

**COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
FAMILY DIVISION
BEFORE MR JUSTICE WILLIAMS**

AND IN THE MATTER OF THE SHARIF CHILDREN

BETWEEN:

- (1) LOUISE TICKLE**
- (2) HANNAH SUMMERS**

Appellants

- (1) THE BRITISH BROADCASTING CORPORATION**
- (2) PA MEDIA**
- (3) ASSOCIATED NEWSPAPERS LTD**
- (4) TIMES MEDIA LTD**
- (5) GUARDIAN NEWS AND MEDIA LTD**
- (6) TELEGRAPH MEDIA GROUP HOLDINGS LTD**
- (7) NEWS GROUP NEWSPAPERS LTD**
- (8) INDEPENDENT TELEVISION NEWS LTD**
- (9) REACH PLC**
- (10) SURREY COUNTY COUNCIL**
- (11) OLGA SHARIF**
- (12) URFAN SHARIF**
- (13) BEINASH BATOOL**
- (14 – 19) MJ, NS, BS, HS, MS, AS**
(by their Children’s Guardian)

Respondents

SUBMISSIONS OF THE SECOND RESPONDENT

Introduction

1. PA Media, formerly known as the Press Association (“**PA**”), is the national news agency for the UK and Ireland.
2. The Court will be familiar with the background to the case and PA’s involvement in it alongside Ms Tickle and Ms Summers (“**the Appellants**”) as well as the 1st and 3rd to 9th Respondents (“**the Media Parties**”).
3. This appeal arises out of an order made by Williams J (“**the Judge**”) permitting the disclosure of further material related to historical family proceedings involving Sara Sharif, her parents and siblings, but preventing the identification of “*any Judge who heard the historic proceedings*”.
4. In summary, PA supports the appeal and seeks disposal of Williams J’s order as described by the Appellants¹. PA respectfully submits that the order, with the subsequent Judgment², provided by Williams J (“**the Judgment**”), is an unjustified derogation from the open justice principle, is contrary to the wider public interest and presents a disproportionate interference with the media’s rights under Article 10.
5. PA has seen and endorses the written submissions of the Appellants and as such will not repeat the procedural history or history of the appeal.

The principle of open justice, the media and the family courts

6. Open justice is a key constitutional principle which allows the public to observe and scrutinise the work of courts and tribunals which operate in their name.
7. The principle “*lets in the light and allows the public to scrutinise the workings of the law, for better or for worse*”: *R (Guardian News and Media) v City of Westminster Magistrates’ Court* [2012] EWCA Civ 420 at §2.
8. Open justice is not merely a lofty ideal: “*publicity is a powerful disinfectant*”³, and the “*full glare of a public hearing ... makes uninformed and inaccurate comment about the proceedings less likely*”⁴.
9. Although there are often restrictions in place to protect the welfare of subject children, namely Section 12 of the Administration of Justice Act 1960, there is nonetheless “*a fundamental need for the press to play a scrutiny role in family proceedings*”⁵.
10. In *Re J* [2013] EWHC 2694 (Fam), Sir James Munby P said at [27] that arguments in favour of transparency are “*particularly compelling*” in cases involving “*interference, intrusion, by the state, by local authorities and by the court, into family life*”.

¹ See Appellants’ Skeleton Argument, dated 2nd January 2025, at §60-63

² *Tickle and Ors v Surrey County Council and Ors* [2024] EWHC 3330 (Fam).

³ *R v Shayler* [2002] UKHL 11 at §21.

⁴ *R v Legal Aid Board, ex parte Kaim Todner* [1999] QB 966, 979.

⁵ *London Borough of Sutton v Gray* [2016] EWHC 1608 (Fam) at §11.

11. And crucially in this case, as HHJ Clifford Bellamy said at §13 of *Re K (A Child: Wardship: Publicity) (No 2)* [2013] EWHC 3748 (Fam), transparency is needed “to enable the public to see and have confidence in the process by which the family court arrives at what are frequently life-changing decisions for children and families”.
12. One central tenet of the open justice principle is that derogations from it are kept to what is strictly necessary, under a limited range of circumstances. It is also well established the identity of those involved in court proceedings is a central aspect of open justice⁶. As Lady Hale JSC put it in *R (C) v Secretary of State for Justice* [2016] UKSC 2 at §1: “The names of the people whose cases are being decided, and others involved in the hearing, should be public knowledge.”
13. She added at §36: “The public has a right to know, not only what is going on in our courts, but also who the principal actors are.”
14. PA respectfully submits that “principal actors” or “others involved in the hearing” must include the judges making the decisions, as well as the parties.
15. This once again applies in the Family Court. As Dame Victoria Sharp P stated in *Griffiths v Tickle and Ors* [2021] EWCA Civ 1882 at §36:

“But the firmly established starting point in the domestic jurisprudence is the principle of open justice. The general rule is that proceedings are held in public and what is said, including the names of the parties and witnesses, can be observed and reported.”
16. And in *Derbyshire County Council v Marsden* [2023] EWHC 1892 (Fam), Lieven J granted permission to name Lay Magistrates and Legal Advisors involved in proceedings related to Finley Boden, a baby later murdered by his parents. Lieven J said at §29: “The role of the judge is one that beyond any doubt requires public accountability and openness.”
17. At §30, she continued (emphasis added):

*“Society is necessarily very grateful for the role undertaken by Lay Justices for no remuneration and involving giving up much of their time. However, **Lay Justices are judges and, in cases such as this, making very important decisions that impact on children and families in the most significant way. As such, there is no case for their names not to be in the public domain when decisions are made, in the same way as would the names of judges who had made such decisions.**”*

Submissions

18. With the greatest of respect, PA submits that the Judgment of Williams J, insofar as it relates to the naming of the judges, is an extraordinary decision amounting to a substantial derogation of the open justice principle, is corrosive to public trust in the

⁶ See also *Lu v Solicitors Regulation Authority* [2022] EWHC 1729 (Admin) (§5, 6)

judiciary and wider Family Court system, and flies in the face of substantial efforts to increase trust and transparency.

19. In light of the significant public interest⁸, the balancing exercise between Article 8 and Article 10 clearly falls in favour of naming the judges involved in the historic proceedings, particularly in the absence of evidence from the affected judges themselves⁹ at the time the Judge made his decision.
20. Judges sitting in Family Courts are public office holders who make decisions which could have a fundamental impact on the lives of children and adults on a daily basis. With this responsibility, rightly comes great scrutiny and also no realistic expectation of privacy. This should come as no surprise to any professional in this position.
21. In his Judgment, the Judge appears to create the term of “shielded justice” to denote the environment of the Family Court in contrast to the “open justice environment” of the civil and criminal courts. As above, PA submits that the open justice principle does apply to the Family Court.
22. Furthermore, the limitations on reporting which exist are in place to protect the interests of the *children*¹⁰ involved in family cases, as for the majority of cases it is in their best interests not to be identified. This has the consequential impact of anonymising family members and social workers to avoid jigsaw identification and to protect the administration of justice. As such, the shield, in so far as it exists, protects the subject children in the Family Court environment, not those making often life-altering decisions about them.
23. The Judge raises the Court of Appeal’s decision in *Abbasi v Newcastle upon Tyne Hospitals NHS Foundation Trust* [2023] EWCA Civ 331 in the Judgment. PA respectfully submits that the circumstances of the current matter differ substantially from the facts in *Abbasi* and lend limited support for the Judge’s conclusions.
24. Medical professionals are a different class of person from judges. Doctors are not inherently public figures, contrary to judges who occupy a special constitutional role as part of the State. Furthermore, even a judge who exclusively sits in private hearings in the Family Court will still have their name published on a public court list, will likely publish judgments under their name, and will be identifiable in a number of places online as one of His Majesty’s Judges.
25. At §55 of his Judgment, the Judge describes social workers, legal advisors and judges “*as a class*”. PA respectfully disputes that these three professions can be considered together for purposes of anonymity as there will be very different balancing exercises to undertake for each profession, even putting aside the need for a fact-specific exercise in any event. The judicial position means that without

⁸ Which is not disputed by Williams J

⁹ Submissions are expected to be provided on the judges’ behalf but will postdate the filing of this note so cannot be addressed at this time.

¹⁰ Or adults without capacity, particularly in the Court of Protection.

substantial clear and cogent evidence as to the need for a derogation, the balancing exercise is very unlikely to go in any direction other than publication.

26. Later in his judgment, the Judge falls into similar error:

“Most social workers, magistrates, legal advisers and judges would never expect to feature in a case of this complexity and of national interest in contrast to the High Court Judges who would”.

27. PA respectfully submits that even if members of the professions above do not expect to be involved in a case of such national interest, it remains a possibility through the nature of their work. Sadly, Sara Sharif’s death is not the first, and is unlikely to be the last, to occur in similar circumstances.

28. Furthermore, circuit and district judges are judges, and cannot be distinguished from High Court judges in the way Williams J suggests. Their oaths, and indeed the impact they can have on the lives of subject children, are arguably indistinguishable.

29. The increased level of publicity inherent in a judicial role could go to a judge’s greater vulnerability compared to medical professionals as described in *Abbasi*. However, publicity of some kind has to be envisaged when seeking judicial office, and any risks posed by that must be taken into account and assessed by responsible bodies such as HMCTS.

30. By the very nature of a judicial role, a judge could face disgruntled litigants if sitting in civil and family courts, but could also deal with terrorists, members of organised crime networks and gangs, as well as their associates, by virtue of sitting in a criminal court. And yet, in courtrooms across England and Wales each day, named judges sit in open court, often on prominently high benches.

31. If the threats posed by the “*virtual lynch mob*” as described by the Judge are sufficient to warrant anonymity for the judges in this case, it is difficult to see how any Crown Court judge could be named in the future. The exercise of judicial functions is likely, at some point, to raise issues of public debate, sometimes robust debate. Any threats or behaviour going beyond that ought to be handled with criminal sanctions, which also act as deterrents. The solution is not, PA submits, to hide judges away with a cloak of anonymity, ebbing away trust in the judicial system.

32. That is not to dismiss the regrettable and rightly condemned attacks against judges referred to by the Judge, but they do not justify restrictions on the ability of the media to report comprehensively or the imposition of an unjustified derogation from the open justice principle. Instead, the burden falls upon HMCTS and central Government to ensure there are not lapses in risk assessments or gaps in funding.

33. PA further submits that the Judge fell into error during his consideration of the role of accountability and publicity. In the Judgment at §70, he said:

“Seeking to argue that individual social workers or guardians or judges should be held accountable is equivalent to holding the lookout on the Titanic responsible for its sinking rather than the decision making of Captain Smith and the owners of the White Star Line or blaming the soldiers who went over the top in the Somme on 1 July 1916 for the failure of the offensive rather than the decision making of the generals who drew up the plans.”

34. With respect, PA submits that the overarching request for transparency in naming the judges is not about apportioning blame, but about examining the system, and judges are a substantial part, if not a cornerstone, of that system.
35. In support of his decision to withhold the names of the judges, the Judge states that in his experience in the Family Court, the decisions made in the historic proceedings *“appear to be well within the boundaries of what one would typically encounter in a case of this nature”*.
36. PA respectfully submits that even if this is the case, the view of one, albeit experienced judge, as to the decisions made is largely irrelevant to whether or not the historic proceedings judges should be named. To have a judge decide that his fellow judges should not be named, in a matter of such substantial public importance, is plainly detrimental to public trust in the judiciary and may be seen as ‘closing ranks’.
37. It can also be said that other, equally experienced judges, could come to a different conclusion based on the material before Williams J as to whether the historic decisions were correct.
38. It is right to say the responsibility for Sara Sharif’s murder lies with her murderers. However, a full examination of the circumstances leading up to her death is of the highest public interest, and as such the balancing exercise between Articles 8 and 10 falls very clearly in favour of identifying the historic judges.
39. PA endorses the view set out by Lieven J in *Derbyshire County Council v Marsden* and respectfully submits that the conclusions are applicable to this case. If there is no case for a Lay Magistrate to not be named in discussions of cases concerning the death of a child at the hands of a parent, it follows that there can be no case for a Circuit Judge to receive differential treatment in very similar circumstances.
40. In his Judgment, the Judge said, fairly, that is not bound by Lieven J’s decision. However, PA submits that he has not provided a proper basis for coming to a contrary view.
41. Later in his Judgment, the Judge made several remarks about the role of the media, noting at §59 that *“experience regrettably shows that some reporting is better than others and that it is not a reliable end point”*.
42. He continued at §70:

“With respect it seems to me that to create an assumption that the press reporting will be fair, accurate and responsible is to create the equivalent of the Emperor’s New Clothes narrative which everyone knows is false, but no one dare state.

“Many of the media no doubt will adhere to that standard but regrettably experience of the real world as opposed to some utopian ideal teaches us that some will not - including amongst the mainstream media.”

43. PA respectfully submits this is a remarkable conclusion for the Judge to have reached. PA further submits that while the Judge is correct to raise concerns about disinformation in the current age, the media plays a significant role in countering falsehoods spread by malign actors. The “disinfectant” of publicity in court proceedings as considered in *Shayler* is a powerful one, and the media plays a vital role in that.

Conclusion

44. For the reasons set out above, §15.g of the Judge’s order restraining the naming of the judges involved in the historic proceedings concerning Sara Sharif and her siblings should be set aside.

Jess Glass

January 6 2025