

In Practice: – Re CX (A Child) (Reporting restrictions order: National Security)

This article Clare Bishop, a barrister at Fourteen Chambers considers the recently reported decision of: Re CX (A Child) (Reporting restrictions order: National Security) [2026] EWHC 994 (Fam)



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This application was heard in the High Court by Mr Justice Garrido. The core issue in this case was whether a journalist could publish that the father was and continues to be a member of the Special Forces.

Given the issues in this case a closed material procedure was invoked to consider the sensitive evidence filed on behalf of Secretary of State for Defence (SSD) who had intervened in these proceedings. Despite a flurry of radicalisation cases between 2015 to 2018 there have been relatively few family cases where a closed material procedure has been required.

The position about whether the father could be named as being a member of the Special Forces was eventually agreed at this hearing after the SSD were challenged in the closed proceedings. The SSD agreed that Ms Tickle could publish the father’s membership in the Special Forces and then the SSD withdrew as an intervener.

One of the most striking features of this case for family practitioners is that journalists may be granted access to documents in family proceedings (with appropriate redactions to protect the identification of the parties) even if the journalist did not attend those proceedings if it serves the open justice principle.

Application

The applicant Ms Tickle, a freelance journalist, sought a transparency order for disclosure of documents from family proceedings which concluded in September 2023 and to report that the father was and remains (as of the date of the judgment) a serving member of the Special Forces.

Ms Tickle did not attend the family proceedings but sought to report these proceedings on the basis of a “*compelling public interest element*” (paragraph 3). The respondents to this application are the child and the parents.

As Ms Tickle sought to name the father and that he was a member of special forces, this prompted the father to apply for a reporting restrictions order (RRO); the Secretary of State for Defence (SSD) intervened and applied for a RRO to not publish the father’s name and occupation.

Due to the sensitive evidence filed by the SSD a closed material procedure was invoked and a Special Advocate was also appointed to represent the interests of Ms Tickle, the mother and the child in the closed proceedings. For the avoidance of doubt, this summary is based on the open judgment.

Family Proceedings

The family proceedings began in 2020 and concluded in November 2023. The background to this case is set out in paragraphs 5 to 10 of this judgment.

During these proceedings the mother made serious and significant allegations of domestic abuse and these were determined at a fact-finding hearing. The judge found that the mother had suffered extreme emotional and psychological abuse over many years at the hands of the father. His actions were deliberately intended to worsen her anxiety, intimidate her and make her feel subordinate.

After the fact-finding hearing, the father completed a domestic abuse perpetrator programme and a separate anger management intervention whilst having supervised contact with the child. At the final hearing, the judge ordered the father to continue having supervised contact for a further three months before it transitioned to supported contact for six months. After the supported contact, the father could then have unsupervised contact which would increase slowly over a period of eight months. In this case the judge did depart from the recommendations made by Cafcass which was for contact to be supervised for 2-3 years.

On 15 November 2023 the mother made an application for permission to appeal but this was refused.

Confirmation that the father was a member of Special Forces

During the course of these proceedings, the SSD’s position in relation to identifying the father’s role in the armed forces shifted under the scrutiny of the court and the Special Advocate. Initially, the SSD opposed any disclosure of the father’s role in the armed forces or identification of the unit to which he belonged which the SSD submitted would have had a profound impact on national security.

The difficulty for the SSD was that they had provided a disclosure letter, which was inadvertently classified as OFFICIAL but had SECRET contents. Whilst the disclosure letter did not specifically confirm that the father was a member of Special Forces, that fact could be deduced from the information that had been provided. The wider issue was whether the SSD should be able to rely on their longstanding ‘neither confirm nor deny’ (NCND) policy. By confirming the nature of the father’s employment then this would be a breach of NCND.

Ms Tickle agreed that she would not name the parents or child, the district judge involved in the family proceedings, report any geographical or identifying information, 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, but she simply sought to identify the specific nature of the father’s employment. The nub of her argument was that it serves the principle of open justice to name that the father, a member of Special Forces, had subjected his wife to very serious domestic abuse over a period of eight years yet the court allowed him to eventually have unsupervised contact with the child.

The Special Advocate advanced 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. The SSD decided that due to the exceptional circumstances of this case the SSD no longer pursued its application for a RRO and sought to withdraw from these proceedings (paragraph 46). SSD was content for Ms Tickle to publish the father’s membership of Special Forces but with the wide-ranging restrictions that Ms Tickle had proposed.

Given the change in their position, Mr Justice Garrido approved the agreed transparency order and RRO order which in his view “*struck the right balance between 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*” (paragraph 49).

Disclosure of documentary evidence

The primary decision for Mr Justice Garrido was whether to disclose to Ms Tickle hundreds of pages of statements, assessments and reports filed in the original proceedings.

Mr Justice Garrido referred to the case of *Cape Intermediate Holdings Ltd v Dring (Asbestos Victims Support Group Forum UK)* [2019] UKSC 38 which re-stated the operation of the open justice principle. His Lordship also relied upon *Jessica Bradley v CM Ors* [2026] EWHC 125 (Fam) where the court considered an application by a journalist for access to reports in proceedings that she had not attended.

The mother, Children’s Guardian and the SSD did not object to Ms Tickle receiving the documents so long as they were redacted in line with the Guardian’s proposals. The Guardian did not assert that the child would be caused any harm by the disclosure sought. The father sought a more restrictive approach to the disclosure of documents provided to Ms Tickle.

Mr Justice Garrido concluded that there is 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 future arrangements for children to have a relationship with the perpetrator parent. The purpose of Ms Tickle’s reporting is to enable public scrutiny and further public understanding of the decisions taken in a particular case.

Mr Justice Garrido also accepted that it is good journalistic practice to rely on source material and the direct accounts of those involved. In his view, the first step is for judgments to be published and core documents to be made available. The difficulty in this case is that Ms Tickle did not attend the proceedings and a transcript of the proceedings was not financially viable. Mr Justice Garrido determined that Ms Tickle could have access to the documents (suitably redacted) which would protect the Article 8 rights of the child, mother and father balanced against the Article 10 rights of freedom of expression. These documents would inform her reporting of the case.

Commentary

What was significant about this case, in my view, was not the closed material procedure invoked but the lengthy procedure to determine this application which took nearly 18 months. It was only when the SSD was placed under considerable scrutiny that they apparently made a “pragmatic decision” to allow Ms Tickle to report that the father was a member of Special Forces. Arguably it would have been more pragmatic for the SSD to make this decision at an earlier stage in the proceedings.

It should also not be forgotten that Ms Tickle made this application on 8 January 2025 and this judgment was handed down on 29 April 2026 after numerous hearings. Ms Tickle then published her article on 3 May 2026 about proceedings which concluded in November 2023. Had Ms Tickle not vehemently pursued this application, with pro-bono assistance, then the father’s role would have remained a secret. This raises the crucial question about how many journalists would have the determination and perseverance to do this in the crusade for transparency in family cases.

It is important to remember that the court determined the family proceedings in September 2023. The judge provided a road map for the father to have unsupervised contact over a period of nearly 18 months. The judge did not order overnight contact but daytime contact only. Therefore, whilst the legal process concerning the publication of that case took from January 2025 until April 2026, the judge’s decision is very much embedded in the legal and social climate of September 2023. Whilst no contact orders remain exceptional and rare within the family court today, they do happen. One such case is *Re C (A Child) (No Contact)* [2024] EWFC 366 (B) or case before HHJ O’Donovan which was reported by the Transparency Project on 10 October 2025.

As in the words of the Domestic Abuse Commissioner, domestic abuse in family cases is an everyday business. It may be that courts, judges and professionals now have a greater awareness of the impact of domestic abuse. This may be particularly so with the recent publication of Domestic Abuse Commissioner’s report in October 2025, concerning the court’s pro-contact culture, or the decision by the Judicial College in June 2026 to embed domestic abuse training across the curriculum for the Judicial College. Arguably this begs the question that if this case was decided today, rather than 2023, would the outcome have been any different?