

Case No: FD26P00010

Neutral Citation Number: [2026] EWHC 1289 (Fam)

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

The Senior Courts Act 1981
The Inherent Jurisdiction of the High Court
The Family Proceedings Rules 1991

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 13 May 2026

Before:

CATHERINE COWTON KC
(SITTING AS A DEPUTY HIGH COURT JUDGE)

Between:

A Local Authority

Applicant

- and -

MD

1st Respondent

-and-

D

2st Respondent

(By her Children's Guardian)

Re D (Adoption: Notification of Husband and Relatives)

Judith Pepper (Counsel instructed by LA) for the **Applicant** local authority
Miriam Best (Counsel instructed by All Family Matters) for the **1st Respondent** mother
Greg Davies (Counsel instructed by Dawson Cornwell) for the **2nd Respondent** child

Hearing date: 22 April 2026

Approved Judgment

This judgment was handed down remotely on **13 May 2026** by circulation to the parties' representatives by e-mail and by release to the National Archives.

.....

This judgment was delivered in private. 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 children and members of their family must be strictly preserved. 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.

Introduction

1. This is an exceptional, and sad, case.
2. The child who is the subject of this application is D who was born in late 2025, and is now aged 6 months. The first respondent is D's mother. The identity of D's biological father is not known.
3. The mother believes that it is best for D to be adopted. D has lived with foster carers since leaving hospital after her birth, the mother having entered into a s.20 voluntary agreement with the local authority. Since early 2026 D has been placed with early permanence foster carers who wish to adopt her. This has been with the mother's full support and the mother has been involved in selecting the intended adoptive parents, taking into account D's maternal cultural background. The mother has not told her husband, or any family members about D's birth, and does not wish them to know about D. The mother has already signed consent forms under s.19 and 20 Adoption and Children Act 2002, for D to be placed for adoption, and then adopted.
4. This is the final hearing of two applications made by the local authority who are dealing with the adoption process:
 - 4.1. A Part 19 FPR application issued on 6 January 2026; and
 - 4.2. A C66 application issued on 2 March 2026.The applications seek the High Court's decision under its inherent jurisdiction as to whether or not it is appropriate for the local authority to notify various third parties about D's birth, and the mother's wish for her to be adopted.
5. This final hearing was listed with a time estimate of 1 day on 22 April 2026. The hearing was fully remote (because of a tube strike). All parties were represented by Counsel, who provided extremely helpful written and oral submissions, for which I am grateful. The mother was assisted by an interpreter during the hearing.
6. In the bundle for the hearing are witness statements from the mother and social workers, and a written analysis by the Guardian. None of the parties challenge the mother's written evidence. There was no request to cross examine the mother at this hearing, and in those circumstances I did not consider there was any need for her - or anyone else - to give oral evidence.
7. Although all parties at this final hearing agreed that no third parties should be notified of D's birth and the plan for her adoption, given the exceptional circumstances, I made clear at the outset of the hearing that this court is not a "rubber stamp", and I wished to hear detailed oral argument about the legal framework, and how the facts of this case justified the orders sought. Within these applications, the court is asked to approve not notifying other individuals who have potentially significant roles in D's life. These parties are therefore not able to make submissions to me, or to be represented. I need to consider

very carefully the rights of those individuals, and the impact of this on D and the mother, and their rights, before making a final decision.

8. After Counsel's oral submissions, I reserved judgment to be handed down in writing. Given the importance of the issues involved, it did not seem to me appropriate to deliver a short *ex tempore* oral judgment. This Judgment was provided in draft to the parties on 6 May 2026.

Written evidence

9. I was provided with a bundle of 161 pages¹, which I read carefully. This included:
 - 9.1. The two court applications (Part 19 and C66);
 - 9.2. Directions order and Home Office Disclosure Order of Simon Colton KC (DHCJ) dated 5.2.26;
 - 9.3. The local authority's s.7 social work assessment completed on 6.11.25;
 - 9.4. Statements from social workers dated 17.12.25 and 26.2.26;
 - 9.5. The mother's witness statement dated 3.3.26;
 - 9.6. The Guardian's written analysis dated 27.3.26;
 - 9.7. Letter from the Home Office dated 23.1.25 about the mother's immigration status;
 - 9.8. The Home Office response to the court's Disclosure Order dated 20.2.26.
10. I was provided with a copy of D's birth certificate during the hearing. This confirms her date and place of birth, and her mother's details, but includes no information about her father.

Court proceedings

11. Court proceedings were initiated promptly by the local authority, after waiting the required 6 weeks following birth (s.52(3) Adoption Act 2002) before progressing formal steps in respect of the mother's consent to adoption. A s.7 Social Work assessment had been completed by the time of the application, which sets out the factual circumstances clearly and helpfully.
12. The local authority explained that they had made two applications to ensure that all relevant third parties were covered by the applications:
 - 12.1. The Part 19 application is the required procedure to deal with applications under FPR 14.21², which relates to fathers who do not have parental responsibility:

FPR 14.21: Inherent jurisdiction and fathers without parental responsibility
Where no proceedings have started an adoption agency or local authority may ask the High Court for directions on the need to give a father without parental responsibility notice of the intention to place a child for adoption.

¹ Including various translated documents

² See FPR 19.2(c)

- 12.2. The C66 application is a general application under the High Court's inherent jurisdiction, to cover all other relevant third parties. It was agreed following the directions hearing on 5.2.26, that this broader application was procedurally necessary, given the range of third parties potentially impacted by the court's decision, and a more appropriate application than that made only under Part 19. I agree with that decision.
13. Following issue of the Part 19 application on 6.1.26, the court listed a directions hearing on 5.2.26 before Simon Colton KC (DHCJ). The local authority and mother were represented by Counsel. The court made agreed directions including:
- 13.1. Joining D as a party to the proceedings, and appointing a CAFCASS Guardian to act on her behalf;
- 13.2. Directing witness statements from the local authority and the mother dealing with specific matters, and a written analysis from the Guardian;
- 13.3. All parties to file/exchange skeleton arguments prior to the final hearing;
- 13.4. No family members to be served with the proceedings until further order;
- 13.5. Listing this final hearing.
14. The court made a separate Home Office Disclosure order at that hearing. The Home Office letter dated 20.2.26, in response to this order, confirms that on in 2025 the mother was granted Asylum and Leave to Enter/Remain in the UK, valid until 2030. She has the right to work, and recourse to public funds.
15. The Home Office letter also explains that D currently has no immigration status in the UK. I note that D also does not have the nationality of her mother, as her mother has not wished to notify the embassy of her birth. Were D to be adopted in this country, she would be granted British citizenship through her intended adoptive parents.

Factual background

16. I take the factual background from the mother's evidence. She has provided a consistent account to all professionals involved in this case, and there is no indication that it is anything other than truthful.
17. The mother explains in her statement that the decisions she is making in relation to D have been *"the most painful and distressing decisions of my life. It has been extremely difficult to go through the pregnancy alone, to give birth without family support, and to face the reality that I cannot raise this child within my family or community without causing devastating consequences. Every step of this process has been emotionally unbearable, but I have remained resolute because I believe it is the only way to protect my child, my family and myself."*
18. The mother was born and brought up in a small village in country Z, which has a close and traditional community. Her father is in his 50s and works in a low-paid job in the rural community. Her mother is in her 50s and is a housewife. The mother had a very

modest upbringing and the family struggled financially. Her father's income depended on the weather, and when he could not work, there was no money and no food for the family. Her family lives in a 2-bedroom house, and she and her 2 siblings shared a bedroom. The village community is described as having a very strong religious and cultural identity.

19. Her parents now have some physical health issues. Her brother is in his 30s, and works with his father. Her sister is in her 20s, and does some work from home. Her siblings left school at age 16; they are both still living at home and unmarried.
20. The mother continued at school until age 18 and then started work. It was at work that she met the man who became her husband. He is in his 30s and lives in country Z, but not in the same community as the mother. He is described as middle class. It was a love match, and they married in 2022. After their marriage, he continued to live with his parents; he travelled far from home for work. The mother lived with her parents, as this was near her workplace.
21. After leaving school, the mother became involved in protests against the government of country Z, which resulted in her having problems with the police. The mother attended a protest in late 2023, and was arrested and detained for three days. During that time she was raped more than once by officials. Her family managed to raise money with which to bribe officials to release her. After she was released, government agents came to the family home at night asking questions and harassing her. She was terrified and her family helped her to escape from country Z, by borrowing a substantial sum of money. She left country Z in early 2024, travelling via a third country, and arriving in the UK a few days later. She has not seen her husband, or her parents and siblings, since leaving country Z.
22. On her arrival in the UK, the mother explained her circumstances and these events to the Home Office. She was granted refugee status in 2025, until 2030. After this, she is able to apply for indefinite leave to remain here. Given what has happened, she cannot return to country Z, where her husband and her family continue to live. Her husband plans to join her in the UK, but does not yet have a visa to do so.
23. In England she was initially assisted by her husband's sibling, who lives here. She had never before lived away from her village in country Z. She managed to obtain a low-paid job (but had lost this job by the time of the hearing), and is currently living in a single bedroom in a house of multiple occupancy. Her financial circumstances are precarious.
24. In early 2025 she became friendly with a lady who she met at a local convenience store. They were not close friends, but had various conversations. One day this lady invited her to a house party. The mother went to the party, but did not know anyone else there. Her recollection is that there were 4-5 girls and 10 men at the party, including 3 men who the lady she went with knew. The mother was given a drink of what she was told was Coca-Cola; she does not drink alcohol. She began to feel very drowsy and unwell, and after that has no memory of what happened. She woke up early the next day in her own bed, in pain

and exhausted. She does not know how she got home. She asked the lady what had happened, and was told that maybe someone put alcohol in her drink. The mother said that she thought something had happened to her, and the lady was lying. They argued and are no longer in contact with each other. The mother now believes that her drink must have been spiked.

25. Some months later, the mother took a pregnancy test, and found out that she was pregnant. Because she has no memory of the evening of the party, she does not know who the father is. She did not consent to sex then (and did not have sex with anyone else on another occasion). She did not tell her parents, siblings or husband about going to the party, what happened, or the pregnancy.
26. The mother did not get in touch with a doctor, and says she was in denial about the pregnancy until she went into labour. She received no antenatal care. When she was in labour, she attended at the hospital and told the hospital midwife about the circumstances of her pregnancy. Following birth D was admitted to the neonatal unit for suspected sepsis, but fortunately she was quickly treated, and suffered no lasting effects. The safeguarding midwife contacted the local authority about what the mother had explained of the circumstances of the conception. The mother told the hospital and the local authority that she felt there was no option but for the baby to be adopted, and with her agreement, D was placed with foster carers on leaving hospital. The mother has still not told her husband (or his brother), or her family, about what has happened and feels strongly that it is not in D's interests, or theirs, or hers, for this to be shared.
27. D is now 6 months old; she is physically healthy, and developing well for a baby of her age, with no developmental concerns. She has thrived in foster care, and the mother continues to have some contact with her.

Legal framework

28. The leading authority about how the court should exercise its inherent jurisdiction in these circumstances, and the factors which should be carefully considered before making a decision, is Re A, B & C [2020] EWCA Civ 41. The case dealt with three conjoined appeals in which the issue of notification of a child's birth to fathers and extended family members, by local authorities and the court, arose in differing factual circumstances. In a lengthy Judgment, Lord Justice Peter Jackson provided a thorough review of the statutory provisions, and considered both domestic and European case law. The difficulties which underlie cases like these, and the significant importance of the decision which the court is asked to make, is emphasised in §2:

“Respect is due to the position of any mother who goes through pregnancy without family support and then chooses to relinquish the child at birth in the belief that it is for the best. Respect is also due to the position of the unsuspecting relatives. Some may have been a fleeting presence in the mother's life, but others may be more significant figures who have been kept in the dark and would be astonished to find that a baby (their child, sibling or grandchild) had been born and adopted without their knowledge, particularly if they were in a position to put themselves forward as

carers. Most of all, the notification decision has life-changing implications for the baby. It may influence whether adoption happens at all and, even if it does, a sound adoption has its foundations in the integrity of the process by which it is achieved.”

29. At §33, Jackson LJ summarised the overall English legislative approach:

“the statutory material as a whole provides strong indicators of the importance of engagement of the wider family in the adoption process. In the circumstances, any request for an adoption that excludes a father or close family members will naturally be carefully scrutinised by social workers and the court. That instinct is reinforced by the established domestic and European case-law that emphasises that non-consensual adoption can only be approved if, after consideration of the realistic options, nothing else will do.”

30. In considering European law and relevant European authorities, Jackson LJ considered the scope of Articles 6 and 8 of the European Convention on Human Rights 1950 including from §38-44:

“38. Article 6 imposes obligations upon the court, as opposed to the local authority, but where adoption is contemplated, other participants in the process need to be aware of the framework within which the court must work.

39. The right to a fair hearing is not a qualified right but it may be subject to implied limitations... Any limitations must not impair the very essence of the right and they will only be compatible with Article 6 if they pursue a legitimate aim in a proportionate manner...the entitlement to disclosure of relevant evidence is not an absolute right. However...if measures restricting the rights of a party to the proceedings are to be permissible, any difficulties caused by the limitation must be sufficiently counterbalanced by the procedures followed by the judicial authorities. Where evidence has been withheld on public interest grounds, the court must ensure that, as far as possible, there are adequate safeguards to protect the individual’s interests. This approach must be equally appropriate to cases where the existence of the child and of the proceedings is not known by the individual.

40. Article 8 encompasses the right to respect both for private life and for family life where it exists. It is of direct relevance to both the local authority and the court as public bodies.

41. “Private life” is a broad term that includes aspects of an individual’s physical and social identity including the right to personal autonomy...The circumstances of giving birth incontestably form part of one’s private life... A mother who wishes to relinquish a baby confidentially is entitled to make that choice, though she is not entitled to insist on the child being adopted. The guarantee afforded by Article 8 is primarily intended to ensure the development, without outside interference, of the personality of each individual in his relations with other human beings... It must

therefore extend to the confidentiality of information about the birth as the disclosure of such information has clear implications for the personal development of the mother.

42. The existence or non-existence of family life is essentially a question of fact depending upon the existence of close personal ties...The notion of “family” concerns marriage-based relationships, and also other de facto family ties where the parties are living together or where other factors demonstrate that the relationship had sufficient constancy...

43. “Family life” may also be established between a child and his or her grandparents and wider family...

44. So, factors that may indicate the close personal ties that constitute family life (though their absence does not automatically negative its existence) include: marriage or a marriage-like relationship, cohabitation, length of relationship, intention to found a family, demonstration of commitment by having children together, demonstrable commitment to the child before and after birth. In cases of undisclosed pregnancy and birth, a father or other family member will have had no opportunity to demonstrate commitment to the child and the focus will inevitably be on other factors and a counterfactual assessment of the likely position had the facts been known.”

31. After extensive consideration of numerous English authorities, Jackson LJ summarised the position at §59:

“...this body of authority at first instance and on appeal affirms that there is a discretion to be exercised by the local authority and by the court as to whether fathers and other relatives should be notified of the birth of a child. The discretion requires the identification and balancing up of all relevant factors. While the mother's right to confidentiality is important it is not absolute. The presence or absence of family life is an important, though not a decisive feature and where it exists strong countervailing factors are required to justify withholding knowledge of the existence of the child and the proceedings. The tenor of the authorities is that in most case notification will be appropriate and the absence of notification will be the exception; but each case will in the end depend on its facts. In each case, the welfare of the child was regarded as an important factor but, significantly, there is no suggestion that the exercise of the discretion is governed by the paramountcy principle.”

32. In considering the weight to be given to the child's welfare, Jackson LJ concluded at §84:

“...while child welfare, prompt decision-making and a comprehensive review of every relevant factor, including those mentioned in the checklists, are all central to the notification decision, the decision is not one that is formally governed by the

provisions of s 1 of the CA 1989 or of the ACA 2002 and the welfare of the child is not the paramount consideration of the local authority and the court in this context”.

33. At §89, Jackson LJ set out the principles governing decisions on notification; this key paragraph was focused on by all Counsel in this case, in their written and oral arguments:

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

- 1. The law allows for 'fast-track' adoption with the consent of all those with parental responsibility, so in some cases the mother alone. Where she opposes notification being given to the child's father or relatives her right to respect for her private life is engaged and can only be infringed where it is necessary to do so to protect the interests of others.*
- 2. The profound importance of the adoption decision for the child and potentially for other family members is clearly capable of supplying a justification for overriding the mother's request. Whether it does so will depend upon the individual circumstances of the case.*
- 3. The decision should be prioritised and the process characterised by urgency and thoroughness.*
- 4. The decision-maker's first task is to establish the facts as clearly as possible, mindful of the often limited and one-sided nature of the information available. The confidential relinquishment of a child for adoption is an unusual event and the reasons for it must be respectfully scrutinised so that the interests of others are protected. In fairness to those other individuals, the account that is given by the person seeking confidentiality cannot be taken at face value. All information that can be discovered without compromising confidentiality should therefore be gathered and a first-hand account from the person seeking confidentiality will normally be sought. The investigation should enable broad conclusions to be drawn about the relative weight to be given to the factors that must inform the decision.*
- 5. Once the facts have been investigated the task is to strike a fair balance between the various interests involved. The welfare of the child is an important factor but it is not the paramount consideration.*
- 6. There is no single test for distinguishing between cases in which notification should and should not be given but the case-law shows that these factors will be relevant when reaching a decision:*

- (1) **Parental responsibility.** *The fact that a father has parental responsibility by marriage or otherwise entitles him to give or withhold consent to adoption and gives him automatic party status in any proceedings that might lead to adoption. Compelling reasons are therefore required before the withholding of notification can be justified.*
- (2) **Article 8 rights.** *Whether the father, married or unmarried, or the relative have an established or potential family life with the mother or the child, the right to a fair hearing is engaged and strong reasons are required before the withholding of notification can be justified.*
- (3) **The substance of the relationships.** *Aside from the presence or absence of parental responsibility and of family life rights, an assessment must be made of the substance of the relationship between the parents, the circumstances of the conception, and the significance of relatives. The purpose is to ensure that those who are necessarily silent are given a notional voice so as to identify the possible strengths and weaknesses of any argument that they might make. Put another way, with what degree of objective justification might such a person complain if they later discovered they had been excluded from the decision? The answer will differ as between a father with whom the mother has had a fleeting encounter and one with whom she has had a substantial relationship, and as between members of the extended family who are close to the parents and those who are more distant.*
- (4) **The likelihood of a family placement being a realistic alternative to adoption.** *This is of particular importance to the child's lifelong welfare as it may determine whether or not adoption is necessary. An objective view, going beyond the say-so of the person seeking confidentiality, should be taken about whether a family member may or may not be a potential carer. Where a family placement is unlikely to be worth investigating or where notification may cause significant harm to those notified, this factor will speak in favour of maintaining confidentiality; anything less than that and it will point the other way.*
- (5) **The physical, psychological or social impact on the mother or on others of notification being given.** *Where this would be severe, for example because of fear arising from rape or violence, or because of possible consequences such as ostracism or family breakdown, or because of significant mental health vulnerability, these must weigh heavily in the balancing exercise. On the other hand, excessive weight should not be given to short-term difficulties and to less serious situations involving embarrassment or social unpleasantness, otherwise the mother's wish would always prevail at the expense of other interests.*
- (6) **Cultural and religious factors.** *The conception and concealed pregnancy may give rise to particular difficulties in some cultural and religious contexts. These may enhance the risks of notification, but they may also mean that the possibility of maintaining the birth tie through a family placement is of particular importance for the child.*

- (7) **The availability and durability of the confidential information.** Notification can only take place if there is someone to notify. In cases where a mother declines to identify a father she may face persuasion, if that is thought appropriate, but she cannot be coerced. In some cases the available information may mean that the father is identifiable, and maternal relatives may also be identifiable. The extent to which identifying information is pursued is a matter of judgement. Conversely, there will be cases where it is necessary to consider whether any confidentiality is likely to endure. In the modern world secrets are increasingly difficult to keep and the consequences, particularly for the child and any prospective adopters, of the child's existence being concealed but becoming known to family members later on, sometimes as a result of disclosure by the person seeking confidentiality, should be borne in mind.
- (8) **The impact of delay.** A decision to apply to a court and thereafter any decision to notify will inevitably postpone to some extent the time when the child's permanent placement can be confirmed. In most cases, the importance of the issues means that the delay cannot be a predominant factor. There may however be circumstances where delay would have particularly damaging consequences for the mother or for the child; for example, it would undoubtedly need to be taken into account if it would lead to the withdrawal of the child's established carers or to the loss of an especially suitable adoptive placement.
- (9) **Any other relevant matters.** The list of relevant factors is not closed. Mothers may have many reasons for wishing to maintain confidentiality and there may be a wide range of implications for the child, the father and for other relatives. All relevant matters must be considered.
7. It has rightly been said that the maintenance of confidentiality is exceptional, and highly exceptional where a father has parental responsibility or where there is family life under Art 8 of the European Convention. However exceptionality is not in itself a test or a short cut; rather it is a reflection of the fact that the significance of adoption for the child and considerations of fairness to others means that the balance will often fall in favour of notification. But the decision on whether confidentiality should be maintained can only be made by striking a fair balance between the factors that are present in the individual case.

The legal position of the mother's husband

34. The mother has been married to her husband since 2022. However, they have not seen each other since the mother fled country Z in early 2024. D was born in late 2025 and conceived in early 2025. There is therefore no chance that her husband could be the biological father of D.

35. In the written evidence and skeleton arguments filed on behalf of all parties, there was an assumption that the mother's husband does not have parental responsibility for D, because he cannot be her biological father, and so his interests were not separately considered. His interests were also not considered in the Guardian's written analysis, for the same reason.
36. I indicated during the hearing that I considered this to be legally incorrect. Pursuant to s.2(1) Children Act 1989, the mother's husband automatically has parental responsibility for a child born during a marriage:

2 Parental responsibility for children.

(1) Where a child's father and mother were married to...each other at the time of his birth, they shall each have parental responsibility for the child.

37. Section 19 of the Adoption and Children Act 2002 (entitled "*Placing children with parental consent*") requires the consent of "*each parent*" to placement for adoption. A parent is defined in s.52(6) ACA 2002:

"Parent" ..means a parent having parental responsibility".

38. Although both the mother and her husband currently have parental responsibility, only the mother has provided her consent to this adoption process. The court has two legal routes for resolving this issue, which were explored during the hearing:

38.1. Either the court can make a Declaration of Non-parentage under s.55A of the Family Law Act 1986 (which would have the effect of removing the husband's PR);

38.2. Or the court dealing with the final adoption application can dispense with the husband's consent under s.52(1)(b) ACA 2002 if it is satisfied that "*the welfare of the child requires the consent to be dispensed with*".

39. Having considered the position during the hearing, all Counsel accepted the above legal analysis, that the husband currently has parental responsibility for D, and that this will need to be resolved before a final adoption order is made, by one of the above two routes. I was asked not to deal with this issue at this final "notification" hearing, but I understand that this written Judgment will be made available to the Judge who will be dealing with the issue later.

40. After this Judgment was provided in draft, the mother's representatives referred the court to the very recent Court of Appeal authority of Re J (Loss of Parental Responsibility) [2026] EWCA Civ 344, particularly §11 and 15 of the Judgment of Sir Andrew McFarlane P. I note that none of the three cases in that conjoined appeal related to the circumstances of a husband who was not the biological father of the child. However for completeness, I will set out §11 and 15 (excerpt) of the Judgment below:

11. *Where a child is born during a marriage there is an evidential presumption that the mother's husband is the child's father unless the contrary is proved. Where it is proved that another individual is the father, then, under common law, he will be regarded as the child's legal father.*

15. *A recent statement of the settled position was made by Peter Jackson LJ in P v Q and F [2024] EWCA Civ 878, at paragraph 16:
'[16] The baseline position is the common law principle that a child's legal parents are the gestational mother and the genetic (also known as biological) father. This is a principle of law and not a rule of evidence or a presumption. However, the common law modifies the principle in relation to a married man, who will benefit from a rebuttable presumption of parenthood in respect of a child born to his wife during the marriage, whether or not he is the genetic father...'*

I am grateful to the mother's representatives for highlighting this authority, but I do not believe that it changes the legal analysis referable to this case, as set out in §36-39 above, and the steps which will need to be taken prior to any final adoption order for D (§38 above).

Analysis and reasoning

41. At the conclusion of the oral hearing, Counsel provided a draft order which set out those third parties who the local authority are asking for permission not to notify. These are:
 - 41.1. The mother's husband, and his wider family;
 - 41.2. The mother's parents;
 - 41.3. The mother's siblings;
 - 41.4. The wider maternal family;
 - 41.5. The biological father (not known).

42. I will deal first with the biological father. Given the circumstances of D's conception, as set out in the mother's written evidence, the mother cannot identify the biological father. Her case is that her drink was spiked and, while she was unconscious, she was raped by an unknown man. She did not know the identity of the men at the party, and cannot now say which of them may have done this. Her account, as reported to professionals throughout, has been consistent. No-one suggests that she is being untruthful. In these circumstances, it is not possible to identify the biological father and so he cannot be notified, even if this were appropriate. I therefore grant the permission sought not to notify this individual.

43. The position relating to the mother's husband, his wider family, and her own extended family including her parents and siblings, is more complicated and needs careful consideration.

44. At this stage, there is no current "family life" between D and any of these individuals. They have never met her, they have lived in country Z throughout her life (apart from the husband's sibling, who is in England), and none of them know of her existence. However

clearly there is the potential for family life in the future, were D not to be adopted, as the mother remains in close contact with her husband, her parents and her siblings, speaking to them all frequently, even though she is currently unable to see any of them in person, given that it is not safe for her to return to country Z, and none of them have been able to visit her in England to date.

45. The mother has explained in detail in her witness statement, and in conversations with professionals, the many reasons why she does not want to notify any of these people about D, or her intended adoption. I propose to deal with these reasons, using the broad framework set out in §89 of Re A, B and C.
46. **Parental responsibility:** Although the mother's husband currently has parental responsibility for D, he cannot be her biological father. In my judgment, this puts this case in a different category from those cases in which the biological father has parental responsibility, where "*compelling reasons are...required before the withholding of notification can be justified*". The mother has explained her conviction that notification of the circumstances of the conception, and of the birth of D, would not be received well by her husband, given cultural stigma in country Z. She believes that her husband would reject both D and herself, and that he would seek a divorce. He would then not join her in England, where she would be isolated from any support as a refugee here, and also unable to return to country Z given the reasons why she had to leave the country and which have led to her being granted asylum. She cannot envisage any circumstances in which her husband, or his family, would wish to have any relationship with D. She also believes that she would personally be rejected by her husband's family, including his brother in this country, given what has happened.
47. **Article 8 rights.** The husband, his family, and the mother's family, know nothing about D, and so there is no extant family life. However, the mother remains in a loving marriage with the husband, and has a very close relationship with her parents and siblings. If D's father had been the husband, D could have had a loving family life with him, his family and the mother's family. However, that is not the situation. The mother believes that her husband, his family and her family would reject D, were they to know about her. I need carefully to consider the Article 8 rights of the mother to her private and family life, and her strong wish to maintain confidentiality in this case. I also need to consider D's rights, and what is best for her.
48. **The substance of the relationships.** Although the husband is married to the mother, he is not D's father. Given the significant cultural issues in this case, it is almost impossible to imagine that the father would welcome D into his life and marriage. The same, clearly, applies to his own extended family who have no biological connection with D. The mother's family may be more sympathetic to the mother's circumstances, but given the rural community in which they live, the mother explains the stigma which would result to her parents and siblings were that community to learn about D, and her conception. The mother seeks to protect her family from this long-term impact on them.

49. ***The likelihood of a family placement being a realistic alternative to adoption.*** The mother cannot imagine any circumstances in which the father would accept D into a family life within their marriage, let alone any paternal family member. She also does not believe that her own family could or would look after D. They are of modest means, living in a rural village. Her parents have health issues; her siblings are both unmarried but wish to marry. The cultural and religious issues are significant. The mother herself would be unable to return to country Z, to help to look after D there, given the safety issues for her in country Z. Given all the evidence that I have read, I do not believe a family placement in this case would be a realistic option.
50. ***The physical, psychological or social impact on the mother or on others of notification being given.*** The mother raises the impact on herself, were others to be notified about D and the circumstances of her conception. She believes that she would be ostracised by her husband, and he would be very likely to divorce her. She would therefore be isolated in this country, as he would not join her here. The mother is of extremely limited financial means. She lives in a single room in a house of multiple occupancy, and has recently lost her job. Given the money her family borrowed so that she could leave country Z safely in early 2024, she cannot turn to her family for money. The mother has said that she thought about killing herself when she found out she was pregnant; she has also reported having suicidal thoughts, in the event of notification. In my judgment, this is far from social embarrassment or short-term difficulty, but a significant consideration. I also need to take into account the impact on D of notification being given. She is currently a 6 month old baby, and shielded from these difficult issues. However if, as she grows older, she were to be exposed to rejection by her mother's husband, his family and the mother's family, because of the circumstances of her conception, plainly this would be very damaging psychologically to her.
51. ***Cultural and religious factors.*** The mother, her family and her husband are all religious. The mother and her family are from a small community in country Z. The mother is clear that there would be significant cultural and religious stigma for her, D and her family if the community in which they live were to become aware that she has had a child not with her husband, and as a result of rape. The mother explains that she personally would be blamed for having sexual relations outside marriage, which is strictly prohibited, rather than there being understanding and sympathy about her being raped. There would also be shame, were her husband to divorce her. She explains that her family's honour within their community would be threatened. She does not believe that there is any prospect of other members of that community accepting D. The mother is motivated partly by the wish to protect D from the impact of this, but also to protect her own family, who would likely be rejected by their community because of the shame of what has happened. She also thinks it likely that her siblings' marriage prospects would be significantly impacted. She is very worried about the impact on all of this, on her parents' health.

52. ***The availability and durability of the confidential information.*** In the circumstances of this case, where the husband, and the mother's family, all live in country Z, and the only relative in England is the husband's sibling - with whom the mother has some contact but not regularly – there is not, in my judgment, a significant risk that D's birth will be discovered by other means, for example through other connections or social media. The mother is very isolated in this country, as a refugee living away from her family and husband, unlike in cases where the parent lives with or near their own English community.
53. ***The impact of delay.*** Although I have considered delay, it is not a significant feature in this case. D is already being cared for by the foster carers who wish to adopt her, and these proceedings have been dealt with expeditiously. However, were I to require notification of third parties, inevitably the adoption process which the mother supports would be delayed, and that would delay permanency for this very young child, and might de-stabilise her current placement, which would not be in her best interests.
54. ***Any other relevant matters.*** I have carefully taken into account the impact on D of not having an ongoing relationship with her extended family in country Z. Her cultural background is very important, and this may cause identity issues for her as she grows up. However, her mother has been closely involved in selecting her intended adoptive placement, which is culturally appropriate, and is assisting with life story work in preparation for the adoption. The mother also wishes if possible to have post-adoption contact with D, which I hope can be facilitated, but with care so that D's circumstances remain confidential from wider family members.

Conclusion

55. For all the reasons set out above, and having carefully considered D's welfare, and the interests and rights of D, the mother, the mother's family, her husband and his family, I am satisfied that it is appropriate in all the circumstances to grant the permission sought by the local authority, and supported by the mother and D's Guardian, for the following people not to be notified about D and her intended adoption:
- 55.1. The mother's husband, and his wider family;
 - 55.2. The mother's parents;
 - 55.3. The mother's siblings;
 - 55.4. The wider maternal family; and
 - 55.5. The biological father (not known).
56. I wish to end this Judgment by expressing my sympathy to the mother for the traumatic events she has experienced, and my respect for the bravery she has shown in dealing with these issues without the support of her husband and her family. I recognise that the mother has been motivated by trying to make the best possible decisions for D, who she loves and cares for. She wants D to be able to grow up within a loving adoptive family, shielded insofar as possible from the circumstances of her conception, and from any risk of rejection by others, giving her daughter the best chance of a happy and fulfilled life.

57. I am providing a final order to the parties with this Judgment. There will be no order as to costs, save for assessment of the parties' publicly funded costs. The local authority have agreed to pay for the order and this written Judgment to be translated for the benefit of the mother, for which I am grateful.

13 May 2026