Neutral Citation No: [2026] NIFam 6	*Ref:* **HUM13007**
*Judgment: approved by the court for handing down (subject to editorial corrections)**	*Delivered:* **12/03/2026**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

_____

FAMILY DIVISION
(OFFICE OF CARE AND PROTECTION)

_____

Between:

FH

Applicant

and

DD

Respondent

[Change of surname; specific issue order; inherent jurisdiction]

_____

Peter McGuinness (instructed by Finucane Toner) for the Applicant
Niamh Devlin (instructed by O'Neill Solicitors) for the Respondent
Cathy Hughes (instructed by the Official Solicitor) on behalf of the subject children

_____

HUMPHREYS J

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

Introduction

[1] This application concerns two children, GD, aged 14, and LD, aged 7. Each of them carries the surname of the respondent father and the applicant mother seeks to invoke the legal process to change their name to her surname. The respondent has parental responsibility, having been registered as the father of the children.

[2] These proceedings started life in Belfast Family Proceedings Court ('FPC') when the applicant mother applied for a specific issue order, pursuant to Article 8 of the Children (Northern Ireland) Order 1995 ('the Children Order') whereby the children would become known by her surname. The matter came before the FPC on

9 January 2025 and the respondent indicated, through his solicitor, that he consented to the application.

[3] However, the District Judge dismissed the application. He stated that the specific issue order would not effect a formal amendment to the children's birth certificates and therefore the appropriate way forward was for the parents to execute the necessary consents to make these changes through the Registrar General of Births and Deaths in Northern Ireland. In the event that the respondent refused to sign such forms, an application could be made to the High Court.

[4] The applicant then commenced High Court proceedings, seeking to invoke the inherent jurisdiction, and asking the court, pursuant to section 33 of the Judicature (Northern Ireland) Act 1978 ('the Judicature Act') to execute the necessary consent.

[5] At the direction of this court, the applicant also brought a second application under Article 8 of the Children Order for a specific issue order.

[6] There are a number of similar applications presently before the High Court and the FPC and this judgment is intended to provide appropriate guidance for decision makers when determining change of name applications.

The factual background

[7] The parents of the two children separated in 2021 and there has been little or no contact between the children and their father since then. In 2024 the respondent was convicted of serious sexual offending and sentenced to a period in custody. On the mother's case, this has significantly impacted the children and has been the subject of considerable comment in the community. The mother says that the maintenance of the father's surname in these circumstances is not in the children's best interests.

[8] The children have an elder sister who has attained her majority and has changed her name by deed poll to that of her mother.

The Official Solicitor's Report

[9] Ms Coll of the Official Solicitor's office met with both children on 20 October 2025. She also had the opportunity to discuss the issues with the mother and the elder sibling. The latter was able to describe some of the problems she had faced whilst using the father's surname and which prompted her to change the name by deed poll.

[10] GD expressed a clear and unequivocal preference to retain his father's name. He recognised that his mother wanted the change to occur but he stated quite explicitly:

> "It's my last name. I don't want it changed. My last name. It's mine. I don't want it changed. It's not that it's his last name. It's my name. It's what everyone knows me as."

[11] The mother is concerned that GD is conflicted around this and may not fully understand the implications of his decision. However, he is a Gillick competent young man and he has given a fair and reasonable explanation for his preferred course of action.

[12] Insofar as LD is concerned, she informed Ms Coll that she wished to change her name so that it would align with that of her mother and eldest sibling. LD has also had very limited contact with her father during her lifetime. She is not Gillick competent but nonetheless the court will take proper account of her articulated wishes and feelings.

The legal principles

[13] Article 8(1) of the Children Order provides that a "specific issue order" means:

> "an order giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child."

[14] When determining any application under Article 8, the courts are mandated, by Article 3(1) of the Children Order, to have the child's welfare as the paramount consideration. The court must, in particular, have regard to the "welfare checklist" set out in Article 3(3).

[15] By Article 13 (1) of the Children Order:

> "(1) Where a residence order is in force with respect to a child, no person shall—
>
> (a) cause the child to be known by a new surname;…
>
> without either the written consent of every person who has parental responsibility for the child or the leave of the court."

[16] A similar legal position pertains in relation to a child who is the subject of a care order pursuant to Article 52(7) of the Children Order.

[17] In determining an application for a change of name the court must undertake a welfare analysis pursuant to Article 3. The test to be applied in name change cases

was set out by the House of Lords in *Dawson v Wearmouth* [1999] 2 AC 308. Lord Jauncey said:

> "…the changing of a child's surname is a matter of importance and that in determining whether or not a change should take place the court must first and foremost have regard to the welfare of the child. There are many factors which must be taken into account, not only those pertaining to the present situation but also those which are likely to affect the child in the future."

[18] The importance of the welfare test in such applications was reinforced by the case of *Re W (Children) (Change of Name)* [2013] EWCA Civ 1488. Parental objection is an important factor as the name may provide a link with a parent with whom the child does not live, and very careful consideration must be given to the wishes and feelings of a Gillick competent child.

[19] At A[162], Hershman and McFarlane set out the relevant considerations as follows:

> "(a) on any application, the welfare of the child is paramount;
>
> (b) among the factors to which the court should have regard is the registered surname of the child and the reasons for its registration, for instance the recognition of the biological link with the child's father. Registration is relevant but not decisive;
>
> (c) relevant factors include factors which could arise in the future;
>
> (d) reasons given for changing or seeking to change the child's name based on the fact that the child's name was not the same as that of the parent making the application do not generally carry much weight;
>
> (e) the reasons for an earlier unilateral decision to change a child's name may be relevant;
>
> (f) any change of circumstances of the child since registration may be relevant;
>
> (g) in the case of a child whose parents were married to each other, the fact of marriage is important and

there would have to be strong reasons to change the child's surname from that of the father if the child was so registered;

(h) where the child's parents were not married and therefore the mother had control over registration, a court considering an application to change a child's name would consider the degree of commitment of the father to the child, the quality of contact, if it occurred between the father and the child, and the existence or absence of parental responsibility."

Amendment of the General Register

[20] An Article 8 specific issue order does not, of itself, effect a change to the registration of the child's name since it can only direct that the relevant child "shall be known as ...". An order in such terms is not capable of being recognised by the Registrar General for the purposes of a formal change to the register. This is governed by Article 37 of the Births and Deaths Registration (Northern Ireland) Order 1976:

"(3) Where an application in the prescribed form is made to the Registrar General by the qualified applicant in respect of the change of name or surname of a child under eighteen years of age, the Registrar General may record that change of name or surname by causing an appropriate entry to be made in the register—

but only one change of name and one change of surname in respect of any one child shall be so recorded.

(6) Nothing in this Article shall affect any rule of law as respects change of name or surname.

(7) In paragraph (3) "qualified applicant" means—

(a) the father and mother of the child if—

(i) they were married to, or civil partners of, each other at the time of his birth; or

(ii) they were not married to, or civil partners of, each other at the time of his birth but the father has parental responsibility for the child;

(aa) in the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the mother and other parent of the child if Article 155(3) of the Children (Northern Ireland) Order 1995 applies to the child or if it does not apply but the other parent has parental responsibility for the child;

(b) the mother of the child if—

(i) in the case of a child who has a father, the child's parents were not married to, or civil partners of, each other at the time of the birth and the father does not have parental responsibility for the child; and

(ii) in the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, Article 155(3) of the Children (Northern Ireland) Order 1995 does not apply to the child and the parent by virtue of that section of that Act does not have parental responsibility for the child;

(c) the surviving parent if either of the parents of the child is deceased and the surviving parent has parental responsibility for the child;

(d) the guardian of the child or any other person who has parental responsibility for him if—

(i) both his parents are deceased; or

(ii) either of his parents is deceased and the surviving parent does not have parental responsibility for him;

and in this definition, in the case of an adopted child, the references to the father and mother or to the parents of a child shall be construed as references to the adoptive parents of the child.

(8) In this Article "change" in relation to a name or surname includes any change by way of substitution, addition, omission, spelling or hyphenation."

[21] Thus, where both parents have parental responsibility, it is necessary for each to consent to a change of name if the register is to be altered.

[22] In *Re WP* [2022] NIFam 7 McFarland J considered an application under Article 52(7)(a) of the Children Order in relation to the change of surname of a child in care. He held that this statutory provision only allows a child to be "known by" a new surname by the consent of all parties or with the leave of the court. This did not permit a legal change of name by amendment of the register. This analysis applies equally to cases where the child is not subject to any relevant court order.

[23] The judge highlighted that the inherent jurisdiction of the court is retained for situations when the provisions in the Children Order are unable to secure the best interests of a child and stated:

> "I also consider that there is a gap in the 1995 Order and it is appropriate to look at the inherent jurisdiction to secure WP's best interests. Should the court not exercise its inherent jurisdiction there is a likelihood that WP would suffer significant emotional harm through his inability to have his desired surname recognised not merely through usage but also in a legal and formal basis."

[24] As a result, McFarland J granted leave to the Trust under Article 173(2) of the Children Order to apply to the court for the exercise of the inherent jurisdiction and made an order that the child's surname be formally changed.

[25] Should the court determine that a change to the children's surname is in their best interests, and that the register should be changed accordingly, both parents (if they hold parental responsibility) will be required to make and sign the requisite application to the Registrar General to effect that change.

[26] If the High Court makes an order or declaration to that effect pursuant to the inherent jurisdiction, and one or both parents declines to execute the requisite application, then the court can invoke section 33 of the Judicature Act which provides:

> "Where any person neglects or refuses to comply with a judgment or order directing him to execute any conveyance, contract or other document or to endorse any negotiable instrument, the High Court may, on such terms and conditions, if any, as may be just, order that the conveyance, contract or other document shall be executed or that the negotiable instrument shall be endorsed by such person as the court may nominate for that purpose, and a conveyance, contract, document or instrument so executed or endorsed shall operate and be for all purposes available

> as if it had been executed or endorsed by the person originally directed to execute or endorse it."

Consideration

[27] In the instant case, it is apparent that GD has expressed a clear and reasoned view as to why he should retain his father's name. In such circumstances, the court must afford that view considerable weight. I am not satisfied, on the welfare analysis, that it would be in GD's best interests for him to be known as his mother's surname. I therefore dismiss the Article 8 application.

[28] In terms of the younger child, it is apparent that she has a clearly expressed view that she wishes to change her name to align with that of her mother and sister. The respondent father consents to this course of action.

[29] It is clearly in LD's best interests that her surname is changed. The plaintiff's Article 8 specific issue order application in respect of this child is granted, and the court orders that LD shall henceforth be known by her mother's surname.

[30] The respondent father has further indicated that he will execute the requisite documents in order that the register be amended accordingly. I therefore direct that he should do so within 21 days. In the event of any issue of non-compliance arising, the parties are to have liberty to apply. If necessary, the court will direct the Master to execute the relevant documentation.

[31] In each case, I make no order as to costs, save for the taxation of the costs of legally assisted parties.

Guidance for name change applications

[32] Where an application is brought to court, at whatever tier, for a specific issue order under Article 8, or for leave to cause a child to be known by a new surname pursuant to Article 13(1) or Article 52(7), the court should proceed to hear and determine the application, applying the welfare test. All such applications engage the requirements imposed upon the court by Article 3 of the Children Order and must be analysed on that basis.

[33] In carrying out this exercise, the court will take into account the expressed wishes and feelings of the child in question, if age appropriate, through the court children's officer, the Official Solicitor or, in an appropriate case, the appointed guardian.

[34] A court should not decline to hear, nor dismiss, such an application on the basis that it might be more appropriate for the applicant to seek an order under the inherent jurisdiction.

[35] If any application concerning a change of name is brought in the High Court under any of the relevant statutory provisions or under the inherent jurisdiction, it should be heard and determined by the Master (Care and Protection) unless, exceptionally, it is appropriate for the matter to be heard by the Family Judge.

[36] If an application is brought under the inherent jurisdiction seeking an order or declaration that the surname should be changed on the register, the Master (or judge) should apply the relevant legal test. If such an order or declaration is made, it should be directed to the objecting party and if he or she declines, within a specified period, to execute the relevant application then the Master should execute same pursuant to the section 33 power.