

No 18 Chambers Quarterly Children Update - 28th April 2026

1. President's Guidance on Allocation and Gatekeeping in respect of Proceedings relating to Children in the Family Court

Issued in accordance with rule 21 of the Family Court (Composition and Distribution of Business) Rules 2014 - see separate guidance.

2. Lord Justice Cobb appointed President of the Family Division.

On 23rd April 2026, The Rt Hon Lord Justice Cobb was announced as President of the Family Division, Head of Family Justice, President of the Court of Protection and Head of Probate. The appointment follows the retirement of Sir Andrew McFarlane

3. Pringle v Nervo [2026] EWCA Civ 266 - Reported: 13th March 2026

Successful appeal by the father against a costs order made in private children proceedings that he should pay 75% (£385,587) towards the mother's costs. T

Background and Procedural History

The mother and father were in a relationship from late 2016 to early 2019. Whilst pregnant with C, the mother, who lived variously in London and Monaco, discovered that the father was in a long-term relationship with another woman in his home country of New Zealand, a woman with whom he had one daughter and who was expecting a second child. The relationship between the mother and father came to an end and C was born three months later in 2019.

The father continues to live in New Zealand and comes from an extremely wealthy family. The mother is herself wealthy being a successful DJ, part of the duo 'Nervo' with her twin sister Miriam. The Nervo music Instagram has over a million followers. The mother posts extensively on social media. A key underlying tension in the proceedings has related to the mother's desire to tell her fans what has happened to her, as against the father's desire to maintain privacy for himself, C and his New Zealand family. This conflict has sat uneasily with the agreement between the parties that the father should have a relationship with his daughter and with the mother's insistence, from the earliest days and throughout the proceedings, that the father should facilitate C having a relationship with her half-sisters and her paternal family including the father's partner and C's grandmother. It has been a source of considerable discord that the paternal family, notwithstanding direct approaches from the mother, has been unwilling to facilitate any contact with them or any of them, until the proceedings were concluded and they could be reassured that the family would be wholly protected from further exposure on the mother's social media platform.

For a period of approaching three years, the parties were in correspondence through lawyers as attempts were made to reach agreement about financial issues and as to how best the father could be introduced to C. Interwoven were the significant concerns

of the father in relation to issues of privacy, regarded by the mother as attempts to silence her and to prevent her from 'telling her story'.

The parties attempted initially to settle matters in relation to both contact and finances by way of NCDR, but when attempts broke down the father issued proceedings for a CAO and PR Order on 22 September 2022.

On 17 October 2022 the mother had filed a C1A form: Allegations of Harm and Domestic Violence. The behaviour described focused on the father's deception of the mother in relation to his family in New Zealand and what she perceived to be his desire to keep C from her half-sisters and wider paternal family. On 18 January 2023 the First Hearing Dispute Resolution Appointment ('FHDRA') was vacated by agreement on the basis that an independent social worker, chosen by the mother, would be appointed for the purposes of advising the parties about how best to introduce C to the applicant and thereafter to assist with the introduction and progression of the contact between the applicant and the child and, if agreed by them, her wider paternal family.

In September 2023, the mother changed her approach and sought "admissions from F or direction for a fact-finding hearing to prove her allegations" including reproductive coercion, controlling behaviour and financial abuse. HHJ Roberts, determining the matter, commented that the father's behaviour was "reprehensible" [14] and came within the meaning of domestic abuse but held that a fact find was not necessary in circumstances where the principle of contact was agreed and progressing. The father was directed instead to file a document of admissions, within which the father admitted dishonesty and accepted that his behaviour had caused "emotional harm" [18].

Following this, the father did not take up any contact with C from April 2024 and, on 14 August 2024, following a further DRA listing the welfare hearing, wrote to the mother's solicitors informing them of his decision to withdraw his applications. On that basis, HHJ Roberts reduced the time estimate for the welfare hearing to one day and listed the matter before the judge for hearing.

In preparation for the shortened welfare hearing due to take place on 16 September 2024, each of the parties filed a witness statement. The mother's witness statement and exhibits ran to over 70 pages. On the one hand she asked the court to refuse the father's application to withdraw his application for a Child Arrangements Order and asked the court rather to make an order for him to have contact on a once monthly basis. On the other hand, in relation to her opposition to the father having parental responsibility, she said, *'I wouldn't put it past Matthew to orchestrate a fatal accident to eliminate her from the world he knows this would deeply hurt me and allow him to evade any genuine commitment to her'*.

In his witness statement in response, the father unsurprisingly said that he felt unable to know how to respond to what was on any view, a wild and unsubstantiated allegation, but, he said, it confirmed his belief that the proceedings were no longer in

C's best interest. The father referred to his ongoing depression and anxiety and the provision of his doctor's letter and expressed the view that he was no longer able to cope or engage in the proceedings in any meaningful way.

The father instead proposed that no order should be made, but that he would travel to Europe for face-to-face contact four times a year and have additional video contact in between. He said that the mother's proposal of monthly contact was not feasible given the distances and his other commitments.

The father did not attend the hearing on 16 September 2024 or the adjourned hearing on 25 February 2025, despite permission to attend remotely, citing medical grounds.

Decision at First Instance

With continued direct contact agreed, the matters to be determined were narrowed. By the adjourned hearing the father agreed to the making of a declaration of parentage, and to pay the costs associated with the same, and to the making of a s91(14) order. The father's application for a transparency order was granted and the father's application for a PR Order was withdrawn by consent. The court gave permission for the father's application for a CAO to be withdrawn; the mother sought to have the matter listed over three days to provide a "narrative history of the parties relationship", submitting that without findings and a judgment, C's private family life could not be promoted [24]. The mother's renewed application for a fact-finding hearing was refused.

The court then fell to determine the matter of costs.

Deputy High Court Judge Nicholas Allen KC handed down two judgments on 08 May 2025, one of which was on costs. In it, the judge referred to an agreed note of the law on costs and reminded himself that his discretion under CPR 44.2(4) & (5) was only to be exercised if the conduct of the parties had been 'reprehensible or unreasonable' [37].

The judge determined that the father's conduct had been unreasonable by reference to four matters [39]:

- i. Part of the father's motivation for issuing proceedings was to protect his privacy and safeguard his reputation through restrictions on publicity;
- ii. The lateness of the father's application to withdraw and his lack of a good reason for doing so;
- iii. The father's failure to attend on 16 September 2024 and 25 February 2025;
- iv. That between 16 September 2024 and 25 February 2025, the father changed his position with respect to the mother's application for an order under s91(14) CA 1989

and sought to adduce additional evidence on 07 February 2025, four months after the mother had filed her witness statement.

The judge determined, by reference to CPR 44.4(3)(a) and the ‘conduct of the parties’, that the father should pay 75% of the mother’s costs amounting to £385,587, the proportion of costs having been depressed by reference to a list of mitigating factors, not least of which was that the father had succeeded in his case.

Grounds of Appeal

The father appealed the decision, and the grounds can be summarised as follows [45]:

Ground 1: the judge was wrong to exercise his discretion so as to make what is an unusual order for costs in private children proceedings. The judge failed to have regard to the litigation as a whole, in particular the success of the father’s position at all stages.

Ground 2: the judge was wrong to give weight to selected and untested correspondence when reaching his decision regarding motivators.

Ground 3: the judge gave insufficient weight to the mother’s litigation conduct whilst attaching too much weight to the father’s litigation conduct.

Ground 4: the case does not fall into the category of exceptional and the father’s conduct was not unreasonable and reprehensible. Even if his conduct could be classed as so, the costs order was punitive and arbitrary.

Decision of the Court of Appeal

Lady Justice King considered that the judge had given too broad an interpretation, in line with the authorities, to what amounted to unreasonable behaviour.

The court commented that low level procedural conduct is in reality “part and parcel of such emotive proceedings” and that had the judge focused on the approach summarised by Peter Jackson in *Re E (children: costs)* [2025] EWCA Civ 183 he would have concluded that the father’s conduct could not properly be regarded as reprehensible or unreasonable. Factoring in the mother’s own behaviour, there should have been no derogation from the general rule that there should be no order for costs in children cases [64].

Whilst the father’s behaviour was “shameful and deceitful” [66], classified as “reprehensible” by the lower courts and did by admission amount to emotional abuse of the mother, it was not behaviour that did properly warrant the making of a costs order. An order for costs relates only to the conduct of the parties in relation to the pre-proceedings and proceedings.

The Court of Appeal concluded that the appeal must be allowed, the judge having fallen into error in that he [67]:

- i. Failed to take into account the conduct of both parties;
- ii. Wrongly concluded that the four features relied upon were capable of justifying a finding of unreasonable conduct such to make a costs order contrary to the general principle that there be no order for costs;
- iii. Failed properly to address CPR 44.4(3) in that he regarded matters which should have been taken into account in deciding whether an order should be made at all, as features going only to mitigation under CPR 44.2(4) & (5).

Accordingly, an order that there be no order for costs was substituted, save as in relation to the mother's costs of preparation of the declaration of parentage application.

Conclusion

The judgment of Lady Justice King is a strong reaffirmation of the principles of the seminal judgments of the Supreme Court on the approach to costs in children proceedings, per Lord Phillips at [44] in *Re T (children) (care proceedings: costs)* [2012] UKSC 36, [2012] 4 All ER 1137 and Lady Hale at [29] *Re S (A Child) (Father's Costs of Appeal)* [2015] UKSC 10, [2015] 2 All ER 778. For costs to follow conduct, such conduct must properly be considered by the court to be "reprehensible or unreasonable".

Pringle v Nervo [2026] EWCA Civ 266 reaffirms the high threshold for conduct to be relevant to the matter of costs in children proceedings and comments that it will only be in "those rare cases" [65] where an order as to costs is appropriate.

For the full judgment please click [here](#).

J (Loss of Parental Responsibility), Re Neutral Citation Number [2026] EWCA Civ 344

The Court of Appeal led by the President of the Family Division, Sir Andrew McFarlane, affirmed the common law definition of father for the purposes of the Children Act 1989, and found that a non-genetic father does not acquire parental responsibility by virtue of being named in the child's birth registration - Reported: 20th March 2026

The first two cases concern individuals who had been mistakenly/falsefully registered as a child's father. Additional complexity arose in the third case, owing to there being a 50:50 chance that the child's father was one of two identical twins.

Legal Framework

The Common Law Position

The common law attributes legal status of father to the individual whose sperm was responsible for the conception of the child.

Where the mother is married, there is a rebuttable presumption that her husband is the child's father. If another individual is proved to be the genetic father, he is then regarded as the legal father.

Statutory Extensions to the Principle at Common Law

The Human Fertilisation and Embryology Act 2008 (HFEA 2008), s35(1) provides that where a child is created through fertility treatment using sperm other than that of her husband or civil partner, her husband or civil partner is to be treated as the legal father unless he has refused consent to the treatment.

The Adoptions and Children Act 2002, s67(1) provides that an adopted person "*is to be treated in law as if born as the child of the adopters*".

Children Act 1989 (CA 1989)

Definition of 'father'

All parties ultimately accepted that 'father' has its common law meaning for the purposes of the CA 1989 [4].

Parental Responsibility

The CA 1989 introduced the concept of parental responsibility.

S3(1) defines 'parental responsibility' as "*all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property*".

S2 attributes parental responsibility to the mother, father or those who are treated as such under the HFEA 2008.

S4(1) provides that where a child's father is not married or in a civil partnership with the child's mother at the time of birth, he can acquire responsibility if:

- he is registered as the child's father;
- he makes a "*parental responsibility agreement*" with the child's mother providing for him to have parental responsibility for the child; or

- the court orders that he shall have parental responsibility following his application.

S4(2A) provides that once acquired, parental responsibility can only be removed by order of the court.

S12(2) and (2A) provides that if, as a result of a child's arrangement order, a child is to live with a person who is not their parent or guardian, that person will have parental responsibility for the duration of the order. If the order is for contact which falls short of a living arrangement, granting parental responsibility falls to the court's discretion.

The Family Law Act 1986 (FLA 1986), s55A sets out the conditions under which applications for declarations of parentage can be made and heard.

Re G (Children) [2006] UKHL 43

Legal parenthood was distinguished from Lady Hale's description of the three categories of "*natural*" parenthood (namely: genetic, gestational and social/psychological) in Re G (Children) [2006] UKHL 43. The types of parenthood outlined in that case are relevant in the context of decisions about a child's welfare, but do not alter the common law meaning of 'father' [18-19].

Factual Background

Case 1: Re J [30-35]

An unmarried couple, MJ and AJ, were named as parents in the birth registration of the child, J. Two years later, and following the end of the relationship, AJ discovered that he was not J's biological father. AJ wished to continue his parental relationship with J and thus issued an application for a parental responsibility order in November 2023. The case was delayed, and in November 2024, MJ issued an application for a declaration of non-paternity under FLA 1986, s55A, which AJ conceded.

AJ's case rested on the premise that having been registered as the child's father, he acquired parental responsibility under the CA 1989 s4(1)(a). This parental responsibility persisted despite the discovery that he was not J's father and could only be removed by an order of the court under the CA 1989 s4(2A).

MJ submitted that as AJ was not J's father, he had never truly acquired parental responsibility under s4(1)(a).

The first instance judge concluded that as AJ had never been eligible to be registered as J's father, he had not acquired parental responsibility, and therefore no order was required to remove it.

Case 2: Re M [36-38]

MM and AM purchased sperm online from an anonymous donor, leading to the conception of the child, M. When M was born in 2019, AM was named as M's father in the birth registration. In 2021 MM and AM married.

During subsequent care proceedings, the Local Authority sought a declaration from the court that AM was not M's father and an order terminating AM's parental responsibility due to the risk he was alleged to pose to children.

The first instance judge held that for the purposes of the CA 1989, 'father' should be given its ordinary and natural meaning and hence limited to a child's "*natural or legal father*" [38]. She granted the declaration of non-paternity and held that AM's parental responsibility would automatically be lost with it. In the alternative, if it transpired that an order under s4(2A) was necessary to remove parental responsibility, she would have applied the welfare principal and made the order.

Case 3: Re P [39- 46]

In the third case, MP had intercourse with two identical twin brothers, TP1 and TP2, in a short span of time such that it was not possible to determine the father of the child, P. TP1 had been named as P's father in the birth registry, but MP subsequently formed a closer relationship with TP2. Consequently, MP and TP2 sought a declaration that TP2 was P's father and that the parental responsibility arising from TP1's registration as 'father' should be terminated and afforded to TP2.

The children's guardian sought a declaration that neither TP1 or TP2 could be established as P's father. The guardian also sought for TP1's parental responsibility to be terminated and a child's arrangement order granting parental responsibility to TP2.

All applications concerning paternity under FLA 1986 s55A were refused by the first instance judge on the grounds that the court could not establish paternity. The judge also declined to terminate TP2's parental responsibility under CA 4(2A). This meant that P's birth certificate would remain unchanged. The judge refused to make any orders under CA s12(2) or (2A) attributing parental responsibility to either of the possible fathers.

Appeal - The Decision

P v Q and F [2024] EWCA Civ 878 [49-50]

The President cited remarks made by Peter Jackson LJ regarding the legal significance of birth certificates in P v Q and F [2024] EWCA Civ 878 at length. In short: "*Registration is [...] practical evidence of legal parentage, but the legal status of parentage does not spring from registration*" ["19"]/[49].

From this, the President concluded: “*the registration of the three individual ‘fathers’ on the respective children’s birth registers does not establish parentage and does not, itself, endow those named with the status of fatherhood*” [50].

Core Conclusions [79-80]

The President found Secretary of State’s submissions to be “*entirely correct*” [79], and thus the core conclusions of the case were as follows:

“i) The definition of ‘father’ for the purposes of CA 1989 is the common law definition and is limited to a child’s biological/genetic father. The definition does not, and cannot, extend to others who have acted as the child’s psychological/social father.

ii) Where an individual is registered as a child’s ‘father’ in their birth register entry, the parental responsibility attributed by such registration does not attach to that individual if they are not, in fact, the biological/genetic father of the child. In order for parental responsibility to be acquired by registration on a birth certificate under CA 1989, s 4, two conditions must each be fulfilled:

a) The person must be the genetic/biological father of the child; and

b) That person must be registered as ‘father’ in the child’s birth register entry;

iii + iv) Although the parties may believe otherwise, no parental responsibility is acquired at any stage by an individual who is wrongly registered as ‘father’ in a birth register entry. In consequence the question of whether parental responsibility in such circumstances is automatically terminated on the making of a declaration of non-parentage under FLA 1986, s 55A, or requires a bespoke order, simply does not arise” [80].

Re J and M: Decision (Case 1 and 2)

On the basis of these core conclusions, the President denied the appeals in the cases of J[81] and M[82].

Re P: Conclusions and Decision

The President concluded that as neither TP1 nor TP2 could be proved to be P’s genetic father, they both fail to meet the common law definition of ‘father’.

While TP1 was not entitled to be registered as P’s father, if he is the genetic father, the act of registration will have afforded him parental responsibility under s4(1) of the CA 1989.

P should be introduced to the truth that it is equally likely that TP1 or TP2 is her father over time.

Given that it is not possible to prove or disprove the paternity of either TP1 or TP2, no declaration should be made regarding P's paternity. More specifically, as a declaration of non-paternity under the FLA 1986 s58(1) would require proof that TP1 is not P's father, he will remain as 'father' in the birth register entry.

Despite this, the court retains the power to remove any parental responsibility that may have been acquired (if TP1 is P's father) by making an order under s4(2A).

To achieve clarity in this case, the lower court ought to have terminated TP1's parental responsibility under CA 1989, s4(2A). Two reasons were given for this: firstly, as TP1 could not be *proved* to be the father, he should not have been registered as such and was not eligible for acquisition of parental responsibility under s4(1); secondly, it was "*plainly not in P's welfare interests for this ambiguity as to parental responsibility to continue*"[96].

Consequently, the appeal in the case of P also failed, save for the carrying out of the aforementioned order under s4(2A). Issues regarding welfare were then to be dealt with through additional written submissions or another oral hearing

For the full judgement, please click [here](#).