IN THE COURT OF APPEAL (CIVIL DIVISION) **CASE NO. CA-2024-002784**
ON APPEAL FROM THE HIGH COURT OF JUSTICE
FAMILY DIVISION
MR JUSTICE WILLIAMS
FD23P00425

In the matter of THE SHARIF CHILDREN

BETWEEN:

(1) LOUISE TICKLE & (2) HANNAH SUMMERS

Appellants

-and-

(1) THE BBC, (2) PA MEDIA (3) ASSOCIATED NEWSPAPERS LIMITED, (4) TIMES MEDIA LIMITED, (5) GUARDIAN NEWS AND MEDIA LIMITED, (6) TELEGRAPH MEDIA GROUP HOLDINGS LIMITED, (7) NEW GROUP NEWSPAPERS LIMITED, (8) INDEPENDENT TELEVISION NEWS LIMITED and (9) REACH PLC
(10) SURREY COUNTY COUNCIL
(11) OLGA SHARIF
(12) URFAN SHARIF
(13) BEINASH BATOOL
(14 – 19) U, V, W, X, Y and Z (CHILDREN)
(by their Children's Guardian, Sarah Gwynne)

Respondents

APPELLANTS' SKELETON ARGUMENT
2nd January 2025

References in the form [§XX] are to the judgment dated 19th December 2024[1]

A. INTRODUCTION

1. This skeleton argument is prepared on behalf of Ms Louise Tickle and Ms Hannah Summers[2] (collectively '**the appellants**') in support of their appeal against the order of the Honourable Mr Justice Williams ('**the Judge**') dated 11th December 2024 insofar as it restrained the naming of "*any Judge who heard the historic proceedings*" concerning Sara Sharif and her siblings.

(i) The updating skeleton argument

[1] Now published as Tickle & Ors v Surrey County Council & Ors [2024] EWHC 3330 (Fam).
[2] The appellants, both of whom have extensive experience of reporting in relation to the Family Court, are "*duly accredited representatives of news gathering and reporting organisations*" for the purposes of FPR r.27.11(2)(f).

2. The skeleton argument sets out (i) the final argument on behalf of the appellants taking into account the Judge's judgment dated 19th December 2024 ('**the publication judgment**'), and (ii) the basis of the appellants' application to amend their grounds of appeal to include a ground relating to the Judge's erroneous, and unfair, approach to the media generally, and the appellants specifically.

3. The skeleton argument should be read alongside (i) the application to amend the grounds of appeal dated 2nd January 2025, (ii) amended grounds of appeal dated 2nd January 2025, and (iii) a Chronology of Relevant Events dated 2nd January 2025.

(ii) The procedural history concerning the order providing anonymity for the Judges in the historic proceedings

4. The order dated 11th December 2024 followed a hearing on 9th December 2024 at which the Judge had heard applications, made by the various media parties, for disclosure of documents from the historic proceedings, and permission to publish information relating to those historic proceedings. At the conclusion of the hearing on 9th December 2024 the Judge announced his decision without the provision of reasons, and reserved judgment to an unspecified date in the new terms in January 2025.

5. As regards the order providing for the anonymisation of the Judges:
    a. At the conclusion of the hearing on 9th December 2024 the Judge permitted the filing of written submissions on the issue, and indicated he would review the decision he had announced;
    b. The appellants submitted an additional note at 13.33 on 10th December 2024;
    c. PA Media (the 2nd respondent) submitted a note at 19.27 on 10th December 2024;
    d. The 1st and 3rd to 8th respondents[3] provided written submissions at 09.35 on 11th December 2024;
    e. No party provided any submissions which substantively supported the maintenance of the order in so far as it restrained the naming of "*any Judge who had heard the historic proceedings*";
    f. By way of an email sent at 17.07 on Friday 13th December 2024 it was indicated that "*His Lordship maintains his decision that the judges are not to be named or*

[3] Reach PLC had not, at that point, joined the application.

otherwise identified. Full reasons will follow in His Lordships reserved judgment";

g. The appellants sought permission to appeal from the Judge by way of an email sent at 17.33 on 13th December 2024;

h. By way of an email sent at 20.22 on 13th December 2024[4] the Judge adjourned the application for permission to appeal "*to be determined following the delivery of the reserved judgment*" and provided reasons for the same; [**§6**]

i. The appellants lodged their appellants' notice with the Court of Appeal on Monday 16th December 2024;

j. The Judge's clerk circulated a draft judgment at 18.05 on 18th December 2024[5];

k. Permission to appeal was granted by the order of Sir Geoffrey Vos, Master of Rolls, dated 19th December 2024;

l. The reasons for the decision on the application for permission to appeal were given within a written judgment dated 19th December 2024; and

m. The Judge's judgment was handed down to the parties remotely at 11.19 on 20th December 2024, and published later that same day.

6. The appellants' respectful submission is that the appeal raises an issue of fundamental constitutional significance in relation to a case which is of a high order of public interest, concerns an order that is without any known precedent, and which was made in a procedurally irregular manner. The appellants are grateful for the approach of the Court of Appeal in taking up the appeal expeditiously in a manner wholly consistent with the urgency of the issues arising.

B. BACKGROUND

7. The background is set out within the Chronology of Relevant Events, and within the permission skeleton at §§5 – 19.

(i) Proceedings concerning the Sharif family

8. The following matters, set out within the background, are of particular importance:

[4] The Judge indicated that the decision was communicated at 18.34GMT on 13th December 2024. [§6] This may indicate the time that the Judge communicated his decision to his clerk, but the parties did not receive a response until later in the evening.

[5] It is understood that the Judge brought forward the preparation of judgment in light of the appellants' appeal, [**§2**] and the Court of Appeal taking the matter up on an expedited basis.

a. Sara Sharif died on 8th August 2023. Her death followed a lengthy and appalling history of abuse and violence inflicted upon her[6];
b. On 11th December 2024 – following a trial at the Central Criminal Court – her father, Urfan Sharif, and step-mother, Beinash Batool, were convicted of murder. Her paternal uncle, Faisal Malik, was convicted of causing or allowing the death of a child;
c. Messages read into evidence suggested that Ms Batool had messaged family members about serious physical abuse of Sara by her father in February 2020 (just 4-months after the last hearing before the Family Court);
d. There were three sets of proceedings (two public law applications, and one private law application) before the Family Court in Guildford. Proceedings were ongoing in respect of Sara's siblings when she was born, and the final private law order was made in October 2019. In the course of the three sets of proceedings orders were made by the following:
    i. An order concerning transfer to the County Court of proceedings concerning "**Z**" and "**U**" was made by magistrates on 4th January 2013;
    ii. Emergency protection orders ('**EPOs**') made by a Circuit Judge ('**CJ/1**') on 17th November 2024 lasting until 18.00 the following day;
    iii. Interim care orders ('**ICOs**') made by a Circuit Judge ('**CJ/2**') in respect of Sara and her sibling, "**U**", on 24th July 2015 lasting until 18.00 on 7th August 2015; and
    iv. All other orders – including interim orders, case management directions, and final orders – in the three sets of proceedings were made by a Circuit Judge ('**CJ/3**');
e. The outcomes of the proceedings were as follows:
    i. The first care proceedings concluded with Sara, "**U**", and "**Z**" being made subject to supervision orders, and remaining in the care of their mother, Olga Sharif, and Urfan Sharif;
    ii. The second care proceedings concluded with "**Z**" being made subject to a care order to Surrey County Council, and Sara and "**U**" made subject to supervision orders, and living with their mother, and contact "*should*

[6] Details of this abuse are set out with the 'Sentencing Remarks of Mr Justice Cavanagh' which are available in published form (https://www.judiciary.uk/wp-content/uploads/2024/12/The-King-v-Sharif-Batool-and-Malik.pdf), and by video, having been livestreamed.

remain supervised until the Father has undertaken work to address the domestic violence issues and until he has been assessed as posing no risk to the children in unsupervised contact". Any private law application was to be reserved to **CJ/3**, if available; and

iii. The private law proceedings concluded with Sara and "**U**" being made subject to 'lives with' child arrangements orders in favour of their father, and Beinash Batool, with supervised contact to their mother.

f. When the private law application was issued on 17th May 2019 Sara and "**U**" were already living with the father and Ms Batool (and their younger half siblings) following Sara having made allegations against her mother. A safeguarding letter was prepared by a Cafcass Family Court Adviser ('**FCA**') dated 4th July 2019. This was detailed letter which noted that "*[t]he 4 'no further actions' on Mr Sharif's Police check do expose safeguarding concerns*" whilst noting Mr Sharif's (i) reported engagement with Probation, (ii) acknowledgment of an incident concerning "**Z**", and (iii) suggestion of having been falsely accused in respect of "*the false imprisonments*". The FCA advised that the children should "*remain in the care of Mr Sharif and Ms Batool in the interim and until Surrey LA check is returned and evidences no ongoing safeguarding issues*". At a hearing on 9th July 2019 **CJ/3** ordered, by consent, that (i) Sara and "**U**" should live with Mr Sharif and Ms Batool until further order, (ii) granted permission for the children to be removed for a family holiday to Pakistan, (iii) ordered that Mr Sharif should return the children following the holiday, (iv) directed a section 7 welfare report from the LA, and (v) ordered that the children should spend time with their mother for 2-hours each week, with contact being "*attended by Ms Batool*". The section 7 report was prepared, and dated 2nd October 2019. It recommended that the children should "*continue to reside in Beinash and Urfan's care*" noting "*how much safer the children state they feel* […] *and the close attachment they appear to have built with their half siblings*". The recommendation was made for Ms Batool to continue to supervise contact;

g. Whilst some notes of interim judgments exist (one of which includes the final decision for "**Z**" placing him in the care of Surrey County Council), and a transcript of the final hearing in the private law proceedings is available, there are no full/formal final judgments for any of the proceedings. Whilst a separate question arises as to whether a judgment, or judgments, should have been given,

the lack of judgments is likely to arise as a consequence of the disposal to each set of proceedings having been agreed between the relevant parties; and

h. Sara's older full sibling "**U**", and younger half siblings, "**V**", "**W**", "**X**", and "**Y**", remain in Pakistan. It is understood that they remain with their paternal grandfather. Proceedings are ongoing in Pakistan, as are proceedings in the High Court under the inherent jurisdiction within which the children have been made wards and remain the subject of return orders.[7]

(ii) Media applications for disclosure and publication

9. Running alongside the substantive wardship proceedings the Judge was *seised* with a number of media applications concerning the disclosure of information from the historic proceedings, and permission to publish information (this arises in respect of the historic, and current proceedings). The appellants applied by way of a C66 dated 29th September 2023. This application followed an informal application which was first made to **CJ/3**, and who referred the matter to the Judge. The BBC made an application in similar terms dated 31st October 2023. PA Media joined those applications.

10. Reporting restriction orders were initially made as the proceedings were confidential even from the parents. By an order dated 14th December 2023 the Judge permitted some limited reporting in relation to the wardship proceedings. In addition to the statutory restrictions applying in accordance with s.12 of the Administration of Justice Act 1960 ('**AJA**'), the court prohibited reporting of (i) names, dates of birth, and addresses of the children, (ii) details about the historic proceedings (noting the fact of previous proceedings was not prohibited), and (iii) information about the children's particular characteristics and/or needs. The balance struck by this order remained at the point at which the matter came before the Judge on 9th December 2024.

11. The Judge directed initial disclosure of redacted documents consisting mainly of (i) orders, and (ii) position statements/case summaries at a hearing in February 2024. The Judge listed a hearing on 21st March 2024 to consider the applications of the appellants, and the BBC for wider disclosure of material from the historic proceedings. It was

[7] There has been limited permission to report matters relating to the ongoing inherent jurisdiction proceedings. Within those proceedings, save where modified, the restrictions of s.12 of the Administration of Justice Act 1960, and s.97 of the Children Act 1989 continue to apply.

accepted by all parties that, with criminal proceedings ongoing, the question of publication could not, at that stage, be determined.

12. By way of a detailed judgment dated 7th June 2024 the Judge found that, to a significant degree, it was not possible to undertake the necessary "final balancing exercise". Save for limited specific items (including the transcript of the October 2019 hearing) no further disclosure was ordered. By way of an order dated 19th September 2024, the media applications for disclosure were refused, with each of the Media Parties able to renew their applications for disclosure and/or variation of reporting restrictions on notice to the parties.

(iii) The restored applications for disclosure and publication

13. In view of the information placed into the public domain in the course of the criminal trial, and the likelihood of imminent verdicts, the BBC applied to restore the matter for consideration. The hearing of the restored application was initially listed on 3rd December 2024. This hearing was adjourned to the afternoon of 9th December 2024 by the Judge.

14. When the court had been approached regarding vacating the hearing on 3rd December 2024 (due to the likely lack of verdicts) the response on behalf of the Judge was:

> 'Just to say Williams J can do the case but it will be ½ a day of the 9th and then he will have no time to deliver a judgment before His Lordship goes abroad on 14 December.
> His Lordship also said but as the jury are only going out next Tuesday at the earliest there is a real possibility there will not be verdicts on some of the defendants by then.'

15. By way of an email sent at 16.04 on 29th November 2024 the local authority indicated it would write to the court at 16.30 explaining that no party opposed an adjournment of the hearing on 3rd December 2024. Ms Tickle responded by email at 16.20 noting, amongst other matters, that:

> 'Second: we are concerned whether half a day is sufficient but as you'll have seen from our PS do not agree that the absence of a verdict necessarily precludes the judge from considering the issues.
> That is for the judge to consider. So - we have no objection to the court being informed of the views of some of the parties that 3rd Dec is too soon. However we would want it explicitly noted in any communication by you to the court, that as set out in our PS, we are open to a listing on 3rd if the judge feels that is appropriate, and bearing in mind the update he has had re the ETA on verdicts, and noting, as he did, that the verdicts may still not be received by 9 December.'

16. The email sent to the court noted that "*some of the applicants, we understand, would invite the Court to vacate the listing on 3rd December*" however it was noted:

> 'No other party opposes that approach, though Ms Tickle and Ms Summers (as set out in their position statement filed by Mr Barnes) wish us to emphasise that they remain open to a listing on 3rd December if His Lordship feels that is appropriate, and noting that the verdicts may still not be received by 9 December.'

17. Following the hearing, on submissions, on 9th December 2024 the Judge announced a decision, reflected in the order of 11th December 2024, that, in light of the compelling public interest, (i) the previously disclosed documents should be supplied with reduced redactions (especially to reveal allegations made by "**Z**"), and (ii) substantial further disclosure should be made (with redactions in accordance with a "redaction protocol". In the event (in particular) of guilty verdicts for Mr Sharif or Ms Batool for murder or manslaughter, publication would also be permitted of information relating to the historic proceedings, subject to restrictions set out at §15 of the order of 11th December 2024.

C. THE APPEAL

(i) History of the appeal

18. The appellants appeal with permission to appeal having been granted by the order Sir Geoffrey Vos, Master of the Rolls, dated 19th December 2024, with reasons given by way of a written judgment of the same date. The appeal is against the Judge's order in so far as it restrains publication of "*any Judges who heard the historic proceedings*".

19. The appeal was lodged, unusually, prior to the delivery of any reasons by the Judge who had announced his decision, and maintained it, without providing any reasons, and indicating that judgment would be reserved to an unspecified date in the new term in the New Year of 2025. Following the Judge's decision to adjourn the application for permission to appeal[8] made to him on 13th December 2024, lodging an appeal with the Court of Appeal was the only route available to the appellants.

20. The appellants lodged their appeal urgently on the basis that (i) the immediacy and importance of the issues demanded expedition, (ii) the Judge's approach was procedurally irregular, and (iii) – with no application to restrain the identification of Judges, and without specific evidence – the order made could not be justified.[9]

(ii) Application to amend the appellants' grounds of appeal

[8] On its face it is an extraordinary outcome for a Judge to be unable to determine an application for permission to appeal against his own order, and to purport to adjourn consideration of the same, due to an absence of reasons to support an order which had already come into effect.
[9] The basis of the appellants' approach is set out more fully at §23 of the permission skeleton.

21. The appellants apply, by way of an application dated 2nd January 2025, to amend their grounds of appeal to add an additional ground. This application arises in light of the fact that the original grounds were set out prior to the receipt of the Judge's judgment.

22. The additional ground asserts that the Judge's decision was unjust by virtue of a serious procedural, or other, irregularity, namely, the Judge's seriously erroneous approach to the media generally, and the appellants specifically, which amounts to an unjustified and inappropriate attack, and a breach of Article 6 and 10 rights.

23. In so far as this additional ground requires permission to appeal the appellants submit it has a real prospect of success, and there is a compelling reason for the issue of the proper approach of the court to the media and/or journalists to be considered. [CPR r.52.6(1)(a) and (b)] This additional ground also enjoys a 'real prospects of success'.

D. INITIAL OBSERVATIONS IN RELATION TO THE JUDGE'S APPROACH AND THE PUBLICATION JUDGMENT OF 19th DECEMBER 2024

24. The Judge, both within his permission decision, and the publication judgment seeks to attribute responsibility to the media parties for the fact that the original listing on 3rd December 2024 was vacated. [**§5**], and [**§6**] This ignores (i) that listing is ultimately a matter for the Judge as was the approach of announcing a 'decision' without reasons, (ii) that the Judge was informed that the appellants in fact did not support the application to adjourn, and left the matter to the Judge, but were content to proceed on 3rd December 2024, and (iii) that the failure to give reasons at the time of announcing the decision was aggravated when no reasons were given at the point that the Judge confirmed he maintained his decision on the late afternoon on 13th December 2024.

25. Beyond the fact that the Judge did not raise the question of judicial anonymity in the course of the hearing, or invite any submissions on the issue (until the issue was raised on behalf of the appellants following the announcement of the 'decision' at the conclusion of the hearing on 9th December 2024), many of the matters considered within the judgment were simply not explored at any stage:
    a. The Judge provides a summary of the three previous proceedings [**§§18 – 26**], in the course of which he appears to review the decision making in the case, and – having invited no submissions on the issue – purports to uphold the decision making as having "*no real alternative option*"; [**§§68 – 69**]

b. The observations at [**§26**] seem to suggest that, despite a very high degree of judicial continuity, and with proceedings being specifically reserved to **CJ/3**, the historic allegations may not have been known to **CJ/3** at the time of the final hearing in October 2019 – this is difficult to square with the very detailed safeguarding letter which was prepared at the outset of the private law application;
c. It is surprising to note the Judge's diffidence as to the nexus of connection between (by way of example) (i) allegations of false imprisonment, (ii) allegations of lengthy physical abuse of a child ("**Z**"), and (iii) allegations of domestically abusive, and coercively controlling behaviour, and events leading to Sara's death; [**§72**] and
d. The Judge raises a number of concerns about the vulnerability of Judges which – though obviously serious in their own right – were each connected to litigants in proceedings those Judges were conducting, [**§55**] and appears to highlight lacunas in HMCTS's approach to risk assessment in relation to litigants in family proceedings [**§77**] which bears no obvious relationship to the question of judicial anonymity (either in the specific circumstances of the case, or generally).

26. In a manner wholly inconsistent with previous decisions of the Court of Appeal[10] that the Open Justice principle applies to proceedings in the Family Court, albeit s.12 AJA provides an exception "*to protect private and family life rights, including in particular the rights of children*" [Griffiths v Tickle §35], the Judge sought to create an alternative categorisation (or nomenclature) of "*shielded justice*"[11]. In doing so, the Judge again failed to seek submissions on the point, and adopted an approach untethered to the law the court he was required to apply:
    a. Contrary to the s.12 AJA restrictions applying to another set of proceedings the Judge included "*information relating to the proceedings*" by describing his conclusion – albeit anonymised – as to the person responsible for a baby's death[12]; [**§80**]
    b. The Judge's categorisation of the court as "*retain[ing] a discretion*" to refuse permission to publish names of social workers, experts, and judges [**§55**] ignores

[10] See Re C (A Child) [2016] EWCA Civ 798 at §22, Griffiths v Tickle & Ors [2021] EWCA Civ 1882 at §§34 – 5, §58, and §69.
[11] This is not a phrase which appears to have been used on any previous occasion in any judgment.
[12] This apparent breach of s.12 AJA was drawn to the Judge's attention in the course of providing editorial corrections. This led to the inclusion of the indication that the judgment was "*(soon to be published)*" though this does not – for the time being – address the potential breach.

the reality that no permission is required to name any social worker, expert, or judge given that their naming is not restricted by s.12 AJA;

c. The Judge conflates the existence of a power to make a reporting restriction orders, if justified on a particular application, with "*a starting point that shielded justice preserves anonymity for [social workers and other child protection professionals]*", [**§61**] in fact the statutory restrictions do no such thing; and
d. Extraordinarily, the Judge uses the judgment to suggest that s.12 AJA "*needs reconsideration*" [**§46**] to further expand restrictions[13], whilst failing to acknowledge that anonymity within the Reporting Pilot framework arises, inevitably, for children as a consequence of the provisions of s.97 of the Children Act

27. Whilst the Judge is highly – the appellants would submit entirely inappropriately – critical of reporting that he had 'refused' permission to appeal [**§60**] the reality is that the Judge's approach of adjourning the application for permission to appeal (i) amounted functionally to a refusal of any urgent review in the absence of an appeal being lodged with the Court of Appeal, (ii) relied upon his own failure to provide reasons as a means to prevent urgent review, and (iii) relied upon a conclusion that delay "*of a matter of weeks*" would cause "*minimal prejudice*" which the Judge was compelled to accept was unsustainable, noting in his judgment that "*the issues engaged warrant expedition*". [**§2**]

28. Moreover, the broad thrust of the Judge's order to (i) substantially reduce the redactions applied to documents previously disclosed, (ii) to provide for very wide additional disclosure of material from the historic proceedings, and (iii) to provide broad permission to publish information contained in the disclosed material, was an endorsement of the position advanced by the appellants alone. [**§§12 – 13**] To accept the appellants' overall position on the scope of disclosure/publication as one which was reasonable, and accurately reflected the public interest, and the balance between competing Article 8/10 rights [see **§33**, **§36** and **§40**], but then to tar them as inaccurate, and irresponsible [see **§60**] is logically unsustainable.

E. GROUNDS OF APPEAL ADVANCED

[13] Contrary to the approach of Lord Steyn in In re S (A Child) (Identification: Restrictions on Publication) [2004] UKHL 47 as considered by the Court of Appeal in Griffiths v Tickle at §§35 – 6.

(a) The absence of any reasons was procedurally irregular

29. The pressure of time which bore upon the Judge is, of course, acknowledged. The appellants would note that it was, ultimately, the Judge who listed the matter for ½ day on 9th December 2024, and vacated the earlier listing that the appellants were content to have maintained. In announcing a 'decision' without reasons the Judge adopted an unorthodox, and unusual approach which this Honourable Court has, in other contexts, had cause to deprecate. The Judge rightly accepted, with the question of anonymity of the Judges who had heard the historic proceedings not having been raised and the appellants raising a concern about this order immediately on 9th December 2024, that he was required to review his decision.

30. The appellants submit that the failure to provide *any* reasons even by the time of confirming that the order relating to the restraint on naming Judges would be maintained (by email at 17.07 on 13th December 2024) amounts to a procedural irregularity:
    a. A professional judge owes a general duty to give reasons for his decision, though the extent of that duty depends upon the case and/or subject matter at hand; [Flannery v Halifax Estate Agencies Ltd [2000] 1 WLR 377]
    b. Where – as in the case of an injunction against publication which represents an interference with Article 10 rights – a judicial decision affects the substantive rights of the parties the Strasbourg jurisprudence requires that the decision should be reasoned; [English v Emery Reimbold & Strick Ltd. [2002] EWCA Civ 605 at §13]
    c. The Judge's suggestion – within his response to the application for permission to appeal – that his reasoning was required for the purposes of any appellate review ignores the fact that an appeal lies against an order, including where there is unfairness arising from a serious procedural irregularity, which would include a failure to give reasons;
    d. The approach taken by the Judge, which was only modified as a result of the appeal, and the intervention of this Honourable Court, would have allowed an order (one which is without any known precedent) to continue to bind all those with notice of the order (which includes the appellants, and the majority of major UK media organisations) notwithstanding a continuing lack of reasons, for an open-ended period into the New Year with no date specified.

e. Given the narrow nature of the issue the Judge had agreed to review – relating to the anonymity to Judges – the Judge had sufficient time to provide reasons (even in summary form) by 13th December 2024 (indeed, more extensive reasoning was provided within 2.5 hours in adjourning the application for permission to appeal) and part of the delay in the production of a judgment appears likely to arise from the Judge's consideration of extraneous matters, including his views/interpretation of earlier social work and judicial decision making;

f. Adjourning and/or staying a decision is itself an interference with a reporter's Article 10 rights, and must itself be justified [Griffiths v Tickle & Ors [2021] EWCA Civ 1882 at §81, and Tickle v Father & Ors [2023] EWHC 2446 (Fam) at §51] in this instance the interference caused by a delay into the New Year in the provision of reasons was not justified (as the Judge belatedly accepted);

g. The Judge's failure to grant permission to appeal, through the step of adjourning his own consideration of the issue, was especially problematic in that the Judge relied upon his own procedurally defective failure to give reasons to deny the appellants a timely remedy; and

h. In light of the urgency, and timeliness, of the issue at hand – including the overwhelming public interest in the very fact of an order being made providing for judicial anonymity – it could never be appropriate for a judgment to be handed down in the New Year, especially with sentencing scheduled for 17th December 2024, and media attention focused on the case, with the story at peak salience.

31. Albeit the issue, in this instance, only arises in the specific context of the appellants' challenge to the Judge's order, a failure to give reasons gives rise to a generalised unfairness. An equally problematic position could have developed had, for instance, the guardian sought to challenge the terms of the disclosure/publication orders.

32. The Judge's approach in failing to give reasons in a timely manner was unjust, and amounts, in the context of an injunctive provision restraining the Article 10 rights of the media, and public, amounts to a serious irregularity.

(b) The Judge adopted an approach to the media generally, and the appellants specifically, which (i) was unfair, (ii) demonstrated bias and/or inappropriate personal animus, and (iii) represented an unacceptable judicial encroachment upon the Article 10 ECHR rights of the appellants and/or the media

33. In the course of the judgment the Judge demonstrated a wholly unacceptable, and hostile approach to the media generally, and the appellants specifically. Whilst the Judge noted precedent supporting the need for the court to proceed on the basis that reporting of proceedings will be responsible, fair, and accurate, [per R v Sarker [2018] 1 WLR 6023] he failed to apply that approach.

34. Despite citing the decision of Munby P (as he then was) in Re J (A Child) [2013] EWHC 2694 (Fam) the Judge did not recognise the critical rationale for this approach: the need for the court to resist a desire to exercise editorial control and/or exercise a preference for particular reporting, [see Re J at §§37 – 40] which is contrary to established protections under Article 10 ECHR.

35. The Judge infringed these principles on numerous occasions in the course of his judgment:
    a. In criticising the reporting of a previous judgment delivered by the Judge; [**§59**]
    b. In criticising a Dispatches programme broadcast on 20th July 2021; [**§60**]
    c. In criticising the appellants for engaging in what the Judge termed "*[w]hat is very close to advocacy or campaigning*"; [**§60**]
    d. In suggesting, in an inappropriate rhetorical flourish, that the appellants' reporting (published in a national newspaper that was itself a party to proceedings) was "*[a]ccurate – no; fair – no; responsible – I would venture to suggest no*".[14] The Judge failed to remain within the boundary of his own authority (determining whether a breach of a restriction and/or contempt had taken place – plainly no such breach had occurred) in critiquing the reporting and calling into question the responsibility and good faith of the appellants; [**§60**]
    e. Describing the assumption that press reporting will be fair, accurate and responsible as "*creat[ing] the equivalent of the Emperor's New Clothes narrative which everyone knows to be false, but no one dare state*"; [**§60**] and
    f. By describing a submission made on behalf of the other media parties in relation to the exceptionally high public interest in being able to name the Judges in the historic proceedings as "*extraordinary*" and "*risible*". [**§64**]

[14] In fact the reporting of the Judge's decision as a "refusal" of permission is amply justified given the definition of the word and the effect of the Judge's decision, and falls comfortably within the province of media editorial decision making.

36. It is plain that the Judge's critique of the reporting of his permission decision (which followed on from that decision) *cannot* have been in the Judge's mind at the time of making, or reviewing, his decision. Nevertheless, the Judge's willingness to enter into an unacceptable attack, much of which is targeted at the appellants, demonstrates clear bias [per Porter v Magill [2002] 2 AC 357 at §102] and personal animus: within [**§60**]:
    a. The Judge refers to a documentary made by Ms Tickle in 2021;
    b. Seeks to impugn, without a proper basis, the responsibility and accuracy of the appellants' reporting (comparing them unfavourably to an, apparently, favoured journalist, Nick Wallis);
    c. Appears to rely on this personal animus to justify, in an *ex post facto* fashion, his decision on judicial anonymity;
    d. The implication (the "sting" were this to be considered in defamation proceedings) is that the appellants engage in irresponsible reporting, egregiously infringing Article 8 rights, and potentially engaging in criminal behaviour in the manner of Andy Coulson, who was tried, convicted and jailed; and
    e. Undertakes this entire analysis without having given any notice of the same to the appellants, in a manner similar to the judicial conduct impugned in Re W (A Child) [2016] EWCA Civ 1140 which led to damages for a violation of Article 8 in ECtHR proceedings in SW v The United Kingdom [2021] ECHR 541.

37. It is disappointing, but perhaps unsurprising, that the Judge should direct such an inappropriate attack toward the appellants which is likely to flow from (i) their substantial and prominent roles in reporting on the Family Court, and (ii) the fact that they are the parties responsible for actively pursuing an appeal against the Judge's order, and flawed approach. It is notable that, (i) insofar as the article in relation to the application for permission to appeal appeared within a national newspaper – The Observer – the criticism is directed to the appellants alone, and (ii) no mention is made of the fact that The Times (also a party to the proceedings) made precisely the same editorial decision in describing the Judge's failure to grant permission to appeal.[15]

38. Given the personal, unacceptable, and unjustified criticism of the media, and the appellants, came without notice, and demonstrate clear bias and hostility, it must, the

[15] Jawad Iqbal 'Judges in case of Sara Sharif have no right to anonymity' published on 16th December 2024: "*Mr Justice Williams also refused reporters permission to appeal …*",

appellants submit, be addressed by this Honourable Court which is invited to find that the Judge's approach breaches the appellants' Article 6 and 8 rights, and infringed media freedoms under Article 10. The appellants submit, moreover, that the Judge's approach, if not deprecated in the strongest possible terms, carries the significant risk of having a chilling effect upon the clear need to encourage, and facilitate increased reporting about, and transparency within, the Family Courts.

(c) The demands of the Open Justice principle mean anonymity for a Judge cannot be justified within the framework of balancing Article 8 and Article 10

39. The Judge's decision to adjourn his own consideration of the application for permission to appeal discloses a clear error, amounting to a misdirection. The Judge noted variously that:

> 'The authorities referred to in the additional submissions confirm that the decision to be taken is the ultimate balancing exercise between the Article 8 rights of the individuals concerned and the Art 10 rights of the press. The Court of Appeal decision in Abassi and other authorities make clear there is no class of individual who falls outside the ultimate balancing exercise which would include the judges and that the court must undertake an exercise in which those rights are balanced including the likely response to the publication of names by reference to specific and generic knowledge […]'
>
> And,
>
> '[…] as I will apply the legal framework set out in my judgment of June 2024 [**author's note: this judgment focused on the Article 8/10 balance in relation to the disclosure of documents in the context of the Article 8 rights of the children, and parents**] which was not appealed and which I therefore assume contains an appropriate and correct analysis of the law […]'

40. The nature of the role of a Judge, especially within a common law system, is one of very special constitutional significance. Judges, when sitting, are exercising a very an important public function:
    a. Neither of the statutory restraints applying to Children Act 1989 ('**CA**') proceedings (section 12 AJA, and section 97 CA) limit the ability to publish the name of a Judge at any time, and, indeed, unless specifically restrained by a court having the power to prohibit publication, the publication of the whole or part of an order made by a court sitting in private can be published;
    b. Reliance upon the Article 8 rights of a Judge in the context of their judicial function is inherently problematic where there can be no reasonable expectation of privacy in the discharge of judicial functions consistent with the principle of Open

Justice, per R (on the application of Mohamed) v Secretary of State for Foreign & Commonwealth Affairs [2010] EWCA Civ 65:

> '38. Justice must be done between the parties. The public must be able to enter any court to see that justice is being done in that court, by a tribunal conscientiously doing its best to do justice according to law. For that reason, every judge sitting in judgment is on trial. So it should be, and any exceptions to the principle must be closely limited. In reality very few citizens can scrutinise the judicial process: that scrutiny is performed by the media, whether newspapers or television, acting on behalf of the body of citizens. Without the commitment of an independent media the operation of the principle of open justice would be irremediably diminished.'

c. Where the issue of naming (i) magistrates, and (ii) legal advisers was considered by Lieven J in Derbyshire v Marsden [2023] EWHC 1892 (Fam), with HMCTS appearing as an interested party, the court concluded:

> '29. The role of the judge is one that beyond any doubt requires public accountability and openness. No party submitted that the Magistrates should not be named. Further, I was shown no case that gave any support to an argument that the names of judges in a case could not be publicly named.
>
> 30. 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.
>
> […]
>
> 38. As such, the Legal Adviser is an integral, and legally required, part of the decision making process. As such it appears to me to be right that their names can in principle be placed in the public domain. Again, no person specific circumstances were put before me as to why this particular Legal Adviser should not be named.'

41. The Judge fell into error in his decision not to follow the decision of Lieven J in Marsden:

a. The issue of judicial anonymity (in the context of the naming of magistrates and a legal adviser) was given careful consideration by a Judge of the High Court;

b. Lieven J had the benefit of submissions on behalf of HMCTS who were represented through counsel;

c. The Judge's reference to Lieven J being "*the judge with responsibility for delivering the Transparency Pilot*" appears to amount to an insinuation that this role influenced what the Judge refers to as "*her approach*" [**§53**] – such a suggestion is wholly unwarranted;[16]

[16] Insofar as the Court of Appeal has had cause to consider Lieven J's approach to cases concerning reporting and/or publication her decision was upheld in Griffiths v Tickle.

d. The Judge falls into error at [**§54**]:
    i. Lieven J notes (correctly) that statutory restrictions protect the anonymity of children rather than professionals;
    ii. The Judge fails to note that Lieven J accepts that the identity of professionals *can* be withheld but that "*the principles of open justice can only be departed from with considerable caution*", this is an appropriate statement of principle;
    iii. The Court of Appeal in Abassi did not consider the issue of judicial anonymity at all, it cannot, therefore, be said to undermine reliance on the decision in Marsden, and is not authority for the approach to be taken to the making of such an order;
    iv. The ultimate balancing exercise was the approach endorsed by the Court of Appeal in Abassi where the question of anonymity for a particular professional arises, but the issue of anonymity does not arise in all circumstances for consideration by the court. In Abassi the issue arose because orders providing anonymity for professionals *had* been made and the court was considering an application for those orders to be discharged;
e. The Judge's further reliance on Abassi in [**§56**] is misplaced given that the quoted portion of the Court of Appeal's judgment points to the need for RROs to "*protect the integrity of the proceedings*"; no such consideration applies in this instance where the historic proceedings are long ago concluded; and
f. The Judge did not have a proper basis for concluding that the decision of Lieven J in Marsden was wrong, and he should have followed the decision.

42. The Judge fell into error in concluding that Open Justice principles apply differently, or with less force, in relation to Family Proceedings heard in private. Such an approach:
    a. Is contrary to previous decisions of the Court of Appeal in Re C (A Child) and Griffiths v Tickle;
    b. Fails to properly conceptualise the statutory restrictions applying to Family Proceedings as "*narrow and circumscribed*" exceptions to the continuing application of the Open Justice principle, as opposed to creating a distinct, and parallel system ("*shielded justice*" as the Judge terms it);
    c. Fails to recognise that the ability of the media to attend, to apply to report, and (through the Reporting Pilot and its extension) be entitled to report family

proceedings arises from the application of the Open Justice principle even to private proceedings;

d. The fact that statutory restrictions specifically permit the publication of an order [s.12(2) AJA] reinforces the imperative, even in private proceedings, for a public record of judicial decision making to be available; and

e. Insofar as there is a consistent principle and expectation that a Judge's identity must be known there is nothing that makes the Family Court exceptional, "*[c]ourts exercising family jurisdiction do not occupy a desert island in which general legal concepts are suspended or mean something different*".[17]

43. In a speech delivered to the Commonwealth Judges and Magistrates Conference on 10th September 2023[18] the (then) Lord Chief Justice noted:

> '9. What then does open justice require? In the Common Law world there are, I think, four core elements.
>
> […]
>
> 14. Fourthly, the participants' details must be made public. […] Importantly, in the common law tradition the judge's identity must be known; those who exercise the judicial power of the state should not do so in secret. That aspect of the principle was the subject of debate in this jurisdiction last year following a without notice order to the British Government from the European Court of Human Rights in Strasbourg prohibiting the removal of an asylum seeker. The identity of the judge who made the order was not revealed at the time nor has it been since, something that is alien to the common law tradition.
>
> 15. The most important rationale that underpins the principle is that it ensures that the judiciary are accountable for what we do.'

44. The well-established public interest in the naming of an individual [per Re Guardian News and Media Limited [2010] 2 AC 697] must apply with even greater force to a judicial office holder. The appellants raise the serious concern that such an orders sets a troubling precedent, especially where the matters relied upon by the Judge as pointing to a purported risk the Judges in the historic proceedings are wholly general, and generic. The Judge's decision is at odds with both the principle of Open Justice, and the drive for greater transparency within the Family Justice System and Family Courts.

[17] Per Lord Sumption in Prest v Petrodel Resources Ltd & Ors [2013] UKSC 34 at §37
[18] https://www.judiciary.uk/wp-content/uploads/2023/09/Open-Justice-CMJA-2023-FINAL-11-Sep.pdf

45. The Judge failed to recognise that the naming of a Judge, a public office holder, is a cornerstone of Open Justice. To that extent, the withholding of the name of a Judge cannot be justified by reference to the conventional Article 8/10 balancing exercise.

(d) The Judge is not capable of justifying the order as it was made in the absence of any specific application and/or evidential foundation

46. The court had before it no evidence, of any kind, which disclosed any specific risk arising to any of the Judges who had heard the historic proceedings. It is notable that **CJ/3**, who had almost complete conduct of all of the proceedings, was aware of the application for disclosure of papers at the outset (prior to the application being lodged by the appellants in September 2023) and the intention of the appellants to seek to publish information. No application has ever been made by **CJ/3**, or any other Judge for anonymity.

47. There was no evidence placed before the court concerning the naming of Judges. It follows that the Judge's consideration cannot descend beyond the generic, and in that regard the Judge made reference to the "*inevitable* [social media] *pile on*". Whilst the appellants do not dispute that such actions can be deeply unpleasant, the approach of Nicklin J in Various Claimants v Independent Parliamentary Standards Authority [2021] EWHC 2020 (QB) is plainly coherent and compelling:

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

48. The Judge's decision on judicial anonymity was infected, and is seriously undermined, by his extraordinary analysis in which he asserted that to seek to hold an individual judge accountable for their decision making in a case – especially where one Judge, **CJ/3**, has effectively managed the entirety of all three sets of proceedings – is like seeking to hold "*the lookout on the Titanic responsible for its sinking*" or "*blaming the soldiers who went over the top in the Somme on 1 July 1916 for the failure of the offensive*". [**§70**] The process of accountability is one which seeks to understand decision making, which is

critically informed by the decision maker. In the case of care proceedings, and private law proceedings, a Judge exercises an independent – and important – burden of ensuring the safety of the children with whom they are concerned (they are not bound to follow a position which is agreed as between the parties). The aptness of the analogies used aside, to suggest that a Judge, [******* **REDACTED** *******], lacks agency in the manner asserted by the Judge is entirely unsustainable. To suggest further that accountability should only really follow egregious misconduct [**§86**] is wrong

49. The judgment discloses no credible argument based on Article 8, or Articles 2 and 3, which might justify the order restraining the naming of the Judges in the historic proceedings:
    a. Whilst – no doubt – comments on social media can be unpleasant the Judge was compelled to accept (again using surprisingly visceral and emotive language) that they do not in fact equate to a physical risk; [**§55**]
    b. The fact that some Magistrates – and even, potentially, some Judges might have laboured under a misapprehension that they enjoyed anonymity – cannot, when the law makes no such provision, cannot lead to a credible reliance on Article 8 rights in the context of exercising such an important public function;
    c. The examples cited to support a risk of criminal conduct towards Judges each arise in the context of disgruntled litigants whose cases the Judge was hearing. For the Judge seek to husband these examples to support his approach without explaining the very different context was unprincipled:
        i. Those convicted in respect of Her Honour Judge Atkinson were parents in care and placement order proceedings;[19]
        ii. The man convicted of stalking in respect of His Honour Judge Oliver had pursued an appeal to the Upper Tribunal (Administrative Appeals Chamber) on which His Honour Judge Oliver had sat;[20]
        iii. The man convicted of an exceptionally serious assault in relation to His Honour Judge Perusko was a father in a private law proceedings;[21]

[19] Refusal of appeal by way of case stated against a conviction of harassment: Hilson v McCarthy [2019] EWHC 1110 (Admin).
[20] Sentencing remarks in R v Javed Sheikh: https://www.judiciary.uk/wp-content/uploads/2024/01/R-v-Sheikh-Sentencing-Remarks-30.1.24.pdf
[21] In additional to criminal convictions, contempt proceedings were also instituted by Mr Justice Williams a FPJ for the South Eastern Circuit: https://www.judiciary.uk/wp-content/uploads/2024/11/Committal-Hazeltine-21-November-2024.pdf

d. The Judge fails to recognise that HMCTS, and potentially other government departments, are required to discharge their obligation to address any potential vulnerability, and that this is likely to include the provision of guidance; and

e. Per Nicklin J in Various Claimant v IPSA, the Open Justice principle cannot be eroded – as it inevitably would be on the Judge's approach – by a speculative risk of irrational, criminal conduct, which can be addressed, where necessary, through the criminal process; and

f. The Judge's conclusions in respect of Article 2 and/or 3 are (i) unsupported by proper evidence, and (ii) in any event fails to meet the necessary standard of a "real and immediate" risk.

50. The appellants accept that the obligations arising in the event of engagement of Articles 2 and 3 may preclude a determination that anonymity for a Judge could *never* be justified. However, the threshold for engagement of Articles 2 and 3 is a high one [see RXG v Ministry of Justice [2019] EWHC 2026 (QB)].

51. Further, per Lord Carswell in Re Officer L [2007] UKHL 36:

> '20. […] First this positive obligation arises only when the risk is "real and immediate". The wording of this test has been the subject of some critical discussion, but its meaning has been aptly summarised in Northern Ireland by Weatherup J in *Re W's Application* [2004] NIQB 67, where he said that:
>
> > "… a real risk is one that is objectively verified and an immediate risk is one that is present and continuing."
>
> It is in my opinion clear that the criterion is and should be one that is not readily satisfied: in other words, the threshold is high. […]'

52. The Judge's efforts to seek to justify his order by reference to Article 2 and/or 3 [see **§§78, 85 – 86**, and **88**] falls very substantially short of the required standard. Indeed, what is striking, is the lack of coherent and compelling reasoning. The judgment uses consistently injudicious language to seek to raise the potential gravity of a "*social media firestorm or virtual lynch mob*" in a manner that is not justified by any evidence before the court, or any real risk of harm.

53. In the circumstances of the case, and absent any evidential justification, the Judge had no basis for making the order granting anonymity to the Judges who had heard the historic proceedings.

(e) The order made is inimical to the proper administration of justice

54. The order made infringes upon the principle of Open Justice in a manner that is without any known precedent. The withholding of the names of the Judges who sat on the historic proceedings erodes public confidence in a manner which is at odds with the need for there to be "*a major shift in culture and process to increase the transparency of the* [Family Justice System]". Further, the President noted:[22]

> '28. Justice taking place in private, where the press cannot report what has happened and where public information is very limited, is bound to lead to a loss of public confidence and a perception that there is something to hide. The Family Justice System is suffering from serious reputational damage because it is, or is perceived to be, happening behind closed doors. Further a lack of openness undermines accountability and allows occasional poor practice to continue unchecked.'

55. Per Watkins LJ in R v Felixstowe Ex p. Leigh [1987] 2 WLR 380 at 392 – 3:

> 'So far as I have been able to ascertain, anonymity has never been claimed other than by the number of justices I have mentioned by anyone who can be said to be a judicial or quasi-judicial person. This applies as much to High Court judges and circuit judges as to, for example, members of tribunals. […] Many of the persons I have mentioned are subjected to criticism, vilification even at times, and suffer from being pestered by telephone and otherwise by persons who bear some grievance, and, moreover, occasionally by being wrongly approached by the press. But such intrusions into their private lives judges and others have inevitably to put up with as a tiresome if not worse incidence of holding a judicial office. […]
>
> […]
>
> I would regard and I believe the general public likewise would regard a policy such as that maintained by the Felixstowe justices and their clerk to be inimical to the proper administration of justice and an unwarranted and an unlawful obstruction to the right to know who sits in judgment. There is, in my view, no such person known to the law as the anonymous J.P.
>
> I do not for one moment suggest that the right to know involves the disclosure of any more than the name of a justice. No one can demand the address and still less the telephone number of a justice of the peace. Moreover, a clerk to justices would, it seems to me, act with justification in refusing during and after a hearing to give the name of one of the justices to a person who the clerk reasonably believes requires that information solely for a mischievous purpose. Save for such considerations as that, I would hold that the bona fide inquirer is entitled to know the name of a justice who is sitting or who has sat upon a case recently heard.'

56. It is even more extraordinary that the order was made by the Judge without any application to restrain the naming of Judges having been made, and without the Judge raising the issue in the course of the hearing on 9th December 2024 to invite submissions from the parties. The Judge's overall approach is perplexing: it is hard to understand how

[22] Report of the President of the Family Division: *Confidence and Confidentiality: Transparency in the Family Courts* (20 October 2021)

the Judge would not have foreseen the controversial nature of an order providing anonymity for Judge ("*it emerged that the media parties considered there was a distinction to be drawn between identification of third parties and the identification of judges*" [**§6**], but it is equally striking that if the issue was "*an obvious point*" the Judge took no steps to facilitate a proper consideration of any steps he considered necessary in advance of the hearing on 9th December 2024. The insinuation that a lack of "*attention*" (on whose part is not made clear) led to a failure to give notice to concerned 3rd parties [**§53**] is a wholly unconvincing deflection of responsibility as it relates to the question of judicial anonymity which lies squarely with the Judge himself.[23]

57. The appellants rely on the fact that Judges, very frequently, sit on controversial cases, and that, notwithstanding this reality, anonymity for a Judge is not something which has any domestic precedent, indeed, it runs contrary to all established norms. Judges sit in cases concerning terrorism, national security, and organised crime without being granted anonymity, and with (presumably) necessary measures taken to properly ensure their safety, and security. To seek anonymity for Judges, save where (truly) exceptionally justified, is likely to have a corrosive impact on public confidence in the judiciary and the wider Justice System.

58. Within the Family Courts Judge sit on cases generating considerable controversy concerning radicalisation, gender-affirming care, and end-of-life decisions. Family Court Judges make decisions that go to the heart of the lives of families up and down the country. In all of those cases their names appear on public lists, and judgments are published with the Judge's name made clear. The Judges who heard the historic proceedings exercised important powers, sitting in a judicial capacity exercising powers flowing from their public roles. [********** **REDACTED** **********] that submission applies with additional force.

59. The maintenance of such an order, with a wholly generalised and insufficient basis, represents a return to the comfort blanket of anonymity in which true accountability is

[23] The appellants would observe that whilst the Judge was critical in the June judgment of their initial informal email application in relation to disclosure and publication, the Judge raises no issue as to the lack of any application to withhold the names of social workers, experts, guardians and other 3rd parties. The reason why no formal application was made (as it should been) by the local authority and/or on behalf of the children to restrain the identification of professionals and/or to provide any *evidential* justification for the orders sought is not known.

lost. The Judge's order preventing the naming of those Judges is unjustified, and undermines necessary efforts to increase transparency in the Family Justice System, it cannot be allowed to stand.

F. DISPOSAL OF THE APPEAL

60. This Honourable Court is invited to set aside §15.g. of the order of 11th December 2024 in so far as it restrains the ability to report the name of any of the Judges who heard the historic proceedings concerning Sara Sharif and her siblings.

61. The appellants submit that there is no proper basis on which an order anonymising the Judge could be justified and in those circumstances the question of judicial anonymity should not be remitted. In the event that such an application is formally pursued by any party to the appeal, this Honourable Court capable of remaking the decision.

62. Given the flawed, irregular, and unfair approach adopted by the Judge the review proposed by the Judge [**§§96(iii), (v), and (vi)**] in relation to (i) professional/expert anonymity, and (ii) reporting in respect of the ongoing wardship proceedings, should be remitted for case management before a different Judge of the Family Division, with the review to take place promptly.

63. The appellants submit that the approach adopted by the Judge – in addition to being unfair, poorly reasoned, and unsustainable – represented a regrettable retrenchment that is out of step with the recognised need to promote transparency, and media reporting, in the Family Court[24]. In so far as it is indicative of a lingering hostility and suspicion to the important work of reporters, and media organisations, even at a senior level within the Family Judiciary it emphasises the need for this Honourable Court to provide clarity, and appropriate guidance to ensure that the Judge's erroneous approach does not take root.

CHRIS BARNES **2nd January 2025**

Counsel for the 1st and 2nd Appellants **4PB | St. Martin's Court**

[24] See (i) the report of the President of the Family Division, 'Confidence and Confidentiality: Transparency in the Family Court' 28th October 2021, and (ii) the announcement that the Transparency Pilot is to become permanent, supported by consequential amendments to the FPR 2010 (https://www.justice.gov.uk/courts/procedure-rules/family)