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Case No: MA21P01419

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/07/2021

Before:

THE HONOURABLE MR JUSTICE MACDONALD

- -

Between:

X	**Applicant**
(A Child acting by her Children's Guardian)	
- and -	
Y	**First Respondent**
-and-	
Z	**Second Respondent**

- -
- -

Mr Shaun Spencer (instructed by **AFG Law**) for the **Applicant**
The First Respondent appeared in person
The Second Respondent did not appear and was not represented

Hearing dates: 20 July 2021

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Approved Judgment

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic. Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by email. The date and time for hand-down is deemed to be at 10.30am on 29 July 2021.

MR JUSTICE MACDONALD

This judgment was delivered in private. The Judge has given permission for this anonymised version of the judgment (and any of the facts and matters contained in it) to be published on condition always that the names and the addresses of the parties and the children must not be published. For the avoidance of doubt, the strict prohibition on publishing the names and addresses of the parties and the children will continue to apply where that information has been obtained by using the contents of this judgment to discover information already in the public domain. All persons, including representatives of the media, must ensure that these conditions are strictly complied with. Failure to do so will be a contempt of court.

Mr Justice MacDonald:

INTRODUCTION

1. This application arises out of proceedings under Part II of the Children Act 1989 in respect of X, born in 2017. X has been the subject of private law proceedings in one form or another for the majority of her life. The first set of proceedings concluded in December 2017, with a second set of proceedings thereafter commencing in March 2018 which were concluded on 20 May 2021.

2. The first respondent father, Y (hereafter the father), is dissatisfied with the outcome of those proceedings. He has chosen to express his dissatisfaction by posting on social media and displaying on his vehicle his views regarding the family justice system. In addition to his views concerning what he considers to be failings in that system, the father has also posted on social media and displayed on his vehicle derogatory comments about the mother, the Children's Guardian, the social worker and the trial judge, accusing them of being "abusers" of children, "dirty little child abusers" and, in one post on social media, suggesting that all employees of Cafcass engage in the practice of bestiality by labelling them "dog shagging nonces".

3. Within this context, the Children's Guardian, represented by Mr Shaun Spencer of counsel, applies for injunctive relief preventing the father from continuing with the course of action that I have outlined above. The precise formulation of the application before the court was the subject of some discussion at the outset of the hearing. It is, essentially, in two parts. First, the Children's Guardian seeks injunctive relief preventing the father from publishing material that identifies X as having been the subject of proceedings before the Family Court. Second, the Children's Guardian seeks injunctive relief preventing the father from identifying what Mr Spencer initially characterised as "professionals" involved in the proceedings.

4. Mr Spencer at first sought to encompass in the term "professionals" the allocated social worker and the trial judge, in addition to the Children's Guardian. However, at the outset of the hearing Mr Spencer also properly conceded that, with respect to the allocated social worker and the trial judge, he was not instructed on their behalf, had had no indication that they sought relief and that no applications for such relief were before the court. Within this context, whilst the concerns I express during the course of this judgment regarding some of the conduct of the father apply to the position of the allocated social worker and the trial judge, I am satisfied that it is appropriate to deal only with the application that is in fact before the court, namely that with respect to the Children's Guardian.

5. The application is opposed by the father, who appeared at the final hearing in person and made short and focused submissions to the court. The mother, Z, did not appear and is not represented. Given the issues involved, I reserved judgment and now set out my decision and my reasons for that decision.

THE BACKGROUND

6. Following the breakdown of the parents' relationship in August 2017, X lived with both parents under a shared child arrangements order made in December 2017. Further proceedings between the parents in respect of X ensued in 2018. In those proceedings,

the mother asserted that there were welfare concerns with respect to the father, centred on allegations of illicit drug and alcohol use. In turn, the father raised concerns regarding the mother's new partner and the mental health of the maternal grandfather. During the course of the second set of private law proceedings between the parents in respect of X, the court was required to make an order in April 2018 prohibiting both parents from making derogatory comments about the other on social media. On that date, the court ordered drug and alcohol testing in respect of both parents.

7. Between December 2017 and June 2018 the father raised a number of concerns with respect to injuries to X. X was examined by a GP on 6 July 2018. The outcome of that examination is unclear from the papers before the court. On 7 July 2018 the father alleged that X exhibited bruising. A general practitioner confirmed the presence of bruising to X and made a referral to social services. The social worker advised that a Child Protection Medical should take place, which was undertaken on 11 July 2018. The examining doctor was not able to provide an opinion on either the cause or the timing of the injury.

8. At the hearing on 16 July 2018, the father accepted that he had again been posting inappropriate material on Facebook but claimed he had been 'baited' by the mother's partner. The court is recorded as issuing a 'final warning' to both parties with respect to this conduct. The court continued the child arrangements order made on 12 December 2017 in the interim. The court ordered that a report pursuant to s.7 of the Children Act 1989 be prepared by the local authority and listed the matter for a dispute resolution appointment on 4 October 2018. It is unclear from the papers available to this court what the approach of the court was at this stage to the injuries alleged to have been suffered by X. X was the subject of a further admission to hospital on 25 August 2018, again with bruising noted. On 26 August 2018 a consultant paediatrician expressed the opinion that on the balance of probabilities the bruises were likely to have been inflicted.

9. The passage of the proceedings following the hearing on 4 October 2018 is opaque but during the period following the discovery of further injuries in August 2018 it is apparent that the court ordered a s.37 report be prepared by the local authority and an expert report. The court also joined an intervener, W, who was considered by both parties to be the potential perpetrator of X's injuries. X was joined as a party to the proceedings. On 29 October 2019 the court ordered that X would continue to live with both parents in the interim pursuant to a shared care arrangement.

10. Within this context, the matter came before the allocated trial judge on 27 January 2020. On that date the learned Judge had the benefit of the report prepared by the local authority pursuant to s.37 of the Children Act 1989. The local authority confirmed that it did not intend to issue proceedings under Part IV of the Children Act 1989 but instead intended to safeguard and promote the welfare of X under a Child in Need plan. At the hearing both parents maintained that the other had caused physical injuries to X. There was a further allegation that the father had posted information concerning the proceedings online. Both parents again agreed not to post material online. The trial judge listed the matter for a final hearing in March 2020, to include the determination of the cross-allegations of physical abuse of X made by each parent and against the intervenor.

11. The father failed to attend the final hearing in March 2020, having advised the solicitor for the child that he did not intend to attend. The hearing therefore proceeded in the father's absence. It is not clear why the father, who has since heavily criticised the manner in which professionals and the court dealt with his allegations of the physical abuse of X, did not attend the hearing at which those allegations were to be judicially determined. Ahead of the hearing, the father sent a document entitled "child neglect" to the court and to each of the parties and stated that he intended to share the document with the media. The document identified X by reference to the father's identity and X's date of birth. It made a number of derogatory comments about the judge and made allegations of sexism and bias on her part, and in respect of the Children's Guardian. In light of the concern of the Children's Guardian that the s.37 report prepared by the local authority failed to identify the specific work that was to be completed under the Child in Need plan, the trial judge adjourned the proceedings and directed an addendum s.37 report. The court also made an order prohibiting either parent from disclosing information with respect to X or the proceedings.

12. On 24 March 2021 the father posted on Facebook a form of the statement he had submitted to the court ahead of the final hearing. As I have noted, that identified X by reference to the father's identity and X's date of birth, made a number of derogatory comments about the judge and made allegations of sexism and bias in respect of the judge and Children's Guardian. Following correspondence with the child's solicitor the father agreed to remove that material from Facebook.

13. The proceedings concluded on 20 May 2021. Notwithstanding the vociferous criticisms the father now levels at the family justice system and against the Children's Guardian, the social worker and the trial judge, the order suggests that the father again failed to attend the hearing and to advance his case before the court, although other aspects of the order suggest that he was in attendance for at least part of the adjourned final hearing. On 20 May 2021 father again posted that material on Facebook with identifying details and derogatory comments regarding those involved in the proceedings. Again following correspondence from the child's solicitor stating that the material should be removed on the grounds that, until a sealed copy of the order was to hand the proceedings continued, the father agreed to remove the material but stated that:

> "No problem, I'll remove it now good luck with what's to come when I receive the final order."

14. In light of the foregoing threat of further publication, on 28 May 2021 the Children's Guardian issued an application for a prohibited steps order restraining the father from publishing material related to the proceedings. In response, the father made further Facebook posts on 3 June 2021 and 7 June 2021 which used threating and abusive words against the trial judge and identified the Children's Guardian, the social worker and the mother.

15. The application for a prohibited steps order came before the court on 9 June 2021. On the morning of the hearing the father sent the following email to the Children's Guardian at 0741hrs:

> "Good morning my statement for court will be this email as I cannot be arsed wasting my time any longer with you morons. I have posted on social media everything the courts and the useless Cafcass and social workers have done

> and yes your (*sic*) all named. I am not in breach of anything as the court ruled the court proceedings have ended to which I wanted a transcript of because it's clear the idiot [children's solicitor] isn't typing the order up but as I have been told the order is the order from when the judge makes the ruling there for trying to stop me naming everyone isn't possible as it has already been done and you all in public jobs. I can understand why you don't want it going on social media because the attention I've got has been overwhelming and now peoples (*sic*) are helping me and looking through the whole case."

16. In a statement dated 9 June 2021, the mother observed as follows with respect to the conduct of the father:

> "My main concern over these malicious posts is X's well-being when she gets older and other parents/children are hearing about these false accusations and X is found explaining herself to people. All I continue to do on a weekly basis is explain myself to people about the situation and it has all I have ever done for as-long as this began. I am constantly clearing my tarnished name as it's an ongoing battle. it's a daunting and depressing thing I have to go through. I want to get on with my life and build my relationship back with X that I lost and it seems [the father] isn't allowing me to do that as he keeps attempting to drag my name through the dirt."

17. At the hearing on 9 June 2021 the trial judge rightly identified that the relief sought by the Children's Guardian did not constitute a prohibition on the exercise of parental responsibility and therefore an application for a prohibited steps order was misconceived. Within this context, the Children's Guardian was given permission to withdraw her application. Following the hearing on 9 June 2021 the father posted the following statement on Facebook, "Just so everyone knows before anyone does anything I would just like to name all the dirty little child abusers." He then named the mother, the Children's Guardian, the social worker, and the trial judge and finished with the statement, "Get all these names and shamed before they try and take it down." In response to what appears to have been a reply to the foregoing post by another user, the father posted the following further comment on Facebook:

> "I will mate I'm not going to stop until they have all been fired I'm having the whole case investigated by a few people there going to regret ever messing with my daughter the lot of the fucking scum bags."

18. On 11 June 2021 an application was made for injunctive relief and for permission to file a further statement from the Children's Guardian in support of that application in circumstances where the Children's Guardian had discovered that the father had further publicised the proceedings. On this occasion the father had placed a sign on the back of his vehicle identifying the professionals involved in the proceedings and the trial judge and referring to all in derogatory terms. The sign, which covers the back of a large vehicle, includes the words "Stop these abusers" and then once again names the mother, the Children's Guardian, the social worker and the trial judge.

19. The application for injunctive relief came before the Designated Family Judge on 18 June 2021. On that date, the court recorded that the conduct of the father with respect to the Children's Guardian, the social worker and the trial judge is the subject of an ongoing police investigation by the police. At the hearing the father stated to the court

that he had removed all material on the Internet that referred to the proceedings and had removed the sign from his vehicle. Within this context, I also note that prior to the hearing on 18 June 2021 the father submitted a written statement to the court, which included the following statement:

> "I genuinely regret and apologise for my behaviour, however the way I have been treated needs to be taken into account. I have removed all identifiable names from my [vehicle], everything has been removed from social media and I realise I was wrong to inform everyone of what goes on in the court."

20. However, the mother disputed these assertions and sought to demonstrate that the information in question remained online on the father's Facebook page. The father gave undertakings to the court not to post further material on Facebook identifying that X had been the subject of proceedings under the Children Act 1989 and again confirmed that he had removed previous material from both the Internet and from the back of his vehicle.

21. The matter came before me for directions on 23 June 2021. Notwithstanding that the father had indicated to the court on 18 June 2021, both in writing and at that hearing, that he had removed all identifiable names from his vehicle and from social media, it was plain from the representations he made to the court on 23 June 2021 that he had not been honest with the court on 18 June 2021. Within this context, on 23 June 2021 I made directions towards a final hearing of the application for injunctive relief. On that date, the father agreed to give the following undertakings to the court:

> "1. Not to, whether by himself or by instructing and/or encouraging any other person, place on any social media any information which identifies that X has been the subject of private law proceedings before the Family court and/or the High Court.
>
> 2. That he will remove any previous posts which remain up which contains information which identifies that X has been the subject of private law proceedings before the Family court and/or the High Court.
>
> 3. That he will not place any information that identifies that X has been the subject of private law proceedings before the Family court and/or the High Court on any vehicle.
>
> 4. That he will not post on any social media platform or on any vehicle information which identifies the mother, Z, as having been involved in private law proceedings before the Family Court and/or the High Court.
>
> 5. That he will remove (a) any posts on any social media platform and/or (b) any information on any vehicle that identifies the mother, Z, as having been involved in private law proceedings before the Family Court and/or the High Court."

22. The father made plain to me that he was not willing to remove the material from the back of his vehicle naming the Children's Guardian and accusing her of being an abuser of children. The father further refused to give an undertaking, sought by the Children's Guardian in those terms. In the circumstances, the Children's Guardian invited the

court to make an interim injunction pending this hearing. I declined that application, it appearing to me that the balance of convenience favoured the *status quo* pending this final hearing.

23. At this hearing, Mr Spencer informed the court that the father's most recent social media post on Facebook regarding the private law proceedings in respect of X asserts that, "Cafcass are child abusing dog shagging nonces". The father did not seek to dispute at the hearing that he had posted on Facebook in these derogatory terms.

PARTIES' POSITIONS

Children's Guardian

24. The Children's Guardian submits that, balancing the Art 8 rights of X against the Art 10 rights of her father, the court should injunct the father from the course of conduct he has engaged in thus far regarding the publication of information concerning the proceedings capable of identifying X as the subject of those proceedings. In this respect, through Mr Spencer, the Children's Guardian relies on the following matters:

    i) The areas in which the father lives and works will likely contain a not insignificant number of people who will know or understand that the vehicle and the father are associated. In the circumstances, the signage taken as a whole gives rise to the prospect of jigsaw identification of X as having been involved in court proceedings.

    ii) Any reasonable person reading the matters written on the back of the father's vehicle would readily come to the conclusion that it was likely to be a direct reference to X and to the proceedings in which she was the subject child.

    iii) Whilst X is unlikely to be of an age currently whereby she would herself be on social media and would see and understand the materials posted, the prospect of this occurring is likely to increase over time.

    iv) These matters will inevitably have an impact upon X's psychological integrity, her settled place in the community and amounts to a gross and flagrant infringement of her private life.

25. Further, and relying on the fact that jurisdictional basis of applications to restrain publicity is founded on the rights under the ECHR, Mr Spencer submits that it is also now clearly established that injunctive relief, of the type under consideration in this instance, is capable of being granted not only for the protection of the rights of the subject children but also for the benefit of adults who, in a professional capacity, have been involved in, or connected to, the proceedings. Within this context, Mr Spencer further contends that there has, in recent authorities, been a shift in the approach taken by the courts towards the protection of professionals from unjustified harassment and vilification online, Mr Spencer relying on the approach of Lieven J in *Manchester University NHS Foundation Trust v MN and others* [2020] EWHC 181 (Fam) and of the President in *Abbasi and another v Newcastle Upon Tyne NHS Foundation Trust (PA Media Intervening); Thomas and another v Kings College Hospital NHS Foundation Trust (PA Media intervening)* [2021] EWHC 1699 (Fam).

26. In particular, Mr Spencer relies on the observation of the President at [69] in *Abbasi* that the law should not operate such as to tolerate and support the harassment and vilification of "conscientious and caring professionals, who have not been found to be at fault in any manner". Within this context, Mr Spencer submits that there cannot exist a right to peddle falsehoods and insults, nor to make groundless assertions against others, even under the guise of presenting one's own perspective on the failings of the family justice system. Further, Mr Spencer submits the Children's Guardian cannot be taken to have waived her Art 8 rights by virtue of her professional role, waiver of such a fundamental right being informed decision, positively made, and not an implicit consequence of a career choice.

27. Within this context, Mr Spencer submits that the rights that the father has under Art 10, which encompass a right to tell his story and to make criticism of the family justice system, do *not* extend to making untrue, offensive or derogatory comments about the Children's Guardian. Such a course of action, argues Mr Spencer, constitute an interference with the Art 8 rights of the individual so traduced of such seriousness that it cannot be rendered necessary and proportionate by the father's competing rights under Art 10, particularly in circumstances where routes exist whereby the father can pursues complaints regarding the work completed by the Children's Guardian.

28. In this case, Mr Spencer submits that balancing the Art 8 rights of the Children's Guardian, which he submits are plainly engaged, with the Art 10 rights of the father, and according neither the Art 8 rights nor the Art 10 rights precedence over the other, leads to the conclusion injunctive relief to protect the Children's Guardian is justified by the following matters:

    i) By labelling the Children's Guardian a "dirty little child abuser" or "abuser" or accusing those who work for Cafcass of engaging in bestiality he vilifies and insults her. The father's sole purpose, demonstrated by his desire to name the professionals and the Judge, is directed at the vilification or harassment of those individuals, as opposed to contributing to legitimate public discourse on, or engaging in matters of general campaigning, comment or discussion in respect of, the family justice system.

    ii) The father has adopted this approach in a highly public manner by placing the names of the Children's Guardian on the back of a vehicle that is driven daily around the local area.

    iii) These actions have been detrimental to the emotional and psychological welfare of the Children's Guardian.

    iv) The Children's Guardian may be known to people who see the Internet and live in the areas through which the father may drive his vehicle.

    v) The publication of the material by the father increases the risk that the Children's Guardian will be the subject of physical attack or personal attack online. The inclusion of her name is not done with the intention of adding to any legitimate discourse on the subject he is writing about, rather it is to seek to name her with a view to drawing any and all possible sources of abuse and/or attack onto her.

vi) The publication of the material will diminish the stability and resilience of the Children's Guardian and affect her ability to discharge her obligations in respect of other children and families.

vii) The Children's Guardian is not in any position to respond to the criticism levelled at her or to correct misrepresentations in respect of her.

viii) The publication of the name of the Children's Guardian will lead to the identification of other personal information with respect to them.

ix) The publication of the name of the Children's Guardian significantly increases the likelihood that X will, in turn, be liable to be identified as having been the subject of proceedings.

x) The father has alternative processes available to him through which he can air a complaint or grievance with Cafcass but which he has not to date pursued.

29. Mr Spencer was forced to concede that the court does not have before it any evidence regarding the impact on the Children's Guardian of the father's conduct. Mr Spencer informed the court that the Children's Guardian does not wish to place before the court the personal details concerning that impact. Indeed, the Children's Guardian has been unable to bring herself to attend this hearing. Whilst Mr Spencer conceded that this prevents him in this case from evidencing with specificity the impact of the father's publications on the Children's Guardian, Mr Spencer invites the court to take judicial notice of the fact that the impact of the matters set out above is likely to be deleterious in nature. Mr Spencer further points to the fact that the courts have been willing to extend protection by way a prohibition on publication to classes of persons, for example medical staff, without having evidence from each and every member of staff concerned as to the adverse consequences of publicity.

30. Within the foregoing context, Mr Spencer contends that the ultimate balancing test falls clearly in favour of the Children's Guardian being afforded the protection of an injunction preventing her being named by the father. Mr Spencer submits that this conclusion is not changed by the fact that much of the material is already in the public domain in circumstances where the repetition of known facts about an individual may amount to unjustified interference with the private lives not only of that person but also those who are involved with him or her (per *JIH v News Group Newspapers* [2011] EMLR 9 at [59]).

The Father

31. The father opposes the grant of the injunction prohibiting the publication of the information has he placed on the Internet and his vehicle. In his statement to this court, which is titled "miscarriage of justice 1", he contends that he has been treated disgracefully by professionals, who have failed to properly investigate the injuries sustained by X. Within this context, the father submits that anonymity should not extend to experts, local authorities and social workers unless there are compelling reasons. In this regard he cites the decision of Sir James Munby in *Re B (A Child)(Disclosure)* [2004] 2 FLR 142 at [103]:

> "[103] We cannot afford to proceed on the blinkered assumption that there have been no miscarriages of justice in the family justice system. This is something that has to be addressed with honesty and candour if the family justice system is not to suffer further loss of public confidence. Open and public debate in the media is essential."

And the following observation by Sir James Munby in *Re J (Reporting Restriction: Internet: Video)* [2014] 1 FLR 523 at [38]:

> "[38] Comment and criticism may be ill-informed and based, it may be, on misunderstanding or misrepresentation of the facts. If such criticism exceeds what is lawful there are other remedies available. The fear of such criticism, however justified that fear may be, and however unjustified the criticism, is, however, not of itself a justification for prior restraint by injunction of the kind being sought here, even if the criticism is expressed in vigorous, trenchant or outspoken terms. If there is no basis for injuncting a story expressed in the temperate or scholarly language of a legal periodical or the broadsheet press there can be no basis for injuncting the same story simply because it is expressed in the more robust, colourful or intemperate language of the tabloid press or even in language which is crude, insulting and vulgar. A much more robust view must be taken today than previously of what ought rightly to be allowed to pass as permissible criticism. Society is more tolerant today of strong or even offensive language: see on all this *Harris v Harris, Attorney–General v Harris* [2001] 2 FLR 895, para [372] and *Re Roddy (A child) (Identification: Restriction on Publication)* [2003] EWHC 2927 (Fam), [2004] 2 FLR 949, para [89]."

And at [80]:

> "[80] For reasons I have already explained, an injunction which cannot otherwise be justified is not to be granted because of the manner or style in which the material is being presented on the internet, nor to spare the blushes of those being attacked, however abusive and unjustified those attacks may be. The only justification, as Mr MacDonald correctly acknowledges, is if restraint is necessary in order to protect J's Article 8 rights and, in particular, J's privacy and anonymity."

32. Within this context, the father submits in his statement that he must be entitled to express his ideas, views, opinions, comments or criticism regarding the proceedings and the professionals and the judge involved, however strongly or offensively expressed in circumstances where the freedom of speech of those who criticise public officials is fundamental to any democratic society governed by the rule of the law. In this context, the father gives examples of what he considers to be deficiencies by those involved in the proceedings, including cutting and pasting in the s.37 reports, the failure to question self-reporting and a failure to take protective steps in relation to X notwithstanding that she sustained injury. Within this context, the father concludes his statement as follows:

> "I will not be silenced this is clearly away for people in power to keep the same bias system going because know-one (*sic*) is allowed to speak out about

> there (*sic*) experiences the courts and Cafcass are emotionally abusing my children not just X but all 3 of my children it is a miscarriage of justice."

33. Ahead of this hearing, the father submitted a second document to the court, entitled "Miscarriage of justice 2". In that document, the father describes the rationale for his approach in this case as follows:

> "I have welfare concerns regarding my daughter. X and the way in which I have been treated by Children's Services [social worker] and Cafcass [Children's Guardian], the third Cafcass person involved. I feel angry and frustrated with professionals and strongly feel that they fell considerably short of their obligation to safeguard and protect X. This has made me feel anxious ,distressed and frightened for X's safety. I feel that the professionals lost sight of basic child protection and safeguarding procedures and failed in their duty of child protection and future welfare of X. I felt I was a lone voice (apart from my family's constant support) in safeguarding X… .I fear that their (*sic*) has been a miscarriage of justice in my daughters case. Finding fact hearing with significant medical information was available. My daughter was 18 months old and injured. I fear that neither X or myself have been listened to. X's injuries where (*sic*) not from normal handling and would have been caused with some force… Children's Social Worker [name given] wrote inadequate reports with omissions, errors and contradictions. Section 37 reports are copy and pasted and have to be re done members, even though report states has, nor made any effort before filing her report. The failure of Social worker to complete accurate reports and not just go off information given by the mother, leaves the court not having before it information required to determine the matter. Reports were signed off by supervising manager as meeting the standards required by the court. The Local Authority failed to take any protective action to have been taken into to ensure X was not "at risk of harm" The Welfare checklist does not appear to have been taken into consideration… I state that Social Worker, Cafcass, Courts are "Abusers" in the meaning of to abuse their authority and in doing this they are abusing my daughter causing maltreatment and harm."

34. Within this context, the father made abundantly clear to the court during the course of the hearing that he would continue to publish material he considers points up the matters set out in the foregoing paragraph. Indeed, he concludes his second statement with the following passage:

> "I would also like to take the time to say quite frankly whatever the outcome I will still be outing the system I have been talking to hundreds of dads and this order this child abusing Cafcass idiot seeks seems to be all to (*sic*) popular that they and the courts knowing and willingly abuse children and my proof is the fact that my daughters are being emotionally abused because of the sexist bias (*sic*) idiots in this system its time theres (*sic*) change and I will not stop until ive (*sic*) got justice for my daughter and until everyone involved is held countable for there (*sic*) child abusing actions. And as a judge that's (*sic*) the head of welfare im (*sic*) bringing to your attention the emotional harm being caused to 3 children which there is evidence of in the court arena I urge you to investigate this and take urgent action the idiot [Children's Guardian] will tell you there is no need for that action to be taken

> that is because its because of her pretend psychology degree that my kids are being emotionally harmed."

LAW

35. In *Re S (A Child)(Identification: Restrictions on Publication)* [2005] 1 AC 593 at [23], and having regard to its decision in *Campbell v MGN Ltd* [2004] 2 AC 457, the House of Lords observed that, with respect to the foundation of the jurisdiction to restrain publicity to protect private and family life, or to permit publication to protect freedom of expression, that foundation is now laid upon Convention rights under the ECHR. In *Re S (A Child)(Identification: Restrictions on Publication)* at [17] it was made clear that the court exercises this jurisdiction by balancing the competing rights engaged in accordance with the following principles:

    i) None of the rights engaged has, as such, precedence over the others.

    ii) Where the rights are in conflict, an intense focus on the comparative importance of the specific rights being claimed in the individual case is necessary.

    iii) The justifications for interfering with or restricting each right must be taken into account.

    iv) Finally, the proportionality test must be applied to each, known as 'the ultimate balancing test'.

36. In applying what Lord Steyn described as the "ultimate balancing test" of proportionality it is important that the court consider carefully whether the order that is being sought is proportionate having regard to the end that the order seeks to achieve (*JXMX v Dartford and Gravesham NHS Trust* [2015] EWCA Civ 96).

37. Within the balancing exercise, the child's best interests are not paramount. In *Re J (Reporting Restriction)* [2014] 1 FLR 531 Sir James Munby, relying on *ZH (Tanzania) v Secretary of State for the Home Department* [2011] UKSC 4, [2011] 2 AC 166 at [33], held that the child's best interests are, rather, a primary consideration. In *ZH (Tanzania) v Secretary of State for the Home Department* the Supreme Court reiterated that, in interpreting domestic legislation, account must be taken of the States binding obligations in international law, including Art 3 of the United Nations Convention on the Rights of the Child, Art 3(1) providing that:

> "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

38. Under this approach, in applications of this nature the child's best interests will be of the first importance, although they may be outweighed by the cumulative effect of other considerations (see *Re J (Reporting Restriction)* at [22]). Mr Spencer submits however, that it is necessary now to consider the impact on this approach in the context of the recent decision of the Supreme Court in *R (on the application of SC, CB and 8 children v Secretary of State for Work and Pensions* [2021] UKSC 26. In that case, Lord Reed at [74] to [96] held, having regard to the decision of the House of Lords in *JH Rayner*

(Mincing Lane) Ltd v Department of Trade and Industry [1990] 2 AC 418, that although international treaties are agreements intended to be binding upon the parties to them they are not contracts which domestic courts can enforce, that it is a fundamental principle of our constitutional law that an unincorporated treaty does not form part of the law of the United Kingdom and that the Human Rights Act has not given domestic legal effect to unincorporated treaties, it is *not* open to the domestic court to consider whether there has been a breach of the UNCRC. Within this context, Mr Spencer submits that some limitations to the approach to the child's best interests articulated *Re J* may now arise. I am not able to share that view.

39. As recognised by Lord Reed in *R (on the application of SC, CB and 8 children v Secretary of State for Work and Pensions*, when considering the effect of international treaties to which the United Kingdom is a party a distinction must be drawn between *enforcement* by way of domestic law of an unincorporated treaty and the use of an unincorporated treaty as an aid to the *interpretation* of domestic law. In circumstances where international treaties are agreements intended to be binding upon the parties to them, the principle that it is not open to the domestic court to consider whether there has been a breach of the UNCRC or any other unincorporated treaty, as recapitulated by Lord Reed in *R (on the application of SC, CB and 8 children v Secretary of State for Work and Pensions*, is distinct from the principle that the courts are required to interpret domestic law in accordance with the State's international treaty obligations. The latter principle is firmly established in domestic law (see for example *R v Secretary of State for the Home Department v Venables and Thompson* [1997] 3 WLR 23 at 49 and *Smith v Secretary of State for Work and Pensions* [2006] 1 WLR 2024). Within this context, I do not consider that the decision in *R (on the application of SC, CB and 8 children v Secretary of State for Work and Pensions* requires the court to revisit the conclusion in *Re J (Reporting Restriction)* that the child's best interests should be a primary consideration when considering whether to grant relief.

40. Within this context, where the question of restraining publicity engages the welfare of the child, the impact of publication on the children must be weighed by the Court (see *Re S (A Child) (Identification*: *Restrictions on Publication)* at [25]). Whilst in many cases it will be demonstrated that publicity will have an adverse impact on the child, this will not be the position inevitably. In particular, in each case the impact on the child of publication must be assessed by reference to the evidence before the court rather than by reference to a presumption that publicity will be inevitably harmful to the child (see *Clayton v Clayton* [2006] Fam 83 at [51]). Within this context, the courts have made clear that when the court is considering whether to depart from the principle of open justice it will require clear and cogent evidence on which to base its decision. In *R v Robert Jolleys, Ex Parte Press Association* [2013] EWCA Crim 1135 Leveson LJ said at paragraph 16:

> "It was for anyone seeking to derogate from open justice to justify that derogation by clear and cogent evidence: see *R v Central Criminal Court ex parte W, B and C [2001] 1 Cr App R 2* and in civil cases, *the Practice Guidance (Interim Non-disclosure Orders)* [2012] 1 WLR 1033 and *Derispaska v Cherney* [2012] EWCA Civ 1235 per Lewison LJ (at paragraph 14). The order was made when defence counsel asserted the likelihood of the defendant's son suffering 'the most extraordinary stigma through no fault of his own' which caused the Recorder to ask the reporter what the need for

> identifying the son was, rather than whether it was necessary to restrict his identification."

41. The courts have recognised that some of the evidence on which the requisite balancing exercise is undertaken will necessarily involve a degree of speculation (see *Re W (Children)(Identification: Restrictions on Publication)* [2006] 1 FLR 1). The court should use its common sense and there is certainly no need for evidence from child psychiatrists or specific evidence, for example, of psychological harm to the child (see *Re J (Reporting Restriction Order)* at [75]). However, as Keehan J noted in *Birmingham City Council v Riaz and others* [2014] EWHC 4247 (Fam):

> "There comes a point, however, where evidence is not merely speculative but is pure speculation, even from experienced professionals, with no sound or cogent underlying evidential basis. Given the Draconian and wide ranging nature of RROs, I am of the view that evidence of this nature will not be sufficient or adequate to provide an evidential basis to justify the making of an order."

42. Where the Art 10 right to freedom of expression is engaged and falls to be considered in the balancing exercise, the Human Rights Act s. 12(4) requires the court to have particular regard to the importance of the Convention right to freedom of expression and, where the material in question is journalistic in nature, to the extent to which that information is already in the public domain or the extent to which it is, or would be, in the public interest for the material to be published.

43. Whilst the material in this case is not journalistic in nature, it is nonetheless significant in the context of this case that the principles governing what may be termed the 'public domain proviso' have undergone considerable development in recent years. In particular, in cases where the complaint under Art 8 is one of intrusion rather than simply breach of confidentiality *per se*, even if the relevant material is in the public domain the repetition of that information online will, in an appropriate case, be restrained as amounting to unjustified interference with the private lives not only of that subject but also of those who are involved with him or her (see *F v Newsquest and Others* [2004] EMLR 607, *JIH v News Group Newspapers* [2010] EWHC 2818 (QB), [2011] EMLR 177, *CTB v News Group Newspapers Ltd and Thomas* [2011] EWHC 1326 (QB), *MBX v East Sussex Hospitals NHS Trust* [2012] EWHC 3279 (QB) and *Re A (Reporting Restriction Order)* [2012] 1 FLR 239).

44. Within this context, in *PJS (Appellant) v News Group Newspapers Ltd (Respondent)* [2016] UKSC 26 a majority of the Supreme Court held that in cases falling to be determined by reference to ECHR rights the fact there has already been significant online and social media coverage will *not* be decisive in determining whether an injunction restricting reporting will be made. In an appropriate case, the court may grant a reporting restriction order to restrain further interference a person's right to respect for private life despite a significant loss of confidentiality by reason of coverage on the Internet (*PJS (Appellant) v News Group Newspapers Ltd (Respondent)* at [60]).

45. With respect to comment and criticism of the operation of the family justice system, and as I have noted, the father submits that he is entitled to express his ideas, views, opinions, comments or criticism regarding the proceedings and the professionals and the judge involved, however strongly or offensively expressed. In *A v Ward* [2010]

EWHC 16 (Fam) Sir James Munby expressed the following sentiments in the context of an application to anonymise the identities of treating clinicians:

> "One can sympathise with conscientious and caring professionals who cannot understand why they should be at risk of harassment and vilification for only doing their job – and a job, moreover, where participation in the forensic process is not, as it were, part of the 'job specification' as in the case of social workers and expert witnesses. But the fact is that in an increasing clamorous and decreasingly deferential society there are many people in many different professions who, however much they might wish it were otherwise, and however much one may deplore the fact, have to put up with the harassment and vilification with which the Internet in particular and the other media to a lesser extent are awash. And the arguments based upon the risk of unfounded complaints being made to the GMC has, as it seems to me, no more weight in the case of the treating clinicians than in the case of the expert witnesses."

46. As the father has pointed out, in *Re J (Reporting Restriction: Internet: Video)* [2014] 1 FLR 523 at [38] Sir James further took the view that the fact that some *journalistic* reporting and comment may be promulgated in provocative, exaggerated, tendentious or even offensive terms must be tolerated:

> "[38] Comment and criticism may be ill-informed and based, it may be, on misunderstanding or misrepresentation of the facts. If such criticism exceeds what is lawful there are other remedies available. The fear of such criticism, however justified that fear may be, and however unjustified the criticism, is, however, not of itself a justification for prior restraint by injunction of the kind being sought here, even if the criticism is expressed in vigorous, trenchant or outspoken terms. If there is no basis for injuncting a story expressed in the temperate or scholarly language of a legal periodical or the broadsheet press there can be no basis for injuncting the same story simply because it is expressed in the more robust, colourful or intemperate language of the tabloid press or even in language which is crude, insulting and vulgar. A much more robust view must be taken today than previously of what ought rightly to be allowed to pass as permissible criticism. Society is more tolerant today of strong or even offensive language."

47. Within the latter context however, Mr Spencer relies on two recent authorities that he submits reflect a change in the approach to the publication of details of professionals involved in proceedings concerning children and, in particular, the extent to which such professionals should be expected to tolerate the publication of offensive material that vilifies and harasses them within the context of the exponential expansion in the use of social media since the decisions of the former President in *A v Ward* and *Re J*.

48. The first of those cases is *Manchester University NHS Foundation Trust v MN and others* [2020] EWHC 181 (Fam). In that case, Mrs Justice Lieven was concerned with the question of whether a reporting restriction order should encompass the names of NHS clinicians and nursing staff in a case concerning whether life sustaining treatment should be withdrawn from a child. Balancing the Art 8 and 10 rights engaged, Lieven J considered that the balance came down in favour of extending the reporting restriction order to cover the NHS clinicians and nursing staff. Recognising that every case turns

on its facts, Lieven J articulated the importance of the Art 8 rights standing in opposition to the right to freedom of expression under Art 10 as follows:

> "[12] However, there are competing interests. Firstly, that of the treating professionals to their private life (protected by article 8). Secondly, there is a strong public interest in professionals who are doing a difficult and extremely important job (the care of critically ill children) in being able to do that job without feeling that their privacy and their ability to work is being jeopardised. Not least, the public interest lies in ensuring that appropriately qualified people do not avoid these type of cases because of the fear of becoming the target of hostile comment, and that comment even extending to their families.
>
> [13] My task is to balance those interests. In my view the public interest in open justice is very largely protected in the present case by the fact that the proceedings are in public and the judgment is in public. Further, relevant to the facts of this case is that the Hospital is named, as is the child. There is therefore no question of secret justice, or the public not being fully informed as to what is happening to MN and in the proceedings generally.
>
> [14] It is, in my view, difficult to see why either open justice or the public interest is harmed, save to a minimal degree, by the anonymisation of the treating professionals. This is not a medical negligence case, and although the Father has made allegations about the treatment, those are not substantiated by evidence and not pursued by Mr Quintavalle. On the other side of the balance, I do take into account the fact that this is not a case where there have been (so far as I am aware) hostile comments either in the press or social media about the hospital staff, and there has not been any harassment towards them. There has been some, but not extensive, press comment, although it is not possible to know whether this will increase or decrease after the judgment. However, these type of cases concerning the treatment of very ill young children, raise very strong views and there is a well-documented history of hostile and distressing comments about treating staff in other cases. I also note that the Father has made some very damaging, and wholly unevidenced, allegations against staff. I do not consider it appropriate to wait until such hostile comment, or worse, arises and then decide that an RRO should be granted. That is to shut the door after the horse has bolted."

49. Within the foregoing context, Lieven J drew a distinction between NHS clinicians and nursing staff and professionals who attend court to give evidence, lawyers and judges:

> "[16]… In my view there is an important distinction between professionals who attend court as experts (or judges and lawyers), and as such have a free choice as to whether they become involved in litigation, and treating clinicians. The latter's primary job is to treat the patient, not to give evidence. They come to court not out of any choice, but because they have been carrying out the treatment and the court needs to hear their evidence. This means they have not in any sense waived their right to all aspects of their private life remaining private. In my view there is a strong public interest in allowing them to get on with their jobs without being publicly named. I do not agree with the President that such clinicians simply have to accept

> whatever the internet and social media may choose to throw at them. I note that the President's comments were made before the well-publicised cases of *Gard* and *Evans*, and perhaps at a time where the risks from hostile social media comment were somewhat less, or at least perceived to be less. There may well be cases where the factual matrix makes it appropriate not to grant anonymity and each case will obviously turn on its own facts. But in my view the balance in this case falls on the side of granting the order."

50. The decision of Lieven J in *Manchester University NHS Foundation Trust v MN and others* was the subject of appeal. In *Re M (Declaration of Death of a Child)* [2020] EWCA Civ 164 the Court of Appeal, in a permission decision that the Court of Appeal authorised to be reported, the President of the Family Division observed as follows:

> "[101] Grounds 4 and 5 (set out at paragraph 61 above) relate to the RRO. It is submitted that, in so far as the judge made the order by identifying a class of professionals who should be protected, her decision was at odds with the approach described by Sir James Munby P in *A v Ward* [2010] EWHC 16 (Fam) and *Re J (A Child)* [2013] EWHC 2694 (Fam).
>
> [102] It is not necessary to descend to detail on this point in a judgment which is already overly lengthy when dealing with permission to appeal. In short terms, in the decade since Sir James Munby considered this matter the world has changed. The manner in which social media may now be deployed to name and pillory an individual is well established and the experience of the clinicians treating child patients in cases which achieve publicity, such as those of Charlie Gard and Alfie Evans, demonstrate the highly adverse impact becoming the focus of a media storm may have on treating clinicians. The need for openness and transparency in these difficult, important and, often, controversial cases is critical but can, in the judgment of the court, be more than adequately met through the court's judgments without the need for identifying those who have cared for Midrar with devotion since September 2019."

51. The second case relied on by Mr Spencer is that of *Abbasi and another v Newcastle Upon Tyne Hospitals NHS Foundation Trust (PA Media intervening); Thomas and another v Kings College Hospital NHS Foundation Trust (PA Media intervening)* [2021] EWHC 1699 (Fam). In this case, the President of the Family Division was again concerned with the extent to which a reporting restriction order should encompass the names of NHS clinicians and nursing staff, in those cases following the conclusion of proceedings dealing with the question whether life sustaining treatment should be withdrawn from a child and following the death of the child in each case. Within this context, the President held as follows regarding the approach taken by Sir James Munby in *A v Ward* [2010] EWHC 16 (Fam):

> "[95] Standing back and looking at the issue as it is presented now, in 2021, the time has come to draw a line under *A v Ward* insofar as it purported to establish that anonymity is not to be afforded to a class of professionals unless there are compelling reasons for doing so. The approach in law is that set out by Lord Steyn in *Re S* and in respect of the requirement for 'compelling reasons' the judgment in *A v Ward* must be regarded as *per incuriam* and should not be followed. In accordance with *Re S*, there should

> be no default position, or requirement for 'compelling reasons', in such cases. Any such application should turn on its own facts, including the overall context, where that is made out, as to the significant negative impact that the unrestricted and general identification of treating clinicians and staff may generate.
>
> [96] I would, with every due respect to Sir James Munby, go further and record that I do not agree with his evaluation of the situation as it was even in the context of 2014. In particular, I would dissociate myself from the following passage in *A v Ward*, which, in my view, is simply wrong:
>
> > 'One can sympathise with conscientious and caring professionals who cannot understand why they should be at risk of harassment and vilification for only doing their job and a job, moreover, where participation in the forensic process is not, as it were, part of the 'job specification' as in the case of social workers and expert witnesses. But the fact is that in an increasingly clamorous and decreasingly deferential society there are many people in many different professions who, however much they might wish it were otherwise, and however much one may deplore the fact, have to put up with the harassment and vilification with which the Internet in particular and the other media to a lesser extent are awash.'
>
> Why should the law tolerate and support a situation in which conscientious and caring professionals, who have not been found to be at fault in any manner, are at risk of harassment and vilification simply for doing their job? In my view the law should not do so, and it is wrong that the law should require those for whom the protection of anonymity is sought in a case such as this to have to establish 'compelling reasons' before the court can provide that protection.

52. Within this context, the President noted at [105] that within the framework set out by Lord Steyn in *Re S*:

> "…those for whom protection is sought are entitled to look to the law to respect their right to a private life and for that to be balanced, without precedence to the claims of others, and without the need to establish some compelling reason before the court may act."

53. As in *Re M (Declaration of Death of a Child)*, the President's rationale for this approach was in part based in an understanding of the impact of social media in cases of this nature:

> "[89] The first observation to make is that all of the material relied upon in this regard relates to the openness of proceedings before the Family Court and not to the separate and distinct context in focus here, namely the treatment given to a child in hospital. It relates to (or in the case of the guidance, assumes) that judgment has been given by a court following contested proceedings where facts have been found. In such circumstances, the only names potentially in play for anonymisation would be treating clinicians identified in the judgment, and not the entire group of treating

> clinicians and staff. The exception to this is *A v Ward* where, again after an extensive fact-finding process, the court had concluded that allegations of physical harm based on medical evidence were not established.
>
> [90] Secondly, and importantly, the references relied upon represent the court's approach up to 2014. Although that was only 7 years ago, much has occurred in the context of the burgeoning of internet and social media publishing during that short time. Also, as Sir James Munby's judgment demonstrates, much had already changed during the preceding 7 years. Again as Sir James noted, the potential for 'harassment and vilification' of professionals via social media existed then and, as is well established, has developed exponentially since then."

54. Whilst the decision of the President in *Abbasi* dealt with applications concerning NHS clinicians and nursing staff and not an application concerning other professionals operating within the family justice system, the conclusion of the President is formulated widely, referring as it does professionals rather than being limited to medical staff. The jurisprudence on Art 10 of the ECHR provides further support for the approach taken by the President in *Abbasi* to be extended to other professionals working in the family justice system where the speech in issue is harassing or vilifying of those professionals.

55. The protection afforded by Art 10 varies according to the content of the ideas or information expressed. Speech on matters of public interest, including the administration of justice (see *Morice v France* (2016) 62 EHRR 1 at [44]) and the operation of the family justice system (see *N.Š. v Croatia* (2020) Application No. 36908/13 at [103]), will attract high levels of protection. In this connection, the ECtHR has consistently established that there is little scope under Art 10(2) of the Convention for restrictions on debate of questions of public interest (see *Wingrove v United Kingdom* (1997) 24 EHRR 1 at [58]). Further, Art 10 is broad in its scope. The freedom of expression secured by Art 10 is applicable not only to information or ideas that are favourably received, or regarded as inoffensive, but also to those that offend, shock or disturb the State or any section of the community (see *Harris v Harris; Attorney-General v Harris* [2001] 2 FLR 895 at [373]). Within this context, Art 10 protects not only the substance of the ideas or information expressed but also the tone or manner in which they are conveyed. Thus, Art 10 will protect an aggressive, provocative or exaggerated journalistic style of reporting. Art 10 will apply to communication on the Internet, whatever the type of message being conveyed and even when the purpose is profit-making in nature (see *Ashby Donald and Ors v France* [2013] ECHR 28 at [34]). However, even in the context of public interest speech, there remain limits on what constitutes acceptable criticism having regard to the balance that must be struck between the rights under Art 10 and the rights under Art 8.

56. Art 8 may, subject to a threshold of seriousness, encompass protection of a person's reputation (*Axel Springer AG v Germany* [2012] EMLR 15 at [83]). Attacks on an individual's *professional* reputation may also fall within the protection of Art 8 of the Convention. The threshold for justifying interference in Art 10 by reason of the impact of the impugned speech on a person's reputation as an aspect of their Art 8 right to respect for private life is, however, a high one. With respect to the question of whether the prejudice to a person's reputation as an aspect of their Art 8 rights is so serious as to override the Art 10 right, in the case of *Karakó v Hungary* (2011) 52 EHRR 36 the court observed as follows at [23]:

> "For the Court, personal integrity rights falling within the ambit of Art 8 are unrelated to the external evaluation of the individual, whereas in matters of reputation, that evaluation is decisive: one may lose the esteem of society—perhaps rightly so—but not one's integrity, which remains inalienable. In the Court's case law, reputation has only been deemed to be an independent right sporadically and mostly when the factual allegations were of such a seriously offensive nature that their publication had an inevitable direct effect on the applicant's private life. However, in the instant case, the applicant has not shown that the publication in question, allegedly affecting his reputation, constituted such a serious interference with his private life as to undermine his personal integrity."

57. The factors that will inform the weight to be attached to reputation, including professional reputation, in the balancing exercise between Art 8 and Art 10 in the foregoing context were set out in *Axel Springer AG v Germany* at [90] to [95]:

    i) The extent to which the impugned speech contribute to a debate of public interest, particular importance attaching publication of information which serves the public interest and contributes to a debate of general interest.

    ii) The degree to which the person concerned is well known, particular importance attaching to the role and function of an individual targeted by the impugned statements. The limits of acceptable criticism are much wider as regards individuals with a public status than as regards private individuals (see *Palomo Sánchez and Others v Spain* (2012) 54 EHRR 24 at [71]). Within this context, State bodies and civil servants acting in an official capacity are also subject to wider limits of acceptable criticism than private individuals.

    iii) The prior conduct of the person concerned, i.e. the person who is the subject of the material or information published.

    iv) The method of obtaining the information and its veracity. Directly accusing individuals of wrongdoing by mentioning their names places a serious obligation on the speaker to provide a sufficient factual basis for the assertions (*Cumpănă and Mazăre v Romania* (2005) 41 EHRR 200 at [101]).

    v) The consequences of the impugned expression. The courts have been willing to distinguish between statements of views vigorously expressed and personally abusive, inflammatory and potentially defamatory of the person to whom the speech is directed (see *Abdul v DPP* [2011] EWHC 247 (Admin) at [61]).

58. As the President noted in *Abbasi*, the potential for "harassment and vilification" of professionals via social media has developed exponentially since 2014. Within this context, the ECtHR has recognised that the Internet is an information and communication tool particularly distinct from the printed media, especially as regards the capacity to store and transmit information. It has further recognised that the risk of harm posed by content and communications on the Internet to the exercise and enjoyment of human rights and freedoms, particularly the right to respect for private life is higher than that posed by the press (see *Delfi AS v Estonia* (2016) 62 EHRR 6 at [133]). The specific features of the Internet may be taken into account in ruling on the level of seriousness in order for an attack on personal reputation to fall within the scope

of Art 8 (see *Arnarson v Iceland* [2017] ECHR 530 at [37]). The online publication of unevidenced personal attacks in the context of a legitimate public debate may not be protected by Art 10(2) (see *Tierbefreier E.V. v Germany* (2014) Application No. 45192/09).

DISCUSSION

59. In this matter, having balanced the competing rights that I am required to consider, I am satisfied that it is appropriate to grant an injunction restraining the father, whether by himself or by instructing and/or encouraging any other person, from:

i) Placing online or on any social media any information which identifies that X has been the subject of proceedings before the Family court and/or the High Court.

ii) Placing any information that identifies that X has been the subject of proceedings before the Family court and/or the High Court on any vehicle.

iii) Posting online or on any social media platform or on any vehicle information which identifies the mother, Z, as having been involved in proceedings before the Family Court and/or the High Court.

iv) Publishing online or on any social media platform the name of the Children's Guardian in the proceedings concerning X before the Family Court and/or the High Court.

And requiring the father to:

v) Remove any previous posts which remain online or on social media which contain information which identifies that X has been the subject of proceedings before the Family court and/or the High Court.

vi) Remove (a) any posts on any social media platform and/or (b) any information on any vehicle that identifies the mother, Z, as having been involved in proceedings before the Family Court and/or the High Court.

vii) Remove (a) any posts on any social media platform and/or (b) any information on any vehicle that identifies the Children's Guardian in the proceedings concerning X before the Family Court and/or the High Court.

My reasons for deciding that injunctive relief is appropriate and that this is the appropriate format of that relief are as follows.

60. I start by reminding myself that neither the Art 10 right to freedom of expression enjoyed by the father nor the Art 8 right to respect for private life enjoyed by X and by the Children's Guardian has, as such, precedence over the other. Within this context, and in circumstances where these rights are, in this case, in conflict, it is necessary to bring an intense focus on the comparative importance of the competing rights and to take into account the justifications for interfering with or restricting each right.

61. I deal first with the importance of, and the justifications for interfering with, the Art 8 rights engaged in this case. Art 8 provides as follows:

> "**Article 8**
>
> **Right to respect for private and family life**
>
> 1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

62. X's Art 8 rights are engaged in this case. With respect to the importance of those rights, the ambit of the private life of a child is a wide one, encompassing not only the narrow concept of personal freedom from intrusion but also psychological and physical integrity, personal development and the development of social relationships and physical and social identity (see *Botta v Italy* (1998) 26 EHRR 241 at [32] and *Bensaid v United Kingdom* (2001) 33 EHRR 205 at [46] and [47]). Within this context, it is self-evidently important that, in the context of marital breakdown, the stability of the children's circumstances should be preserved to the greatest extent possible. This will extend to ensuring that the child is not adversely affected by publicity surrounding the breakdown and re-constitution of his or her family life. Within this context, I have regard to the fact that in determining this application, X's welfare is a primary consideration for the court.

63. I am also satisfied that the Art 8 rights of Children's Guardian are engaged by the application before the court. As the case law makes clear, the threshold for engagement of the Art 8 right to private life in so far as it relates to a person's reputation is a high one. However, having regard to the nature of certain of the statements made by the father online, on social media or displayed on his vehicle, and in particular his assertion that Children's Guardian abuses children, that the Children's Guardian is "a dirty little child abuser" and that employees of Cafcass engage in bestiality as "dog shagging nonces", I am satisfied that the threshold is met in this case with respect to Children's Guardian in that the allegations are of such a seriously offensive nature that their publication will inevitably have a direct effect on her private life. Indeed, it is difficult to see how being publicly, and baselessly, accused of abusing children or engaging in bestiality could have any other result. Accordingly, I am satisfied that the Art 8 rights of the Children's Guardian fall properly to be placed in the balance.

64. With respect to the importance of the Art 8 rights for the Children's Guardian, those rights are important in two contexts. Firstly, from a personal perspective, as with X, those rights encompass not only the narrow concept of personal freedom from intrusion but also psychological and physical integrity, personal development and the development of social relationships and physical and social identity. Within this context, a person's reputation, even if that person is criticised in the context of a public debate, forms part of his or her personal identity and psychological integrity (see *Pfeifer v Austria* (2007) 48 EHRR 175 at [35]). Secondly, insofar as they encompass professional reputation, such rights are important in maintaining the integrity of, and the public trust in, the operation of the family justice system. The role of the Children's

Guardian and, by extension, the operation of Cafcass must enjoy public confidence if it is to be successful in discharging its obligations. Baseless vilification, serious personal abuse or destructive personal attack undermines that public confidence.

65. Within the latter context, whilst the public nature of the role of the Children's Guardian carries with it the expectation that she may be the subject of robustly expressed criticism, which criticism may or may not be accurate and justified, in the context of the rights conferred by Art 10, it also means, in the context of Art 8, that in some cases it may prove necessary to protect the Children's Guardian against baseless vilification, serious personal abuse or destructive personal attacks. Within this context, the recognition by the ECtHR that the risk of harm posed by content and communications on the Internet to the exercise and enjoyment of human rights and freedoms, particularly the right to respect for private life, is higher than that posed by the press will further illuminate the importance of the Art 8 rights in this context.

66. In addition to holding in mind the importance of the Art 8 rights engaged in this case, the court is also required to consider the justifications advanced for interfering in those rights. I turn to that task next.

67. First, within the context of the court being required by virtue of s 12(4) of the Human Rights Act 1998 to have regard to the particular importance generally of the right to freedom of expression, it is important to hold in mind that the right to freedom of expression has been described as the "touchstone of all human rights" (UN General Assembly Resolution 59(1) of 14 December 1946). With respect to the importance of the Art 10 right to freedom of expression on matters of justice has been articulated consistently by the courts. In *R v Secretary of State for the Home Department ex parte Simms and Another* [2000] 2 AC 115 Lord Steyn said at 126:

> "Freedom of expression is, of course, intrinsically important: it is valued for its own sake. But it is well recognised that it is also instrumentally important. It serves a number of broad objectives. First, it promotes the self-fulfilment of individuals in society. Secondly, in the famous words of Holmes J (echoing John Stuart Mill), "the best test of truth is the power of the thought to get itself accepted in the competition of the market": *Abrams v United States* (1919) 250 US 616, at 630, per Holmes J (dissenting). Thirdly, freedom of speech is the lifeblood of democracy. The free flow of information and ideas informs political debate. It is a safety valve: people are more ready to accept decisions that go against them if they can in principle seek to influence them. It acts as a brake on the abuse of power by public officials. It facilitates the exposure of errors in the governance and administration of justice of the country."

68. Within this context, when considering the justifications for interfering in the Art 8 right to respect for privacy engaged in this case, the court must also take account of the public interest in allowing and promoting debate about the functioning of the family justice system. The courts have recognised the importance of ensuring that parents involved in care proceedings are able to voice their grievances. In *Norfolk County Council v Webster, BBC, Associated Newspapers Ltd and Archant Group; Re Webster* [2007] 1 FLR 1146 Munby J (as he then was) reiterated the importance in a free society of parents who feel aggrieved at their experiences of the family justice system being able

to express their views publicly about what they conceive to be failings in the system. This principle applies irrespective of the merits of the views expressed by the parent.

69. When considering the justifications for interfering with the Art 8 rights engaged in this case, the court must also have regard to the principle of open justice more generally. In *R v Legal Aid Board ex parte Kaim Todner (A Firm)* [1999] QB 966 at 977 the purpose of open justice was described by Lord Woolf MR as being (a) to deter inappropriate behaviour on the part of the court; (b) to maintain the public's confidence in the administration of justice; (c) to enable the public to know that justice is being administered impartially; (d) to result in evidence becoming available which would not become available if the proceedings were conducted behind closed doors or with the parties' or witnesses' identities concealed; and (e) to make uninformed and inaccurate comment about the proceedings less likely. Within this context, the right to freedom of expression is as important for the children who are the subject of proceedings before the family court as for the adult parties and the press. X has a vested interest, as an equal member of society, in both the broad objectives served by the right to freedom of expression and the specific objectives of the principle of open justice. Within this context, the father's central argument is that the interference with the Art 8 right to respect for private life enjoyed by X and by the Children's Guardian is rendered necessary and proportionate by his Art 10 rights.

70. Finally, and within the foregoing context, as I have noted above, in considering the justifications for interfering in the Art 8 rights of the Children's Guardian, I must bear in mind that the limits of acceptable criticism are wider as regards individuals with a public status than as regards private and that State bodies and persons acting in an official capacity are also subject to wider limits of acceptable criticism than private individuals. There do, however, remain limits.

71. I deal next with the importance of, and the justifications for interfering with, the Art 10 rights engaged in this case. Art 10 provides as follows:

> "**Article 10**
>
> **Freedom of expression**
>
> 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary."

72. I have already articulated above the importance of the Art 10 right to freedom of expression when considering the justification for interfering in the Art 8 rights engaged in this case, both generally and in the context of the operation of the family justice system. In this context, a decision to prohibit or restrict the father from speaking publicly about this case would, self-evidently, constitute an interference with his Art 10 right to freedom of expression. In the circumstances, I turn in this context to the justifications for interfering with the right to freedom of expression that are advanced in this case.

73. With respect to X's Art 8 right to respect for private life as the justification for interfering with the Art 10 right of the father to freedom of expression, I am satisfied that publication by the father of information which identifies that X has been the subject of private law proceedings before the Family court and/or the High Court constitutes an interference in her right to respect for private life.

74. As I have noted, in each case the impact on the child of publication must be assessed by reference to the evidence before the court rather than by reference to a presumption that publicity will be inevitably harmful to the child, albeit that some of the evidence on which the requisite balancing exercise is undertaken will be necessarily involve a degree of speculation. Within this context, I am satisfied that publications that identify X as having been the subject of proceedings in the family court are likely to have a detrimental impact on X. Whilst X is not yet of an age to know or understand what is written online and on the father's vehicle, I am satisfied that as she grows and develops and comes to understand that the fact she was the subject of contentions private law proceedings has been broadcast widely and in highly offensive terms to both the community in which she lives and online, is likely to impact adversely on her psychological and physical integrity, personal development and the development of social relationships and physical and social identity, that impact being all the more grave in circumstances where such private information about her has been made public by her own father.

75. Within this context, and having regard to acknowledged importance of the rights under Art 10 as summarised above, when balanced against the Art 10 rights of the father I am satisfied that the Art 8 rights of X justify the interference in the father's Art 10 rights that would arise from prohibiting him from identifying X as a child who has been involved in court proceedings before the Family Court and High Court is concerned.

76. With respect to Children Guardian's Art 8 right to respect for private life, and in particular the extent to which her reputation is protected within that context, as the justification for interfering with the Art 10 right of the father to freedom of expression Children's Guardian, I turn first the question of the extent to which the impugned speech contributes to a debate of public interest, noting that particular importance attaches publication of information which serves the public interest and contributes to a debate of general interest. Within this context, in this case a distinction must be drawn between the criticism the father seeks to level at the family justice and the bare insults and vilification that he persistently attaches to any mention of the Children's Guardian in the form of accusing her of being an "abuser", a "dirty little child abuser" and, most recently, implying that she engages in bestiality as a "dog shagging nonce".

77. Whilst I accept that Art 10 allows the expression of views and ideas in strong, provocative and tendentious terms, the abuse and vilification that the father levels at

the Children's Guardian cannot be said to contribute to, or advance, the public debate on the operation of the family justice system. At the hearing before me it was apparent that the father could not see any distinction between the use of gratuitous insults and vilification and advancing his criticisms of the family justice system as they relate to his case. Within this context, and on the evidence before the court, I am satisfied that the inclusion of the name of the Children's Guardian in the material published by the father is not done with the intention of adding to any legitimate discourse on the subject he is writing about, rather it is to seek to harass and vilify her and to draw to her other abuse and attacks. The father's purpose in naming the Children's Guardian is directed at the vilification or harassment of her, as opposed to contributing to public discourse on, comment in respect of, or discussion of the family justice system.

78. With respect to degree to which the Children's Guardian is well known, particular importance will attach to the role and function of the Children's Guardian within the family justice system. As I have noted, State bodies and those acting in an official capacity are subject to wider limits of acceptable criticism than private individuals. However, against this and as recognised by the President in *Abbasi*, it is important that role of Children's Guardian in proceedings is not undermined by baseless criticism, harassment and denigration. Within this context, I also bear in mind that the publication of grossly insulting and unjustified allegations risks diminishing the stability and resilience of the Children's Guardian, affecting her ability to discharge her obligations in respect of other children and families engaged in the family justice system. As the President noted in *Abbasi*, there is a strong public interest in professionals who are doing a difficult and important job being able to do that job without feeling that their privacy and their ability to work is being jeopardised. This is particularly the case where the Children's Guardian does not have a choice but to attend court and to discharge her duties on a case that is allocated to her (in this regard, insofar as Lieven J sought to suggest in *Manchester University NHS Foundation Trust v MN and others* at [16] that professionals have a free choice as to whether they become involved in litigation, I am not able to agree with that statement if it was intended to encompass Children's Guardians).

79. With respect to the prior conduct of the Children's Guardian, this is not a case in which the Children's Guardian has engaged in any prior conduct that could justify the nature and extent of the abuse levelled at her by the father. Indeed, it is noteworthy that at the final hearing the father failed to attend in March 2021 the Children's Guardian was also critical of the work undertaken by the social worker tasked with authoring the report pursuant to s.37 of the Children Act 1989 and secure an adjournment in order that certain lacunae in that report could be remedied.

80. In my judgment, the conduct of the father is also relevant in this case when seeking to strike a balance between the Art 8 and Art 10 rights engaged. The father has not in this case engaged fully in the proceedings the result of which he now seeks to impugn on social media and on the back of his vehicle, and failed to attend the final hearing in March 2021 in its entirety (as I have noted, it is unclear whether he attended the adjourned final hearing in May 2021, the order recording that the father did not attend but also referring to the father making oral applications at that hearing). The father has at no point sought to appeal the decisions made by the allocated judge in this case. Further, whilst highly critical of the conduct of the Children's Guardian, the father has followed none of the formal complaints procedures available to him with respect to the

conduct of the Children's Guardian within the proceedings. Instead, the father has elected to confine himself to naming the Children's Guardian on social media and on his vehicle, accompanied by accusations of her being an "abuser", a "dirty little child abuser" and, latterly, implying she and her colleagues engage in bestiality as a "dog shagging nonce".

81. With respect to the veracity of the information disseminated by the father on social media and on his vehicle, I bear in mind that the ECtHR has made clear that directly accusing individuals of wrongdoing by mentioning their names places a serious obligation on the speaker to provide a sufficient factual basis for the assertions (see *Cumpănă and Mazăre v Romania* (2005) 41 EHRR 200 at [101]). Within this context, the father's allegation that the Children's Guardian is an "abuser" of children, a "dirty little child abuser" and the implication that the Children's Guardian engages in bestiality are without any evidential basis.

82. With respect to question of the consequences of the material the father has published, and in circumstances where the Children's Guardian does not wish to put before the court the personal consequences for her of the father's actions (and, indeed, has not felt able to attend this hearing), Mr Spencer invites the court to take judicial notice of likely effect on professionals working in child protection of being accused of being a "dirty little child abuser" and of the implication that she and her colleagues engage in bestiality. As I have noted, the courts have made clear that when the court is considering whether to depart from the principle of open justice it will require clear and cogent evidence on which to base its decision. However, on balance and having regard to the extreme nature of the allegations made by the father, I am satisfied that the court can take judicial notice that such allegations are likely to have a detrimental effect on the Children's Guardian. I have had regard in particular to the fact that, in relation to the material displayed on the rear of the father's vehicle, the father's conduct constitutes a relatively extreme form of publication, namely the allegation that the Children's Guardian is an "abuser" of children being driven daily around the local area. I have also born in mind that allegations of child abuse and bestiality are, even if entirely groundless, particularly emotive insults from the perspective of the public and particularly disparaging for a person who is professionally engaged in child protection. Finally, as recognised by the ECtHR, the risk of harm posed by content and communications online and on social media to the exercise and enjoyment of human rights and freedoms, particularly the right to respect for private life is higher than that posed by the press. Within this context, the ECtHR has made clear that online publication of unevidenced personal attacks in the context of a legitimate public debate may not be protected by Art 10(2).

83. Having regard to the factors the court is required to consider, I am satisfied that that the father's attack on the Children's Guardian has reached the level of seriousness required to cause prejudice to the Children's Guardian's enjoyment of the right to respect for private life. Within this context, I am satisfied that that the publication by the father of the name of the Children's Guardian with allegations of a seriously offensive nature constitute an interference with her right to respect for private life. I am further satisfied that the Art 8 rights of the Children's Guardian outweigh the father's Art 10 rights as far as naming the Children's Guardian is concerned. Even accounting for the importance of the Art 10 right to freedom of expression, in my judgment the protection afforded by Art 8 against the vilification of a professional acting in good faith in family

proceedings, against whom no formal complaint has been made or established and against whom no appeal has been mounted or allowed, by a litigant who failed on occasion to attend court to argue the matters of which he now complains and who has not taken advantage of any of the routes available to him to, must prevail. I am satisfied that in this case the Art 8 right to respect for private life of the Children's Guardian protects her from publications that baselessly accuse her of being a "dirty little child abuser" and that imply she engages in bestiality and protects her from her name being paraded around her local area on the back of a vehicle as an abuser of children.

84. Finally, having regard to my analysis of the competing Art 8 and Art 10 rights, their respective importance and the various reasons advanced for interfering with them, I must apply 'the ultimate balancing test' of proportionality. With respect to X, I am satisfied that it is proportionate to prevent the father from publishing material that identifies X as having been the subject of proceedings in the Family Court. That prohibition does not prevent the father from pursuing complaints through the relevant established complaints process nor from seeking to appeal decision with which he does not agree out of time. It also does not prevent him from publicising his views about the family justice system provided he does not do so in a manner that identifies X as the subject of proceedings. Within this context, I am satisfied that the injunction I intend to grant is a proportionate step having regard to the aim the court seeks to achieve.

85. With respect to the Children's Guardian, I am likewise satisfied that it is proportionate to prevent the father from naming the Children's Guardian. This restriction once again does not prevent the father from pursuing complaints through the relevant established complaints process nor from seeking to appeal decision with which he does not agree out of time. It likewise does not prevent him propounding his views on the efficacy of family justice system. However, in circumstances where the father is simply incapable of naming the Children's Guardian without vilifying and abusing her, it is in my judgment necessary to prevent the father from publishing the name of the Children's Guardian. Within this context, I am again satisfied that the injunction I intend to grant is a proportionate step having regard to the aim the court seeks to achieve.

CONCLUSION

86. In the circumstances, and balancing the Art 8 and Art 10 rights engaged in this case, I am satisfied that it is appropriate to grant injunctive relief in terms set out in the order annexed to this judgment. For the avoidance of doubt, the consequences of that injunction will be that the father must remove from the back of his vehicle the name of the Children's Guardian and any information on the vehicle that is capable of identifying X as having been the subject of proceedings before the family court.

87. As I have noted, the father's vilification of those involved in the proceedings concerning X extends to the judge and social worker. Whilst, for the reasons given at the outset of this judgment, those matters are not before the court, with respect to the judge, I intend to send a copy of this judgment to the Office of the Attorney General in order that the Attorney General can, if he deems it appropriate to do so, consider whether the father's conduct amounts to a contempt of court by way of interference with the administration of justice. It will remain a matter for the relevant local authority whether injunctive relief is sought in respect of the social worker.

88. In this case I have found striking the correct balance between the Art 8 and Art 10 rights engaged to be a less than easy exercise. The Art 10 right to freedom of expression is a cardinal right of seminal importance in a democratic society. Within this context, it is plainly in the public interest for there to be open, honest and frank debate about the operation of the family justice system. Under the protection afforded by Art 10, material which serves the public interest by contributing to such a debate may be expressed in strong, vigorous and even offensive terms.

89. But the Art 10 right to freedom of expression is not the only human right. Whilst a professional must expect criticism of his or her work in the aforesaid public discourse with respect to the family justice system, particularly where that work is undertaken in a context that admits of more than one "right" answer to a given problem, the ECtHR has made clear that Art 8 protects that professional from speech of such a seriously offensive nature that publication will have an inevitable direct effect on that person's private life. It is right that it should do so. Our domestic civil and criminal law has long recognised that there are boundaries to freedom of expression. The approach of the ECtHR and that of our domestic law recognises that whilst Art 10 underpins a democratic society, there are species of expression that are so corrosive of that vital scaffolding that they must be circumscribed.

90. As the current President of the Family Division noted in *Abbasi*, in the context of the exponential growth of social media, and the tendency of that medium to act as an efficient conduit for personally abusive conduct and offensive and insulting material aimed at individuals, matters have moved on significantly since the decisions of the former President in *A v Ward* and *Re J*. Within this context, the question asked by the President in *Abbasi* deserves repeating:

> "Why should the law tolerate and support a situation in which conscientious and caring professionals, who have not been found to be at fault in any manner, are at risk of harassment and vilification simply for doing their job?"

91. In light of the cardinal importance of the Art 10 right to freedom of expression, this is an area where the courts must tread very carefully. However, as recognised by the ECtHR, the Internet and social media now magnify the risk of harm posed to the exercise and enjoyment of human rights and freedoms by unfounded personal attacks. As also recognised by the ECtHR, and by the Supreme Court, the court may grant an injunction to restrain further interference in a person's right to respect for private life despite a significant loss of confidentiality by reason of prior publications on social media. Within this context, the modern position is that the court will *not* tolerate the dissemination of false, deceptive or grossly insulting or offensive material that seeks to vilify or harass professionals involved with proceedings in relation to children, where those professionals are simply seeking in good faith to discharge their duty to the court, and which is corrosive of our system of justice.

92. That is my judgment.

SCHEDULE

In the High Court of Justice
Family Division

Case No. MA21P01419

The Human Rights Act 1998

The child X

ORDER MADE BY MR JUSTICE MACDONALD ON 28 JULY SITTING IN PRIVATE.

You should this order carefully. If you do not understand anything in this order you should go to a solicitor, Legal Advice Centre or Citizens Advice Bureau. You have a right to apply to the court to change or cancel the order.

IMPORTANT NOTICE TO THE FIRST RESPONDENT, Y.

YOU MUST OBEY PARAGRAPHS 1 AND 2 OF THIS ORDER. IF YOU DO NOT OBEY PARAGRAPHS 1 AND 2 OF THIS ORDER, YOU WILL BE GUILTY OF CONTEMPT OF COURT AND YOU MAY BE SENT TO PRISON, BE FINED, OR HAVE YOUR ASSETS SEIZED.

IMPORTANT WARNING: ANY PERSON OR BODY WHO KNOWS OF THIS ORDER AND DOES ANYTHING TO BREACH ITS TERMS MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.

IF YOU ARE SERVED WITH THIS ORDER YOU SHOULD READ IT EXTREMELY CAREFULLY AND ARE ADVISED TO CONSULT A SOLICITOR AS SOON AS POSSIBLE. YOU HAVE THE RIGHT TO ASK THE COURT TO VARY OR DISCHARGE THE ORDER.

UPON hearing counsel, Mr Spencer, for the applicant and the first respondent appearing in person.

AND UPON the second respondent informing the Court in advance that she was unable to attend the hearing.

AND UPON the court giving its reserved judgment on the application made by the Children's Guardian.

IT IS ORDERED THAT:

1. **Y MUST NOT:**

    a. whether by himself or by instructing and/or encouraging any other person, place online or on any social media any information which identifies that X has been the subject of proceedings before the Family court and/or the High Court.

    b. whether by himself or by instructing and/or encouraging any other person, place any information on any vehicle that identifies that X has been the subject of proceedings before the Family court and/or the High Court.

    c. whether by himself or by instructing and/or encouraging any other person, post online or on any social media platform or on any vehicle information which identifies the mother, Z, as having been involved in proceedings before the Family Court and/or the High Court.

    d. whether by himself or by instructing and/or encouraging any other person, publish online or on any social media platform the name of the Children's Guardian in the proceedings concerning X before the Family Court and/or the High Court.

2. **Y MUST:**

    a. Remove any previous posts which remain online or on social media which contain information which identifies that X has been the subject of proceedings before the Family court and/or the High Court.

    b. Remove (a) any posts on any social media platform and/or (b) any information on any vehicle that identifies the mother, Z, as having been involved in proceedings before the Family Court and/or the High Court.

    c. Remove (a) any posts on any social media platform and/or (b) any information on any vehicle that identifies the Children's Guardian in the proceedings concerning X before the Family Court and/or the High Court.

3. There orders shall remain in force until further order.

4. No order as to costs.