This judgment was given in private. The judge gives permission for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of this judgment the anonymity of the children and members of their family must be strictly preserved. If the judgment is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person. All persons, including representatives of the media and legal bloggers must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court.

Case No: CF23C50154
Neutral Citation Number: [2024] EWFC 306 (B)

IN THE FAMILY COURT AT NEWPORT (SOUTH WALES)

Newport (South Wales) County Court and Family Court
5th Floor
Clarence House
Clarence Place
Newport
NP19 7AA

BEFORE:

HIS HONOUR JUDGE JONATHAN HOLMES

BETWEEN:

Tortoise Media

APPLICANT

- and -

A Local Authority in Wales	**(1) RESPONDENT**
Grandmother	**(2) RESPONDENT**
Grandfather	**(3) RESPONDENT**
CHILD (VIA THE GUARDIAN)	**(4) RESPONDENTS**

Representation

Ms Louise Tickle on behalf of the Applicant Tortoise Media
Ms Deirdre Fottrell KC and Ms Harriet Edmondson on behalf of the Local Authority
Grandmother in person
Grandfather in person
Ms Rhian Jones on behalf of the Children's Guardian
Ms Kayleigh Simmons on behalf of A Welsh Police Force

Introduction

1. This is the 3rd judgment that I have given in these proceedings. The background to the matter is set out fully in the 1st judgment, **Re C (A Child) (Care Proceedings – Withdrawal)** [2024] EWFC 227 (B). That decision dealt with the withdrawal of care proceedings together with significant criticisms of the local authority and police in terms of their actions and failings.

2. The 2nd judgment, **Re C (A Child) (Care Proceedings – Publication of Judgment)** [2024] EWFC 228 (B) considered the issue of whether the substantive judgment should be published and if so what redactions/anonymisations were required. As is clear from that judgment, publication was opposed by the local authority, police and Guardian. Having balanced the relevant rights and risks I was satisfied that the balance fell in favour of the judgment being published subject to significant redactions and anonymisations. These anonymisations included the relevant local authority only being referred to as A Local Authority in Wales and the police as A Welsh Police Force.

3. This judgment arises from an application by Tortoise Media for me to revisit the issue of naming the actual local authority and police force involved. Ms Tickle advances the argument on behalf of Tortoise Media. The media were not alerted to the original publication hearing. Upon learning of the judgments, contact was made with the court and arrangements were made for Tortoise Media to file submissions in support of their application together with written responses from all parties. The application was considered at a hearing on 23rd September 2024. The overarching submission by Tortoise Media is that the public interest in naming the local authority and police outweighs the competing rights and interests of the child who may be identified as result of naming the local authority and police.

4. There are other limbs to the application, as Tortoise Media also seek:

    a. Publication of this judgment;
    b. Permission to publish submissions for this hearing on Tortoise Media website;
    c. Permission to be able to interview Grandmother and Grandfather and to quote from documents

5. All of the applications are supported by Grandmother and Grandfather. The substantive application to name the local authority and police is opposed by the local authority, police and Guardian. There is, it seems, agreement in respect of the other limbs of the application subject to there being appropriate redactions and anonymisations.

Law

6. The publication judgment was sent out in draft form on 12th June 2024. I considered the relevant legal principles at paragraphs 7-19. I referred within the judgment to the Practice

Guidance (Family Courts: Transparency) issued on 16th January 2014 and the President's Guidance as to Reporting in the Family Courts dated 3rd October 2019. Since the date of my judgment the Transparency in the Family Courts Publication of Judgments Practice Guidance was issued on 19th June 2024. This guidance replaces the previous guidance.

7. The guidance does not in any way alter or change the legal landscape that I considered in my previous judgment. No issue is taken with my summary of the legal landscape so I do not repeat it within this judgment. I will however, deal with the updated guidance and other decisions not brought to my attention at the previous hearing.

8. The intention of the guidance is set out at paragraph 1.2 as being:

> "*… to assist judges, parties and professionals to make sound representations and decisions about whether a particular judgment should be published and what anonymisation would be necessary and proportionate in order to facilitate that without compromising private and family life.*"

9. The following well-known principles are restated in the guidance:

i. The law in the Family Court is the same as in any other jurisdiction, including the application of the open justice principle (5.5.1).
ii. It is generally in the public interest for judgments to be published (3.1).
iii. Judgments which should be considered for publication include where 'publication would be in the public interest for a fact specific reason'(3.7).
iv. Judgments which are specifically of interest include any application for an order involving restraint of information relating to proceedings (3.8) and decisions where the media request publication.
v. The question of 'whether a judgment should be published will inevitably be influenced by options for anonymisation and redaction' (3.11).
vi. The Court must have regard to all of the circumstances in any publication decision.

10. When considering anonymisation the guidance requires the court to consider items in Table 1 individually and in combination. The reason being that by removing one identifying feature, it may be possible to leave another feature in the judgment, that will better preserve the integrity of the judgment or enhance a reader's ability to understand the case and reasons.

11. The key principles of anonymisation are summarised at paragraph 5.5 of the Guidance and include the following:

i. Anonymisation is only permissible where specifically justified on the facts of the case.
ii. Anonymisation of professionals is only usually justified where its purpose is to ensure the anonymisation of the child/family. A speculative concern about harassment or criticism is insufficient.
iii. Avoid prejudicing criminal investigation / proceedings.

12. The guidance specifically considers the issue of the publication of the name of a local authority and says that the general approach is that a judgment should 'generally include' the name of the local authority. It goes on to note:

> "*The identity of the arm of the state bringing an application is a matter of public interest. If the inclusion of the identity of the local authority is likely to be identifying (for example in a very small or rural local authority) consider removing – but consider whether the removal of other less important potentially identifying information about the characteristics / history of the family could mitigate / reduce the risks.*"

13. Ms Fottrell KC drew my attention to **Newman v Southampton County Council** [2021] EWCA Civ 437, in which King LJ noted that children enjoy separate rights to respect for their private life, the ambit of which is sufficiently wide as to protect not just publication of information but disclosure of private information to a third party. At paragraph 67 King LJ set out the principles which apply to a decision about disclosure:

> "*In my judgment the court must, therefore, take into account not only the mother's view that access to the court files is in the best interests of M but also, in taking an objective view of the matter, the following matters in relation to the child in question:*
>
> > *i) Children have independent privacy rights of their own: PJS para.[72]; [Emphasis added]*
> >
> > *ii) Whilst M's interests are a primary consideration, they are not paramount;*
> >
> > *iii) Rights of privacy are not confined to preventing the publication or reporting of information. To give a third-party access to information by allowing them to see it, is in itself an incursion into the right of privacy for which there must be a proper justification: see Imerman v Tchenguiz [2011] Fam 116 CA at paras.[69], [72] & [149];*
> >
> > *iv) Even "the repetition of known facts about an individual may amount to unjustified interference with the private lives not only of that person, but also of those who are involved with him": JIH v News Group Newspapers Ltd [2011] EMLR 9, para. [59], per Tugendhat J;*
> >
> > *v) Repetition of disclosure or publication on further occasions is capable of constituting a further invasion of privacy, even in relation to persons to whom disclosure or publication was previously made—especially if it occurs in a different medium. It follows that the court must give due weight to the qualitative difference in intrusiveness and distress likely to be involved in what is now proposed: PJS: para. [32.(iii)] and para.[3]*

14. In **Griffiths V Tickle** [2021] EWCA Civ 1882 at 48, Dame Victoria Sharp, P considered the approach to be taken to the balancing exercise in respect of publication of the name of a child's parent. She noted that:

> "*The "nature of the impact on the child" of a publication that interferes with their privacy rights is to be measured objectively; the mere fact that the child is too young to understand does not mean there is no such impact: Weller v Associated*

Newspapers Ltd [2015] EWCA Civ 1176, [2016] 1 WLR 1541 [20] (Lord Dyson MR). But when measuring that impact the court should not simply assume, or treat it as inevitable, that publicity would have an adverse impact; in each case, the impact of publication on the child must be assessed by reference to the evidence before the court: Clayton v Clayton at [51]. This would seem to follow inescapably from the granular analysis required by the Re S approach."

15. Ms Fottrell KC also referred me to a number of cases in which the Family Court has previously prohibited the naming of the local Authority.

16. In **Z County Council v TS, DS and ES and A** [2008] 2 FLR 1800 Hedley J set out the kind of circumstances that might lead to the identification of a child if the name of a local authority was published. These included that the child lived in a small rural community which was lightly populated and identification was very likely to follow publication of the name of the local authority (see paragraphs 9-13).

17. In **A Local Authority v the Mother** [2020] EWHC 1162, Hayden J declined to name a local authority notwithstanding the fact that the judgment was robustly critical of the failure of the local authority to discharge its statutory duties to two children. At paragraph 1 Hayden J noted that:

> "*I also made trenchant criticisms of the Local Authority's conduct of the case and of two social workers in particular. As I made clear in the judgment, now reported as (insert), I am usually disinclined to review a Local Authority's failings during the course of care proceedings unless it is necessary to do so in order to ensure fairness to all the parties. In this case I considered that was necessary but even had it not been I am clear that failings on this scale cannot go unheeded. I do not think that I have ever had to criticise a Local Authority to the extent that I have found it necessary to do in this case*."

18. Hayden J recognised the compelling arguments in favour of transparency and the changes in attitudes in the family Court noting that:

> "*There is, in my view, an understandable concern amongst the public and members of the press that failings by public bodies, particularly on the scale I identified, should not be concealed in any way. For many the importance of scrutinising such failings in a fully transparent way transcends the need to protect the privacy of vulnerable children. There are two fundamental rights engaged here, freedom of speech and children's privacy as a facet of their family life. When evaluating where the balance lies between these two competing rights and interests it is important, to my mind, that judges of the Family Court do not allow ourselves to remain magnetically attracted to the welfare principle (i.e. that the welfare of the child is the paramount consideration). To do so distorts the relevant balancing exercise.*"

19. Ms Tickle properly reminds me that Hayden J on making his initial decision did not have the benefit of specific representations or submissions on behalf of the press. Subsequently, submissions were invited and received. This led to a further judgment by Hayden J in **PA**

Media Group v London Borough of Haringey [2020] EWHC 1282 (Fam). After hearing submissions from Mr Farmer of the Press Association and Ms Tickle, Hayden J concluded that the public interest in naming the local authority must prevail against the potential but not inevitable identification of the children and the potential but not inevitable emotional distress that the child may be caused.

Submissions

20. I am grateful to everyone for their written submissions and focused oral submissions. I have had regard to these when considering this matter.

21. Ms Tickle takes issue with my use of the phrase 'public flogging' in my initial judgment. She felt this was unfair and unfortunate and said that news reporting of facts from such a judgment should not be characterised as a public flogging. She also took issue with the approach of the local authority and Guardian. She expressed concern that the local authority submission suggested that press attention would increase the risk of identification and misinformation. She was extremely critical of the Guardian's position statement suggesting that it was actively and intrinsically hostile to the media.

22. She said that the substantive judgment was 'stinging and important'. Her written submission said that she had not read a judgment 'quite so excoriating of a police force in relation to the way its officers approached orders of the court' and that it came close to being the worst judgment she had read in the 10 years she had reported on such matters in terms of children's services failings. She added that it was one of the saddest given the emotional harm inflicted on a desperately ill child over a very significant proportion of the remainder of the life they are likely to have. She said that judgments like that are scarce to journalists, Councillors, MPs and campaigners. She said that the use of the judgment is limited if the exact local authority and police are not named and that there are a huge number of important functions that cannot be met if the state actors are not named. She said that in my judgment I expressed some scepticism in terms of the operational impact on the local authority and police. She developed this further saying that without naming them there is no way to hold the local authority or police to account – no way to check that they have instigated the changes as they said they would. She said that the failings of the local authority should be known to the Care Inspectorate Wales and to the Senedd and Councillors so that attention is drawn to it. She said the failings of the police should be known to the Police inspectorate and the Government. That the public need to know. She said that the court has no power to check change has been instigated or to hold to account but the media can and does do that.

23. She said that the Care Inspectorate Wales reported on this local authority during the time of their involvement with this child. She said it was clear from that report they were not aware of this case or these failings. She said that the report was largely positive with one exception and criticism. She questioned the extent to which the report would have differed had they known of the serious failings in this case that were ongoing at the time of their inspection but were missed. She also said that her research had revealed complaints upheld in the months leading up to my substantive judgment with similar issues and concerns.

24. The crux of her argument was that lessons cannot be learnt if relevant powers are not aware of the issues and not discussing the matters.

25. Furthermore, she said that there is huge public interest in matters like this – that there is nothing like voters knowing of failings and agitating for change or Grandparents publicly but anonymously being able to say about failings and the impact of such failings upon them and the child. She said this case demonstrates extensive failings over an extended period of time. She opined that she could not see how there were not other families who have suffered the same or similar failings in the local authority or police force area and it is only through naming that such cases could come to light.

26. Ms Tickle suggested that other amendments could be made to the substantive judgment (as suggested in the new guidance) to reduce the potential for jigsaw identification but allow for the naming of the local authority and police. Changes that would make no difference to editorial interest.

27. In terms of the police Ms Tickle said the police submission is long on assertion but short on detail. That the court had considered the issues raised at the time of publication of the judgment and nothing substantive had changed

28. Ms Tickle submitted that the key issue regarding naming the local authority and police force is that of identification and how it may harm the child. She said that it was not clear from the judgment the extent to which this had been considered. She urged the court to be wary of jigsaw identification saying it was a convenient argument for the local authority and police who have a vested interest in not being named. She did not accept that it was inevitable that the child would be identified if the local authority and police were named. She submitted that, even if the child was identified as a result of naming the local authority and police, it does not automatically follow that the child will suffer harm. She questioned what evidence there was in support of harm as opposed to mere speculation. She said that she had been told by the Grandparents that some people in the community already know about matters and there have been no issues. That the child at his age is not likely to come across the judgment himself. That the Grandparents have his interests at the forefront of their mind and that public opinion is likely to be one of sympathy rather than anything else. She said that the Grandparents who have cared for the child with love and dedication support the applications. The local authority and police do not but she submitted that 17 months of poor judgment and poor practice should mean that their judgment is of limited value when set against that of the Grandparents.

29. The local authority in their written submissions acknowledge and recognise that Ms Tickle is a respected journalist who has a long-standing interest in transparency in the Family Court. They recognise that Ms Tickle raises important questions in her submissions as to the necessity of local authorities being held accountable and that she makes the valid point that public confidence in the Family Court is undermined when there is a perception of a closed process.

30. The local authority set out that it regrets the failings which were present in this case and that it accepts the criticisms of its processes made by the Court in the substantive judgment. They maintain that they are actively reviewing the decisions made in this case and that there

is a strong commitment to ensure that lessons are learned so as to ensure there is no repetition of the errors made in the case.

31. Ms Fottrell KC submitted that many of the arguments advanced by Ms Tickle were advanced previously by Ms Hughes KC and Ms Reed KC on behalf of Grandfather and Grandmother. She said that the Court was correct in its original balancing exercise and that I should not revisit that decision and name the local authority. She said that the focus must remain on the risk of identification for this child given his particular circumstances and the consequences of identification. She said that such impact is not negated by the child being young or not themselves aware of the disclosures or able to conduct a search themselves. She said it is the very fact of disclosure of private information that engages Article 8 and may lead to a breach of Article 8 rights.

32. The Grandparents did not have the benefit of legal representation at this hearing. Sadly, they had not been provided with copies of the written submissions by the other parties in advance of the hearing. Despite this they confirmed that they were content to proceed with the hearing. Grandfather remains frustrated and angry at the failings of the local authority and the police. He said that he supported fully the applications of Ms Tickle. Grandmother agreed fully with this position saying that they should be named and shamed.

33. Ms Simmons on behalf of the police asserted in her written submission that significant oversight has been given to the judgment with the personal involvement of the Deputy Chief Constable assessing lessons learned and the development of processes to meet such demands and risks for the future. She maintained in oral submissions that naming the police force could affect the integrity of the ongoing police investigation and any potential future trial. She said that matters have progressed since the last hearing and that a decision in respect of whether charges will be brought will be made in the coming months.

34. Ms Jones did not accept that the position of the Guardian was actively hostile to the media. She said that the Guardian has not adopted a conservative approach as suggested by Ms Tickle citing that it was the Guardian who pressed the local authority to properly evaluate the available evidence and risk. She said that the Guardian has been a neutral voice for the child throughout and was very critical of the actions of everyone involved in the manner of the child's return to his Grandparents. Ms Jones said that the Guardian was fully aware that the paramountcy principle did not apply to this issue but stressed that for the Guardian the welfare of the child was her primary concern. She said that the Guardian has been the voice of the child throughout the proceedings and has executed her duties at all times in a balanced way.

35. Ms Jones did not accept the assertion of Ms Tickle that the views of the Grandparents should hold significant weight when deciding this issue. She said that sometimes, despite every good intention, other parties come at it with different views. She said that the Grandparents are angry at what has happened to them and that in such emotional situations decisions are not always neutral. Having listened to Grandfather's submissions Ms Jones said that she had no doubt his position was based on what he thought was best but she was concerned that it was what was best for him rather than for the child. She said that the Guardian has a very important role. She acknowledged that Grandparents support naming the local authority and police but said that there is a reason the child has his own voice and is not reliant on the

view of the carers. She said that the Guardian intends on using the judgments as the bedrock for a referral to be made to the Official Solicitor for a claim to be made on the child's behalf for the harm that he has suffered.

36. Miss Jones submitted that in this case we are concerned with a relatively small geographical area. She said this case is about whether this child can make his way to school without being peered at, gossiped about and talked about. She said that whatever the public reaction - be it anger or pity – his right to family life is not contingent on him knowing he has it. He has the right for the things to be private to him and to live his life in peace.

37. Furthermore, Miss Jones said that the child has a life limiting condition and that what he knows and understands about his condition is limited. There may be a time when he becomes more or possibly less aware of what that means to him. She said that he has already been the subject of 3 sets of proceedings before this application and that he is a young child who should be allowed peace without others knowing his business.

38. Miss Jones said that this case involves intergenerational difficulties. There are multiple siblings with children all embroiled in the case in one way or another. She accepted that it is an issue which is probably known, to some extent, in the community. However, she said it is a small community and that whilst there will be some knowledge, it will not be the detail of it. If the child is identified it brings focus back on to the situation at a time when speculation, debate and gossip should be dying away. She said that in this case the particular factual circumstances arising from the judgment, when narrowed by naming the local authority and police, would inevitably lead to identification of the child. In this case, by reference to Hayden J's judgment in [2020] EWHC 1162 (see paragraph 17 above), Miss Jones described the jigsaw as being analogous to a Peppa Pig jigsaw rather than a puzzle of Schloss Neuschwanstain.

39. She acknowledged that identification itself is not necessarily harmful or prejudicial. However, in this case she said that it would be harmful to this particular child. It would be harmful for people to know his medical information. Harmful to know there have been multiple sets of proceedings. Harmful to know about the lack of relationship with birth parents. Harmful to know Grandfather has been accused of sexual assault and harmful to know that there is an ongoing investigation of those allegations. She said that it is not in the child's interests to have more scrutiny.

40. Ms Jones acknowledges that there is a public interest in the local authority and police force being named but says that this must be weighed in the balance against the impact it would have on the child. She accepts that the local authority and police may have self-serving arguments in opposing this application but stresses that the Guardian most certainly does not. She said that the features of this case are too unique to tip the balance in favour of naming the local authority and police.

Analysis

41. Ms Tickle said that there were deficits in the court process initially as no invitation was extended to the press to attend previous hearings. If the lack of invitation to the press did amount to a defect in procedure, I am satisfied that it has been remedied by the manner in

which matters have progressed since and the manner in which Ms Tickle has advanced her application.

42. As Miss Fottrell KC submitted the role of the court is to undertake a balancing exercise between the competing convention rights of the parties and the media in the exercise of their role as public guardians. In considering such a balancing exercise I remind myself that at paragraph 4 of my original judgment I set out the purpose of the judgment as being:

> *"The purpose of this judgment is not for there to be a public flogging of the individuals concerned. It is so there is a proper objective record of what has happened. This judgment should be placed on the child's file and anyone dealing with this matter in the future should carefully consider this judgment to have a clear understanding of what has happened. This judgment is also for the Local Authority and the Welsh police force to have a clear and complete picture of matters so that lessons can be learned, and mistakes of this nature can be avoided in the future."*

43. As set out above, at paragraph 21, Ms Tickle takes issue with my use of the phrase public flogging. My use of that phrase was not a reference to any potential press coverage, media attention or editorial line that may have been taken by the press. The context of that phrase was Grandfather initially wanted a large number of people named in the original judgment. He wanted frontline social workers, police officers, local authority solicitors and previous local authority counsel named. He wanted the judgment to potentially deal with their individual actions and failings. It was in that context that I referred to a public flogging and not in the context Ms Tickle has taken it as a slur on the press or media or the court starting from the wrong position. I have no doubt or reservations about the important work the press undertake in the sphere of the family court. The media has an important role to play in these proceedings, as their reporting can, amongst other things, help the public understand how the family court system works and how family cases are decided

44. However, the reason for the substantive judgment was largely at the request of the Guardian who felt there should be an evaluation of how matters had developed in the way they had. To provide a narrative for the child for his life and to sit on his file for all professionals who may come to this case in the future. The other stated purpose was learning, prevention and emphasis of what had gone wrong. Ms Jones made it clear in her submissions that one further purpose was the intention of the Guardian to use the judgment as the bedrock of a claim on the child's behalf for the harm he has suffered.

45. There can be no doubt that my original judgment was highly critical of both the police and the local authority. I agreed fully with Ms Jones that the local authority's management of the child's care since August 2022 had been 'negligent, unlawful at points and a harmful interference with his right to family life'. There were many failings identified in the judgment on the part of both the local authority and the police.

46. The police continue to object to being named. Their principle reasons for doing so are very much the same as articulated at the previous hearing in relation to the impact on the ongoing investigation. My original judgment on publication said:

> "*The police objections are pure speculation. They have had over 20 months to progress the investigation. I was provided no detail as to ongoing lines of enquiry that would be jeopardised by publication of the judgment. Any such argument would, in any event, only be applicable to deferment of publication rather than publication itself. I have considered whether publication should be deferred until such time as the investigation has concluded and have decided it should not be. The investigation is not far off 2 years old. There is no indication a file will be submitted to the Crown Prosecution Service any time soon. When this matter started in 2022 mention was made of the investigation taking years and, sadly, that has proved to be the case. I do not consider it appropriate to defer publication to an uncertain unspecified date in the future.*"

47. The situation is no different now than it was when I made the decision to publish. The investigation remains ongoing. The only development is that the matter has been referred to the CPS and a charging decision may be made in the coming months.

48. The local authority continue to object to being named. Whilst represented by different leading counsel the tenor of the opposition remains the same.

49. I fully accept that there are benefits that arise from both the police and local authority being named. I acknowledge there is public interest in the detail being known. I have acknowledged this throughout. The powers exercised by the local authority and the police in such matters are potentially so drastic in their possible consequences that there is a powerful public interest in those who exercise such powers being publicly identified so that they can be held publicly accountable. This is the main thrust of Ms Tickle's application. She argues that it is only by the local authority and police being named that such accountability can be ensured.

50. The issue is not whether there is a public interest in this matter. It is whether that should outweigh the competing interests of the child. My concern throughout has been the impact publication and possible identification would have on this child. Whilst not agreeing with the Guardian in terms of the judgment itself being published I attached considerable weight to the view of the Guardian in terms of the level of redaction and anonymisation that was required to avoid jigsaw identification and to avoid the harm that she feared would follow. This is harm and the likelihood of that harm arising from the child being identified. Ms Tickle says that the local authority and police have a vested interest in not being named. Whilst I accept that may be true the same cannot be said for the Guardian. She strongly advocated during the proceedings for the local authority to review its position. She was harshly critical of the local authority when it came to the way they had approached the matter throughout. She supported fully the application to withdraw.

51. I noted in my judgment the disruption which the child has experienced in his short life. This is the third set of public law proceedings which he has been involved in since his birth. The proceedings have laid bare intergenerational family dysfunction. The facts at the core of this case have torn this family apart. There are members of the family who support Grandparents and there are members of the family who support the complainant. I agree with the submissions of the Guardian that the child lives in a relatively small community where he attends school and activities. He will likely be one of very few children in his local

area with a life limiting condition. He may be the only child in his local area with a life limiting condition, who was placed with his grandparents with allegations of sexual abuse surrounding the family. A community where some people inevitably know some of the detail. But there is a significant difference between that and knowing the full history as extensively set out in the judgment. This child suffered as a result of the actions of the local authority. The period of time not in his Grandparents care resulted in harm. That harm continues to impact upon him since being returned to his Grandparents. I was told by Grandparents at the time of my original decision that he continues to be upset when leaving home. He is presenting as more frustrated and angrier than before. He presents with worry when he sees a police car in the street.

52. Being out of his Grandparents care for 17 months must have been a distressing and confusing time for the child. He was well cared for and content with his Grandparents until August 2022. He was then removed from their care in distressing circumstances and remained out of their care for over 17 months. The risk of jigsaw identification remains a significant one. A risk that is heightened further if the local authority and police are named. The Guardian's view is that the child has been through enough. The risk of identification from the judgment is just not one which is outweighed by the public interest in her view.

53. It is right that the child is not capable of searching the internet at his age. It may be that, due to his condition, he is never capable of this and therefore the likelihood of him finding the judgment is reduced. However, I agree with the submission that an individual's entitlement to private family life is not determined by the extent to which they are able to exercise that right, nor is it determined by whether or not they are aware it is being breached. Whether the child has the cognitive or physical capabilities to access and understand the judgment does not invalidate his basic right. His ability to view and access the judgment also does not prevent others from accessing it and gaining knowledge about his life that even he may not have.

54. I am grateful to Ms Tickle for her thoughtful and thorough submissions. I am all too alive to the great public interest that there may be in the content of my substantive judgment. The consternation that inevitably follows from the significant criticisms I made of two public bodies. The desire to expose the local authority and police so that she and other members of the press may hold them to account and to seek to assure that such failings do not occur again. I must balance that against the risks that arise to the child at the centre of this case. A child who has already suffered harm. A child who continues to experience the effects of his removal.

55. I was referred to the Haringey judgments of Hayden J by both Ms Fottrell KC and Ms Tickle. Hayden J despite detailing significant failings by the local authority he initially refused to name the local authority largely because of the risk of jigsaw identification. He revisited that decision following an application by the press. During submissions Hayden J was referred to an Ofsted report from 2018 which revealed failings that he said could be 'folded, entirely seamlessly into' his judgment. He had initially been assured that failings were isolated examples of bad practice but concluded that those assertions were not supported by the Ofsted reports which he said were reflective of a much broader and deeper malaise within the local authority. The lamentable history of Haringey was a major factor in the decision of Hayden J to name the local authority as he felt the public interest argument prevailed. Ms

Tickle sought to make similar submissions in this case. She spoke of a Care Inspectorate Wales report that whilst largely positive did express one concern. She spoke of some complaints that had been upheld. I acknowledge those matters but am not persuaded that they there are of a nature comparable to the 'deeper malaise' of Haringey. They are matters that I have regard to but they are not of such significance or relevance to the failings I identified in my judgment that they elevate the call for accountability or public interest beyond that which I previously considered.

56. I said in my publication judgment that the decision to publish at all was a finely balanced decision largely due to the risks of jigsaw identification. I was satisfied that the public intertest did require publication but that was caveated on the basis of all measures being taken to protect the anonymity of this child and avoid jigsaw identification. Anonymisation of the local authority and the police was one the measures I felt necessary to meet this objective. As meritorious and seemingly compelling the arguments of Ms Tickle may appear they were to a very large extent matters that I had in mind when originally balancing the respective Article 8 and Article 10 rights. Ms Tickle has undoubtedly elucidated the matters in much greater detail and with the benefit of the unique perspective of the independent press but I am not satisfied that balance is such that it tips in favour of naming the local authority or the police. The almost inevitable local and perhaps national press interest that could potentially follow focused on the relevant local authority and police would significantly increase the prospect of jigsaw identification and lead to the harm that is feared of by the Guardian. Fears that I share.

57. I have set out above the purpose of the judgment. Having completed the judgment I was aware that there would be public interest in a matter of this nature. For that reason I allowed publication against the opposition of the local authority, police and Guardian. I weighed the respective rights and found that the balance lay in redaction/anonymisations including that of local authority and police. I remain of that view today. In my judgment the child's welfare positively requires that he be protected from identification.

58. For those reasons, the application of Ms Tickle to name the local authority and police force involved in this sad case is refused.

15th October 2024