

NEUTRAL CITATION NUMBER: [2024] EWHC 1747

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION
SITTING AT THE ROYAL COURTS OF JUSTICE

Date: 15/02/2024

Before :

MR L. SAMUELS KC
Sitting as a Deputy High Court Judge

Between :

A MOTHER

Applicant

- and -

(1) A LOCAL AUTHORITY

**(2) A CHILD (BY THEIR CHILDREN'S
GUARDIAN)**

Respondents

Hillary Pollock instructed by Hecht Montgomery Solicitors for the mother
Suzannah Hargreaves, senior solicitor for the local authority
Paulina Panayiotou, Hanne and Co, solicitor for the child

Hearing dates: 24 January and 15 February 2024

Judgment

Re A (Notification of Father and other Family Members)
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Mr L Samuels KC sitting as a Deputy High Court Judge

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 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.

Introduction

1. These proceedings concern a young child. The local authority has commenced public law care proceedings under Part IV Children Act 1989. The child is currently accommodated with their mother under an interim care order. There are ongoing assessments. The man who is believed to be their father does not have parental responsibility. The father and some maternal family members, including the maternal grandfather, are not aware of the birth of the child.
2. The mother applies for the following orders:
 - (1) An order under FPR PD12C, paragraph 3.2, to dispense with service of Form C6A (notice to non-parties) upon the father.
 - (2) An order under the inherent jurisdiction to prevent any party notifying any other relatives of the existence of these proceedings.
3. I heard submissions from all the advocates on 24 January 2024 and reserved judgment. I have decided to grant the orders sought. In the judgment below I explain my reasons for reaching this decision. I sent this judgment out in draft to the parties on 12 February 2024.

Background

4. The local authority's case, which is largely accepted, is that the mother concealed her pregnancy so that she received no ante natal care. There is a lack of clarity in the papers as to when the mother knew for certain that she was pregnant. That may be linked to her cognitive difficulties as set out below. The mother told the local authority that she concealed her pregnancy, or at least her concerns that she might be pregnant, because of the fear that she would be subject to honour-based violence and abuse from her own father, including a risk that she would be killed. He is an alcoholic and has physically abused her mother.
5. She has also claimed to be in fear of the father of her child who had told her to get an abortion. She alleges that she was the victim of physical and financial abuse from him. He has recently served a prison sentence for offences involving serious violence,

and the local authority express concerns about whether he is an appropriate person to have contact with his child. The mother has at times been ambivalent about whether to keep her child or relinquish them for adoption. She has also been ambivalent about whether she would wish to resume her relationship with the father on his release from prison, suggesting this would reduce the shame she would receive from her own family for having a child whilst unmarried. This ambivalence needs to be viewed in the light of her cognitive difficulties and her religious and cultural heritage.

6. The maternal grandmother and maternal aunts colluded with the mother to conceal her pregnancy from the maternal grandfather. The maternal grandfather believes that she is currently working away some distance from home. The paternal grandmother is aware of the pregnancy and the birth of the child but has similarly colluded with the mother to hide this from her son.

7. In her written evidence to this court (and in her discussions with professionals) the mother has explained the circumstances of and history of her relationship with the father. Their relationship lasted for about a year but was marked by periods of separation and reconciliation. They did not cohabit. She would see the father at his home and they would meet in hotels, often for a short period of time so as to have sex. Their families approved of their cultural match but there is also a suggestion that her family was less supportive because of concerns about his past and his behaviour. She describes his verbal abuse and financial control. He was a drug user. She was working and he was unemployed so she would give him money, often on a daily basis. When she eventually refused to give him money until he had repaid what he owed her he sent intimate pictures of her to a former boyfriend abroad. The former boyfriend then shared those pictures with her family. She felt shocked and humiliated as a result. The maternal grandfather refused to speak to her for a long time after that happened. He threatened to kill her if she brought any further shame upon the family. They separated when she found out that he was in a relationship with someone else. On that occasion he threatened her with physical violence and his mother had to intervene. They reconciled and that was when she found out that she may be pregnant. She was horrified at the father's reaction, namely that she should get an abortion. She asked him to marry her and he refused saying he would tell her family about the pregnancy if she did not get a termination. They ended their relationship shortly afterwards.

8. She described the maternal grandfather as having an alcohol problem and being abusive towards her mothers and sister, at one time threatening to kill one of her sisters. The maternal grandmother is very concerned what he will do to her (the grandmother) if he found out that the mother has had a child, given the shame that will bring upon their family.
9. If the father of her child finds out about that child she says he will tell the maternal grandfather. He would take the view, she says, that he had told her to terminate the pregnancy so any consequence of her not having done so would be her own fault. She has told the paternal grandmother, confident that she would not tell her son because she has suffered immense financial and emotional abuse herself from him.
10. The local authority has commissioned a report from an experienced independent consultant social worker ('ISW') on the risk to the mother of honour-based violence. Her report is based on her analysis of the papers and interviews with the mother and maternal grandmother. She did not, however, at the time of her assessment have a report detailing the mother's cognitive difficulties. The paternal grandmother appears to have declined to speak with her. The ISW noted discrepancies in the mother's narrative but also potential interpretation problems. She explored with her the detail of her concerns about her father's reaction to her having had a child. She expressed fear for herself, her mother and her sister. She was worried he would kill her with a knife. She had seen him threaten her mother with a knife but had never seen him use it. She is worried that he will be goaded into action by other family members telling him that she had destroyed the family's reputation. She was concerned that the father may hit her as well as tell other family members because he had asked her to have an abortion. She suggested that she might be open to telling her family some time in the future, possibly after a family wedding or possibly after 6 months. She was keen to try to reach some agreement about this with her mother. There was a discussion about her mother possibly leaving her father so as to be able to support her with the child. In discussion between the ISW and the maternal grandmother, the grandmother recounted that the grandfather had attempted to strangle her and had a problem with alcohol. She did not approve of the mother's relationship with the father having heard bad things about him. She confirmed the mother's account of the sharing of intimate

images with the family to be true. The grandfather's reaction to this had been violent towards her, hitting, beating and trying to strangle her.

11. The ISW expresses concerns in her report that the father may already be aware that a child has been born. In part this is because the mother has been receiving calls from an unknown caller and in part because other family members are aware. She describes the mother's fear for her own safety and that of the maternal grandmother to be "very real" and is "rooted in sincere and direct fear". However, she says that the father "does have the right to be informed of his child and to participate in the proceedings should he wish to do so". She believes that any risk to the mother or the child "can be safely managed". She considers that the risk is more of potential psychological repercussions and emotional distress than of immediate physical danger. Her principal concern about safety and protection is of harm to the maternal grandmother. It is said that "there is some likelihood that [the mother's] fear of honour-based violence may be exaggerated." The maternal grandfather's anger over the photographs appears to have dissipated over time. His physical violence appears to have mainly been inflicted on his wife to date. The mother's fears may be based more on assumptions about what will happen rather than "verified information". She worries that without the full support of her family the mother may struggle to parent her child to a satisfactory level.
12. Following receipt of this report the court directed that a cognitive assessment be carried out upon the mother. The conclusion of that assessment is that the mother functions at the extremely low cognitive range, in the bottom 1% of the population.
13. The local authority has also undertaken a viability assessment of one of the maternal aunts. She said that she is estranged from the maternal grandfather due to his alcohol abuse and the pressure he had placed on her. He has not been violent to her but has threatened violence and death to her and the mother. Having been asked about the risk of honour-based violence towards the mother, she said that although he had never previously been violent towards them, he would most likely kill the mother for bringing shame on the family. She supported the mother's fears as genuine given his previous threats, specifically if they ever got pregnant without being married. She said that having a child before marriage is forbidden in their culture and family values. The

maternal grandmother has encouraged the mother not to disclose the existence of her child to the maternal grandfather. The local authority concedes that the aunt's account corroborates the mother's allegation that she would be subject to honour-based violence or death should the maternal grandfather find out about her child.

14. The father's criminal record print out shows that he was recently convicted of serious offences, one of violence and one of possession of a knife. He was sentenced to a suspended term of imprisonment. It is possible that the offence would have warranted an immediate custodial sentence but for the fact that the father had already served time on remand.

The Parties Submissions

15. The mother seeks orders to prevent either the father or the maternal grandfather being informed of the child's birth. It is for the court and not the ISW to assess risk and the social worker's assessment may be compromised by the mother's low level of cognitive functioning and language needs. There is no current connection with the father and he has shown no wish to be involved in the life of a child. There is no existing family life between them. He may well be angry if he discovers that the mother allowed the pregnancy to continue. This raises the prospect of violence from the father and / or the maternal grandfather. The risk of harm from each is linked because it is likely that one will tell the other. The potential impact upon the mother could be severe if they are informed, because of the shame this will bring upon the family and the maternal grandfather's likely reaction to that. The impact on the mother's ability to parent her child in these circumstances, when under such fear, would also need to be considered. It may deprive her of a fair opportunity to demonstrate her parenting capacity.
16. The local authority opposes the mother's application. They say there is some inconsistency in the information that has been provided by the mother, by other family members and in the limited police reports. The mother has not in fact been severely physically assaulted either by the father or the maternal grandfather. The grandfather did not resort to violence against her even when he found out about the explicit photographs. She did notify the paternal grandmother of the child's birth

which they describe as a “puzzling and seemingly contradictory step”. They say “this does not appear to be the action of a woman who is genuinely deeply fearful of the threat posed by the father”. The ISW assessment is that the risks here are manageable. The risk may be more in the mother’s mind than in reality. In the local authority’s view, the balancing exercise in this case comes down in favour of notifying the father about these proceedings and thus allowing him the right to participate.

17. The child’s guardian also opposes the mother’s application. The mother has seemed ambivalent at times about the issue of telling her father, suggesting it may occur after the family wedding or in the future. The Guardian questions how sustainable the current situation is, particularly in relation to the lies being told to the maternal grandfather. It has caused problems with managing the current situation. It is difficult to see how the maternal family can properly support the mother in those circumstances which may impact on her ability to care for her child. In the Guardian’s view the mother’s concerns do not meet the high test necessary to prevent a father being informed about the existence of his child. The risks that she identifies are “vague”. There is no report of any ongoing abuse by the father of the mother. Heavy reliance is placed upon the views expressed by the ISW. The best way forward, it is suggested, is for the mother to be supported to tell the maternal grandfather and the father should be served with these proceedings in the usual way.

The Legal Framework

18. Rule 12.3 Family Procedure Rules 2010 specifies the automatic respondents to an application under Part IV Children Act 1989. These include “every person whom the applicant believes to have parental responsibility for the child”. Under Paragraph 3.1 of Practice Direction 12C, the applicant (local authority) must also serve “every person whom the applicant believes to be a parent without parental responsibility for the child” with a copy of Form C6A (notice of proceedings / hearings / directions appointment to non-parties”. That person may then seek to be joined as a party to the proceedings using the Part 18 procedure, although there is no obligation on them to do so. Under PD12C paragraph 3.2 the Court may direct that such notification is not required. The mother here seeks such a direction.

19. There is no obligation upon a local authority to notify other family members, such as grandparents, about the existence of a child or indeed to serve them with notice of proceedings. If, as here, a parent seeks to prevent a local authority from informing a family member about the existence of a child then they will need to seek to invoke the court's inherent jurisdiction to make orders to promote the welfare of the child. The mother here seeks such an order.

20. The leading Court of Appeal authority is the case of *In Re A and others* [2020] EWCA Civ 41, [2020] 3 WLR 35. That was a case where three appeals were brought against notification decisions. They were all cases where the mother had concealed her pregnancy and did not want the father or other relatives to know about the birth. In all three cases the mother either wished that the child be adopted or accepted that the local authority's plan for the child might include adoption. In the first, Case A, the Guardian appealed against a decision to grant a declaration that the local authority was not obliged to notify the father or relatives of plans which might involve adoption. In the second, Case B, the mother appealed against the judge's decision to refuse to grant an injunction preventing the local authority from informing the maternal grandparents of the birth. In the third, Case C, where the child had been conceived as a result of rape, the mother appealed against the judge's decision to refuse to grant an order permitting the local authority not to serve the father and wider family with notice of care proceedings. In Case A the appeal was allowed. In Cases B and C the appeals were dismissed.

21. The leading judgment of Peter Jackson LJ sets out a comprehensive historical analysis of the previous first instance and appeal decisions in this area. There are very varied factual circumstances that might give rise to applications to prevent notice being given of proceedings to fathers and other family members. There are also profound potential consequences of such a decision either way. For example, in *In re O (Adoption: Withholding Agreement)* [1999] 1 FLR 451, the court made an adoption order despite the existence of an "impeccable father" who had only been notified about the birth of his child late in proceedings. By the time the father was in a position to come forward the child was already living with prospective adopters and would therefore have had to be removed from the only family he knew if he was to be placed with his father. In *Z County Council v R* [2001] 1 FLR 365 Holman J discussed

the risks that may follow where the mother's request for confidentiality cannot be respected and maintained, such as the risk that more pregnant women may give birth secretly. Other authorities point to the careful balance that needs to be undertaken where the mother raises the risk of physical or psychological harm to herself or the child if notification takes place. At paragraph 59 of his judgment, Peter Jackson LJ identified that in exercising the court's discretion all relevant factors have to be balanced and:

“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 cases notification will be appropriate and the absence of notification will be the exception; but each case will in the end depend on its facts.”

22. The Court of Appeal determined that although the child's welfare is central to the notification decision, the decision is not one that is formally governed by the provisions of s.1 Children Act 1989 or s.1 Adoption and Children Act 2002.
23. At paragraph 89, Peter Jackson LJ said that the principles governing decisions 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 as follows:

“(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:

(i) 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.

(ii) 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.

(iii) 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.

(iv) 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.

(v) 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.

(vi) 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.

(vii) 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.

(viii) The impact of delay. A decision to apply to 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.

(ix) 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 article 8. However exceptionality is not in itself a test or a short cut; rather it is a reflection of the fact that the profound 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.”

24. *The Mother v Northumberland County Council* [2021] EWCA Civ 1221 was a case where the mother asserted her child (B) was conceived during one of several incidents of non-consensual sexual intercourse. The father’s reaction on becoming aware of the pregnancy was so abusive, aggressive and threatening as to cause the mother to fear for her and B’s physical safety if he was alerted to the existence of care proceedings. The mother asserted that the father had demanded she have a termination or he would kill the child. He did not want his wife to find out about the situation. The putative father had been cautioned in the past for offences of violence. The judge at first instance took the view that this was not an exceptional case. There was no corroboration of the threats the father had been said to have made and, in any event, these needed to be viewed in context. This would not have been the first father to have demanded that a pregnancy be terminated and nothing had happened following the threats. He had made no attempt to contact the mother. Appropriate measures could be put in place to protect the mother. The Court of Appeal upheld that decision.
25. The Court of Appeal considered the previous authorities, and in particular *Re A* above. They adopted Peter Jackson LJ’s review but with the caveat, added by Macur LJ at paragraph 19, that differentiating between ‘exceptional’ and ‘highly exceptional’ might “detract from the essential task of balancing fact specific features in every case. It will become ‘the test’ or ‘the short cut’”. Macur LJ cited with approval a passage from the judgment of HHJ Bellamy sitting as a Deputy High Court Judge in *In Re x (a Child) (Care Proceedings: Notice to Father without parental responsibility)* [2017] 4 WLR 110:

“46. Each year local authorities issue care proceedings in the Family Court in which the fathers of the children concerned do not have parental responsibility and who, though not parties, are nonetheless entitled to receive a copy of Form C6A. Until they receive Form C6A some fathers are in a state of ignorance about the existence of their child. Others are aware of the existence of the child and of the fact that they are the child’s biological father but have thus far shown no interest in the child’s life. For the children involved it is important that attempts are made to engage with their birth father and perhaps also his wider family. The starting point must be two fold. First, that it will normally be in the interests of the child that her birth father should receive a copy of Form C6A thereby enabling him to apply for party status so that he can participate in the proceedings. Second, that the child and her mother should not be put at risk of harm as a result of seeking to engage the father in the proceedings. It is a matter of balance and that is the case whether or not the father is entitled to the protection of Article 8 and Article 6.”

26. There are a number of more recent relevant first instance decisions. It is not necessary to review more than a few in this judgment. In *A Local Authority v JK and W (Adoption Notification to Father)* [2021] EWHC 33 (Fam), [2021] 2 FLR 851 Peel J refused the local authority’s application for permission not to notify the father and wider family of the prospective adoption of his child. There did not appear to be any specific risks posed by the father or other family members in that case. The mother’s difficulties were described as manageable and the impact on her of notification, whilst distressing and unsettling, was unlikely to be disastrous and could be mitigated with support.
27. In *Re F (Assessment of Birth Family)* [2021] EWFC 31 Cobb J held that the local authority was under no obligation to assess members of the mother’s birth family in circumstances where she had been adopted. The issue of notification was a matter of discretionary judgment in light of all the facts of the case.

28. In *A Local Authority v Y and X* [2023] EWHC 2040 (Fam) Theis J considered an application by the local authority for a declaration that they were not required to undertake any further steps to notify maternal and paternal family members (including the father) of a child's birth and potential adoption. The mother alleged that the father had been physically and verbally abusive towards her and there were numerous police call outs. They had two children together so this child was their third (and the mother's fifth). The mother told the local authority she was not in a position to care for this child and that there were no realistic options in the wider family. The father had an extensive police record with warning markers for ADHD, self harm by cutting, strangulation and overdose. Previous relationships of the father's involved allegations of domestic abuse by him and there had been previous care proceedings in relation to one of his children that had resulted in an adoption order. The local authority supported the mother's view that there was no one in the wider family in a position to care for this child. Although there was no effective opposition to the applications, Theis J noted that it nonetheless required careful consideration and scrutiny given the long term implications. She noted the father's ongoing, although sporadic and inconsistent, relationship with the older children. He was exercising Article 8 rights in relation to those children and the relationship with the mother had lasted about three years. Giving detailed and careful reasons for her decision, Theis J granted the application.

Analysis

29. The balancing exercise in this case is not straightforward. There are a number of unusual and competing factors.
30. My first task is to establish the facts as clearly as possible. I need to bear in mind that the evidence has not been tested by cross examination and that I do not have any information from the father, paternal family or maternal grandfather. I have a first hand account from the mother but also second hand accounts from the mother, maternal grandmother and maternal aunt. I must be careful not to take the mother's account at face value.
31. Balancing all of these considerations, the broad facts appear to me to be as follows:

- (1) The mother concealed her pregnancy, primarily because she was in genuine fear of the maternal grandfather finding out.
- (2) The father has convictions for serious violence involving possession of a knife. The decision by the paternal grandmother not to tell her son could be corroboration of the mother's concern that he might be violent to her himself and / or might well inform the maternal grandfather about the child.
- (3) The father did not want the relationship with the mother to continue. It seems likely to me that he did react to the mother's pregnancy by telling her to seek a termination.
- (4) The father sent intimate images of the mother to a third party and encouraged him to distribute these to the maternal family. The mother's evidence about this is corroborated by the maternal grandmother who also confirms that the maternal grandfather reacted violently when he became aware of this. He threatened to kill the mother if she brought any further shame upon the family.
- (5) The maternal grandfather has a history of alcohol abuse, violence and threats of violence. The mother's fears about him and how he is likely to react are supported by the maternal grandmother and maternal aunt. He has specifically threatened to kill his daughters if either of them were to become pregnant outside of marriage. The family's view that the maternal grandfather may kill the mother under the influence of alcohol or under pressure from other family members cannot be ignored.

32. I am not persuaded that the mother's account is exaggerated or materially inconsistent. Where there are inconsistencies, I have regard to the mother's low level of cognitive functioning. As I have said, the mother's concerns are supported by her mother and sister. The ISW confirms that the mother's objection to disclosure of the existence of her child is "rooted in sincere and direct fear". I question her analysis that the mother's fears are based more on assumption than verified information. I accept that the maternal grandfather has not inflicted serious violence on his children, but he has threatened to do so and has been violent to the maternal grandmother. It is clear to me that he has strongly held religious and cultural beliefs, is concerned about the shame that may result to the family from a child born outside of marriage, is susceptible to pressure from outside of the immediate family and has a serious alcohol problem. That combination poses a direct risk of honour-based violence in my view.

33. The ISW has balanced the options in this case and has come down in favour of informing the father. She considers that the risks to the mother can be safely managed. Presumably this is based upon the mother's geographical location remaining unknown to the father and maternal grandfather. The ISW's conclusions inform the position adopted by both the local authority and the Guardian.
34. Whilst I give weight to the views of the ISW, the balancing exercise to be undertaken is one primarily for the court. I undertake that exercise in line with the factors identified by Peter Jackson LJ in *Re A*.

Parental Responsibility

35. The father does not have parental responsibility for this child.

Article 8 rights

36. The evidence before the court does not point to any established or potential family life between this father and child. The parents' relationship appears to have lasted a year but was of a casual rather than established nature. There were separations and reconciliations. They did not live together. The mother's account suggests that she was financially exploited by the father and the sharing of intimate images was undoubtedly a serious act of domestic abuse.

The substance of the relationships

37. As I have said, I think it likely that the father wanted nothing to do with the mother or child when he found out she was or may be pregnant. He wanted her to have a termination. Unusually, in this case, the paternal grandmother is aware of the existence of the child but wants nothing more to do with the situation and appears not to have informed her son. She did not want to speak to the ISW. It would be difficult in those circumstances to see how the paternal family could complain if they later discover they had been excluded from decision making. Equally, it would be difficult for the maternal grandfather to complain that he has been excluded from the decision making given the accounts of his behaviour provided by his immediate family.

The likelihood of a family placement being a realistic alternative to placement

38. The father's criminal history and his conduct in the relationship with the mother make it difficult to see how he could be a realistic placement option. The paternal family appear to be unwilling to become involved. The most likely family option in the maternal family appears to be the maternal grandmother. Given the accounts of both the mother and maternal aunt, this is unlikely to be a realistic placement if she remains living with the maternal grandfather. It is difficult to see how service upon the father or disclosure to the maternal grandfather is likely to increase the family options available in this case.

The physical, psychological or social impact on the mother or on others of notification being given

39. The Court does not have the benefit of a crystal ball to assist in weighing up the risks. The father does have a criminal history of having inflicted serious violence and the paternal grandmother has, it appears, not informed him. The explanation for this given by the mother is that the paternal grandmother recognises that he may react with violence. The mother's concerns about him cannot, therefore, be dismissed. Equally, the mother's concerns about the risk of violence from the maternal grandfather are corroborated by the accounts given by the maternal grandmother and maternal aunt. There is in my judgment a real risk of violence to the mother from the maternal grandfather. There is equally a real risk of violence to the maternal grandmother which is not an irrelevant consideration. In considering the likely psychological impact on the mother of the reaction of the father and the maternal grandfather I have to bear in mind her own cognitive limitations. I accept the point made by Ms Pollock on behalf of the mother that this is likely to impact on her ability to do her best in the assessments that are currently being undertaken.

Cultural and religious factors

40. There are here significant cultural and religious factors. This is not a family where birth outside of marriage is accepted or supported. This enhances the risk of

notification. For the reasons set out above notification is unlikely to increase the possibility of maintaining birth ties through a family placement.

The availability and durability of the confidential information

41. The local authority and Guardian assert, with some force, that this is not a case where confidentiality is likely to endure. The fiction of the mother working away is not likely to hold, with the maternal grandfather's curiosity possibly leading to him discovering the truth. They may be correct about this, but equally I note that the maternal aunt has not seen her father for 1.5 years. The maternal grandmother is positively considering separation from him so she can properly assist the mother to parent the child. It is not therefore impossible that he could remain unaware. Equally, if the father has not already been informed of the situation by the paternal grandmother, she may well decide to maintain the secret. It is possible she does not want to face the potential shame of the father's paternity. It is possible she simply wants to close her mind to the situation. There is no direct evidence to suggest it is the father who is making the anonymous calls to the mother.

The impact of delay

42. This is not a case where delay caused by notification is a predominant factor. If it is right to notify the father and maternal grandfather then this should happen notwithstanding any delay caused by an application to the court. If the local authority and Guardian are right and the father does eventually find out then a later application by him might cause delay.

Conclusions

43. This is a case where the possible options before the court may well include adoption. The maintenance of confidentiality in those circumstances is exceptional. In the vast majority of cases a father without parental responsibility should be notified of the existence of Part IV proceedings, even where previously unaware of the existence of the child. Equally, a local authority needs to be empowered to discuss the situation

with a wide range of family members to ensure that all possible family placements options are considered as an alternative to adoption.

44. However, in this unusual factual situation I do consider that confidentiality should be maintained. The mother concealed her pregnancy for good reason. Her fear of the maternal grandfather's likely reaction is genuine and rooted in evidence of his violence and threats that is supported by the maternal grandmother and maternal aunt. There is a significant cultural and religious overlay here. There is a history of this mother having been accused of bringing shame to the family already. The maternal grandfather reacted violently to that (towards the maternal grandmother) and threatened to kill the mother if she brought shame to the family again. He appears to be someone likely to be influenced by the views of other family members. On all accounts he has a significant alcohol problem. His failure to inflict direct violence on the mother in the past cannot be seen in this context as reassurance that he will not do so in the future.
45. The father's criminal background gives rise separately to a real risk of violence from him. He is capable of inflicting severe violence and has been in possession of a knife. He did not want this pregnancy to continue. Moreover, his actions in relation to the intimate images strongly suggests he would voice his displeasure to the maternal family as he has threatened to do on the mother's account, including to the maternal grandfather. Therefore, I accept the mother's submission that serving notice on the father risks giving notice to the maternal grandfather.
46. The mother's fear is genuine and her level of cognitive functioning is low. As I have said, I accept the point that breaching the confidentiality that currently exists is likely to have a significant psychological impact on the mother and may impact on her ability to do her best in the assessment process currently underway. Overall, the risks to the mother are real and the benefits of informing the father and maternal grandmother appear to be limited.
47. Weighing in the other direction is the question of whether the confidentiality is likely to endure in any event. The mother has herself thought through the possibility of informing the maternal grandfather, but she has not done so, and any equivocation has

to be seen in the context of her cognitive difficulties. To date neither the maternal nor paternal grandmothers have disclosed information about the child to others. It is not inevitable in my view that either the father or the maternal grandfather will discover the truth.

48. I have well in mind the potential difficulties that the mother may face in parenting the child in the absence of family support. However, the availability of such support is likely to turn on the decisions to be made by the maternal grandmother. The grandfather himself is unlikely to be a suitable person to assist with this on the evidence currently available. There are clearly difficult choices to be made here. The local authority cannot possibly replicate the level of support which may be available from family members.
49. I also bear in mind the potential delay, if the father was to discover further into the court process that he has a child and seeks to play a part in these proceedings. However, I do not consider that factor counterbalances the considerations in favour of confidentiality.
50. I have considered with some care whether this is a case where, with support and protection, this mother might be encouraged to inform the father and maternal grandfather of the existence of the child and of these proceedings. However, it is difficult to see how the court can be confident that such protection will be effective here. The mother is in contact with maternal family members so her location may be discovered, possibly with the use or threat of violence. The motives driving the maternal grandfather forward towards honour-based violence may be strong and fuelled by alcohol. The father has previously engaged in serious violent criminality. Injunction orders may or may not be effective in those circumstances.
51. In my judgment this is one of those exceptional cases where the existing confidentiality should be maintained.

