



PUMP COURT
CHAMBERS

Children Public Law Update

Polly Thompson



Failure to determine jurisdiction

- LB of REDBRIDGE v JL & Ors [2025] EWFC 292
- Baby 16 months suffered NAI aged 3 months.
Jurisdiction only definitively addressed in week 36.
McDonald J: *“To be clear, it is not permissible for the court to seek to ride two horses by repeatedly adjourning the question of jurisdiction whilst at the same time seeking to progress the case as if it does have jurisdiction.”* [para.57].

Registration of birth when parent refuses to register

- Re N TDR-2025-CXQ2
- <https://caselaw.nationalarchives.gov.uk/ewfc/b/2024/466>

Capacity where parent failed to attend capacity assessments

- Seek interim declaration of incapacity from the court – evidence
- OS's preferred wording for orders:
- *“Upon considering the capacity evidence from Dr X dated Pursuant to FPR 2010 rule 2.3, the court finds as a fact that [client's name]*

Capacity where parent failed to attend capacity assessments

- *lacks capacity to litigate within these proceedings and is therefore a protected party requiring a litigation friend (FPR 2010 part 15)."*
- *"There being no other person suitable or willing to act, subject to her consent, the Official Solicitor is invited to act as a litigation friend for [client's name] within these proceedings."*
- *"It is recorded that [client's name] has the benefit of a legal aid certificate for representation in these proceedings".*
- Email to discuss any ? regarding appointment of the OS in a family case:
- osinformation@ospt.gov.uk

Proportionality of public law orders

- K-H (Children)(Care Orders: Proportionality) [2025]
EWCA Civ 1368
- CA substituted COs with 12-month SOs and ICAOs, and remitted GPs application for SGOs to the Family Court.
- LJ PJ considered the recorder “*gave patently excessive weight to this one factor [low-medium risks posed by G and uncle], so that it came to outweigh all other aspects of the children’s welfare.*” [para.75].

Competing art.8 rights to family life for siblings

O & G & L [2025] EWFC 21 (B)

3 children aged: O 9, G 3, L 1, in separate f/ps at FH. LA plan: L & G to be adopted together, long-term f/c for O. Guardian agreed re O but supported L's f/cs application to adopt L separately.

Professionals agreed fundamental principle that sibs should be *“given opportunity of growing up together, particularly if they cannot grow up with their parents”* but Judge highlighted most cases where adoption is proposed and sibs enter care and are placed together it's because *“they may understand each other's experiences better than anyone else because those experiences have been shared or repeated in similar ways.”*

Competing art.8 rights to family life for siblings

NB post-adoption contact seems to have been a factor.
Order: for L's f/cs to adopt him, plus s.26 contact order
(at last!!)

O to remain in long-term f/c

G to be placed for adoption on his own

An excellent result for Jayne Harrill who represented L's
f/cs!

Final orders at irh – or not?!

- Re H (Final Care Orders at IRH) [2025] EWCA Civ 1342
- 3 boys aged 9, 5 and 3 at appeal. IRH listed in week 128.

NB for CSs/PSs for IRH:

- Identify or address welfare checklist.
- Notify other parties in these documents if you are seeking final orders at IRH [para.40].
- Obligation on Judge to give clear reasons and what these should cover [para.46].
- Cobb JL clearly unhappy with ‘deemed acceptance’ of threshold by parents [para.49].

Re D (Threshold findings and final orders at IRH) [2025] EWCA Civ 1362

D aged 5 months when CO and PO made on 02.06.25.

Parents didn't attend IRH but appealed in person.

Macur LJ identified 2 grounds of appeal:

- i) Insufficiency of threshold findings
- ii) Inadequacy of judicial reasons for the orders made

See Cobb LJ's discussion at paras. 37 – 55. He suggests a 'more appropriate' form of words:

Re D (Threshold findings and final orders at IRH) [2025] EWCA Civ 1362

“If the parents fail to respond [to the schedule of findings in support of the threshold criteria], the court may proceed to consider [at the next hearing / at the IRH / at the final hearing] whether the s.31(2) CA89 threshold criteria are established by reference to the written evidence filed by the local authority.” [para.58].

Disclosure to regulatory bodies

Re X (A Child)(Disclosure to NMC) [2025] EWFC 332

Henke J made findings against F that he had SI with a vulnerably 16 year old. F remained a registered MH nurse. Judge factored in public interest in enabling inter-agency cooperation to further the safeguarding of vulnerable adults and children, and also the child's interests – child had no contact with F and disclosure of judgment to NMC unlikely to have any real impact on her daily life or her relationship with F.

Disclosure to regulatory bodies

Also, judgment relevant to NMC's investigation into F's fitness to practice, he did not accept court's findings and court could have no confidence he would relay them to NMC faithfully and accurately.

Allowed F time to appeal and stayed publication for 10 days. Analysis para.28 onwards.

Covert records in family proceedings concerning children

Guidance published by Family Justice Council on 15.05.25.

Definition: *“any recordings made without the express knowledge and permission of the people being recorded whether by video or audio.”*



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