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*Judgment: approved by the court for handing down (subject to editorial corrections)**	*Delivered:* **28/01/2026**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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FAMILY DIVISION
OFFICE OF CARE AND PROTECTION

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Between:

A HEALTH AND SOCIAL CARE TRUST

Applicant

and

LP

AND

RS

Respondents

[Leave to withdraw care proceedings]

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Timothy Ritchie (instructed by the Directorate of Legal Services) for the Applicant Trust
Andrew Magee KC & Caroline Gilmore (instructed by Scullion & Green) for the first Respondent Mother
Martina Connolly KC & Siobhán O'Connor (instructed by Murlands Solicitors) for the second Respondent Father
Gráinne Murphy KC & Niamh McCartney (instructed by Denis D Humphrey) for the Children's Court Guardian

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HUMPHREYS J

This judgment has been anonymised as it involves children. The ciphers given to the parents and the child are not their initials. Nothing must be published which would identify the children or their parents.

Introduction

[1] This is an application by the applicant Trust for leave to withdraw proceedings which were commenced on 7 April 2025 and which sought a supervision order in

respect of two children pursuant to Article 50 of the Children (Northern Ireland) Order 1995 ('the Children Order').

[2] The applicant now says that, on the evidence, it is unable to establish the threshold for the making of a public law order.

[3] The respondents, and the Children's Court Guardian, agree that leave should be granted. However, this case raises some significant and concerning issues and accordingly I determined that it was appropriate to deliver a written judgment in respect of the Trust's application.

The Trust investigations

[3] The proceedings are in respect of two boys (BP and CP) who were born prematurely. The mother, LP, took them for a scheduled neo-natal review at the Ulster Hospital on 3 March 2025 which was conducted by Dr Harris.

[4] During this review, it was observed that each of the boys had some marks on their bodies. These are recorded as follows:

BP "Long linear bruise on left arm from shoulder to lower forearm. Presents as two parallel linear marks about 1.5cm. Suggestive of a mark from a strap."

CP "Faint purplish mark right chest and right forearm, not confirmed bruise."

[5] These findings resulted in the joint protocol between social services and police in relation to possible non-accidental injury being instigated. As a result, both boys were admitted to hospital for further investigation which was conducted on 4 March by Dr Anandarajan and a Forensic Medical Officer ('FMO') Dr Buckley. A small purple mark, measuring 6mm x 1mm, was noted under BP's chin which both LP and RS reported having noticed the night before the hospital review. The marks to the left arm are noted to be two extensive curvy linear bruises, parallel and of irregular contour, measuring 3.5cm and 7.5 cm. Neither parent had observed any marks to the left arm until Dr Harris carried out the review. Specifically, LP said that those marks were not present when she dressed BP on the morning of 3 March.

[6] During both these initial examinations, the parents stated that the children had been in their car seats for a period of about two hours whilst travelling to the hospital for their review. The doctors asked that photographs be taken by the police of the car seats but recorded:

"This would not have resulted in such bruising."

This was despite the fact Dr Harris had specifically said that the marks were suggestive of a strap.

[7] In respect of BP, their findings were:

> "clinical findings consistent with physical abuse and/or an allegation. Whilst another cause either explained or unexplained remains a possible cause of clinical findings, they are more likely than not due to physical abuse or an allegation."

[8] As far as CP is concerned, it was recorded that there were:

> "clinical findings consistent with physical abuse but also consistent with an accidental cause."

[9] Further tests and investigations involving skeletal surveys, CT scans and ophthalmology observations were undertaken which were all returned as normal. The children were found to be anaemic.

[10] On 7 March 2025, the Trust convened a risk strategy meeting. This was attended by four social workers, one health visitor, two nurses, two consultants, the FMO and one investigating officer from the child abuse unit. At this meeting, it is recorded that neither parent had offered an explanation for the injuries and, following discussion, it was determined that:

> "the injury to both children was non-accidental therefore neither child can be returned home to their parents."

[11] Those present at the meeting made adverse comments about the responses of RS at the hospital and the threat was made to have him arrested if he was disorderly on Trust property.

[12] The children were discharged into the care of an aunt on 10 March 2025. They resided there for almost a month on a voluntary basis. Each parent was allowed three contact visits a week for a duration of 1½ hours on a fully supervised basis. The mother was only permitted to move in with the children and their aunt on 1 April 2025 whilst the aunt continued to supervise the mother with the children; the father was not.

[13] A Looked After Children ('LAC') review took place on 21 March 2025 at which the health visitor noted that a mark had been observed on CP after he had been resting on muslin cloth.

[14] On 28 March 2025 the PSNI decided that no further action would be taken.

[15] By 2 April 2025, having reviewed all the evidence, the FMO Dr Buckley had changed her view and concluded:

> "Clinical findings are consistent with physical abuse (inconsistent with a medical diagnosis or accidental cause considered or explanation given) i.e. inflicted."

[16] This represented an upgrade from the position adopted by Dr Buckey on 4 March 2025, having by this stage excluded the possibility that there was another explanation for the marks and was able to definitively conclude that the injuries were inflicted on the child. As a result of this report, the police investigation was reopened.

[17] The Trust issued proceedings on the 7 April 2025. These legal proceedings were initiated on 4 April 2025, only after the parents withdrew their consent to the voluntary accommodation and forced the Trust's hand. By this route they became entitled to full representation and the engagement of experts to seek to challenge the Trust's case.

[18] A case conference was convened by the Trust on 8 April 2025 at which a return to parental care was agreed subject to 24 hour supervision by approved members of the family network. These included the paternal grandmother who moved from Great Britain in order to provide this level of supervision. This represented a very substantial intrusion into private and family lives of all concerned.

[19] On the 17 April 2025, the father was interviewed by the police. He referred to the fact that both parents had observed the mark on BP's chin over the weekend but thought nothing of it, given that it was very small and BP did not appear to be in any pain or distress. RS also discussed how the boys had very mottled and sensitive skin, and how they were susceptible to marking, a fact that had been observed by nurses and health visitors. He made the case that the marks which had been observed for the first time on 3 March could have been caused by the strap of the car seat.

[20] The mother was interviewed on the same date. She described observing the mark on the chin but nothing on BP's arm prior to the arrival at hospital. She outlined the the relatively lengthy journey to hospital on 3 March during which time BP was in his car seat. Her only explanation for the marks to the arm was the strap on the car seat. When challenged about the medical view that this could not have caused the marking, she said that other children do not have the same sensitivity and anaemia as these boys, and she referred to the mark caused to CP when lying on muslin. There are examples throughout the medical records of the sensitivity of the children's skin, and this is also evident from the photographs.

[21] By the end of May 2025, the Public Prosecution Service had directed no prosecution. This did not prompt any fresh analysis by the Trust.

The legal proceedings

[22] The legal proceedings came to the court and were the subject of case management directions in relation to disclosure. The Trust documents were obtained by 28 May and the PSNI materials by 4 June. On 26 June the court gave detailed directions in relation to expert evidence, including a report to be obtained by a Consultant Paediatrician on behalf of the parents and the Children's Court Guardian.

[23] There then followed herculean efforts by the solicitor for the Guardian to obtain this report, which was clearly essential for the proper consideration of the issues in this case. Some 38 paediatricians were approached and were unable, for a variety of reasons, to accept instructions. The provision of expert medical reports is a major source of delay in the family courts. There are multiple reasons for this including problems in agreeing letters of instruction, inadequate provision of disclosure, the lack of suitable and willing experts, the pressures which exist within the health service more generally, issues with legal aid and the requirement for multiple different disciplines to report. Such delays contribute significantly to uncertainty around the future of children, the distress occasioned by this type of legal proceedings and to the ability of the courts to make effective and timely decisions.

[24] Whilst expert evidence was awaited, the parents agreed to undergo formal assessments through the Family Assessment and Intervention Service ('FAIS'). This involved multiple individual and joint engagement sessions, all of which indicated that LP and RS were excellent and devoted parents. By 7 November 2025 the Trust had decreased all supervision so the boys were in the sole care of their parents from that date, just over eight months from the initial intervention.

[25] Eventually, the Guardian was able to identify and instruct Dr Mahesh Yadav, Consultant Paediatrician and Neonatologist. His first report was received on 28 October 2025. He concluded that if the car seat was not the cause of the marks to BP's chin and left arm then these were non-accidental injuries. He made further inquiries about the car seat in question.

[26] This led to a report being commissioned, with the leave of the court, from a consulting engineer, Damian Coll. It was received on 7 December 2025. Mr Coll carried out certain measurements and observed that one strap could be twisted through 360 degrees but still function. The photographs which were taken by the PSNI in early March 2025 show the car seat in question with its straps twisted.

[27] Dr Yadav then prepared a supplemental report dated 16 December 2025. He concluded that the mark on BP's left arm could have been caused if the left strap was rotated and it contacted the child's arm whilst he was being transported as had been reported by the mother. He also opined that the mark to the chin could have been caused by the protection tube of the strap. He stated:

> "In my opinion, on balance of probability, keeping in view the prematurity, history, investigations and findings of examination of the car seat, the injuries noted on [BP's]

> arms and the chin/neck areas on 03/03/2025 could have been caused by the harness in the car seat."

The Trust's response

[28] The Trust prepared a final report dated 19 December 2025. It noted that no other concerns had ever been raised in relation to the parenting of the children and, in light of the expert evidence, the Trust would not be able to establish threshold and legal proceedings were no longer justified.

[29] The report concludes:

> "The Trust acknowledges that the last nine months have been extremely difficult for the family and are committed to ensuring that the process followed by Social Services, medical professionals/FMO and the Police in suspected NAI cases is fit for purpose. Regardless of the opinions of clinicians, the more recent expert reports bring into question why further bloods were not ordered by the initial clinicians if indicated as best practice in cases such as these. In addition, why thorough investigations were not conducted into the possible explanations for the marks provided (such as the car seat) at the earliest possible stage. In light of these concerns and the recent expert reports, the Trust intend to hold an internal meeting to discuss next steps including consideration of threshold and proportionality of on-going Trust involvement."

[30] Senior social workers held a meeting on 31 December 2025. They noted how the early explanation offered by the parents had been rejected by clinicians without any examination having taken place of the car seat. It was also observed that there was clear evidence of the sensitivity of the boys' skin. The fact that the mother took the boys to a routine review appointment, which could easily have been rescheduled, when they had sustained non-accidental injuries was also an issue which appeared to have fallen outside the consideration at the relevant time. In all the circumstances, it was decided that consideration should be given to a high-level case management review.

[31] The Trust then issued its application to the court on 2 January 2025 seeking leave to withdraw the proceedings.

The legal principles

[32] Rule 4.6(1) of the Family Proceedings Rules (NI) 1996 ("the 1996 Rules") provides that:

> "An application may be withdrawn only with leave of the court."

[33] The grant of leave involves the exercise of judicial discretion, to be applied only where the court "thinks fit" (rule 4.6(4)(iii) of the 1996 Rules), even where all parties to proceedings consent.

[34] In *Re DP, RS & BS* [2005] EWHC 1593, McFarlane J stated:

> "[The Rule] expressly provides that a precondition of withdrawal is that 'the court thinks fit'. There is thus a judicial discretion and it does not therefore follow as night follows day that the court's jurisdiction to continue with the proceedings would end simply because the parties all agree that the proceedings should be withdrawn. The withdrawal provisions (and indeed the guardian system in public law itself) came into existence as a result of child care tragedies in the 1970's and 80's. The court's role in such matters is not to be that of a neutered 'rubber stamp' for the parties' requests." (para [19])

[35] Since an application under rule 4.6(1) involves determination of a question with respect to the upbringing of a child, the child's welfare is the paramount consideration under Article 3(1) of the Children Order. Also in play is the 'no order principle' under Article 3(5) of the Children Order.

[36] Baker LJ analysed the correct legal approach in *GC v A County Council* [2020] EWCA Civ 848:

> "19. As identified by Hedley J in the *Redbridge* case, applications to withdraw care proceedings will fall into two categories. In the first, the local authority will be unable to satisfy the threshold criteria for making a care or supervision order under s.31(2) of the Act. In such cases, the application must succeed. But for cases to fall into this first category, the inability to satisfy the criteria must, in the words of Cobb J in *Re J, A, M and X (Children)*, be 'obvious.'
>
> 20. In the second category, there will be cases where on the evidence it is possible for the local authority to satisfy the threshold criteria. In those circumstances, an application to withdraw the proceedings must be determined by considering (1) whether withdrawal of the care proceedings will promote or conflict with the welfare of the child concerned, and (2) the overriding objective under the Family Procedure Rules. The relevant factors

> will include those identified by McFarlane J in *A County Council v DP* which, having regard to the paramountcy of the child's welfare and the overriding objective in the FPR, can be restated in these terms:
>
> (a) the necessity of the investigation and the relevance of the potential result to the future care plans for the child;
>
> (b) the obligation to deal with cases justly;
>
> (c) whether the hearing would be proportionate to the nature, importance and complexity of the issues;
>
> (d) the prospects of a fair trial of the issues and the impact of any fact-finding process on other parties;
>
> (e) the time the investigation would take and the likely cost to public funds."

Consideration

[37] This case falls squarely into the first category as identified in *GC*. It is obvious, in light of the evidence, that the Trust would be unable to satisfy the threshold criteria under Article 50(2) of the Children Order for the making of a public law order. The investigations carried out by Mr Coll and Dr Yadav establish a perfectly plausible explanation for the marks which were observed, which was also one presented by the parents at the earliest possible opportunity, and which was consistent with the view of Dr Harris who first examined the children.

[38] Accordingly, the application must succeed and I grant leave as sought.

[39] In doing so, it is necessary to reflect on the impact the Trust's intervention and these proceedings have had on the lives of this family. It must be borne in mind that public law proceedings under the Children Order represent some of the most draconian steps the state can take directly interfering with the family rights of its citizens.

[40] I have read the joint statement prepared by the parents for this hearing and it is quite evident that the impact upon them is beyond words. It says much for their resilience and fortitude that the family unit has survived the trauma to which its members were subjected.

[41] This must cause all concerned with the decision making process to reflect on the grave consequences of the actions which were taken. As early as 7 March, senior social workers had concluded, it would seem definitively, that non-accidental injuries

had been inflicted on BP. This is despite the fact that an innocent explanation had been put forward by the parents which had not been the subject of any analysis or proper consideration. This decision triggered the decision to intervene and the inevitable invasion of family life which ensued.

[42] Given that the PSNI took photographs of the car seat, with its twisted straps, at the time of the initial investigation, it beggars belief that no investigation was undertaken. Instead the opinion of a clinician was accepted on the issue without demur. It is essential that when such life-changing decisions are being taken that all relevant evidence is gathered as quickly possible.

[43] Aside from the obvious steps that ought to have been taken in relation to the car seat, in light of the statements of the parents and the opinion of Dr Harris, it also appears that there was a failure by the Trust to consider:

(i) The implausibility of the parents taking their children to a routine scheduled review after they had inflicted injuries upon them;

(ii) The fact that the police determined there should be no further action within less than four weeks of the initial report;

(iii) The rationale behind Dr Buckley's change of opinion on 2 April 2025 to one of a definitive conclusion that these were non-accidental injuries;

(iv) The cases advanced clearly and fully by the parents in their police interviews on 17 April 2025;

(v) The obvious sensitivity of the boys' skin and the other marks observed and reported by health professionals;

(vi) The decision taken by the PPS to direct no prosecution on 30 May 2025; and

(vii) The lack of any other indication through the known history and presentation of these parents that they would have been guilty of physical abuse.

[44] Whilst it may be of cold comfort to the parents in this case, the litigation process has at least been able to vindicate their position following a proper and rigorous investigation. It is to be hoped that lessons will be learned more widely as a result of this case.

Conclusion

[45] The Trust's application for leave to withdraw is granted. I discharge the Guardian and make the usual order in relation costs.