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Neutral Citation Number: [2023] EWFC 17

In the Family Court sitting at Oxford

Re.: M

Date of judgment: 1 February 2023

Before: HHJ Vincent sitting as a s9 Deputy High Court Judge

Between:

A local authority

Applicant

and

C (M's birth mother)

Respondent

and

M

(acting by his Children's Guardian, Leeanda Morreale)

Second Respondent

and

The prospective adopters

Intervenors

Lorna Meyer KC and Heather Popley, instructed by the Applicant local authority
Nicholas Goodwin KC and Chloe Wilkins, instructed by Jackson West solicitors for the Respondent
Oliver Wraight, instructed by Reeds solicitors for the Second Respondent child
Emma Griffiths, instructed by BH&O LLP, solicitors for the intervenors

Hearing dates: 17, 19 January and 1 February 2023

JUDGMENT

Introduction

1. M is a happy, healthy boy of twenty months old. He was placed in the care of the prospective adopters when he was a day old. They have devoted themselves to him since the day he came to live with them, giving him loving, consistent, attentive care. He is thriving. They love him, and long for his place in their family to be secured by an adoption order.
2. M's mother C was twenty-one when she gave birth to him. At the time she was not in a relationship with the birth father. She had discovered her pregnancy at thirty-one weeks. Placing M with the prospective adopters was an incredibly difficult and painful decision to make, but was made because she believed this was best for M.
3. C did not wish the birth father to know of the pregnancy, of M's birth, or to have any say in the decisions she made for M.
4. C says she was supported in her decision not to tell the birth father about M by social workers, who told her that the decision was hers to make, she did not have to disclose the birth father's identity, and her wish for confidentiality would be respected.
5. If this is what C was told, it misrepresents the law. Both domestic and European law in this area stress the importance of engagement of the wider family in the adoption process. Any request for an adoption that excludes a father or close family members should be closely scrutinised. The local authority could not compel C to disclose the birth father's identity, but did have a duty both to critically analyse C's reasons for refusing to disclose, and if considered appropriate, to make its own independent enquiries as to the birth father's identity.
6. The case notes suggest that some social workers were trying to get a more nuanced view across, but there were also a number of times that C received an assurance that she had an absolute right to withhold this information:
 - On 10 March 2021 it is noted that C was advised that she would, *'be fully in charge of any/all decision making throughout'* ... *'C is clear that she is aware of her rights and is aware of the adoption process re law and knows that she does not need to disclose [the father's identity] and will not be putting him on the birth certificate. I advised C that this was her right however informed her that it is likely that this area may be explored again with her.'*
 - The case note of 11 March 2021 records, *'C is aware of her rights to keep this information confidential'*.

- An adoption team discussion on 18 March 2021 confirmed *'it is C's right not to inform [the] birth father if this is what she decides'*. That same day the manager of [adoption agency] emailed M's social worker and the prospective adopters' social worker to say, *'[C]ould I clarify that it is not that it is C's right not to share the identity of the birth father – but that she cannot be made to share it'*.
 - C herself made clear that she had no intention of disclosing the birth father's identity. At a meeting with both those social workers on 25 March 2021, the notes record, *'mum said she knows legally she does not have to disclose...mum is willing to face the consequences'*.
7. The local authority did not explore with C the reasons for her refusal in any detail, did not take any steps independently to find out the birth father's identity, and did not seek advice from its legal department as to how to proceed. Taken together, its actions amounted to providing C with an assurance that the local authority would not go behind her decision.
 8. M was born [in May 2021]. [A day after his birth] M's mother consented to his being accommodated by the local authority pursuant to section 20 of the Children Act 1989, and he was placed in the care of the prospective adopters, who at that stage were M's foster carers.
 9. [In] January 2022, C signed the forms pursuant to sections 19 and 20 of the Adoption and Children Act 2002, which gave her consent to M's placement with the prospective adopters (section 19), for him to be adopted (section 20), and confirmation that she did not wish to be given notice of any adoption application (section 20(4)).
 10. On 11 March 2022 the prospective adopters applied to the Court to adopt M. The application was issued on 4 April 2022 and directions made for the local authority to file its Annex A report. The first hearing was listed before me on 6 June 2022.
 11. At that first hearing, I declined to make the adoption order, raising my concern that the Court could not do so without first having considered the question of whether or not the birth father should be notified.
 12. The case of A, B and C (Adoption: Notification of Fathers and Relatives) [2020] EWCA Civ 41 is the leading authority. In his leading judgment, Jackson LJ reviews statute, case law and guidance, and at paragraph 86 describes the procedure that should be adopted in situations of this kind:

86. A local authority, faced with a baby that may require adoption, either because a mother wishes to relinquish the baby for adoption or because there are proceedings with a plan for adoption, will be acutely aware of the need for a speedy decision. Where the mother requests confidentiality, it will need to decide at a very early stage whether an application to court should be made to determine whether or not the putative father or relatives should be informed and consulted. There will be cases where, applying the principles summarised in this judgment, the local authority can be very clear that no application is required and planning for placement on the basis of the mother's consent can proceed. But in any case that is less clear-cut, an application should be issued so that problems concerning the lack of notification do not arise when adoption proceedings are later issued. In relation to a putative father, that application will be under Part 19 unless issues of significant harm have made it necessary to issue proceedings for a care or placement order; I would suggest that an equivalent application under the inherent jurisdiction can be made where a local authority has doubts about notification of a close relative.

87. I have referred already to the Cafcass/ADCS protocol, which has been taken up by a number of local authorities. In the proceedings before us, which involved three local authorities, the parties collectively filed an agreed statement of the steps that will need to be taken by the local authority in cases such as these. It is not for this court to determine local authority procedures but I record the parties' agreement for the help that it may give to those facing these situations.

"1. A local authority should take these steps as soon as it is notified that a mother, or mother and father, are expressing a wish that an infant is placed for adoption without notification to either the child's father or extended family:

(i) The local authority files should be checked for background information about the mother and extended family and for contacts with other relevant agencies, such as health and police.

(ii) The allocated social worker, ideally accompanied by an adoption worker, should undertake at least one visit but preferably a series of visits to the mother, or mother and father, if she/they are willing, to discuss:-

- The decision to place the child for adoption.
- The reasons for not notifying the child's father, or extended family, where possible gathering details about the father's background and that of the family.

- *The mother's background and information about her family.*
- *Any cultural issues and how they have affected the decision made by the mother, or mother and father.*
- *The implications of adoption for the child*
- *The legal process required to achieve adoption*
- *Other possible options for the care of the child*
- *The adoption counselling service and how to access it*
- *Whether the mother, or mother and father, require any other form of support and how that might be achieved*

No assurance should be offered to a parent during the social work visit/s that notice of the birth of the child will be withheld from the father and/or extended family members.

(iii) The mother, or mother and father, must be provided with written information, where available, about the process and adoption counselling services.

(iv) Where the father is identified, the local authority should check its records for any background information known about him.

(v) The placement team must be informed immediately and it should begin the process of finding a suitable placement, preferably with 'foster for adoption' / early permanence carers.

(vi) CAFCASS must be informed as soon as the local authority is notified so that it can allocate a worker to the case for the purpose of meeting with the mother, or mother and father, to discuss and where appropriate take consent for adoption.

2. The local authority should critically examine all information that it receives and, in circumstances where the mother states the identity of the father is unknown to her, the local authority should carefully consider her statement and her explanation to consider whether there is any basis for considering that the statement might be false. If the local authority does form that view, it should consider if there

is any reasonable way by which the identity of the birth father could be established.

3. The social worker should, as a matter of urgency, seek legal advice to ascertain whether the matter should be placed before the court in all cases where:

(i) the mother opposes notification to the father, if identified;

(ii) the mother knows the identity of the father but is unwilling to disclose this information;

(iii) the local authority has reason to doubt the reliability of the mother's claim that the identity of the father is unknown, or

(iv) the mother is opposed to any notification to her family or the father's family.

4. The legal advisors will need to consider and advise as a matter of urgency whether a Part 19 application or other proceedings should be issued.

5. If a decision is made that a Part 19 application is not required, the local authority should immediately notify CAFCASS, and provide detailed reasons for that decision, to allow CAFCASS to consider this information prior to meeting with the mother, or mother and father, when discussing consent under section 19 or for any later adoption application.

6. As non-means/non-merits tested public funding is unavailable to parents for a Part 19 application (and emergency funding may be difficult to access on an emergency basis even if merits and means tests are met), a local authority should provide the mother, or mother and father, with advice concerning access to independent legal advice and how that might be obtained and funded (including by the local authority considering the funding of such advice). A list of specialist solicitors available in the area should be provided.

7. Where an application is to be made, the social worker should prepare a detailed statement setting out the information gathered and providing the local authority's position regarding the wish of the mother, or mother and father, to relinquish the child without notifying the father and/or extended family members."

(my underlining)

13. The case notes and chronology would suggest that the social workers in this case did much to take care of this vulnerable young mother at a difficult time. They had many meetings with her, listened to her, gave her space to sit with her decision and live and feel the consequences of it. They did not pressurise her to sign forms within any timeframe, but waited for her to contact them only when she was ready. At the same time, they remained responsive and attuned to her wishes and feelings, showing understanding and compassion for the emotional impact of the whole situation upon her. They supported her to have two meetings with M and to meet the prospective adopters.
14. However, there were serious errors in the local authority's processes and procedure in relation to the birth father. Reviewing the steps that are suggested to be taken by Jackson LJ, there were serious omissions with regard to paragraph 1, and the steps set out in paragraphs 2 to 7 were missed altogether.
15. The consequences of this issue being raised a year after M was placed for adoption have been serious. C feels profoundly let down. The prospective adopters have lost trust in the local authority. They are bewildered that the application for adoption, which they had been given to understand would be straightforward, has developed into something so complex and stressful, and potentially damaging to M's welfare.
16. The local authority has accepted full responsibility for its failings. It has pledged to carry out a full review and learn lessons. It may be that Cafcass will also need to carry out a review of the instructions given to the officer asked to witness the signing of the section 19 and section 20 consent forms, so that there is a cross-check as to whether due consideration has been given to notification of other family members.
17. In July 2022 the local authority made an application under Part 19 of the Family Procedure Rules 2010. The local authority invites the court to invoke the inherent jurisdiction through a procedure analogous to FPR 2010 r.14.21 whereby '*an adoption agency or local authority may ask the High Court for directions on the need to give a father without parental responsibility notice of the intention to place a child for adoption*'. This procedure, engaged through FPR 2010 r.19.1(2)(b) and r.19.2(1)(c), is that approved by Cobb J. in Re RA (Baby Relinquished for Adoption) [2017] 1 FLR 1610. Part 19 FPR 2010 may be used where Part 18 does not apply and, as here, '*the applicant seeks the court's decision on a question which is unlikely to involve a substantial dispute of fact*'. Rule 19.2(1)(c) specifically applies in relation to a r.14.21 application for directions regarding fathers without parental responsibility.
18. Notwithstanding that she had believed M to be already adopted, and had asked to play no part in any proceedings concerning his adoption, not even to be notified, by the Court's direction C was notified of the application, and subsequently joined as a party. The

prospective adopters have also been joined as interveners. The local authority has funded advice and representation for both C and for the prospective adopters.

Positions of the parties

19. At the time it made its application in July 2022, the local authority was asking the Court to sanction the mother's decision not to notify the father. However that position has now changed. On behalf of the local authority, Miss Meyer KC and Miss Popley now support notification. They ask the Court to consider making directions that might enable the father to be identified, and then to return to Court to consider the question of notification again.
20. C asks me to draw a line under this whole process, for no further steps to be taken towards identifying M's birth father, and for the proceedings to come to an end. Mr Goodwin KC, leading Miss Wilkins, argues firstly that the Court should respect and protect the autonomy of a young mother to make her own decision, citing the words of Holman J, in Z County Council v R [2001] 1 FLR 365 at 367:

'The dilemma must, in fact, be a very old one. Although no statistics are available, many children must have been adopted over the years, outside their birth families, and with no knowledge by, or investigation of, other members of the birth family. Adoption exists to serve many social needs. But high among them has been, historically, the desire or need of some mothers to be able to conceal from their own family and friends, the fact of the pregnancy and birth. So far as I know, it has not previously been suggested, nor judicially determined, that that confidentiality of the mother cannot be respected and maintained. If it is now to be eroded, there is, in my judgment, a real risk that more pregnant women would seek abortions or give birth secretly, to the risk of both themselves and their babies... There is, in my judgment, a strong social need, if it is lawful, to continue to enable some mothers, such as this mother, to make discreet, dignified and humane arrangements for the birth and subsequent adoption of their babies, without their families knowing anything about it, if the mother, for good reason, so wishes.'

21. This passage refers to notification to wider maternal family, rather than to a father, but the passage has been cited with approval by other judges in the context of notification to a father (e.g. Re L [2007] EWHC 1771 (Fam)) .
22. Secondly, on C's behalf it is argued that the physical, psychological and social impact on her, of the birth father discovering not only the fact of M's existence, but the secret she has withheld from him all this time, will be so traumatic as to be unmanageable for her.

23. Thirdly, it is submitted that C is firm in her resolve not to reveal the name of the birth father. She believes this to be a decision she has made in M's interest. It is submitted that there are no steps that the Court could or should reasonably contemplate in order to compel her to reveal his identity. In the circumstances, it is submitted that further delay will achieve nothing but further uncertainty, distress and delay for all involved.
24. Finally, when carrying out an analysis of the competing ECHR rights of C, M, his birth father and the prospective adopters, Mr Goodwin submits that the mother has a right to give birth to her child and to keep it a secret. He says that right should be accorded more weight than the birth father's right to a potential family life with his child.
25. The prospective adopters are 'neutral' on the application, as they do not press for a particular outcome on the question of notification. However, as Miss Griffiths stated powerfully on their behalf in her written and oral submissions, their feelings are far removed from 'neutrality':

'Whatever the decision of the court, the PAs are committed to M and to becoming his adoptive parents. He was placed with them aged 1 day old, on the basis that this was a consensual adoption. From M's perspective, the PAs are his parents, their home is the only one he has known; he is thriving in their care and has been embraced by the extended families. It is incontrovertible that M and the PAs have a conjoined right to family life and the PAs also hold parental responsibility for M pursuant to ACA 2002 s.25(3).

While their commitment to M continues undiminished, the PAs feel utterly drained by the ongoing proceedings. It will not surprise the court that they have been through a rollercoaster of emotions including anger, disappointment, and fear. What saddens them greatly is that M has been let down by the very professionals responsible for securing his transition to a permanent home.'

26. The prospective adopters do not underestimate the significance of a gap in M's knowledge and understanding of the identity of his birth father. But Miss Griffiths gives a vivid example of the impact of the legal limbo in which the prospective adopters and M have found themselves. M still carries his birth mother's last name. He has started nursery, and even short of his second birthday, knows that this name is not the same as that of his 'parents'. This is likely to invite questions, not just from M but others. It is a daily and painful reminder that M's placement with his prospective adopters is not yet secure.

27. Mr Wraight represented M's guardian Leeanda Morreale. She has considered the issues with care, and thoughtful insight. She recognises that M is happy and settled in his home with the prospective carers, that he is loved, and extremely well cared for. She acknowledges that C's wishes and feelings are important, but she does not consider they should be determinative of the issue of notification. On balance, the guardian submits that the right decision for M would be for his birth father to be notified. M has the right to know who his father is, to have some information about him, and why he was not in a position to care for him. The guardian considers there are further steps that could be taken towards that end.
28. The guardian is not advocating a review of M's placement in the event that his birth father is notified (although she acknowledges that could be a consequence of notification). However, she says that just because that may be a potential consequence, bringing with it the wholly unwelcome thought of prolonged delay and uncertainty, that is not a reason to give up on the issue of notification.
29. The birth father has not had a voice in these proceedings. He does not know that he has a son. He may now or in the future have children who will grow up not knowing that they have a brother. M is a lost grandchild, nephew, cousin to members of an extended family, who will never know they lost him. It cannot be known whether the birth father would have supported C's decision for M to be adopted (although she thinks he would have done). There is a whole range of ways in which he might have wished to know M and for M to know him. The birth father has not been given the chance to consider the possibilities, let alone to advocate for any one of them.

The law

30. All parties agree that I should follow the approach advanced so clearly by Peter Jackson LJ in Re A, B and C (Adoption: Notification of Father and Relatives) [2020] EWCA Civ 41. At paragraph 59, he gives the following summary:

59. Pausing at this point, this body of authority at first instance and on appeal affirms that there is a discretion to be exercised by the local authority and by the court as to whether fathers and other relatives should be notified of the birth of a child. The discretion requires the identification and balancing up of all relevant factors. While the mother's right to confidentiality is important it is not absolute. The presence or absence of family life is an important, though not a decisive feature and where it exists strong countervailing factors are required to justify withholding knowledge of the existence of the child and the proceedings. The tenor of the authorities is that in most cases notification will be appropriate and the absence of notification will be the exception; but

each case will in the end depend on its facts. In each case, the welfare of the child was regarded as an important factor but, significantly, there is no suggestion that the exercise of the discretion is governed by the paramountcy principle.

31. Jackson LJ later summarises the approach the Court should take in determining the application. At paragraph 89:

“89. The principles governing decisions (by local authorities as adoption agencies or by the court) as to whether a putative father or a relative should be informed of the existence of a child who might be adopted can be summarised in this way.

- The law allows for ‘fast-track’ adoption with the consent of all those with parental responsibility, so in some cases the mother alone. Where she opposes notification being given to the child’s father or relatives her right to respect for her private life is engaged and can only be infringed where it is necessary to do so to protect the interests of others.*
- The profound importance of the adoption decision for the child and potentially for other family members is clearly capable of supplying a justification for overriding the mother’s request. Whether it does so will depend upon the individual circumstances of the case.*
- The decision should be prioritised and the process characterised by urgency and thoroughness.*
- The decision-maker’s first task is to establish the facts as clearly as possible, mindful of the often limited and one-sided nature of the information available. The confidential relinquishment of a child for adoption is an unusual event and the reasons for it must be respectfully scrutinised so that the interests of others are protected. In fairness to those other individuals, the account that is given by the person seeking confidentiality cannot be taken at face value. All information that can be discovered without compromising confidentiality should therefore be gathered and a first-hand account from the person seeking confidentiality will normally be sought. The investigation should enable broad conclusions to be drawn about the relative weight to be given to the factors that must inform the decision.*
- Once the facts have been investigated the task is to strike a fair balance between the various interests involved. The welfare of the child is an important factor but it is not the paramount consideration.*

Analysis

32. I have read and considered all the documents in the bundle, which include C's statement, a short statement from Ms T (social worker), filed in support of this application, which refers to the local authority's case notes (but does not formally exhibit them), the case notes themselves, and the guardian's analysis. At the hearing, no party objected to me accepting as evidence a letter from C's general practitioner, which told me something of the impact upon her of her pregnancy, her decision to give her consent to M being adopted, and of being dragged back into these proceedings.
33. I have not heard oral evidence from C, or any other witness.
34. C's statement deals relatively briefly with the relationship she had with the birth father.
35. The birth father's recollection of the relationship and his own conduct may be different to C's. He has not had the opportunity to give his own account to the Court.
36. The case notes contain information, and record accounts from C, about her relationship with the birth father. I have been told that C takes issue with some of the contents, which she says reflect times when what she has said has been misunderstood, misheard or misconstrued. At the time she was having those discussions, she did not consider she had to give any explanation for her decision to keep the pregnancy secret, and she was not asked very detailed questions about her reasons, or much about the relationship. She would have had no idea that the notes would be pored over by lawyers many months later. In relationships which have been unhappy, unhealthy or abusive, the realisation of that and understanding of the dynamic can happen a long time after the event. A person who is not describing a relationship negatively when first asked about it is not necessarily mis-describing the relationship, but may not yet have come to such a realisation. For all these reasons, I approach the case notes with some caution.
37. Nevertheless, these notes were made at the time or very shortly after the conversations. The notes were made in respect of conversations designed to obtain the relevant information (granted there was not as much investigation of the relationship and C's reasons for excluding the father as there should have been). There are some inconsistencies in the notes about the length of the relationship – it is variously recorded that the relationship lasted two years, two or three years, or four years. There are various records of her discovering pregnancy at 29, 30 or 31 weeks, she says it was thirty-one. But I do not know whether these variations record different accounts from the mother, accurately recorded, or inaccurately record consistent accounts from the mother. There is no actual evidence, let alone evidence that has been tested by cross-examination, from

either the mother or the notes' authors about their accuracy. My view is that the extent to which I can go behind their contents is limited.

38. The contemporaneous notes are of assistance. They note key discussions, set out the chronology, and give an insight into what C said to professionals about how she was feeling at different times about the decision she made and the situation in which she found herself.

39. The following entries record discussions about the birth father:

16.03.21 Childs father: was with him for 2-3 years broke up in November then she did not know she was pregnant, he is with someone else now, she decided to deal with it herself, she made the decision not to tell him, as far as he knows he won't want the baby either

25.03.2021 C said that her relationship with the baby's father ended bitterly but later on said things ended ok

We discussed supporting C with her decision around paternity but advised it would be important for an adopted child to know, to understand their identity. C said she thinks she would disclose once the adoption is complete.

Father is not local to [place name redacted], he still does not know about the pregnancy, mum confirmed she is not in any danger, they are not in touch and no communication until is finalized

*mum does not want to say who father is
mum said she knows legally she does not have to disclose
mum is willing to face the consequences
mum believes dad would agree with mum's decision
mum said if dad were to be found out he will support her option for adoption*

*13.04.2021 ... she had anxiety and depression previously but doesn't now
She mentioned that [X] her ex-boyfriend had repeatedly cheated on her and had also been emotionally/psychologically abusive towards her criticising every part of her body. C said he had been her only boyfriend, that she had begged him to come back to her each time he had cheated and that he had started wanting her back when she stopped contacting him.*

C said it is only very recently that she has realised that abuse isn't just physical abuse.....

28.07.2021 *C indicates is somewhere 90% decided however wants to be 100% sure on her decisionconsiders she needs to be able to care for herself in order to be able to care for M*

.... C informs that spoke to her manager [at work] about what she is going through....

C said M looked like [X] and showed a photograph of [X]... C said she met with [X] last weeks when she went to [redacted] and said after she saw him she knew she made the right decision

C said she started to tell more people about her pregnancy and M and show pictures of M to them.

40. In her witness statement, C recounts how she met the birth father at university. She initially got to know him through a mutual friend and on social media. They entered into a relationship in January 2019. The relationship ended finally in November 2020. She says that she never felt loved in the relationship, and felt that the birth father's behaviour towards her was manipulative. She said that he could put her down in front of friends, and make her feel worthless. She said in her statement that she would describe his behaviour as coercive and controlling. She said if she raised issues with him about his behaviour towards her, 'he would stop speaking to me, ignore me and refuse to engage with me'. She said that during the frequent occasions they would break up, the birth father would then have relationships with other women, and blame her for it. She said that nonetheless she would beg him to take her back. She says in her statement she is disappointed in herself for allowing him to treat her in that way, but she was only nineteen, and she thought that she was in love.

41. The description in the witness statement resonates with much of what is shown in the case notes, which are thumb-nail sketches of the relationship. However, even allowing for the development of understanding of the dynamic over time, the description in the witness statement is more negative and accusatory towards the father than comes across in the notes. The notes record that C has shown pictures of M to more than one friend, and intended to tell the father once the adoption has taken place. This conveys a different picture than that put forward in submissions (but not in her witness statement) that she has not shared the information more widely than with her immediate family, and that she never said she intended to tell the father after the adoption.

42. C said in her statement that the local authority is wrong to class it as a ‘*significant*’ relationship, because it only lasted eighteen months and was very ‘*on and off*’ during that time. Whether more off than on or not, and characterised by a certain level of immaturity on both sides, C describes a relationship that had a significant and enduring impact on her, and which she came to realise had a very unhealthy and unhappy dynamic, which was not at all good for her, and left her feeling worthless and unloved.
43. The birth father has not had the opportunity to put his version of events across. It is not known whether he would agree with any part of C’s description of the relationship.

Review of all the circumstances, including the A, B, and C factors

44. There is no single test for distinguishing between cases in which notification should and should not be given. However, in A, B and C, Peter Jackson LJ identifies a number of factors which will be relevant when reaching a decision. I now consider each in turn.

Parental responsibility

45. C has made a choice not to tell the birth father about M, and so he has not had the chance to acquire parental responsibility. He does not have the benefit of automatic notification, party status or the right to give or withhold consent to adoption.

Article 8 rights

46. There is no existing family life between M and the birth father, nor between the birth father and C, nor evidence of any intention between them to have a relationship that was to be the foundation for family life. The father has not acquired rights under Article 8.
47. However, even if he does not have article 8 rights, he certainly has an interest that needs to be considered. By not being notified, the birth father has not had the opportunity to establish any form of family life or relationship with M during his childhood, potentially for his whole life. He does not know M exists.
48. This interest extends to the wider paternal birth family; siblings, aunts, uncles, grandparents, cousins.
49. This applies the other way; M’s family life is with his adoptive parents, but he has an interest in knowing who his birth father is, and potentially establishing some form of relationship with him or members of the wider family.

50. C has been clear from the outset that she believed M's best interests were served by his being adopted without notification to his birth father. In making her own choices about the baby that she carried and gave birth to, her right to respect for her private and family life is engaged.
51. The prospective adopters undoubtedly have established article 8 rights to respect for the family life that they have established with M, given his placement with them since birth, that they hold parental responsibility for him, and are committed to caring for him within their family for all their lives together.
52. The Court has to place all these competing rights and interests in the balance.

The substance of the relationships

53. On C's account of the relationship, the birth father does not come out of it well. But even so, the behaviour she describes cannot sensibly be regarded as behaviour that disqualifies him from being notified that the relationship had resulted in the birth of a child.
54. The weight of the evidence from the contemporaneous case notes is that C felt this was a decision she needed to make on her own and manage on her own. Her understanding was that she was entitled to do so. She did not raise safeguarding issues about the birth father as the reason for non-disclosure of the pregnancy to him.
55. Whether 'on and off' or not, this was a relationship that endured for the better part of two years, and is with a person who remains within C's wider social network. It cannot be said to be 'insubstantial'.
56. Lord Justice Jackson asks the question, '*with what degree of objective justification might such a person complain if they later discovered they had been excluded from the decision?*' The answer in this case is a high degree of justification.

The likelihood of a family placement being a realistic alternative to adoption.

57. If notified, might the father or other family members put themselves forward to care for a child, so he may be raised within his birth family? The question should be asked and answered before steps that are intended to be irreversible are taken with regard to a child's future.
58. There is no reliable information about how the birth father or other members of the paternal family would respond to being notified. I do not know anything about the birth

father's current circumstances, his family network, or whether he or they would wish M to be placed in their care.

59. It is said on C's behalf that the father is not a safe person for M. But there is no admissible evidence that this is or even might be the case. The Court cannot rule out notification to the birth father on the basis of unsubstantiated assertions.
60. Because the local authority failed to consider the question of notification sooner, the question about the likelihood of a family placement as an alternative to adoption is now fraught with difficulty. M has been living happily with the prospective adopters since the day after he was born and knows them as his parents.
61. If the father were notified and subsequently sought to oppose the application for adoption (albeit he does not have parental responsibility), there is the potential for further delay, uncertainty, and great strain upon all. There is a risk that this could bring not just confusion and uncertainty for M, but real harm to him.
62. There are likely three different scenarios as a consequence of notification. The first two would be:
 - The birth father supports M continuing to live with the prospective adopters (C has consistently said she thinks he would), and after a short further delay, the adoption order is made;
 - The birth father seeks to oppose the adoption/further enquiries are made, but the application has little prospect of success/is not pursued, and comes to an end within a relatively short time.
63. In both these scenarios, notification has caused some further delay and distress, but has also brought some benefit. It has enabled the adoption to proceed on a more solid foundation than before. The gaps in M's and his carers' knowledge and understanding of his history and heritage have been filled, and the potential for M to benefit throughout his life from a connection to his birth father as well as his birth mother has been established.
64. The third scenario is that the birth father is notified, and his or his family's current circumstances are such that an application to oppose the adoption has a significant prospect of success. This brings with it the prospect of upheaval, uncertainty, pain and distress for M, and potentially for the prospective adopters if eventually a decision were to be made that M should move live with his father. Nonetheless, when looking at M's interests throughout his whole life, if this were decided to be the outcome that met M's welfare needs, then notification would have been justified, and desirable.

65. Regardless of the birth father's intentions in respect of the adoption, notification will help M to build his sense of identity. This is the primary reason that the guardian supports it.
66. If M is adopted and at some point shows curiosity about his birth family, the prospective adopters will be able to give him information about his mother, he may have continued to have some form of contact with her, or know that she receives updates about him. In contrast, he will not know his birth father's name or anything about him. He will know only the version of him that we have heard about from C, which is overwhelmingly negative. There is a risk that M, who is biologically half his birth father, could grow up to believe that he carries with him a similarly 'bad' element to his nature.
67. Notification could provide an opportunity for a fuller picture to be obtained, to support M and his carers in the future with the work that could help him to understand his life story. Knowing and understanding more about M's biological father would help M's carers to learn about and anticipate his potential health and educational needs, and to support him.

The physical, psychological or social impact on the mother or on others of notification being given.

68. Jackson LJ notes:

Where this would be severe, for example because of fear arising from rape or violence, or because of possible consequences such as ostracism or family breakdown, or because of significant mental health vulnerability, these must weigh heavily in the balancing exercise. On the other hand, excessive weight should not be given to short term difficulties and to less serious situations involving embarrassment or social unpleasantness, otherwise the mother's wish would always prevail at the expense of other interests.

69. The written and oral submissions made on behalf of C describe a young, vulnerable woman who has found these proceedings intrusive, unwanted, highly distressing, provoking of anxiety for which she has been prescribed medication, and forcing her to relive a relationship that caused her unhappiness. She has been forced to relive the circumstances around the late discovery of her pregnancy, her decision to consent to M's adoption in advance, her separation from him at the hospital, the weeks following when she went over and over her decision again, the two visits, followed eventually by their final separation once she signed the consent forms.
70. This much was evident from the evidence, including her statement, the case notes, and her reactions to the submissions that she heard in Court.

71. Over and above that, it was submitted that C is driven by an intense fear of the father's reaction should he discover, not just that she had kept the secret about M, but that she had continued to keep that secret, after he had been placed for adoption, now for a period of around two years. Thus it is said that her fear has intensified over time.
72. This is not just described in submissions as her fear of what he may think, but a fear that the father may respond with hatred and aggression towards her. It was said in submissions that C feared the father would publicise her secret, and she feared being ostracised from her friendship group. None of these fears are mentioned in her witness statement, prepared for these proceedings with the benefit of legal advice. The case notes do not record such a fear, or any description of the birth father that might justify it.
73. In her witness statement, C says when she and the birth father split up for the last time he took exception to something she said, went upstairs and started throwing things at her, an indication of an extreme reaction from him. Against this account, the evidence from the contemporaneous notes is that C said the relationship ended bitterly but elsewhere said it was 'ok'. Another note records her confirming she was not in any danger from him. C met with the birth father in July 2021 after M had been born. The entry gives no hint of worry or fear of him. I appreciate at these times she did not think there was any risk of him finding out from anyone but herself, and she had no intention of telling him.
74. The letter from her general practitioner dated 13 January 2023 that has been provided in support of C's position discusses the impact on C's mental health of the birth of M, the decision to give him up for adoption, and the anxiety that these proceedings have now brought on, for which she is on medication. The letter makes clear that C is opposed to notification to the father, but there is no mention within this letter of C being fearful of the father's reaction or anything else about him or C's experience of the relationship.
75. Objectively, having regard to all the evidence I have read, I am not satisfied that the evidence portrays a picture of any risk of violence or verbal reaction that would suggest that it would not be safe to notify the father.
76. However, on any view, a person in the father's position could well be expected to feel anger and show some animosity towards a mother who has kept this secret from him not just for a few weeks or months, but for a period of two years.
77. Further, it could be expected that he may choose to share this information with immediate family members, his partner, and friends. He may respect C's wish for confidentiality, but it is not certain that he would. There is a real risk that even if he did not tell them

directly, friends who are part of the same social network may put some pieces of information and reach their own conclusions.

78. I am not able to say whether sharing this information with the birth father will necessarily lead to the kind of social ostracism that I was told in submissions that C now fears. She may well be met with greater understanding than she expects, but friends of the birth father may feel betrayed and angry on his behalf.
79. To a large extent, predicting the reactions of others is futile.
80. On behalf of C it is submitted that she feels that she could not cope with the father finding out about her secret. Her feelings would not be lessened by others telling her that her fears are not well-founded, or that there is not an objective evidence base for them
81. It has been suggested that C had received a diagnosis of post-traumatic stress disorder arising from her fear of the father being notified. Again, I have not seen evidence to substantiate this, it is not referred to by her general practitioner and it is not mentioned in C's witness statement.
82. Looking at the letter from the general practitioner, and having listened to the submissions made on her behalf, I accept that C's feelings of distress and anxiety around the possibility of the birth father being notified are real, have intensified over time, have been exacerbated by the Court proceedings, and feel increasingly difficult for her to manage.

Cultural and religious factors.

83. In previous cases the question of ostracism from family or society due to cultural or religious factors in the event of notification has been found to constitute a good reason not to notify. There are no relevant cultural or religious factors that give rise to any particular issue in this case.

The availability and durability of the confidential information.

84. Jackson LJ wrote:

'Notification can only take place if there is someone to notify. In cases where a mother declines to identify a father she may face persuasion, if that is thought appropriate, but she cannot be coerced. In some cases the available information may mean that the father is identifiable, and maternal relatives may also be identifiable. The extent to which identifying information is pursued is a matter of judgement. Conversely, there will be cases where it is necessary to consider whether any confidentiality is likely to endure. In

the modern world secrets are increasingly difficult to keep and the consequences, particularly for the child and any prospective adopters, of the child's existence being concealed but becoming known to family members later on, sometimes as a result of disclosure by the person seeking confidentiality, should be borne in mind.'

85. C knows the father's full name, age, has access to him through social media, or a network of mutual friends. She has photographs of him.
86. Beyond sharing some details about his general health, including his blood group, she has chosen not to share these basic details.
87. The guardian has suggested that there may still be steps taken in this case that amount to persuasion. But we are not at the beginning of the journey. The acts of inviting her to attend hearings, then to be joined as a party to them, to attend a conference with her lawyers, to file a statement, then to read the position statements of all the other parties, and finally to attend the hearing and listen to submissions, could all be regarded as different forms of persuasion. She has remained resolute. Is it reasonable to push her any further?
88. I have been referred to the judgment of Munby J (as he then was) of Re L [2007] EWHC 1771 (Fam). Any course of action that would result in a mother being punished by the Court for refusing to provide information is *'unthinkable'*. The idea of a mother being called to give evidence and cross-examined, *'so that the truth can be extracted from her'*, in his words, *'smacks too much of the Inquisition to be tolerable. And it is not to be justified merely because we believe, however strongly, that what we are doing is being done in the best interests of a child.'*
89. No party suggests that I should take any step that would have the effect of compelling C to provide the Court with the father's name either by threat of punishment, cross-examination or otherwise.
90. Any attempt to obtain information from the maternal family is likely to amount to compulsion that is as distasteful as forcing the mother's hand directly. It is unlikely in any event that this would in fact lead to information being given.
91. An earlier suggestion by the guardian that the local authority might at this late stage take up its obligations to make independent enquiries by hiring a private investigator has not been followed through. Mr Goodwin submits that this would amount to an unjustifiable interference with C's article 8 rights. I have not seen any evidence about the extent of the enquiries that an investigator might make. If it is looking at public websites and collating information that is publicly available i.e. doing the work that a social worker might

reasonably have done in the first place, it may not be. C's position is that any attempt to discover the identity of the father by a third party would amount to an unjustifiable interference with her rights.

92. C's general practitioner has seen her records and not found any reference to the birth father's identity. It is highly unlikely that disclosure of her obstetric records would reveal anything, but again this is strongly resisted on C's behalf as an unwarranted and disproportionate interference with her article 8 rights. I would not support an order for third party disclosure of such records.
93. The local authority did not carry out any of its own enquiries at the start. It has not provided evidence to me of the kind of steps that would normally be taken in the event that a mother was unwilling to disclose the identity of the father of a child, nor what steps could now be taken to this end. It was only three months ago that it changed its position from supporting the mother's stance on notification to advocating the opposite.
94. The impression I get is that someone who knew where the birth father had studied at university, had seen a photo of him, and knew their way round snapchat, Instagram, Facebook, BeReal or similar social media platforms, would likely be able to discover the identity of the birth father fairly easily, and that this could well be achieved by sourcing information that was only in the public domain. However, that is an impression only. I have not seen any evidence to that effect. Further, there is clearly a debate to be had as to the extent to which such enquiries made now would constitute either an unjustifiable infringement of C's article 8 rights, or amount to steps which would effectively force her hand and amount to compulsion or coercion.
95. I have accepted that C's fears and anxieties have increased over time. I questioned whether, if notification is not given, this intensification of feeling may continue. At the moment it is a secret of two years. What if the secret comes out, not in a matter of months, but after five years or ten years, or twenty? Would not the burden of carrying the secret, the fear of discovery and the fear of the reaction, not just from the birth father, but from M himself, intensify over time?
96. To the contrary, it was submitted on C's behalf, that once she had the assurance that notification would not happen, and the adoption could proceed, the situation would be contained. She would be back in the situation she was in at the time she signed the consent forms a year ago. She would have given her consent, M would be adopted. She could move on with her life, knowing that he was loved and happy in the home provided for him by his adoptive parents.

97. In my view C's belief that if the birth father is not notified, her previous situation would be restored is somewhat naïve.
98. Even if not notified through this process, there remains a risk that the birth father may yet discover the truth. He remains connected to her through mutual friends. She may never tell him, but it would appear that she has told some friends some things. Friendship groups formed at university can shift, disconnect and reconnect over time. Secrets are hard to keep. C may well have a need to tell others in the future – a future partner, or an employer. I understand she has told her current employer something of what she has gone through. If she has other children, she will be asked by health professionals about previous pregnancies. Some snippets of information may well come out over time, and people may join those snippets of information together.
99. If M were to be adopted, his adoptive parents may perceive a need in the future to support him in making enquiries as to the identity of his birth father. There could be a medical need to do so, for example to understand M's genetic make-up, to inform decisions made about whether or not to take preventative or curative steps to manage a health need. Or the search could be driven by M himself, a need to understand his own life story, to find his birth relatives, to know another person who shares his DNA.
100. It will be much harder for C to cope with the disclosure if it happened in a way that is not planned, and comes from a third party, when she is not prepared for it.
101. The fall-out at that point could potentially be far worse for C than a situation in which she could retain some element of control. I am concerned that the intensification of distress and fear that C has described building up over time may continue as the months and years pass, and the risk of discovery continues.

The impact of delay

102. A decision to notify will inevitably delay the time by which M's permanent placement could be confirmed.
103. There is a potential risk of the delay caused by notification extending to proceedings which involve full assessment of the birth father or members of the paternal family, contested hearings, and a challenge to M's placement. This is indeed an awful prospect from the prospective adopters' point of view, as well as C's and M's. The birth father has not got parental responsibility, C considers he is likely to support the adoption, and M has now lived his early years happily with the prospective adopters. All these

factors point away from this being the most likely outcome. At the same time, the Court cannot give any assurance that this would not happen.

104. However, even though delay is not what anyone would wish, notification to the father and his position being made clear could have the effect of bringing about greater long-term certainty, permanence and stability for M, albeit following a further very difficult period as long as proceedings continued.
105. If following that process, an adoption order was made, it would be based on a solid foundation, potentially with the blessing of the birth father as well as his birth mother. All options of family placement would have been properly explored and considered. The ever-present fear of later, unplanned, unprepared for discovery of the secret would be removed. M's carers could support him to understand his family history, and to manage his connection to each of his birth parents in a safe way.
106. M's prospective adopters are committed to caring for M for all their lives together. The placement is not at risk from further delay.
107. What has the impact been of the delay in bringing this application to the Court?
108. The local authority has a duty to make its own enquiries about the identity of a putative father, irrespective of the mother's expressed wishes. The duty is a discretionary one, and is a duty only to make such enquiries as are in the interests of the child. The interests of the child in that context are to identify and explore the realistic options for the child's long-term care. There may well be circumstances where the enquiry starts and ends with the information provided by the mother. The local authority is required to examine the information provided by the mother critically, and to decide whether there is any reasonable way by which the identity of the birth father could be established. In the event of a question arising as to notification and an application being made, the local authority should have obtained for itself information that would enable notification to take place, if that is what the Court directs.
109. The local authority wrongly assured C, and later the prospective adopters, that the birth father did not need to be notified.
110. Having taken that stance, it seems that the local authority has subsequently not felt it appropriate to conduct the kinds of enquiries it might have done at an earlier stage. Speaking to C, to members of her family, friends or colleagues, looking at social media accounts at this stage are now seen by C as highly oppressive steps designed to force her hand. The opportunity to obtain that information in an open way that might have been less challenging to C, has been lost.

Any other relevant matters

111. No additional matters have been raised by the advocates or identified by me.

Conclusions on the question of notification

112. At paragraph 89 (7) of the judgment in A, B and C, Jackson LJ said:

7. It has rightly been said that the maintenance of confidentiality is exceptional, and highly exceptional where a father has parental responsibility or where there is family life under Article 8. However exceptionality is not in itself a test or a short cut; rather it is a reflection of the fact that the profound significance of adoption for the child and considerations of fairness to others means that the balance will often fall in favour of notification. But the decision on whether confidentiality should be maintained can only be made by striking a fair balance between the factors that are present in the individual case.”

113. I have had regard to all the circumstances, the competing and conflicting rights of mother, father, child and prospective adopters. I note that M’s welfare throughout his life is a relevant consideration, but not the Court’s paramount consideration.

114. I have listened carefully to the considered and careful submissions made on behalf of all parties in this difficult case.

115. I have weighed up the advantages and disadvantages of the two options, summarised as follows:

Notification

- Practical difficulty of obtaining information from C who does not wish to share it – Court will not coerce, compel or exert pressure that amounts to compulsion, nor conduct an Inquisition;
- Infringes C’s article 8 rights to a private and family life, undermines autonomy of her decision making;
- In the immediate short term will have the consequence of heightening C’s anxiety, distress and fear of consequences, both from the birth father directly and the fall-out from members of his family, their wider friendship circle also

discovering her secret. At this time, this level of anxiety and distress feels unmanageable for C;

- Enables the birth father to discover that he has a son. Enables consideration to be given to the potential benefits to M growing up in his birth family if that is a realistic possibility or alternatively having a relationship or connection to his paternal family;
- Enables M to understand his life story, the reasons that he became a candidate for adoption, to grow up with a full and rounded understanding of his identity;
- Enables M's carers to raise him with full knowledge of his health and educational needs in order better to support him and meet his needs;
- Brings with it the risk of further disruption, delay, and the extension of these proceedings which have already caused significant distress, pain and uncertainty.
- Brings with it a risk of a challenge to the adoptive placement;
- Would enable after a finite period of time M's permanency to be settled finally, with certainty, with full information about his life story, arrangements for contact with relevant important people in his life to be established and maintained. Increases the likelihood that M will find stability, security throughout his life.

Non-notification

- In the immediate short term, concludes this application, enables the application for adoption to proceed and for M's placement with the prospective adopters to be settled sooner rather than later;
- Preserves and respects C's autonomy to decide that the adoption should be private and to have made her own decision;
- Overrides consideration of the potential for M and his birth father to have a family life together or otherwise to explore their familial connection;
- Prevents M from having full information about his birth father as he grows up, the circumstances in which he came to be a candidate for adoption, and therefore leaves a permanent gap in his understanding of his own life story and identity;

- Maintains a lie to M that his father is unknown and unidentified, and leaves a situation where the only information about him is that he is not a good person. This is unfair to M and to his father;
 - Prevents his carers from developing a full understanding of his health and educational needs, limiting them in their abilities to meet all his needs to the full;
 - Leaves open for an indefinite period of time the risk that the birth father will discover that he has a son. Makes the means of discovery and reactions to it unpredictable and unplanned. This will almost certainly be very difficult for the father, for C, for M and for the prospective adopters.
116. Each case must be determined on its own facts. However, it is of note that the circumstances of this case are very similar to the first case in Re A, B and C in which the decision was made that the father should be notified.
117. I too have concluded that on the facts of this case, the birth father should be notified of the fact that he has a son, and that he is living with prospective adopters.
118. I am not satisfied that the evidence shows there to be an objective basis for discounting the father from consideration of the contribution he could make to M's life.
119. I appreciate that disclosure of this information would be intensely difficult for C to cope with. I am of course concerned for her well-being now and throughout her life, but I have to make decisions based on my assessment of the evidence. I do not underestimate the strength of her feelings, compounded by a real and justified sense of injustice that she was given false assurances at the time she was making the difficult decision to consent to M's adoption. However, when weighed against all the other important factors, I do not find this concern, compelling though it is, enough to outweigh all the other reasons in favour of notification.
120. Further delay, disruption, uncertainty, and potential challenge to M's current placement is a significant concern. However, because the risk that the birth father will discover the truth about M at some point in the future remains, so does that risk of disruption. It would be better to deal with that head on now, and enable any final order that is made to be based on a full appreciation of all the circumstances, thus enabling M's permanent placement to be on sure foundations, all options having properly been considered.
121. Not notifying the birth father at all, or notifying him only after his chance to participate in the process had passed, would be cruel and unfair to him, and to M. It

would deprive M of the opportunity for his right to a family life with his father to be explored before an adoption order is made, or for his birth father to give his blessing to the placement.

122. That M's prospective adopters are fully committed to him for all his life and are well able to support him through adversity provides some comfort that notification does not pose any immediate risk to the stability of M's position.

Practical consequences of the decision

123. C is a young person to whom respect should be afforded, for the difficult decision she made for M, her generosity towards the prospective adopters and acknowledgment of all that they are giving to M, and the dignified way in which she has responded to the shock of being dragged back into these proceedings, and participated in them.

124. This is a decision that she has made, in full knowledge of the potential consequences for herself, for M, his birth father and for the prospective adopters.

125. The message she has given is clear, she has no intention of changing her mind, whatever I say in this judgment.

126. I appreciate that the time may come where the Court can push her no further.

127. However, I would like there to be a brief further period of time, during which consideration may be given to:

- (i) The availability of information in the public domain that may lead to identification of the birth father;
- (ii) Other steps that the local authority may reasonably take in order to discover the identity of the birth father;
- (iii) Some further reflection by C in the light of this decision.

128. I then propose a further hearing to consider the way forward.

HHJ Joanna Vincent
Draft judgment: 19 January 2023

Approved judgment handed down: 1 February 2023

Addendum judgment:

Note of ex tempore judgment at a hearing on 1 February 2023:

1. Since the judgment was sent out to the parties I have received a statement from C confirming that she remains resolute in her decision not to reveal the name of the birth father.
2. The local authority has filed a witness statement from [redacted], its principal solicitor. In the statement she sets out the information that the local authority holds about the birth father – some details of his physical appearance, a first name, and where he went to university – but not a second name or date of birth.
3. This is not enough information to enable a social worker to find out the identity of the father.
4. Further, there is concern that searches of social media accounts would breach the Regulatory Investigative Powers Act 2000 (RIPA), which regulates the powers of public bodies to carry out surveillance and investigation, or access a person’s communications. Miss Meyer tells me that the guidance in relation to RIPA suggests that repeated returns to even publicly available information of an individual’s social media accounts could fall foul of the regulations.
5. Could the local authority recruit a third party to do this? The concerns about RIPA remain. But in any event, such instruction is unlikely to achieve a great deal.
6. [The principal solicitor] has contacted an enquiry agent, who said that the agency would not be able to find much without a surname or date of birth. They were not hopeful of what could be achieved by viewing social media accounts. A visit to the university where C and the birth father studied was proposed, but neither of them are students there anymore. The university staff would be unlikely to provide information that breached its data protection duties without a specific court order.
7. [The principal solicitor] asked [redacted] (a genealogical research company) if they could assist but they said no, this was work for a private investigator.
8. [The principal solicitor] contacted [redacted], who are digital forensics experts. On their website they advertise being able to undertake “*open source’ research based on social media information and an ability to gain insight into an individual’s lifestyle, financial status and associations’*. But when the specific task of tracing a person was put to them, they said no, this was not something they could do.
9. The local authority has no further suggestions as to how the identity of the birth father might be discovered. It is submitted that there are no further steps the Court can now direct.

10. Mr Wraight, on behalf of the guardian, invites the Court to continue the investigation further, either by revisiting the decision about the medical records, or by pursuing the line suggested by the enquiry agent of exploring further with [Z] University what information could be obtained.
11. This course of action is strongly opposed by Mr Goodwin on behalf of the mother.
12. On behalf of the intervenors, Miss Griffiths raises the question of the impact of delay on all parties, particularly M.

Decision

13. I do not consider that I should revisit my decision about the medical records for the reasons I gave in my judgment. There is no different information in front of me only two weeks later.
14. Should I make an order in respect of obtaining information from the university? I must make decisions on the basis of evidence not speculation.
15. The local authority's statement shows the thought that has been given to the question of further investigations. Senior management has been involved. There has been proper and thorough consideration of the steps that might be taken and their efficacy.
16. By contrast, it is speculation on the part of the guardian as to what could be achieved. I understand why the guardian says the enquiries should be made, but if I pursued this, I would be making an order not knowing to whom it was addressed, what specifically I was asking for, or how that would achieve the desired result. Requesting the names and numbers of all [X]s who were studying at [Z University] in the relevant period is likely to give a large number of individuals. We cannot narrow it down because we have not got [X]'s second name, date of birth, year of entry, or what he was studying. It would be a significant exercise to pursue each of those names as a line of enquiry. There would remain the concerns about breaches of RIPA. The university may have issues around its own data protection obligations. There is likely to need to be a hearing attended by a representative from [Z] University, to consider the power I would have to make an order, and its range.
17. This process would cause further delay of unknown length, and the prospect of the parties having to return repeatedly to Court. This, it is submitted, would be intolerable for them.
18. To embark on all this, when I have no evidence that it would achieve the desired result, is disproportionate.
19. The decision I made was that the birth father should be notified.
20. But if the birth father cannot be identified, and I am satisfied that there are no further steps that can reasonably be taken, that notification cannot happen.

21. Having regard to the evidence, I am satisfied that this local authority has now taken all reasonable steps that it could in order to find out the identity of the father.
22. I cannot compel C to reveal his identity.
23. There is no purpose served by further delay.
24. In all the circumstances, the local authority is not required to take any further steps to discover the father's identity or to notify him of the application for adoption.

HHJ Joanna Vincent
1 February 2022