Case note: Re H [2025] EWFC 485

On 29 October 2025 Her Honour Judge Downey handed down a judgment in relation to her decision in ***Re H [2025] EWFC 485.*** The case concerned an application for a special guardianship Order on behalf of the maternal aunt to H (6 years old). Eleanor Howard appeared on behalf of H through his children's guardian, Ms Sleath.

The Court eventually granted a Special Guardianship Order by agreement on 23 September 2025. The judgment, however, dealt with the circumstances in which H was removed from his aunt's care and the Court's concluded view that the removal was wrongful. The purpose of the judgment was to emphasise the duties incumbent on a Local Authority when considering removal in relation to children in kinship placements under final care Orders. The Court then went on to consider whether the Local Authority and specific social workers and/or solicitors should be named in the judgment where it was concluded that there had been a significant dereliction by the Local Authority of their duties.

In relation of the removal of H from his aunt's care, the Court concluded that the London Borough of Brent had acted contrary to the law as set out by Baker J in ***Re DE (Child under Care Order: Injunction under Human Rights Act 1998) [2014].***

"[24] I was satisfied that there was no justification to remove H from his MA in all the circumstances of this case. Overall, I was satisfied that contrary to the guidance in re DE, they had failed to give proper notice to all parties, and removed on the basis of chronic concerns which did not warrant peremptory and urgent removal."

The Court went on to consider the legal framework in relation to publication of a judgment and personal identification of professionals.

51. *"The Administration of Justice Act 1960, section 12 and Children Act 1989, section 97(2) establishes automatic restrictions on reporting and publication in family cases concerning children without permission of the court.*

52. *In considering the issue of whether the judgment should be published I have had regard 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.*

53. *The 2014 Practice Guidance distinguished two classes of judgment: those that must ordinarily be published (paragraphs 16 and 17); and those that may be published (paragraphs 18). .Sir James Munby detailed: "16. Permission to publish a judgment should always be given whenever the judge concludes that publication would be in the public interest and whether or not a request has been made by a party or the media. 17. Where a judgment relates to matters set out in schedule 1 or 2 below and a written judgment already exists in a publishable form or the judge has already ordered that the judgment be transcribed, the starting point is that permission should be given for the*

> *judgment to be published unless there are compelling reasons why the judgment should not be published. 19. ... the judge shall have regard to all the circumstances, the rights arising under any relevant provision of the European Convention on Human Rights, including Articles 6 (right to a fair hearing), 8 (respect for private and family life) and 10 (freedom of expression), and the effect of publication upon any current or potential criminal proceedings. 20. In all cases where a judge gives permission for a judgment to be published: (i) Public authorities and expert witnesses should be named in the judgment approved for publication, unless there are compelling reasons why they should not be so named; (ii) The children who are the subject of the proceedings in the family courts, and other members of their family, and the person who is the subject of proceedings under the inherent jurisdiction of the High Court relating to incapacitated or vulnerable adults, and other members of their family, should not normally be named in the judgment approved for publication unless the judge otherwise orders; (iii) Anonymity in the judgment as published should not normally be extended beyond protecting the private of the children and adults who are the subject of the proceedings and other members of their families unless there are compelling reasons to do so."*

The Court went on to summarise the key principles that applied to anonymisation at paragraph 57 of her judgment;

"*i. The law in the Family Court is the same as in any other jurisdiction, including the application of the open justice principle.*

ii. Anonymisation is only permissible where specifically justified on the facts of the case.

iii. Anonymise/ redact where necessary to protect the identity of the subject child and family members (as a function of the child's Article 8 rights encompassing welfare).

iv. 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.

v. Anonymisation is not a zero sum game: removal of one fact or item may obviate the need to redact a more important fact or piece of information, thus facilitating publication of a more informative/ useful version of a judgment.

vi. Avoid prejudicing criminal investigation/ proceedings.

vii. Take particular care in cases involving complaints or descriptions of sexual assault or abuse."

The Court concluded that the judgment should be published as *"it is in the public interest to know when a local authority's actions were found to have been wrongful, and what steps the court took to correct those errors"* [paragraph 58]. The Court determined that it was necessary to name the Local Authority to ensure that amended processes were put in place, however the Court was not satisfied that there was a material benefit to naming professionals as the issues arose from systemic rather than individual failures.