

# **PRACTICE GUIDANCE: ANONYMISATION AND AVOIDANCE OF THE IDENTIFICATION OF CHILDREN AND THE TREATMENT OF EXPLICIT DESCRIPTIONS OF THE SEXUAL ABUSE OF CHILDREN IN JUDGMENTS INTENDED FOR THE PUBLIC ARENA**

**December 2018**

1. In July 2016, Dr Julia Brophy published a report, jointly funded by the Nuffield Foundation and the Association of Lawyers for Children, building on views expressed on transparency in the Family Court by a National Youth Advocacy Service (NYAS) panel of young people. The report set out draft guidance on the anonymisation of judgments. The draft guidance was designed to minimise the risk of identification of children and made recommendations on how descriptions of sexual abuse could be presented in judgments with a view to protecting children from the dissemination of distressing material on the internet or social media. The full report can be found on the Nuffield Foundation website at: [http://www.nuffieldfoundation.org/sites/default/files/files/Draft\\_Guidance\\_Anonymisation\\_and\\_avoidance\\_of\\_the\\_identification\\_of\\_children\\_and\\_treatment\\_of\\_descriptions\\_of\\_sexual\\_abuse\\_of\\_children\\_in\\_judgments\\_intended\\_for\\_the\\_public\\_arena.pdf](http://www.nuffieldfoundation.org/sites/default/files/files/Draft_Guidance_Anonymisation_and_avoidance_of_the_identification_of_children_and_treatment_of_descriptions_of_sexual_abuse_of_children_in_judgments_intended_for_the_public_arena.pdf)
2. I am issuing this guidance to endorse, express, the two checklists contained in the report which are annexed to this guidance. I wish to encourage all judges to refer to these checklists when publishing any judgment in a family case relating to children. I believe that judges will find the checklists to be of real help in writing anonymised judgments.
3. This guidance deals with two aspects of anonymisation and the avoidance of identification of children in judgments placed in the public arena: (a) personal and geographical indicators in judgments, and (b) the treatment of sexually explicit descriptions of the sexual abuse of children.

## **(a) Personal and geographical indicators in judgments**

Anonymisation is not confined to concealing names but extends to the avoidance of any materials liable to lead to the identification of the child. This guidance aims to help judges strike a balance between the policy that more judgments should be published, and the concerns expressed by and on behalf of young people about the implications for them of placing personal details and information in the public domain relating, in particular, to inadvertent and jigsaw identification.

## **(b) The treatment of explicit descriptions of the sexual abuse of children**

Inevitably, judgments often contain distressing and intimate details of the abuse of children and young people. This guidance asks judges to consider what level of detail it is necessary to include in documents placed in the public arena. It also asks judges to consider whether it would be appropriate to summarise incidents of sexual abuse

in any public facing document and reserve the detail to an annex which would not be published but made available to any appellate court.

#### **Guidance on the anonymisation of personal and geographical indicators: checklist 1**

4. The checklist at annex 1 is designed to promote consistency in anonymising judgments and to assist judges to avoid any risk of jigsaw identification of children. It suggests where judges might consider abridgement, redaction or exclusion of details. Practical ways to secure a child's anonymity are offered by way of checklists and the use of square brackets to indicate where information has been redacted. The aim is to produce a judgment which meets the requirements of any appellate court but also to enable lay readers and journalists to understand the case and how the court reached its decision.

#### **Guidance on the treatment of explicit descriptions of the sexual abuse of children and young people: checklist 2**

5. The checklist at annex 2 is designed to help judges to address the challenges posed by the internet and social media. It seeks to raise awareness of the risk that graphic descriptions of the sexual abuse of children can be shared, worldwide, by paedophile networks. It indicates where sexually explicit material could be abridged, or presented in skeleton form, stripping out graphic descriptions of sexual abuse while retaining the capacity of the document to meet its primary legal purpose and its secondary purpose of public education. Suggested adjustments to the structure, and layout of judgments, are set out in order to assist in this exercise. Advice is offered on how to strip out unnecessary detail without excessive demands on judicial time.
6. I wish to record my thanks to Dr Julia Brophy, the young people of NYAS, the members of the Advisory Group, the Nuffield Foundation and the Association of Lawyers for Children who, with the encouragement of my predecessor Sir James Munby, all played key roles in developing the helpful checklists which form the heart of this guidance.

Andrew McFarlane, President of the Family Division

December 2018

**CHECKLIST 1: GEOGRAPHICAL/PERSONAL DATA INDICATORS IN JUDGMENTS  
AND 'JIGSAW' IDENTIFICATION**



Consider/recommended practice







Practice to be avoided

Information		Comment, pros/cons	Text examples/suggestions, and open redaction
<p><b>Naming protocols for children, parents and other family members</b></p> <p><b>Use of Pseudonyms</b></p> <p><b>Initials</b></p>	<p align="center">✘</p> <p align="center">✘</p> <p align="center">✔</p> <p align="center">✘</p> <p align="center">✔</p> <p align="center">✔</p>	<p>Avoid the use of pseudonyms: although said to make for easier reading, making the case and children 'come alive', some children do not like the use of pseudonyms and such practices can present problems for some minority ethnic families.</p> <p>Random name generator websites are used in some jurisdictions; sites generate a list of the most popular names by year of birth and gender; some sites enable a search by 'country of origin'.</p> <p>However, concerns are emerging from some cultures/religious groups indicating use of pseudonyms require specific knowledge of the family in question, supporting information, and a willingness to check proposed names with parties: inappropriate pseudonyms can cause offence.</p> <p><b>Overall, initials are a safer practice</b></p> <p>Do not use real initials (the child's or parents/others).</p> <p><b>Initials must be fictitious</b>, but care should be exercised in choice some (e.g. 'Z' 'Q') may indicate an ethnic/religious group.</p> <p>Most cases concern no more than two children: unless there are good reasons, keep it simple and consistent: child 'A' and child 'B'.</p> <p><b>For large sibling groups:</b> fictitious initials should be selected with care,</p>	<p>In the text: If only one subject child, initial or 'the child'; If two children: 'A' and 'B' ..."</p> <p><b>For judgments concerning several children</b> and multiple fathers consider a schedule (page one): 'This case concerns the mother, father A, father B and five children: Child A /male/aged 10 years (father B) Child B/female/8 years (father B) Child C/female/5 years (father A) Child D (male/3 years (father A) Child E (female) under 24 months (father A) And consider if: '... two pre-school children and three of primary school age' will suffice</p>

		<p>choice can make a child/family instantly recognisable/relatively easy to identify in communities.</p> <p><b>For parents</b>, use ‘the mother’, ‘the father’, maternal aunt, paternal/maternal grandmother etc; rather than initials, this assists the reader in following the judgment.</p>	<p>In the text: “...the mother...” “...the father...”</p> <p>If more than one father: “father A” “father B...”</p>
<b>Date of birth of child</b>	<p>✗</p> <p>✗</p> <p>✓</p>	<p>This is a key risk factor in jigsaw identification of children and can be especially so for children in small/rural, and minority ethnic communities.</p> <p>It is rarely necessary.</p> <p>If the text necessitates some specificity, consider using season and year or mm/yyyy; for rural communities use year only wherever possible.</p>	<p>“...child B was born in [2010]...”</p> <p>“...the child with whom I am concerned was born in [2009]; she currently lives with [a foster carer]...”</p> <p>“...by this time child D was [in her early teens]...”</p> <p>“By [the end of 2014] child B was living with [his stepfather]...child A went to live with her paternal grandmother in [the spring] of 2015...”</p>
<b>Other specific dates in the judgment</b>	✓	<p>Is the full date of an event essential? For example, the date of a criminal conviction can facilitate a search for the identity of a parent and can lead to the identity/location of a subject child.</p>	<p>“...the father was convicted in [year] for ...”</p> <p>“...the mother has [previous convictions] for...”</p>
<b>Ethnic group</b>	<p>✗</p> <p>✓</p> <p>✓</p>	<p>Judgments are not a source of data for ethnic monitoring purposes. The OPCS data 16+ categories will be used by local authorities – in the application/other documents filed.</p> <p>Consider why it is necessary to refer to a person’s ethnicity. Where it is not relevant to the issues before the court, do not refer to it.</p> <p>Identifying a child/parent by ethnic group can be a key identifier -and with ‘beyond border’ implications where families have links with communities elsewhere. Information about abuse can have lifelong economic, social and psychological consequences for family members; it can result in serious social stigma, rejection and trauma, impacting on marriage prospects and life chances.</p>	<p><b>See Annex 3:</b> additional information - Equal Treatment Bench Book</p> <p>In the paragraphs headed ‘Background’ or ‘Introduction’, do not say “...the mother was born in the Sylhet region of Bangladesh.”</p> <p><b>Consider using a wider definition</b> such as : “...of South Asian/Asian origin...”</p>

	<p>✓</p> <p>✓</p>	<p>If it is necessary to specify ethnic group status (e.g. where a cultural/religious or language context is identified as a substantive issue to be addressed), consider using a <b>generic term</b>. Select the term with care however as some terms (e.g. 'West Indian', 'mixed race') may be considered offensive/racist.</p> <p>Where it is necessary to specify an ethnic group status, consider this detail alongside other geographical/personal indicators: does it contribute to jigsaw identification of a child/family? If so, consider whether the judgment should be published.</p>	<p>"...of Eastern European origin..."</p> <p>"...the mother is Chinese British..."</p> <p>"The mother is of [African] origin..."</p> <p>"The father is [of mixed heritage]..."</p>
<p><b>Religion</b></p>	<p>✗</p> <p>✓</p> <p>✓</p>	<p>Do not refer to religion unless substantive issues indicate it is likely to be relevant or it needs to be addressed.</p> <p>If it has relevance, consider details about religion alongside other geographical/personal indicators in the judgment; does it assist jigsaw identification of a child/family? If so, consider whether the judgment should be published.</p> <p>Religious affiliation can be key personal information and an indicator of geographical location and/or a specific community. Some religious groups are small well connected communities although spread geographically; this makes it much easier to identify individuals within the group.</p>	<p>It may be necessary to describe a family as Jehovah's Witnesses in a dispute about a blood transfusion for a child, but it will rarely be necessary to do so in a case concerning neglect.</p>
<p><b>School, education issues/problems</b></p>	<p>✗</p>	<p>Do not reproduce detailed descriptions of problems a child/young person has experienced at school or incidents in which he/she was involved. These problems/incidents will be familiar to other pupils, teachers and possibly other parents and when combined with a date of birth, gender and local authority area, are high risk geographical indicators for</p>	<p>"...child D experienced [multiple difficulties] at school... [over an extended period]..."</p> <p>"... child A was absent from school [intermittently] [over several months] ...during this period he lived with his mother."</p>

	<p>✓</p> <p>✗</p>	<p>a child/young person aiding their identification.</p> <p>When considering incidents remember the details you include in a public document may be shared on media/social media and be available on the internet for the remainder of a child/young person’s life. Consider whether details can be redacted and if timescales are key, whether a broad timeline would suffice.</p> <p>Do not routinely identify a faith, specialist or residential school: both types of school are easily identified by a Google search.</p> <p>Within a local authority catchment area there may be only one school of a particular faith (but a number of faith schools).</p> <p>Where a child attends a special school (e.g. for a physical disability/impairment, speech or mental health problems) these are very limited resources, for some facilities perhaps three schools exist in the UK.</p>	<p>“...during this period child B was excluded from school for [disruptive/violent behaviour] [on one/more occasions] ...”</p> <p>“Child A engaged in [bullying activities] at school ...other pupils [were distressed] by her behaviour...”</p> <p><b>Do not say,</b> “...child B attends TreeHouse School in Croydon on account of her diagnosis of Oppositional Defiant Disorder (ODD)”.</p> <p><b>Rather:</b> “...child B attends a specialist school because she has [emotional and behavioural] difficulties”. “Child C attends [an educational facility] dedicated to meeting his [physical] needs” ... “...child A attends [a faith] school....”</p>
<p><b>Naming the local authority applicant</b></p>	<p>✓</p> <p>✓</p> <p>✓</p>	<p>Local authorities are public bodies with a statutory responsibility for the welfare and protection of children and support of families. Where that work results in proceedings the LA is held accountable for its actions with families by the court.</p> <p>The need for a public body to be identified when acting in respect of citizens is recognised to be important. Nevertheless we now know that naming the local authority in a public document may set clear geographical boundaries to the location of some children; their location may be further narrowed down by other information in a judgment (checklist 1 factors).</p> <p>Naming the local authority without reference to these issues and balancing the risks in each case may serve only to undermine work undertaken to redact/abridge other parts of the judgment.</p>	<p><b>See Annex 4 for background discussion.</b></p> <p>In the first instance, while the default position is that an applicant should be named, the judge should undertake a balancing act and naming a local authority should be confined to cases where:</p> <p>(a) After redaction/abridgment of a judgment intended for publication and following consultation with advocates and consideration of the number of potential applicants served by the court, the judge concludes that naming the LA would carry with it no risk of identifying the children (or any of them); or</p>

		<p>Where the local authority applicant is identified in the judgment the name of the Director of Children’s Social Care (or equivalent) should also appear. For example:  ‘Applicant: Cumbria County Council Corporate Director, Children’s Social Care: John Macilwraith’</p>	<p>(b) Having balanced the remaining risks the judge concludes that the public interest in identifying the applicant is so important that it outweighs any risk of identification of the children (or any of them).</p> <p>It should be open to any party, and representatives of the media, to apply to invite the court to determine whether the case comes within the exceptions in (a) or (b) above.</p>
<p><b>Naming the social worker(s) and others such as family support workers</b></p> <p><b>Criticisms of an applicant/social worker</b></p>	<p></p> <p></p> <p></p> <p></p>	<p>Do not routinely name without consideration of whether this may contribute to jigsaw identification of a child/young person.</p> <p>In some areas naming a social worker narrows down the location of a child/family to an area team; consider this alongside other geographical/personal indicators in the judgment: does naming the social worker(s) add to a risk of identification of a child/family?</p> <p>If the reason for naming is to make public, responsibility for failings, determine whether it is a corporate/managerial failure or that of an individual social worker in the context of his/her powers to have done things differently, noting that social worker’s authority to make independent decisions is not equivalent to that of an expert witness; some areas of decision making are determined by managerial/corporate policy.</p> <p>If criticism is deemed necessary, consider this alongside other geographical/personal identifiers in the judgment: can criticism(s) be drafted so as not to undermine work undertaken to improve</p>	<p>Consider:  “... the [key social worker] found.....”  “...[family support worker] failed to...”</p> <p><b>See Annex 4 Criticisms of LA/SW: Other options</b></p> <p>(a) Consider a direction that the judgment be released to the named Director of Children’s Services and a named children’s services manager.</p> <p>(b) Consider a direction to also release the judgment to Ofsted as a notification to Ofsted</p>

	<p>✓</p> <p>✓</p> <p>✓</p>	<p>anonymisation practices in the judgment?</p> <p>Consider whether it may be appropriate to,</p> <p>(a) warn the applicant/social worker and to give them the opportunity to address the criticism, for example, the LA or SW may have not gone into the detail appropriately or avoided some material which would be relevant to the merit of the intended criticism, and,</p> <p>(b) consider other options which may improve practices.</p> <p>Explain the balancing act undertaken.</p>	<p>to review the practices of the local authority.</p> <p>(c) Where the judge considers that the LA has acted unlawfully consider a direction to provide the judgment to the Monitoring Officer.</p> <p>Place a statement about failures at the start of the judgment.</p>
<p><b>Naming a local family resource/assessment centre</b></p>	<p>✓</p> <p>✓</p>	<p>These centres are scarce resources: some are placed in/close to the communities/wards they serve; confidence and engagement in the service is important, not least for the child.</p> <p>When considering whether to name a resource reflect on other geographical/personal indicators and whether naming may assist jigsaw identification of a child/family and impede future engagement with the service/agency.</p> <p>Consider using a generic term but if naming is deemed necessary explain the decision in the context of risks to a child/family.</p>	<p>“...the mother and child B were assessed at [an assessment centre]</p> <p>“Mother and child A were assessed at [a residential centre] over [a 12 week period]...”</p>
<p><b>Naming a treating community based clinician</b></p>	<p>✗</p> <p>✓</p>	<p>Do not do this as routine practice without considering the impact on a child/family and local communities. Consider the type of clinical expertise and whether naming a local health care provider narrows the geographical field of location of a child/family.</p> <p>Local people (informants, teachers/Heads interviewed, foster carers etc.) and young people are likely to know the name of a local doctor/community paediatrician. Be aware that names can be key information to add to search engines in searches for judgments of</p>	<p>Consider: “S was admitted to [hospital] on ....and seen by doctor [‘X’]”</p>



<p><b>Criticisms of clinical evidence</b></p>	<p>✓</p> <p>✓</p> <p>✓</p>	<p>certain categories of child abuse/media coverage.</p> <p>When considering specific incidents, remember the details you include may be shared on media/social media sites and be available on the internet for the remainder of a young person’s life. Consider if a redaction/abridged version of certain evidence will be necessary (see checklist 2); include only essential dates.</p> <p>If the aim is to identify clinical work which failed to meet the standard required, consider whether it may be appropriate to,</p> <p>(a) Warn the clinician and to give them the opportunity to address the criticism;</p> <p>(b) Consider intended text alongside other information: can criticism be drafted so that it does not undermine other improvements in anonymisation practices for children.</p> <p>Think carefully about naming a highly specialised doctor/hospital; some clinicians in specialist fields will see a relatively small number of children; this can narrow the geographical pool further.</p>	
<p><b>Naming an expert witness</b></p> <p><b>Criticisms of the work of expert witnesses</b></p>	<p>✓</p> <p>✓</p> <p>✓</p>	<p>These are a limited resource – and for some specialist areas in short supply: some work regionally, others nationally; both may also serve a ‘local’ community as a treating physician in an NHS hospital/mental health trust.</p> <p>Nevertheless experts offer their services to assist the court in return for a fee and in some respects are in a different position to a clinician who finds herself in court as a treating physician.</p> <p>That does not however preclude consideration of the impact on a child/young person of naming an expert or careful reflection on the degree of detail from the expert’s evidence to be included in a public judgment – bearing in mind these</p>	<p>Include a statement about failures at the start of the judgment.</p>

		<p>details may be shared on media/social media sites and available on the internet for the remainder of a young person’s life (see checklist 2).</p> <p>If one of the aims in naming an expert is to identify clinical work which fails to meet the standards required by family courts, consider whether it may be appropriate to,</p> <p>(a) Warn the clinician and to give them the opportunity to address the criticism, and;</p> <p>(b) Draft the intended text so that it does not undermine other improvements in anonymisation practices.</p>	
<p><b>Naming a trial court and Judge</b></p>	<p>✓</p> <p>✓</p>	<p>In certain instances naming the trial court and judge confirms geographical boundaries to the location of a child/family; when combined with other information this may contribute to jigsaw identification of some children/young people.</p> <p>However, the court is unique among actors in the family justice system because of the extent of powers conferred upon it by Parliament but these powers are not unfettered and are subject to checks and balances.</p> <p>The court must nevertheless negotiate the landscape between transparency of justice on behalf of the state where life changing decisions are made for children, and ensuring their privacy, welfare and safeguarding needs are taken seriously and protected.</p> <p>Naming the trial court and judge should remain but in the context of improved anonymisation practices where risks of jigsaw identification have been eliminated so far as practicable by cutting out other geographical/personal identifiers, and redacting /abridging certain details of the abuse of children (see checklist 2).</p>	<p><b>See Annex 4 – background issues</b></p> <p>Consider whether circumstances exist which may make it necessary to refer to the trial court as ‘The Family Court’ without identifying where it sat.</p>

<p><b>FINAL CHECK</b></p> <p><b>Anonymisation of geographical/personal indicators</b></p> <p><b>Does the judgment contain details of sexual abuse of a child</b></p> <p><b>Is this judgment suitable for publication</b></p>	<p>?</p> <p>?</p> <p>?</p>	<p>(i) Do any of the ‘big five’ geographical/personal identifiers for a child remain (see Appendix 1, bullet point 6) - can these be further anonymised without loss to lay readers’ understanding of:</p> <ul style="list-style-type: none"> <li>(a) the allegations and parties’ responses</li> <li>(b) the court process and how decisions were made</li> <li>(c) the legal issues and framework brought to bear</li> </ul> <p>(ii) Consider any remaining geographical/personal identifiers alongside <b>CHECKLIST 2</b> (details of the sexual abuse of children)</p> <p>(iii) In the light of evidence about jigsaw identification, the power of search engines and risks to already highly vulnerable children, do features remain which are essential but which make this child/family identifiable? If so, consider whether the judgment is suitable for the public arena.</p>	
--	----------------------------	---	--

**CHECKLIST 2: TREATMENT OF DESCRIPTIONS OF THE SEXUAL ABUSE OF CHILDREN IN  
JUDGMENTS INTENDED FOR THE PUBLIC ARENA**

<b>ABRIDGEMENT/SKELETON OF PARAGRAPHS WHICH CONTAIN EXPLICIT DESCRIPTIONS OF SEXUAL ABUSE IMPLICATIONS FOR THE STRUCTURE/STYLE OF JUDGMENTS</b>		
<b>Fact finding</b>	<ul style="list-style-type: none"> <li>• The structure and style of judgments vary: some have numbered paragraphs but do not use headings, and headings are not consistent across some judgments of the same 'type'.</li> <li>• The aim is not to reduce the capacity of judgments to meet forensic requirements or to suggest 'one size fits all', or to reduce the capacity to give judgments as soon as practicable.</li> <li>• Rather, to suggest where sexually graphic details might be annexed to an appendix and details abridged for a public document, with options which might assist that process.</li> <li>• Some structures lend themselves more easily to this exercise than others. Those without headings are likely to make a move to abridged/skeleton paragraphs more time consuming, and difficult to check for errors (even when using a Word search).</li> <li>• Consider whether some headings might assist drafting for abridgment purposes (e.g. Introduction, Essential Background, Allegations, Parties Positions, Law and Legal Principles, Professional Evidence, Expert Evidence etc.)</li> <li>• Where possible some consistency in the order of headings should speed up the process of abridgment over time and aid checking.</li> <li>• In some judgments, descriptions of sexual abuse are repeated under several headings/paragraphs: this may make abridgement of details and cross checking, difficult and timing consuming. For example: <ul style="list-style-type: none"> <li>➤ Some details are contained in paragraphs variously headed 'Introduction', 'Background', 'Family History'; these can be lengthy and contain information not returned to</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ The reasons for this early detail vary: it may be '<i>for completeness</i>' or because '<i>that's the way we've always done it</i>' and/or to demonstrate to a mother that the judge understands her history and the issues with which she has struggled. However, in the context of the aims of guidance, consider if explicit historical details are necessary or could be abridged (if necessary, cross referenced to a document(s) in the bundle).</li> <li>➤ If the <i>detail</i> is essential to a point in evidence/argument made later in the judgment, consider restricting it to the main body of the document (e.g. under the heading dealing with the Mother's position/responses, expert assessment of mother etc.), abridge under that heading (if necessary, cross referencing to a document(s) in the current bundle).</li> </ul> <ul style="list-style-type: none"> <li>• There may also be paragraphs under Background/Family History dealing with previous proceedings about the sexual abuse of siblings. Care may be necessary when repeating the <i>detail</i> of that abuse; if it is essential to a later point in the current application, consider moving the necessary detail to the relevant section in the main body of the judgment, abridge therein (if necessary, cross referenced to the relevant court bundle/document(s)).</li> </ul> <p><b>Final document intended for the public arena</b></p> <ul style="list-style-type: none"> <li>• Annex explicit details of sexual abuse to an appendix to the judgment, this to be available in the case of any appeal.</li> <li>• The judgment - with abridged paragraph(s) minus the appendix, to be the version agreed and released for the public arena (Baillii).</li> </ul> <p><b>Ex Tempore judgments</b></p> <ul style="list-style-type: none"> <li>• This approach to abridgment of sexually explicit detail may also be adopted when</li> </ul>

	<p>in the judgment. They can contain details of the history of sexual abuse in a household which may be intergenerational, for example, details of a mother abused as a child, subsequently also abused 'in care' and later, by partners.</p>	<p>giving an <i>ex tempore</i> judgment. These would need to be structured to facilitate the process and it may take an initial degree of mental agility and discipline but guidance may help structure the decision in such a way that abridgment and anonymisation (see checklist 1) can be readily done.</p>
--	---	---

TWO EXAMPLES OF DESCRIPTIONS OF THE SEXUAL ABUSE OF CHILDREN/YOUNG PEOPLE IN JUDGMENTS ABRIDGED FOR THE PUBLIC DOMAIN		
FACT FINDING	SAMPLE JUDGMENTS - CURRENT TEXT	EXAMPLE OF SKELETON/ABRIDGED TEXT FOR THE PUBLIC ARENA
Example 1	<p><b>Para [30] sexual abuse: fact finding</b></p> <p>G was interviewed by police officers under the [ABE] procedures on [dates]. During these interviews she described regular and persistent sexual abuse by Mr C of the most serious kind, over several years, including:</p> <ul style="list-style-type: none"> <li>• Fondling her breasts with his hands and mouth</li> <li>• Inserting his fingers into her vagina</li> <li>• Inserting his penis into her vagina</li> <li>• Asking her to masturbate him</li> <li>• Covering her mouth with his hand to prevent her from shouting for help</li> <li>• Threatening her with violence if she told anyone</li> <li>• Offering her money if she co-operated</li> </ul>	<p>Para [30] sexual abuse: fact finding</p> <p><b>Abridged for publication</b></p> <p><b>G was interviewed by police officers under the Achieving Best Evidence procedures on two occasions in the summer and autumn of 2013. During these interviews she described in detail regular and persistent sexual abuse by Mr C of the most serious kind including rape, over several years, together with physical restraint, and, alternately, threats of violence on disclosure or promises of reward for compliance</b></p>
	<p><b>Para [47] sexual abuse: fact finding</b></p> <p>On 27 February, B was interviewed by the police under the ABE procedure...he described sexual abuse by Mr C over many years, including:</p> <ul style="list-style-type: none"> <li>• Performing oral sex on him and G</li> <li>• Masturbating himself and encouraging B and G to do the same</li> <li>• Touching G's breasts and vagina</li> <li>• Touching B's penis</li> <li>• Forcing B and G to perform oral sex on each other while he masturbated</li> <li>• Forcing B to lie on top of G and simulate sexual intercourse while pinning her down so she was unable to move</li> </ul>	<p>Para [47] sexual abuse: fact finding</p> <p><b>Abridged for publication</b></p> <p><b>In early 2014, B was interviewed by the police under the ABE procedure. In his interview he described in detail incidents of sexual abuse by Mr C over many years</b></p>

	<p><b>Para [80] Findings of Fact</b> In this case I am satisfied to a very high degree of probability of the following four findings of fact.</p> <p>[80] (1) Mr C sexually abused G and B for a period of years up to July 2013 in the case of G and February 2014 in the case of B. The abuse occurred in the home and at Mr C’s workplaces. It escalated from touching the children’s private parts, to making them touch his private parts, to fellating B and forcing B to fellate him, to attempted rape and rape of G and attempted buggery of B, and finally to making the children perform sex acts on each other. The children were forced to take part in these activities and were reduced to silence by Mr C’s threats about the consequences of speaking out.</p>	<p><b>Para [80] Findings of Fact</b></p> <p><b>Abridged version</b> In this case I am satisfied to a very high degree of probability of the following findings of fact.</p> <p>[80] (1) Mr C sexually abused G and B for a period of years up to <i>mid</i> 2013 in the case of G, and <i>early</i> 2014 in the case of B. It escalated to <i>the most serious abuse</i> including rape. The children were forced to take part in these activities and were reduced to silence by Mr C’s threats about the consequences of speaking out.</p>
<p><b>Example 2</b></p>	<p><b>Findings of fact sought: PORNOGRAPHY</b></p> <p><b>The children were exposed to pornographic materials in their own home and elsewhere</b></p> <p>10. The three boys, J, L and B (and their sister C) were exposed to a range of pornographic materials by PH, CB and other adults</p> <p>11. The mother was aware that PH had pornographic material including DVDs and that he downloaded them from the internet, sold them and possibly made films.</p> <p>12. PH kept pornographic DVDs and films in the home. He sold them to others from the home and he supplied copies to CB. In particular the local authority asserts that;</p> <ul style="list-style-type: none"> <li>a. All of the children were exposed to pornographic images and films in the home of PH</li> <li>b. PH regularly brought pornographic films to the family home and these were shown to some or all of the children. The mother was present in the home on at least one occasion when this occurred</li> <li>c. That B and L mimicked what they had seen on pornographic films and behaved in a sexualized way with each other and with C</li> <li>d. L was shown pornographic films by PH on DVD players in his car</li> <li>e. The mother was present on an occasion when PH showed images and films on</li> </ul>	<p><b>PORNOGRAPHY</b></p> <p><b>Paragraphs 10 – 12 (a) – (j) abridged:</b></p> <p><b>The children were exposed to pornographic materials in their own home and elsewhere</b></p> <p><b>The three boys, J, L and B (and their sister C) were exposed to a range of pornographic materials by PH, CB and other adults. The mother was aware that PH had pornographic material including DVDs and that he downloaded them from the internet, sold them and possibly made films. He kept pornographic DVDs and films in the home, sold them to others from the home and he supplied copies to CB. All the children were exposed to pornographic images and films by PH (at his home, in his car, on computer and television. The mother was, on occasion, present during viewings. [see bundle – document and paragraph references]</b></p>

	<p>his computer and on television to the children</p> <p>f. PH was selling pornographic DVDs and his clients attended the home when the children were present</p> <p>g. That CH was aware that PH kept pornographic materials in his home and told C about it</p> <p>h. J was shown pornographic DVDs by CB on a DVD player in his home at the kitchen table in the grandfather's home</p> <p>i. J was shown a film by PH of a woman engaging in sexual activity with a horse and C also saw the same film</p> <p>j. (sic) J was made to copy pornographic DVDs by PH and that he was made to watch them.</p>	
	<p><b>13. The children were exposed to pornographic materials at the home of CB the maternal grandfather.</b></p> <p>i. On one occasion all three boys and C watched a pornographic DVD at this home</p> <p>ii. J was shown pornographic films on a DVD player in the kitchen by CB</p> <p>iii. CB frequently bought DVDs and videos from PH, which the latter kept in his own home.</p>	<p><b>Exposure to pornography in the home of the maternal grandfather</b></p> <p><b>Para 13 (i) – (iii) abridged:</b></p> <p><b>The children were exposed to pornographic materials at the home of CB the maternal grandfather who frequently purchased such materials from PH.</b></p>
	<p><b>Sexualised behaviour by the Children</b></p> <p>14. As a result of the lack of sexual boundaries and supervision in the home the children were sexualized and on occasion the children engaged in sexual activity with each other. Much of this activity was instigated by PH or it followed on from sexual abuse of the children by PH.</p> <p>i. That B and C engaged in sexual activity with each other and that L was present. J witnessed this on one occasion</p> <p>ii. J and L engaged in sexual activity with C on an occasion in the family home</p> <p>iii. L repeatedly kissed C in a sexual way and the mother was aware that this happened and saw it on an occasion</p> <p>iv. PH sexually assaulted C and raped her when some of her siblings were in the home. On an occasion he used a knife to cut her clothes off. Tied her to the bed. The mother returned home during this event. C told her mother after the event and her mother did not believe her or take any steps in response.</p>	<p><b>Sexualised behaviour by the Children</b></p> <p><b>Para 14 (i) – (xvi) abridged:</b></p> <p><b>As a result of the lack of sexual boundaries and supervision in the home, the children were sexualized and on occasion engaged in sexually explicit activities with each other. Much of this activity was instigated by PH or followed on from sexual abuse of the children by PH. PH sexually assaulted C and raped her when some of her siblings were in the home. The mother returned home during this event. C told her mother after the event and her mother did not believe her or take steps in response.</b></p>



	<p>v. That J and B behaved in a sexualized way towards C when PH was present on at least one occasion.</p> <p>vi. PH touched C in a sexual way when she was not wearing any clothes and CH was aware that this had happened</p> <p>vii. PH tied C and another child J to a bed naked on at least one occasion. All three boys, L, B and J were in the home and were aware of this happening</p> <p>viii. On another occasion all three boys B, L and J were in a bedroom with C and they removed her clothes so that she was naked. CH came into the bedroom after this had happened</p> <p>ix. That on about 3 or 4 occasions J 'had sex' with L (his sibling). This sexual activity occurred while they were watching a pornographic film</p> <p>x. That B may have walked into a room on an occasion when L and J were engaged in sexual activity with each other</p> <p>xi. That C walked into a room on an occasion when L and J were engaged in sexual activity with each other</p> <p>xii. That L was present on an occasion when J engaged in sexual activity with C.</p> <p>xiii. J was encouraged to behave in a sexual way towards his siblings by PH</p> <p>xiv. J walked into a room when L and B and C were engaged in sexual activity with each other</p> <p>xv. PH touched LH and sexually assaulted her on an occasion when L was present</p> <p>xvi. PH tied C to a bed and played a game called 'Nervous' which involved him touching her all over naked body.</p>	
	<p><b>The children's mother CH failed to protect the children from pornography, sexual abuse and failed to impose boundaries on the children.</b></p> <p>15. CH failed to protect her children from exposure to pornography or from sexual abuse by PH and that she was aware that L and B were sexualized and behaved in a sexually inappropriate way but failed to take any steps to protect the children. In particular</p> <p>i. C told her mother that PH had raped her and the mother did not believe her.</p> <p>ii. That the mother was aware that there was sexual activity between the children because C told her about this and she witnessed sexual activity between C and J</p>	<p><b>The children's mother CH failed to protect the children from pornography, sexual abuse and failed to impose boundaries on the children.</b></p> <p><b>Para 15 (i) – (v) abridged:</b></p> <p><b>The Children's mother CH failed to protect the children from exposure to pornographic materials within and outside the home and from sexual abuse by PH; she failed to impose boundaries on the children and to take appropriate action when C reported to her that she had been raped by PH.</b></p>

	<p>iii. That the mother was aware that J, L and B had behaved in a sexualized way toward each other and toward C.</p> <p>iv. C stated to Dr B that her mother would split J and L up to 'stop them from doing it with each other or with C'.</p> <p>v. CH was aware that PH copied and sold pornographic videos and DVDs.</p>	
	<p><b>CH sexually abused J and was present when he was sexually abused by others. She failed to impose boundaries and exposed him to adult sexual activities from a young age.</b></p> <p>20. CH has exposed J to inappropriate sexual behaviour and he has seen her having sex with [several] men including oral sex. Occasions CH had sex in the living room or with her bedroom door open.</p> <p>21. CH forced J to participate in sexual activity with several adult males. In particular that;</p> <ul style="list-style-type: none"> <li>i. She showed him how to engage in certain sexual acts including masturbating a man and performing oral sex</li> <li>ii. That she was present on an occasion when he was forced to anal sex with an unknown male acquaintance of hers</li> <li>iii. On more than one occasion CH had sex with J</li> <li>iv. That when he was about 8 or 9 years old his mother required him to participate in sexual activity with a male friend of hers about once a week</li> <li>v. On at least one occasion friends of the mother engaged in sexual abuse of J when his mother was present.</li> </ul>	<p><b>CH sexually abused J and was present when he was sexually abused by others. She failed to impose boundaries and exposed him to adult sexual activities from a young age.</b></p> <p><b>Paragraphs 20 – 21 (i) – (v) abridged</b></p> <p><b>CH sexually abused J on more than one occasion; she was also present when he was sexually abused by others exposing him to sexually inappropriate behaviour. She failed to protect J or impose boundaries and exposed him to adult sexual activities from a young age.</b></p>

<p><b>FINAL CHECK</b></p>	<p><b>(1) Judgments intended for the public arena</b></p> <p><b>(2) Does judgment meet the purposes of a judgment?</b></p> <p><b>(3) Explaining the judgment to parents/others in court</b></p> <p><b>(4) Explaining the terms of a published judgment to the public</b></p> <p><b>(5) Explaining to lay parties the terms which apply to</b></p>	<p>(a) Are graphic descriptions of sexual abuse abridged?</p> <p>(b) Cross check with <b>checklist 1</b>: do any geographical/personal identifiers for a child remain (Appendix 1, point 6)?</p> <p>(c) Is it written in <b>plain English</b> (explaining/removing legal terms, and without slippage into Latin legal terms)?</p> <p>(d) Is it now <b>suitable for publication</b>? Not all judgments can be drafted to meet the criteria (see para (5) below – terms of a judgment).</p> <p>(a) Does it meet the <b>fundamental purpose</b> of enabling those who have not been granted what they sought to understand how and why the court has decided as it has?</p> <p>(b) Does it meet subsidiary purposes providing a record of the decision and reason for future use by establishing the factual background against which future decisions by parents, professional and/or judges may be taken, and for use by:</p> <ul style="list-style-type: none"> <li>➤ <b>Professionals</b> (including judges) involved in making further assessments/decisions about a family;</li> <li>➤ <b>Parents and family members</b> identifying baseline deficits in parenting that require addressing through therapy or other intervention;</li> <li>➤ <b>The child</b> (in due course) in understanding why events in her early life occurred as they did, and where relevant, how the judge dealt with her wishes and feelings;</li> <li>➤ <b>Appellate courts</b> in auditing the judicial exercise;</li> <li>➤ <b>Lay readers</b> (the public and legal/journalistic commentators) to understand the case and how and why the decision was made?</li> </ul> <p>(a) If it is considered suitable for publication, it will be necessary to tell parents and others that the judgment is intended for publication on a public website (Bailii), that it has been anonymised according to guidance to protect the child(ren)/young person from identification, and that graphic descriptions of the sexual abuse of the child(ren)/young person has been abridged to safeguard their welfare in the light of potential for the misuse of that detail.</p> <p>(b) Parties should be given the opportunity to make representations as to both the fact of publication in general, and also as to particular features. Where judgment is reserved and subsequently handed down at a later date, it is already good practice for the judge to send a draft in advance to the representatives (not to be disclosed to lay parties) giving them an opportunity to make representations as to errors or omissions. Additionally, where publication is proposed, there should be an opportunity at the end of a judgment for parties to make representations as to errors or omissions, and as to publication.</p> <p><b>Suggested general heading</b></p> <p>“(i) This judgment has been redacted and some details abridged for publication. Any application for further publication may be made orally or in writing, with notice to the parties.”</p> <p>“(ii) This version of the judgment may be published only on condition that the anonymity of the children and their family is preserved and that there is omitted any detail or information that may lead to their identification, whether on its own or in conjunction with other material in the judgment. This includes, but not exclusively, information of location, details of family members, organisations such as school or hospital, and unusual</p>
---------------------------	---	---

	<p><b>a judgment ‘handed down in private’</b></p> <p><b>(6) In summary: a transparent process</b></p>	<p>factual detail. All persons, including representatives of the media, must ensure that this condition is complied with. Failure to comply will be a contempt of court.”</p> <p><b>Suggested standard heading</b></p> <p>“This judgment is private to the parties and their lawyers. They may not show or otherwise communicate this judgment or its contents to any other person. Any party or their lawyers wishing to show or inform any other person about the judgment or any other person wishing to see the judgment must first of all come back to court and ask the permission of [insert name of judge]. The judge does not give leave for the judgment to be reported. It is contempt of court for any person to publish the contents of this judgment without first obtaining a direction.”</p> <p>(a) At the conclusion of the hearing or, if applicable, when judgment is handed down, the judge should raise with the parties the issue of publication.</p> <p>(b) Where there is to be, or may be publication, the judge should, additionally, give the parties the opportunity to make representations on the final version, if not otherwise arranged, before finally sanctioning publication.</p> <p>(c) In the event that the judge has included or intends to include specific criticism of the handling of the case by the local authority, a party, or an expert, that person should be given notice so that any representation can be considered before including such criticism in the judgment or before publication as appropriate.</p> <p>(d) Where a judgment will include criticism of the local authority and be published, consider a direction that a copy of the judgment is sent to the named Director of Children’s Social Care, and to Ofsted. If criticism relates to a breach of law consider directing that the judgment also be sent to the Monitoring Officer with a view to it being released to elected members.</p>
--	---	---