Neutral Citation Number: [2025] EWFC 126

Case No: [XX]24C00011

IN THE FAMILY COURT
SITTING AT THE ROYAL COURTS OF JUSTICE

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 9 May 2025

Before:

MRS JUSTICE THEIS DBE

- -

Between:

A Local Authority	**Applicant**
- and -	
(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**
Richard Jones KC and Jonathan Adler (instructed by **Brethertons LLP**) for the **First Respondent**
Jonathan Sampson KC and **Victoria Flowers** (instructed by **MSB Solicitors**) for the **Second Respondent**
Jo Delahunty KC, Fiona Holloran and James Nottage (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**
Press representatives: Hannah Summers; Dominic Casciani; Nina Massey; Louise Tickle

Hearing dates: 14 and 15 April 2025
Judgment date: 9 May 2025

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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. These proceedings concern two children B, 15 years and C, 10 years who have lived with foster carers since January 2024.

2. The applicant local authority issued these proceedings in January 2024 and seek care orders. The other parties are B and C's parents, X and Y, B and C through their Children's Guardian, Faye Robertson, ('Guardian') and B and C's older sibling, A, who is an intervenor in these proceedings.

3. This is the fourth judgment I have given in these proceedings.

4. The issues for determination can be summarised as follows:

   (1) Care orders and care plans for both children. There is no issue between the parties that final care orders should be made in relation to both B and C and the care plans approved.

   (2) Whether the judgments given in these proceedings should, in principle, be published. There is no issue between the parties that they should be.

   (3) Anonymisation of the judgments. The central issue is whether the parents should be identified. If they are not, there is an issue about the extent of the detail that should be included about their professions. It is not in issue that other anonymisation should be made to reduce the risks of jigsaw identification of the children including part of the case number, the name of the local authority, and any geographical references.

   (4) Litigation conduct. The local authority and the Guardian seek findings in relation to the litigation conduct of the parents. That is opposed by the parents.

   (5) Disclosure of the judgments to the relevant professional bodies, Y's Leadership Judge and A. There is no issue about that.

5. Members of the press have attended this hearing, as they are entitled to pursuant to rule 27.11 Family Procedure Rules 2010 (FPR 2010). The court gave directions at the last substantive hearing for notice to be served on the press as, at that stage, there was uncertainty as to the extent of the anonymisation sought on behalf of the parents and, in any event, it was likely to involve a restriction on s 12 Administration of Justice Act 1960 (AJA 1960).

6. The court has had the benefit of detailed written submissions on behalf of the parties and the press, for which the court is very grateful. The day after the hearing had concluded the Supreme Court handed down the judgment in *Abbasi v. Newcastle-upon-Tyne Hospitals N.H.S. Foundation Trust* [2025] UKSC 15. The parties liaised and submitted a marked up copy of the *Abbasi* judgment and following direction from the court any further written representations they wished to make in the light of that judgment.

Summary

7. Before setting out my conclusion on the central issue of whether the parents should be identified in the judgment, it is important to recognise this case has involved an extraordinarily difficult balancing exercise between the competing Article 10 and 8 rights that are engaged. There is no simple solution.

8. This case is not about protecting any particular person or persons. It is about weighing up, in these very unusual and difficult circumstances, the competing relevant Article 10 and 8 rights. The considerations on each side are compelling. The balance of the competing rights is nuanced and complex as a result. The fact that the local authority is neutral on this issue and the Guardian's position has changed in a relatively short period of time from one of supporting the parents being identified to one of neutrality demonstrates the level of complexity involved.

9. At the heart of this case are children who the court has determined have been the subject of significant harm caused by their parents over an extended period of time which included a punishing regime of care for the children conducted by X that included refusing food to the children, leaving the children at home overnight, controlling behaviour, abusive (including racist) language, shouting and swearing, throwing objects, inappropriate punishment (such as standing against a wall, being isolated in bedrooms or outside for long periods, confiscation of spectacles, pushing soap into a child's mouth, throwing a child into a water trough) and physical assaults (including hitting with objects, smacking, restriction of the neck, dragging and hitting heads together). Y was aware of X's behaviour and failed to protect the children.

10. The children have been caused further significant harm as a result of the delays in being able to conclude these proceedings. Those delays have been, in very large part, due to the conduct of the parents in the way they have conducted these proceedings. In my judgment, the parents have remained focussed on their own needs, showing very little, if any, understanding of the impact of their conduct on their children.

11. As is often the case, the children's views have fluctuated on whether they want to see their parents. That is not unusual and is very understandable. The children are torn between knowing the abuse they suffered in the care of the parents, but they lived with the parents all their lives. They have lost so much and also had to navigate the many twists and turns in this case. Each child remained consistent about their experiences of their abuse in the care of the parents, which the court has accepted. What they want is some acknowledgment from the parents of that abuse and the children's experience of that.

12. Since January 2024 the parents have remained resolute, until very recently, about not seeing the children, despite being aware of the children's wishes to see them. This was most eloquently set out by the children themselves in their joint letter in the Guardian's report in November 2024. It is a compelling, heartfelt and powerful letter that fell on deaf parental ears; the parents have barely acknowledged it. These children last saw their parents when they went to bed in January 2024 in their own home, where they had lived for many years, and which they left later that evening. The first time the parents have put forward any concrete proposals about contact was

their email to the Guardian on 31 March 2025, fourteen months later, and shortly before this hearing.

13. During those fourteen months the children have moved three times to a total of four foster placements, been interviewed by the police, been assessed over many months and had to consider giving oral evidence in these proceedings as a result of the parents challenging their accounts, to then be told shortly before the hearing they are not required to do so as the parents had decided not to contest the evidence relied upon by the local authority and then consider, in the light of the parents' December 2024 email, the very difficult questions around whether their parents should be named in any judgment. This is all in the context where the children remain aware the parents still deny what they have described is true. It is difficult to imagine a more damaging and difficult set of circumstances for the children to manage.

14. The court has recognised and taken very active steps to enable the parents to fully participate in these proceedings. Each step the parents have taken within these proceedings has been their choice as adults, and for much of the time with specialist legal advice. Whilst it is recognised the context has been within difficult and distressing court proceedings, those decisions remain their own autonomous decisions that, in my judgment, had little, if any, regard for each child's welfare.

15. The court has considered very carefully the important Article 10 rights engaged in this case. The strong public interest considerations have been powerfully and properly put before the court by the press and addressed by the parties. X is a primary school teacher and Y a barrister specialising in children cases, who also sits as a Deputy District Judge with authority to sit and hear private family cases. Although neither of them is currently undertaking these roles it is recognised by both parents that the relevant regulatory bodies for each of their professions should be notified about the conclusions in this case and the judgments should be disclosed to those bodies. There has already been a determination by Y's regulatory body that Y failed to report to Y's Leadership Judge that they had been involved in proceedings that could have affected their position or the reputation and standing of the judiciary at large, even though those proceedings were discontinued.

16. The court is left in the unenviable position that whatever decision it reaches it is bound to have a significant and lasting impact on both the children and the parents and have wider public interest consequences. The decision reached needs to be viewed in the context of the case as a whole, not just selected parts of it, and the circumstances that the court has taken into account in reaching its decision.

17. For the reasons set out below, in particular in paragraph 187, I have decided that the parents should not be identified by name in the judgments as having undertaken the intense focus on and balanced the competing ECHR rights engaged I have reached the conclusion that the Article 8 rights of the children should prevail, that those rights justify the interference in the Article 10 rights and such interference is proportionate in the particular and unusual circumstances of this case.

Relevant background

18. This has been set out in some detail in the judgments given on 11 July 2024 (July judgment) [2024] EWFC 445, 16 December 2024 (December judgment) [2024] EWFC 365 and 7 March 2025 (March judgment) [2025] EWFC 49 which I do not propose to repeat. This judgment should be read together with those judgments.

19. As a result, it is only necessary for me to give a summary of the background. The court is concerned with ongoing care proceedings relating to B and C. In the December 2024 judgment I made findings that the children, who had been in the care of X and Y, had suffered and were likely to suffer significant harm as a result of the abusive behaviour of X that resulted in the physical and emotional abuse of the children over an extended period of time. I found that Y was aware of X's behaviour and failed to protect the children over that period. The children were removed from the parents' care in January 2024 and have been placed with foster carers since, where they have had to move four times. They have had no direct contact with their parents since January 2024.

20. The parents each had the benefit of specialist solicitors and leading and junior counsel throughout the proceedings until hours before the court handed down the December judgment on the 16 December 2024. In an email sent to the court (not copied to the other parties) on 15 December 2024 (the December 2024 email), the evening prior to the judgment hand down hearing on 16 December 2024, the parents said they were dis-instructing their legal teams. The parties were informed of this email by the court on the morning of the December hearing. The parents' legal representatives attended court on 16 December 2024 to apply to come off the record, which was granted. The parents did not attend that hearing, even though the court had permitted them to attend remotely, had the link sent to them and adjourned until later in the day to enable them to do so, having made an order that they do so with a penal notice attached. That hearing was attended by a representative of the Press Association, in accordance with rule 27.11 Family Procedure Rules 2010 (FPR 2010).

21. As a consequence of the parents' actions, the court concluded it had no alternative but to adjourn the hearing and made detailed directions leading to the hearing on 31 January 2025. The December order provided that the issues to be considered at the January 2025 hearing included:

    (1) Disclosure of the judgment and any other documents to the regulatory bodies for X and Y.

    (2) Publication of the July and December judgments and anonymisation of those judgments, including whether the parents' names should be anonymised taking into account the contents of their email dated 15 December 2024.

    (3) Whether A should have a copy of the judgment.

22. The directions included provision for a skeleton argument to be filed on behalf of the Guardian setting out her position regarding anonymisation, including whether the parents' names should be in any published judgment.

23. On 13 January 2025 the Guardian filed her report (January 2025 Guardian's report) which set out the details of her discussions with the children following the parents' December 2024 email and not attending the hearing on 16 December 2024. One of her concerns then was if the parents were not identified that bearing in mind the contents of the parents' December 2024 e-mail, the fact that there was some information about the family in the public domain and the likelihood of regulatory proceedings in which the children's position would not be separately looked at she considered, as set out in her report. *'Going forward, given the parents' rejection of both the findings and the fairness of the proceedings and their stated intention to challenge them in other arenas, there is a real risk that anyone looking at the situation by reference to information in the public domain will gain a completely false impression of not only what happened during the proceedings but also what happened to the children. They may form the impression that the parents are the victims rather than the children'.*

24. Following her discussions with B and C in early January 2025, the Guardian reports they said they knew that their parents were upset with them telling people about their experiences. In her January 2025 report the Guardian stated '*All the children want is for their parents to say 'sorry'. Unless there is an admission of fault from the parents to the children, I do not feel that there will ever be repairs to their relationships'.* She reports the children want to be able to say what happened to them. In that report the Guardian stated *'I have taken into account the fact that the children's right to family life has already been restricted as a result of these proceedings both due to the parents' insistence that [B] and [C] did not see their [sibling A] for nearly five months and the fact that both parents and other family members (including all four grandparents) have chosen not to have any contact with them…This has caused the children distress, and they are still in the process of recovery from the separation and the impact of the proceedings'.* In her analysis she sets out her concern that the parents will continue to try and manipulate the narrative that the children have not told the truth, that the only account in the public domain is an inaccurate and misleading one and a published judgment with the parents being named would give them concrete information about what happened to them. Having balanced the relevant considerations she came down in favour of the parents being identified in the judgment as she considered *'by ongoing secrecy and silence [B] and [C] will not be able to defend themselves against the parents' clear plans to revile and malign them publicly and privately. The parents' view is clear in this sentence [in the December e-mail], 'the family court has a skewed view of the evidence and values children's accounts above anything else'*. The report notes the parents had purchased gift tokens for the children at Christmas and sent a card that had been given to them.

25. The skeleton argument was filed on behalf of the Guardian on 21 January 2025 setting out the basis upon which it was submitted the parents should be identified in any published judgment. In that document there is reference to the parents not having retracted or withdrawn the December 2024 email.

26. On 27 January 2025 the court granted the request by the parents to attend the January hearing remotely. They produced GP letters in support of that request which stated they had sought support for their mental health, they report feeling depressed and anxious which has affected their ability to attend face to face hearings. The letters

state they have been referred to the Community Mental Health Team and would benefit from attending the hearing remotely.

27. On 29 January 2025 the other parties responded to the Guardian's skeleton argument. The local authority filed their skeleton setting out the reasons why they adopted a neutral position. On behalf of A the position taken by the Guardian was supported.

28. The parents, then acting in person, also filed a detailed joint position statement dated 29 January 2025 setting out why they sought anonymisation of their names and other details, including the names of the legal representatives. They agreed in that document that the December judgment should be disclosed to the regulatory bodies, Y's leadership judge and they agreed in principle with the publication of the court's judgments. In that document they set out what they described as the devastating and life changing events they had gone through and the impact on them continuing *'we know that there has also been an effect on [B, C and A] and [D and E] but we have to think about ourselves, our survival and moving forwards'.* They set out that they did not intend to return to their respective professions.

29. In that position statement the December 2024 email was described as being sent *'at a time of high emotion and distress'*. As regards any suggestion that they have not retracted or withdrawn the contents of the email they state *'We have had no opportunity to do this either with the Local Authority or the Guardian. No one has reached out to us.'* They detail how they do not consider they have been given sufficient support, and state they have no wish or intent to go to the mainstream media or social media about how their lives have changed, their circumstances and those of their family. The position statement continues *'We have always maintained a consistent position about what the children were saying and that they were not telling the truth. Our position to make no admissions but to allow the court to make the findings that it has did not change this. We have a different opinion to the Court and the children about the findings. The views of our family and friends also remains the same.'* They set out their concerns about the physical and emotional risks to them and the children of being identified in the judgment. They deny the December 2024 e-mail suggests they are going to conduct any campaign stating '*We are entitled to hold personal views and critically analyse any system or procedure. We think that it is wrong and unfair for this conclusion to be drawn from our email without talking to us about it or discussing it.'* They set out the steps they have taken to complain about actions they say have been taken by the local authority. They also detail the impact on their wider family if they are identified in any published judgment.

30. On 30 January 2025 the court sought representations from the parties as to whether the press should be given notice of the hearing the next day. The Local Authority were neutral, the parents objected and the Guardian considered the press should be put on notice. Due to the shortage of time that issue was considered on 31 January 2025.

31. On 31 January 2025 the court received a request from Ms Summers to attend the hearing. No party objected and she attended, as did a representative from the Press Association. All parties attended that hearing, either in person or remotely.

32. As set out in the order dated 31 January 2025, during that hearing the parties were able to agree a number of matters, including the principle of publication of the

judgments (subject to anonymisation) and disclosure of the judgments to the regulatory bodies. The issue of contact was raised and as the order records there was a plan for the local authority to liaise with the parents and the wider family, but after the hearing concluded the order records the parents informed the parties that would not be possible until the conclusion of the proceedings and the issue of anonymisation had been determined. All parties agreed the press should be notified. Ms Summers did not consider that was necessary because the Press Association was already in attendance.

33. Due to the need for notice to be given to the press, further information that was required from the regulatory bodies and the complexity of the issues involved regarding anonymisation the hearing was adjourned with detailed directions made leading to this hearing. The order records the encouragement given by the court to the parents to give careful consideration to instructing legal representatives for the next hearing.

34. On 6 February 2025 Y sent an email to the court setting out what was termed as *'very significant information which we wish to tell the Court about urgently'* stating it touched on the fairness of the process and their Article 6 rights. Attached to the email were screenshots of posts on the social media platform X by leading counsel for the Guardian and it was suggested they show improper connections between her, journalists Louise Tickle, Hannah Summers and the barrister Chris Barnes. The email suggests Ms Summers attendance had been *'engineered by parties involved'* and raises concerns that *'these connections and bias in opinion and position adopted will impact on the Court's final determination of the question of our anonymity'*. The email asks the court to make any directions it considers necessary. On 11 February 2025 Y sent a further email to the court asking for a hearing to consider the issues in the email dated 6 February 2025 and another issue regarding redaction of documents to be sent to the press. In a further email to the court on 12 February 2025 Y raises the issues again from the email dated 6 February 2025 and refers to it raising *'potential bias and possible breach of confidentiality'.*

35. In response to the court sending an email asking Y to confirm whether Y was applying under r 27.11(3) FPR 2010 to prevent Ms Summers attending and reporting at any future hearings Y responded on 13 February 2025 setting out concerns about the links between Ms Summers, leading counsel for the Guardian and a concern that the adjournment of the proceedings on 16 December 2024 and 31 January 2025 was during the time the new transparency rules came into force nationally on 27 January 2025.

36. In accordance with the order dated 31 January 2025 on 26 (Ms Summers), 27 (Press Association) and 28 (BBC) February 2025 position statements were filed by the press setting out their position that they sought permission to identify the parents by name in any published judgment.

37. The emails from Y were treated as an application under r 27.11(3) FPR 2010 and the court made directions, which included a Transparency Order, on 14 February 2025 to govern the documents that were to be served on the press and made directions for the filing of written representations regarding the application under r27.11(3).

38. On 7 March 2025, following receipt of detailed written representations from the parties and Ms Summers, the court dismissed the parents' application for Ms Summers to be excluded from future hearings and gave a written judgment setting out the reasons for the decision, inter alia, as follows:

> *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 order included provision for an updated report from the Guardian and a later direction was made providing for updated evidence to be filed by the local authority. Later that day the parties were notified Y had instructed their current solicitors.

39. X instructed their current solicitors on 14 March 2025.

40. The court granted requests for extensions of time for the parents to file their statements and consequent extensions to the filing of skeleton arguments from the parties.

41. The parents' statements were received on 28 March 2025, X's was signed on that date and Y's on 10 April 2025. The allocated social worker filed an updating statement on 2 April 2025 which set out the recent concerns regarding B's risk taking behaviour and the Guardian's report is dated 5 April 2025 (April 2025 Guardian's report). The content of these documents is referred to in detail below. In summary, the parents' statements set out their evidence in support of their position that they should not be identified. The April 2025 Guardian's report concluded that her position had changed to be neutral on the question of whether the parents' names should be in any published judgment.

42. A redacted version of the Guardian's April 2025 report was served on the press on 8 April 2025.

43. Skeleton arguments from the parties were filed on 9 April 2025.

44. An advocates meeting took place on 10 April 2025 and on 11 April 2025 the skeleton arguments were sent to the press.

45. The parties agreed no oral evidence was required and the court heard submissions from all the parties and representatives from the press on 14 and 15 April 2025, with short additional written representations from the local authority and Y after the hearing. The court is extremely grateful for the skilled written and oral submissions made by the parties' legal representatives and the press.

46. During the hearing the court was given two additional documents.

47. First, a statement from the headteacher of X's school dated 8 April 2025. It is not entirely clear how the statement came about. In the emails submitted X's solicitor wrote to the local authority on 25 March 2025 stating *'I have been informed by my client that [X's] former colleagues and the headmaster at the school where [X] taught have been asked not to assist my client. If they do so, they will face disciplinary action.'* They were asked to take instructions and explain the reasons. On 1 April 2025 the parents sent an email to the Director of Education at the local authority dated 28 March 2025 which in very strong and strident terms alleges that disciplinary action had been threatened by the local authority against the headteacher and other staff at the school where X worked if they provided evidence in support of X and Y's case, including the impact of the proceedings on the parents' mental health, the detrimental effect on the children's well-being in relation to the issue of identification, the broader disruption to the school community and how identification of the parents' would affect them. The email refers to the position by the Education Department as *'unacceptable and potentially unlawful'* and then lists six specific ways it is alleged to be so, including obstruction of justice and misconduct in public office. The email goes on to require written confirmation by 2 April 2025 that all threats of disciplinary action are withdrawn, concluding that failure to comply will result in complaints to the Local Government ombudsman and legal action. It continues *'A C2 application is already being made to the family court for an urgent hearing on abuse of process in relation to this issue'.* X's solicitors are copied into the email and it is signed by both parents. On 3 April 2025 the local authority responded stating that it was not correct that any of X's colleagues had been threatened with disciplinary action if they provided support. In respect of the headteacher the local authority states he has confirmed he would wish to provide a statement, is free to do so and they have provided him with a blank template to do so at his request and he intends to provide that to the local authority for service. On 9 April 2025 the statement is circulated to the parties from the headteacher by the local authority and states X would need to seek permission from the court to adduce it, and the local authority confirms it would have no objection if X did. Permission to adduce the statement is sought by email from Y's solicitor and agreed by X's solicitor. No party objected to leave being given. I agreed it should be admitted and it was seen by the press. The statement sets out in strong language what it is said would be the impact on the school if X is named, it would trigger *'significant shock, anxiety and distress'* for the staff and would have a *'chilling effect on future*

reporting of concerns' and offers views on the wider public interest. This statement was written by someone who had seen the threshold findings of the court pursuant to previous orders.

48. Second, the email from the parents to the Guardian dated 31 March 2025, as described in her April report, setting out their proposals for contact was also submitted on behalf of Y, with no objection from any of the parties. It is a three page document outlining ideas ranging from indirect and direct contact, to other ways for the parents and wider family to connect with the children.

49. The day after the hearing concluded the Supreme Court handed down the decision in *Abbasi.* The parties submitted an agreed highlighted copy of the *Abbasi* decision and at the court's invitation they were given the opportunity to make further written submissions regarding *Abbasi,* which they did.

Legal framework

50. There are a number of matters that need to be considered.

51. Any decision concerning the application for a care order under Part IV Children Act 1989 (CA 1989) is governed by each child's welfare, which is the courts paramount consideration in accordance with s1 CA 1989, having regard to the matters set out in the welfare checklist at s1(3). In making any decision the court also needs to consider the relevant Article 8 rights that are engaged and the proportionality of any decision.

52. As regards the provision of the judgment to non-parties the general prohibition is in s 12 of the Administration of Justice Act 1960 which provides (as far as is material)

> (*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—*
>
> *(b)...*
>
> *(ii) are brought under the Children Act 1989 or the Adoption and*
>
> *Children Act 2002 ...*

Subsection (4) provides for rules of court to permit 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).*

53. There is no provision in r12.73 FPR 2010 or PD12G for communication to a professional regulator (save in the case of a party making a complaint about his or her representative). Accordingly, any permission for communication to a party's professional regulator must come by way of the court's permission under r.12.73(1)(b) FPR 2010. Detailed guidance was given by Gwynneth Knowles J in *Re Z (Disclosure to Social Work England; findings of domestic abuse)* [2023] EWHC 447 (Fam), in particular at [64] and [65].

54. There is no issue in principle in this case about disclosure to the professional/regulatory bodies. It is important to make clear, as it was in *Re Z* at [65](c), that it is the court's responsibility to consider any onward disclosure and to manage any process for determining how that is done.

55. Turning to the publication of the judgments. The question of whether a judgment delivered in private should be published is a matter for the court within the relevant legal framework. Any decision is governed by the particular facts of the case.

56. The relevant statutory framework as to what can or can't be reported is governed by s 12 AJA 1960 after the conclusion of the proceedings. During the course of these proceedings the provisions in s 97(2) CA 1989 apply which provide

> *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 or the family 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.*

57. This prohibition under s97(2) CA 1989 comes to an end at the conclusion of the proceedings (see *Clayton v Clayton* [2006] EWCA Civ 878; *Re J* [2013] EWHC 2694 (Fam)).)

58. Deciding whether, and in what way, to publish any judgment involves consideration and balancing of the relevant Convention rights that are engaged.

The material parts of Articles 8 and 10 of the ECHR provide as follows:

8.1 Everyone has the right to respect for his private and family life, his home and his correspondence.

8.2 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.

10.1 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. …

10.2 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.

59. The detailed guidance to the judiciary and practitioners 'Transparency in the Family Courts Publication of Judgments Practice Guidance' issued on 19 June 2024 by Sir Andrew McFarlane, President of the Family Division (2024 Guidance) states under 'Publication and Guidance: Purpose and Scope' at paragraphs 1.2 – 1.5:

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

60. That 2024 Guidance includes the following under 'key principles of anonymisation'

> *5.5.1 "The law in the Family Court is the same as in any other jurisdiction, including the application of the open justice principle.*
>
> *5.5.2 Anonymisation is only permissible where specifically justified on the facts of the case.*

5.5.3 Anonymise / redact where necessary to protect the identity of the subject child and family members (as a function of the child's Article 8 rights encompassing welfare). .....".

61. Issues of transparency in the working and decisions of the Family Court have been the subject of a number of recent decisions. most recently, by the Court of Appeal in *Tickle v BBC* [2025] EWCA Civ 42. In that case the Court of Appeal held that reporting restrictions orders made in relation to care proceedings and private law proceedings concerning a child who was subsequently murdered by her parents should not extend to the names of the judges who heard the proceedings. In that decision at [43]-[50] the Court of Appeal reviewed many of the authorities on principles of open justice as follows:

43. In Scott v. Scott [1913] AC 417 (Scott v. Scott), the House of Lords explained the principles of open justice in the context of nullity proceedings. Viscount Haldane LC said at 439 that: "[a] mere desire to consider feelings of delicacy or to exclude from publicity the details which it would be desirable not to publish is not, I repeat, enough as the law now stands. I think that to justify an order for hearing in camera it must be shown that the paramount object of securing that justice is done would really be rendered doubtful of attainment if the order were not made". Lord Atkinson said at 463 that: "[t]he hearing of a case in public may be, and often is, no doubt, painful, humiliating, or [a] deterrent both to parties and witnesses, and in many cases, especially those of a criminal nature, the details may be so indecent as to tend to injure public morals, but all this is tolerated and endured, because it is felt that in public trial is to be found, on the whole, the best security for the pure, impartial and efficient administration of justice, the best means for winning for it public confidence and respect". Lord Shaw of Dunfermline described the "publicity in the administration of justice" as "one of the surest guarantees of our liberties". A violation of the principle of open justice would be "an attack on the very foundations of public and private security".

44. The open justice principle was more recently summarised by Lord Judge CJ in R (on the application of Mohamed) v. Secretary of State for Foreign & Commonwealth Affairs [2010] EWCA Civ 65 at [38] as follows:

Justice must be done between the parties. The public must be able to enter any court to see that justice is being done in that court, by a tribunal conscientiously doing its best to do justice according to law. For that reason, every judge sitting in judgment is on trial. So it should be, and any exceptions to the principle must be closely limited. In reality very few citizens can scrutinise the judicial process: that scrutiny is performed by the media, whether newspapers or television, acting on behalf of the body of citizens. Without the commitment of an independent media the operation of the principle of open justice would be irremediably diminished.

45. This principle is applicable as much in family proceedings as in any other proceedings. The statutory limitations contained in section 12 of the AJA 1960 and section 97 do not displace the open justice principle or create any separate "shielded justice" environment. They provide a degree of privacy for certain proceedings relating to children according to their terms. Munby J explained at [83]-[86] in Re B (A Child) (Disclosure) [2004] EWHC 411 (Fam), [2004] 2 FLR 142 (Re B) the court's jurisdiction to relax and increase the statutory restrictions on

reporting, and the reasons for those restrictions. Lord Dyson MR (with whom McFarlane and Burnett LJJ agreed) in Re C (A Child) (Private Judgment: Publication) [2016] EWCA Civ 798, [2016] 1 WLR 5204 approved what Munby J had said in Re B at [12], and said this at [22]-[23]:

The judge [Pauffley J] rightly recognised at para 10 of her judgment that open justice is at the heart of our system of justice and vital to the rule of law. As she said, it promotes the rule of law by letting in the light and allowing the public to scrutinise the workings of the law. There is a particular need for the media to act as a public watchdog in care proceedings in the Family Court "because of the intrusion or potential intrusion into family lives of those concerned and what could be a serious interference by the state in family life".

She rightly also recognised that this was a powerful argument in favour of publication. As the Practice Guidance makes clear, permission for the publication should have been given unless there were compelling reasons why not to do so. The Practice Guidance accurately reflects the law.

46. The President of the Family Division published an article entitled Confidence and Confidentiality: Transparency in the Family Courts in October 2021. It led to the Reporting Pilot, for which Guidance was published in August 2024. It is, perhaps, sufficient to refer to [21] of Sir Andrew McFarlane's article which makes clear that the Family Court, as I suggested in oral argument, is not "another country". He said this:

The Family Courts are part of the overall justice system. 'Open justice' is a fundamental constitutional imperative, to which there may be exceptions. Through open justice, the workings of the justice system are held up to public scrutiny by hearings being open to the public and/or by permitting media reporting of the proceedings. The work of the Family Court is of significant importance in the life of our society, yet, as is plain, the current limited degree of openness does not permit effective public scrutiny. It is by openness that judges are held to account for the decisions they make so that the public can have confidence that they are discharging their important role properly.

47. In Various Claimants v. Independent Parliamentary Standards Authority [2021] EWHC 2020 (QB), [2022] EMLR 4 (IPSA) at [52], Nicklin J recently cautioned, in the context of MPs, against excessive caution in evaluating the risks that might arise from open justice:

Finally, and as Mr Barnes QC frankly recognised, the evidence put forward by the Claimants falls a long way short of demonstrating a credible risk that if the Claimants were named (and their addresses provided) that they would be exposed to some risk of harm. There might exist a very small number of people whose attitude towards MPs (and those who work for them) is so hostile that they might conceivably be moved to offer some threat of physical violence to them, but this risk is remote. The Claimants have not put forward any credible and specific evidence that one or more Claimants is at particular risk of any such threat. The civil justice system and the principles of open justice cannot be calibrated upon the risk of irrational actions of a handful of people engaging in what would be likely to amount to criminal behaviour. If it did, most litigation in this country would have to be conducted behind

closed doors and under a cloak of almost total anonymity. As a democracy, we put our faith and confidence in our belief that people will abide by the law. We deal with those who do not, not by cowering in the shadows, but by taking action against them as and when required.

48. In Abbasi v. Newcastle upon Tyne Hospitals NHS Foundation Trust [2023] Fam 287 (Abbasi), [2023] EWCA Civ 331, the Court of Appeal was concerned with the anonymity of physicians who had treated children before their deaths. The UKSC's decision on the appeal is awaited. Lord Burnett CJ emphasised at [75]-[78] the "high value attached to freedom of speech in our domestic common law order which is reflected in article 10 of the [ECHR]". At [118]-[119], Lord Burnett endorsed Lord Steyn's emphatic holding at [20] in Re S that it was not for the courts "except in the most compelling circumstances" to create new exceptions to the principles of open justice. The judge drew comfort at [56] from [118] in Abbasi, where Lord Burnett referred to the courts being astute to protect individuals caught up in litigation, and to the fact that experience had shown that end-of-life proceedings could cause "a firestorm on social media". I make two points at this stage. First, judges are not people "caught up in litigation" (as to which see the next section of this judgment). Secondly, Lord Burnett concluded [118] by making clear that indefinite anonymity orders required "careful scrutiny, clear evidence and an intense evaluation of competing interests".

49. Finally, in this connection, I would record and approve what Nicklin J said in PMC, where he refused an application for the anonymity of a child claimant to a clinical negligence claim. I have already mentioned that the judge said he disagreed with a part of the dictum. Nicklin J said this at [41]:

Whilst, in a very broad sense, in assessing the engaged convention rights on any application for a derogation from open justice, the Court is carrying out a 'balance' between them, the scales do not start evenly balanced. The Court must start from the position that very substantial weight must be accorded to open justice. Any balance starts with a very clear presumption in favour of open justice unless and until that is displaced and outweighed by a sufficiently countervailing justification. That is not to give a presumptive priority to Article 10 (or open justice), it is simply a recognition of the context in which the Re S 'balance' is being carried out.

50. We have not been referred to any authority that minimises the importance of open justice. Indeed, section 12(4) of the HRA 1998 (see [42] above) provides expressly that: "[t]he court must have particular regard to the importance of the [ECHR] right to freedom of expression". It does not seem to me to matter whether section 12(3) of the HRA 1998 was strictly applicable (on the basis that the court was restraining publication "before trial"), since section 12(1) certainly was engaged (the court was considering whether to grant relief which might affect the exercise of the ECHR right to freedom of expression)

62. These decisions now need to be considered in the context of the decision in *Abbasi*. This was an appeal that was heard in April 2024 concerning whether anonymity granted during proceedings to doctors involved in end-of-life care should subsist after the conclusion of those proceedings. The Trust's appeal against the decision of the Court of Appeal were dismissed and the Court of Appeal decision was upheld, albeit for different reasons.

63. Of relevance to the decision in this case the Supreme Court expressly upheld Lord Steyn's view in *Re S* that the court's inherent equitable jurisdiction is in principle sufficiently wide to enable it to grant an injunction when its failure to do so would be incompatible with Convention rights [86] (even though it later described the approach as "highly unusual" [93]) but it went on to qualify that approval by stating that the normal route to ensure compliance with Convention rights would be domestic causes of action, such as privacy.

64. The court was referred to the decision of Harris J in *Mrs M v Mrs F* [2025] EWHC 801 which considered what the jurisdiction is relating to, in that case, relaxation of s 12 AJA 1960. In this case what is being sought is a restriction of s12 AJA 1960 and no issue was taken with the approach in *Re S* to the need for the court to undertake a balancing of competing Convention rights. The approach identified by Lord Steyn is now qualified or clarified by the "more structured" approach set out at [128].

65. The Supreme Court also made clear as between proceedings held in open court and those held in private, the principle of open justice not being breached in the latter case where orders prohibited the publication of the names of witnesses in proceedings held in private under the *parens patriae* jurisdiction. This is apparent from [51], [120]-[121] and [124]. This supports the position there is no presumption in favour of open justice, no weighted balance and that the court simply undertakes the *Re S* balancing exercise by reference to the competing Convention rights engaged, neither Article 8 nor Article 10 having precedence over the other. The balancing exercise is highly fact specific to each individual case. The Supreme Court went on to add at [160]:

> *"The need for restrictions of freedom of expression to be established convincingly reflects the fact that freedom of expression is, as the European court said in Axel Springer AG v Germany, "one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfilment" (para 78). That does not in any way imply that the interests protected by article 10 have, as such, precedence over the interests protected by article 8. Clearly, there are many situations in which restrictions on freedom of expression are justified in order to protect the rights of others (including rights protected by article 8), as article 10(2) itself recognises. Furthermore, the weight to be attached to freedom of expression, and to privacy, will plainly depend on the circumstances of the particular case."*

66. At [155], [159] and [181] in *Abbasi* the Supreme Court addresses the need for the court to consider and scrutinise the cogency of any evidence relied upon to support any right or to justify any restrictions of them.

Submissions

Local Authority

67. The local authority support the principle that the judgments should be published as they submit they meet the criteria set out in the 2024 Guidance. They are neutral regarding the issues relating to anonymisation.

68. As regards any concerns about geographical identifiers risking jigsaw identification they agree they can be removed, such as the name of the local authority and possibly the first two letters of the case identifier. They do not consider it requires the anonymisation of the solicitors or counsel as none of that information is likely to lead to identification of the family.

69. In their written submissions the local authority carefully set out an analysis of their position as a public body, the joint holder of parental responsibility in relation to A, B and C with whom there is an ongoing need to consult and communicate, their role as X's employer and as the applicant in these proceedings.

70. The local authority submit there are *'powerful opposing factors, pointing towards and away from anonymisation, which it considers to be of equal strength'.* In their oral submissions they submitted that without any order s12(2) AJA 1960 permits the press to report the names of the children, the parties, the fact that the court has drawn certain matters to the attention of the regulatory bodies and the fact that these are s 31 CA 1989 proceedings, although it cannot provide any other information relating to the proceedings. It is submitted as in many cases there is an element of chance as to how much detail there is in an order, s 12 AJA 1960 is invariably not considered by any of the parties at the time orders are drawn up.

71. In their written and oral submissions they identify a number of relevant factors.

72. First, future relationships. The local authority contend that the relationship between the children and the parents has been damaged by the parents' behaviour and, to some extent, by this continuing litigation caused by the parents' position. The children's views about seeing the parents are complex and complicated.

73. The local authority consider that if they took a position on the issue to name the parents it could make any consideration of the children seeing the parents more difficult than it already is. In their December 2024 e-mail the parents were deeply critical of the local authority, suggesting they had lied and had a malign intent. It also seems likely that the parents will blame the children if there is publication of their names, and whilst that would be unfair and wholly inappropriate, it would tend to undermine the prospects of a successful future rapprochement.

74. On the other hand, if the local authority took a position in favour of anonymisation they would be in conflict with a view that has been expressed by the children. The local authority share parental responsibility for the children with the parents. The children came into care as a direct result of the behaviour of the parents over a number of years, which prevented them from being able to tell others what was happening to them.

75. The local authority submit it is understandable that the children have felt 'silenced' and unable to speak the truth about what happened to them. In their discussions with the social worker and the Guardian the children perceive publication of the judgments with the parents' names to be a mechanism which would enable them to speak freely about their experiences. The local authority is concerned that the children could be further damaged by any position the local authority took on this issue. They submit the children are the most vulnerable, due to the fact that they are

adopted children whose placement has broken down and are now the subject of care orders.

76. Secondly, the longer-term consequences of the court's decision. The local authority submit it is difficult to assess the consequences of non-anonymisation. C informed the Guardian that he *'understands that in naming his parents other people will know who he is and what happened to him'*. To his social worker he has said that he wanted people to know what he had been through, seeing it as a way of achieving a sense of justice. C is 10 years old and the local authority consider the extent of his level of understanding needs to bear that in mind, as well as the potential for different or developing views on publication over time. B is older, aged 15 years, and as a result has been able to demonstrate a greater capacity for reflection. When providing his initial views he recognised what the impact could be on his parents but considered that they should be identified. The local authority recognise in the recent report from the Guardian the children's views are more equivocal and refers to C having two opposing views which he swung between, wanting his parents to be exposed and then saying it didn't matter. B thought the decision was complicated and was reluctant to make a decision that he couldn't change his mind about. The local authority submit these more recent views could mean that the children had an ultimate view in favour of naming the parents but, understandably, have some concerns about the consequences, or it could be they have variable views. Whilst it appears that B appears to have the stronger view about this the court also needs to consider the impact on C, who has the less clear view. The children's recent behaviour also needs to be factored in but the local authority submits that is primarily attributable to the care given to these children by their parents, rather than the consequences of these proceedings and their placements.

77. Thirdly, the local authority have considered whether this decision (non-anonymisation) could be delayed until the children are older. If the court produced an anonymised judgment the local authority have committed to keeping the position under active review, in particular regarding the children's wishes during the currency of any regulatory proceedings against the parents. They submit any delay has the disadvantages of the lack of continuity of representation for the children and the lack of any part or voice the children would have in any related regulatory proceedings.

78. Fourthly, potential re-litigation to the exclusion of the children. The local authority submit this arises from the contents of the parents' December 2024 e-mail about potential re-litigation of the subject matter of these care proceedings in other venues and the parents choosing to speak publicly about their experiences. Either of these steps, the local authority submit, could have a detrimental impact on the children. Publication of court judgments without anonymisation would militate against that and arguably prevent any such harm, as it would be clear to the impartial observer precisely why the Family Court acted as it did. The local authority submits that the risk the parents may use other proceedings to their advantage is not illusory, it is a real risk. The exhibits to their recent written statements demonstrate the parents are positively advocating a case contrary to the findings by the court and have persuaded people to their view, when it is less than clear what information those individuals have had access to.

79. Fifthly, the parents' focus and conduct. The local authority submits the parents' focus on their own anonymity is misguided. The proper consideration is on the

children not the parents. This, the local authority submits, is entirely consistent with the parents' litigation conduct through the care proceedings, aimed at limiting the issues and reducing the scope for enquiry into, and criticism of, their behaviour. The local authority set out its concerns about this in the opening note in December 2024 and its written submissions in February 2025 relating to the application to exclude a named reporter. This included delays in responding to the threshold, suddenly changing their position to say their relationship with the children had broken down such that the children would never return home with the result that no issues were explored via a parenting assessment and directing blame for the difficult family dynamics towards A at a time when he had ceased to be a party to the proceedings. More recently, the local authority place reliance on the December 2024 e-mail from the parents, their position statement on 29 January 2025 (in particular paragraph 11 in the way it prioritises the parents over the children), the attempt to exclude Ms Summers based on pure speculation that made it difficult for Ms Delahunty to respond to and the circumstances and content of the statement from the headmaster that was preceded by a threatening email to the local authority from the parents. They submit any lens through what the parents now say about contact should be viewed in the context of this conduct which, the local authority submits, demonstrates the parents promote their own interests over those of the children. They still have parental responsibility and have been found to be responsible for why a care order is required for each child.

80. Sixthly, public interest. The local authority recognises that it could be said there is a legitimate public interest in it being known that these parents have been the subject of the findings made in this case. X is a primary school teacher. Y is a family barrister specialising in children work, who holds a public office as a Deputy District Judge in which Y presided over family proceedings at a time when Y has been found to have known about X's abusive actions and Y failed to protect the children from that harm.

81. Seventhly, accuracy of public impression. Since the last hearing Y's regulatory body has published its decision in relation to its open investigation regarding Y. It related to Y's failure to report Y's involvement in potential proceedings to Y's Leadership Judge. There is a risk, the local authority submit, that without the full context a reader could be forgiven for thinking that the decision of the regulatory body deals with all suggestions of wrongdoing, and without the fuller context of what took place in these proceedings a misleading impression could be inadvertently created.

82. The local authority recognise that whether to name the parents in this judgment is a matter of *'significant gravity'* which has implications for the children and the parents, whatever the court decides. In any event the local authority invites the court to give permission for a copy of the judgment either in non-anonymised form or accompanied by a note identifying the anonymised persons to be provided to the parents' family members and friends who have submitted statements and letters in support of them. The local authority considers that its obligation to work with the wider network, including the furtherance of contact and the continuation of pre-existing relationships would be aided if it were possible to dispel the false or misleading narratives that appear to have taken hold.

The Press

83. In her written and oral submissions Ms Summers submits from what she has seen the findings made by the court cast doubt on either or both X and Y being able to carry out their professional duties in circumstances where they both occupied jobs that involved making decisions about and that involved children. That, she submits, is a matter of compelling public interest. She refutes any suggestion that by granting the press's request in this case it would amount to a *'slippery slope',* as each case is fact specific and the balancing exercise that is undertaken relates to each individual case. She recognises her written submissions were at a time when the Guardian supported the parents being identified. She notes the caution expressed relating to the well-being of the children but submits whilst that is important, it is not a paramount consideration. As regards the local authority position she notes their view that the children consider that they have felt silenced and if the parents were named they would feel able to speak about their experiences. The Article 10 rights, she submits, include public confidence. In circumstances where the local authority and the Guardian are neutral, it could be viewed as the court protecting a judge, and from the children's perspective that the parents had used their status to protect themselves, which risks undermining their confidence. Ms Summers questions the motivation behind the statement from the headteacher in support of the parents, the lack of balance and the lack of evidence to support many of the matters set out in it.

84. Ms Summers considers it is of note that prior to these proceedings the parents had a public profile that promoted their family and family values as a way of promoting themselves. Whilst they have taken steps to remove that information from the public domain not all of it has been removed and they remain held in that way by a number of people, as demonstrated by the letters attached to Y's most recent statement. The Article 8 rights to privacy the parents now rely upon need to be viewed in that context as do the steps that can be taken to reduce the risks of jigsaw identification of the children.

85. Ms Summers sought to analyse why the Guardian had changed her mind, recognising that the views of the Guardian are important. In the January 2025 Guardian's report Ms Summers submits the Guardian took into account in reaching her conclusion the risks of jigsaw identification. She submits that has not changed if the parents are identified due to the other proposed anonymisation. In the January 2025 Guardian's report the Guardian also weighed in the balance the benefits to the children of the parents being named as validation for them, which also remains relevant.

86. Ms Summers submits there are two factors that appear to have changed the Guardian's position. First, the position of the parents and the risks of feelings of guilt by the children resulting from any action the parents may take. Ms Summers acknowledges the impact on the parents of these proceedings, as it is with many parents and parties in such proceedings, however she submits there is limited evidence in this case other than the self-reporting of the parents and the GP letters. She submits the parents' position needs to be considered in the light of this and their conduct during the case, which has left a long shadow and has sought to control the proceedings. She observes that their position remains focussed on their view about the findings being made public, rather than any concern regarding the children. Descriptions such as being vilified by the press should not be given any weight. The cases have made clear that it is not for the court to control how cases are reported. She submits it is of note that the application made to exclude her from attending

future hearings was a short time after she had informed the court on 31 January 2025 that she would be applying for them to be identified. The stated risks of physical harm and harassment are, she submits, speculative and the parents have said they have moved away. Their fears about being targeted due to the nature of their relationship, she submits, needs to be looked at in the context of their willingness to promote that previously. She submits this is part of an ongoing pattern of the parents to present themselves as victims, which focuses on them rather than the children.

87. Turning to consider the impact on the children Ms Summers submits that in her report the Guardian considers it is important for the children to be believed by the extended family. She submits the change of the Guardian's position from the perspective of the children is based on the impact on them of, first, the effect on the parents as set out above and, second, any prospect of contact being re-commenced. Up until this hearing the parents had made that conditional on them not being named and in reality, she submits, that remains the parents position. C asked the Guardian if that was blackmail and B stated it felt like the parents were still trying to control them. Ms Summers submits the change to the Guardian's neutral stance is founded on what she submits is a slim chance, because it is dependent also on the parents taking responsibility for the findings which, she submits, there is no sign of. As Ms Summers said *'How could publicising the true version jeopardise that relationship as the children want them to accept that truth'.* Ms Summers recognises the concerns about B's recent behaviour but such behaviour could be due to the consequences of the parents' abuse and the failed adoption. That, she submits, is a more likely base to cause the harm rather than being due to the parents being identified and if there is that risk, is there likely to be any more harm than that due to the harm they have suffered already in the care of the parents.

88. Ms Summers submits that when undertaking the ultimate balancing exercise in the context of the strong public interest and Article 10 considerations, including public confidence in the family justice system, it is important to factor in that neither the local authority nor the Guardian are against the parents being identified. She recognises press applications as in this case are unusual and in the previous cases there was no welfare benefit to the child. This case is an exceptional case. There are welfare benefits in validating the children's position in circumstances where it is not their application, it is made by the press, and anonymisation of their circumstances will significantly reduce the risks of jigsaw identification. If the parents are not named there is a risk that the welfare benefit to the children of having clarity about their account having been accepted risks being lost. Ms Summers submits the reliance by the parents on their own needs and the concerns about any impact on the children needs to be viewed in the context of the parents' former professions. They are the adults and they could, but have chosen not to, provide reassurance to the children. The December 2024 email was the parents' unfiltered view.

89. Mr Casciani agreed with Ms Summers submissions and made some additional points. First, it is neither surprising nor unusual for children to change their minds but, he submits, children have an innate sense of fairness and justice. If the parents are not identified, it continues a false impression in both the public sphere, due to the previous public profile of the parents and the various possible outcomes of any regulatory body decisions, and the private sphere, as set out in the various letters attached to the parents' statements. Second, the need for clear and cogent evidence,

of the risks**.** He submits in this case there is not any evidence that naming the parents will lead to irreversible harm. He is aware of the concerns regarding B's behaviour and what the parents have said but, he submits, this is not sufficient to outweigh the balance where there are strong public interest grounds. The risks if the parents are not named is the children are denied a voice in a complex situation. Third, he submits it is not for the court to determine how a matter should be reported. Fourth, the tone of the statement from the headteacher supports the case for the parents being identified as in expressing the strong views it does it displays no understanding of the findings made in this case and produces no evidence, such as a risk assessment, to support what is set out. He submits the reporting of allegations made against professionals, such as teachers, is part and parcel of everyday news.

90. Ms Massey made no additional submissions on behalf of the Press Association. Ms Tickle made two points on the wider considerations. First, the rationale behind the court sitting in private in family cases is to protect the children, not to protect the adults, particularly in circumstances where they have been found to have abused children. Second, the risks if the parents are not named is a reduction in trust and confidence in the justice system by the public, particularly in the context of the professions of both of the parents and the fact the children were adopted.

X

91. In relation to the legal framework Mr Jones KC and Mr Adler rely on the principles as outlined in *Tickle v BBC [2025],* in particular at [45] and [49] and the 2024 Guidance, in particular paragraphs 3.14 – 3.15 and 5.5. They submit the approach by Lieven J in *Tickle v Father and Mother* [2023] EWHC 2446 (Fam) at [47] and [48] should be followed.

92. On behalf of X, they recognise the difficult decision the court has in the context of what they describe as '*green shoots'* concerning the possibility of future contact, as set out in the communications the Guardian had with them on 31 March 2025. The written submissions on behalf of X state that X *'wishes to assure the Guardian, the court, and above all the children, that this desire for contact is very much genuine'.* That, Mr Jones submits, is supported by X's most recent statement dated 28 March 2025 where X states

". . . we do not want to risk losing the prospect for us or the [children] having contact for the future for all our benefits. We think that maybe our ill health and inability to engage in contact might have made the [children] less open to contact because they felt hurt by this, particularly [C]. We feel that if we can reach out now that we will be giving the [children] an opportunity to keep this open for them and us. We want to make sure that there is a start to this process however small and we have already done this with some letterbox contact started in December . . ."

93. The written submissions also continue that X *'will ensure that all appropriate children's life journey materials will be given to the children, as requested'* and goes on to detail how this could be done as part of the re-building of contact with the parents and the wider family, continuing that X *'will be dropping off the children's digital devices they requested too'.* X confirms a willingness to engage with some work set out by the social worker as to how to approach the children and X is willing to explore the judgments being provided to any *'extended family members who had*

established an enduring relationship with the [children] who wish to participate in such work'.

94. The written submissions continue *'It must also be made clear however, that anonymity is critical to preserve the "green shoots" of contact as this would, for example, ensure there is parental engagement…to be clear, for the reasons set out below, anonymisation is essential both in terms of the [children's] wider welfare but also in terms of future relationships'.* X *'believes the parents' capacity to engage, and that of their respective families, if caught in a maelstrom of public identification, will be reduced; their efforts and resources would be seriously depleted. [X] categorically states [an] intention to commit to contact with the [children] but the welfare benefit of any such contact is necessarily informed by what may happen a) were identification to occur and b) the consequences to be faced as a result of any identification'.*

95. Mr Jones describes the position of X regarding contact is a *'reflected and considered position'* which encompasses life story work and agreement for identified members of the family and wider social circle to have the judgment. This, he submits, is a constructive approach in an evolving situation. Mr Jones said X has listened to the views of the Guardian, about the impact on C in particular if contact broke down, and X welcomes input on this from the local authority.

96. X agrees to the publication of the judgments but seeks the names of the parents, children and any wider family members to be anonymised. To avoid jigsaw identification X submits the name of the local authority, the geographical area in which the children live, the parents' relationship and any reference to the parents' five adopted children be anonymised. It is agreed that both parents' professions be named but suggests a more generic term for X's profession to avoid the risk of identification. It is agreed the judgments should go to any therapeutic professional involved with the family, the children's schools and being shared with close family members.

97. Mr Jones submits the recent evidence demonstrates the children have expressed changeable and differing views on whether to see their parents and recognises the difficult process the Guardian has found reaching her updated position.

98. It is submitted the balance falls in favour of the parents' names being anonymised on the basis of the clear and cogent evidence now before the court. Mr Jones submits the court needs to scrutinise the facts and the evidence before it.

99. The parents have been clear they have no intention of *'fighting for justice'* as they put in their December 2024 e-mail, this position is confirmed in their written evidence. In December 2024 the parents were acting in person and, Mr Jones submits, they are *'in a very different place now than they were in December 2024'.* In written evidence X states

'If the family court deemed anonymisation of its judgment necessary then I would not publicise any judgment from my regulatory bodies, whether it be inculpatory or exculpatory. ***It is not our intention to 'fight for justice' if the court maintains our anonymity.*** *It is not a statement of what we intend to do should we not be named as we wish to remain anonymous. If the media are allowed to identify us then equally*

we will be likely to respond and this will include criticism of the process and the huge impact it has had on us and the children. We do not want to be identified by being named or by poor anonymisation because we do not think that helps the [children] (or us)'. [emphasis added]

100. Mr Jones draws attention to the points made by the Guardian that if the parents are identified the support that will need to be available for the children is not clearly identified, nor the impact on the children of this taking place. This gap in the evidence, submits Mr Jones, may have serious implications for the children, as if the parents are identified there is *'no going back'.* In addition, the Guardian reports that C is increasingly more protective of his privacy.

101. When considering the balancing exercise Mr Jones submits it is not surprising in the context of these difficult proceedings and where the issue of contact is a sensitive and emotive issue that the views of the parties have changed. He submits the parents *'have found the proceedings stressful but have strived to move on, both in terms of their approach and perception, from their email of 15 December; that email does not reflect where they are now'.* He submits the two recent Guardian's reports demonstrate the thoughts and intentions of the children have also changed, causing the Guardian to change her position from her January report. In the April report she sets out that B was wanting to talk about building a relationship again with his family; he did not want his parents' names to be made public and available resulting in the Guardian observing that C had *'expressed some complex feelings around the last few months'* and considered B's wish to see his parents was in its infancy. The Guardian considers C has *'remained open and hopeful'* about contact.

102. As a consequence, Mr Jones submits, there are two interlinked themes to the change in the Guardian's position. First, B and C's views about contact and what would impact on that and, second, the parents' willingness for the step to be taken. They want to work towards that and agree with the Guardian that they will work at putting *'their own grievances and sadness to one side for the sake of the children and try to rebuild their relationship with them'*. Mr Jones submits the children's welfare necessitates that the re-building of this relationship is best achieved by there being anonymity maintained in the published judgment. As the Guardian observes in her January report *'I have had regard to the fact that anonymity is a protection for the children and not for the parents'.*

103. Mr Jones submits that in identifying the parents there is a real risk to the future relationship concerning the parents themselves. In her April report the Guardian noted

> *'31. I am aware of the potential consequences of the parents being identified and why they do not want that to happen. I cannot make recommendations which focus on the welfare of the parents, particularly if it is to the children's detriment. However, I also recognise that the two are in some respects inextricably linked. I am acutely aware of the parents' presentation throughout these proceedings and more recently. They are very clear that they have very poor mental health and have engaged in suicidal ideation on a regular basis. Whilst I have considered the parents' behaviour often to be self-serving, I cannot ignore their vulnerabilities and potential consequences, and more pertinently what that may mean for the children. The parents told me recently that if they are vilified in the press, they will*

both end their lives. On behalf of the children I feel I cannot ignore what they say. I am mindful that blame is already (wrongly) being attributed to the children by the parents and the wider family with the clear implication that the children are responsible for their parents' situation. If the parents are named and then take their own lives, then I have consider that the children will (be made to) feel guilt that they reported their parents initially but I am concerned that supporting the publication of the parents' names may add to that. These are decisions which could have catastrophic implications for the children's wellbeing, and I worry that they will feel responsible for them.

32. The parents have now repeatedly made it clear, as have the grandparents, that they are only prepared to have contact with the children if they are anonymised in the judgment. [C] said to me in during our session, 'are they blackmailing us?' [C] only wants contact with them if they 'tell the truth and say they are sorry' but, as I have talked about with him, I have to acknowledge that the publication of the parents' names in itself will not get him what he wants and may close the door to that happening in the future, however unedifying and unjustified the parents position may be.

33. On behalf of the children, I am therefore acutely aware that positively advocating on their behalf for the names of the parents to be published could mean that the children are denied the potential opportunity to rebuild their relationship and have contact with their parents and extended family. However, I am also clear in my view that the children cannot be denied their truth or, even worse be portrayed as liars. Whilst I do not underestimate the impact these proceedings have had (and will continue to have) on the parents, they need to try to put their grievances and sadness to one side for the sake of the children and try to rebuild their relationship with them.'

104. Mr Jones submits X does not accept that X is only prepared to have contact with the children if the judgment is anonymised and is not aware of the grandparents having been asked. He submits *'The parents and the boys' grandparents are committed to contact (which will be adversely affected by identification) but their commitment remains'.*

105. As a result, Mr Jones submits the nature of the impact on the children is great due to the consequences for re-building contact and the risk of the children being identified in a small community which he submits is likely to be detrimental to them. In her April report the Guardian states:

34. I am also considered the consequences of the children being identifiable in the areas [where they live] where they spend time and are known. This now has an additional aspect to it given the recent issues [regarding B's behaviour and becoming more widely known]. He is particularly vulnerable as a looked after child…. The ramification of this, his placement and therefore on [C] could be huge. If [B's] behaviour as a consequence escalates then his placement may be ended, and a move would increase his isolation and therefore his vulnerability.

In X's statement X considers identifying them would directly harm the children regardless of the original intent or content of the media and there has been no proper risk assessment of this.

106. This risk is recognised by the Guardian in her April report at [44]

'The children have no knowledge of media reporting and therefore are unaware of the range of views, rhetoric or opinions that may be written. Also, neither are they aware of the ideologies that exists and may be fed by their experiences. I am concerned that having this known about them before they have had the chance to develop relationships in education, employment or with friends, will [be] another extra hurdles that their peers do not have. There are so many hurdles for the children who were first harmed and then secondly care-experienced'.

107. Mr Jones submits when the court stands back and balances the competing considerations the risks of naming the parents is too high for the children:

(1) There will be a detrimental impact on the possibility of contact. X has taken positive steps about this, including a recent email to the social worker with what Mr Jones describes are *'positive ideas as to how to address contact and life story work…[X] absolutely agrees to the children having their life story items but would hope that the act of them being given to the children would not be a 'one off" event but could be used as part of a broader approach of building a relationship with them, with family anecdotes about their life story.'* In his oral submissions Mr Jones said these 'green shoots' need to be seen in the context of the other decisions made by the parents such as agreeing to the judgments being disclosed to identified members of the family. In addition, a meeting has been arranged between the parents and the local authority. Mr Jones submits the parents see themselves as integral to the care planning for the children as well as important and are pleased to be involved in life story work. The parents' ability to engage in this will be *'diminished by identification'.*

(2) There will be a detrimental impact on the parents which, by implication, has an impact on the children. X is on the waiting list for counselling and is taking a proactive stance regarding mental health.

(3) There could be consequences for the children bearing in mind their vulnerability, which includes stability, the consequences of media scrutiny and the uncertainty regarding the support for the children to manage this. The extent of their vulnerability is highlighted by B's recent behaviour and the impact on the stability of their placements and more generally (see *X v Y (Restraining Abuse of Children's Guardian) [2021] EWHC 2130 at [62]* and *Griffiths v Tickle & Ors [2021] EWCA Civ 1882* at *[25]).* The protective factor that was present in many of the cases regarding stability, such as living with one of the parents, is not present here and the extent of the vulnerability is outlined, for example, at paragraph [12] and [17] of the April Guardian's report. As she notes the four youngest children *'are not [living] together currently and would have to try and make sense of the situation without each other'.*

108. The scope of the proposed anonymisation strikes the right balance and acknowledges the importance of open justice. The media will be able to report the key facts with

the professions of the parents being identified. It balances open justice with the impact and risks to the parents, they have taken down every reference to them on social media that they have been able to, X's own mental health has not been static and helps protect wider members of the family who have ill health. The suggestion that the evidence of the mental health is limited is rejected as by definition it involves a degree of speculation. He submits X says what is needed is healing. X is aware of the vulnerability of the children due to their backgrounds and the recent moves of foster placement.

109. Mr Jones submits the stance taken by the local authority and Guardian for the court to make findings about litigation conduct would not assist the children. The court did not make findings about this in the December judgment and the parents have moved on from the views expressed in the December 2024 email. It is submitted X's approach has been to focus on the children's welfare, the parents have not sought publicity in this case and have not been in breach of any restrictions, they have had to deal with extremely fraught and emotional proceedings in circumstances that have negatively impacted their relationship with their family and jobs and there has been a significant impact on their mental health. Mr Jones questions the need for this when no immediate remedy, such as costs, is sought.

Y

110. Mr Sampson KC and Ms Flowers on behalf of Y focus their submissions on the issue of anonymity of the parents. Their written and oral submissions were made prior to the decision in *Abbasi* being published.

111. They submit that the purpose of open justice is not what they describe as an *'open doorway through which all facts and identities in a case, including the identities of individual litigants, must proceed to meet the needs of open justice. To that end, there is a clear and entirely appropriate difference between proceedings which take place in open court and those which do not'.*

112. They submit that in a small proportion of cases the identities of individuals involved in cases heard in private are disclosed to the public in the interests of open justice but in the majority of cases the identity of the parties are not. This follows, they submit, from the underlying purpose of open justice which can be met without the need to identify the children and the parents and others in breach of their Article 8 right to privacy.

113. This, they submit, accords with the detailed guidance on this issue, such as the foreword to the June 2024 Practice Guidance, Transparency in the Family Courts – Publication of Judgments where the President of the Family Division, Sir Andrew McFarlane, sets out its basis as '*Being transparent includes allowing the public to understand the range of cases in the family Court and how they are dealt with. The publication of judgments is an essential part of that process…The aim of the guidance is to shed more light on the ordinary, day-to-day work of the Family Court, but to do so without compromising the confidentiality of the children and family members in any individual case'.*

114. They submit the Article 8 rights engaged are those of the children and the parents, as was confirmed in *Griffiths* at [35] *'The category of exception that is relevant here*

is the need to protect private and family life rights, including in particular the rights of the children'.

115. They submit the rationale that favours confidentiality within children cases goes beyond simple protection of the child's identity and includes the public interest in frankness in children's cases (see Sir James Munby in *Norfolk County Council v Webster & Ors* [2016] EWHC 2733 (Fam) [45]). This resonates, they submit, with the guidance of Sir Andrew McFarlane P in October 2021 (*'Confidence and Confidentiality: Transparency in the Family Court')* in announcing the measures to increase transparency when he stated *'…Reporting must be subject to very clear rules to maintain both the anonymity of the children and family members who are before the court, and confidentiality with respect to intimate details of their private lives. Openness and confidentiality are not irreconcilable, and each is achievable. The aim is to enhance public confidence significantly, whilst at the same time firmly protecting continued confidentiality'.*

116. On behalf of Y it is submitted that whilst developments since then, both in terms of the cases and the guidance, have made the point that the family courts are no different to other jurisdictions in their application of the open justice principle, they have not diluted the importance of recognising that the balancing exercise in family proceedings allows transparency while, as the President makes clear in his guidance, maintaining confidentiality. As they submit *'Open justice is not to be elided with open publication of all details; it is publication of information which allows the public to see justice being done and to understand how it has been done'.*

117. Those factors which are in play, flow from the Article 8 and 10 rights engaged. In *Clayton v Clayton* [2006] EWCA Civ 878 at [58] Sir Mark Potter P stated *'…The exercise to be performed is one of parallel analysis in which the starting point is presumptive parity, in that neither Article has precedence over or trumps the other. The exercise of parallel analysis requires the court to examine the justification for interfering with each right and the issue of proportionality is to be considered in respect of each….'.*

118. They submit the starting point is of presumptive parity in the context of the starting point being that confidentiality of children's and family identities, as opposed to the right of the public to know how the cases themselves are dealt with continues to lie at the heart of the family justice system.

119. They submit their position is supported by the 2024 'Open Justice Family Court Reporting Pilot – Protocol' guidance at page 5:

"Under the terms of the Pilot, reporters who attend private family hearings will be permitted to report upon the case where such reporting would normally be prohibited by the 'automatic restraints' imposed by the operation of section 12 of the Administration of Justice Act 1960…. Section 97 of the Children Act 1989 (protecting the anonymity of a subject child during proceedings) will continue to apply, and the Transparency Order ***will usually provide*** *for its effect to be extended until 31 December in the year of the youngest subject child's 18th birthday: see Clayton v Clayton [2006] EWCA Civ 878*". [emphasis added]

"The Protocol seeks to afford due respect to two principles: •Children and their relatives who are parties to family law cases heard in private are ***almost always entitled to anonymity*** *(the Anonymity Principle). • The work of the state in the form of the family court and the agencies associated with it should be as transparent as possible in order to command public confidence, to promote best practice and to facilitate public accountability (the Transparency Principle)"* [emphasis added]

In relation to how that anonymity principle should be applied and the interplay with Article 10 rights it states

"The anonymity of children and their relatives should be respected and protected. ***Going into specific detail will often not be editorially vital to a reader's understanding of the important issues in a case****. Although including personal details has the benefit of humanising individuals, preserving a child and family's anonymity should be the reporter's priority in their choices as to what details should be omitted, blurred or, in some cases (which, as with normal editorial practice, will tend to be noted at the end of a piece of reporting) altered. Children and their families / carers* ***must not be named, either during the case, or after it has concluded, unless exceptionally this is specifically permitted by the court****"* [emphasis added].

120. In their submissions they refer to the research undertaken by Julia Brophy evaluating the previous (2018) practice guidance on transparency and publication of judgments, prepared for CoramBAAF: Privacy and Safeguarding – Evaluation of Practice Guidance (2018) Children Judgments. That report, they submit, highlights some of the concerns expressed by the local authority and the Children's Guardian about the information remaining publicly available throughout a child/young person's life. They submit this highlights the unpredictability of the effects of publication and the potential effects of publication on efforts to build family relationships in the future, and the lifelong consequences of it.

121. Turning to the balancing exercise in this case Mr Sampson submits

(1) The parents do invoke their own Article 8 rights. In *Griffiths* Lieven J acknowledged that public figures have private life rights too but the father in that case was not relying on those rights. In that case there was nothing capable of justifying an interference with the free communication of the information other than the rights of the child.

(2) The Article 10 rights engaged are of the right of the public to receive and the press to publish information about the case, consistent with the principle of open justice which is not changed by information already in the public domain requiring identification of the parents to redress public perception. In *Griffiths* the father's account was at odds with the judgment. The information regarding the family that was in the public domain has largely been removed and, in any event, there would be the statutory restrictions under s12 AJA 1960 that would prevent the parents speaking to the media.

(3) When considering the matters set out in *Griffiths* at [58] that supported publication it is unclear what the public interest is in identifying a lawyer/part-time judicial office holder who had not at any time used that office to make public statements about their personal affairs. If it is based on the fact that someone holds a public office that could result in every party to family court proceedings in respect of whom adverse findings are made being publicly named if they have a publicly funded job. It is difficult to see where the line would be drawn.

(4) This is not a case of needing to set the record straight or Y having made, at any time, public and untrue statements about the children and the court's findings to protect their legal career. The likely regulatory processes will take their respective courses and it is recognised that if a balance is made at this stage that the parents are not identified, that may change depending on the outcome of those processes. Mr Sampson submits it is important to bear in mind these are separate processes looking at different things and may end up with different results as has happened in other cases.

(5) The workings of the family court can be shown in a transparent fashion without names, but with publication of the professions which is not opposed. Mr Sampson submits if the parents were named and positions became polarised the parents may have no alternative but to speak out which may have an impact on the children.

(6) The age of and effect on the children. This was not a significant factor in *Griffiths,* where the Children's Guardian supported publication. In this case B and C are older, on or likely to be on social media, aware of any coverage and are in a vulnerable situation. This includes not only the risks of the children's own responses to publication but also includes their ongoing exposure to the emotional distress caused by this case, and the risks to their own self- perception. The April 2025 Guardian's report demonstrates the impact on the children of this consideration and the children's varying views. For example, C did not want everyone to know about him but would tell people basic facts if he wanted, he expressed concern about doing something that he could not change his mind about. B has most recently said he wanted to start thinking about his family and seeing them and did not want his parents' names to be made public. This needs to be seen in the context of the Guardian considering that C is becoming increasingly protective of his own privacy and her concerns about B's risk-taking behaviour and the children's emotional fragility. The risks to their placements are too high, the children can't afford to move again. The Guardian refers to the children's lack of knowledge of media reporting and the implications for them and their wish to re-establish relationships within the family.

(7) In relation to the parents the Guardian notes the movement there has been in their views and that it gives her *'some hope that there may be the chance of a relationship for [B] and [C] with their family although I have to remain concerned that this change is very recent and may have to be seen in the context of what is happening in the proceedings. I very much hope it is genuine'.* In their written submissions it is submitted on behalf of Y that *'Parents can and often do disagree with court findings. Equally, professionals are right to note that parents who do not accept findings made by a court cannot expect welfare determinations that go behind them. But here has crept into this case a blame mentality – criticising repeatedly [Y's] focus on [Y's] own mental health issues, [Y's] subjective fear and unhappiness*

about the disintegration of a family which, as the court has rightly noted, had many very positive aspects. That is not to seek to exculpate [Y]. Rather, it is to steer the litigation away from seeing publication of this family's difficult circumstances as a panacea or solution to the different narratives or views the parents, children and extended family members have… [publication] will, in short, not resolve the children's anxieties and sense of rejection. Instead, it is likely to exacerbate them'. In his oral submissions Mr Sampson reminds the court that these two parents are trying their best subjectively to support the children, Y accepts Y has not been able to do so emotionally. There is, he submits, a genesis of a working relationship that needs to be fostered. It is recognised family members need to see the judgment, the children's welfare includes the wider family members who they have said they want to see. Whilst Mr Sampson accepts the point made that the parents and family have not initiated any steps and that the parents did not withdraw the views expressed in the December 2024 email he submits it doesn't mean there is a '*full stop, it is the duty of professionals to look at how to foster relationships for children'.* Mr Sampson submits it is not unusual for parents to not accept the court's findings and time is needed to start to build relationships children will benefit from. Any publicity risks undermining this.

(8) The ECHR case law makes clear that if a care order is made there remains an obligation on the local authority to actively promote restoration of family relationships. This may be impacted by the parents being identified. The recent email from the parents to the Guardian provides a foundation for that to take place.

(9) The parents' Article 8 rights include the wellbeing and psychological integrity of the parents as set out in Y's most recent statement. The Guardian in her April report recognises this and states *'Whilst I have considered the parents' behaviour often to be self-serving, I cannot ignore their vulnerabilities and potential consequences, and more pertinently what that may mean for the children…I am mindful that blame is already (wrongly) being attributed to the children by the parents and the wider family with the clear implication that the children are responsible for their parents' situation…These are decision which could have catastrophic implications for the children's wellbeing, and I worry that they will feel responsible for them'.* Mr Sampson submits there is an element of speculation regarding the impact on the children and the parents of the parents being named but the court does have some evidence about the parents' mental health in the GP letters submitted. He acknowledges the December 2024 email does not reflect well on them and the delay there has been in communicating any different view by the parents. They have found these proceedings life changing and recognise the impact on the children as set out in their 31 March 2025 email. Their vulnerability, Mr Sampson submits, is evidenced by their behaviour and their distress.

122. On behalf of Y it is submitted that when balancing these matters the balance falls against full non-anonymisation. The public interest is served by understanding how the court reached the decision it did, including within this an analysis of the procedure adopted and identification of the roles held by X and Y. When undertaking a proportionality cross-check it is submitted the interference with the children's and the parents' Article 8 rights by publication of their names is disproportionate, where the public's Article 10 right to understand how these proceedings have been conducted is fully met through anonymised publication.

123. Finally, in relation to any findings about the parents' litigation conduct that is resisted by Mr Sampson as no remedy is sought so he questions the purpose of it. The matters relied upon by the local authority need to be looked at in the context of the circumstances at the time. For example, at the time the parents made their decision in early November not to contest the proceedings that was because they were emotionally unable to do that so their decisions saved court time. In relation to the December 2024 email the parents were particularly vulnerable at that time and it was sent at a time of *'high emotion'*. Mr Sampson acknowledges the passage of time between the December 2024 email and the parents' position statement on 29 January 2025, he submits this reflects that it is a *'process'*. The parents have not sought to court any publicity, they have struggled with their own mental health, the loss of their family and their livelihoods and have responded emotionally (such as their December 2024 email). In the December judgment at [93] the court referred to the coming to terms with the court's findings and building relationships as a process that can take time.

A

124. On behalf of A, Ms King KC and Mr Brooks submit A has been informed of the recent developments, in particular the position set out by the Guardian who spoke to A as part of her enquiries. They submit A's concern about the way the parents have portrayed themselves as being the victims of an unfair process was compounded by what they stated in their January position statement:

> *We will be sending them a copy of the final approved judgment and self referring once we receive it. We have faith that these bodies will investigate in detail our roles and* where *necessary canvas the opinions of people who for example have seen us with our children and respectively as professionals. This is unlike the experience we have had with the family court which has not done this.*
>
> We *do not think that [A] should be given a copy of the judgment as we are very concerned and worried that he will share it with goodness knows who and very probably post it on social media and/or the internet. We think that [A's] determination to come to London for the hearing on Monday speaks volumes and the Court is acquiescing in what has become very much more about [A] than anyone else.*

125. Ms King notes the changed landscape since the January hearing, including that the parents have distanced themselves from the content of the December 2024 email but still in their statement appear to make anonymisation of the judgment a condition of that change.

126. In her written submissions Ms King outlined A's position as follows. His own wishes and feelings would support publication of the parents' names, as he sees this as a way of preventing them perpetuating a false narrative. He is concerned that he has been demonised by family and friends and the parents have not had to confront the reality of what they have done, as opposed to the effect of the proceedings on them. A recognises the adverse impact on them but the children, and A and D have been done incalculable harm as a result of their treatment by their parents. A is protective of his siblings and wants what is best for them. He notes what they have said to the Guardian, their changeable views, the long-term implications of the parents being

named and the feeling of guilt regarding any impact on the parents. The result is that A will leave others to argue the case for publication of the parents' names.

127. In her oral submissions Ms King submits one of the issues is whether the contact now suggested by the parents is real or illusory. It needs to be considered in the light of the history to evaluate whether there is likely to be any real change and a wish to connect, or whether this is a strategic development. She notes A is not mentioned in the parents' evidence. She submits A's position is neutral as to whether the parents are identified, which, she submits, reflects well on him. He is guided by what is in B and C's interests. A has shown himself in the past to act in their interests, for example when he agreed not to share information with B and C about the change in the parents' position in November 2024 to not challenge the evidence so that B and C could be supported in understanding that change. A has shown how he acts in their interests, compared to the parents. Some acknowledgement by the parents of the children's experiences would, she submits, start the process of healing. From A's perspective she summarises the factors that support the parents being identified as follows: A's wish for the parents to face the truth as found by the court; the parents talk about vilification needs to be looked at in the context of A being described by them as a 'disease'; it would help counter and balance the parents' narrative; the views expressed in the December 2024 email and by those who are said to support the parents do not match the lived experience of four of the children, which if the parents were identified the children would be able to refer to for balance. On the other side A recognises the matters set out in the Guardian's report that point the other way and would not want any step taken that could adversely impact on B and C's welfare. Ms King submits the parents' conduct within these proceedings has resulted in them being extended, for many months they laid the blame with A and then decided not to pursue that at the last minute which could be seen as a tactical decision as it exposed A to continuing suspicion. Any suggestion on behalf of the parents that the decision by them in November 2024 not to contest the proceedings saved the children from giving evidence rings hollow. Months had been spent carefully assessing the children as to whether they could give oral evidence only to have that changed by the parents at the last minute, with them focussed on their own needs not those of the children.

Guardian

128. Ms Delahunty KC, Ms Holloran and Mr Nottage on behalf of the Guardian set out her revised position in their detailed skeleton argument, where they chart the evolution of the welfare analysis in the context of the recent developments both in the children's lives, and the wider evidential information that is now available to assess how the welfare analysis fits into the broader factual and legal framework.

129. They submit that one of the factors that has influenced the Guardian's change of position is that the wishes and feelings of the children are changeable and are ultimately informed by a deep mistrust of their parents which makes it difficult for them to have any proper understanding of the implications for them of any views they express. The Guardian has had to factor into this assertions by the parents that neither they nor the children's extended family will have contact, which the children have said they would want, unless the judgment is anonymised. They submit C's astute comment in asking the Guardian if the parents are blackmailing them illustrates the point.

130. A welfare analysis in this case undertaken at any one point cannot be taken as determinative of welfare decisions going forward due to the unpredictability of the situation the children are in and the inability of professionals to place any reliance on the good faith or stated intentions of the parents. This is complicated by the overlay of what any future role of the regulatory bodies will be, which is outside the control of the parties to these proceedings and this court. They acknowledge the difficult task the court has in balancing the Article 10 and 8 rights in such circumstances.

131. The regulatory bodies have set out their likely timescales, ranging from a few months to over a year. Some of the bodies have confirmed it would be open to the respondent to challenge findings made in the Family Court.

132. The BSB stated

"If the BSB's regulatory concerns rely on findings in the decision of a civil court (e.g. the Family Court) and those concerns are referred to a Disciplinary Tribunal on charges of professional misconduct, the judgment of the civil court and the findings of fact upon which the judgment or order was based will stand as proof of those facts. …

Therefore, to the extent that the findings of fact upon which a judgment or order is based are disputed, the burden of proof is on the respondent barrister to prove, on the balance of probabilities, that the findings of facts were inaccurate. The Disciplinary Tribunal will have regard to the standard of proof in the family proceedings when considering any challenge by the respondent barrister to the findings made in those proceedings.

Matters of primary fact cannot be re-litigated, but they may be challenged: a Disciplinary Tribunal does not determine the same issues afresh as those matters decided by the Family Court. Matters determined by the Disciplinary Tribunal proceedings are decided for a different purpose and in a different context than the Family Court.

However, we appreciate that there may be findings of the Family Court, that the BSB may seek to rely upon under rE169.4, which the respondent barrister may dispute. Where this is the case, the respondent barrister may choose to produce evidence, or call witnesses of fact, to challenge specific findings that were made in the family proceedings. As above, the burden of proof is reversed in relation to this specific issue and the final decision on these issues will be made by the Disciplinary Tribunal based on the evidence before it."

133. And the relevant regulatory body for X stated

"However, whilst the judgment of any other court or tribunal may be proved by producing a certified copy of the judgment, the findings of fact upon which that judgment was based will be admissible as proof but not conclusive proof of those facts.

Accordingly, whilst findings of primary fact would be admissible, they would not be binding upon a Fitness to Practice Committee and it is possible in principle to seek

to challenge findings made in family proceedings or elsewhere: see for example Hetherington v SRA [2022] EWHC 2722."

134. No professional body was able to point to any means by which the views of the relevant child would be sought if such dispute as to findings made by this court was permitted.

135. Ms Delahunty submits it is not for this court to speculate on the outcome of these matters, the relevance is there is the potential for this challenge to take place and the fact of that could be reported in the press. The regulatory bodies have set out what stages of their processes are in private or public and what considerations are taken into account in dealing with any such applications. It is likely that any determination by those regulatory bodies that is adverse to either of the parents would be published.

136. They submit once the proceedings come to an end the limited restriction imposed on reporting *'information relating to the proceedings'* is by s12 AJA 1960. In itself s12 AJA 1960 does not prevent publication of the names of the parties or the child, as neither are *'information relating to the proceedings'* (see *Re B (A Child) (Disclosure)* [2004] EWHC 411 (Fam). Mostyn J in *Re PP (A Child: Anonymisation)* [2023] EWHC 330 (Fam) summarised the reach of s12 after proceedings had concluded as follows:

"i) what any concluded s.8 proceedings related to, and if there are proceedings continuing which do not fall within s.97(2), to what they relate;

ii) the name, address or photograph of the child;

iii) the name, address or photograph of the other parties;

iv) the date, time or place of the next hearing and of all future hearings of the proceedings;

v) the nature of the dispute in the proceedings;

vi) 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

vii) the text or summary of the whole or part of any order made in the proceedings."

137. The relevant part of the 2024 Practice Guidance 'Publication of Judgments Practice Guidance' states as follows:

"5.1. The general process set out below (Table 1) is intended to represent a reasonable starting point for the approach to the anonymisation of children judgments for the purposes of publication. It is not intended to be a fixed or rigid default position, but "*in many cases this general approach or something close to it will represent good practice. It is the responsibility of the court to consider in each case whether the general approach set out is appropriate or if some adjustment is required.*"

5.5. In summary however, the key principles of anonymisation are:

5.5.1. The law in the Family Court is the same as in any other jurisdiction, including the application of the open justice principle.

5.5.2. Anonymisation is only permissible where specifically justified on the facts of the case.

5.5.3. Anonymise / redact where necessary to protect the identity of the subject child and family members (as a function of the child's Article 8 rights encompassing welfare)

5.5.4. Anonymisation of professionals is only usually justified where its purpose is to ensure the anonymisation of the child/family. A speculative concern about harassment or criticism is insufficient.

5.5.5. Anonymisation is not a zero sum game: removal of one fact or item may obviate the need to redact a more important fact or piece of information, thus facilitating publication of a more informative / useful version of a judgment.

5.5.6. Avoid prejudicing criminal investigation / proceedings.

5.5.7. Take particular care in cases involving complaints or descriptions of sexual assault or abuse."

138. They submit generally the names of parties and family members will be anonymised but each case is fact specific and an active decision needs to be made whether to anonymise or not.

139. They rely on what was set out in *Tickle v BBC* about open justice at [45], [49-50]

140. Ms Delahunty submits the rights that are being balanced are

i) Art 8 ECHR rights of the children, with the specific analysis of those rights conducted through the prism of welfare;

ii) the Art 10 ECHR rights of the children;

iii) the Art 10 ECHR rights of the public and of the press;

iv) the Art 8 rights of the parents (which they will address)

v) the Art 8 and 10 rights of A (which is for A to address).

141. They submit in accordance with *Griffiths* at [48] and [71] the child's welfare is a primary consideration (although not a paramount one) and the children's Article 8 rights (encompassing welfare) must be properly analysed. Ms Delahunty submits that even though her revised position is to be neutral the Guardian's welfare analysis is important in the circumstances of this case where serious findings have been made against both parents, which they each show a sustained lack of insight into and acceptance of, and the consequent caution that must be applied in considering the reality of each parent's analysis of the children's welfare. This is illustrated by what X sets out in their witness statement about the risk to the children's welfare of them being labelled 'abused children'. By contrast, the Guardian in her report recognises

the inherent contradiction of parents relying on welfare arguments for the protection of the children whilst failing to take account of their part in abusing their children and placing them in a position whereby the impact of the court's decision on their wellbeing requires such careful analysis and consideration.

142. It is submitted that because of this the Guardian is better placed to separate the needs of the children from the interests of the parents.

143. In her oral submissions Ms Delahunty emphasised the seriousness of the threshold findings that have been made by the court. Those findings graphically demonstrate what happened to these children. They were subjected to the abuse perpetrated by X that was pervasive, longstanding, done in the presence of each other and in the context of knowing A had run away at the age of 14 years and was then excluded from the family and described as a 'disease'. She submits Y's failure to protect is no less serious, due to the nature of the abuse and the period of time it extended over.

144. From the children's perspective they have had to manage so much since they have been in foster care, such as whether their relationship with their parents will continue, the extended period of time when they were not able to see A, and that D remained a part of the family and was then ostracised when he spoke out. They have had to experience the loss of their birth and now their adoptive family. The children have been aware that the parents disputed their accounts of abuse yet despite their wish to have contact with the parents have maintained their accounts of their experiences which were accepted by the court. It is in this context that the Guardian in her November 2024 report expresses the experience from the children's perspective so clearly at paragraphs [50 – 54] and reproduces the letter from the children at [81] where the children ask the parents to listen to them. At [46 – 49] she sets out the detailed steps she has taken to seek to engage the parents and inform them of the children's wishes and feelings. At that stage the parents cut off any 'green shoots' and the Guardian made clear they could contact her at any time, which they did not. Ms Delahunty submits the November 2024 report sets out how much pain the children were in and *'was the ultimate invitation to the parents to recognise the children's loneliness and loss but [the parents] did nothing'.* She recognises the parents did send a card and a voucher; the children noted the voucher was purchased on New Years's Eve. As Ms Delahunty observed, children notice detail like that.

145. She submits the December 2024 email needs careful consideration. It suggests the parents have been silenced in contrast to the steps the court has taken to engage the parents. They state they do not want contact as they will *'never accept the lies that have been told and neither will our extended family or friends'* and states this has been *'exacerbated by the action of the professionals involved and their clear destruction and failure to engage with those who had existing relationships. This continues and will be exacerbated by the continuation of the current Social Worker in this role'.* They continue *'The family court has nothing to do with the welfare of the children and this outcome goes against much of what it is supposed to stand for. The strong support from our family and many friends has brought disrepute on the family court…'.* If this email was sent, as the parents suggest, at a time of deep trauma the time to redress the balance was in the position statement filed by them on 29 January 2025. That document continues the themes in the December 2024 email, referring to the lies and the unfairness of the process, stating contact is too much for the parents and not properly reflecting what the children have said. There is, Ms

Delahunty submits, no reflection in this long document of the consequences for the children and the tone of the document is a continued deflection of responsibility from the parents onto others and can give no explanation why D would have gone to the police in the way that he did. This was their opportunity to demonstrate some insight into the children's position. The two GP letters they produced rely on self-reporting and were produced in support of the application for remote attendance to alleviate their anxiety. Ms Delahunty submits that this history demonstrates why the recent change by the parents regarding contact does not form a significant part of the reasoning why the Guardian's position has changed to neutral. As Ms Delahunty put it in oral submissions, whilst she acknowledges the parents' email about contact *'she is bewildered because the email dated 31.3.25 said they wanted contact and wanted it now regardless of the impact on them because they understood the children needed contact'* but that had been C's position since January 2024.

146. Ms Delahunty submits what is significant for the Guardian and caused her position to change is the relationship between the children, including A and D. There has been a vacuum of nurture for the children and they have clung onto each other. In her April report at paragraph [17] she graphically describes this issue and how the children and A and D are *'trying to reform as a group, with new dynamics and a shaky beginning. They all have different situations and feelings and whilst potentially being identified may initially unite them, I do worry that the pressure of the parents' potential notoriety will cause them long-term harm. They are not together currently and would have to try and make sense of the situation without each other. All four of them have potentially different views about publication…and I am conscious that to adopt a binary decision, on behalf of [B and C], may further polarise them'.* She records in that report that since her most recent visits with B and C they have made a further joint request *'that they do not want their parents to tell people that the findings are not true, by suggesting or directly stating that the children are dishonest'.*

147. As Ms Delahunty submits the sibling relationship is an important lifetime relationship and anything that may polarise rather than unite them needs to be carefully considered. She rejects any suggestion on behalf of the parents that certain parts of her April report can be given weight when her report is so nuanced, it needs to be read as a whole. C, in particular, has made it clear that he would seek some acknowledgment by the parents of his experiences and to say sorry. Ms Delahunty submits there is no sign of that from the parents in their detailed documents, it remains as she submits the '*elephant in the room'* and despite C, in particular, so wanting contact the Guardian has real doubts it will happen. This view is compounded by the letters attached to the parent's statements regarding their tone, content and intent, including the letter from E which, Ms Delahunty submits, has so much wrong with it, including its content and why it was filed. The other letters refer to them being a model family and the recent statement from the headteacher at X's school only adds to this concern, particularly as he has been sent the findings made by the court. What appears clear is that the persons who have written these letters or statements have not been given any detail of what the children have said, the circumstances or the findings by the court. There is no caveat about that in any of the documents. This approach by the parents is supported, submits Ms Delahunty, by the tone and content of the email from the parents to the Director of Education

on 1 April 2025. All of these matters support the concern of the Guardian of the way the parents draw people into their narrative, without there being any balance.

148. Ms Delahunty submits what is striking is that the parents at each stage during these proceeding have made a choice that is governed by their self-interest over those of the children until Mr Jones, on behalf of X, in his oral submissions in this hearing acknowledged the children's welfare is paramount. She submits this is too little too late. The children have had to navigate the impact of the way the parents have conducted this litigation with the support of the social worker, foster carers and Guardian.

149. From the children's perspective Ms Delahunty set out what is important for them to be published. That includes details of the parent's professions, as they were a significant part of the children's lived experience and their family status. They want the fact they are adopted to be included, it is an important part of their heritage and identity. They do not seek to include any details of the parents' relationship but seek any geographical information to be anonymised to reduce the risks of jigsaw identification,

150. Ms Delahunty recognises that in conducting the balancing exercise if the parents' jobs are identified that may support the argument to identify the parents by name, although that is mitigated by anonymisation to reduce jigsaw identification.

151. Ms Delahunty submits the balancing exercise in this case is hideously complicated, bearing in mind the experiences and current position of the children.

152. There are a number of matters that need to be weighed in the balance, in relation to the children and the evidence about these matters is, Ms Delahunty submits, detailed and balanced:

(1) In most cases the children's welfare interests are best protected by issues relating to them and any abuse they have suffered remaining confidential and shared only with those who care and support them.

(2) Publication of a judgment that is likely to identify them could lead to them being unable to manage how information about them is made known and that others, including their peers, would have detailed information about their background. Once published it would be difficult to control how the information is used.

(3) Whilst they have at times set out how they would wish for publication due to their age and understanding they may not have a full comprehension of what that would mean for them now and in the future. This needs to be viewed in the context of their ages, changing views and B's recent risk-taking behaviour.

(4) The impact of this issue on the potential for family relationships to be established also needs to weighed in the balance.

(5) Balanced against these matters the court also needs to recognise that the right of a child to tell their own story is an Article 8 right as well an Article 10 right. A competent minor has the right to choose to waive their Article 8 right to privacy (*Re Roddy (A Child)(Identification: Restriction on Publication)* [2003] EWHC 2927

(Fam) [10]). B is considered to be Gillick competent. The legal questions about publication are complex. For these particular children the Guardian has identified that this could mean that their confidence in their knowledge about what happened to them will be eroded with time, with consequences for their welfare. This would be a risk even if the parents do not themselves go public, it is obviously of even greater concern if that does take place either through information generated by the regulatory bodies or in any 'fight for justice' as the parents' put it in the December 2024 e-mail. In relation to the regulatory bodies that is possible and needs to be seen in the context of the parents position of not accepting the findings made by the court. Publication of any outcome that is materially different to that which has occurred in these proceedings remains a possibility. Equally an outcome adverse to the parents may be published, in whole or in part, thereby negating the value of any anonymisation. The Guardian submits the view expressed by the parents that they are the victims of the children's lies and of the family justice system's injustice, makes no reference to the fact that the parents have been offered every possible opportunity to present their case in these proceedings and have chosen not to do so. Four of their five children have either made and/or corroborated allegations of abuse against them and serious findings have been made by the court. Yet still they profess their victimhood. There is, the Guardian submits, a real possibility that the parents will seek their own publicity as a remedy to what they see as an injustice, with damaging consequences for the children's welfare.

(6) If either of these steps were taken by the parents it is likely to compound the abuse the court has found the children to have suffered. It would be another exertion of control and the risk of this happening has been factored into the Guardian's analysis.

(7) A further factor is that there is a particular risk regarding C due to his age and wish to return to the family that the parents may directly or indirectly require him to recant as a condition of that. That would directly impact his own personal integrity in an Article 8 sense and on his relationship with B and A. The parents' ability to exert control and demand loyalty is evidenced by the documents exhibited to Y's most recent statement where friends and family adopt a position of unquestioning support for the parents to the exclusion of any understanding or concern for the children. The same applies to the wider family, the letter from E was described by the Guardian as *'divisive and vitriolic'.* The lack of reflection by the parents' in considering whether to file these documents, Ms Delahunty submits, speaks volumes, it reveals and demonstrates a complete lack of insight. Failing to fall into line with the parents narrative has had real consequences for both B and C.

(8) Finally, it is recognised that even if the court decides that anonymisation of the parents' names and other detail may lead to jigsaw identification it may not be achieved in the longer term due to the independent decision making process of the regulatory bodies and the position the parents' take in each of them.

153. It is recognised on behalf of the Guardian that there are compelling Article 10 considerations in addition to the general consideration of open justice.

154. First, the public interest in information which questions a person's fitness for conduct in a public role (see *Campbell* [148]) and information that provides evidence of wrongdoing (see *Lord Browne of Madingley v Associated Newspapers Ltd [2007] EWCA Civ 295).* The parents respective professions and the findings made by the

court provide for a powerful public interest in publication. In *X v Y (Restraining Abuse of* Children's Guardian) [2021] EWHC 2139 (Fam) at [55] MacDonald J stated

"55. The protection afforded by Art 10 varies according to the content of the ideas or information expressed. Speech on matters of public interest, including the administration of justice (see Morice v France (2016) 62 EHRR 1 at [44]) and the operation of the family justice system (see N.Š. v Croatia (2020) Application No. 36908/13 at [103]), will attract high levels of protection."

155. In that context it is submitted in relation to Y there are powerful public interest considerations in Y's name alongside their profession being published. For Y to be anonymised but Y's professional role to be published would have an obvious and drastic deleterious effect on the confidence of the public in the court system and the authority of the judiciary. It is against the public interest for public confidence in the family justice system to be eroded. Similar considerations apply in relation to X. Findings as to the physical and emotional abuse of X's own children would be a significant factor in public confidence by their employers, colleagues and parents of the children in X's charge.

156. In addition there is a public interest in information that corrects a misleading public impression that has been promoted by a person on the basis that is the public's entitlement not to be misled by those seeking to benefit from its good opinion (see *Campbell* [151]). Even though the parents have said they have removed their previous online presence, in the past they have enjoyed and used their family values to promote themselves, create an impression that they are each of unblemished integrity and the vacuum holds the status quo. Anonymity of the parents in any published judgments would preserve the parents' false impressions. Depending on the regulatory outcomes it would enable them to continue to benefit from the same.

157. The reliance by the parents on their Article 8 rights needs to be considered and balanced in the context of the evidence the court has about the risks. The medical evidence about their mental health is limited, self-serving and relied upon in the context of supporting an application for remote attendance at the hearing. The parents can present themselves as victims yet remain able to file their detailed position statement, their written statements, report to the court their concerns about Ms Summers and send a detailed email to the Director of Education at the same time as sending an email to the Guardian about contact.

158. The Guardian in her analysis has considered what the parents have said about harm to them if they were named in any judgment, not only in relation to them but also the impact of that on the children. Ms Delahunty submits the court needs to consider that what is said by the parents in relation to this has not been evidenced in any reliable way. The letters from the GPs are brief. In *Tickle and Summers v BBC* at [56] – [57] the court made clear that when contemplating risk arising from publication of a name some evidence is required for calibration. Nicklin J stated in *Various Claimants v Independent Parliamentary Standards Authority* [2021] EWHC 2020 (QB) when warning against excessive caution in evaluating the risks that might arise from open justice

"Finally, and as Mr. Barnes QC frankly recognised, the evidence put forward by the Claimants falls a long way short of demonstrating a credible risk that if the Claimants were named (and their addresses provided) that they would be exposed to some risk of harm. There might exist a very small number of people whose attitude towards MPs (and those who work for them) is so hostile that they might conceivably be moved to offer some threat of physical violence to them, but this risk is remote. ***The Claimants have not put forward any credible and specific evidence that one or more Claimants is at particular risk of any such threat. The civil justice system and the principles of open justice cannot be calibrated upon the risk of irrational actions of a handful of people engaging in what would be likely to amount to criminal behaviour.*** *If it did, most litigation in this country would have to be conducted behind closed doors and under a cloak of almost total anonymity. As a democracy, we put our faith and confidence in our belief that people will abide by the law. We deal with those who do not, not by cowering in the shadows, but by taking action against them as and when required." (Emphasis added.)*

159. The parents' concern about details of their relationship being published is in sharp contrast to their previous openness about this issue. The Guardian does not consider any specific risk to the children arising from this and correctly identifies that the risk of public censure of the parents is far more likely to be associated with the fact that they have abused their children.

160. Ms Delahunty submits the court should carefully consider the parents' litigation conduct, particularly in the context of the history of these proceedings. Their conduct has continued to frustrate the management of this case. They have alternated between presenting themselves as vulnerable and needing protection from the court on the one hand and on the other hand making peremptory demands on the other parties and on the court. Ms Delahunty submits in her written submissions

"In attempting to bar Ms. Summers from attending this hearing entirely, in seeking to problematise the position of leading counsel for the Guardian and in subjecting the local authority and Guardian to a fusillade of questions and allegations of unprofessional conduct (in the Guardian's case this most recently included accusing her of 'alienation' of the boys from their [parents]), the court may well see the dynamics of power and control that characterise the findings it has already made against the parents reflected in their litigation conduct….The parents have expressly placed the integrity and fairness of the court process in these proceedings in issue, and that position is maintained in their latest representations."

161. Ms Delahunty submits Y's recent statement states as follows in relation to the December 2024 e-mail

"4. …Insofar as that email suggested we would necessarily fight for justice in relation to what had been done to us was wrong: *if the judgment is anonymised, or sufficiently anonymised to prevent jigsaw identification of the boys, and identification of us, we would not do anything like that."* (Emphasis added.)

162. This view, she submits, raises a number of issues. First, what the parents are framing as 'justice' has not, in reality changed and the prism through which they are viewing these proceedings continues to be what has been done to them. The integrity and fairness of the court process continues to be deprecated. Second, there is no 'deal'

to be done here. Anonymisation is not a 'trade off' against the risk that the parents will continue to *'fight for justice in relation to what had been done to us was wrong'.* Through their own evidence the court is on notice that the parents continue to perceive an injustice was done to them.

163. Ms Delahunty submits the parents are *'vocal and prodigious litigants in their own defence as the court has directly seen in the period they have been acting in person. We submit that only in making findings in respect of litigation conduct will the court free itself, and protect the children, from the risk that the parents will attempt to subvert public faith in the Family Court justice system by rewriting the court's decision-making process in external forums'.* X states in their recent statement *'If there is justice to be done then it can be done via the regulatory bodies'.* As Ms Delahunty submits it is likely that Y, as an experienced family law barrister and Deputy District Judge sitting in the Family Court, will rely on their own authority in undermining the Family Court's findings. A definitive account of how the parents behaved within these proceedings will act as a shield against that.

164. Ms Delahunty submits the children are aware of the media interest and presence in this case and are aware of the decision the court is making. It has been of significance to the children to know they are not alone in seeking some accountability of what was done to them and to be relieved of carrying that burden alone. B does have Gillick competency but reacts with emotion, such as his recent attempt to contact the wider family by Facebook. It is difficult to know if that is driven by a wish for contact or to express anger or a combination of the two. The debate in the hearing about the way this decision may be reported has an impact on the children as if the balance comes down on not identifying the parents by name it risks the children feeling the parents have been able to use their status to avoid accountability and could impact on whether the children would feel they have been heard.

165. Ms Delahunty submits the relevance of the litigation conduct is due to the impact on the children of the way the parents have conducted the litigation.

Discussion and decision

166. Dealing first with the issues about which there is no dispute. Most importantly, from the children's perspective, is the court is going to make a final care order and approve the care plans dated 20 December 2024. Those plans provide for B and C to remain placed with foster carers on a long term basis, with detailed provisions for support for them both generally and in relation to the difficult issue of contact, not only with the parents but also the wider family. Such orders meet their welfare needs as they accord with their wishes, they will provide the structure and support their welfare requires and enable the local authority to exercise parental responsibility for them in a way that meets their welfare needs, which their parents have wholly failed to do.

167. Also importantly, the local authority have given an assurance that the social work team, who have supported the children through these very difficult proceeding, will remain allocated to them. This is very welcome as it will bring the benefit of continuity and, critically, a detailed knowledge of the history of these proceedings, which will be essential in supporting the children going forward. It will also provide the stability and continuity of support for the children, which their welfare demands and their parents have not provided.

168. The four judgments will be disclosed to the regulatory bodies in accordance with the principles outlined by Gwynneth Knowles J in *Re Z.* At this stage, no other documents will be disclosed other than the trial bundle index. This will enable those bodies to consider, on an informed basis, what, if any, further application they will make for disclosure of any documents.

169. In addition, the judgments will be seen by A and disclosed to Y's Leadership Judge.

170. The parties will liaise over any further anonymisation of the judgments to reduce the risk of jigsaw identification of the children.

171. The findings made by the court and the continuation of these proceedings have been enormously difficult for the children to manage. It has delayed the court being able to make final care orders, it has caused continued instability for the children and meant the focus of the discussions have been about the consequences of the position taken by the parents, rather than the children. The continued uncertainty has been wholly detrimental to their welfare. This delay has been caused by the decisions taken by the parents who, in my judgment, have remained focussed on themselves. Even making all due allowance for them to be able to exercise their Article 6 rights to challenge the evidence the local authority relied upon, and their understandable distress at being involved in such difficult litigation, the decisions they have made have displayed no empathy or understanding for the impact on the children, who they still have parental responsibility for.

172. Two examples illustrate the point. First, the decision by them on 4 November 2024 to decide not to contest the proceedings on the basis that the trial process will, as they set out in their brief joint position statement, '…*cause irreparable damage to their mental health. They are equally concerned about the effect that the trial will have on the children, the wider family and friends'.* There was no real acknowledgment of the impact on the children who had been the subject of detailed welfare assessments regarding their ability to give oral evidence due to the parents challenge to the children's accounts. The parents' document continued *'In those circumstances the forensic reality is that the findings sought by the local authority are no longer opposed'.* At that time the parents had the benefit of specialist solicitors and leading and junior counsel, as they had had throughout the proceedings. The voices, wishes and feelings of the children were clear in their letter set out in full in the November 2024 Guardian's report; those voices went unheard by the parents. Second, the December 2024 e-mail that sought to portray the proceedings as unfair stating that they had been *'restricted and silenced throughout this whole dramatic process'* when, on any objective analysis, the opposite had taken place. The email continued that *'The family court has nothing to do with the welfare of the children and this outcome goes against much of what it is supposed to stand for',* with the stated intention to '*fight for justice in relation to what has been done for us'.* By sending that email and not attending the December hearing the parties and the court were left with no alternative but to delay the conclusion of the proceedings. No independent evidence has been produced by the parents other than self-reporting generalised references to their distress as to why they failed to attend that hearing. Due to the contents of that email and the subsequent silence from the parents, the social worker and the Guardian have had to engage the children in the difficult issues that arose from that email. The parents did not withdraw that email and the sentiments expressed in it were largely replicated in the long and detailed

position statement filed by the parents on 29 January 2025, where their only reference to it was that no one had contacted them, abdicating any responsibility they had as the adults and parents who had written it. The consequences for the children is barely mentioned by the parents in that long document.

173. These two examples of actions and decisions the parents have taken amply illustrate their focus on themselves and their narrative that the children were telling untruths, without any consideration of the impact on the children and the welfare consequences for them. Their actions in response to the abuse found by the court and the way they have conducted this litigation has, and continues to, cause these children significant harm. The parents have, in my judgment, simply not begun to engage with that basic aspect of parental responsibility.

174. I agree with the local authority and Guardian that the way the parents have conducted these proceedings both before and since the December hearing has had a direct adverse welfare impact on the children, even making all due allowance for them exercising their Article 6 rights and any distress caused to them by being parties to these proceedings.

175. This background and action by the parents provides an important context in which the court is now having to undertake the intense focus on the competing Article 10 and 8 rights that are engaged.

176. Ms Summers sets out powerful arguments about the Article 10 rights engaged, which are supported by the other media organisations. They are also articulated with great clarity on behalf of the local authority and Guardian. They are complex and multi-faceted.

177. First, the public interest centres on the findings made against the parents of causing their children significant harm at a time when they held jobs that brought them into direct contact with and in which they were making decisions about children. This was also at a time when material was in the public and professional domain that extolled their family life and was used by the parents to promote their own career advancement. Whilst most of that material has been removed, some remains publicly available and the letters attached to X and Y's statements make clear that remains the view held by others in the community as promoted by the parents. There is a public interest in information that corrects a misleading public impression that is being promoted by that person. Ms Summers submitted '*The public interest in light of the professional roles these individuals hold or held is highly compelling and significant'.* The necessity to notify the various regulatory bodies indicates the serious nature of the findings made by the court.

178. Second, Ms Summers submits the Family Court sits in private to protect the anonymity of the children not to protect the reputation of adults who have had findings made against them, particularly serious findings of abuse of children. The public interest also includes public confidence in the family justice system and what Ms Summers terms as the *'optics'* of one judge applying for protection from a judge who has found their partner has abused their children and that they themselves failed to protect the children from that abuse. In *X v Y (Restraining Abuse of Children's Guardian) [2021] EWHC 2139 (Fam) at [55]* MacDonald J set out that the Article 10 rights engaged in matters such as the administration of justice and the operation

of the family justice system will attract high levels of protection. This was a view endorsed in *Abbasi* at [128], [129], [131 – 133] and [175].

179. Although the parents stated in the December 2024 email that they did intend to exercise what they saw as their Article 10 rights to speak out about what they considered had been the unfairness and injustice of these proceedings and the dishonest actions of public bodies involved in them they have, after some delay, withdrawn from that position albeit conditional on them remaining anonymised as set out in their written evidence. This is an example of the parents' modus operandi, of securing what they want by overt or covert threatened action. The email to the local authority Director of Education on 1 April 2025 is another example.

180. The Article 8 rights the parents rely upon that relate to them centre on the impact on them if they were identified. They rely, in particular, on their current fragile mental health and the impact on their health of being identified. The press, the local authority and Guardian draw attention to the lack of independent evidence to support that other than the parents self-reporting and the letters from their GP in support of their applications for remote attendance at the hearings, which were always granted. The parties and the press had put the parents on notice that self- report in such circumstances was insufficient. It is not in issue that these proceedings, by their very nature, will be stressful but what is relied upon is the lack of any cogent or independent evidence about this issue in circumstances where the parents have remained able to conduct these proceedings in a way that demonstrates their continued engagement with them, such as the detailed January 2025 position statement, the application to exclude Ms Summers and the vitriolic email from the parents to the Director of Education on 1 April 2025.

181. In this hearing the main focus of the parents' Article 8 submissions was on the children's welfare if the parents were identified, even with anonymisation to prevent jigsaw identification of the children, due to the children's vulnerability and the impact it could have on any initial steps about contact between the children and the parents and the wider family. It is of note that their submissions on the children's vulnerability did not include any acknowledgment by them of any responsibility for the situation each child is in. There is no really credible explanation by the parents, other than the proximity of this hearing date, as to why they now propose contact when they have ignored the voices of the children over so many months as they said contact would be too distressing for the parents. The parents' recent documents are largely silent about A who, from B and C's perspective, is an important person in their lives as described by the Guardian. The parents continue to display very limited understanding or insight into the children's position or their perspective. This supports the view that this change in the parents' position is largely strategic having spent the last fourteen months stating they could not manage contact due to the impact on them.

182. The recent moves by the parents in seeking contact with the children cannot be looked at in isolation of the chronology. The parents have remained resolute since the start of the proceedings in not wishing to see the children, this is despite them being made aware by the Guardian and others during the course of the proceedings that this is something C, in particular, wished for. The joint letter by the children set out in the November 2024 Guardian's report could not be clearer. Save for the gift card and card at Christmas the parents have not over fourteen months sought or made

proposals for contact until two weeks before this hearing. Their email is creative and child focussed but as the Guardian states in her April report at [32] the parents and some members of the wider family have repeatedly made it clear that they are only prepared to have contact with the children if they are anonymised which, unsurprisingly, prompted C's response of feeling blackmailed and B's reference to still feeling controlled by the parents. Whilst that position was modified during this hearing it remains ever present. The court can understand what Ms Delahunty described as the Guardian's bewilderment in trying to understand the parents change in position.

183. For the children the Article 8 rights that are engaged have been articulated on their behalf conscientiously and with real skill by the Guardian and the allocated social worker. The Guardian has prepared a number of perceptive and insightful reports in this case, the last three (November 2024, January and April 2025) are carefully balanced reports that poignantly describe the impact on the children of the abuse they have suffered, the changes they have had to manage and the enormously complex issues that have had to be discussed with them, such as whether their parents should be identified in any judgment. That they are profound decisions with a lifelong impact on them is illustrated by how the Guardian expressed it in her April report at paragraph [33] in relation to contact as follows:

'On behalf of the children, I am therefore acutely aware that positively advocating on their behalf for the names of the parents to be published could mean that the children are denied the potential opportunity to rebuild their relationship and have contact with their parents and extended family. However, I am also clear in my view that the children cannot be denied their truth or, even worse be portrayed as liars. Whilst I do not underestimate the impact these proceedings have had (and will continue to have) on the parents, they need to try and put their grievances and sadness to one side for the sake of the children and try and rebuild their relationship with them'.

184. However, that has to be balanced with, as the Guardian sets out in the paragraphs that follow in her April report, the significant benefits to the children having their own truth available to one and all but she also recognises that publication of the parents' names may not give them the confirmation they seek from the people they want. As the Guardian notes, the children are not interested in the many knowing, they are interested in the few knowing, namely the people that are important to them. The acceptance by the parents of their professions being identified in the judgment may result in the parents being identified by those who know them and that that in itself gives rise to a legitimate public interest argument in knowing their identities.

185. But from the children's perspective the Guardian observes that they wish the proceedings to come to an end. The Guardian sets out the many unknowns if the parents are named and how that information will be reported and the impact on the children of having this information *'known about them before they have the chance to develop relationships in education, employment or with friends will be another extra hurdle that their peers do not have'.* Their welfare needs are to grow up away from the spotlight of the court. As a result the Guardian did not support any delay in the decision to consider after any decisions by the regulatory bodies.

186. Whilst it is right the children's Article 10 rights are also engaged as they have stated they wish to be able to speak about their experiences and the findings by this court those rights need to be considered in the context of their ages, vulnerability and how they would wish to exercise those rights. As the Guardian stated what they are most interested in is for those who know them knowing the findings made by the court.

187. Balancing each of these competing rights and considerations in this very unusual and complex set of circumstances I have, not without some considerable hesitation, reached the conclusion that the parents should not be identified by name in these proceedings for the following reasons.

(1) I recognise the Article 10 consideration are compelling due to the nature of the roles held by both parents and the serious nature of the findings of abuse and failure to protect made by this court in relation to both parents. I reject any suggestion of this being a slippery slope as each case has to be considered on its own particular facts. The significance of the roles held by each parent in this case and the way they previously portrayed their family life in the public domain adds weight to this consideration. This is compounded by the fact that not all information relating to the parents has been removed from the public domain and in relation to Y there has been a recent public statement by their regulatory body.

(2) I have carefully considered whether the public interest could be met by the reporting of their respective roles without their names. I am clear that X should be referred to as a primary school teacher and Y should be referred to as a barrister specialising in children cases who sat as a Deputy District Judge authorised to hear private law cases. That meets the public interest in the public knowing that the parents hold positions of professional responsibility in respect of children and were adoptive parents of a number of children. I acknowledge it risks leading to speculation in their respective professional fields of work and to them being identified by those who know them, which would itself give rise to a legitimate public interest argument in knowing who they are and the submission on behalf of the press regarding a name, relying on *Re Guardian News and Media Ltd* [2010] AC 697 [63], but that needs to be factored into the wider balancing exercise.

(3) Whilst the parents have not sought to rely on their Article 10 rights they have threatened to speak out about what they regard as the injustice in this case and the failings of the family court against which they make very serious allegations. Whilst the court acknowledges that they have recently said they don't intend to speak about that they have not withdrawn the very serious allegations they make in the December 2024 email and there is the thinly veiled undercurrent to their position that it is contingent on them remaining anonymised. There is a public interest in the workings of the family court being transparent in the widest sense and the publication of these judgments will assist in that as will the details of the way the parents have conducted these difficult proceedings to the detriment of the children.

(4) Unlike in cases such as *Griffiths* the parents do rely on their Article 8 rights. Their evidence about their mental ill health and the impact on that and them more generally if they are identified is, if course, taken very seriously and has been factored in by the Guardian in the balancing exercise she undertook. However, whilst according it careful consideration it needs to be viewed in the context of a lack of any independent evidence, the evidence the court has is entirely self-

reporting. No Part 25 FPR 2010 application has been made by the parents or on their behalf to secure such independent evidence, even though it has been known for some time this is an issue raised by the other parties. The court cannot ignore that whilst the parents have been distressed, as Y was during this hearing, and have had to manage wider family ill health, they have continued to actively and effectively engage in these proceedings, sell their home, move area and are now making proposals about contact. So, whilst the risks to the parents' mental health can't be discounted it has to be seen in this context and, in my judgment, should not be given significant weight in the balancing exercise.

(5) The parents' conduct in these proceedings has cast a long shadow over this case and has been very harmful to the children. When it suits them the parents present themselves as victims, yet have then displayed behaviour that demonstrates their position and way of operating has barely changed and shows they can behave in an aggressive and threatening way, similar to the behaviour described by the children. From the children's perspective the December 2024 email was a harmful document. It made serious allegations against the professionals who have provided the children with consistent and vital support at a time when the children had been wholly let down by their parents, not only through the abuse when they were in the care of their parents but through the effective abandonment of them by their parents from January 2024 when they described their experience of being cared for by the parents. The parents operate a divide and rule approach to parenting in which there is no middle ground. The tone and content of the statement from E, the way they referred to A as a 'disease' and the way they have ostracised D following him recently contacting the police to corroborate the abuse from their parents the children have described are examples. It is a deeply damaging way of parenting their own children. This is especially so bearing in mind the child focussed professional roles held by each parent and the way they have presented their family life.

(6) The parents' repeated complaints about how they have been treated in these proceedings lack any balance or foundation. They have had every opportunity to participate effectively in these proceedings through, for example, extensions of time being granted, remote attendance by them at hearings and applications being determined without delay. They each had the benefit of separate experienced legal teams consisting of specialist solicitors and leading and junior counsel until they dispensed with their services hours before the December judgment was going to be handed down. By not attending the December hearing they caused further delay and the content of the December 2024 email resulted in very difficult discussions having to take place with the children about the impact of that email, the contents of which have still not been withdrawn by the parents but is asked to be seen in the context of the distress the parents were suffering at the time. In their January 2025 position statement they blame the professionals for not asking them about the email, once again avoiding responsibility for their actions. Following the withdrawal of their previous legal team the court has taken every opportunity to encourage the parents to seek further legal representations which they did in March.

(7) The children's Article 10 rights are engaged to the extent the evidence demonstrates that having some wider validation of the court's conclusion about their accounts of the parent's behaviour will enable them to have a voice and not feel silenced as the

local authority consider they feel they have been. This can be achieved for the children by the disclosure of the judgment to identified individuals who are important to them, are not limited to those chosen or selected by the parents but are those who the Guardian and local authority also consider are important.

(8) One of the most troubling aspects of this case is the children's Article 8 rights and how they should be factored in. As the cases have made clear their welfare is important, but not paramount. The children are currently placed with their fourth foster carer, B has recently had to leave the placement for a short period but is back there with C and the stability of that placement is under active assessment. A and D are not living with them. The two recent reports by the Guardian capture the difficult analysis of their welfare needs and demonstrate why she is better placed than the parents to provide that analysis, as the parents can only view it through the lens of their own interests. The Guardian recognises that in most cases the interest of the children who have been the subject of abuse are best protected by them and that information remaining confidential. However, in this case there are welfare arguments in favour of the parents being identified. The Guardian considers that it could help provide them with some validation and balance to the repeated claims by the parents that the children have not told the truth. That benefit needs to be balanced with the consequences for the children of the parents being identified and detailed information about their lives being in the public domain at the time when they are still coming to terms with their current circumstances, their varying wishes to have contact with the parents and the wider family, the stability of their placement, navigating their relationships with their siblings and their own longer term futures. These important welfare needs are likely to be better met if this was done with their circumstances, and their parents not being identified. It would enable any steps to be taken to re-connect with their parents and/or the wider family in more private circumstances, but, importantly, with those key people being made fully aware of the findings made by the court. This is more likely to meet the children's welfare needs without having to deal, in addition, with the added complication and pressures of their parents being identified. I fully recognise the risks that the recent steps taken by the parents to initiate contact with the children may be strategic. That would not be inconsistent with their litigation conduct to date. However, from the children's welfare perspective they should have the opportunity for that to take place and have their wider more immediate welfare needs met and prioritised.

(9) In weighing this in the balance, I have to recognise that there is a real risk that the parents may be identified following the conclusion of any regulatory process which may result in the delicate balance in these proceedings falling in favour of the parents being identified. The local authority have undertaken to take any steps needed in relation to that issue. I recognise that this may not bring the finality that the children sought but it is a reality of their position that needs to be weighed in the balance. If such circumstances arose it would, in my judgment, be at a time when the children would be older, have had the opportunity to receive the specialist support they need away from the glare of any inevitable publicity and the intensity and pressure of these proceedings. In addition, it would be in the context of any conclusions reached regarding the regulatory process. The children's primary welfare need now is to secure the stability of their placements, relationships with each other, their siblings, parents and wider family with those individuals being

informed of the outcome of these proceedings and furnished with a copy of the judgments. These important welfare considerations would be supported by the experience and consistency of the current social work team who are known to and know each of the children. In my judgment each of those important welfare needs could be put at risk if the parents were identified, as the resulting publicity would detract from that specialist support in those critical areas of their welfare being available. Such publicity also avoids the risks for the children of others who they don't know knowing about them before they have the chance to develop relationships in education, employment or with friends. As the Guardian put it that would be yet another extra hurdle their peers don't have.

(10) The balancing exercise in this case is exquisitely poised and there are compelling and powerful factors on each side of the scales. There is no right answer but whilst the public interest considerations are strong in this case they are not at any welfare cost to these particular children whose interests, bearing in mind their particular vulnerability, are important.

(11) Therefore, having undertaken that careful balancing exercise between the competing rights that are engaged I am satisfied that the interference in the Article 10 rights is justified and proportionate in the particular and unusual circumstances of this case by the Article 8 rights of these children through the prism of their welfare needs.

(12) This carefully calibrated analysis is about the very difficult balance that needs to be struck, which fully engages with the very important public interest considerations outlined above and also the welfare needs of these particular children and their particular circumstances, which this court needs to carefully weigh in the balance. This case demonstrates the very difficult decisions the family court has to make and how it undertakes them.

188. There is no simple solution. It should be made clear to the children this is the court's decision. The children bear no responsibility for it. The court has listened very carefully to what they have each said and taken that into account in considering their wider welfare needs. Each of the children, including A and D, have shown remarkable courage in managing the situation they have found themselves in. Having made the decision I have the focus now must be on each child's welfare needs, away from the spotlight of the court.