

PRIVATE LAW UPDATE - 9 JULY 2026 -

(NB: Emphasis added in Bold by the author throughout)

QLRs & Conduct of Hearings

[K v P \(Criminal Solicitor as Court-Appointed QLR\)](#) [2025] EWFC 321 (06 October 2025), McFarlane P

Headline: Beware court-appointed QLRs who start to act as Criminal Defence lawyers

1. These proceedings under the Children Act 1989 between parents over the future arrangements for their children are listed for a fact-finding hearing on a future date in the Family Court. **Mr Fidler, a solicitor, has been appointed by the court as a Qualified Legal Representative ['QLR'] to cross-examine the children's mother on behalf of their father, who is a litigant in person. Subsequently, the father has been charged with criminal offences relating to domestic abuse. The mother is the principal prosecution witness in those proceedings. The father has instructed Mr Fidler to represent him as his solicitor in the criminal proceedings. In those circumstances the mother objects to Mr Fidler continuing in the role of court-appointed QLR in the Family Court and she has applied to the court for an order discharging Mr Fidler's appointment, and it is that application which has been transferred to me for determination.**

...

17. Mr De Lane Lea made the following core submissions:
 - i) The role of a court-appointed QLR is one that is independent of the party for whom the QLR is appointed. As Mr Fidler is the father's criminal solicitor, they have a lawyer-client contractual relationship, and Mr Fidler is not, therefore, capable of acting in an independent capacity in the Family proceedings;
 - ii) The mother's knowledge of Mr Fidler's role in the pending criminal process, where she will face cross-examination as the key prosecution witness, has a wholly negative impact upon her feeling of vulnerability in the Family proceedings in a manner which is

contrary to the aims of the QLR scheme and is likely to diminish the quality of her evidence rather than enhance it. The protections contained in the statutory scheme would be 'turned on their head' if the court were to continue in the appointment of the father's criminal solicitor as his QLR;

- iii) A court-appointed QLR has a limited role under the statutory provisions. For example, a QLR should not take instructions from the represented party. It is not possible for a lawyer, who is also the instructed solicitor in parallel criminal proceedings, to undertake such a limited role in the Family Court;
- iv) Whilst no strict issues of conflict of interest apply as between Mr Fidler and the mother, there are issues, or potential issues relating to the different disclosure regimes as between the family process and the criminal process. In short, Mr Fidler will be party to all of the disclosed material related to the criminal charges, whereas the mother and her lawyers do not have sight of that material, none of which has been disclosed into the Family proceedings;
- v) Termination of Mr Fidler's appointment as QLR would not interfere with the father's rights to a fair trial as an alternative court-appointed QLR could be found to replace him.

18. In summarising his submissions at the oral hearing, Mr De Lane Lea stressed:

- a) The overriding objective and the need to promote fairness and justice;
- b) The fact that the mother was a vulnerable party;
- c) The statutory scheme aims to enhance the quality of the evidence of a potential victim of domestic abuse and to minimise the level of additional distress that the process of giving evidence may generate;
- d) The need to meet the ECHR, Art 6 and Art 8 requirements of both parties.

The father's opposition

19. On behalf of the father, Mr Fidler, who (with the court's permission) made submissions on his behalf, argued that the factual circumstances of each case will differ and that there should not be a blanket prohibition on a solicitor acting in criminal proceedings also acting as a court-appointed QLR in a Family case. He pointed to the fact that if he, Mr Fidler, had been appointed directly by the father to be his QLR or to act as his solicitor in the Family proceedings, then the court could not terminate that appointment and the very detriments that the mother now claims exist would, if they are valid, be replicated. The issue for the court is not, therefore, one of principle but of proportionality which will change from case to case.

20. Mr Fidler made a number of specific submissions in writing and orally:
- a) Any point about non-disclosure of documents from the criminal process can be met by an order for disclosure into the Family proceedings and this, therefore, is not a point that has any weight;
 - b) If the father instructed his criminal solicitor directly as either QLR or solicitor in the Family case, there could be no objection;
 - c) Irrespective of who the QLR is, the father, himself, knows of the material disclosed in the criminal proceedings and could inform any QLR about it and instruct them to ask questions based upon it;
 - d) The father could not rely on any material from the Family proceedings in the criminal court without an application being made to do so;
 - e) The argument that, because the QLR is court-appointed the circumstances are different is not accepted. In any event, if a new QLR is appointed, costs would have been wasted and additional costs would be incurred;
 - f) Judges in the Family Court are well experienced in controlling proceedings and can be relied upon to control the QLR in circumstance such as this.
21. In response, Mr De Lane Lea confirmed that he accepted that the court could not, or did not need to, go so far as to hold that a solicitor instructed in related criminal proceedings can never act as a court-appointed QLR in the Family Court.

...

At the conclusion of the oral hearing I announced my decision, which was that Mr Fidler's appointment by the court as QLR in this case was terminated. At that time I gave short reasons for my decision, which I will now expand.

28. **The court plainly has power to terminate the appointment of a court-appointed QLR prior to the conclusion of the proceedings [PD 3AB, para 8.1]. There is, however, no guidance in any of the statutory or ancillary material on the approach that the court should take when deciding whether to exercise that power.**
29. I am in agreement with both parties, and with the position of the AQLR and ALC, that **there should not be a blanket prohibition upon any court-appointed QLR who is also instructed as a solicitor or barrister for the same party in parallel criminal proceedings. To hold otherwise would be disproportionate and unnecessary in circumstances where it is clearly permissible for a party to instruct their criminal defence**

lawyer to be either their directly appointed QLR or lawyer in the Family court.

30. The focus in cases such as the present is upon the fact that the court has appointed the QLR, and has done so, as the Introductory Text to DAA 2021 indicates, with the explicit aim of enhancing the ability of a vulnerable witness or party to give evidence. If the knowledge that the appointed QLR is also the other party's criminal defence lawyer has the opposite effect and, as is said to be the case here, may have the effect of increasing the witnesses vulnerability, inhibiting their ability to give evidence or diminishing its quality, then the aim of the legislative scheme is likely to be thwarted - or to put it in Mr De Lane Lea's apt phrase, 'turned on its head'.
31. Under MFPA 1984, Part 4B, Parliament has prohibited cross-examination in person of victims of crime, those protected by injunctions and, where there is evidence of domestic abuse, victims of that abuse [MFPA 1984, ss 31R-31T]. In other cases, the court may prohibit cross-examination in person where the quality of that person's evidence is likely to be diminished if in person questioning takes place, or will be improved if a direction is made, and where in person cross-examination will cause the witness significant distress [s 31U]. That is the context in which Part 4B is set and, whilst a legal professional will be asking questions, rather than the party in person, it is likely that a vulnerable witness will feel, as the mother does in this case, that that lawyer (if they are the instructed criminal defence lawyer) is far more closely identified with the party than a truly independent QLR who has simply come into the case to discharge their duties under Part 4B.
32. As paragraphs 2.1 and 3.3 of the Guidance explain in detail, there is a contrast between a QLR directly appointed by the cross-examining party, or their instructed lawyer, and a court-appointed QLR. In the former circumstances the QLR or lawyer will have a contractual, 'lawyer-client', relationship with the party and will be professionally responsible to them, whereas a court-appointed QLR 'is not responsible to the party' [s 31W(7)] and does not have a contractual relationship with them. A court-appointed QLR 'should not take instructions from the prohibited party in the manner that a party's own lawyer ordinarily would' [para 2.1]. A further distinction between the two categories is that the court is given a significant degree of control over the manner in which a court-appointed QLR is engaged [PD 3AB, para 7] in addition to the court's ordinary case management powers which are of general application. The various points made by Mr Fidler about the process that would apply if the QLR were directly appointed or if a solicitor were instructed are correct, but, with respect, they miss the point that a court-appointed QLR is in a different position in that the court itself

has made the appointment in order to reduce vulnerability and enhance the quality of evidence by engaging a lawyer in an essentially neutral functional role. If that lawyer then takes on a different additional role, then the circumstances supporting the court appointment may change and the court should consider terminating the appointment and choosing a different QLR to act if there is a continuing need to do so.

33. A further justification for considering termination of the court appointment where the lawyer becomes formally instructed in parallel proceedings is, as the AQLR submissions point out, that the structural separation of these two roles, which enhances clarity of function and aids due process, would be lost.
34. The submissions of the AQLR and ALC, as I have summarised them, are well placed. The essence of a court-appointed QLR is that they will be independent of the prohibited party, and not acting more broadly 'for' that party. The role of a court-appointed QLR is not without professional complication and there is benefit in maintaining a separation between that role and that of an instructed lawyer in order to avoid potential conflict and further ethical or professional complexity. For the development that has taken place here to have the impact that it is said to have had on the mother's already vulnerable state is entirely counter to the stated aim of the provisions [Guidance para 1.4.1].
35. Drawing matters together, **it must be the case that, where a court-appointed QLR is or becomes the directly instructed lawyer for a prohibited party in parallel criminal proceedings, the court will give careful consideration to the question of whether the court appointment should be discharged.** I gratefully accept the list of factors suggested by the AQLR as being relevant, namely whether the dual role:
- (a) compromises the appearance or actuality of QLR independence;
 - (b) undermines the protective purpose of the QLR scheme;
 - (c) creates a real or perceived conflict of interest; or
 - (d) introduces a material imbalance of disclosure or cross-jurisdictional knowledge.
- In any given case other factors may also be in play.
36. **For the reasons that I have given, and whilst each case will fall to be evaluated on its own facts, it is difficult to contemplate many cases where it will be proportionate to continue a lawyer's appointment by the court as QLR where that lawyer also acts directly for the prohibited party in related criminal proceedings. For the court to continue such an appointment will normally cut right across the aim of the provisions in Part 4B and PD 3AB, which is to enhance the quality of the evidence of a vulnerable witness and to reduce the potential for additional distress.**

37. In the circumstances of the present case I was satisfied that Mr Fidler's appointment by the court as QLR should be discharged and I made an order to that effect providing that, if necessary, he should be replaced by a different QLR appointed by the court. In making that determination, no criticism attached to Mr Fidler, who acted appropriately and, as I have indicated, assisted the court by making submissions on behalf of the father.

Post-script

38. At the conclusion of the oral hearing, following the decision to discharge his appointment as QLR, Mr Fidler informed the court that, depending on the father's instructions, he may henceforward go on record as the father's solicitor in the ongoing Family proceedings.

[QLRs – what do the published judgments tell us?](#), 8 March 2026, Pink Tape (Lucy Reed KC)

Headline: Still not enough QLRs, Use them properly, and too many cases called M v F!

An interesting Blog analysing published judgments which feature QLRs and raising concerns about how the system is functioning.

[R v R](#) [2025] EWHC 3180 (Fam), McKendrick J, 5 December 2025

Headline: Useful case where allegations Advocates Toolkit not adhered to doesn't give rise to appeal

18. **"I granted permission to consider the role of the Advocates' Toolkit in the context of questioning vulnerable witnesses, seen in the specific context of FPR PD Rule 3A and PD3AA. This seemed a compelling enough reason to grant permission to hear the appeal. Fairness is essential. Fairness to vulnerable parties is particularly important. Nonetheless, I can set out my conclusions with brevity.** The obligations on both the court and the parties contained within FPR Rule 3A and PD3AA are clear and need no further elucidation from me. The Judge determined the Applicant was a vulnerable witness in her January 2025 order. Paragraph 5.7 of PD3AA sets out the expectation that advocates should be familiar with the techniques being employed by the Advocates' toolkit. No more; no less. Any trial judge must consider the Rules and the Practice Direction and the overall fairness of the proceedings. The Toolkit is guidance particularly aimed at advocates and litigants in person. It should normally be followed.

19. **Turning to the particular facts of this case I am entirely persuaded this ground of appeal must be dismissed.** The Judge had to deal with rather fraught parties and difficult emotional issues, given the allegations made. In January 2025, she correctly determined: (i) the need for fact finding; (ii) the Applicant's designation as vulnerable; (iii) her duty to consider FPR Rule 3A and PD 3AA; (iv) the need for participation directions. No appeal was made and no further applications were made in respect of participation directions.

20. At the trial, she acceded to the requests made by Mr Feehan. There was an adjournment from day two to three. There were multiple breaks. She agreed Ms Wiley should adhere to the Advocates' Toolkit. She noted the need for the pace to be slowed. She required proper referencing of documents in the bundle. She permitted the Applicant's solicitor to sit beside her to assist with the bundles. Even in circumstances where the Applicant stated she did not want a break, the Judge formed the view she would give better evidence after the assistance of a break. She permitted Mr Feehan to extensively state his case around the Toolkit in oral submissions on day two and day three. She also permitted him to file, and consider, his written submissions on the same issue. She considered them. At no stage did Mr Feehan state anything other than Ms Wiley should follow the Advocates' Toolkit's guidance. She extended the length of the trial by two days to fairly accommodate the issues which had arisen. Mr Feehan made limited interventions. Any limited intervention Mr Feehan made on day three appears to have been acceded to, as far as I can tell. The judgment deals with these issues. Consideration of the 2021 dyslexia report (provided mid-trial) took place. No proper explanation was made as to why this was produced mid-cross-examination and not dealt with as a reasonable adjustment in the context of a purported disability in January 2025 or at the outset of the trial. More fundamentally the report does not suggest reasonable adjustments and/or participation directions, other than those the Judge had implemented and continued to do so.

22. **I am satisfied the experienced Judge complied with the rules and practice directions I have identified. She ensured the Applicant's common law rights to a fair hearing were adhered to. She correctly identified that the Respondent's leading counsel should be permitted to put her client's case. That is a hallmark of our adversarial system. At no stage did she lose sight of the Applicant's vulnerabilities. The Judge, correctly, applied the common law principles whilst protecting a vulnerable party. Ground one is dismissed..."**

ALIENATING BEHAVIOURS

[*Re Y \(Experts and Alienating Behaviour: The Modern Approach\)*](#), McFarlane P, [2026]
EWFC 38

Headline: No more unchartered / unregistered Psychologists, query if fast-track approach will be developed to past parental alienation cases

This important judgment involved the Mother of two children making a Part 18 application to set-aside Findings of Fact made in 2019 which included that she had alienated the children, and following which orders had been made which had resulted in her having no contact of any sort with the children from the end of 2019 until 2025.

Within the original proceedings the District Judge had been due to hear a Fact-Finding Hearing as to allegations of abusive behaviour by each parent against the other, however within the proceedings Melanie Gill, an unregistered and unchartered Psychologist, had given evidence as to Mother having alienated the children against the Father and the Judge then heard no further evidence and transferred residence of the children to the Father.

The manner in which the District Judge concluded proceedings without having heard further evidence, and in particular without determining allegations of domestic abuse was challenged at the time by Mother's counsel, who had submitted:

"... there should have been a fact-finding before the expert was heard and before the children's guardian made a final recommendation. The allegations made by the mother, if found to be proved, must have an impact upon the shape of the case. It cannot be right, the mother says, that domestic violence and abuse - which she says she has suffered at the hands of the father - does not contextualise the mother's allegations and the effect upon her and the children. Those allegations are, in substance, of attacks and sustained physical and emotional abuse in respect of which there is corroborative police and medical evidence.

... The mother's case is only after the determination of the allegations should there be expert analysis...

The purpose of a fact-finding is to determine the underlying factual matrix. Unless that is determined, how can appropriate interventions be provided for the parties and/or the children? Miss Gill, the mother says, makes much of the mother's hatred for the father. That can only properly - that is my word, "properly" - be contextualised by a fact-finding hearing."

The District Judge however disagreed, and concluded matters at that stage, and ultimately an application for permission to appeal by the Mother was then refused.

As time went on however there has of course been increasing concern about the use of unregistered and unchartered Psychologists (as set out by the President in *Re C ('Parental Alienation'; Instruction of Expert)* [2023] EWHC 345, where he cautioned as to the use of Experts; but also as to the manner in which Parental Alienation was incorrectly asserted to be a syndrome capable of diagnosis, as opposed to behaviours which should be the subject of findings of fact.

Additionally, in particular in *Re C*, but even moreso in the December 2024 Family Justice Council '[Guidance on responding to a child's unexplained reluctance, resistance or refusal to spend time with a parent and allegations of alienating behaviour](#)', the importance of determining underlying allegations of domestic abuse was highlighted. The President in this case drew particular attention to paragraph 18 of the Guidance, which states:

"Given the relative impact of domestic abuse, the harms that flow from it and the importance of protecting children, Alienating Behaviours will not be found in cases where findings of domestic abuse are made which have resulted in a child's appropriate justified rejection (AJR), or in protective behaviours (PB) or a traumatic response on the part of the victim parent."

It was these developments which led the Mother to apply in April 2025 to set aside the previous findings of alienation which had of course been founded upon the evidence of Melanie Gill, and which were arrived at in the absence of a hearing as to live domestic abuse allegations.

In fact there was delay in the matter being listed before it was ultimately heard by the President in January of this year, and in the interim:

- In *O v C* [2025] EWFC 334, Judd J determined a similar Part 18 application to set aside findings in a case in which Melanie Gill had reported and the approach as now set out in the FJC Guidance had not been followed (the proceedings pre-dated the Guidance itself), and found setting aside to be appropriate;
- The Victim's Commissioner expressed concern about the use of unregulated Experts as set out in an Article by the [Bureau of Investigative Journalism](#);
- In mid 2025 the Family Procedure Rule Committee consulted on proposed changes to the FPR 2010 relating to the instruction of unregulated experts, as the President described 'in essence the proposed change restricts the

court's jurisdiction to give permission for the provision of expert evidence under *Children and Families Act 2014*, s 13 so that, in children proceedings, the court may only give permission to instruct a 'regulated expert', unless there is no regulated expert available'. However, the President notes in *Re Y* at paragraphs 69-70, that whilst the Consultation has concluded the results have yet to be reviewed;

- In this case, as set out by the President, 'in the early part of 2025, the daughter, then aged 18 years, moved to live with her mother for a few months before returning to her father's care. Later in 2025 the boy, now aged 15, unilaterally left his father's home. He travelled to his mother's home but, in the light of the court's previous findings, he was removed into police protection and spent a period of time in foster care before going to stay, following an order made by Lieven J, with a friend of the mother'. The judgment of Lieven J is reported as [LM \(A Child\) \(Interim Welfare Arrangements\)](#) [2025] EWHC 3243 (Fam) (10 December 2025).

Within his judgment on 20 February 2026, following the hearing on 29 & 30 January 2026, the President began the concluding section of the judgment by giving firmer guidance as to the use of unregulated and unchartered Experts, stating (at paragraphs 72-73):

"Whilst it is for the Rule Committee and the relevant minister to decide whether to promote any amendment to the FPR 2010 by a statutory instrument, I am sufficiently concerned by the instruction of an expert such as Ms Gill in *Re C, P v M, O v P* and the present case, now to go further than I did in *Re C* and give firm guidance on the instruction of an expert psychological witness in children proceedings in the Family Court.

In future, permission should not be given under *CFA 2014*, s 13 for the instruction of an expert 'psychologist' who is neither registered by a relevant statutory body, nor chartered by the BPS. It would be good practice, before a potential expert is appointed, for them to be asked to state whether they hold an HCPC protected title, and if so what that is, before any order is made appointing them as an expert. The 'registered or chartered' requirement should only be departed from where there are clear reasons for doing so (for example no registered or chartered expert is reasonably available); where that is so, those reasons should be set out in a short judgment."

The President then helpfully **summarised the modern approach to alienating behaviour (at paragraph 75):**

"(i) As the full title to the *FJC guidance* makes plain, the reason for the court's investigation should be 'a child's unexplained reluctance, resistance or

refusal to spend time with a parent', rather than the allegations that one or other parent may be making against the other;

ii) Where a child is reluctant, resisting or refusing to engage in a relationship with a parent or carer (element (i) of the three elements in paragraph 10 of the guidance), then the court's focus will move to element (ii) to consider whether that reluctance, resistance or refusal is a consequence of the action of the estranged parent, where it is alleged that that parent has been abusive to the child and/or caring parent;

iii) If it is found that the estranged parent has not behaved in a way in which the child's reaction can be seen as an 'appropriate justified reaction' [AJR] to such behaviour, or, for other reasons, it is found that the child's reaction is not caused by any factor such as a child's ordinary alignment, affinity or attachment [AAA] to the parent with care, then the court will move on to element (iii);

iv) It is only at the stage of element (iii) that the court will focus on whether the caring parent has engaged in alienating behaviours that have directly or indirectly impacted on the child, leading to the child's reluctance, resistance or refusal to engage with the estranged parent.

v) Thus, where domestic abuse is alleged, and there is a cross-allegation of alienating behaviour, if a fact-finding process is required, the focus of the fact-finding must be to first determine the issues of domestic abuse and secondly to consider whether the child's refusal to engage with the estranged parent is an 'appropriate justified reaction' to any abusive behaviour, or that what has occurred is the result of protective behaviour or a traumatic response on the part of the victim parent.

vi) Courts should not follow the route adopted by the judges in *O v P* and the present case in determining the issue of alienating behaviour on its own and without determining the underlying facts and, where it is alleged, the primary issue of domestic abuse;

vii) Courts should not appoint an expert to advise in cases where a child is reluctant, resistant or refusing to engage with a parent unless and until there is clarity and, if necessary, facts that have been found, as to the parents' past behaviour towards each other and the child and, if domestic abuse is proved, whether the child's reaction to that behaviour is an appropriate one."

Turning then to what can be done when past conduct of cases has not been in line with current Guidance, at paragraphs 76-77 the President compared the relative advantages of appeals out of time or applications to set aside or **re-open pursuant to FPR Part 18 and concluded (at 77):**

"it would seem that the better course is likely to be for those seeking to challenge such a finding to go back to the first instance court either

under FPR 2010, Part 18, or to apply for past findings to be reopened as part of a substantive application to discharge or vary existing orders. Where an application of that nature is received by the first instance court, a decision will then be made as to allocation. There is no requirement that the application should be heard at the same level of judiciary, although there may well be benefit in going back before the original judge if he or she is available. In other cases, the course followed here, with the application being transferred to the High Court tier may be appropriate.”

As to this case, the President was clear that the submissions of Mother’s counsel in 2019 had in fact been entirely correct, and the judicial process was fundamentally flawed and findings should be set aside. Given the circumstances of the parties in this case now, they do not require re-determination.

Interestingly, the President took the opportunity to note that whilst the relevant Guidance etc may be from 2023/2024, in fact the correct approach had been formulating for some time in the preceding period.

A point to look for in future is that the President was invited to consider a more streamlined approach to re-opening cases which involved allegations of Parental Alienation which had been mishandled, and he notes (at paragraph 85):

“At the court's request, the legal teams representing the mother and Y have proposed that the Family Justice Council be invited to establish a working group to investigate whether a more proportionate and less costly alternative to a full Part 18 application may be provide a more appropriate procedural vehicle for cases of this nature. The hope is that this process would address gatekeeping (for example by a High Court judge), allocation, funding (in light of difficulties in accessing 'exceptional funding'), procedure and potential remedies. I am grateful for this proposal, which has my support and which I will now pass on to the FJC for consideration.”

[A Mother \(Appeal: Alienating Behaviours: Fair Procedure\)](#) [2026] EWHC 783 (Fam), Poole J, 31 March 2026

Headline: Be clear at the outset what you are determining and make sure you address the Guidance in full (including AAA)

Analysis and Conclusions

37. Alienating behaviours are a form of abuse. If it is alleged and the court considers that a fact-finding hearing is required then the allegation should be set out and the evidence in support identified. An inference cannot be drawn from a finding that allegations of abuse by parent 1 are not proved, or even that they have been fabricated by parent 2, that parent 2 is, without more, guilty of alienating behaviour. The burden of proof of an allegation of alienating behaviour lies with the person making the allegation and the court has to consider whether, on all the evidence, the allegation is proved.
38. The importance of a finding of alienating behaviour is demonstrated by this case. In a case management order after the finding had been made, the Judge made a "suspended residence order" in stark terms (see para. 19 above). That order is not separately under appeal and I make no finding as to whether it should ever have been made, but it shows the potentially draconian consequence of a finding of alienating behaviour.
39. The court should adopt the three stage enquiry set out in the FJC Guidance and by Sir Andrew McFarlane in *Re Y* (above). Whilst the judgment under consideration pre-dated *Re Y*, the Judge had the benefit of, and purported to adopt, the FJC Guidance.
40. The father's allegations against the mother included an allegation of manipulation which followed some of the wording of the three stage test in the FJC Guidance. Although the term "alienating behaviour" was not used by the father, the allegation was, in effect, an allegation of alienating behaviour by the mother.
41. The Judge made a preliminary determination not to hear the father's allegations. He thereby took the allegation of alienating behaviour off the agenda for the hearing. His observation that in determining the mother's allegations he would deal with the general issue of why the allegations had come up "which might feed into parental alienation" was not a determination that he was going to decide whether the mother had been guilty of alienating behaviour at the hearing. Hence, the mother was not on notice that she faced a potential finding of alienating behaviour at the hearing. It breached her article 6 right to a fair hearing and natural justice to then make a finding against her of "parental alienation". The finding of parental alienation was unjust for procedural irregularity and must be set aside.
42. Further or alternatively, the Judge made substantive errors when making his finding that the mother had been guilty of parental alienation.

1. The Judge did not treat the issue which he termed 'parental alienation' as an allegation to be proved by the father.
2. The Judge noted that the father did not contend that the children were reluctant, resistant or refusing to engage in a relationship with him but nevertheless proceeded as if such an allegation was being made.
3. The Judge did not find that P was reluctant, resistant or refusing to engage in a relationship with the father. Indeed, he said that he would "need up to date information about her actual view of her father." Hence, he could not find that stage one of the fact-finding process was satisfied in relation to P. That should have been that - no finding that the mother's alienating behaviour had caused P to be reluctant, resistant or to refuse to engage in a relationship with her father should have been made.
4. Although the reasoning is sparse, I am satisfied that the Judge found on the basis of evidence within the bundle of documents that the first element of the three stage process was met in respect of Q. However, the Judge did not adequately address the second stage. He found only that Q's new found animosity towards his father was not attributable to his father's behaviour. He did not address whether it might be due to other factors such as the child's alignment, affinity or attachment (AAA). This was not an academic oversight: there was a real risk that AAA had caused P to become reluctant or resistant to seeing his father during the period when the mother had stopped contact. Indeed, later evidence, not before the Judge, raises that very question with some force. The Judge did not address that possibility at all in his judgment which was a fundamental error.
5. The Judge only expressly considered the third stage in respect of Q. He found that the only person who had been able to influence Q was "the mother and those who she lets Q have contact with". He found that the mother had "deliberately kept the children of school" (and had had no contact with the father). That still left others with whom he had had contact, including family friends, one of who had made serious allegations. The Judge did not articulate what behaviours the mother had engaged in to have an impact on Q (let alone on P) leading to reluctance, resistance or refusal to engage in a relationship with the father.
6. The Judge's conclusion on 'parental alienation' at para. 103 of his judgment that the mother "made up an allegation of sexual abuse by P against her father in order to prevent contact", is not a finding of alienating

behaviour affecting the children. A parent can fabricate an allegation in order to stop contact without leading the child to become reluctant, resistant or to refuse to engage in a relationship with their other parent. Furthermore, the Judge did not explain how the fabricated allegation had impacted P and Q beyond allowing the mother to stop contact.

43. The finding as recorded in the Judge's order was of "parental alienation" and did not discriminate between the two children. The finding cannot stand, not just because of procedural unfairness but because the reasoning leading to the recorded finding was fundamentally flawed and inadequately reasoned.
44. I do not believe that the failure to conduct a ground rules hearing was material in this case. The mother was represented and the Judge was alive to and took account of the mother's vulnerability as he explained in his judgment.
45. The Judge's analysis of a great deal of evidence on the mother's allegations was efficient and clear. He had the benefit of seeing and hearing the parties give evidence. As a generality, I am satisfied that the Judge was entitled to find that the mother had fabricated one or more of the allegations she had made against the father. It was within the "known parameters" of the fact-finding exercise he had embarked upon to do so. Furthermore, where he found fabrication, he gave adequate reasons for doing so. I must read the judgment as a whole. The Judge made findings about the mother's credibility in relation to allegation 2(d) that had relevance to her credibility in relation to other allegations.
46. However, examination of the judgment shows that he did not in fact make findings of fabrication by the mother in relation to all of the allegations she had made against the father. In the order of 31 July 2025 the Judge recorded in the second sentence of recital (v), "In summary the court found that the mother had fabricated the allegations to frustrate the father's contact." In the judgment itself he clearly made those findings of fabrication in respect of allegations 2(a) to (d) and, I am prepared to accept, 2(e) and (f). He was entitled to find, as he did, that the mother's motivation was to stop the children's contact with the father. However, he found only that the mother had encouraged Q to make the allegation at 1(a) not that she had fabricated it. He made no findings that the mother had fabricated allegation 1 (intoxication) or allegation 3 (photographs). I am satisfied that the findings he made in the judgment about why the allegations against the father arose, including that they were intended to frustrate contact, were properly

reached but they are not properly recorded in the order. He did not find that the mother had made up an account that the father had slept when caring for the children, indeed he found that to be true. He found that there was no evidence of intoxication but did not find that the mother had fabricated that allegation only that it was not proved. He did not find that the mother had implanted the idea of the specific incident of a deep sleep on 7 January 2024 in Q's mind, only that she had encouraged him to report it. He found that Q's account of the photographs was fantastical and not credible, not that the mother had created it for him.

47. I am conscious that the Judge properly made use of the hearing time after the Guardian's final analysis was not available and he hastily produced a written judgment to assist the parties. Concision is to be welcomed in a judgment. Nevertheless, for the reasons given I am satisfied that both grounds 1 and 3 of the grounds of appeal are made out and the appeal is allowed on those grounds. The finding of 'parental alienation' is set aside.

48. I am not satisfied that ground 2 is made out but the Judge wrongly recorded his findings of fabrication in the order of 31 July 2025. The second sentence of the recital schedule paragraph (v) should be set aside and the following substituted: "The court found that in order to frustrate the father's contact with the children, the mother had fabricated the allegations 2(a) to (f), and had encouraged Q to make the detailed allegation 1(a)."

[XZ v YZ](#) [2026] EWHC 1521 (Fam), (15 June 2026), Harris J

Headline: Parties must know the potential findings against them, alienating behaviour cannot be looked at in isolation from DA, remember participation directions, useful comments re reasons and IDVAs and no 'pro-contact imperative'

Appeal against findings made at private law fact-find

14. It is fair to note that the issue of alienating behaviours had been raised by YZ in his discussions with Cafcass and it was considered in some depth by the FCA in her section 7 report. It was therefore within the "known parameters" of the case. It is also perfectly open to the Court within a composite final hearing to make determinations as to disputed facts which are necessary for the welfare disposal. However, YZ had never sought a finding of alienating behaviours against mother, and XZ was not put on notice by either YZ or HHJ Ahmed that any such findings may be made against her. No schedule of allegations was filed or responded to. Furthermore, whilst her own counsel asked her one question during

examination in chief as to whether she had ever alienated ZZ against his father, XZ was not cross-examined on the issue by counsel on behalf of father and her evidence was not therefore challenged.

15. Given the serious nature of the findings HHJ Ahmed made, and their centrality to his welfare determination, the Court is satisfied it was procedurally unfair for XZ not to have been put on notice that such findings may be made against her, and for the matters relied upon by HHJ Ahmed to support such a finding not to have been put to her during cross examination to enable her a fair opportunity to respond.
16. Moreover, in light of the extant allegations of domestic abuse made by mother against father, the basic approach adopted by HHJ Ahmed to the issue of alienating behaviours was flawed.
17. In the course of his judgment, HHJ Ahmed noted that he agreed with the submission made on behalf of father that "the issue of alienating behaviour should always be considered a live issue." However, the Learned Judge did not have sufficient regard to the fact that domestic abuse was also very much a live issue and that the question of alienating behaviour could not be looked at and considered in isolation from XZ's domestic abuse allegations. In that regard his approach was wrong.

...

21. Hence, when dealing with YZ's filming of XZ and ZZ at handovers, HHJ Ahmed decided that "he was not going to make any direction that the child is not filmed or recorded in the future." He noted: "any such recording should remain unobtrusive, and not readily noticeable by the child." The learned judge expressed the view that recording handovers discourages ugly incidents and thus the probative value of such recordings outweighs the negative aspects. In reaching that conclusion, and although referring to the Family Justice Council Guidance on covert recordings (2025), no consideration is given to paragraph 3.9 of that Guidance which emphasises the harmful nature of covert recording in the context of an abusive relationship:

...

24. Having failed to consider the behaviours of YZ through the lens of possible domestic abuse, the learned judge then did not go on to ask himself the crucial question of whether such behaviours, properly understood and conceptualised as potential coercive and controlling behaviour, would explain ZZ's reluctance to spend time with his father. In essence, whether ZZ's negative views of his father were an appropriate justified reaction to ongoing abuse.
25. In the court's judgment, HHJ Ahmed thus fell into error by inferring from the child's reluctance to spend time with his father that he was being subjected to alienating behaviours by the mother, without properly

considering first XZ's allegations of domestic abuse and whether ZAS expressed reluctance to see his father was referable to his lived experiences as a victim of domestic abuse.

26. The appeal must therefore succeed on these grounds.

...

31. There is unfortunately nothing before this Court to suggest HHJ Ahmed addressed his mind to these matters in the way FPR 2010 Part 3A and PD 3AA requires. In light of XZ's allegations of domestic abuse, I am satisfied this omission constitutes a serious procedural irregularity.

...

33. It is of course trite law, as recognised by HHJ Ahmed, and set out by the Court of Appeal in *Re M-W (Care Proceedings: Expert Evidence)* [2010] EWCA Civ 12, that it is for the court and not the expert to decide on the totality of the evidence before it. There should however be sound reasons, set out within the judgment, for departing from expert advice, which would include the welfare recommendations of the Family Court Adviser (FCA).

34. HHJ Ahmed appears to identify two main reasons for departing from the recommendations of the Cafcass officer: i) that the report was unbalanced due to the FCA relying on the information provided by the IDVA, Ms N; and ii) placing undue weight on the wishes and feelings of the child.

35. Those reasons were, in the judgment of this court, insufficient to explain departing from the careful welfare analysis of the FCA. Most notably, the judge's approach was flawed by reason of his criticism and indeed wholesale rejection of the information provided by the IDVA both to the FCA and to the court by way of letter appended to the mother's witness statement.

36. The judge was highly critical of the involvement of the IDVA (ground 5), noting that he did not know her qualifications or experience, her evidence was hearsay and amounted to nothing more "than personal opinion." He went on to observe, "she is not an expert, as far as the court is concerned, therefore her evidence through the Family Court Adviser is not admissible and are excluded."

37. It is of course correct that the IDVA is not, and should not be treated as, a court appointed expert. The IDVA's role is to provide support to an alleged victim of abuse, and their position is therefore very often inherently partisan and based on one party's version of events. That said, the IDVA is a professional experienced in the dynamics of domestic abuse and safeguarding victims, including children. Whilst the partisan role of an IDVA may properly go to the credibility and weight to be afforded to the information/evidence they provide, it is wrong to simply dismiss their views as nothing more than 'personal opinion'. That is even more so when the evidence they give is of a factual nature regarding what a child has said to

them regarding their experiences in a parent's care. Indeed, it is notable that HHJ Ahmed relied on some of the IDVA's reports regarding what ZZ had said to her, in reaching his views regarding alienating behaviours and ultimate welfare determination.

38. Furthermore, hearsay is admissible into family proceedings (see detailed provisions FPR 2010 Parts 22 and 23). Indeed, it is very common for hearsay evidence in the form of letters and reports from professionals engaged with parents to be admitted into evidence. It will then be for the judge to determine what weight should be afforded to it. It is therefore incorrect as a matter of law to simply say that such evidence should be excluded.
39. As regards the concerns raised by HHJ Ahmed with respect to Cafcass speaking to the mother's IDVA, it was in this Court's judgment perfectly appropriate for the FCA to speak to the IDVA to ascertain her views regarding any ongoing risks to the mother and ZZ from domestic abuse and to take those views into account in reaching her own welfare determination. Indeed, such risk assessments are central to the reports prepared by Cafcass in the Child Focused Courts now being rolled out across England and Wales.
40. As regards the way in which the FCA regarded the information provided by the IDVA, the FCA was clear that she had considered the information but ultimately the analysis was her own and, as confirmed in her oral evidence, she would have reached the same conclusion irrespective of the IDVA's position. In the Court's judgment that approach is entirely appropriate and did not constitute a sound basis for departing from the FCA's recommendations.
- ...
43. Finally, the Court notes with concern that the judgment of HHJ Ahmed contains the following passages: "[T]he principle is shared care, the shared order and substantial time with the father. That is what I want to achieve.... In considering how much time a child should spend with each parent, the starting point is sometimes said to be 50/50 shared care. However, the starting point of this case is the order of Judge Parnell dated 13 November 2023... That provided for the child to live with the mother and an increasing programme of contact with the father."
44. These passages from the judgment of HHJ Ahmed, suggest the learned judge was influenced in his welfare decision-making by a preconception that the starting point should be shared care, 50/50 shared care or 'an increasing programme of contact', such that the contact time recommended by the Cafcass officer was regarded as "inadequate". In taking such an approach, HHJ Ahmed fell into an error of law. The only relevant principle in determining an application for a child arrangements order is section 1 of the Children Act 1989 which makes the child's welfare

the paramount consideration. There is no starting point of 50/50 shared care or a pro-contact imperative. In determining a child's best interests, the welfare checklist under section 1(3) of the Children Act 1989 must be applied without gloss or qualification. Although HHJ Ahmed refers in passing to the welfare checklist and paramouncy principle, he does not address the various factors under s 1(3) in any meaningful way. It was incumbent upon him to do so.

EXPERTS

[H \(Children: Expertise of Witness\)](#), [2026] EWCA Civ 249, Court of Appeal, 12 March 2026

Headline: Re C and Re Y endorsed. Despite issues with expert, appeal unsuccessful. Route to challenge criticism of expert likely to be to initial court not appeal

Case involving Mr Flatman following finding by HCPC in unrelated matter as to his description of himself and his practice (arising from his not being a clinical Psychologist). The court considered the evidence received from him in this case, upon which some reliance had been placed, but did not allow an appeal. The court endorsed Re C ('Parental Alienation': Instruction of Expert) [2023] EWHC 345 (Fam) and Re Y (Experts and Alienating Behaviour: The Modern Approach) [2026] EWFC 38. The court did not uphold the appeal however as the evidence was but part of the picture, and went on to make comments about how criticism of experts in other proceedings should likely lead to applications back to the original court, rather than appeal.

"Experts in children proceedings

Definition

8. An expert witness is a person whose opinion on any relevant matter on which he is qualified to give expert evidence is admissible in civil proceedings: s.3 Civil Evidence Act 1972. The Family Procedure Rules 2010 are no more helpful, providing at 25.2(1) that 'expert' means a person who provides expert evidence for use in proceedings.
9. In *Hodgkinson and James, Expert Evidence: Law and Practice* (5th ed) at 1-025 it is said that the two most important qualities of an expert are the possession of knowledge of the specialism in question, and an ability to use that knowledge by virtue of training and/or experience in that field.
10. The most that has been said judicially by way of definition of expertise is that a witness will be qualified to give expert evidence if they have acquired by study or experience sufficient knowledge of the subject to render their opinion of value in resolving the issues before the court: *R. v Bonython* (1984) 38 S.A.S.R. 45 (South Australia Supreme Court), which has been followed a number of times in this jurisdiction. By contrast, as was said by Bingham LJ in *R v Robb* (1991) 93 Cr App R 161; [1991] Crim. L.R. 539 a party "cannot fairly be asked to meet evidence of opinion given by a quack, a charlatan or an enthusiastic amateur."
- 11. Moving closer to the subject of this appeal, the Guidance from the Family Justice Council and the British Psychological Society**

(September 2023), entitled '*Psychologists as Expert Witnesses in the Family Courts in England and Wales: Standards, Competencies and Expectations*' ('the 2023 FJC/BPS Guidance') proposes at [2.1] that:

"An expert is a person who, through specialist training, study, or experience, is able to provide a court, tribunal, or hearing with relevant scientific, technical, or professional information or opinion, based on skills, expertise, or knowledge, that is likely to be beyond the experience and knowledge of the representing lawyers, judge, jury or panel."

That seems to us to be a satisfactory definition of an expert witness.

...

23. On 20 February 2026, in *Re Y (Experts and Alienating Behaviour: The Modern Approach)* [2026] EWFC 38, the President returned to the issue of unregulated experts and alienating behaviour. Pending the outcome of a consultation being undertaken by the Family Procedure Rule Committee, he gave "firm guidance":

"73. In future, permission should not be given under CFA 2014, s 13 for the instruction of an expert 'psychologist' who is neither registered by a relevant statutory body, nor chartered by the BPS. It would be good practice, before a potential expert is appointed, for them to be asked to state whether they hold an HCPC protected title, and if so what that is, before any order is made appointing them as an expert. The 'registered or chartered' requirement should only be departed from where there are clear reasons for doing so (for example no registered or chartered expert is reasonably available); where that is so, those reasons should be set out in a short judgment.

24. Insofar as it relates to good practice in relation to the instruction of psychologists in family proceedings, we take this opportunity to endorse the guidance given in *Re C* and *Re Y*.

...

Our conclusions

58. In order to succeed, the appellant must show that the decision under appeal was unjust because of a serious procedural or other irregularity in the proceedings in the lower court: CPR 52.21(3). Her case is (a) that Mr Flatman was not qualified to give the evidence he gave, and that this amounted to a serious irregularity, and (b) that the irregularity caused the decision to be unjust. In summary, we do not accept either contention. **We do not consider that there was a serious procedural irregularity in the instruction of Mr Flatman, and it has not been demonstrated that that there was any irregularity arising from his work in this case. Even if it were it otherwise, we find that the judge's decision was not unjust**

because it was securely based on the whole of the evidence, of which Mr Flatman's opinion was but a part.

59. In relation to procedural irregularity, we accept that **there were a number of shortcomings in the process that led to this expert instruction. From the outset, there was some laxity in the approach to the Part 25 procedure.** Once the parties had agreed that a psychological assessment of the family was necessary, they rightly acted promptly. However, there was no formal application, accompanied by a draft order, and the court did not expressly dispense with that requirement. Instead it approved the instruction of a psychologist in principle, without giving thought to the type of expertise that was required, perhaps because the issues in the case were of a familiar kind. As a result, the court did not see a CV before it made its order. Then, the information disclosed by Mr Flatman about the ongoing HCPC complaint was not circulated and the opportunity for the parents or the court to take an interest in that matter never arose.
60. We do not excuse these instances of procedural slackness, but they do not amount to a serious procedural irregularity. The real question is whether they led to 'other' irregularity in the instruction of an unqualified expert.
61. As to that, the starting point is that (in contrast to the witness in *Re C* and *Re Y*) Mr Flatman was a psychologist who was regulated as an educational psychologist by the HCPC, and was chartered by the BPS. In addition he was extremely experienced, both as a practitioner and as an expert witness, so much so that the parties and the court were apparently content for him to be instructed without sight of his current CV. It would clearly have been preferable at any date for him to have presented himself as being an educational psychologist, perhaps in addition to being a chartered psychologist. However, the requirement in the 2023 FJC/BPS Guidance (see [21] above) to use the HCPC protected title, was not, so far as we are aware, a requirement that appeared in the 2016 FJC/BPS Guidance (see [19] above) or the BPS guidance that was current at the time (*Psychologists as expert witnesses: Best practice guidelines for psychologists*, July 2021).
62. Ms Madderson accepted that Mr Flatman was qualified to answer the ten questions regarding the children in his letter of instruction, but she submitted that none of the sixteen questions about her client was within his expertise. She was driven to submit that a clinical assessment of an adult in family proceedings could never be made by an educational psychologist. We do not accept that. The Family Court is regularly assisted by expert opinions from both clinical psychologists and educational psychologists. It is important that opinions are only given by suitably qualified experts and that there is clarity about the kind of expertise possessed by an expert and about the task that they are being asked to perform. However, the psychological assessment of a family will generally

require expertise in assessing children, parents as individuals, parents as parents, and child-parent relationships. These elements are not sealed units but part of an organic whole. There will often be a considerable degree of overlap between issues and, as shown by the BPS descriptions of expertise (see [21] above) there is a degree of overlap between the skills possessed by clinical and educational psychologists. In many cases it will be neither possible nor helpful to seek to draw bright lines. The court has to take a broad, practical approach and to look to the substance of the matter, as well as taking account of witness availability within short timescales. There will be cases where one specialism or the other will plainly be more appropriate, for example where a problematic mental disorder in a parent makes it clear that assessment by a clinical psychologist is required. But where the court needs broad expert advice in the form of a whole-family assessment, a case might well be made for the instruction of an experienced educational psychologist. In our view this was the situation here. We therefore disagree with the counterfactual submission that the court would have been bound to reject Mr Flatman as a suitable expert in 2022 if it had known what is now known. It might or might not have selected another expert, if one had been available, but it would not have been obliged to do so.

63. Overnice distinctions between neighbouring psychology disciplines are likely to lead to unintended consequences that conflict with the policy behind the 2014 Act and the Rules. Commenting on CPR 35.4(3), the equivalent provision to FPR 25.8(1)(a) (see [14] above), Zuckerman on Civil Procedure (5th ed.) 21.43 states that the court's policy is to limit the number of experts to the minimum compatible with the overriding objective. This clearly applies, equally or even more so, to children proceedings, where delay is presumed to be contrary to the child's welfare. More than that, when it decides whether to give permission for an expert instruction the court must have regard to any impact of giving permission on the welfare of the child, including the impact of any examination or other assessment on the child's welfare, that being the first listed matter under s.13(7) of the 2014 Act. The court will therefore strive to ensure that any necessary psychological assessment is carried out by one expert only, provided the witness's expertise is sufficiently broad to undertake the essential elements of the instruction.
64. By the time of the hearing in 2023, Mr Flatman's report was there to be judged on its merits. He did not make any clinical diagnosis in respect of the mother, but instead he expertly pulled together the available information in order to arrive at a formulation of what had gone wrong in this family. It would have been a matter for the judge to decide if he was qualified to administer the MCMI-III psychometric test, but he was not

asked about that and the mother's answers during the test were in any case invalid. It did not require psychological expertise to assess levels of insight, so Mr Flatman did not overreach his qualifications in expressing an opinion about that.

65. It should not be forgotten that the parties had the opportunity to test Mr Flatman's evidence at trial. He could have been cross-examined about his qualifications, experience and opinions. As it was, the judge described his report as an extremely thorough and extensive assessment, and she found his oral evidence to be measured and helpful. She was entitled to reach these conclusions, and to rely on his evidence.
66. We are not therefore satisfied that there has been a serious procedural or other irregularity arising from the instruction or the evidence of Mr Flatman.
67. The second reason for dismissing the appeal is that, seen objectively, there has been no injustice in this case. The judge's decision was based on the evidence as a whole and, while Mr Flatman drew matters together in his evidence, the other evidence so clearly supported the making of care orders that it is realistically impossible to envisage any other outcome. In this context, the evidence of the mother and F2 was of particular importance. Given the extent of the undisputed threshold findings and the chaotic state of their relationship, this was not a marginal decision and the return of the children could not safely have been contemplated.
68. **Ms Madderson's ingenious submission, that because the court had found that expert evidence was necessary it is therefore not possible to rescue the judge's decision by excising it, fares no better. Even if we had found Mr Flatman to be unqualified, the appeal would not inevitably have succeeded. That would depend upon an assessment of the overall fairness of the proceedings.** If the trial was unfair, the entire outcome would indeed have to be set aside (*Serafin v Malkiewicz* [2020] UKSC 23; [2020] 1 WLR 2455; [2020] 4 All ER 711 at [49]), but that begs the question, and here the trial was not unfair.
69. We add that we have taken no account of the expert opinion that was commissioned by the local authority after the issue with Mr Flatman's credentials arose. That was a responsible course to take, so that the local authority could satisfy itself that its care orders rested on firm welfare foundations. We nevertheless see the force in the mother's argument that an unscrutinised opinion obtained unilaterally outside of proceedings could not contribute to saving a previous unjust decision. From a legal perspective, the second opinion is either superfluous or unavailing, and we have found it to be the former.
70. For these reasons, we dismiss the appeal.

Guidance

71. **The fact that an expert's qualifications are called into question in one case may prompt parties in other cases to consider mounting a challenge to their own decision. However, as the present appeal shows, such challenges will only succeed where the trial court has accepted evidence from an expert who is later shown to have substantially overreached their expertise with clear consequences for the resulting decision. Where a genuine issue of this kind does arise, it is almost always likely to be more appropriate to make an application to the Family Court than to bring an appeal.** An appeal court must decide whether or not to allow the appeal, perhaps long after the original order, with limited ability to measure the effect of its decision on the children concerned. By contrast the Family Court has the ability to gather up-to-date information when deciding how to proceed.
72. **The most likely procedural vehicles for that are an application to discharge the care order under s.39 Children Act 1989, or an application for contact under s.34. In each case, the application is only likely to be allowed to proceed to a full hearing if an arguable case can be shown.**
73. **Alongside an application of that kind, a reopening of the previous findings might be sought by means of an application under the Part 18 procedure, as most recently described in *Re J (Children: Reopening Findings of Fact)* [2023] EWCA Civ 465; [2023] 2 FLR 1206 at [5-9] and in *Re Y* at [32-35]. Whether that course is appropriate will be a matter of judgement. Much will depend on the extent to which the previous findings overhang the current situation.** To take the present case as an example, it is not obvious that much would be gained after this passage of time by seeking to reopen the 2023 decision rather than by simply applying to discharge the care orders, if that was in any way a realistic prospect, on the basis of the current family situation.

[Re X and Y \(Care Proceedings: Publication of Judgment: Criticism of Expert Witness\)](#) [2026] EWFC 132, (10 June 2026), Knowles J

Headline: Publication of identity of Expert where criticism made of them

1. On 19 November 2025, I handed down a judgment, making findings of fact about (a) the circumstances of P's injuries and death on 9 February 2024 and (b) the care which had been provided to her and her younger sister, X, by the father and the mother. During the lengthy fact-finding hearing which took place in the summer and early autumn of 2025, I heard detailed lay and expert oral evidence and considered thousands of pages of written and other evidence. In summary, I found that the mother had

killed P; that her father deliberately burned her; and that either or both of her parents physically assaulted her over a period of ten weeks before her collapse at home on 30 November 2023. P was physically, emotionally and psychologically harmed to a very significant degree by both her parents. X too was emotionally harmed by being present whenever P was assaulted. The findings I made have not been the subject of any application for permission to appeal.

2. In my judgment, I reviewed the written and oral evidence provided by seven medical doctors appointed as expert witnesses in the proceedings, including that of Mr Patrick Mitchell, a consultant neurosurgeon. His evidence and conduct in the role of an expert witness in family proceedings was addressed in a separate part of my judgment. In summary, I was highly critical of his evidence and his conduct during the proceedings and made a number of factual findings about his behaviour. The findings I made about Mr Mitchell have also not been the subject of any application for permission to appeal.

...

15. I have thought very carefully about whether Mr Mitchell should be named in any published judgment and have concluded that, alongside the other expert witnesses, he should be named as they are. In my fact-finding judgment, I commented that my conclusion that Mr Mitchell had failed to discharge his duties as an expert witness was one I reached with considerable regret and after the most careful thought. I have never before made findings as serious about an expert witness's conduct in family proceedings so my findings are noteworthy for that reason alone.

16. It is important to note that Mr Mitchell was given ample warning that the local authority and the children's guardian were highly critical of his evidence and conduct at the fact-finding hearing. Further, I permitted him access to the written submissions made by the parties and allowed him to address me before I came to any conclusions about his approach as an expert witness. Likewise, he has benefited from a fair and transparent process with respect to argument about the publication of my fact-finding judgment.

17. The fact-finding judgment falls squarely into the category of judgments which are particularly suitable for publication as it resulted from a lengthy and complex trial process. Matters relating to the possible identification of the children in a published judgment have been addressed and are no longer in dispute or challenged in an appellate process. The balance has been fairly struck between the children's Article 8 rights to privacy and respect for their family life and the Article 10 right to freedom of expression, in this context being the public interest in the operation of the Family Court and the decisions taken by judges as public servants in sensitive family

proceedings. No party to the care proceedings argued at all that my judgment should not be published in the near future.

18. Applying the President's Guidance, the naming of Mr Mitchell in any published judgment would be entirely conventional in that expert witnesses are generally to be named unless there is a specific reason for not doing so. Concern about harassment or criticism is, on its own as the Guidance notes, insufficient to depart from the usual practice of naming an expert witness. However, publication is opposed by Mr Mitchell on the basis firstly, that the court's serious criticism of his behaviour and approach is best addressed by a General Medical Council process; secondly, that there may be a far-reaching impact on his practice as a medical doctor; and thirdly, that naming Mr Mitchell would deter others from acting as expert witnesses in family proceedings.

...

22. Having addressed and rejected the specific submissions made on behalf of Mr Mitchell, I have also conducted the necessary analysis required by Abbasi, focussing only on any potential interference with his rights arising from publication of my judgment. The naming of Mr Mitchell in the judgment is an interference with his Article 8 right to private and family life which may impact his practice as an expert witness, his reputation, his professional standing, his income and his employment. These are serious matters for him. However, that interference is in pursuit of a legitimate aim, namely the right to freedom of expression under Article 10 enjoyed by all those in society in reading, commenting and reporting on matters in the family court. The public interest is engaged in various ways, for example, in knowing why one set of expert opinion is preferred over another; in correctly identifying child abuse and understanding where that may be put at risk by an expert failing in his duties to the court; and in ensuring that experts comply with their duties to the court and understanding why and when significant criticism of an expert is legitimate. Balancing the rights engaged in this case, I am satisfied that the interference with Mr Mitchell's Article 8 rights is necessary in a democratic society. Any restriction to Article 10 rights, especially those relating to preventive restraints on publication, must be established convincingly and be proportionate to the legitimate aim pursued. The case for restriction is not made out convincingly in the circumstances of this case for all the reasons evident in this analysis.

FINDINGS

[Manchester City Council v M & Ors](#) [2026] EWFC 75, (01 April 2026), Harrison J

Headline: Findings made despite failings in ABE process

The ABE interviews

115. On 24 August 2020 X underwent an 'ABE' interview with the police. This was the first of two such interviews which have taken place. I have watched a recording of both of them as well as a recording of evidence given by X in connection with the father's criminal trial. The transcripts are in the bundle. I accept Mr Norton KC's submission that between 10 August 2020 and the first interview it is likely that there will have been further discussions between Ms R (and possibly others) and X about his allegations.
116. The officer who conducted the first ABE interview was DS Armitage. It was the first time he had ever interviewed a child, although approximately five years previously he had been on a training course for two weeks. The second interview was conducted by DC Hall
117. Both police officers gave oral evidence. DS Armitage in particular rightly acknowledged that a number of criticisms could be made about the way in which the interview was conducted. These defects in both interviews were addressed in detail in the parties submissions – see below.
118. It does not appear that any preparation was undertaken in advance of the first interview. It is clear that the guidance about conducting ABE interviews was breached a number of times, in particular the guidance about allowing a child to provide a '*free narrative*' and as to the importance of avoiding indicating approval or disapproval to the child in response to information provided. Examples of the latter include telling him that he was '*very brave*', thanking him after he provided an answer which the officer had been eliciting and calling him a '*clever boy*'. DS Armitage accepted in evidence the suggestion on behalf of the father that X was not given the opportunity to provide a free narrative.
119. So far as the second ABE interview is concerned, DC Hall accepted that it was unusual for a second interview to take place. In this case it was undertaken to seek clarification from X about the homes where he had stayed. DC Hall also accepted that she had not followed all the relevant ABE guidance including that the interview did not provide for any free narrative. She described this as being different from a normal interview as its purpose was to seek clarification as opposed to eliciting information for the first time. She accepted prompting X about matters mentioned by him in his first interview.

...

My conclusions in relation to the allegations concerning X

177. Having read and heard the evidence I have come to the conclusion, on the balance of probabilities, that the essential elements of what X has alleged are true. In essence, I agree with the submissions made by the local authority and the guardian.
178. I have already made clear that I reject the suggestion that Ms R either alone or with others has procured X to make false allegations against the father. I also accept Ms R's evidence about the circumstances in which X first made the allegations although she may not be wholly accurate about the precise time of the disclosure. Her evidence about this is consistent with what X himself has said. The transcript of the 999 call reads as though she was in a state of shock having just been given distressing information by her son. I further accept Ms R's evidence that she did not watch 'adult' films at home and that X was not exposed to such films by her.
179. Mr Norton KC has rightly emphasised a number of features of X's disclosures which have caused me to approach them with particular care. I have taken them all into account in my evaluation. The most significant, in my view, is the extent to which X is likely to have discussed the allegations with his mother and others before the first ABE took place, but this does not detract from the initial information he conveyed to his mother, which was relayed to the 999 operator soon afterwards.
180. It is also plain that there are aspects of X's accounts which are untrue and which must have been imagined by him, most strikingly his description of the abuse taking place next to his mother while she was asleep. I agree with the submission made by Mr Crabtree about the '*upsetting and unfathomable*' nature of sexual abuse for a very young child. The confused aspects of X's accounts and the inconsistencies are, in my view, likely to have resulted from such considerations.
181. Although X was exposed to discussions about the allegations concerning C, what she alleged is very different from the matters disclosed by X. I agree with the submission that there is no obvious explanation for his apparent knowledge of matters such as anal sex, erect penises, ejaculation or the taste of semen unless derived from his own experiences. The detailed and childlike nature of some of X's descriptions are also consistent with an account based on his own experiences as opposed to something which has been rehearsed. I have also found persuasive the point made by the guardian about the balance in X's accounts.
182. I have been cautious about giving too much weight to X's demeanour during his interviews, but he did not strike me as a child relaying a rehearsed narrative. His nervousness about providing information and the

positive things he was able to say about the father are, in my view, consistent with his account being truthful.

183. Mr P's evidence about X's reaction when the father would come to the house is also consistent with his account being true. Again I have been cautious about giving too much weight to this as I accept the point made by Mr Norton KC about the dangers of hindsight bias.
184. I do not consider I can reliably make findings as to the number of times each type of abuse occurred beyond saying that they occurred at least once.

[FAZ v MAZ \(Private Law: Allegations of Sexual Abuse of Child\)](#) [2026] EWFC 131 (09 June 2026), Poole J

Headline: Interesting case where sexual abuse allegations withdrawn but held there was a genuine belief in them by Mother

1. When the court has to determine the truth of disputed allegations against a parent of sexual abuse of their child, the stakes are high. If the court finds proved allegations which are in fact untrue then that parent/child relationship is wrongly ended and an appalling stigma is unjustly attached to an innocent adult. If the court finds unproved allegations which are in fact true, then a child may be put in the care of their abuser and other children may be exposed to harm from that adult when they ought to have been protected.
2. This case also demonstrates how, long before the court decides whether allegations of sexual abuse are proved or not proved, the fact that they have been made can have profound consequences. Here, some two years four months ago, the child with whom I am concerned, then aged eleven, made allegations that she had been sexually abused by her father. She had raised other concerns but those were the most serious allegations against him. She has had no contact with him, his partner, or her paternal grandmother for over two years. She has been receiving extensive therapy for complex post-traumatic stress disorder, in part on the basis of her having suffered sexual abuse perpetrated by her father. Her mother, with whom she lives, has supported the child to access and continue that therapy and to break off all relations with her father. Part way through this finding of fact hearing into those allegations of sexual abuse, the mother changed her position and no longer pursued the allegations. At that point in the hearing the mother had given her oral evidence and the father was part way through his. The father concluded his evidence and I indicated that findings of fact were for the court and that I would receive submissions and give this judgment. For the reasons given in the judgment I find that it has

not been proved that the father is guilty of sexual abuse of his daughter. The deeply troubling outcome is that the prolonged cessation of all contact and the provision of therapy have been on a false premise. It is difficult to see how the damage caused can ever be fully repaired.

...

64. Both parents were subjected to lengthy cross-examination at the hearing. To assist MAZ to give her best evidence, FAZ was absent from the court room, viewing and listening remotely with his camera turned off, whilst MAZ gave evidence. She was an articulate but somewhat anxious and introspective witness. In her oral evidence her general case with regard to AZ's allegations of sexual abuse against FAZ was that she believed her daughter, that she had merely been a conduit between her daughter and authorities including the police, and had not influenced her in any way. At the outset of the hearing she had informed the court that she no longer pursued the first allegation which concerned FAZ sniffing AZ's clothes. Then, after hearing FAZ give evidence, she made a further written statement to the court in which she stated: "I have concluded that I do not seek to pursue the two findings relating to sexual abuse any further." She said that FAZ had explained in his oral evidence that at times he fell asleep after having limbed into bed to cuddle AZ. MAZ said that she remembered how infuriating it was that he could fall asleep very quickly. She could understand how his arm could fall onto AZ's thigh and bottom and rest there whilst he slept. "The description given by [FAZ] sounded credible and authentic. I do not think ... that this had any abusive or sexual intent." Furthermore, she had reconsidered the recording of AZ's police interview in the context of AZ having taken certain books out of the school library. She noticed a change in the way AZ had explained the process of cuddling with her father in bed later in the interview when she described his finger positioning and agreed with FAZ that it "sounds different to the earlier descriptions". She considered that the books AZ had seen might have been incorporated into the "real memory". She wrote of her relationship with FAZ in 2023: "I was not open enough. I wish now I was not so defensive that it made it impossible to really work together. When he gave evidence, it was the first time I had actually heard him and saw him acknowledge mistakes." She continued:

"Having reached the conclusion I have, I still think it is the case that AZ believes she has suffered abuse and she has remained opposed to contact with her father. This will need to be handled sensitively, and it needs to be explained to her that neither of her parents think she has suffered any sexual abuse. I think that her psychotherapy through CAMHS should be suspended. I think it is important we work together to repair [FAZ]'s relationship with AZ. I really hope that this can form the basis for a new way

of communicating with each other. I will support appropriate mental health intervention and family therapy to explore contact. I would agree to a psychological assessment and autism assessment of AZ. AZ may need emotional permission to see her father, and I feel I can provide this".

65. FAZ gave evidence with apparent calm and some assurance but without being in any way arrogant or dismissive. He was under considerable pressure because he has been alleged to have physically and sexually abused his daughter. He has not seen her or had any contact with her for well over two years. For him, the allegations were not only false but had been encouraged, perhaps even engineered, by his ex-wife. In those circumstances he showed considerable restraint and understanding in the witness box. He did not try to exculpate himself but fully and frankly admitted past mistakes and weaknesses. When, part way through his evidence, MAZ changed her position, he showed no signs of triumphalism.

...

70. In closing, FAZ's Counsel produced a "Schedule of Lies told by the Mother" which runs to 29 pages. The schedule refers to a number of aspects of MAZ's evidence in the proceedings including when giving oral evidence, which, I agree, contained inconsistencies ...

...

91. The evidence does not persuade me that MAZ deliberately concocted the allegations of sexual abuse or instructed AZ what to say to professionals or the police. She genuinely believed that FAZ had abused their daughter. But her anxieties and distrust of FAZ resulted in her adopting a perspective on past events involving FAZ which are untethered from reality. She viewed him as an abuser. She thereby influenced AZ and she was careless about doing so because when AZ started to speak of her father's conduct as if it were abuse, that suited MAZ's own narrative. At every step, MAZ reinforced the view that AZ had been the victim of abuse by FAZ. In her desperation to prove the case against FAZ she was sometimes dishonest as demonstrated by the inconsistencies, embellishments and insinuations I have set out at paragraphs 70 to 72 in this judgment.

[HH v SS](#) [2026] EWHC 1557 (Fam), (19 June 2026), Peel J

Headline: Video-evidence needs to be watched and judges must explain reasons

1. These proceedings concern two children: a boy A, aged 9, and a girl B, aged 5. I shall refer to their father as F and their mother as M. Today is the hearing of an appeal by M against three decisions ... The appealed decisions are:

a) The dismissal of M's allegation that F attempted to strangle her in April 2023 (**allegation 1(a)** in the Scott Schedule prepared for the hearing) and the substituted finding that this was an occasion where the parents "used abusive language and violent behaviour towards each other and both of them suffered injuries".

b) The dismissal of M's allegation that F assaulted M in August 2023 (**allegation 1(c)** in the Scott Schedule) and the substituted finding that the parents "were aggressive towards each other and were fighting each other".

c) The dismissal of M's allegation that F was coercively controlling towards M by preventing her from studying, controlling her use of social media, preventing her from driving and checking her phone (**allegations 3(e), 3(f), 3(g) and 3(h)** in the Scott Schedule).

...

3. I have come to the conclusion that the appeal succeeds in respect of the first two decisions, namely the alleged strangulation in April 2023 and the alleged assault in August 2023, but fails in respect of the third.

...

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36. In respect of the 11 April 2023 strangulation allegation:

i) The schedule to the judge's order dated 14 November 2025 states at para 10 that: "It is recorded that the court declined to watch the police interviews of [F] or [A] in the absence of transcripts of these interviews". The approach to VRIs will depend on the facts and circumstances of each case. In this case, F's VRI was undertaken on 12 April 2023, the day after the alleged strangulation, and A's VRI was carried out on 11 May 2023. The strangulation allegation (said to have taken place on 11 April 2023) was arguably the most serious of all M's allegations. It merited particular care and attention. It seems to me that the VRIs were essential evidence and needed to be viewed; not necessarily in their entirety, but at the very least by reference to particular sections as indicated by counsel. Ideally transcripts would have been available, but transcripts by themselves do not deliver the impression and presentation of the person being interviewed, and they require particular care where the interview is with a young child under ABE conditions. If the judge considered he could not or should not view the videos without the transcripts, he had the option (however unattractive) of adjourning the case to obtain the transcripts. The worst of all worlds was to not watch the videos even though counsel specifically made reference to excerpts of interview evidence in cross examination and submissions. To have watched both interviews in full would have taken just over 2 hours, but the viewing time of relevant extracts would have been

much less, and, although a burden on the judge, this seems to me to have been a necessary exercise for him to have undertaken.

ii) The order was drafted by counsel and sent to the judge for approval. It is possible that the judge overlooked para 10, and that he had in fact viewed the VRIs. If so, he made no reference in his judgment to A's VRI and in particular what A said about the neck incident. He did not record, or analyse, A referring in the interview to "my dad going round my mum's neck". Nor does he refer to a subsequent exchange in which A answered a question "You said he grabbed her neck" by saying "Yes". Later on, in answer to the question "Does your dad hurt your mum a lot", A said "Yep". I accept that on one view these latter responses may be thought to be as a result of leading questions, but there was no evaluation by the judge in his judgment of A's ABE evidence, the circumstances in which it was given, its reliability and its consistency with M's strangulation allegations. It seems to me that given the centrality and importance of the strangulation allegation, the judge should have undertaken a close analysis of the relevant parts of the interview with A, and how that evidence interacted with the other evidence before him.

iii) The judge in his judgment made no mention of F's VRI. If he did not view the VRI (as his order records), I am persuaded that it was a significant omission on the part of the judge, particularly as he was taken in cross examination to alleged inconsistencies between his interview evidence, and other given accounts. If he did view it, he did not weigh the contents in the balance. By way of example, in the VRI, F does not repeat his narrative statement allegations that on 11 April 2023, the day of the strangulation allegation, M threatened him with a knife and threw a glass object at his car. Another example is that F in his VRI said that M had hurt his leg, but in an email to the police the next day he withdrew that allegation. A third example is that F (I am told) said in oral evidence that he had placed M on her stomach to try and calm her down, which did not feature in his written evidence or the VRI. These apparent inconsistencies were not analysed by the judge.

...

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37. In respect of the August 2023 alleged assault:

i) M made specific allegations against F of physical and verbal abuse. By contrast, in the Scott Schedule, F makes no mention of M assaulting him. Nevertheless, the judge found that "the parents were aggressive towards each other and were fighting each other".

ii) I accept that the judge was not precluded from making further or other factual findings, but as set out in **Re A [2019] EWCA Civ 1947**, a judge should exercise caution before doing so. The Court of Appeal quoted the

following from Wall LJ's judgment in **Re G and B (Fact-Finding Hearing)** [2009] EWCA Civ 10 with approval:

"Furthermore, if the judge is, as it were, to go "off piste", and to make findings of fact which are not sought by the local authority or not contained in its Schedule, then he or she must be astute to ensure; (a) that any additional or different findings made are securely founded in the evidence; and (b) that the fairness of the fact finding process is not compromised."

I acknowledge that these dicta were in the context of a public law case, but it seems to me that the principles apply similarly to private law fact-finding hearings.

iii) It is unclear how and why the judge reached this conclusion:

a) No explanation for this finding is given in the judgment, including an assessment of why F had not put it forward in the schedule.

b) I am told that M was not asked about the incident in cross-examination, and that at some point F in his oral evidence said that "there was not a fight" in August 2023.

c) It does not seem to have featured as a possible finding until it appeared in the judgment.

d) If in fact F was responsible for strangulation, that would be a relevant piece of evidence (indicating propensity) when considering another alleged assault.

STATUS

[Re N \(Paternity: Unregulated Sperm Donor\)](#) [2026] EWHC 878 (Fam), McFarlane P, 21 April 2026

Headline: Circumstances for refusing Declaration of Parentage to Sperm Donor Discussion and conclusions

66. Drawing matters together, and looking, first, at the issue under FLA 1986, s 55A(5), **the court's jurisdiction to prevent an application for a declaration of parentage under s 55A being heard is limited to cases where the court 'considers that the determination of the application would not be in the interests of the child'.** I agree with the distinction drawn by Poole J at paragraph 126 of *Re CA*. **The decision under s 55A(5) is not itself a best interests decision. It is the action of 'the determination of the application' which must be considered not to be in the best interests of the child. This is different from deciding whether declaring that the applicant is a parent is, positively, in the child's best interests.**
67. I also agree that the four gateway factors identified by Cobb J in *Re A & B* are likely to be relevant in most cases. In doing so I would stress that the focus of those factors, as carefully cast by Cobb J, is on the act of determining the application, and not best interests more generally. **Cases where s 55A(5) may be in play, for example where conception has occurred as a result of rape, or where the child has been adopted, have been identified in the case law.**
68. Ms King submitted that the bar under s 55A(5) is a high one. Ms Fottrell and Mr Powell agreed that this is so. I, also, agree. **Cobb J correctly described the approach as including consideration of whether the application, if granted, would be likely to have such deleterious consequences for the child that the court should not even proceed to determine it; that is more than a simple welfare balance.**
69. Parliament was plain in requiring, by s 58(1), that a declaration of parentage must be made if the underlying facts are established. The decision to grant a declaration is not one in which the welfare of the child is paramount; indeed it is not even a relevant consideration. Not to permit an application for a declaration of parentage to be determined is contrary to the principle that there should be access to

justice. For a court to prevent an application to be determined is, therefore, a matter of significant consequence. I would, however, avoid endorsing the adoption of a particular word, such as 'high' or 'exceptional', to describe the bar that must be crossed to satisfy s 55A(5). To do so might impose loaded wording where Parliament has chosen not to do so. Rather, the weighing up of the relevant factors under s 55A(5) is an exercise in proportionality, where the default position is that the application should proceed to determination and the priority afforded to establishing and fixing the truth as to an individual's parentage and the principle of access to justice are fully in play, but where the best interests of a child may, in some cases, nevertheless require the court not to determine the application.

70. In the present case both N's mother and the children's guardian assert that to determine Mr Albon's application is not in N's best interests. Mr Powell, understandably, drew attention to the vulnerability of his client. I fully accept that 'vulnerable' is, sadly, an apt description of her position, both in terms of her internal resources and the situation in which she now finds herself with respect to Mr Albon. It is also the case that, generally, where the sole carer of a child is likely to be adversely affected by events, their ability to care for their child may be affected to a degree which would not be in the best interests of the child.
71. In relation to Mr Albon, I also accept that his current restricted statement of future interest in the care of N cannot be relied upon as an indicator of future conduct. On the basis of the findings of HHJ Furness KC and Poole J, it is likely that, if Mr Albon thought that there was a need to do so, he would, once again, seek to assert himself as an active parent for N. The impetus for doing so would be entirely self-driven by Mr Albon's views, and not moderated by any insight towards, or empathy for, the mother. I accept that if a declaration were made the mother would never know when, or if, Mr Albon might once more step forward and that this would be unsettling for her.
72. In hearing those submissions, I was, however, struck by the fact that, despite her vulnerability, and despite the great stress of these unwelcome court proceedings, N's mother has demonstrated a degree of resilience so that the reports of her care of N have remained positive to the extent that there does not currently seem to have been any significant detriment to N's best interests.

73. Both Mr Powell and Ms Fottrell, the latter supported by the guardian's strongly worded descriptions of Mr Albon's character and behaviour, submitted that the potential for harm if he were to reassert himself as a parent was such as to be a matter of grave concern for the child's welfare. In this regard **there is a need to separate out those matters that might directly impact on N, and the different areas of concern about Mr Albon's conduct with regard to the provision of fertility services.**

74. It must be relatively common in the life of divided families for one parent to be very apprehensive about the future intervention of the other parent. Often there will be no doubt in such cases as to the fact and status of the other parent as the child's parent. **Where, as here, there is no doubt at all that the applicant for a declaration is indeed a parent, it is difficult to translate the potential for future disruptive behaviour into grounds for holding that determining the fact of parentage will be, itself, sufficiently detrimental to the best interests of the child to justify declining to do so. Poole J was careful not to be drawn into considering Mr Albon's reprehensible behaviour as a basis for holding that s 55A(5) was satisfied, as to do so would turn the hearing of the declaration of parentage application into one that is determined on welfare grounds.**

75. The valid criticism that is made by Mr Powell and Ms Fottrell of Mr Albon's activity in the provision of donor sperm, and the manner in which he conducts himself during the course of dispensing his services, are very much live issues in the context of public policy, but they do not, in my view, sound loudly in terms of their impact on the best interests of N when considering s 55A(5).

76. From N's perspective, in circumstances where it is agreed that Mr Albon is his legal father, and where it is also agreed that he will be told of his parentage and the circumstances of conception in an age appropriate way, save for the legal status that a declaration would afford to Mr Albon by enabling him to apply for orders under the CA 1989 without the need for permission to do so, **there is little in the 'best interests' balance in favour of refusing to determine the application. For the reasons to which I have already referred, the fact that the other parent may be very difficult and seek to intrude is not an uncommon feature of cases in the Family Court.** Where that parent's litigation behaviour, or use of parental responsibility if held, is contrary to the welfare of the child, the court is able to deploy orders limiting that parent's actions and, if justified, imposing a filter on their ability to apply to the court. When set against the

priority that Parliament has attached to the making of a declaration of parentage where the underlying facts are proved, I do not consider that the case is made out for refusing to determine the application on the basis that to do so would not be in N's best interests.

77. **Turning to s 58(1), the position is very different.** It can be taken shortly and in stages.

78. Starting with the basic parameters set by Parliament in the legislation, by 'processing' and 'distributing' sperm, as defined by HFEA 1990, s 2, **Mr Albon is acting in breach of s 4(1A). 'Processing' means 'preparation, manipulation or packaging' of sperm.** By generating a dose of sperm and then passing it on for use by a recipient, whether this be by post or by immediate delivery at the home address, Mr Albon is engaged in processing it. By passing the donated sperm over to the recipient he is distributing it, just as much as if he had sent it by post or other means. By s 4(1A), it is an offence for any person to 'process or distribute any gametes intended for human application except in pursuance of a licence or a third party agreement'.

79. As a result of the HFEA 1990, IVF treatment became lawful for the first time. It is clear that Parliament sought to maintain tight control over the processes involved by only permitting the process and distribution of gametes within the licensed scheme. There is a degree of control even within that scheme over the introduction of sperm from any individual donor, so that their gametes may only be used for the creation of up to 10 families, is further demonstration of a tight policy.

80. In establishing the narrowly defined permissive route for the processing and distribution of gametes, and by rendering any non-permitted processing or distribution unlawful, Parliament was clear in marking out the limit to which, as a matter of public policy, such activity was acceptable. From this first perspective, it is clear that Mr Albon's engagement in providing sperm to N's mother, by visiting her home and producing a donation which he then passed to her for her use in inseminating herself, is contrary to public policy as established by HFEA 1990, ss 2 and 4(1A).

81. It was of note that, in reply to Ms Fottrell's submissions on this point, Ms King, for Mr Albon, understandably did not dispute the legal foundation of the case being put forward and limited her response to arguing that this court should not import Poole J's findings into the present case. She also suggested that Parliament had not made the specific actions of Mr Albon

unlawful. Neither of these two submissions is sustainable. Poole J's findings were made after a fully contested hearing, in which Mr Albon gave evidence. It is apparent that many of the findings are based upon Mr Albon's own account. There has been no appeal against those findings and there was no attempt in the present proceedings to reopen the factual enquiry. For the reasons that I have already given, Parliament has been explicit in making it unlawful to process and/or distribute sperm without a licence.

82. Moving on, and turning to a second perspective, Parliament has provided that where the sperm of a man, who has donated as part of the statutory scheme, is used for the purposes of insemination within that scheme, that man is not to be treated as the father of the child [HFEA 1990, s 28(6) and HFEA 2008, s 41]. In the present case, sperm has been provided by an individual who advertises himself as providing a sperm donation service. Those who use his service, like the mother in the present case, see the engagement as purely transactional with no continuing consequence. Whilst there is no express provision in the legislation to this effect, it seems most unlikely that Parliament would have taken a starkly different approach to a non-licensed donor who has acted as Mr Albon has done on so many occasions (whether as a formal 'business' or in any event). I, therefore, hold that it would be contrary to public policy for Mr Albon to be treated as the father of N by the court granting a declaration of paternity naming him.

83. The third perspective by which to evaluate the public policy issue is to look at the activities of Mr Albon more generally, as found by Poole J and HHJ Furness KC, which are the very antithesis of that which is permitted under the HFEA scheme. Not only are his actions outside the regulatory scheme, they are unregulated in a wider, moral, sense. On the basis of the findings made by the two judges, there is no indication that Mr Albon's behaviour is governed by any recognised moral principles, or is informed by the need for any of the checks and assessments present in the statutory scheme to ensure the genetic integrity of the process or to guard against any mental or physical health issues. As Poole J held, the risks that his customers take in using a prolific, unregulated sperm donor who operates as Mr Albon does, are obvious [paragraph 67, see paragraph 17 above]. Mr Albon has been found to be indiscriminate about the women to whom he donates his sperm. As Poole J found, there is a risk that his service may attract those who do not want questions asked, or records kept, and do not want a child welfare assessment. On the findings made, the proportion of vulnerable women who turn to Mr Albon is high, yet 'Mr Albon does not trouble to

question the history, character, and health of the women who use his service. He does not give any consideration to their ability to bring up his child. He was quite frank that he does not believe it to be his concern'.

84. At paragraph 100 of his judgment [see paragraph 20 above], Poole J lists 'some significant risks and potential complications' arising from Mr Albon's cheap, 'no strings attached' service. I agree with, and endorse, the list of some 8 factors identified by Poole J in this context. These are important matters which may not only have an impact on an individual user of Mr Albon's service, they are of wider societal importance. Looked at through this wider perspective, Mr Albon's behaviour, sustained as it has been for over a decade, provides an illustration of just what extensive unlicensed sperm donation can involve. It is, as I have said, the very antithesis of the Parliamentary scheme, and the illustration provides justification for the public policy decisions taken by legislators.

85. Taken individually, but also looking at them all together, it is clear that it would be manifestly contrary to public policy to endorse Mr Albon's activities, and his particular engagement around the conception of N, by making a declaration of parentage in this case. The bar set by s 58(1) is a high one, but the clarity of the statutory provisions and the scale on which Mr Albon has operated outside those provisions make it manifest that what he has been doing is contrary to public policy as established by Parliament in the HFEA legislation.

86. The outcome of the application is that, whilst the truth of the proposition to be declared (namely that Mr Albon is N's father) is proved to the satisfaction of the court, the application for a declaration of parentage is dismissed on the ground that to grant it would manifestly be contrary to public policy.

87. By agreement, there will be a declaration that EF is not N's father.

88. Before concluding, it is necessary to state that the facts of this case are extreme. It does not follow that all applications for a declaration of parentage by those who donate sperm to assist in the conception of a child outside the HFEA scheme will be dismissed on public policy grounds under s 58(1). It is not uncommon for conception to be arranged through sperm donated by a friend of the mother, or by some other single, informal arrangement. This case has involved sperm donation on a wholly different scale. Nothing that I have said

in this judgment is intended to impact, one way or the other, on such cases, which will continue to be determined on their own facts as they arise.

[Re J \(Loss of Parental Responsibility\)](#) [2026] EWCA Civ 344, Court of Appeal, 20 March 2026

Headline: If you're not biological or legal Father, even if on Birth Certificate you never had PR. If Father could be one of twins – read the case! Remember you can construct PR via CA1989 however and where there are international risks / issues consider orders, including interim ones

Combined appeal of three cases where issues as to PR arose. In one case Father wrongly believed he was Father and was registered on Birth Certificate. In another Father knew he wasn't biological Father (sperm had been purchased), but he had been registered as Father. In the third the Court could not say which of two twins was Father, but one had been registered as Father. Court emphasised you're only a 'parent' if you have a biological link of 'legal' parentage (HFEA / Adoption eg). Even if you're named on Birth Certificate, if you're not a biological or legal father, you never had PR because you were named. For the twins where one had been registered it wasn't right now to delete the one who was from the Register, BUT PR should be discharged.

McFarlane P:

80. Referring to the list of questions posed in paragraph 2 above:

- i) **The definition of 'father' for the purposes of CA 1989 is the common law definition and is limited to a child's biological/genetic father. The definition does not, and cannot, extend to others who have acted as the child's psychological/social father.**
- ii) **Where an individual is registered as a child's 'father' in their birth register entry, the parental responsibility attributed by such registration does not attach to that individual if they are not, in fact, the biological/genetic father of the child. In order for parental responsibility to be acquired by registration on a birth certificate under CA 1989, s 4, two conditions must each be fulfilled:**
 - a) **The person must be the genetic/biological father of the child; and**
 - b) **That person must be registered as 'father' in the child's birth register entry;**

iii + iv) Although the parties may believe otherwise, no parental responsibility is acquired at any stage by an individual who is wrongly registered as 'father' in a birth register entry. In consequence the question of whether parental responsibility in such circumstances is automatically terminated on the making of a declaration of non-parentage under FLA 1986, s 55A, or requires a bespoke order, simply does not arise.

...

83. Where, as here, an individual who is not the legal father, and has not acquired parental responsibility through registration on a child's birth certificate, but where that person has become a psychological or social parent to the child, their role in the child's life may be reflected by the making of a s 8 child arrangements order, together with the attribution of parental responsibility by an order under s 12.

84. Before leaving the issues that were common to all three appeals, it is right to make some further observations:

- i) The question of the validity of a parental responsibility order made under CA 1989, s 4(1)(c) did not arise in these appeals, but the Secretary of State is likely to be correct in the submission that, where such an order is made with respect to an individual who is not the child's genetic father, the order will, in common with all court orders, be valid whilst it is in force but, where the issue is raised and non-paternity is established, the court must discharge it on the basis that it was made without jurisdiction;**
- ii) The Secretary of State and Registrar General are invited to consider having a simple statement of the definition of 'father' on display at each Register Office;**
- iii) Where there is a risk of child abduction and there is any uncertainty as to paternity, an individual registered as 'father' in a child's birth register entry would be well advised to apply to the court for orders under s 8 controlling the child's departure from the jurisdiction and, if justified on the facts, for parental responsibility under CA 1989, s 12;**
- iv) Where a court makes a declaration of non-parentage under s 55A, in a case where, hitherto the non-father had assumed that they had parental responsibility, the court should consider making interim orders as in (iii) above to**

hold the situation and avoid the consequences of the abduction 'gap' that has been identified in this case;

v) Where a child has been removed or retained abroad in circumstances that would be wrongful under the Hague Convention if the left-behind 'parent' did have parental responsibility, but where that person had thought that they had parental responsibility but, in reality, they do not do so on subsequent proof of non-paternity, the court should look to other remedies either under the CA 1989, or by treating the circumstances as a non-Convention abduction case.

vi) The court is very grateful to counsel for Reunite who have prepared suggested guidance for cases where there is, or may be, an international element and where the issues covered in these appeals may arise. The draft guidance was not the subject of submissions or other consideration during the oral hearing, and the issues raised do not directly arise from any of the three appeal cases. In the circumstances, it would not be appropriate for this court to do more than to encourage Reunite to publish the draft as a thoughtful and useful source document for future consideration.

...

[in relation to the twins]:

96. The situation resulting from the judge's order and this court's determination on the principal issue is that if TP1 is the legal father he has parental responsibility, but if he is not he does not, yet it cannot be said whether he is or is not the legal father. That outcome is not in P's best interests and is contrary to her overall welfare. It is understandable that the judge left the disentanglement of the legal issue to this court (when it was known that the other appeals were to be heard). With the benefit of the hindsight now achieved as to the definition of father, in my view **it was wrong for the court not to achieve clarity by discharging any parental responsibility that TP1 may have had by making an order under CA 1989, s 4(2A). The basis for discharging parental responsibility is, firstly, that, as he is not proved to be the father, TP1 should not have been registered as 'father' and he is not a candidate for the acquisition of parental responsibility under s 4(1). Secondly, it is plainly not in P's welfare interests for this ambiguity as to parental responsibility to continue.**

97. At the oral hearing we indicated our intention to remit to the lower court the question of whether either, both or neither of the twins should now be

granted parental responsibility. As a result, we did not invite counsel in *Re P* to make submissions on the welfare element of that case. During the course of preparing this judgment I have had cause to reconsider the position. I am concerned that, unless this court concludes that HHJ Reardon was 'wrong' in the decision that she made, then the appeal should not be allowed. If My Lady and My Lord agree, it is now appropriate for this court to receive submissions from the parties on the 'welfare' issues. Unless the parties wish the court to consider setting up a further oral hearing, the remaining issues will be dealt by additional written submissions.

Outcome

98. It follows that each of the appeals fails, save that, in the case of P, if My Lady and My Lord agree, an order will be made under CA 1989, s 4(2A) that any parental responsibility that TP1 may have acquired under s 4(1) by registration as 'father' in P's birth register entry shall cease from the date of this court's order and any further order that may be made following additional submissions in that case relating to 'welfare'.

[Re P \(No 2: Welfare\)](#) [2026] EWCA Civ 571 (12 May 2026), Court of Appeal

Headline: Unsuccessful Appeal by one of the Fathers of the Child Arrangements put in place

The Court of Appeal did not accept arguments that the trial judge had given insufficient attention to a prior incident where one father had removed the children, and also did not accept the Judge had failed to take account of the psychological impact of the orders made (CAO to Mum, one weekend each month with either father).

[Re YZ \(Declaration of Parentage: BATUK: DNA Evidence\)](#) [2026] EWHC 1601 (Fam) (26 June 2026), Poole J

Headline: Unsuccessful challenge of DNA Evidence and Declaration of Parentage made

Introduction

1. In December 2024 the applicant's solicitor, James Netto, Professor Denise Syndercombe-Court, Professor of Forensic Genetics at King's College London, ("KCL") Kelvin Kubai, a Kenyan advocate, Andrew McLeod, visiting Professor at KCL, and a team from the BBC, travelled to the town of Nanyuki in Kenya for the purpose of seeking to establish the paternity of certain

children in that area. In particular, each of a number of mothers had claimed that the biological fathers of their children were British servicemen from the British Army Training Unit in Kenya ("BATUK"). The applicant, RS, was one such mother. Her child, a boy anonymised herein as YZ, was born in March 2019. She claims that the respondent, UVW is his father and seeks a declaration of parentage accordingly.

2. The applicant met the team visiting Kenya and presented YZ for the taking of samples for possible DNA testing. Professor Syndercombe-Court undertook the process of obtaining the samples. She verified the identity of RS and YZ, took saliva samples from YZ, sealed them in packages designed to preserve the samples for the flight back to the UK, giving each sample a unique identifying number. One sample was used to cross-reference against the Ancestry.com data base, which is a publicly available data base of users' DNA. A second sample was later stored at KCL for the purpose of conducting a confirmatory DNA test in due course were a sample of the putative father obtained. Samples from approximately twenty children were taken in that initial cohort of cases.
3. The process of matching samples with the data base led to the identification of UVW as YZ's putative father. RS applied for a declaration of parentage under the Family Law Act 1986 s55A, the application being issued on 26 June 2025. RS filed a statement dated 17 June 2025 stating that she had met UVW in 2013 when he was a soldier in the British Army stationed at Nanyuki with BATUK. They formed a relationship and he would come to visit her for two to three weeks at a time whenever he was in Kenya. He is ethnically Kenyan although residing in the UK and had family in Kenya whom he would visit. She stated that she fell pregnant with his child in 2018 but then found that UVW was in a long-term relationship in England. She spoke to the woman who was his partner here and that woman then ended her relationship with UVW who in turn ended his relationship with RS prior to YZ's birth. RS gave the registrar of births and deaths UVW's name (using the first two of his three names) as YZ's father and the birth certificate bears his name as father accordingly. RS stated that her later approaches to the British Army in Kenya to assist her to connect with UVW had effectively been brushed aside.
4. UVW responded to the application by denying that he is YZ's father, a denial he has maintained.

...

Analysis and Conclusion

26. The cross-referencing of a sample from YZ with the Ancestry.com data base was not relied upon to prove paternity; it was only a gateway process to use DNA to seek to identify a putative father. Rather, the applicant relies on the

DNA testing of the samples from YZ and UVW, as well as her own evidence as to her relationship with UVW in Kenya.

27. The respondent's case that his DNA sample may have been mis-labelled or otherwise confused with a sample given by someone else, was without any merit. He has three names, UVW. A photograph was taken at KCL on 18 December 2025 showing a label on a round plastic container on which one can see the names UV but not W. The label curls out of view so the name W might have been written on the underside of the label out of view on the photograph. The unique serial number is on this label. On another label, which shows the unique bar code, his first and third names have been written: UW. On this evidence, the respondent ambitiously argued that his sample had been confused with those of another man.
28. One of the labels may well have had his three names on it but with one name which was simply out of view of the camera. But even if that were not the case, and only two of his names were written on the labels, and a different combination used for each label, it is of no consequence. He accepts that he was at KCL on 18 December 2025 and gave a sample. He identified himself and gave written consent. The labels contained, respectively, a unique bar code and a unique serial number. He himself took a photograph. The chain of evidence is secure and its security has been beyond any reasonable doubt. Furthermore, the hypothesis that on the same day that the respondent attended KCL to give a DNA sample, his sample was inadvertently exchanged with a sample from another man also attending KCL who not only shared (at least) two of his three names but also happened to be the biological father of YZ, has no credibility. The request for the respondent to attend to give a sample arose in the proceedings in which he was the only respondent. There was no queue of YZ's putative fathers at KCL on 18 December 2025, all having the same or similar names, all of whom had been in Kenya at the time of YZ's conception, and all giving DNA samples at the same time.
29. Although the applicant's statements and oral evidence could have contained more detail, and although she corrected her statement about her first face to face meeting with the respondent, the applicant was entirely credible in her account that she had a sexual relationship with the respondent in Kenya. She gave compelling evidence that they continued to have sex when they met up in Kenya including in or about June to early July 2018 when YZ was probably conceived, and that she found that she was pregnant in the latter month. UVW accepted that he was stationed at BATUK during that period. RS had put the respondent's name on YZ's birth certificate honestly believing him to be the father. The respondent complained that she had not used his full name when registering the birth, but RS reasonably said that she put down the names she knew. In the

subsequent seven years she has gained nothing from doing so. It is not clear why, if the respondent's account were true, she would give the registrar the name of a virtual stranger whom she had met only once and with whom she had never had sex, as her child's father.

30. In contrast, UVW changed his account as the other evidence changed. He had told Sir Andrew McFarlane that he had never met the applicant. Later, presented with a photograph of him and RS sitting together enjoying a drink, he told me that he had only met her on that one occasion. He was forced to change his account but only admitted what he felt he had to admit. He was not prepared to tell the truth, the whole truth, and nothing but the truth to the court about his relationship with RS. I am satisfied that he knowingly misled the court on 24 March 2026 and that he continued to mislead the court in his oral evidence at the hearing before me. I am satisfied that he misled the court about his relationship with RS in order to conceal the possibility that he could be YZ's father. He also sought to prove that he had not been in Kenya when YZ was conceived but ultimately, had to accept that he had been in the country at the time when, I find, it is likely that conception occurred.
31. I accept RS's evidence as credible and I do not find that RS misled the court, which was the finding UVW invited me to make in order to refuse the application on public policy grounds. I can discern no other reason why it would be manifestly contrary to public policy to make the declaration (see the Family Law Act 1986 s58(1) and the recent judgment of Sir Andrew McFarlane P in *Re N (Paternity: Unregulated Sperm Donor)* [2026] EWHC 878 (Fam)).
32. The respondent was entitled to a fair hearing and to scrutinise evidence about the collecting and storage of samples but there is a gulf between engaging in reasonable scrutiny and putting forward a case about the DNA sampling that was fanciful. I regret to conclude that the respondent wasted court time and doubtless caused avoidable anxiety to the applicant by putting forward a wholly unmeritorious case that his sample was not the sample used for the purpose of Professor Syndercombe-Court's report, but rather that YZ's actual father, who happened to share at least two of the respondent's three names, also coincidentally turned up at KCL on 18 December 2025 to give a DNA sample and that their samples were inadvertently exchanged during the sampling or testing process. The respondent is an intelligent man I struggle to accept that he honestly believed this was a possibility.
33. In his closing submissions, the respondent sought to persuade the court that DNA testing should be re-done but I find no basis on which so to order. There is no need to delay the conclusion of this application and further delay would be detrimental to the applicant and the child. The respondent's

attempts to undermine the expert DNA evidence have failed. The evidence is reliable. The other evidence is consistent with a finding that UVW is YZ's biological father, but the DNA evidence puts that beyond any doubt. I conclude without hesitation that UVW is YZ's father. In all the circumstances I am satisfied that the declaration of parentage should be made accordingly.

DISCLOSURE

[Re NG \(A Child\), \(Disclosure of Asylum Documents\), \(No 1\)](#) [2026] EWHC 412 (Fam),
David Rees KC (s9), 25 February 2026

Headline: No New Law but good example of application for disclosure of asylum documents and relevant balance

CONTACT

[Gl v K](#), [2026] EWHC 480 (Fam), Lieven J, 23 January 2026

Headline: Judge found to be wrong to disregard allegations of domestic abuse

91(14)

[Re A & T \(Children\) \(Appeal: Duration of Section 91\(14\) Order\)](#) [2025] EWHC 3052 (Fam), Harrison J, 19 November 2025

Headline: Think carefully about duration and consider different time limits for different applications

There were lengthy and unproductive proceedings for around 3 years in which the children did not meaningfully see their Father. No Fact-Find was held but there were allegations of Domestic Abuse and counter-allegations of Parental Alienation. Proceedings concluded by Consent with the intention that progress would be made with the assistance of a Family Assistance Order to the LA, towards overnight and unsupervised Contact.

Contact did not progress so Father applied back. Ultimately the Judge refused his applications for change of residence and Contact and imposed a 3 year 91(14) order. This was appealed.

On appeal Harrison J found Father had acted reasonably in bringing the matter back, but the Judge had not been wrong to make a 91(14) order owing to the harm the proceedings had caused to the children. Harrison J found the court had been wrong however to make a 3 year order and kept a 3 year order in relation to 'live with' orders, but substituted 12 months for 'spend time with' orders and removing it for Specific Issue applications, noting there was a potential issue around secondary school choices for one of the children and he urged mediation, but if that did not work return to court may be required.

Harrison J set out comprehensively the law relating to 91(14) orders and then on the facts of the case noted:

"Analysis and conclusions

46. I begin by acknowledging that, as I outlined above, this experienced family judge was faced with a very difficult task. The case had been going on for over four years. No tangible progress had been made to the children's relationship with F. With both parties acting in person, undertaking a meaningful process of fact-finding would have been challenging and created significant further delay. In circumstances where the litigation was causing harm to the children, he was entitled to come to the view that a pause was needed and that this should be bolstered by the making of a section 91(14) order.

47. In spite of the care with which the judge approached his task, I have reached the conclusion that he fell into error in dealing with the duration of the order.

48. The *Re P* guidelines make it necessary for a judge to give careful consideration to the ambit and length of any s 91(14) restriction in order to ensure that it is proportionate to the harm it is aimed at alleviating. **As PD12Q makes clear, judges should give reasons for the length they have identified as appropriate. In this case, the judge selected a three year term but gave no explanation for that aspect of his decision. The question of proportionality was not addressed.**

49. **The duration of a section 91(14) order is a critical issue which should not be dealt with cursorily.** There is a substantial difference between an order of short duration which affords children a pause from litigation and one which endures for several years. In my judgment, **the benefit to children of sparing them from the corrosive effect of being placed at the centre of litigation must be balanced against the disadvantage they may suffer from restricting their parents' ability to raise legitimate issues about their welfare before the courts. Even though a section 91(14) order is not an absolute barrier to making applications, it erects an additional hurdle for applicants to overcome. It is for this reason that it has been emphasised that the power is to be used with 'great care'.**

...

53. This is not a case where F has abused the court process by making repeated applications or by indulging in the type of '*lawfare*' described by King LJ in *Re A*. I reject the submissions made on behalf of M that F's conduct of the litigation demonstrated an '*entrenched pattern of coercive and controlling conduct*': no such finding has been made; the previous guardian's reports lend support to the approach he adopted.

54. In explaining his decision to make a section 91(14) order, the judge made reference to one of the observations in *Re A* that such orders may be made '*tangentially also to benefit all those other children whose cases are delayed as court lists are clogged up...*'. I would emphasise, however, that King LJ in fact referred to the court lists being clogged up '*by the sort of applications made in this case, applications which should never have come before a judge*'. *Re A* was a case involving unreasonable litigation conduct by one of the

parties. In my judgment, the desirability of easing pressure on the court lists should not routinely be used to justify the imposition of a section 91(14) order in cases where this feature is absent.

55. Most regrettably, this is a family which has been let down by the system. A section 91(14) order was justified as the prolonged litigation had become harmful to the children. In my judgment, however, it was disproportionate in the circumstances of this case to impose a three year restriction on making any type of application for orders under section 8 of the 1989 Act.
56. A is now nearly 15 and the wider issues have become academic in his case. He has attained an age where he will 'vote with his feet'. T was not yet 10 when the order was made. Imposing a restriction for three years entailed limiting F's ability to access the courts until T was nearly 13. If an application were to be issued upon the expiry of this limitation, it would probably mean that by the time it came to be heard T would be fast approaching his fourteenth birthday.
57. The section 91(14) order served the purpose of giving the children a break from litigation which had become relentless. It was also beneficial in reinforcing to them the security of their living arrangements with their mother. On an optimistic view, a cessation of hostilities might do more to achieve a restoration of the children's relationship with F than had been accomplished over the four years of attritional parental combat. In a case where F had not been litigating inappropriately, however, the blanket three year restriction which was imposed was unjustified; a more bespoke approach was called for.
58. **In my judgment, it was proportionate for the judge to restrict F's ability to apply for a 'lives with' order for three years.** There is no realistic prospect of A moving to live with F and no realistic prospect that the court would make an order separating the siblings. For four years the children's lives have been clouded by a sense of insecurity occasioned by the potential for their living arrangements to be uprooted. Although I do not consider that F can be criticised for his conduct of the litigation, the welfare of the children requires a lengthy restriction to be in place to lift the cloud of uncertainty which previously hung over them.
59. **So far as applying for a 'spend time with' order is concerned, the proportionate duration for the restriction, in my judgment, would have been 12 months.** This would have given the children a significant degree of respite from litigation. In circumstances where it remained in the

children's long-term interests to repair their relationship with F, it was wrong, in my view, to impose a longer restriction. Although no child arrangements order was made, the current scheme for the children to spend time with F is inherently unsatisfactory and apparently unwelcome from the children's perspective. It may well need to be reviewed in due course to see if a more fruitful arrangement can be put in place. The ongoing appeal has meant that the family has not had the benefit of the pause in litigation which the order was intended to achieve. In those circumstances, I will now extend the duration of this aspect of the order so that the restriction continues until 30 April 2026 meaning that by that date it will have run for approximately 15 months.

60. So far as other section 8 orders are concerned, I do not consider there was any need to impose a restriction at all save perhaps for a very short period of time. This aspect of the section 91(14) order should be immediately discharged. I was informed that the parties presently disagree about the most appropriate school for T to attend for his secondary education. I urge them to attempt to resolve this through mediation, but if they cannot do so it is an issue that will require urgent resolution through the courts. **An unintended consequence of the present section 91(14) order is that neither party can make an application for a specific issue order without the leave of the court, a position which reinforces the need for 'great care' when a court is contemplating the making of such orders.**

61. I want to end with a note of caution. Although I have decided to allow this appeal to the extent set out above, both parties should think carefully before issuing further applications. Mediation is usually a much better way of resolving disputes than going to court. As the history of this case demonstrates, litigation is an inherently flawed process. Judges can make decisions and craft orders, but do not have the ability to cause parents to change their attitudes towards each other. This is often the root cause of the harm which children experience when they are placed at the centre of adult conflicts. My decision to allow the appeal will not prevent a court in future from imposing further section 91(14) restrictions should the welfare of the children require it."

[Lubala v Mousley](#) [2026] EWHC 1081 (Fam), (28 April 2026), Sir Jonathan Cohen

Headline: Be careful of indefinite 91(14) orders and no conditional orders

5. It is not necessary for me to go into the history of the matter at all. I will say no more other than that the Judge found that the father had perpetrated serious domestic abuse in this case. That was a finding that the father did not accept. The Judge made an order which gave the mother substantial control over their daughter's life and the father's contact was limited to indirect contact three times a year. In exchange, the mother must send to the father three times a year updates in relation to the child's welfare. The father tells me, and I have no reason to disbelieve him, that he and the mother communicate respectfully by email three or four times a year about their daughter.
6. The order went on to provide this in respect to the section 91(14). Paragraph 11 reads as follows:
7. "Pursuant to section 91(14) of the Children Act 1989 no application for an order that relates to the child under the Children Act 1989, including for enforcement, should be made by the respondent without the court's permission until further order."
8. It is the words "until further order" which are problematic.
9. Paragraph 12 reads: "During the currency of the section 91(14) order any application for permission to apply by the respondent must be made on the required application forms and must be accompanied by the following documentary evidence." That is, evidence and reports in respect of his involvement and progress in specified domestic abuse perpetrator programmes.
10. It is the requirement that the application must be accompanied by other documentary evidence, which is problematic.
11. In my judgment the section 91(14) order cannot stand in the form that it is. Paragraph 11 makes the order indefinite. My reading of the Court of Appeal decisions is that the duration of a court order must spell out its reasons clearly, and an indefinite order is an acknowledgment by the court that nothing more can be done and I quote from *Re J (A Child)* [2008] 1FLR 369 and *Re S (Permission to Seek Relief)* [2006] EWCA Civ 1190: "This should be preserved for cases at the egregious end which merit 'the strongest degree of forensic protection for the child from further ill-founded conflict'."
- ...
16. So far as documentary evidence is concerned, it seems to me that the cases of *Stringer v Stringer* [2006] EWCA Civ 1617 and *Re S (permission to seek relief)* [2006] EWCA Civ 1190 are conclusive. A section 91(14) order cannot be made conditional upon steps being taken or the provision of other documentation or information before an application can be made. It is perfectly permissible for the judge to say that she would expect any further application to be supported by the completion of certain steps, but the

restriction on making an application for permission cannot be made conditional. I will therefore delete paragraph 12 of the judge's order.

PREMATURE DETERMINATION AND RECUSAL

[C \(Children: Premature Determination\)](#) [2025] EWCA Civ 1481, Court of Appeal, 19 November 2025

Headline: Be careful how robust you are mid-hearing

At Final Hearing, after the Social Worker's evidence on the first day, the Judge gave an indication he was not in favour of adoption. On the second day the Judge then raised the subject again and indicated further evidence on the point was a waste of time. This led to the LA applying for permission to appeal on the basis the Judge had pre-determined the issue, and the Judge granted permission to appeal.

Peter Jackson & Miles LJ:

3. In this case, the 'decision of the lower court' was to stay its proceedings pending the outcome of an appeal for which it gave permission itself. That unusual state of affairs arose after the judge had (as we find) brought the proceedings to a halt by expressing a concluded view about the main issue in the case in the middle of the final hearing. The appellants argue that this was a serious procedural irregularity amounting to injustice. For the reasons that follow, we agree. Having heard submissions, we allowed the appeal and remitted the matter for rehearing by another judge. We now give our reasons.
...
14. On Monday 6 October, evidence was given by the allocated social worker and the mother. At the end of the day the judge gave an indication that he did not favour adoption for A. There is as yet no transcript of those remarks (though one was directed) but the parties all accept that it was a proper judicial indication, shared with the parties so that they could consider it overnight. Had matters rested there, there would have been no complaint and no appeal.
...
17. The recording of the events on the Tuesday morning reveals that the judge started by asking whether the hearing was going to carry on as if nothing had happened after his "bombshell" of the previous day. The advocate for the local authority, Mr Coutts, then delicately probed what it was that the judge was saying, whereupon the judge went further by making it clear that he was not going to make a placement order in relation to A, no matter what evidence he heard from the remaining witnesses. He twice described the hearing of further evidence as being a waste of time. This led the parties

to seek further time to consider how to proceed, which the judge readily allowed.

18. From outside court, the local authority then sent a message to the judge asking for permission to appeal on the basis that he had predetermined the issue of adoption for A. It did not ask him to reconsider his stance and it did not frame the matter in terms of recusal. When the parties returned to court, the judge immediately granted permission to appeal without seeking the views of the other parties, and he stayed the proceedings. The family finder, whose evidence would long since have been completed had she given it, was stood down. The remaining day and a half of court time was lost.

...

34. We do not doubt that the judge had given anxious thought to the questions that he had to decide. Furthermore, his extensive knowledge of the case, gained over the course of several hearings, placed him in a good position to give a judicious indication of his preliminary thinking, if he thought that might help the parties. He had done that in February in relation to R, and they had responded. He did so again on the first day of the October hearing, having heard the local authority's principal witness, and no complaint is made about that. These matters are important context for what occurred on the second day, and we take them into account.
35. We also take account of the fact that, over the course of the care proceedings as a whole, aspects of the local authority's planning had been subject to what it accepts was justified criticism.
36. We nevertheless find the Appellants' submissions to be unanswerable. **We reject the argument that the judge's statements on the second day of the hearing amounted to no more than a robust indication. He repeatedly said that he could not sleep at night if he made an adoption order and that it would be a waste of time to hear further evidence. He said and repeated that he had "made the decision". This was an unmistakable predetermination by a judge who had closed his mind to the case being advanced by two of the parties in relation to a matter of profound and lifelong importance to A.**
37. It is next said on behalf of the parents that the local authority and the Guardian could have averted the breakdown of the trial. On behalf of the father it is argued that they should have persuaded the judge to reconsider his position by elaborating on all the ways in which the further evidence might have assisted him. We do not accept that submission. The local authority offered the judge an opportunity to give reassurance that he remained open to persuasion, but he did not do that, and instead expressed his views even more strongly. This placed the parties in an impossible position. It would have been unrealistic to simply call the

witnesses in front of a judge who had already made his mind up on the things they would be speaking about. We also reject the submission that the advocates should have tried to persuade the judge to keep an open mind until he had heard all the evidence. Parties are entitled to expect that of a court, and should not have to argue for it. In any event, as the transcription shows, further argument (in effect premature final submissions in favour of adoption) would have been futile.

38. We regret to say that the judge's escalating intervention had the predictable effect of derailing the trial that he was conducting. The only way the hearing could have continued would have been if the local authority and the Guardian had fallen in with his view. That is clear from the one question that he asked of the Guardian: *"Has she changed her mind?"* A fair trial was now impossible.
39. The appellants are therefore entitled to succeed, but before concluding we express our concerns about what has occurred in this case.
40. First, whilst the staying of the proceedings became inevitable once the judge had declared his hand, we do not share the equanimity with which he made that order. The Guardian is right to describe the course that he took as unconscionable. If ever a set of care proceedings should not have been indefinitely stayed, this was it. These children's lives had been on hold for years, and delays on this extravagant scale can become decisions by default as time forecloses on the range of available options. In creating the conditions in which the hearing could not continue, the judge deprived all parties of a long-overdue decision. Even if the case could now be remitted to him, several more months would pass before a final order could be made. As it is, it may take even longer, as another judge will now have to regather the evidence.
41. Second, we have considerable sympathy with the position of the parents. The judge's statements will have led them to feel that they had fended off the prospect of placement orders, and it is understandable that they resisted the appeal. The mother is a vulnerable person who has been involved in proceedings since the middle of 2023 and now faces the prospect of more delay, and perhaps the prospect of having to give evidence again.
42. Third, the judge's lack of interest in hearing from the Children's Guardian was in our view unaccountable. **Children's Guardians are a cornerstone of our public law system.** The decision was not straightforward. Even if the judge's ultimate decision was to dismiss the application for a placement order, his understanding of A's situation could only have been enhanced by hearing from her experienced Guardian. To determine the issue without hearing that evidence was obviously procedurally unfair. We also agree with the local authority that brief evidence from the family finder might

have assisted the judge's understanding of contact issues as well as timings, but the failure to hear that evidence was not of the same significance.

43. All these difficulties could have been avoided if the judge had performed his duties in the normal way, by listening to the evidence and submissions and giving a suitable judgment. He could not have been criticised for sharing his reservations about adoption with the parties during the hearing in a manner that allowed them to consider and address them. But in attempting to short-circuit the process and impose his own views without hearing important evidence and attending to submissions, his actions had the very opposite effect”.

[D \(A Child\) \(Recusal\)](#) [2025] EWCA Civ 1570, Court of Appeal, 09 December 2025

Headline: If recusing see why and it doesn't overturn previous findings, and watch out for LIPs using AI

“Discussion

70. **On any view, the course adopted by District Judge ... was irregular. He made the two orders recusing himself without seeking representations from the father. He gave no reasons for his decision. That in itself is a procedural irregularity which would be sufficient to set aside the orders.**
71. In my view, however, this Court can go further. The circumstances are sufficiently clear to enable us to make an assessment and decide whether there is a real possibility of bias.
72. Given the recital at the top of the order in proceedings MA23P00980, it can be assumed that the district judge read the mother's letter and grounds for recusal. It does not follow, however, that he accepted her arguments about apparent bias. The order simply said that "DJ recuses himself from the case and the matter is no longer reserved to him". As Ms Sweeney suggested to Judge Greensmith in the hearing on 21 July, it is possible that the reason for the district judge's order was simply to lift the provision reserving it to himself. On any view, however, the effect of the order was only to transfer the future conduct of the case to another judge. It had no effect on the past conduct of the case. **There is nothing to suggest that the district judge intended that his "recusal" should lead to the findings he had made being set aside.** On the contrary, paragraph 3 of the orders provided that "The hearing listed for 24 February 2025 is vacated and will be relisted together with the case number MA23P00980 [or MA25P500009] upon transfer to the Family Court at St Helens." The hearing listed on 24 February 2025 was the dispute resolution hearing provided for in the order dated 5

November 2024 following the fact-finding hearing. It can therefore be inferred that the district judge's intention was that the Family Court at St Helens would proceed with the dispute resolution hearing on the basis of his findings.

73. **Had he thought there was any possible merit in the mother's assertions of bias, he would have been bound to take a different course.** First, he would have directed the father's representatives to respond to the mother's application. Secondly, in my view he would have been bound to list the application for a hearing. Thirdly, if at the conclusion of the hearing he had accepted the mother's arguments, he would have taken steps to set aside his findings and explained his reasons for doing so. The fact that he took none of those steps, but simply transferred the dispute resolution hearing to another court, is clear evidence that he did not accept the mother's assertions that his findings were tainted by bias.
74. **I am satisfied that there is no merit in the mother's assertion of bias. Her grounds for recusal are substantially a challenge to the district judge's analysis of the evidence. She asserts that his mischaracterisation of and errors in analysing the evidence give rise to an appearance of bias. In my view there is nothing in the district judge's judgment to support that assertion.** In the course of her oral submissions, the mother identified four passages in the judgment on which she particularly relied. Her criticisms of those passages are, for the most part, challenges to his findings and assertions that he has misunderstood or misrepresented the evidence. Some of the passages cited relate to the two grounds on which Judge Greensmith granted permission to appeal on 31 March. We are not in a position to assess the merits of those grounds. Had the judge proceeded to hear the appeal on those grounds, he may have allowed the mother's appeal. There is, however, no basis on which a fair-minded and informed observer would conclude from reading the judgment that there was a real possibility that the judge was biased.
75. We have not been provided with the transcript of the evidence given before the district judge to assist us in assessing the mother's assertion. Judge Greensmith, however, had been provided with the transcript. Having read it, he confined the appeal against the district judge's findings, for which he had previously given permission, to only two of the grounds raised by the mother. The remainder of the grounds of appeal, which in many respects mirrored the points raised by the mother in her "grounds for recusal" document, were set aside. Then, in his judgment on 21 July, Judge Greensmith said that he could not see any evidence in the written transcript of any obvious bias on the part of the judge, adding that this was "with the benefit of hindsight and my knowing the process and knowing what bias looks like".

76. **In circumstances where (1) the process by which the district judge recused himself was irregular in that he failed to allow the father any opportunity to respond to the allegation and failed to give any reasons for his decision, and (2) there is nothing in the judgment or, on Judge Greensmith's assessment, in the transcript of the evidence to support the mother's assertion of apparent bias, I conclude that the father's appeal against the district judge's decision to recuse himself should be allowed on the three grounds advanced on the father's behalf and the orders of 6 February 2025 should be set aside.**
77. By itself, that conclusion provides sufficient reason for allowing the father's appeal against the order of 21 July by which Judge Greensmith allowed the appeal against the findings solely on the basis that the district judge had recused himself. But in any event the decision to allow the appeal was flawed for other reasons. I have considerable sympathy for the judge and understand why he said that he found himself in "a very unsatisfactory position". Furthermore, he was understandably concerned about the delays that had occurred in the proceedings and was anxious to "move the case forward". But in my view the course he took was wrong for the following reasons.
78. The hearing on 21 July was listed for consideration of the appeal on the grounds for which permission to appeal had been granted in the order of 31 March. In the event, those grounds were not addressed at all. The judge determined the appeal on a different basis. As Mr Spencer accepted, **once the recusal was drawn to his attention during the hearing, it was open to the judge to address the issue. It was, however, not fair to determine the appeal on a summary basis without ascertaining from the district judge his reasons for his recusal and giving the parties the opportunity to make submissions arising from that information. I do not accept the mother's submission that it would have been improper to make any inquiry of the district judge about his reasons for his recusal because he was *functus officio* or because such an inquiry would have been inconsistent with the principles of judicial independence and Article 6 ECHR and constitutionally improper. On the contrary, the district judge would have been under a duty to respond to such a request as it was, in the words of Patten LJ in *Re L-B*, incumbent on him to explain the reasons for his decision to recuse himself.** As Sir Terence Etherton C observed in *Resolution Chemicals Ltd v H Lundbeck A/S*, such an obligation is "consistent with the policy underlying Article 6(1) of the Convention and common law principles".
79. I do not accept the submission which I understood the mother to make that Judge Greensmith's decision to allow the appeal was based not only on the recusal decision but also on the merits of her grounds of appeal. It is plain

from the transcript of the hearing and from his judgment that his decision was based solely on the recusal decision and not on any consideration of the two grounds of appeal for which the judge had given permission on 31 March. Although, when granting permission to appeal, he would have been satisfied that there was a real prospect that the appeal would succeed on one or both of those grounds, or that there was some other compelling reason for the appeal to be heard, at no point did he say anything to indicate that the appeal would be allowed on those two substantive grounds.

80. The position in which Judge Greensmith found himself on 21 July was similar to the predicament facing the circuit judge in *Re W (Children: Reopening/Recusal)*. As in that case, it is "understandable that the judge was troubled by this odd position and clear that he was acting with the best of intentions". But, as Peter Jackson LJ observed of the judge in *Re W*, it was "necessary for him to approach the matter systematically". **There was no bar to Judge Greensmith considering the issue of the recusal in the context of the appeal but fairness required him to take steps to establish the reasons for the district judge's decision and inform the parties so that they were in a position to respond. Instead, having heard submissions as to whether he should proceed to hear the appeal, the judge returned after the short adjournment and delivered a judgment allowing the appeal. The course he took denied the father a fair opportunity to address the new proposal that the findings be set aside on a wholly different basis from that which he had anticipated. As in *Re W*, the process was not fair to either party.**
81. For those reasons **I would also allow the appeal against the order of 21 July 2025. But that does not conclude the challenge to the district judge's findings. The grounds of appeal for which permission was granted in the order of 31 March remain outstanding. In fairness to the mother, they must be considered.** This Court is in no position to address them. If my Lords agree, I would therefore remit the appeal to HHJ Singleton KC, the Designated Family Judge for Manchester. Nothing I have said in this judgment should be read as expressing any view about the merits of the two grounds of appeal which will be for Judge Singleton to determine. In addition, having now seen the email exchange drawn to our attention by the mother after receiving our draft judgments, it may be necessary for Judge Singleton to consider the mother's application apparently sent by email on 5 April 2025 for reconsideration of the order dated 31 March 2025 limiting the grounds of appeal.
82. **I turn finally to the third appeal, against the order of 31 July 2025. As, if my Lords agree, we will be setting aside the district judge's recusal decision, it is unnecessary at this stage to ask him to give his reasons**

for that decision. In those circumstances I would propose making no order on the appeal against the judge's dismissal of the application for him to do so. I would, however, set aside the judge's order certifying the father's application as totally without merit.

- 83. Finally, I return to the issue raised by the father's representatives about the mother's erroneous citation of authority (see in particular paragraph 54 above). I absolve the mother of any intention to mislead the court. Litigants in person are in a difficult position putting forward legal arguments. It is entirely understandable that they should resort to artificial intelligence for help. Used properly and responsibly, artificial intelligence can be of assistance to litigants and lawyers when preparing cases. But it is not an authoritative or infallible body of legal knowledge. There are a growing number of reports of "hallucinations" infecting legal arguments through the citation of cases for propositions for which they are not authority and, in some instances, the citation of cases that do not exist at all. At worst, this may lead to the other parties and the court being misled. In any event, it means that extra time is taken and costs are incurred in cross-checking and correcting the errors. All parties – represented and unrepresented – owe a duty to the court to ensure that cases cited in legal argument are genuine and provide authority for the proposition advanced”.**

PUBLICITY / PUBLICATION

[Bradley v CM & Ors](#), [2026] EWHC 125 (Fam), Poole J, 26 January 2026

Headline: Journalist granted access to Expert Reports – guidance to come?

1. It seems to me that there may be other similar applications by journalists in relation to other cases in the future - they may wish to report on issues raised in cases that have been heard in private which they have not attended. FPR r27.11, r12.73, r12.73A, and PD12R provide journalists with an important but narrow window into family proceedings. Applications of the kind made by Ms Bradley seek to widen the ability to investigate and report on family proceedings. The court can address such applications on the basis of the current rules and established legal principles but, as this application and this long judgment demonstrate, a great deal of effort and thought is required when such applications are pursued. The tension between open justice and the protection of children's welfare is not easy to resolve. FPR PD12R does not cover situations when an accredited journalist or legal blogger has not attended a hearing but wishes to see documents on the court file and to publish from them and more generally in relation to the proceedings. It would be helpful to have guidance and/or a streamlined procedure to apply to such cases.

[Re E \(A Child\)](#) [2025] EWCA Civ 1563, Court of Appeal, 2 December 2025

Headline: Witnesses of Fact are unlikely to have grounds to intervene re findings if properly put

A private therapist against whom adverse finding and comment was made in a judgment sought to appeal non-anonymisation, but also later against the findings themselves. The Court of Appeal found she had been given the opportunity to comment on anonymisation and had been slow in raising complaint as to the findings against her. The Court held there was no challenge which should be permitted to proceed.

King & Warby LJ:

- "2. The applicant makes an in-time application for permission to appeal against the judge's decision to publish the Judgment without anonymising the applicant. She also seeks an extension of time in which to apply for permission to appeal against some of the findings in the Judgment itself,

and permission to amend the appellant's notice to the extent necessary for that purpose. The grounds of challenge, shortly stated, are that the Judgment contains findings about the applicant which were unfairly made and wrong, and that their publication would violate her Convention rights.

...

29 ... **we direct that this judgment may be cited.** We consider it important to emphasise the exceptional nature of Re W and to underline the following. **A witness of fact will generally have no legitimate ground of appeal in respect of adverse findings contained in a judgment, provided the criticisms have been fairly put to the witness in cross-examination for comment or response before the findings are made. A witness who is at risk of adverse findings does not, for that reason, have any right to intervene or to have legal representation"**

[Re CX \(A child\) \(Reporting restrictions order: National security\)](#) [2026] EWHC 994 (Fam), Garrido J, 29 April 2026

Headline: Transparency Orders and National Security

48. Ms Reed, KC, opened the hearing by telling me that the parties and the intervener were all agreed that the court should permit anonymised reporting on terms defined in a draft transparency order and draft reporting restriction order that I was invited to approve. Notice of the hearing had been given to the media at large but no other journalist or media organisation attended to make representations. The content of both draft orders was scrutinised and I suggested various amendments, inviting the parties to seek the agreement of the SSD and the special advocate overnight.

49. Revised, agreed draft orders were provided on the second day. I accepted the agreement of the parties and the intervener that the proposed orders struck the right balance between the ECHR Article 8 right to a private and family life of the parents and child and the ECHR Article 10 right to freedom of expression of the mother, Ms Tickle and the media at large, against the background of the national security issues raised as a result of the father's employment.

50. The agreed restrictions imposed by the RRO are:

[9] [The prohibition of] the publishing etc. of the following information (i) if it would identify the child (whether directly or indirectly) as being the subject of proceedings under the Children Act 1989, or (ii) in connection to

any reporting of matters considered within proceedings relating to the child before the family court or Family Division of the High Court:

- (a) The name, date of birth, and address of the child;
- (b) The name and address of either parent;
- (c) The child's school or identifying features of such school;
- (d) Photographs or images of the child, their parents, or any other person by reference to whom the child may be identified, or any of the locations specified in [sub]paragraphs (a), (b), (c) or (f);
- (e) Information concerning the occupation of the father, save as permitted by the transparency order made on this date on the application of Louise Tickle;
- (f) Any information which identifies or would tend to identify the area in which the child, mother or father lives, or any location connected to the father's employment including reference to:
 - (i) any local services engaged with the family;
 - (ii) Cafcass personnel involved in any of the proceedings concerning the child;
 - (iii) law firms instructed by the mother, father, or child (through her guardian) or individuals working within those law firms (save that the firm and solicitor instructed by the mother in relation to the reporting and transparency proceedings, and the revived welfare proceedings, may be identified);
 - (iv) the name and location of the court which heard the original welfare proceedings;
 - (v) the names of the judges hearing the original welfare proceedings;
 - (vi) the name of the judge who determined the mother's application for permission to appeal the final order made in the original welfare proceedings;
 - (vii) the case number under which the original welfare proceedings were conducted (which is set out in the confidential annex to this order).

51. The agreed permissions provided for in the transparency order are:

[11] Louise Tickle may (through herself or her commissioning editor or media organisation) publish any information relating to the proceedings save to the degree restricted in the reporting restrictions order made today. Specifically, she may publish the assertion that the father was and remains (as at the date of this order) a serving member of the Special Forces.

[12] Louise Tickle may (through herself or her commissioning editor or media organisation) publish information relating to the applications for reporting restriction orders save as otherwise prohibited by this or the reporting restriction order, and this permission includes any reporting of or comment upon the letter from the MOD dated 11 February 2025

exhibited to the father's application for a reporting restriction order that is not prohibited by the reporting restriction order (in particular paragraph 9).
Disclosure of documentary evidence

52. Having approved these orders, I returned to the only issue that remained in dispute, as it had been throughout the proceedings, having first heard argument about it at the hearing on 20 March 2025. Ms Tickle still wished to have disclosed to her many hundreds of pages of statements, assessments and reports filed in the original proceedings about which the authors and subjects had a reasonable expectation of privacy.

...

53. I had addressed the competing arguments for disclosure of these documents on an interim basis in my judgments arising from the hearings on 20 March and 31 July 2025, but they are now being put in very different circumstances, i.e. where all parties and the intervener are agreed on the principle of, and the restrictions to be placed on, publication. Furthermore, I was also provided at this hearing, for the first time, with the redactions to those documents that the children's guardian says are necessary in the child's best interests. Those redactions are made in addition to those that had been proposed last summer by the SSD on the basis of national security.

The legal framework

54. There is little if any dispute between the parties on the legal framework within which I must determine this dispute.

55. The starting point is the decision of the Supreme Court in *Cape Intermediate Holdings Ltd v Dring (Asbestos Victims Support Groups Forum UK)* [\[2019\] UKSC 38](#) (in particular paragraphs 41 to 46) with the re-stating of "the constitutional principle of open justice [that] applies to all courts exercising the judicial power of the state" thereby giving the courts an inherent jurisdiction to determine access to documents or other information placed before the court. *Dring* highlighted the principal purposes of the open justice principle as being two-fold: to enable public scrutiny of the way in which courts decide cases; to enable the public to understand how the justice system works and why decisions are taken. Further, there is a recognition that the increased reliance on written documents has changed the landscape of the operation of the open justice principle, in that what is said in court or written in a judgment is increasingly difficult to understand without access to the primary documentary evidence. Finally, it is for the

person seeking disclosure to explain how access to documents will advance the open justice principle and for the court to undertake a fact-specific balancing exercise between the benefit to open justice of disclosure and any risk of harm resulting from disclosure.

56. Those on behalf of the father have placed reliance on the subsequent decision of the Court of Appeal in *Newman v Southampton City Council* [2020] EWCA Civ 437 where the approach to disclosure at first instance was endorsed. However, the application in *Newman* was not primarily advancing either of the two principal purposes of the open justice principle, and was decided prior to the conclusion of the transparency review, the subsequent pilot scheme and the implementation of FPR 2010 PD12R. Having said that, those on behalf of Ms Tickle did acknowledge the benefit of adopting the broad approach to consideration of the documents to be disclosed that was adopted at first instance in *Newman v Southampton CC & ors* [\[2020\] EWHC 2103 \(Fam\)](#) at [111]-[115].
57. Ultimately, the father did not seriously advance a submission that this application for disclosure falls outside the open justice principle. The circumstances giving rise to the decision of the Court of Appeal in *Re HMP* [\[2025\] EWCA Civ 824](#) were quite different, where the primary focus of the journalistic endeavour was to be the manner in which the local authority had discharged its functions, rather than either limb of the purpose of the open justice principle.
58. Where the open justice principle does apply, the Court of Appeal in *Tickle & anor v The BBC & Ors* [\[2025\] EWCA Civ 42](#) at [49]-[50] clarified that the balancing exercise "starts with a clear presumption in favour of open justice unless and until that is displaced and outweighed by a sufficiently countervailing justification."
59. Very recently, Poole J handed down judgment in *Jessica Bradley v CM & ors* [\[2026\] EWHC 125 \(Fam\)](#), providing a useful example of the consideration of an application by a journalist for access to reports in four separate sets of proceedings that, like here, the journalist had not attended.

The parties' submissions

60. Set against this legal framework, the mother, the children's guardian and the SSD do not object to Ms Tickle receiving the documents that she seeks,

subject to the redactions that they propose and to which Ms Tickle agrees in principle.

61. The father was therefore a lone voice for a much more restrictive approach to disclosure. Replying to the unanimity of the other parties on behalf of his client, Mr Bagchi, KC, adopted expansive and 'broad brush' submissions to supplement those made in detail by his junior, Ms Cayoun, in writing.
62. Mr Bagchi emphasised that litigants in the family court are encouraged to be candid about intensely private aspects of their family life so that the court can have the fullest possible picture in promoting the welfare of children. Traditionally the *quid pro quo* has been the privacy and confidentiality of proceedings, and there may be an unwelcome consequence in sweeping this away. He submitted that if litigants' privacy can be overborne in the way suggested in this application, in future they must be warned of the consequences of full cooperation with the court process.
63. He sought to identify a problematic situation in which litigants may find themselves when a reporter, rather than turning up to a hearing to listen to the evidence when a transparency order is likely to be made in standard terms, applies many months or years later for disclosure. Without the *pro bono* assistance of their legal teams, the mother and father in this case would have been at a considerable disadvantage against an experienced journalist. He painted a picture of a developing two-tier system in which those who can afford representation in satellite litigation may have their privacy protected in a way those unable to afford so to do will not, and where such satellite litigation and involvement by one party of a journalist may be perceived as a way for that party to 'weaponise' the process.
64. At the heart of his submissions, however, was a repeated emphasis on the judgment and the standard disclosure provided by PD12R being sufficient to promote the open justice principle, and the extensive and intensely personal information contained in the primary evidence being unnecessary for either public scrutiny or greater understanding.

Analysis

65. There is no doubt in my mind that the majority position is the correct one. **There is a significant public interest in the family court's approach to the determination of allegations of domestic abuse and the impact of any subsequent findings on the future arrangements for children to**

have a relationship with a perpetrator parent. I proceed on the basis that Ms Tickle's purpose in reporting this case is to enable public scrutiny and further public understanding of the decisions taken in that context in this particular case. That places this application squarely within the open justice principle, and is not undermined by the additional impact on the case of the assertion of the father's membership of UKSF, whatever that may be.

66. I accept that it is good journalistic practice to rely on source material and if willing, the direct accounts of those involved in the case. It is an important first step for judgments to be published and core documents to be made available as a matter of course in conjunction with transparency orders in accordance with PD12R. I acknowledge, however, that more detailed scrutiny and understanding may require a specialist journalistic analysis of the material underpinning the court's decision, rather than being limited to the contents of a judgment that is necessarily framed for a different purpose.

67. The gold standard is clearly for the journalist to attend the proceedings that she wishes to report and hear the evidence tested. However, as acknowledged by Poole J, a failure to do that will not always or even often lead to non-disclosure of primary documentary evidence just because the gold standard can no longer be attained. A transcript of the original proceedings may be the next best thing, but it is not routinely available and in this case Ms Tickle does not consider the financial expense sufficiently justified for her purposes. However, to borrow Voltaire's aphorism, perfection cannot be allowed to be the enemy of the good enough.

68. It is particularly significant, in my judgment, that the children's guardian does not assert that the child will be caused any harm by the disclosure sought, provided that her proposed redactions are made.

69. I am satisfied that the restrictions on the extent of anonymised reporting agreed by the parties, together with the children's guardian's and the MOD's redactions, sufficiently protect the ECHR article 8 rights of the child, mother and father in the balance against the overwhelming importance of advancing the article 10 rights of freedom of expression.

70. If I am to take this approach in respect of the original proceedings, it follows that the same considerations apply to the current proceedings, further enhanced by the knowledge that Ms Tickle has expressed her intention to attend the ongoing hearings.

71. During the course of argument, I raised with the parties whether all this disclosure should properly be limited to Ms Tickle, or whether the very same arguments that she had advanced, with the support of the mother and the children's guardian, should lead to the disclosure being made to the media at large. It was forcefully argued on Ms Tickle's behalf that her pre-existing knowledge of the case places her in a special position as far as disclosure is concerned, given that she has brought this application and 'invested' in it over the last year as one of a very limited number of journalists with experience of reporting family proceedings. Ms Reed submitted that the extent of disclosure to other journalists should be considered separately in due course if and when they make an application.
72. On the contrary, Mr Barnes argued that no one journalist should be favoured by the court and if in principle the documents must be disclosed to Ms Tickle, they must be provided to any other accredited journalist who wished to see them.
73. The children's guardian advanced a more nuanced position agreeing that no one journalist should be favoured by the court but recognising Ms Tickle's position in these proceedings as the sole active and consistent media participant. The guardian had, perhaps understandably, only analysed the position on disclosure as it applied to Ms Tickle and recommended redactions accordingly. Different considerations may apply to the media at large. Ms Brereton, KC, submitted, therefore, that any future applications by other journalists for disclosure should be addressed on a case by case basis.
74. Whilst recognising the purity of Mr Barnes' approach, I am persuaded by the children's guardian to tread carefully and deal with any future applications if and when they arise, albeit that I will be able to have regard in future to the rationale for the decision that I have made in respect of disclosure to Ms Tickle.

Conclusion

75. I shall therefore make the transparency order and reporting restrictions order as agreed between the parties and the intervener, and order the disclosure of the documents sought by Ms Tickle, albeit subject to the redactions proposed by the children's guardian and the SSD.

Editorial note

76. As alluded to at paragraph 47 (above), this judgment was first sent in draft to the MOD and the special advocate only, who made suggestions as to how the CLOSED material referred to in the judgment could be gisted. Their agreed gist for each piece of CLOSED material is included in this OPEN judgment in square brackets.

[Re X \(A Child\) \(Disclosure to the NMC\)](#) [2025] EWFC 332 (30 September 2025)

Headline: Good example of how to approach application to disclose to a Regulator

This is the local authority's application for permission to disclose the judgment I gave on 4 April 2025 together with the findings therein to the Nursing and Midwifery Council (hereafter NMC). The relevant judgment will be published with this and has the Neural Citation [\[2025\] EWFC 87](#). The application for permission to disclose is dated 6 August 2025. A statement in support was filed by the local authority on 14 August 2025 with an amended statement being filed dated 21 August 2025. The application is not opposed by the mother or the children's Guardian. It is presumed to be opposed by the father who did not attend this hearing despite having had notice of it and the application made.

2. The NMC are the regulator for nurses, midwives and specialist community public health nurses eligible to practise in the UK with the aim of protecting the health and well-being of the public. The father in this case, Mr B, is a registered nurse (mental health). There is an on-going investigation into his fitness to practice by the NMC.

...

The Children Act proceedings before me ended on 31 July 2025. Accordingly, s.97 Children Act 1989 no longer applies - *Clayton v Clayton* [\[2006\] EWCA Civ 878](#). However, s.12 Administration of Justice Act 1960 and the Family Procedure Rules Part 2010, r.12.73-76 and PD12G remain in play.

11. FPR 2010 r.12.73 allows disclosure of material from family proceedings to specified people and bodies with the permission of the Court.

12. Communication of information relating to Children Act 1989 proceedings will fall into 3 categories:

a. r.12.73(1)(a) - communications can be made as a matter of right;

- b. r.12.73(1)(c) and PD12G §1&§2 - communications may be made but are subject to any direction by the court, including in appropriate circumstances, a direction that they should not be made; and
 - c. r.12.73(1)(b) - communications may only be made with the court's permission.
13. The circumstances are set out in table form within PD12G. None of these appear to automatically permit the local authority to disclose the judgment and findings to the NMC.
 14. Providing a copy of the judgment to the NMC therefore falls into category 12.73(1)(b), i.e. only when the Court gives permission.
 15. When considering giving permission, the Court can permit disclosure to a regulatory body where it is necessary and proportionate to do so and is in the public interest. These areas would include child protection and safeguarding patients and the vulnerable.
 16. In *Re Z (Disclosure to Social Work England: Findings of Domestic Abuse* [2023] 2 FLR 995 Mrs Justice Gwynneth Knowles fully considered the legal approach to disclosure at [19] - [34].
 17. Her approach in *Re Z* was also further considered in *The General Dental Council v KK and Another* [2024] EWHC 3053.
 18. In short, the principles and approach to be adopted by the Court are found in *Re C (A Minor) (Care Proceedings: Disclosure)* [1997] Fam 76, *sub nom Re EC (Disclosure of Material)* [1996] 2 FLR 725 at 85 and 733:
'In the light of the authorities, the following are among the matters which a judge will consider when deciding whether to order disclosure. It is impossible to place them in any order of importance, because the importance of each of the various factors will inevitably vary very much from case to case:
 - (1) The welfare and interests of the child or children concerned in the care proceedings. If the child is likely to be adversely affected by the order in any serious way, this will be a very important factor.*
 - (2) The welfare and interests of other children generally.*
 - (3) The maintenance of confidentiality in children cases.*
 - (4) The importance of encouraging frankness in children's cases.**All parties to this appeal agree that this is a very important factor*

and is likely to be of particular importance in a case to which s 98(2) applies. The underlying purpose of s 98 is to encourage people to tell the truth in cases concerning children, and the incentive is that any admission will not be admissible in evidence in a criminal trial. Consequently, it is important in this case. However, the added incentive of guaranteed confidentiality is not given by the words of the section and cannot be given.

(5) The public interest in the administration of justice. Barriers should not be erected between one branch of the judiciary and another because this may be inimical to the overall interests of justice.

(6) The public interest in the prosecution of serious crime and the punishment of offenders, including the public interest in convicting those who have been guilty of violent or sexual offences against children. There is a strong public interest in making available material to the police which is relevant to a criminal trial. In many cases, this is likely to be a very important factor.

(7) The gravity of the alleged offence and the relevance of the evidence to it. If the evidence has little or no bearing on the investigation or the trial, this will militate against a disclosure order.

(8) The desirability of co-operation between various agencies concerned with the welfare of children, including the social services departments, the police service, medical practitioners, health visitors, schools etc. This is particularly important in cases concerning children.

(9) In a case to which s 98(2) applies, the terms of the section itself, namely, that the witness was not excused from answering incriminating questions, and that any statement of admission would not be admissible against him in criminal proceedings. Fairness to the person who has incriminated himself and any others affected by the incriminating statement and any danger of oppression would also be relevant considerations.

(10) Any other material disclosure which has already taken place.'

19. The approach in Re C was affirmed in the Court of Appeal in Re M (children) [2019] EWCA Civ 1364, sub nom Re M (Care Proceedings: Disclosure) [2020] 1 FLR 50. Sir Andrew McFarlane P noted that applications should only be granted if the criteria in Re C were satisfied and it was necessary and proportionate to do so.

20. Moreover, in *Re P (Children) (Disclosure)* [2022] EWCA Civ 495, [2022] 2 FLR 912 it was noted that:
- a. The circumstances in which disclosure decisions were made will be variable and will require the court to make an evaluative judgment; and
 - b. *Re C* did not create a presumption in favour of disclosure.
21. The principles of *Re C* also apply to disclosure of information to professional regulatory bodies - see *Re R (Disclosure)* [1998] 1 FLR 433.
22. In *Re L (Care Proceedings: Disclosure to Third Party)* [2000] 1 FLR 913, Mrs Justice Hogg permitted disclosure of her judgment and other documents to the UK Central Council for Nursing, Midwifery and Health Visiting ("UKCC"). In that case the mother was psychiatric nurse. The Court made findings that the child had suffered significant emotional harm in the mother's care by reason of the mother's deteriorating mental health and emotional state.
23. Hogg J noted that the UKCC "[...] *has an obligation to protect as far as possible vulnerable members of the public, namely patients and in this case vulnerable children*". She went further and indicated that courts and practitioners should be alive to the need, in an appropriate case, to consider whether a referral needed to be made to the UKCC and what information should be disclosed from proceedings in the family court.
24. The UKCC was replaced by the NMC in April 2022.
25. In *A Local Authority v SK & HK* [2007] EWHC 1250 (Fam), Sumner J permitted disclosure to the mother's employers. She worked in a residential home for elderly people, and the Court had found that the mother had physically assaulted and injured her 8-year-old daughter. Whilst the mother was not working directly with children, Sumner J set out at §47 that the mother worked with "*vulnerable adults who may well not be able to look after themselves nor, as with a child, necessarily able to give a coherent account in relation to any harm that they suffer*".
26. The balancing exercise the court needs to undertake therefore includes a balance of confidentiality and the rights of privacy to both the family and the child as well as a balance of the public interest in patient safety and professional regulation.

27. The NMC has its own Fitness to Practise Rules which ensure that any disclosed information is used appropriately within the regulatory framework.

...

28. I remind myself that this is an application by the local authority for permission to disclose my judgment of 4 April 2025 to the NMC. The Adult Safeguarding Team opened an adult safeguarding *Person in a Position of Trust* case and made the initial referral to the NMC last year. The father is defined as a *Person in a Position of Trust* by reason of his role as a registered nurse. They made the referral to the NMC in accordance with their statutory duties under Working Together to Safeguard Children 2023 and the Care Act 2014. The local authority now seek my permission to disclose my judgment to the NMC. That application is made as a furtherance of their duty to safeguard. It is an application made in accordance with the need for inter-agency cooperation when safeguarding children and the vulnerable, and to inform the NMC's investigation into the father's fitness to practice. There is a public interest in enabling inter-agency cooperation to further the safeguarding of the vulnerable both adults and children alike. I factor into my determination that public interest but note that there is no presumption in favour of disclosure and that I must conduct a holistic evaluation.

29. In determining the application for permission to disclose, I factor in the subject child's interests. She is the subject of a final care order and is in long term foster care. There is no plan for rehabilitation. Her father makes no contribution to her maintenance. He has no contact with her, having refused contact because he does not accept that it should be supervised. The reality is that disclosure of my judgment to the NMC is unlikely to have any real impact on the subject child's day-to-day life or her relationship with her father.

30. This court has made serious findings about the father.

...

31. The father is a registered mental health nurse although he has said that he no longer works as such. His registration remains current and there is nothing preventing him from returning to nursing should he so choose. It is known that when he has worked as a registered nurse, he has worked with mentally ill patients and with vulnerable adults. I note, as Mrs Justice Gwynneth Knowles did in paragraph 56 of *Re Z* (above) that the father does not appear to work with children. However, like her, I align myself with what

Sumner J said in *A Local Authority v SK & HK* (above) as to the similarities connecting the care of children to the care of vulnerable adults...

32. I accept that the disclosure of my judgment to the NMC will compromise the subject child's right to privacy and confidentiality of information. However, I can and will redact the judgment in the manner of the draft submitted in the bundle. The Schedule of Findings will also need to be similarly redacted. Such anonymisation will minimise the impact on the confidentiality of the subject child's information and the interference with her right to privacy under Article 8. There will however be a risk that her identity will become known as the disclosure relates to her father and it will be known that he is Mr B. That risk can be mitigated by making the disclosure on the condition that the judgment is used by the NMC solely for the purpose of their Fitness to Practice Investigation.
33. I take into account the confidentiality and privacy of Children Act proceedings and the important public interest in maintaining confidentiality to encourage candour and frankness in cases concerning children.
34. I factor into my decision making that permitting the local authority to disclose the judgment to the NMC will impinge upon the father's confidentiality of information and right to privacy under Article 8. On 31 July 2025, I was told on his behalf that he strongly resisted the disclosure. However, I note and set against that objection that he also sought publication of my judgment in full without redaction and anonymisation. Had I acceded to his submissions, the unredacted judgment would be open to the world to view including the NMC.
35. I remind myself that disclosure of my judgment to the NMC may impact on the father's ability to work in the future and his income. However, I also place into my consideration that the local authority seeks my permission to disclose my judgment to the NMC to inform the NMC's investigation and decision-making upon the father's Fitness to Practice. It does not dictate the outcome of that process, that is a matter for them.
36. I remind myself that it is important in the overall interests of justice that barriers should not be erected between one court or tribunal and another. The NMC is not part of the court and tribunal system but its fitness to practice procedures are underpinned by statute and regulation and pay proper regard to an individual's right to a fair hearing as well as ensuring that nurses are fit to practice. It is in the public interest that high standards

are required and maintained by those working with vulnerable adults and patients.

37. The gravity of the conduct of the father which I have found to have occurred and its relevance to the NMC's investigation into the father's fitness to practice must also be factored into my decision making. The findings are grave. The father, if he had attended might argue that the NMC already have the police disclosure and they can have his account without disclosure. However, the father does not accept the findings I made and given the complaint that he attached to his position statement for 31 July 2025, this court can have no confidence that he would relay the findings I made to the NMC faithfully and accurately.
38. Having considered all the relevant factors, I have stood back and asked myself where the balance lies. Having done so, I have decided that the balance in this case falls in favour of permitting the local authority to disclose my judgment redacted as I have approved and the Schedule of Findings similarly redacted to the NMC to inform their investigation into the father's fitness to practice. That permission is conditional upon the NMC being permitted to use the judgment and the Schedule of Findings solely for their Fitness to Practice Investigation. Despite the potential impact on the subject child and her father's rights under Articles 6 and 8, the need for public safety outweighs the right to respect for privacy.
39. The order permitting the local authority to make the disclosure to the NMC in the terms outlined above will be stayed until 2pm on 7 October 2025. Thereafter unless the father seeks permission to appeal and an extension of the stay, the local authority will be permitted to make the disclosure ordered. Unless This judgment will be published at 2pm on 10 October 2025.

38. That is my judgment.

[In the Matter Of A, B, & C](#) [2026] EWFC 27, Judd J, 11 February 2026

Headline: Disclosure to DBS is permitted under PD12G (and query if there is the power to prevent LA's doing this in light of the SVGA)

Judd J:

1. The local authority in this case made an application to allow them to disclose findings of fact made by the court to the Disclosure and Barring Service (the DBS). This was opposed by the first and second respondents,

who are parents of children who are the subject of these care proceedings. When it became apparent to the parties that the local authority was authorised to make the disclosure they sought without permission, the first and second respondents themselves asked the court to make orders restraining them from doing so.

...

Family Procedure Rules 2010

14. Pursuant to Rule 12.73(1)(a)(viii) information relating to proceedings held in private may be communicated to a professional acting in furtherance of the protection of children. Practice Direction 12G sets out a table as to who may communicate information to defined individuals and bodies, and for what purpose. In the circumstances of this case, PD12G does not add anything to rule 12.73.
15. Rule 2.3 FPR includes a member or employee of the Disclosure and Barring Service within the definition of someone who is a 'professional acting in the furtherance of the protection of children'.
16. All the parties are now in agreement that the local authority do not need the court's permission to disclose the judgment to the DBS although I have the power to order otherwise under the FPR, as is apparent from the wording of rule 12.73(1)(c) that any communication permitted therein or pursuant to PD12G is subject to the direction of the court. If the court has power to make order preventing disclosure then the burden falls upon the first and second respondents to persuade the court to do this.
17. **When considering an application to withhold disclosure under the FPR, the list of factors for the court to take into consideration as set out by the Court of Appeal in *Re C (A Minor)(Care Proceedings: Disclosure)* [1997] 2 WLR 322; [1997] Fam 76 remains good guidance for judges, albeit it is important to note that there have been changes to the rules since 1997.** There has been a greater move in favour of transparency, and it predated the Human Rights Act 1998. There have been a number of decisions since which have commented on these points including *Re N (A Child)(Disclosure of Documents to the General Medical Council)* [2009] EWHC 1663, *Re X and Y (Children: Disclosure of Judgment to the Police)* [2014] EWHC 278, *Re Z (A Child)(Disclosure to Social Work England: Findings of Domestic Abuse)* [2023] EWHC 447.

18. The factors are:-

- i) The welfare and interests of the child or children concerned in the care proceedings. If the child is likely to be adversely affected by the order in any serious way, this will be a very important factor;
- ii) The welfare and interests of other children generally;
- iii) The maintenance of confidentiality in children's cases;
- iv) The importance of encouraging frankness in children's cases;
- v) The public interest in the administration of justice;
- vi) The public interest in the prosecution of serious crime and the punishment of offenders, including the public interest in convicting those who have been guilty of violent or sexual offences against children;
- vii) The gravity of the alleged offence and the relevance of the evidence to it. If the evidence has little or no bearing on the investigation or the trial, this will militate against a disclosure order;
- viii) The desirability of cooperation between various agencies concerned with the welfare of children, including the social services departments, the police service, medical practitioners, health visitors, schools etc. This is particularly important in cases concerning children;
- ix) In a case to which section 98(2) applies, the terms of the section itself, namely that the witness was not excused from answering incriminating questions, and that any statement of admission would not be admissible against him in criminal proceedings. Fairness to the person who has incriminated himself and any others affected by the incriminating statement and any danger of oppression would also be relevant considerations;
- x) Any other material disclosure which has already taken place.

...

31. Three important points should be made straight away. First, Parliament has given a clear role for the DBS in determining whether an individual should be placed on a barred list in order to protect children and vulnerable adults. Second, local authorities are given power to disclose information to them, and in some cases required to do so. Third, it is plain that officers of the DBS are categorised as a professional acting in the furtherance of the protection of children pursuant to FPR rule 12.73(1)(a)(viii) and FPR Rule 2.3. This has been very helpfully set out by Arbuthnot J in a case published just as this judgment was being prepared, in *In the Matter of the Disclosure and Barring Service and A Local Authority* [2025] EWFC 479.

32. All these provisions demonstrate the importance that has been given to the protection of children and vulnerable adults. Even if the court had power

to override the provisions of the SVGA (which must be doubtful), there would need to be a good reason for so doing.

33. I acknowledge that disclosing information to the DBS engages the Article 8 rights of both the first and second respondents, as the information I am concerned with comes from family proceedings involving their own children. I entirely accept that those proceedings, which have been going on for a long time, have been stressful for the adults, and that those stresses are likely to affect the children who have been living at home throughout. There is also a public interest in maintaining confidentiality in children's cases, although it is right that there has been a greater move towards transparency in children's proceedings over the last decade. Perhaps more directly relevant to this case is the fact that my findings were made in the context of a conjoined fact-finding hearing involving three families. There has been disclosure to the LADO and Ofsted.
34. Whilst I acknowledge the importance of encouraging frankness in children's cases, this factor does not carry much weight in this particular case. The first and second respondents, as I found, were not frank with the court and made no admissions. This application does not relate to criminal proceedings, so that factor is not relevant in the decision I have to make.
35. The welfare and interests of other children generally as well as vulnerable adults is a very important factor for me to take into account. Despite the skill of Mr. Howard's submissions I simply cannot accept that the fact that I was not able to make a finding as to which of the two adults was responsible for causing the death of the child being looked after in their home means that there is no factual basis upon which an assessment of risk by the DBS could be properly founded. I agree with the submissions of the DBS and other parties that this is a matter I should properly leave to them. In addition, this is a very different case to that of Re J in that I made a number of very significant and serious specific findings against each of the first and second respondents which do not just pertain to their conduct after the death of the child (which could well be relevant to future risk), but also as to how she was cared for beforehand. In this case, I pay particular regard to the fact that the child who suffered fatal injuries in their care was not their own.
36. There is plainly a strong public interest in the proper administration of justice, which includes allowing a body such as the DBS to carry out its proper function. The same applies to the importance of cooperation

between various agencies tasked with the protection of children, and vulnerable adults.

37. **I have come to the clear conclusion in this case that it would be quite wrong for me to make any order which prevents the local authority sharing information from these proceedings with the DBS in accordance with Rule 12.73 or any other statutory provision.** Provision of information must include the judgment. The public interest in permitting the DBS to see this information in order to carry out an assessment is an overwhelming factor in favour of disclosure, together with the weight to be accorded to the welfare of children and vulnerable adults generally.
38. The DBS process already has safeguards for the first and second respondents in it. They have an opportunity to make representations to the DBS and also to appeal a decision to place them on a barring list if that is what happens. If they are on a barring list this does not entail background information being provided to prospective employers. As it is, the second respondent states that he has no intention of applying for a post which would require disclosure of such. The first respondent has not said that, but if she is on a barred list she would be prohibited from engaging in regulated activities with vulnerable adults or children anyway, so she should not be applying for such a post at all.
39. My findings in this case are of the utmost gravity, and should properly be considered by the DBS. In those circumstances, they should have such information as they properly seek in accordance with the SVGA and the Family Procedure Rules. The interference with the rights of the first and second respondents that this entails is necessary and proportionate in order to protect the rights and freedoms of others.
40. **The issue as to whether or not a court actually has power to override the clear provisions of the SVGA which govern disclosure from local authorities was not the subject of substantive argument before me.** On any view it must be questionable, but, given my clear views on the merits, consideration of that can await another day.

COSTS

[Pringle v Nervo](#) [2026] EWCA Civ 266, Court of Appeal, 13 March 2026

Headline: Make sure you take account of both parties' conduct and don't use as 'mitigation' matters which go to whether a costs order should be made at all. Also a nice comment re transparency!

King LJ:

Discussion

63. The judge at [86] rejected Ms Brereton's submission that the case did not fit within the legal structure for a costs order in children's cases, she having given by way of example, the types of cases where such orders had properly been made such as fabricated allegations of physical and/or sexual abuse. The judge said that her reading of the authorities was too narrow.
64. In my judgment the judge's approach swung too far in the other direction giving too broad an interpretation of what amounted to unreasonable behaviour such as to justify the making of an order and rather relied heavily on what was low level procedural conduct in the form of late decision making and late notice, which whilst to be deprecated, is in reality all too often part and parcel of such emotive proceedings. Had he focused on the approach summarised by Peter Jackson LJ in *Re E*, he would have concluded that the father's conduct, before and during the proceedings, could not on any basis have been regarded as reprehensible or unreasonable and, that once the mother's own conduct was added to the equation, there should have been no derogation from the general rule that there should be no order for costs in children cases.
65. I am conscious and appreciate that the judge was faced with numerous applications spread over a substantial period of time against the backdrop of the father's deceitful behaviour towards the mother in the period of time leading up to the birth of C. It is clear that the judge was frustrated by the father's failure to attend remotely at the hearings in September 2024 and February 2025 and was dealing with costs as the last of four judgments. The judge was clearly conscious that those costs if paid by the father, who could well afford it, could be utilised for the benefit of C. The point of principle however applies regardless of means and **had the judge worked his way through CPR 44.2(4) in respect of each of the parties' conduct and in particular factored in the mother's late application for a finding of fact hearing which derailed the consensual progress of the case, he would**

have appreciated that this was not one of those rare cases where the making of an order for costs was appropriate.

66. In saying this it should not be thought that I am in anyway underplaying the father's shameful and deceitful behaviour towards the mother, or that I am ignoring his admission that that behaviour amounted to the emotional abuse of the mother. **It is clear that the father's behaviour, quite understandably, remains a source of considerable bitterness and continuing distress to the mother. An order for costs however relates only to the conduct of the parties in relation to the pre-proceedings and proceedings and not to the events, abusive or otherwise, which led to the conception of C. Such matters may well go to the welfare analysis in cases where, unlike here, there is an issue as to whether contact should take place at all, but not as to costs.**

Conclusion

67. It follows that the appeal must be allowed, the judge having fallen into error in that he:

i) **Failed to take into account the conduct of both parties.**

ii) Wrongly concluded that the four features relied upon by him were capable of justifying a finding of unreasonable conduct on the part of the father such as to lead to the making of an order for costs contrary to the general principle that there should be no order for costs in children cases.

iii) Failed properly to apply CPR 44.4(3) in that **he regarded matters which should properly have been taken into account in deciding whether an order should be made at all, as features going only to mitigation under CPR 44.2(4)&(5).**

68. Accordingly the appeal will be allowed and an order that there be no order for costs shall be substituted for the judge's order save, as conceded by the father, there shall be an order for costs in respect of the mother's preparation of the declaration of parentage application on a standard basis to be assessed if not agreed.

Lord Justice Males:

69. I agree with the judgment of Lady Justice King.

70. I would add that it is a great pity that, when she instructed a new legal team in September 2023, the mother chose to introduce into the proceedings allegations of 'reproductive coercion and controlling behaviour including gas-lighting, love bombing, blame shifting, future faking and financial abuse through excessive litigation' and specifically of entrapment and rape, and to persist thereafter in seeking a fact finding hearing (or its equivalent after the application for such a hearing had been refused) for these allegations to be ventilated in court. Deplorable as the father's conduct had been, and however understandable the mother's bitterness about it, this change of approach was guaranteed to send the temperature of the litigation soaring

and to increase the costs substantially. Even more importantly, it was bound to undo much of the progress which had been made up to that time in working out a way in which C might have a relationship with both of her parents and, as the judges in the court below rightly held, was quite unnecessary in view of the admissions made by the father.

71. In my view the fact that the mother chose to conduct the proceedings in this way was highly relevant to the question whether a costs order should be made against the father, but it was not a factor which the judge took into account.

72. Finally, and speaking as one who is not a specialist in family law, I confess that I am somewhat bemused by the concept of a Transparency Order whose sole purpose is to ensure privacy. I do not doubt that such orders are appropriately made in many cases, and there is no issue before us as to the order which was made in this case. But it seems to me rather odd that such orders do precisely the opposite of what it says on the tin.

NB: This was the appeal from [RC v FP \(No. 2: Costs\)](#) [2025] EWFC 124, DHCJ Allen KC, 8 May 2025

[Re M \(A Child: Costs\)](#) [2026] EWCA Civ 381, Court of Appeal, 27 March 2026

Headline: Opposing an Appeal is unlikely to be reprehensible, and in this case neither was a cross-appeal

Case in which Mother appealed a Magistrates' Court judgment and Father cross-appealed. Appeal Judge found for Mother and ordered costs against the Father, but the Court of Appeal overturned this.

Discussion and conclusion

57. It is convenient to begin with the fact that the Judge in the Costs Judgment declined to order the father to pay the whole or any part of the mother's costs of the first-instance hearing before the magistrates on 25 March 2025, holding in para 25 that "the reasons why costs orders are not generally made in first instance trials apply in full in this case": see [47] above. The mother has not challenged that finding by a respondent's notice in this court, nor did Ms Guha KC seek to cast doubt on it directly in her written and oral submissions to us. Thus, it must in my judgment be taken as established for the purposes of the father's appeal to this court that the aspects of his litigation conduct which the Judge expressly took into account in concluding as she did that no costs should be awarded against him in

respect of the 25 March hearing, cannot be held against him as constituting unreasonable conduct in the context of the mother's subsequent appeal to the Judge. Those aspects concerned (a) the father's wish to retain the 25 March hearing to deal with interim issues, which the Judge did not accept was unreasonable (para 22), and (b) his ready and swift acceptance of the magistrates' unexpected decision to make a final decision, which the mother sought to characterise as opportunistic but which the Judge again refused to say was unreasonable (para 23). As the Judge realistically observed, the decision was theirs, not his, and he was entitled to take advantage of the position of the court "and to seek the best possible result with the tribunal he was appearing before".

58. Accordingly, it seems to me that if a justification is to be found for the Judge's decision to award the mother the costs of her appeal to the Judge, it must be found primarily in the further factors which she took into account at paras 27 to 30 of the Costs Judgment and which in her view evidently made all the difference.
59. The first of those factors was the strength of the mother's appeal, which the Judge described as "powerful" (para 27). But the mere fact of resisting an appeal, even if brought on grounds which appear to be strong, is in my view unlikely to amount to conduct which is unreasonable or reprehensible, even if with the benefit of hindsight, after the appellate court has given its ruling, the appeal may be characterised as a strong one. It is important in my judgment to guard against the dangers of being wise after the event. Looking at the matter objectively, and without hindsight, it is far from obvious to me that the father's decision to resist the appeal was from the beginning doomed to failure, when it is remembered that the magistrates were exercising a partly inquisitorial jurisdiction with its paramount focus on the welfare of M, and they were not legally bound to proceed in accordance with the wishes of the parents. Further, they had the assistance of the expert evidence of the ISW, Mr Walker, and he gave oral evidence at some length and was cross-examined before the magistrates decided on their order. This is not to say that I doubt the cogent reasons given by the Judge in the Main Judgment for allowing the mother's appeal from the magistrates' order, but only that the high bar of unreasonableness in this context must involve a lot more than the mere fact of ending up on the losing side of an appeal where the welfare of a child is at stake and where the views of both parents as well as independent expert evidence need to be considered.
60. The second and third factors taken into account by the Judge also relate to the father's conduct in relation to the appeal from the magistrates. The second factor is the father's decision to cross-appeal, which the Judge criticises in para 27 apparently on the basis that he was acting

inconsistently in attacking the reasoning of the magistrates in his appeal. On the one hand, while at the same time seeking to uphold their approach and reasoning in resisting the mother's appeal. I do not think this is a fair criticism. The cross-appeal was responsive in nature, and once it was clear from the mother's grounds of appeal that there was going to be a comprehensive challenge made by her to the magistrates' decision, raising issues of procedure as well as the substantive merits of the timetable for moving towards shared overnight care for M, it was clearly incumbent on the father to raise by way of a respondent's notice all the further points which he wished to run so that the appellate court would be fully able to adjudicate on the matter in the round. It is also commonly the case that a litigant wishes to run arguments in the alternative which are mutually inconsistent, and it is not normally an abuse of process to do so. Here, the father was in my view fairly entitled to make the point that the timetable decided upon by the magistrates was in some respects slower than that recommended by Mr Walker, with no apparent explanation for the discrepancy, and to cross-appeal on that basis.

61. The Judge's third related factor (para 29) was the alleged failure of the father to take stock and decide whether it was reasonable to oppose the mother's appeal. The implication is that the strength of the appeal should have been so obvious to him and his lawyers that he should have made an open offer to concede the appeal at an early stage (presumably subject to the court's approval, given the involvement of a child) and that his failure to do so was again unreasonable. In the light of what I have already said about the Judge's first and second factors, and with the greatest respect to her, I am again unconvinced by this argument which is heavily dependent on the benefits of hindsight. Nor does the Judge anywhere explain precisely why, or how, in her words "[w]hat was reasonable at first instance became, in this case, unreasonable on appeal".
62. The Judge's fourth factor (para 28) relates to the solicitor's letter sent on behalf of the father to the mother's solicitors on 23 June 2025, putting her on notice that the father would be seeking a costs order if her appeal was unsuccessful. The Judge thought that this letter showed an acceptance by the father that costs should in principle follow the event, and he nowhere explained why the reverse proposition should not apply if the mother's appeal succeeded. In truth, however, there can be no place for routine tit-for-tat reasoning of this nature to play any part where costs in children's cases are in issue. The threat in the letter of 23 June was, in my view, at worst an inept (though familiar) tactical manoeuvre which may merit some censure, but it cannot in itself come anywhere near to justifying a departure from the general rule of no order as to costs. Nor can it reasonably be treated as a tacit admission of liability, whether by estoppel or otherwise.

63. The Judge's final factor, before she turned to quantum, was that money paid by the father on costs could not be spent on M, but it was his choice "to take the gamble of an appeal in the face of the merits" (para 30). It is unclear whether in the Judge's view the gamble taken by the father was in deciding to resist the mother's appeal, or in his own decision to cross-appeal. I incline to the view that the Judge probably meant the former, but in either case this factor adds nothing to those which I have already discussed apart from the obvious point that any costs order made against a parent in a case concerning the welfare of their child will *prima facie* reduce the money available to be spent by the paying parent on the child's welfare. This melancholy fact of forensic life cannot, however, itself be a reason for making an adverse costs order against one of the parents, although it is one of the considerations which cumulatively justify the existence of the general rule in the normal run of cases: see *Re S* at [24].
64. Having reviewed the reasons which led the Judge to order the father to pay the mother's costs of the appeal, I am reluctantly driven to the conclusion that, although the Judge directed herself correctly on the law, she erred in principle in distinguishing as she did between the costs of the first instance hearing before the magistrates and the costs of the appeal. In my judgment there were no grounds of sufficient weight to justify the distinctions which she drew, and there was, on the contrary, every reason to make the same order for costs on the appeal as she rightly did in relation to the first-instance costs below. All the considerations which explain the existence of the general rule apply in my judgment with equal force to the costs of the appeal, including in particular those so eloquently stated by Wilson J (as he then was) in the *Sutton* case, quoted in *Re S* by Lady Hale at [19].
65. For these reasons, I conclude that the father's appeal must be allowed, and the costs order made by the Judge against the father must be discharged and replaced by no order for costs.

Lord Justice Peter Jackson :

66. I agree that the appeal should be allowed for the reasons given by my Lord. His account of the background shows that this was a parental dispute of a sadly familiar kind and that, whatever the outcome of the first appeal might have been, there was no indication that the litigation conduct of the unsuccessful parent was likely to be characterised as reprehensible or unreasonable. Nevertheless, on receipt of the Main Judgment, the mother applied for an order that the father should pay her costs in both courts on the indemnity basis in a total amount of some £80,000. Even the Judge's order granted her barely half that sum, and now that that order is to be set aside she must also bear her own costs of this appeal, which are in the region of £20,000. This case and the very recent decision

in *Pringle* are unfortunate reminders of why satellite litigation about costs in child welfare cases is to be discouraged by maintaining the general principle that there should be no order for costs unless there has been reprehensible or unreasonable conduct in relation to the proceedings.

OTHER GUIDANCE

- [The PFD's Guidance 2026: Non-Molestation Orders under the Family Law Act 1996, and the FJC's Best Practice Guidance for Practitioners on Making an application for a Protective Injunction under the Family Law Act 1996](#)
- [Allocation guidance relating to children in the Family Court](#)

FUTURE DEVELOPMENTS

- [Domestic Abuse Commissioner's Research:](#)

"A pro-contact culture and a failure to recognise domestic abuse and its severity is leading to decisions that may jeopardise children's safety" – suggests Family Court is failing

- Government [Proposal to remove Presumption of Parental Involvement](#)

"The repeal is founded on the clear principle that every child deserves to be safe – yet new evidence published today shows that assuming it's always in the best interest of a child to have the involvement of both parents can perpetuate abuse." ([David Lammy](#)) – This has now been [added in to the Courts and Tribunals Bill as of 7 March 2026](#).

Child Focused Courts – previously Pathfinder – to be rolled out nationally

Headline: With you or coming very soon!

On 17 March 2026, the Ministry of Justice announced, "Children to get swifter justice as new family court approach expands nationally". Giving more detail, they wrote:

"The newly named Child Focused Courts will be rolled out across England and Wales, following a particularly successful pilot which saw cases in the family court resolved seven and a half months quicker".

Within the full Press Release it was stated:

"Today (Tuesday 17 March), the Deputy Prime Minister has confirmed that Child Focused Courts – formerly known as Pathfinder Courts – will be expanded across the entirety of England and Wales.

The move follows a highly successful trial period in several areas which saw family court backlogs halve and cases resolved up to seven and a half months faster – sparing brave children weeks of torment.

Too many families are often locked into lengthy, adversarial court proceedings with vulnerable children left to bear the brunt of prolonged family disputes. To counter that, the new courts will identify any risks to the children's welfare more quickly – for example, when they're experiencing domestic abuse - while streamlining court processes to reduce delays.

The model will also bolster coordination between the family court and agencies, such as local authorities and the police, particularly when dealing with allegations of domestic abuse and other harms. This should reduce

the number of returning cases, protecting children and families from further trauma.

The decision to extend the rollout of Child Focused Courts is a key pillar of the Plan for Change to protect children and clamp down on the scourge of domestic abuse. This will help halve violence against women and girls in a decade, tackle the backlog to repair the justice system after years of neglect, and deliver swifter and fair justice for all victims”.

Deputy Prime Minister and Justice Secretary David Lammy said:

“Court backlogs are not just numbers on a page. When it comes to the family courts, they represent victims waiting, families in limbo and children and domestic abuse victims left to linger in harm’s way.

That is why the national rollout of the Child Focused Courts matters so much. It will protect, support and hear the voices of children, helping family courts make safe and fair decisions without delay.

It also shows that, through innovative reforms, we can make our courts work better, tackle delays and bring down the backlog so more victims and families get the swift justice they deserve.

Child Focused Courts currently operate in 10 of 43 court areas in England and Wales, including all of Wales, Birmingham, the West Midlands, Dorset, Hampshire and the Isle of Wight, and West Yorkshire.

Backed by £17m in Government funding for the next financial year, the model will initially be rolled out across Northumbria and North Durham, Cleveland and South Durham, Lancashire, Cumbria, York and North Yorkshire, Cheshire and Merseyside, Northamptonshire, and Coventry and Warwickshire. It will then expand across the rest of England and Wales over the upcoming financial years”.

Responding, Domestic Abuse Commissioner, Dame Nicole Jacobs, said:

“For too long, children and adult victims have been advocating for a family justice system that truly understands domestic abuse, listens to their concerns, and prioritises their safety.

I’m thrilled that the government has heard their calls and taken decisive action to rollout Child Focused Courts nationally. This approach has shown that when we put children first, victims feel more supported and re-traumatisation is reduced. It is important that these outcomes are at the heart of every case concerning domestic abuse.

The Family Court should be a place of support and protection, and I’m pleased that we are now a step closer to making this a reality”.

The Government Press Release set the changes within a wider context, stating:

"The move follows a series of key changes designed to protect both child and adult victims from violence and abuse.

These include the Courts and Tribunal Bill, through which the Government will repeal the presumption of parental involvement from the Children Act 1989. This means the courts will no longer start from an assumption that parental involvement is always in a child's best interest, and instead adopt an open-minded inquiry into what is in a child's best interests.

The Government will also restrict parental responsibility from people who have been convicted of a serious sexual offence against any child, and where a child is born of rape. In addition, children will receive swifter justice thanks to a new and improved Victims Code, which will include the very first child-friendly version of the Code, making sure children are better supported to get help and understand their rights as a victim of crime.

This Government is also investing over £1 billion as part of its mission to fight violence against women and girls, with £550 million for victims' services, including yearly funding increases, and another £499 million for safe housing for victims of abuse over next 3 years".

The Judiciary Website noted:

"Judges have welcomed the rollout of Child Focused Courts (previously known as Private Law Pathfinder) across England and Wales.

The President of the Family Division, The Rt. Hon. Sir Andrew McFarlane, welcomed the announcement as a "game changer" for the family justice system. Sir Andrew said:

"I have long been a supporter of Pathfinder's approach which is truly groundbreaking. The key change is the Child Impact Report produced by Cafcass, Cafcass Cymru or the local authority, which enables the court to gain an early understanding of the impact the dispute is having on the child and focus the parties on how to address that. The model benefits families and indeed the whole system with fewer hearings, a better understanding of domestic abuse, and less parents returning to court because the arrangements have broken down".

The judicial lead for Child Focused Courts Mrs Justice Gwynneth Knowles said:

"The positive thing about a Child Focused Court is that it does what it says on the tin – it puts the child's safety and welfare at the heart of everything the court does. The emphasis on talking to children whenever we can is long overdue. That, together with the front loading of information about a child's circumstances in the Child Impact Report, helps parents and the court focus on what the child's safety and welfare demand early in the legal proceedings. I am clear that this promotes earlier resolution and better,

longer lasting decisions which can only be good for children and their families”.

HHJ Christopher Simmonds, the Designated Family Judge for Bournemouth, one of the first areas to launch Pathfinder said:

“As a judge I feel that I am making better, safer decisions with the child’s live experience at the centre and without delay. Pathfinder has revolutionised how we are able to hear cases, across the entire family jurisdiction, quicker and utilise court resources in a more proportionate manner”.

And, on the judiciary website, the Scheme was described thus:

“The Child Focused model has been piloted since February 2022, at Family Courts in North Wales and Dorset and is now live in 10 court areas including all of Wales, West Yorkshire, Birmingham and the West Midlands, and Hampshire and the Isle of Wight. The model is designed for all court users, but with a particular focus on the voice of the child and on improving the family court experience and outcomes for survivors of domestic abuse, including children and litigants in person.

The model puts forward a more investigative and problem-solving approach, with earlier information gathering and engagement with parties, rather than through multiple hearings. The Child Focused model encourages a more holistic, multi-agency approach, with the court engaging and developing positive working relationships with key local partners such as third sector domestic abuse agencies and Independent Domestic Violence Advisers.

The next eight court areas to launch the Child Focused Model in the 2026-2027 financial year will be:

- Northumbria and North Durham;
- Cleveland and South Durham;
- Lancashire;
- Cumbria;
- York and North Yorkshire;
- Cheshire and Merseyside;
- Northamptonshire; and
- Coventry and Warwickshire”.

For the Ministry of Justice Press Release see [here](#)

For the Judiciary response see [here](#)

Of note was the [Guardian](#) article in which it was said:

"Family courts are "not good enough" and have treated women and children unfairly for decades, a government minister has said.

Announcing a major overhaul of the family justice system in England and Wales that will play a central role in "rebalancing" the family courts, Alison Levitt said often brutal legal showdowns will be replaced with a "problem-solving", child-focused model.

...

The Labour peer, who was Keir Starmer's principal legal adviser when he was the director of public prosecutions, said that she had been repeatedly accused of sexism since she became a minister last autumn, including as a result of the proposed repeal of the legal presumption that both parents should be involved in their children's lives in the Courts and Tribunal bill, which passed its second reading earlier this month.

Levitt said: "It is historically so obvious that women have been victims [in the justice system], that there is a justification for putting in measures to bring them up, to make it fairer for them," said Levitt. Change had to come "throughout the justice system, including in the family justice system, to make sure that [victims] are not, for example, being retraumatised by going through the family courts", she said.

Asked if she believed the justice system treated women fairly from what she had observed since being called to the bar in 1988, Levitt said it was "more complicated" than the system being sexist, but added: "I think that women have not received fair treatment, but things have been improving. And do I think that it will be fairer still by the end of this parliament? Absolutely."

Campaigners for family court reform have long argued that abusers use the family courts system to control their ex-partners, including by making counter allegations in an attempt to "alienate" the child.

After a series of scandals about unregulated and sometimes unqualified "experts" in parental alienation, Levitt said the concept was "not something that's capable of definition or of scientific proof in any way, shape or form".

Asked about the treatment of victims of domestic abuse in the family courts, she said: "It is just not good enough ... Whenever we leave office, the situation in terms of violence against women and girls will have improved because it's an uncivilised way to behave. It's just unjust. You can't care about justice if you don't care about this."

Giving the example of "fact-finding" hearing where victims were "cross-examined up hill and down dale", Levitt said: "I don't see [stopping] that as being sexist. I see that as rebalancing. If you've got an injustice to start off with, it's not sexist to try and put that right."