

**IN THE COURT OF APPEAL, CIVIL DIVISION
ON APPEAL FROM
THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT**

**C1/2020/1855
CO/2181/2020**

Mr Tim Smith (sitting as a Deputy Judge of the High Court)

BEFORE: LORD JUSTICE WARBY

Tuesday 6 April 2021

B E T W E E N:-

The Queen on the application of CHF & Others

Appellants/
Claimants

and

- (1) The Head Teacher and Governing Body of Newick Church of England Primary School
- (2) East Sussex County Council

Respondents
Defendants

ORDER

UPON the appellant's appeal by permission of the Court of Appeal (Warby LJ, "the Judge") against paragraph 1 of the order of the Deputy Judge dated 9 October 2020, whereby he refused to "extend" the anonymity order of Linden J dated 27 July 2020

AND UPON the Judge having made an anonymity order dated 3 March 2021 in the following terms:

Until after judgment on the appeal for which permission has been granted or further Order

- (1) no report of these proceedings may contain the names or other details likely to lead to the identification of either of the first and second appellants as being appellants in this case;
- (2) in any report those appellants shall be referred to, if at all, as "CHF" and "CHM";
- (3) in all future court documents, including listing, the claimant's name shall be given as "The Queen (on the application of CHF and others)".

AND UPON the Judge having by the same order directed that PA Media and any non-party affected by that order and/or the order made below might apply to be heard or to make

written representations upon the appeal

AND UPON reading written representations submitted by Sam Tobin of PA Media and his written application by email for permission to make oral submissions on behalf of PA Media

IT IS ORDERED AND DIRECTED THAT

1. PA Media may make oral submission at the hearing of the appeal, but
2. Permission for Mr Tobin to make those submissions on behalf of PA Media is refused.

REASONS

The anonymity order below, and the order I made on 3 March 2021, are both orders that affect court reporting organisations such as PA Media, as well as users and consumers of their output. PA Media is entitled to be heard in opposition to the grant of such orders, and on appeals such as this one. The issue addressed by this order is who can make submissions on behalf of PA Media.

The normal rule is that this would have to be done by a barrister or a solicitor-advocate with higher court rights. Mr Tobin is neither, but seeks permission to represent his employer nonetheless. He was heard by the Deputy Judge and, as I noted when granting permission to appeal,

It is standard practice for the Court to do this when open justice issues arise: see, for instance, [KL v R \[2021\] EWCA Crim 200](#) at [10]. Media representatives have relevant legal knowledge and, if time is short, the Court may decide to hear them without requiring their employer to arrange legal representation. The Court has an inherent power to authorise this, which is preserved under the Legal Services Act 2007, [schedule 3, paragraph 1\(2\)](#). This is the same power that entitled the Deputy Judge to hear from the appellants' McKenzie Friend.

But the inherent power needs to be used with care, as the general rule under the 2007 Act is that advocacy is a reserved activity to be conducted only by those with the relevant professional qualifications. I have not been persuaded that this appeal is an appropriate case in which to grant a right of audience by way of exception to the general rule. This appeal is

not a short-notice matter, the issues for determination are relatively straightforward, and the general principles should not be controversial. The Court will no doubt take account of Mr Tobin's written submissions, but any oral submissions will have to be made by a professional advocate in the ordinary way.