not conducting an appeal and that all avenues of legal challenge to the orders had been exhausted.

10. The application that was before me was to lift reporting restrictions. It took some time to clarify what restrictions the Applicants wanted to be removed. Initially, it was said that the Court should lift all restrictions on reporting of every hearing in which they have been involved. However, by the close of the hearing I understood that the Applicants accepted that restrictions preventing the naming of the children should remain. Although it was not consistently clear during submissions, I understand that the Applicants not only want reporters to be permitted to report on the proceedings without restriction (other than a prohibition on naming the children), but also for the Applicants themselves and possibly other non-reporters also to be able to do so. However, when I invited agreement to the publication of an anonymised version of DJ Hussain's and HHJ Downey's judgments, Y did not agree. It was not that she disagreed with anonymisation, but that she opposed the publication of any judgment in the proceedings because in her view they were all full of errors.

The Legal Framework

11. All the hearings in the Family Court were held in private. The law on what may or may not be communicated or published in relation to Children Act proceedings held in private is not easily stated, certainly not to litigants in person.

12. By CA 1989, s97, in relation to proceedings under that Act:

> (2) No person shall publish to the public at large or any section of the public any material which is intended, or likely, to identify—
>
> (a) any child as being involved in any proceedings before the High Court, a county court or a magistrates' court in which any power under this Act or the Adoption and Children Act 2002 may be exercised by the court with respect to that or any other child; or
>
> (b) an address or school as being that of a child involved in any such proceedings."

Contravention of these requirements is a criminal offence but by s 97(4):

> "(4) The court or the Lord Chancellor may, if satisfied that the welfare of the child requires it and, in the case of the Lord Chancellor, if the Lord Chief Justice agrees, by order dispense with the requirements of subsection (2) to such extent as may be specified in the order."

Following *Clayton v Clayton* [2006] EWCA Civ 878, the effect of s97 ends with the conclusion of proceedings. In the present case, although argument could be made for an earlier conclusion, the proceedings had certainly ended by 30 July 2024, There are no extant proceedings in the Family Court involving the children. Hence, s97 no longer has effect in relation to the proceedings in which DJ Hussain gave judgment and made care and placement orders.

13. By AJA 1960, s12:

> "s12 Publication of information relating to proceedings in private.
>
> (1) The publication of information relating to proceedings before any court sitting in private shall not of itself be contempt of court except in the following cases, that is to say—
>
> (a) where the proceedings—
>
> (i) relate to the exercise of the inherent jurisdiction of the High Court with respect to minors;
>
> (ii) are brought under the Children Act 1989 or the Adoption and Children Act 2002; or …
>
> (2) Without prejudice to the foregoing subsection, the publication of the text or a summary of the whole or part of an order made by a court sitting in private shall not of itself be contempt of court except where the court (having power to do so) expressly prohibits the publication.
>
> …
>
> (4) Nothing in this section shall be construed as implying that any publication is punishable as contempt of court which would not be so punishable apart from this section (and in particular where the publication is not so punishable by reason of being authorised by rules of court)."

The s12 provisions continue after the conclusion of the proceedings subject to the power of the Court to vary them under its inherent jurisdiction (see below).

14. It is not easy to articulate in simple terms what s12 does and does not prevent a person from publishing. Munby J considered the issue in *Re: B (A Child) (Disclosure)* [2004] 2 FLR 142. He held at [65] and [66]:

> "Of crucial importance in the present case is Wilson J's decision in *X v Dempster*. Analysing the previous authorities, he summarised matters at p 898 (this has now, of course, to be read subject to section 97(2) of the Children Act 1989):
>
> "[E]vents in the lives of the children in the present case which are already in the public domain or which do not relate to the proceedings can be the subject of publication.
>
> Furthermore certain material which might well qualify in a loose sense as information relating to the proceedings can be published because the prohibition is to be construed not loosely but strictly and by direct reference to the mischief at which it is directed.

> Thus, in the absence of a specific injunction, the following can be published:
>
> (a) the fact, if it be the case, that a child is a ward of court and is the subject of wardship proceedings or that a child is the subject of residence or other proceedings under the Children Act 1989 or of proceedings relating wholly or mainly to his maintenance or upbringing … ;
>
> (b) the name, address or photograph of such a child as is mentioned in (a) … ;
>
> (c) the name, address or photograph of the parties (or, if the child is a party, the other parties) to such proceedings as are mentioned in (a) … ;
>
> (d) the date, time or place of a past or future hearing of such proceedings … ;
>
> (e) the nature of the dispute in such proceedings … ;
>
> (f) anything which has been seen or heard by a person conducting himself lawfully in the public corridor or other public precincts outside the court in which the hearing in private is taking place … ; and
>
> (g) the text or summary of the whole or part of any order made in such proceedings … "
>
> So much for what can be published notwithstanding section 12. What is it that cannot be published? In the first place it is quite clear that the effect of section 12 is to prohibit the publication of accounts of what has gone on in front of the judge sitting in private, as also the publication of documents such as affidavits, witness statements, reports, position statements, skeleton arguments or other documents filed in the proceedings, transcripts or notes of the evidence or submissions, and transcripts or notes of the judgment. (I emphasise that this list is not necessarily exhaustive.) Section 12 likewise prohibits the publication of extracts or quotations from such documents: *Official Solicitor v News Group Newspapers*; also the publication of summaries: *X v Dempster* at p 898. It is also quite clear in my judgment that the prohibition in section 12 applies equally whether or not the information or the document being published has been anonymised.

15. Munby J confirmed that it is not a contempt of court to name a witness as a witness, but it would be contempt of court to publish what they had said at a hearing.

16. At paragraphs [77] to [79] Munby J held:

"[77] I turn finally to the question of the extent to which section 12 prohibits discussion of the details of a case. Now as Wilson J accepted in *X v Dempster*, and with respect I entirely agree, whilst section 12 does not prohibit publication of "the nature of the dispute", it does prohibit publication of even summaries of the evidence. Where is the line to be drawn? In *Kelly*, as we have seen, I said that section 12 does not prevent "public identification and at least some discussion of the issues in the … proceedings." That is not very helpful. More helpful is the light thrown on the matter by Wilson J's analysis in *X v Dempster*. There the question (see at p 896) was whether there was a breach of section 12 by publishing the words:

"Says a friend of [the mother]: "She has been portrayed as a bad mother who is unfit to look after her children. Nothing could be further from the truth. She is wonderful to [them] and they love her. She wants custody of [them] and we will see what happens in court"."

immediately preceded by the statement that the mother was said to be distraught that four people, who were named, had provided affidavits – they were in fact signed witness statements – in support of the father's case.

[78] Wilson J said this at p 901:

"I turn to the third alleged feature, namely that in the piece Mr Dempster recounts an allegation to the effect that the mother has been portrayed in the proceedings as a bad mother who is unfit to look after the children."

He continued at p 903:

"I am satisfied that the reference to the portrayal of the mother in the proceedings as a bad mother went far beyond a description of the nature of the dispute and reached deeply into the substance of the matters which the court has closed its doors to consider. If the reference could successfully be finessed as a legitimate identification of the nature of the dispute, the privacy of the proceedings in the interests of the child would be not just appropriately circumscribed but gravely invaded."

I agree with Wilson J's analysis and, if I may respectfully say so, with the particular conclusion to which he came in that case.

[79] Every case will, in the final analysis, turn on its own particular facts. The circumstances of the human condition, and thus of litigation, being infinitely various, it is quite impossible to define in abstract or purely formal terms where precisely the line is to be drawn. Wilson J's discussion in X v Dempster, if I

> may respectfully say so, comes as close as anyone is likely to be able to illuminating the essential distinction between publication of "the nature of the dispute", which is permissible, and publication of even summaries of the evidence, which is not."

17. Later, in *Norfolk CC v Webster* [2007] 1 FLR 1146, Munby J provided a shorter summary of the scope of AJA 1960, s12:

> "There is no need on this occasion for any detailed exegesis of s 12. It suffices for present purposes to note that the effect of s 12 is to prohibit the publication of accounts of what has gone on in front of the judge sitting in private, as also the publication of documents (or extracts or quotations from documents) such as affidavits, witness statements, reports, position statements, skeleton arguments or other documents filed in the proceedings, transcripts or notes of the evidence or submissions, and transcripts or notes of the judgment. On the other hand, s 12 does not of itself prohibit publication of the fact that a child is the subject of proceedings under the Children Act 1989; of the dates, times and places of past or future hearings; of the nature of the dispute in the proceedings; of anything which has been seen or heard by a person conducting himself lawfully in the public corridor or other public precincts outside the court in which the hearing in private is taking place; or of the text or summary of any order made in such proceedings. Importantly, it is also to be noted that s 12 does not prohibit the identification or publication of photographs of the child, the other parties or the witnesses, nor the identification of the party on whose behalf a witness is giving or has given evidence."

18. FPR r12.73(1) provides that:

> "For the purposes of the law relating to contempt of court, information relating to proceedings held in private (whether or not contained in a document filed with the court) may be communicated –
>
> …
>
> (b) where the court gives permission, including as provided for under rule 12.73A."

However, by FPR r12.73 (2),

> "Except as provided for under rule 12.73A, nothing in this Chapter permits the communication to the public at large, or any section of the public, of any information relating to the proceedings."

Rule 12.73A provides that Practice Direction 12R makes provision in relation to the court giving permission to communicate information from proceedings. FPR PD 12R applies when a reporter attends a specified hearing. It has no application therefore when no reporter attends. The stated aim of PD12R is to "support Reporters being able to report on what they see and hear in court in accordance with the terms of a Transparency Order ("the transparency principle").The Transparency Order allows a reporter, defined as an accredited journalist or legal blogger, to report on proceedings they have attended. By FPR r27.11 accredited reporters are "duly accredited representatives of news gathering and reporting organisations" and a legal blogger is "a duly authorised lawyer attending for journalistic, research or public legal educational purposes." It is important to emphasise that a person who blogs about the law or about a case they have observed is not a "legal blogger" unless they come within that narrow definition.

19. The parties may disclose certain specified documents to reporters under the Order but those reporters must have been served with the Order.

20. By paragraph 28(b) of the President's Guidance on the Transparency Reporting Pilot Guidance, November 2022, which was in place at the time of the hearings in February, May and July 2024, the reporting Pilot applied to:

> "All applications for placement orders where the application is made within care proceedings, up to the point at which any placement order is made or the application for a placement order or otherwise is concluded."

The operation of FPR PD 14G and PD12R is now to the same effect.

21. It seems clear therefore that the Court may, by use of a Transparency Order, permit the communication of information relating to family proceedings held in private, but the Transparency Order addresses only publication by reporters, not the parties or other non-reporters. What then of the jurisdiction to permit disclosure or publication of such information by non-reporters? In her recent judgment in *M v F & Anor* [2025] EWHC 801 (Fam), Harris J confirmed that the High Court may exercise its inherent jurisdiction to permit or restrict publication of information relating to proceedings which would otherwise be governed by AJA 1960, s12. She adopted the judgment of the Court of Appeal in *C (A Child)* [2016] EWCA Civ 798, [2017] 2FLR 105, in which Lord Dyson MR considered the jurisdictional basis of such orders and was unconvinced that it could be derived from FPR r12.73. However, he held at [12]:

> " I am in no doubt that the court does have the power to order the disclosure of part or all of what takes place in private proceedings (including any judgment made by the court during the course of or at end of the proceedings). In my view the court has that power under its inherent jurisdiction. It had that power before the incorporation of the Convention by the Human Rights Act 1998: see *Kent County Council v The Mother, The Father, B* [2004] EWHC 411 (Fam) at paras 83 to 86 where Munby J summarised the relevant jurisprudence. The court continues to have that jurisdiction following the incorporation of the

> Convention. The domestic and Strasbourg jurisprudence is reflected in the *Practice Guidance (Family Courts: Transparency)* [2014] 1 WLR 230 ("the Practice Guidance") issued by Sir James Munby P in relation to the publication of judgments in family courts and the Court of Protection. See also per McFarlane LJ in *In Re W (Children) (Care Proceedings: Publicity)* [2016] 4 WLR 39 at paras 32 to 40."

22. When deciding whether to make a Transparency Order, if so, on what terms, the judge must strike a balance between rights that favour publication and the rights of the child and others to respect for their private and family life, adopting the principles set out in by the House of Lords in *Re S (A Child) (Identification: Restrictions on Publication)* [2004] UKHL 47, [2005] 1 AC 593 ("*Re S*") and by the Court of Appeal in *Griffiths v Tickle* [2021] EWCA Civ 1882. In *Griffiths v Tickle*, the Court of Appeal noted that Lieven J had "conducted a fact-sensitive scrutiny of the competing considerations" as required when applying the *Re S* principles. That scrutiny is required whenever the Court is invited to relax or to extend reporting restrictions and I must conduct such an exercise in the present case.

23. Since a Transparency Order varies the effects of statutory restrictions on publishing information relating to proceedings, the Court has to consider the principle of open justice and the application of Articles 8 and 10. The use of the template Transparency Order referred to in PD12R is a device of practical assistance to Judges who have to make swift decisions in circumstances when a reporter attends a hearing. Nevertheless, when making or varying a Transparency Order, the Court is engaged in the "scrutiny of competing considerations". The application of that process in children proceedings was considered in *Re J (A Child)* [2013] EWHC 2694 (Fam), by Sir James Munby P:

> "The court has power both to relax and to add to the "automatic restraints". In exercising this jurisdiction the court must conduct the "balancing exercise" described in *In re S* … and in *A Local Authority v W* …. This necessitates what Lord Steyn in *Re S*, [17], called "an intense focus on the comparative importance of the specific rights being claimed in the individual case". There are, typically, a number of competing interests engaged, protected by arts 6, 8 and 10 of the Convention. I incorporate in this judgment, without further elaboration or quotation, the analyses which I set out in *Re B (A Child) (Disclosure)* [2004] EWHC 411 (Fam); [2004] 2 F.L.R. 142, at [93], and in *Re Webster* … at [80]. As Lord Steyn pointed out in Re S, [25], it is "necessary to measure the nature of the impact … on the child" of what is in prospect. Indeed, 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)* …."

24. Article 8 of the European Convention on Human Rights and Fundamental Freedoms states,

> "Right to respect for private and family life
>
> 1. Everyone has the right to respect for his private and family life, his home and his correspondence.
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 10 states,

> "Freedom of expression
>
> a. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting television or cinema enterprises.
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary."

25. Section 12 (1) and (4) of the Human Rights Act 1998 provide that:

> " Freedom of expression.
> (1) This section applies if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to freedom of expression.
>
> (4) The court must have particular regard to the importance of the Convention right to freedom of expression and, where the proceedings relate to material which the respondent claims, or which appear to the court, to be journalistic, literary or artistic material (or to conduct connected with such material) to (a) the extent to which (i) the material has, or is about to, become available to the public, or (ii) it is, or would be, in the public interest for the material to be published, [and] (b) any relevant privacy code."

26. In *Re S* (above) Lord Steyn noted the following principles at [17]:

> "First, neither article has as such precedence over the other. Secondly, where the values under the two articles are in conflict, an intense focus on the comparative importance of the specific rights being claimed in the individual case is necessary. Thirdly, the justifications for interfering with or restricting each right must be taken into account. Finally, the proportionality test must be applied to each."

27. The Transparency Order in the present case was made in the Reporting Pilot period. Now that the Transparency Reporting regime has been rolled out nationally, the template order provides for permission to be given to the parties in certain cases to share documents with another accredited journalist or legal blogger, i.e. one who has not attended a hearing.

28. The current template Transparency Order includes the following provisions:

> "13. No person may publish any information relating to the proceedings to the public or a section of it, which includes:
>
> a. The name or date of birth of any subject child[ren] in the case.
>
> b. The name of any parent or family member who is a party or who is mentioned in the case, or whose name may lead to the child[ren] being identified;
>
> c. The name of any person who is a party to, or intervening in, the proceedings;
>
> d. The address of any child or family member;
>
> e. The name or address of any foster carer;
>
> f. The school/hospital/placement name or address, or any identifying features of a school of the child[ren];
>
> g. Photographs or images of the child, their parents, carer or any other identifying person, or any of the locations specified above in conjunction with other information relating to the proceedings;
>
> h. The names of any medical professional who is or has been treating any of the children or family member;

i. [In cases involving alleged sexual abuse, the details of such alleged abuse]

j. For the purposes of s.97(2) Children Act 1989, any other information likely to identify the child as a subject child or former subject child.

14. This Order does not disapply s.97(2) Children Act 1989 unless expressly stated.

15. For the avoidance of doubt, no body, agency or professionals may be identified in any information relating to the proceedings published to the public or a section of it by a reporter, save for:

a. The local authority or authorities involved in the proceedings, or the NSPCC if the applicant;

b. The director and assistant director of Children's Services within the LA (but no other person from the local authority, including the social worker, without express permission of the court);

c. Cafcass, Cafcass Cymru or NYAS (but not the children's guardian, case worker, or reporting officer without express permission of the court);

d. Any NHS Trust;

e. Court appointed experts (but not treating clinicians or medical professionals);

f. Legal representatives and judges;

g. Anyone else named in a published judgment."

13. Effectively the same wording was used in the pilot Transparency Order made by DDJ Elliott. The Transparency Order therefore prevents any person from naming any treating medical professional. At paragraph 15 it prevents a reporter publishing the name of an individual social worker. On the face of it therefore it does prevent non-reporters publishing the name of an individual social worker, albeit the Transparency Order does not amend the restrictions on publishing information relating to proceedings which would include, for example, what an individual social worker had said at a court hearing.

14. FPR PD12R, paragraph 5.1 provides that, "the court should amend the template as it considers appropriate on the facts of a given case."

15. At PD12R, paragraph 5.6 it is provided:

> "The template Transparency Order does not permit the parties to themselves publish information from the proceedings where this would otherwise amount to contempt of court (including by virtue of section 12 Administration of Justice Act 1960). This includes re-publishing any media articles or blogs written about the case under the pilot, where accompanied by comment that may identify the child concerned."

Thus, the template Transparency Order does not lift the restrictions imposed on the parties by AJA 1960, s12, save to the extent that the parties deal with reporters in accordance with the terms of the Order. It does not permit the parties themselves to publish information relating to the proceedings on social media, for example. The Applicants have had the Transparency Order for over a year but I am not confident that they have read it with care. During the course of the hearing, in seeking to answer questions of detail, the most important general point about the Transparency Order may have become lost. Hence, I state it now to avoid misunderstanding. The general rule under AJA 1960, s12 remains in force. The Transparency Order does not allow the parties themselves to disclose or publish information relating to the Children Act proceedings which were held in private in the Family Court except to the extent that the Order allows them to communicate with a reporter. The Family Procedure Rules allow them to communicate with certain others, such as police officers, about the proceedings in defined circumstances. Thus, the Transparency Order made in February 2024 does not allow the parents themselves to post information *relating to the proceedings* on social media or in any other medium. They are not reporters as defined within the Transparency Order and by FPR r27.11.

16. In *M v F & Anor* (above), having concluded that exercise of the inherent jurisdiction allows the Court to lift restrictions on non-reporters including the parties, when otherwise those restrictions would bind them under AJA 1960, s12, observed:

> "Any exercise of the inherent jurisdiction to permit publication requires an application to a High Court judge and is thus not a readily accessible remedy in family proceedings being heard in the family court. Similarly, there is no readily available template order for parties to proceedings in the family court to utilise, as now exists in PD 12R for accredited media representatives and bloggers."

Harris J's concern was that there was no mechanism within the Family Court, as opposed to in the High Court, to lift restrictions on non-reporters disclosing information relating to family proceedings held in private. The Family Court could elect to conduct proceedings in public (FPR r27.11) in which case AJA 1960, s12 would not apply. CA 1989, s97(2) would still apply, but only until the end of the relevant proceedings. I am hearing this application in the High Court and so I do not

have to decide the jurisdiction of the Family Court to permit the communication of information relating to private family proceedings by non-reporters. Parties have ready access to platforms allowing them to publish information without the help of a reporter and so this issue may come to be explored in a number of future cases.

The Application to Lift Restrictions

17. The question for the Court is whether there should be a further lifting of restrictions beyond those already given effect by the Transparency Order made in this case. In particular, although the Transparency Order is aimed at allowing reporting on proceedings by accredited journalists and authorised legal bloggers, I understand the Applicants to wish to be able to publish information themselves as well as, or instead of, through a reporter or legal blogger. As noted, this Court has the power to (i) vary the Transparency Order insofar as it restricts or allows information relating to the proceedings to be published by reporters and (ii) exercise its inherent jurisdiction to allow the Applicants themselves to disclose information relating to the proceedings. I heard no submissions on the burden of proof. The resolution of the issues on this application does not depend on the burden of proof but I shall assume that any party that seeks to vary a Transparency Order and/or to disapply the provisions of AJA 1960 s12 shoulders the burden of proof. I shall now consider the exercise of both those powers. The principles set out above concerning an intense scrutiny of Article 8 and Article 10 rights, and the importance of the welfare of the children apply to both issues but I also have regard to the statutory provisions and the rules of court. The starting point is that the children proceedings in the Family Court were held in private and so AJA 1960, s12 applies unless disclosure or publication of information is permitted. The first consideration is the interests of the children.

18. I have received no application by any reporter or legal blogger to vary the Transparency Order either to allow the naming of individual social workers or for any other reason. I was repeatedly pressed by Y during the hearing to answer hypothetical questions about what would or would not constitute a breach of the Order. The Transparency Order is in the standard terms of the template used during the Pilot period, which are now largely reflected in the template Order used nationally. It has been designed to be clear. The Transparency Order made by DDJ Elliott states plainly to whom it applies (including the Applicants), how long it remains in force (until the children are 18) what a person aware of the order cannot publish (for example the name or date of birth of the children, the name of any parent, or images of the children and family members). It states that the Local Authority and any relevant NHS Trust may be identified but not individual social workers, not the Guardian, and not treating clinicians). Communication of information relating to the proceedings may be made with certain third parties such as the police provided it is in accordance with permission under the Family Procedure Rules rr12.73, 12.75 or Practice Directions 12G (para. 2.1) and 12E. I conceded that those rules are complex. AJA 1960, s12 continues to operate except insofar as the Transparency Order varies it. As the Transparency Order provides, “any publication of information relating to the proceedings which is not permitted

by this Order is a Contempt of Court." That warning applies both to reporters and to the Applicants.

19. In the present case, notwithstanding the Applicants' passionate beliefs about the injustices caused to them and their children, and their dismissal of the authority of the Court, there have been no apparent breaches of the Transparency Order. I credit the Applicants for that. However, they wish to be permitted to publish their account of the proceedings to include naming judges, barristers, and individual social workers and healthcare professionals whom they believe are part of a corrupt system and a criminal conspiracy. Under the terms of the existing Transparency Order it is expressly permitted to report the names of judges and barristers and no application has been made to impose restrictions against naming them. I pause to comment that during the hearing Y indicated that she knew where one of the barristers lived. I intervened to warn her not to seek to intimidate. I was later shown an email sent by the Applicants to the solicitor for the Local Authority in which they purport to give details about and to criticise a barrister's personal life. The barristers in this case have broad shoulders and do not ask the Court to prevent them being named. The question of anonymisation of judges has recently been considered by the Court of Appeal - *Tickle and Summers v BBC and Ors* [2025] EWCA Civ 42. There has been, and shall be, no bar on naming the Judges in this case.

20. The question whether to allow publication of the names of individual social workers and healthcare professionals is a different matter. In April 2024, the Supreme Court heard the appeal against the Court of Appeal's decision in *Abbasi v Newcastle upon Tyne Hospitals NHS Foundation Trust* [2023] EWCA Civ 331. At precisely the same time that I initially handed down judgment in the present case the Supreme Court handed down its judgment. I therefore recalled my judgment and allowed the parties to make further submissions related to that judgment. This judgment takes into account the Supreme Court's judgment, *Abbasi and another (Respondents) v Newcastle upon Tyne Hospitals NHS Foundation Trust (Appellant); Haastrup (Respondent) v King's College HospitalNHS Foundation Trust (Appellant)* [2025] UKSC 25. The Supreme Court upheld the Court of Appeal's decision but for different reasons. A number of principles are set out at the end of the main judgment of Lord Reed and Lord Briggs. At paragraph [182] they held:

> "(1) The High Court has jurisdiction, in proceedings concerned with the withdrawal of life-sustaining treatment of children, to grant injunctions protecting the identities of clinicians and other hospital staff involved in that treatment, where and for so long as that is necessary to protect the interests of those children. That jurisdiction arises under the court's inherent parens patriae powers, and under its inherent jurisdiction to protect the administration of justice. Such injunctions can be granted against parties who will not themselves act wrongfully, where that is necessary in order to protect the children's interests or the administration of justice, and they can be granted contra mundum.

(2) The High Court also has jurisdiction to issue such injunctions where that is necessary in order to prevent interference with hospital trusts' performance of their statutory functions, as explained in *Broadmoor*.

(3) The High Court also has jurisdiction to issue such injunctions where that is necessary in order to protect the rights of clinicians and other hospital staff, in proceedings brought or continued by those individuals in reliance on their rights. In principle, such proceedings can (in an appropriate case) be brought in a representative capacity.

(4) These grounds of jurisdiction are not mutually exclusive. In particular, the need to protect the interests of the children, to secure the administration of justice, and to prevent interference with the trusts' performance of their functions are likely to co-exist and to be mutually reinforcing.

(5) Such injunctions are not incompatible with the open justice principle where, as in the Haastrup proceedings, the application is made under the parens patriae jurisdiction and the substantive hearing is held in private. It is also possible to avoid any incompatibility with the open justice principle.

(6) Applications for such injunctions should be based on the relevant cause of action under domestic law (such as the parens patriae jurisdiction, or the Broadmoor principle, or the rights of the clinicians under the law of tort), rather than simply on section 6(1) of the Human Rights Act and section 37(1) of the Senior Courts Act.

(7) In principle, the powers of the High Court under the latter provisions are wide enough to enable it to issue injunctions to protect the Convention rights of clinicians and other hospital staff in proceedings brought by hospital trusts, if that is the only way in which those rights can receive practical and effective protection. However, those circumstances do not exist where such protection can be afforded under parens patriae powers or under the court's power to protect the administration of justice, or on the basis explained in Broadmoor, or where it is practical for the clinicians (or a representative) to be joined to the proceedings and to assert their own claim.

(8) Notice of an application for such an injunction should be given to media organisations. Notice of the grant of such an injunction, and of any application to vary or discharge such an injunction, should be given to the clinicians affected.

(9) In deciding whether to grant such injunctions at the outset of such proceedings, where the court is being asked to exercise its parens patriae powers, the interests of the child in question, and

the need to secure the administration of justice in the proceedings, are likely to justify making an order in circumstances where there is a significant risk that publicity will result in interferences with the child's right to confidentiality and privacy, and in damage to the continued care being provided by the hospital. An order is also likely to be justified under the Broadmoor principle, and, where the clinicians (or a representative clinician) are joined, in order to protect the rights of the clinicians.

(10) Such injunctions should be of limited duration. A reasonable duration would be until the end of the proceedings and, in the event that they terminate with the child's death or the grant of the declaration sought, for a subsequent cooling off period. The length of that period will reflect the court's assessment of the continued risk of interference with the trust's performance of its statutory functions, and in particular with its continuing treatment of other patients, and the time reasonably needed for clinicians to take advice about their personal rights, but is likely to be measured in weeks rather than months or years.

(11) The individuals whose identities are protected by such injunctions should be identifiable by reference to the court's order.

(12) Such injunctions, being contra mundum, should include liberty to any person affected by their terms to apply on notice to vary or discharge any part of the order.

(13) In the event that a fresh injunction (or the continuation of the existing injunction) is sought after the cooling-off period in order to protect the rights of clinicians or other hospital staff, the application should be made by those individuals (or one or more representatives of them), relying on the relevant cause or causes of action. It should be supported by specific evidence.

(14) The court should begin its assessment of any application for such an injunction, or for the continuation of such an injunction, by considering the relevant domestic law.

(15) When the court considers whether the grant or continuation of such an injunction is compatible with the Convention rights protected by article 10, or whether its refusal or discharge would be compatible with article 8, it needs to consider (a) whether there is an interference with the relevant right which is prescribed by the law, (b) whether it pursues a legitimate aim, ie an aim which can be justified with reference to one or more of the matters mentioned in article 10(2) (or article 8(2), as the case may be), and (c) whether the interference is necessary in a democratic society.

> (16) In answering the last of those questions in relation to article 10, the need for any restriction of freedom of expression must be established convincingly. It must be justified by a pressing social need, and must be proportionate to the legitimate aim pursued. This consideration applies with particular force to preventive restraints on publication, and is reflected in section 12(3) and (4) of the Human Rights Act.
>
> (17) In assessing proportionality in a situation where there are competing rights under articles 8 and 10, the court should consider the criteria established in the case law of the European court, so far as relevant.
>
> (18) The court should also consider how long the duration of any restriction on freedom of expression needs to be, and whether the reasons for the restriction may be affected by changes in circumstances. A permanent restriction would require compelling circumstances.
>
> (19) Weight can be given to the importance of protecting the medical and other staff of public hospitals against unfounded accusations and consequent abuse. However, the court should also bear in mind that the treatment of patients in public hospitals is a matter of legitimate public interest, and that the medical and other staff of public hospitals are public figures for the purposes of the Convention, with the consequence that the limits of acceptable criticism are wider than in the case of private individuals."

21. The use of Transparency Orders and the operation of FPR PD 12R were not expressly considered by the Supreme Court. The Supreme Court was considering applications regarding life sustaining treatment for children made in the High Court not CA 1989 proceedings in the Family Court, nevertheless FPR PD 12R would now apply to serious medical treatment applications concerning children in the High Court when a reporter attends. The Court did consider AJA 1960 s12 and restrictions which the Court might impose on naming witnesses in private proceedings as follows at [119] and [120]:

> "119. There is no constitutional principle that is infringed by a prohibition on the publication of the names of witnesses in proceedings held in private under the parens patriae jurisdiction.
>
> 120. We also note that section 12(1) of the Administration of Justice Act 1960 provides that the publication of information relating to proceedings before any court sitting in private shall not of itself be contempt of court except in certain specified circumstances, including "(a) where the proceedings – (i) relate to the exercise of the inherent jurisdiction of the High Court with respect to minors". As Munby J said in *Kelly v British*

> *Broadcasting Corpn* [2001] Fam 59, 72, summarising a number of earlier authorities, "in essence, what section 12 protects is the privacy and confidentiality: (i) of the documents on the court file and (ii) of what has gone on in front of the judge in his courtroom". Accordingly, it covers the names of the witnesses who gave evidence or provided statements, the identities of the experts who provided reports, and the contents of their evidence, statements and reports. It follows that, by virtue of section 12, the publication of the witnesses' and experts' names, either by the media or by the parents, would have rendered them liable to proceedings for contempt of court. That reflects the common law: *In re Martindale* [1894] 3 Ch 193; *In re De Beaujeu's Application for Writ of Attachment against Cudlipp* [1949] Ch 230. For that reason also, the injunction could not be regarded as impinging upon open justice."

22. The judgment in *Abbas*i did not directly concern proceedings of the kind with which I am concerned, nor did it directly address the position of individual social workers, although at paragraphs [58] to [61] the Supreme Court remarked on some overlapping considerations affecting social workers and treating medical professionals as carers for a child. The principles set out in *Abbasi* are I am satisfied are applicable to orders preventing the naming of individual professionals such as social workers in cases concerning children's welfare heard in private. That is what the template Transparency Order addresses. AJA 1960, s12 does not prevent the naming of a witness as a witness, but it does prevent anything being published about the witness relating to the proceedings, such as what they said in court. The Supreme Court in *Abbasi* was content that an injunction could be made preventing the naming of witnesses in private family proceedings. The Supreme Court also proceeded on the basis that AJA 1960, s12 does not prevent the naming of non-witnesses, otherwise injunctive orders in private proceedings such as *Haastrup* would not be necessary. The template Transparency Order refers expressly to individual social workers and treating clinicians or medical professionals and does not distinguish between those who are witnesses and those who are not. In that regard, the template Transparency Order may impose restrictions on publication that go further than the reach of AJA 1960,s12 as set out by the Supreme Court at paras [119] and [120] in *Abbasi*.

23. Since the Supreme Court did not address the use of Transparency Orders nor the jurisdiction of the Family Court, there may be questions to be addressed. Does the template Transparency Order indeed go further than AJA 1960, s12 as I have suggested might be the case? Should the Court insist on receiving specific evidence in relation to each individual social worker or clinician before making an order to restrict their identification in relation to the proceedings or does the requirement for specific evidence apply only to a restriction on naming such individuals as dealing with the child, as opposed to naming them "in relation to the proceedings"? Does the Family Court as well as the High Court have jurisdiction to make such orders? Is the template Transparency Order preventing the naming of individual social workers and treating clinicians until the relevant child is aged 18 compatible with the Supreme Court's judgment in *Abbasi*?

Should notice be given to the media, not just to the reporter in court, every time a Transparency Order is made? I do not have to address those questions in the present case. I am sitting in the High Court, I have ample evidence on which to make a judgement as to the consequences for individual social workers and healthcare professionals of allowing them to be named in information relating to the proceedings. I do not have any application before me for a wider injunction beyond that contained within the Transparency Order (other than extending it to the High court proceedings.

24. In the present case, the children are still alive and they are at a vulnerable stage in that they are the subject of placement orders but not adoption orders. It would be harmful to them to jeopardise any prospective adoption. I have to be mindful of the effect on any potential adopters and therefore on the children of allowing the naming of individual social workers and healthcare professionals in information published relating to the proceedings.

25. The Applicants wish permission to be given for the publication of information relating to the proceeding so that their own views can be published and so that they can pursue a public campaign against those they consider responsible for a criminal conspiracy to steal, sell, and abuse their children, including individual social workers and healthcare professionals. I would not prevent them from doing so only on the basis that their views do not accord with the Court's findings. Open justice exists to allow criticism as well as approval of judges' decisions and court processes, even unwarranted criticism. It is not for the Court to decide what criticism of the justice system merits publication and what does not. Where, however, the evidence demonstrates that allowing publication of information in relation to proceedings to include named individual social workers and healthcare professionals will be likely to lead to defamatory attacks, abuse, and even bullying likely to cause significant distress to anyone of what is in a different context sometimes called "customary phlegm", then protection of their Article 8 rights is engaged and requires careful consideration.

26. I do not want to air the precise allegations that the Applicants make against Judges, barristers, social workers, and healthcare professionals, because I have not seen any evidence to support them. However, to give a sense, the Applicants have variously maintained that the removal of their children by the Local Authority and the Court was part of a corrupt systemin which children are stolen, sold for profit, held as "hostages", abused, given lethal injections, and sometimes experimented upon. The Applicants believe that Judges, Local Authorities and others financially benefit from this abuse. They do not respect boundaries of personal privacy – they have purported to provide evidence of the private family life of a barrister, the financial affairs of a Judge, and the personal conduct of a social worker.

27. The Applicants' written communications, including to the Court, are expressed in aggressive language and reports of very serious crimes have been made against individuals to the police. References have been made by the Applicants to their connections in the military and to various "Commandos" who will be able , it is said, to access email accounts and find out where the children and other individuals live.

28. The purpose of publicity will be to bring the parents' views of a criminal conspiracy to an audience and to recruit more supporters to their cause. The purpose of naming individual social workers or healthcare professionals would be to associate them with the sort of allegations to which I have briefly referred.

29. The children with whom the Family Court was concerned await adoption. They are vulnerable and they are at a crucially important time of their lives. I have no doubt that publication of information relating to the proceedings would, unless suitably restricted, be liable to lead to the identification of the children and could jeopardise a potential adoption. The children need a permanent family and they need stability in a nurturing home. Unrestricted publication of information about them, even if they were not named or their images were not published, would risk causing them harm over their lifetimes. Potential adopters would be likely to be discouraged to put themselves forward if there was publicity around the children and abuse and attacks on those who have sought to protect their interests. The ability of social workers to act in the children's best interests would be compromised if they are occupied with dealing with public attacks on their actions and personal abuse.

30. I have considered the extent to which the parents' Article 10 rights are already safeguarded. The Applicants, as parents of children taken into care, have an account of the process which they want to tell the public. The Transparency Order, as it stands, allows a reporter to publish information about the proceedings. A reporter's published account of proceedings could feature the parents, albeit anonymously. Publication of DJ Hussain's judgment, suitably anonymised, would also allow for comment on the Court's decisions. The Transparency Order modifies the statutory restriction on publishing information relating to the proceedings to allow for greater freedom of expression. Whilst some restrictions remain, the right to freedom of expression is curtailed but not extinguished. A reporter could tell the parents' story without any further lifting of reporting restrictions.

31. The Applicants hinted to the Court that there has already been publicity relating to the proceedings in India but I have not seen evidence of that and I have no evidence of any postings, articles, or broadcasts in which information relating to the proceedings has been published in this jurisdiction.

32. The Local Authority and the Guardian strongly oppose any significant changes to the Transparency Order and they oppose any of the statutory restrictions on the Applicants or other non-reporters disclosing information being removed. They both submit that the existing Transparency Order should be expressly extended to the hearing on 30 July 2024 and they support the publication of the judgments on 2 May and 30 July 2024 as well as this judgment with suitable anonymisation.

33. I accept that the right to freedom of expression potentially allows for the publication of unevidenced assertions about court cases and the family justice system more generally, but it is surely relevant to the intense scrutiny of competing considerations that the Applicants seek to exercise their right to freedom of expression to make what are likely to be defamatory assertions about all manner of individuals. They appear to hold their beliefs sincerely but with

fervour and without any perspective. Anyone whom they see as opposing them is fair game for attack and abuse. They will try to bring them down. This involves complaints to the police and professional regulators but also intimidation such as I witnessed in court when Y made it clear that she knew where Counsel for one of the other parties lived. I have no doubt that, given the freedom to identify individual social workers or healthcare professionals in any published information relating to the proceedings, the Applicants would use that freedom to abuse and bully those they regard as complicit in a criminal conspiracy to steal their children. I cannot discern any public interest in allowing public pillory and abuse. Individual social workers and healthcare professionals also have Article 8 rights and the Court has to be mindful of protecting those rights. In this case the Applicants would, unless restrained, be likely to publish information in relation to the proceedings in such a way as to garner further support for their views and to pillory individuals. Furthermore, public identification of a social workers, the Guardian, and healthcare professionals is, to a small extent, liable to heighten the risk of identification of the children.

34. Y told the Court that she and X wanted to draw links with other cases involving "stolen" children. A reporter may justifiably seek the lifting of restrictions in order to report on evidence of concerning patterns of practice by a certain Local Authority, or Trust. Of course, power should be held to account but, here, I am concerned with far-fetched assertions of conspiracy that are based on misinterpretation, misunderstanding, and ill-will.

35. In children cases held in private, Parliament has decided that information relating to the proceedings must not be published. In children cases, the template Transparency Order is designed to strike a balance between Article 10 and Article 8 rights whilst protecting the welfare of the children involved. The Court is not bound to make the template Transparency Order: it can choose not to make a Transparency Order at all, or it can make one with different terms from the template Order. The need to safeguard children and protect their rights means that Courts will allow children to be named only in extremely rare instances, for example where a child has been abducted and the authorities need the public's assistance to find them. Very occasionally, permission will be given for the publication of the names of parents involved in private family hearings involving children, for example in *Griffiths v Tickle* (above). Generally, however, allowing the names of parents to be published risks identification of the children which will infringe the children's Article 8 rights and put them at risk of harm. In this case the children currently have the same surnames as one parent. I am sure that if the parent's names were published in relation to the proceedings, then that would create a high chance of identification of the children.

36. Here, a reporter could report on what happened in the proceedings without naming the parents. The story might lack the human element that comes with naming individuals and publishing their images, but the parents' experience could nevertheless be reported. There is no particular public interest in knowing the identity of these parents. They do not hold positions of responsibility such as an MP, for example.

37. I am bound by the Supreme Court's judgment in *Abbasi* insofar as it applies to the present case. The Supreme Court did not refer to Transparency Orders or the template Order. The template Order is expressly provided for in the Family Procedure Rules PD 12R which applies when a reporter attends a private hearing in family proceedings as set out in the Practice Direction. Reporters attended two of the hearings with which I am concerned. Once made, a Transparency Order applies to the whole proceedings not just the hearing attended by the reporter. Under the template Order, in reporting on the proceedings no-one may publish the name of a medical professional who is or has been treating the relevant child or a member of their family. This goes beyond a prohibition on naming a medical professional who has been a witness. The template Order maintains that prohibition until the child is aged 18. Thus the template Order which the Court does not sit easily with the principles set out in *Abbasi* but the Court is required to consider making a Transparency Order and to give reasons if it does not follow the terms of the template Order referred to in the Practice Direction.

38. The effect of the Supreme Court's judgment in Abbasi on the Transparency Order regime and the operation of FPR PD 12R, in particular in the Family Court, may well require careful consideration in another case. I do not need to wrestle with those issues because I sit in the High Court to hear this application to lift reporting restrictions. I have no application before me to extend the injunction to prevent the naming of individuals otherwise than in information relating to the proceedings. For the reasons I have given I am satisfied that unless the court continues the Transparency Order and ensures that it covers the applications in the High Court, individual social workers and healthcare professionals will be named in information published about the proceedings. I also satisfied that that would be a serious interference with their Article 8 rights and that they would suffer abuse and verbal attacks some of which would be likely to be defamatory. There would be a risk of harm caused to the children as a consequence not least because they await adoption and any adoption would be jeopardised. That is, in many regards, the Applicants' goal.

39. The template Transparency Order and the Transparency Order made by DDJ Elliott, who adopted the pilot template Order, prevent any person (including non-reporters such as the parties, from identifying any individual social workers or treating clinicians or medical professionals in any information published about the proceedings (para 15 of the template Order). That injunction is effective until the relevant child is aged 18. The Transparency Order scheme does not require specific application by any social worker or medical practitioner nor any evidence of the risk of harm or interference with their rights to be produced. The compatibility of these provisions with *Abbasi* may require consideration on another occasion. In this case I have ample evidence of the Applicants' intentions to publish information relating to the proceedings in order to publicise their views about a criminal conspiracy. I do not need further evidence to establish that the identification of individuals who have or are caring for the children in information relating to the proceedings would jeopardise any prospective adoption. Although final care orders have been made and a placement order, the process is far from over for the children. Adoption order have not been applied for and so the children need protecting from the sort of publicity that the Applicants wish to generate.

The protection that is necessary and proportionate is to maintain the Transparency Order and to extend it to these High Court proceedings.

40. I am satisfied that subject to some minor amendments, the Transparency Order made by DDJ Elliott in this appropriately accommodates Article 8 and 10 rights whilst protecting the welfare of the children. Subject to the issue of duration, the only variations that are required, in my judgement, are (i) to extend the Order to cover the later proceedings in the High Court, and (ii) to allow the parents to share information with reporters (accredited journalists or legal bloggers) who were not present at hearings. Accordingly, I shall so extend the Order and include a provision that,

> "A party, legal representative, or reporter may also share documents with another accredited journalist or legal blogger providing:
>
> (i) That the accredited journalist or legal blogger is provided with a copy of this order.
>
> (ii) That the accredited journalist or legal blogger writes to the court by email to confirm that they have made a request for documents and that they have been sent a copy of this order and they understand that they are to be bound."

41. Although the standard Transparency Order is designed to be prospective in its effect, the inclusion of a provision that information may be shared with other reporters means that even after proceedings have been concluded, a reporter who was not present at any hearings may publish information relating to the proceedings provided they abide by the restrictions within the Transparency Order.

42. Counsel for the Local Authority and the Guardian considered that it was right in this particular case to extend the Transparency Order to the hearing before HHJ Downey on 30 July 2024. Under the Transparency Reporting Guidance in place at the time, the pilot did not apply to Part 14 proceedings and the applications to revoke the placement orders were Part 14 proceedings as HHJ Downey identified. However, there would be no risks or detriment to the children caused by allowing the reporting of that hearing subject to the Transparency Order. In the particular circumstances of this case, I agree and I shall include express provision in the revised Transparency Order that it applies to that hearing.

43. It was agreed by Counsel that CA 1989, s 97 is no longer effective because the Children Act proceedings have concluded. There are no ongoing proceedings. If applications for adoption orders are made in the future, those will be Part 14 applications and the Transparency Order will not apply meaning that AJA 1960, s12 would apply without variation (unless the Court hearing the Part 14 proceedings expressly ordered otherwise).

44. I shall not lift restrictions on publishing the names of any Cafcass officers, the Guardian, clinicians or social worker. I shall make it clear in the revised order that by "clinicians" the Transparency Order refers to all healthcare professionals including nurses. On the facts of this case, allowing such individuals to be named publicly as being involved in these proceedings would put them at risk of public abuse and bullying. I would go so far as to say that their physical safety would be put at risk because of the nature of the allegations the parents make, which include child abuse, the manner in which the Applicants have sought to generate support for their "cause" (they came to court in January 2025 with a large group of supporters) and the Applicants' comments about their supporters and their resources. The Local Authority and any relevant NHS Trust may be named. Court appointed experts may be named, as may legal representatives and judges.

45. Having regard to the past conduct of the Applicants to which I have referred in this judgment, it is virtually certain that they would use any opportunity given to them to disclose information about the case directly to the public or sections of the public, so as to verbally attack and abuse individuals involved in their children's case. They would do so fuelled by their unevidenced beliefs in conspiracy and corruption. Such public attacks would not only amount to a substantial interference with the individuals' Article 8 rights but would also jeopardise any adoption. Y told the Court quite frankly that the Applicants' unwavering goal is to get back their children and they would consider the disruption of the adoption process to be a worthwhile achievement. In consideration of the Article 10 right of freedom of expression and theirs and others' Article 8 rights, as well as the importance of the welfare of the children, I have concluded that I should not further lift reporting restrictions to allow the Applicants themselves, or any other individuals who are not reporters within the meaning of the Transparency Order, to be able to disclose information relating to the proceedings.

46. In the light of the Supreme Court's judgment in *Abbasi*, I have reconsidered the issue of the duration of the Transparency Order which, unamended, would continue in effect until the children reach the age of 18. AJA 1960, s12 continues indefinitely but it would not prohibit the naming of individual social workers or healthcare professionals who have dealt with or are dealing with the children. Following *Abbasi*, I am satisfied that those parts of the Transparency Order which prohibit the publication by reporters or anyone else, of information relating to the proceedings that identifies individual social workers and treating clinicians or medical professionals, should be time limited to a point well before the children's 18th birthdays. Once the children are adopted and settled into their adoptive family, alternatively placed in long term fostering and settled there, then those parts of the order are no longer justified on the evidence before me. I do not wish to imply that the evidence does not exist, but it is not before this Court. The individuals protected may apply for extensions of the injunction both as to its scope and its duration but will need further evidence to support any such application. Since it cannot be known when an adoption will take place, or a long-term fostering placement found, I shall extend those specific parts of the Transparency Order that prevent the publishing of information relating to the proceedings that identifies individual social workers and healthcare professionals to a period of two years from the date of this judgment There shall be liberty to

apply to extend that period. The Applicants are subject to ECROs and I remind them that they require prior permission to make any application.

47. DJ Hussain handed down a detailed written judgment which gives a full account of the history of the removal of the children and reasons why care and placement orders were made. I invited the Applicants to agree that it should be published, along with the judgment of HHJ Downey of 30 July 2024 for which I have an approved transcript. They were resistant to the notion of the judgments being published because they do not agree with them. Y did not see any inconsistency in her seeking the removal of all reporting restrictions, bar the naming of the children, whilst opposing publication of the judgments. However, in my judgement, open justice requires the judgments to be published once suitably anonymised. Once published, the judgments can be commented upon and that will support Article 10 rights to freedom of expression. The Transparency Order will ensure that proportionate protections of the children and of individual social workers and healthcare professionals are maintained. An issue arose as to redaction of parts of DJ Hussain's judgments that refer to the parents' medical histories. The Applicants want all references personal to them to be removed from the judgments, but it is in the nature of judgments in family proceedings that they will include personal information about parents. I shall allow the parties further time to address the Court in writing on any redactions (removing parts of the judgments from any published version) before publication, and I shall seek the agreement of the judges concerned to publish. However, provided that the restrictions within the Transparency Order are respected in the published judgments, it appears to me clear that in a case where the Applicants have now come to the High Court, and I am giving a judgment on reporting restrictions and transparency, the public should have access to the judgments themselves.

48. I shall publish this judgment, authorise the publication of the judgments of DJ Hussain dated 2 May 2024, and HHJ Downey, dated 30 July 2024, subject to anonymisation and any redactions, vary the Transparency Order as set out above, but refuse any other or further lifting of reporting restrictions.

49. I am most grateful to the Guardian for participating and to Ms Cservenka for acting for the Guardian pro bono. There are no ongoing proceedings in which the Guardian is active but the assistance to this Court is much appreciated. The Applicants invited the Court to hand this judgment down by reading it their presence before a jury. Juries are not part of proceedings such as these and it is unnecessary to have a further hearing simply to read the judgment out. I shall hand this judgment down by circulating it to the parties by email. It shall be published on the National Archive together with the judgments in the Family Court.