Neutral Citation Number: [2026] EWHC 994 (Fam)

Case No: FD25P00069

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/04/2026

Before :

THE HONOURABLE MR JUSTICE GARRIDO

- -

Re CX (A child)(Reporting restrictions order: National security)

Between :

Louise Tickle	**Applicant**
- and -	
(1) AZ (2) BY (3) CX by her children's guardian	**Respondents**
(2) The Secretary of State for Defence	**Intervener**

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- -

Lucy Reed KC (*pro bono,* direct access) for Louise Tickle
Chris Barnes (*pro bono,* instructed by **Moss Fallon Solicitors Ltd**, *pro bono*) for AZ
Andrew Bagchi KC with Marlene Cayoun (*pro bono,* instructed by a firm, *pro bono*) for BY
Joy Brereton KC with Jacqui Gilliatt (instructed by a firm) for CX
Melanie Cumberland KC with Michael Edwards (instructed by the GLD) for the SSD
Louise MacLynn KC (instructed by SASO) as Special Advocate for Tickle, AZ and CX

Hearing dates: 16.12.2025, 23.01.2026 and 30.01.26 in CLOSED, and 10-11.02.26 in OPEN

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Approved OPEN Judgment

This judgment was handed down remotely at 10.00am on 29th April 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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THE HONOURABLE MR JUSTICE GARRIDO

This judgment was delivered in private, and a transparency order and a reporting restrictions order are in force. The judge has given leave 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 the judgment the anonymity of the child and members of her family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Mr Justice Garrido:

1. This judgment concerns the extent to which the media may report private proceedings concerning the welfare of a child that concluded in the family court in 2023 ("the original proceedings").

2. These proceedings began with an application issued on 8 January 2025, fifteen months after the conclusion of the original proceedings. The application was made by a freelance journalist, Louise Tickle, for the disclosure of documents and permission to report the original proceedings that she did not attend. The application form stated that she intended to maintain the anonymity of the parties, but that position soon fluctuated thereby causing considerable uncertainty for this family and complication and delay in these proceedings.

3. How Ms Tickle came to make this application in relation to long-concluded private proceedings that neither she nor any other journalist attended is far from transparent. In her witness statement, she admitted candidly that there was a financial element to the cases that she chooses to pursue:

> "From the many hundreds of cases of which I become aware every year, I must very carefully select one or two which I know will interest national news editors because they have an especially compelling public interest element, which I can argue will justify the effort and investment required to make the application to report it, despite the risk of not succeeding. This case is one of those very few. I have already expended considerable unpaid time, and been represented to date *pro bono*, in order to get to the stage where *The Observer* will commit to the investigation."

4. The respondents to her application are the child and her parents. The suggestion by Ms Tickle that she may wish to name the father rather than maintain this family's anonymity, prompted the father to make an application for a reporting restrictions order (RRO), which in turn prompted the Secretary of State for Defence also to apply for a RRO.

The original welfare proceedings 2020-2023

5. The original proceedings were necessary because the parents could not agree about how the child's time should be divided between them following their separation in 2020. In asserting that the time spent by the child with the father should be limited, the mother alleged that she had been subjected to domestic abuse by the father, who made cross-allegations about her. The various allegations were properly and fully tested at a hearing before a district judge. Before me, it was submitted on behalf of the mother that "the judge demonstrated considerable insight into patterns of (serious) coercive and controlling behaviour." In an exemplary judgment delivered on 20 January 2022, the judge decided that the mother had indeed suffered terrible abuse perpetrated by the father. An extract from that judgment reads as follows:

> [96] … In my view, it was a relationship characterised by extreme emotional and psychological abuse of the mother over many years. There were patterns of behaviour by the father that were deliberately intended to worsen her anxiety and intimidate her and make her feel subordinate. At numerous points in 2017, 2018 and 2019 welfare were so concerned that they wanted to disclose to the father's employer, but they did not have the mother's consent to do so. Instead, they put in place safety plans and referred her to other support services.

6. Reference by the district judge to 'welfare' is a reference to the welfare services provided by the father's employer: The Ministry of Defence.

7. Following the judgment, the time spent by the child with her father continued to be professionally supervised, and the father engaged with a domestic abuse perpetrator programme that required attendance at 24 sessions and separate anger management intervention. The father having commenced his participation in that programme, the Child and Family Court Advisory and Support Service (CAFCASS) were ordered to make their recommendations for the future child arrangements.

8. There followed a final hearing in September 2023 at which the same judge heard evidence from the parents, the provider of the perpetrator programme and the CAFCASS officer. In a fully reasoned judgment delivered at the conclusion of

that hearing, the district judge ordered a gradually changing pattern of arrangements for the child to spend time with her father for a further three months still supervised, then 'supported' for a further six months, and then unsupervised, slowly increasing from 2 hours to 6 hours over a period of a further eight months. The order did not make provision for overnight stays and prohibited the father from making another application to court without permission for two years.

9. In coming to this decision, the district judge's reasoning is clear from her judgment as follows:

> [97] The child is ready to move out of the contact centre and in my view being stuck there any longer will be damaging to her developing relationship with the father. She needs progression and more options.
>
> [98] [The mother] is a very anxious and fragile person after years of abuse... [Her presentation] is genuine, she has been destroyed and is rebuilding her life and getting help for her trauma… If progression [of contact] is not staged over months, the mother's mental health and emotional well being would very likely deteriorate and impact on the child.
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> [99] I have tried to strike a balance between these two competing aspects of the case. I do not agree with [the CAFCASS reporter] that contact should remain supervised for 2-3 years… that would not strike the right balance and would be harmful to the child in not progressing contact. There has already been 200 hours of positive supervised contact.
>
> [101] By the time unsupervised contact starts, nine more months will have passed, on top of three years of litigation… this does and will give the mother significant time to continue her therapy and recovery while striking the right balance with a child who enjoys contact with her father.
>
> [102] While the [domestic abuse perpetrator programme] reports had shortcomings, in live evidence [the reporter] added a lot of detail and I was convinced there had been insight by the father… [He] is a 'work in progress' and the tools [provided to him] need to be practiced over many months and years

> to truly embed and change behaviour… There was evidence of the father taking advice from contact supervisors, changing his parenting style to be compatible with the mother and dealing with difficult questions from the child appropriately.
>
> [104] I have not followed the CAFCASS recommendation… [The reporter] did not adequately analyse the effect on the child of not progressing contact.

10. The mother and CAFCASS officer were unhappy with the court's order, and on 15 November 2023 the mother made an application for permission to appeal. The application was referred to a Circuit Judge who promptly gave a reasoned decision, applying the correct legal principles, in which permission to appeal was refused. The mother had the opportunity to request a reconsideration of that decision at an oral hearing but did not do so. She therefore accepted that the district judge's order would stand.

Louise Tickle's application in the family court

11. The application was listed to be heard on 30 January 2025 before the same Circuit Judge as determined the application for permission to appeal. The judge noted that Ms Tickle's application, which in writing had been limited to reporting 'under the same conditions of anonymity as obtain in the [standard] transparency order', had now 'widened to include the ability to name the father' once she had realised he was a member of the armed forces. She conceded that her application could not reasonably be determined at that hearing. Mr Barnes, then as now acting for the mother, raised the need for the father to apply for a RRO if he wished (as he did) to maintain the family's anonymity in any reporting about the father's conduct towards the mother.

12. What might have been a straightforward and swift granting of permission for anonymous reporting, in the way now routinely done in the family court, became more complicated by (i) the extent and personal nature of the documents sought by Ms Tickle being considerably beyond those usually provided by a standard transparency order, and (ii) the emerging realisation on the father's part of the risk to the family of his public identification in the context of his employment. The application was therefore necessarily reallocated to a High

Court judge and various case management directions were given in anticipation of an application by the father.

The father's application in the High Court

13. The father's application for a RRO 'that his name/identity and occupation are not published and that his daughter is not identified in any way' was issued on 13 February 2025 and served on the parties and the media at large in the usual way. The basis for the application was said in counsel's written submissions dated 11 February 2025 to be 'the complications and sensitivities of reporting about [the father] arising from [the father's] role in a particular unit concerned with the delivery of national security'.

14. The application was supported by the father's witness statement exhibiting a letter from the Ministry of Defence disclosure unit dated 11 February 2025. Over four pages, that letter sought to specify the national security, operational and personal risks of reporting the original proceedings in a way that identifies the father, having regard to his membership of 'a unit of the armed forces which is protected in the interests of national security'.

The initial hearings in the High Court

15. Both applications came before me on 27 February 2025 when I made an interim RRO with the agreement of all parties, disclosed the two judgments from the original proceedings to Ms Tickle and the other journalists present at the hearing, and gave case management directions in advance of a further hearing on 20 March 2025 at which the MOD would be invited to attend.

16. On 20 March 2025, the applications returned before me. Ms Tickle appeared in person, the parents were each represented by counsel, and additionally the MOD was represented by counsel and the child by a solicitor. There was a large measure of agreement as to the necessary case management directions, including joining the child as a party and making provision for the SSD to set out his position. I listed a further case management hearing at the parties' and counsel's convenience on 30 and 31 July 2025.

17. The only substantive issue in dispute was the extent to which Ms Tickle should be permitted to receive a considerable number of documents from the original proceedings, pending my decision about the extent to which she and the media at large may report. I heard submissions from the parties, but adjourned the application to permit CAFCASS to appoint a children's guardian for the child and give instructions on the issue to the child's solicitor.

The Secretary of State's applications and the hearing on 17 July 2025

18. On 2 May 2025, the SSD applied for permission to intervene in the proceedings and to rely on a CLOSED witness statement. On 12 May 2025, without a hearing but having invited the parties to respond to the application in writing, I permitted the application to intervene, listed the remainder of the application for determination on 2 June 2025 and gave consequential case management directions.

19. On 20 May 2025, having received representations in writing, I granted an application made on behalf of Ms Tickle to adjourn the June hearing, which was re-listed on 17 July 2025.

20. On 26 June 2025, the SSD made an application for a RRO 'to restrict publication of the father's role and organisations for which he works, together with any information which may lead to his identification by way of a mosaic effect … on the basis of national security'.

21. On 17 July 2025, I heard submissions for the entire day from the parties and the SSD on whether a CLOSED material procedure (CMP) should be invoked to permit me to have regard to CLOSED evidence exhibited to a statement dated 17 July 2025 filed on behalf of the SSD. Ms Tickle opposed the admission of the evidence in CLOSED, but if it was to be admitted, contended for the appointment of a special advocate. The same position was advanced on behalf of the mother, who requested an additional special advocate. The father supported the SSD's application, and was content without a special advocate. The children's guardian supported the admission of the evidence and therefore the appointment of at least one special advocate.

22. Judgment was necessarily reserved to be handed down on 31 July 2025. I summarise it shortly here as follows.

23. In his statement, the SSD's witness described the exhibit as a 'harm statement', a document that was also provided in CLOSED to the Rt Hon Sir Charles Haddon-Cave when presiding over the Independent Inquiry relating to Afghanistan. In his OPEN ruling, Sir Charles described the document's provenance in this way: "properly and objectively made by those with the relevant expertise and charged at the highest level with making such judgments in the national interest".

24. An OPEN explanation of the exhibit and why it is relied upon is found in the witness statement filed in these applications as follows:

> [9] [It] sets out the national security rationale for restricting publication of any information about the father's role… it remains the clearest statement of the national security issues which arise…
>
> [10] [It] is classified as 'SECRET UK EYES ONLY' which means that it can only be disclosed to individuals who hold the appropriate level of security clearance and have permission to view the document.
>
> [11] … The MOD has identified the following categories of potential harm to national security [unless reporting restrictions are granted in this case]:
>
> (a) Disclosure of information relating to the identity of current and former members which would endanger or risk endangering them of other individuals.
>
> (b) Risk to information.
>
> (c) Information likely to be of use to persons or groups, including terrorists.
>
> [12] … Any disclosure of the father's role in the armed forces, or identification of the unit to which he belonged, is likely to have a profound impact on national security.

25. Much of the resistance on behalf of Ms Tickle and the mother to admitting the exhibit in evidence arose in circumstances where Ms Tickle's position on what she should be able to report had changed again. In her leading counsel's amended written submissions dated 15 July 2025 at paragraph 13, Ms Tickle reverted to a more restrictive approach in which she would not name the parents or child, report any geographical or identifying information (except the name of the District Judge), identify the father's unit or which of the armed forces he serves with, or report on the timing or detail of the father's work or deployments. Further, she would not expect the SSD to confirm or deny whether the father is a member of the United Kingdon Special Forces (UKSF) but would identify the father as such, because she asserted that it is obvious from the combined effect of the 11 February 2025 letter from the disclosure unit and the fact and substance of the subsequent RRO/CMP applications.

26. I concluded that despite Ms Tickle's attempt to narrow the dispute, the remaining live issue of whether she could identify the specific nature of father's employment depended in part on an assessment of the exhibit that could only be considered by me in CLOSED. The necessity to restrict freedom of expression should only be contemplated on the basis of the best available evidence, which in this case included the secret exhibit. Having decided to admit the CLOSED evidence, I concluded that fairness required the appointment of a special advocate to protect the interests of Ms Tickle, the mother and the child in the ensuing CMP.

The hearing on 30 - 31 July 2025

27. This hearing was necessarily curtailed because all parties and the SSD were agreed that the first day should be utilised to hear two applications, both made on 26 June 2025, to vary the substantive child arrangements order made in the original proceedings. I allocated those applications also to be heard by me and it was agreed by all that priority should be given to progressing them.

28. My judgment following the 17 July hearing having been provided in writing in draft, case management directions were agreed on 31 July 2025 for the instruction of a special advocate, the provision of any further evidence and

skeleton arguments, and the timetabling of CLOSED and OPEN hearings in advance of this final hearing. The interim RRO was extended by agreement.

29. I heard further submissions on Ms Tickle's application for interim disclosure of documents from the original proceedings pending my decision on the extent of permitted reporting. The time estimate was once again exhausted, so I reserved judgment save that I provided for disclosure to Ms Tickle of the order and reasons refusing permission to appeal in November 2023.

30. When judgment was handed down on 23 January 2026, I refused the interim disclosure application. I did not consider it necessary or proportionate for Ms Tickle to have disclosure of sensitive and private evidence prior to deciding at this hearing the extent of reporting to be permitted. I concluded that the judgments and orders from the original proceedings and on appeal, together with any information about the original proceedings discussed with her by the mother (as permitted by the order dated 30 January 2025), were sufficient at an interim stage to enable Ms Tickle to properly participate in this hearing.

Directions hearings in October 2025

31. The OPEN hearing listed on 3 October 2025 was not needed and I vacated it upon the parties agreeing some short directions in writing.

32. The CLOSED hearing listed on 7 October 2025 took place and was attended by the special advocate and counsel for the SSD. I made an order for agreed directions.

CLOSED hearings: 16 December 2025, 23 January 2026 and 30 January 2026.

33. For the hearing on 16 December 2025, in addition to the existing OPEN material, I received the following:

17.07.2025	The CLOSED exhibit to the witness statement on behalf of the SSD, 'the harm statement' to which I refer at paragraph 23 (above), i.e. a partially redacted undated statement filed in the Judicial Review proceedings *R (Noorzai) v SSD & ors* (the precursor to the Afghanistan Inquiry) and titled "Defendant's

	Amended Statement of Damage" in response to an amended application dated 14 June 2022 in those proceedings.
22.09.25	The OPEN ruling of the Rt Hon Lord Justice Haddon-Cave, chair of the Independent Inquiry relating to Afghanistan, in respect of the SSD's application to restrict publication of the Pughsley Report.
10.11.2025	CLOSED submissions by the special advocate
28.11.2025	CLOSED submissions on behalf of the SSD
05.12.2025	CLOSED skeleton argument by the special advocate
09.12.2025	CLOSED skeleton argument on behalf of the SSD
09.12.2025	Chronology of CLOSED proceedings

34. The SSD's case was subjected to considerable scrutiny by the special advocate and ultimately by me. The special advocate's primary submission was that the harm statement is irrelevant to the 'narrow' decision to be taken by me (as a result of Ms Tickle's concessions in the 15 July skeleton argument) and should therefore be disregarded, thereby bringing the CMP to an end. She further identified that subsequent to being filed in *Noorzai,* some parts of the harm statement had been disclosed in OPEN, e.g. see the published judgment in *R (Craighead) v SSD* [2023] EWHA 2413 (Admin) referred to at paragraph 97 of the OPEN ruling on the Pughsley Report and also the SSD's confirmation that UKSF were deployed in Afghanistan.

35. What emerged in argument at the December hearing was whether, in objecting to the father being referred to as a member of UKSF, the SSD could rely on his 'neither confirm nor deny' (NCND) policy and/or continue to assert that the 'harm statement' should remain before me as a CLOSED document (in whole or in part), given that it would appear that the OPEN disclosure letter of 11 February 2025 [appeared to breach NCND and provided detail about the

potential harm arising from disclosure]. The special advocate submitted that the February disclosure letter was an 'avowal'. On the contrary, it was submitted on behalf of the SSD that the disclosure letter was an 'inadvertent' disclosure that should not cut across the long standing NCND policy, nor should the confirmation that was provided in the 'exceptional circumstances' of the Afghanistan Inquiry.

36. I decided that evidence and further submissions would be necessary to deal with how and by whom the February disclosure letter was generated, how it came to receive only the lowest category of classification, namely 'OFFICIAL', and what the consequences would be, for this case and more generally, [of this letter having been sent to the parties and the wider media].

37. I gave directions accordingly and adjourned the CMP part-heard. The OPEN parties were notified of the adjournment.

38. At the hearing on 23 January 2026, I received the following additional documents:

16.01.2026	CLOSED submissions on behalf of the SSD
21.01.2026	CLOSED witness statement made by [Witness X]
21.01.2026	Second CLOSED witness statement made by [Witness X]
21.01.2026	CLOSED submissions by the special advocate
21.01.2026	Updated chronology of the CLOSED proceedings

39. The first statement by [Witness X] with exhibits addressed the February disclosure letter and confirmed that the letter which was provided in OPEN with the lowest categorisation of OFFICIAL contained information that justified a categorisation of SECRET and therefore should only have been provided in CLOSED. This was accepted by the MOD as an error. It was asserted that the disclosure was therefore inadvertent and could not constitute an avowal of NCND that always requires approval through the Cabinet Office.

40. It seems that the letter had been written by a Lieutenant Colonel in the disclosure unit who was responding to a request from the father's solicitor, it is said under pressure of time (the initial request was made by email at 0902 and the initial response made at 1439), in circumstances where it was said to be believed that Ms Tickle would imminently publish the father's name and role. It emerged that the first draft of the letter included additional sensitive information about the father (e.g. the name of his barracks and his rank) that his solicitor asked to be deleted, leading to a second version that was the one eventually disseminated.

41. There was a misguided attempt in the statement to suggest that the letter was written only for the eyes of the Court which, it was asserted, was then bound to control its distribution. This was not maintained in the SSD's submissions at the hearing, no doubt because it was realised that the letter was not sent to the court, rather it was sent to the father's solicitor in the knowledge that it would be exhibited to the father's statement in support of an application for a RRO, which is necessarily served on the media at large.

42. The second statement by [Witness X] with exhibits addressed (1) the asserted risk to the father if identified or identifiable and (2) the wider risk to national security. The first point was emphasised by reference to the risk of mosaic identification of the father if information is to be published that may link him with a geographic area, despite the father having an 'extremely limited' online footprint. This was based on a misunderstanding that Ms Tickle still wished to name the district judge in the original proceedings. Her willingness not to do so was a further narrowing of the issue, of which the court and the SSD had been informed at the previous CLOSED hearing. The second point relied on additional information that did not take matters further than the harm statement. The statement also exhibited an explanation of the information classification system deployed by the MOD generally and regarding UKSF specifically.

43. In leading counsel's written submissions, it was submitted on behalf of the SSD that the court should direct that the disclosure letter be securely destroyed by all recipients (given that it accompanied the father's RRO application, this would mean not only parties to this application but all media organisations that had been put on notice of the application) and make an RRO preventing publication

of the contents of the letter, given its SECRET contents. In doing so, it was submitted that I should follow the decision of Farbey J in *R (TPL1) v SSD* [2025] EWHC 609 (Admin). It was further submitted that in any event, the contents of the disclosure letter did not amount to confirmation of father's membership of UKSF because it did not say so in terms, even though it may be (and has been) said that it can be deduced from the information within it.

44. As at the first hearing, the SSD's position was again placed under considerable scrutiny by the special advocate and ultimately the court. When considering the maintenance of NCND in this case, the special advocate drew my attention to the similarities in the Divisional Court's decision in *AG v BBC, R ('Beth') v IPT* [2025] EWHC 1669 (KB) and the principles enunciated therein. In essence, her persuasive submission was that the SSD could not rely on NCND to prevent the father being described as a member of UKSF given the contents of the disclosure letter. Further, it was submitted that the orders sought at this second CLOSED hearing could and should be sought and argued in OPEN.

45. In the course of argument, leading counsel for the SSD sought a further adjournment so that the SSD could further consider his position. On the basis that the SSD would indicate any revised position in 2 working days, the hearing was adjourned for one week.

46. On the afternoon of 27 January 2026, a letter was sent to me on behalf of the SSD and copied to the OPEN parties and the special advocate support office. It read that "following careful consideration, the Ministry of Defence has decided, in the exceptional circumstances of this case, no longer to pursue its application for a reporting restriction order." It attached a draft order providing for the withdrawal of the SSD as intervener in the proceedings on the basis that Ms Tickle could publish the father's membership of UKSF but with the wide-ranging restrictions that she had proposed, and invited the other parties to consent.

47. At the CLOSED hearing on 30 January 2026, it was further explained that the SSD's revised position was a pragmatic response to [the sending of the February letter], the limit of reporting of which it was anticipated would form part of a

consent order in due course. In these circumstances, the special advocate agreed that the CMP would now end without any OPEN disclosure of the evidence filed therein. The only future involvement of the SSD and special advocate would be to review my judgment in draft to propose any necessary redactions to maintain the security of CLOSED material, and I made an order accordingly.

OPEN final hearing: 10 & 11 February 2026

48. Ms Reed, KC, opened the hearing by telling me that the parties and the intervener were all agreed that the court should permit anonymised reporting on terms defined in a draft transparency order and draft reporting restriction order that I was invited to approve. Notice of the hearing had been given to the media at large but no other journalist or media organisation attended to make representations. The content of both draft orders was scrutinised and I suggested various amendments, inviting the parties to seek the agreement of the SSD and the special advocate overnight.

49. Revised, agreed draft orders were provided on the second day. I accepted the agreement of the parties and the intervener that the proposed orders struck the right balance between the ECHR Article 8 right to a private and family life of the parents and child and the ECHR Article 10 right to freedom of expression of the mother, Ms Tickle and the media at large, against the background of the national security issues raised as a result of the father's employment.

50. The agreed restrictions imposed by the RRO are:

> [9] [The prohibition of] the publishing etc. of the following information (i) if it would identify the child (whether directly or indirectly) as being the subject of proceedings under the Children Act 1989, or (ii) in connection to any reporting of matters considered within proceedings relating to the child before the family court or Family Division of the High Court:
>
> (a)The name, date of birth, and address of the child;
>
> (b) The name and address of either parent;
>
> (c) The child's school or identifying features of such school;

(d) Photographs or images of the child, their parents, or any other person by reference to whom the child may be identified, or any of the locations specified in [sub]paragraphs (a), (b), (c) or (f);

(e) Information concerning the occupation of the father, save as permitted by the transparency order made on this date on the application of Louise Tickle;

(f) Any information which identifies or would tend to identify the area in which the child, mother or father lives, or any location connected to the father's employment including reference to:

(i) any local services engaged with the family;

(ii) Cafcass personnel involved in any of the proceedings concerning the child;

(iii) law firms instructed by the mother, father, or child (through her guardian) or individuals working within those law firms (save that the firm and solicitor instructed by the mother in relation to the reporting and transparency proceedings, and the revived welfare proceedings, may be identified);

(iv) the name and location of the court which heard the original welfare proceedings;

(v) the names of the judges hearing the original welfare proceedings;

(vi) the name of the judge who determined the mother's application for permission to appeal the final order made in the original welfare proceedings;

(vii) the case number under which the original welfare proceedings were conducted (which is set out in the confidential annex to this order).

51. The agreed permissions provided for in the transparency order are:

[11] Louise Tickle may (through herself or her commissioning editor or media organisation) publish any information relating to the proceedings save to the degree restricted in the reporting restrictions order made today. Specifically, she may publish the assertion that the father was and remains (as at the date of this order) a serving member of the Special Forces.

[12] Louise Tickle may (through herself or her commissioning editor or media organisation) publish information relating to the applications for reporting restriction orders save as otherwise prohibited by this or the reporting restriction order, and this permission includes any reporting of or comment upon the letter from the MOD dated 11 February 2025 exhibited to the father's application for a reporting restriction order that is not prohibited by the reporting restriction order (in particular paragraph 9).

Disclosure of documentary evidence

52. Having approved these orders, I returned to the only issue that remained in dispute, as it had been throughout the proceedings, having first heard argument about it at the hearing on 20 March 2025. Ms Tickle still wished to have disclosed to her many hundreds of pages of statements, assessments and reports filed in the original proceedings about which the authors and subjects had a reasonable expectation of privacy.

53. I had addressed the competing arguments for disclosure of these documents on an interim basis in my judgments arising from the hearings on 20 March and 31 July 2025, but they are now being put in very different circumstances, i.e. where all parties and the intervener are agreed on the principle of, and the restrictions to be placed on, publication. Furthermore, I was also provided at this hearing, for the first time, with the redactions to those documents that the children's guardian says are necessary in the child's best interests. Those redactions are made in addition to those that had been proposed last summer by the SSD on the basis of national security.

The legal framework

54. There is little if any dispute between the parties on the legal framework within which I must determine this dispute.

55. The starting point is the decision of the Supreme Court in *Cape Intermediate Holdings Ltd v Dring (Asbestos Victims Support Groups Forum UK)* [2019] UKSC 38 (in particular paragraphs 41 to 46) with the re-stating of "the constitutional principle of open justice [that] applies to all courts exercising the judicial power of the state" thereby giving the courts an inherent jurisdiction to determine access to documents or other information placed before the court. *Dring* highlighted the principal purposes of the open justice principle as being two-fold: to enable public scrutiny of the way in which courts decide cases; to enable the public to understand how the justice system works and why decisions are taken. Further, there is a recognition that the increased reliance on written documents has changed the landscape of the operation of the open justice principle, in that what is said in court or written in a judgment is increasingly difficult to understand without access to the primary documentary evidence. Finally, it is for the person seeking disclosure to explain how access to documents will advance the open justice principle and for the court to undertake a fact-specific balancing exercise between the benefit to open justice of disclosure and any risk of harm resulting from disclosure.

56. Those on behalf of the father have placed reliance on the subsequent decision of the Court of Appeal in *Newman v Southampton City Council* [2020] EWCA Civ 437 where the approach to disclosure at first instance was endorsed. However, the application in *Newman* was not primarily advancing either of the two principal purposes of the open justice principle, and was decided prior to the conclusion of the transparency review, the subsequent pilot scheme and the implementation of FPR 2010 PD12R. Having said that, those on behalf of Ms Tickle did acknowledge the benefit of adopting the broad approach to consideration of the documents to be disclosed that was adopted at first instance in *Newman v Southampton CC & ors* [2020] EWHC 2103 (Fam) at [111]-[115].

57. Ultimately, the father did not seriously advance a submission that this application for disclosure falls outside the open justice principle. The circumstances giving rise to the decision of the Court of Appeal in *Re HMP*

[2025] EWCA Civ 824 were quite different, where the primary focus of the journalistic endeavour was to be the manner in which the local authority had discharged its functions, rather than either limb of the purpose of the open justice principle.

58. Where the open justice principle does apply, the Court of Appeal in *Tickle & anor v The BBC & Ors* [2025] EWCA Civ 42 at [49]-[50] clarified that the balancing exercise "starts with a clear presumption in favour of open justice unless and until that is displaced and outweighed by a sufficiently countervailing justification."

59. Very recently, Poole J handed down judgment in *Jessica Bradley v CM & ors* [2026] EWHC 125 (Fam), providing a useful example of the consideration of an application by a journalist for access to reports in four separate sets of proceedings that, like here, the journalist had not attended.

The parties' submissions

60. Set against this legal framework, the mother, the children's guardian and the SSD do not object to Ms Tickle receiving the documents that she seeks, subject to the redactions that they propose and to which Ms Tickle agrees in principle.

61. The father was therefore a lone voice for a much more restrictive approach to disclosure. Replying to the unanimity of the other parties on behalf of his client, Mr Bagchi, KC, adopted expansive and 'broad brush' submissions to supplement those made in detail by his junior, Ms Cayoun, in writing.

62. Mr Bagchi emphasised that litigants in the family court are encouraged to be candid about intensely private aspects of their family life so that the court can have the fullest possible picture in promoting the welfare of children. Traditionally the *quid pro quo* has been the privacy and confidentiality of proceedings, and there may be an unwelcome consequence in sweeping this away. He submitted that if litigants' privacy can be overborne in the way suggested in this application, in future they must be warned of the consequences of full cooperation with the court process.

63. He sought to identify a problematic situation in which litigants may find themselves when a reporter, rather than turning up to a hearing to listen to the evidence when a transparency order is likely to be made in standard terms, applies many months or years later for disclosure. Without the *pro bono* assistance of their legal teams, the mother and father in this case would have been at a considerable disadvantage against an experienced journalist. He painted a picture of a developing two-tier system in which those who can afford representation in satellite litigation may have their privacy protected in a way those unable to afford so to do will not, and where such satellite litigation and involvement by one party of a journalist may be perceived as a way for that party to 'weaponise' the process.

64. At the heart of his submissions, however, was a repeated emphasis on the judgment and the standard disclosure provided by PD12R being sufficient to promote the open justice principle, and the extensive and intensely personal information contained in the primary evidence being unnecessary for either public scrutiny or greater understanding.

Analysis

65. There is no doubt in my mind that the majority position is the correct one. There is a significant public interest in the family court's approach to the determination of allegations of domestic abuse and the impact of any subsequent findings on the future arrangements for children to have a relationship with a perpetrator parent. I proceed on the basis that Ms Tickle's purpose in reporting this case is to enable public scrutiny and further public understanding of the decisions taken in that context in this particular case. That places this application squarely within the open justice principle, and is not undermined by the additional impact on the case of the assertion of the father's membership of UKSF, whatever that may be.

66. I accept that it is good journalistic practice to rely on source material and if willing, the direct accounts of those involved in the case. It is an important first step for judgments to be published and core documents to be made available as a matter of course in conjunction with transparency orders in accordance with

PD12R. I acknowledge, however, that more detailed scrutiny and understanding may require a specialist journalistic analysis of the material underpinning the court's decision, rather than being limited to the contents of a judgment that is necessarily framed for a different purpose.

67. The gold standard is clearly for the journalist to attend the proceedings that she wishes to report and hear the evidence tested. However, as acknowledged by Poole J, a failure to do that will not always or even often lead to non-disclosure of primary documentary evidence just because the gold standard can no longer be attained. A transcript of the original proceedings may be the next best thing, but it is not routinely available and in this case Ms Tickle does not consider the financial expense sufficiently justified for her purposes. However, to borrow Voltaire's aphorism, perfection cannot be allowed to be the enemy of the good enough.

68. It is particularly significant, in my judgment, that the children's guardian does not assert that the child will be caused any harm by the disclosure sought, provided that her proposed redactions are made.

69. I am satisfied that the restrictions on the extent of anonymised reporting agreed by the parties, together with the children's guardian's and the MOD's redactions, sufficiently protect the ECHR article 8 rights of the child, mother and father in the balance against the overwhelming importance of advancing the article 10 rights of freedom of expression.

70. If I am to take this approach in respect of the original proceedings, it follows that the same considerations apply to the current proceedings, further enhanced by the knowledge that Ms Tickle has expressed her intention to attend the ongoing hearings.

71. During the course of argument, I raised with the parties whether all this disclosure should properly be limited to Ms Tickle, or whether the very same arguments that she had advanced, with the support of the mother and the children's guardian, should lead to the disclosure being made to the media at large. It was forcefully argued on Ms Tickle's behalf that her pre-existing knowledge of the case places her in a special position as far as disclosure is

concerned, given that she has brought this application and 'invested' in it over the last year as one of a very limited number of journalists with experience of reporting family proceedings. Ms Reed submitted that the extent of disclosure to other journalists should be considered separately in due course if and when they make an application.

72. On the contrary, Mr Barnes argued that no one journalist should be favoured by the court and if in principle the documents must be disclosed to Ms Tickle, they must be provided to any other accredited journalist who wished to see them.

73. The children's guardian advanced a more nuanced position agreeing that no one journalist should be favoured by the court but recognising Ms Tickle's position in these proceedings as the sole active and consistent media participant. The guardian had, perhaps understandably, only analysed the position on disclosure as it applied to Ms Tickle and recommended redactions accordingly. Different considerations may apply to the media at large. Ms Brereton, KC, submitted, therefore, that any future applications by other journalists for disclosure should be addressed on a case by case basis.

74. Whilst recognising the purity of Mr Barnes' approach, I am persuaded by the children's guardian to tread carefully and deal with any future applications if and when they arise, albeit that I will be able to have regard in future to the rationale for the decision that I have made in respect of disclosure to Ms Tickle.

Conclusion

75. I shall therefore make the transparency order and reporting restrictions order as agreed between the parties and the intervener, and order the disclosure of the documents sought by Ms Tickle, albeit subject to the redactions proposed by the children's guardian and the SSD.

Editorial note

76. As alluded to at paragraph 47 (above), this judgment was first sent in draft to the MOD and the special advocate only, who made suggestions as to how the CLOSED material referred to in the judgment could be gisted. Their agreed gist

for each piece of CLOSED material is included in this OPEN judgment in square brackets.