

Neutral Citation No: [2026] NIFam 21

Ref: HUM13142

*Judgment: approved by the court for handing down
(subject to editorial corrections)**

Delivered: 11/09/2026

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

**FAMILY DIVISION
OFFICE OF CARE AND PROTECTION**

Between:

A HEALTH AND SOCIAL CARE TRUST

Applicant

and

MC

and

DM

Respondents

[Adoption; Change of name; non-disclosure]

**Andrew Magee KC & Lisa Casey (instructed by the Directorate of Legal Services) for the
Applicant**

**Suzanne Simpson KC & Patricia McCrissican (instructed by Andrea Reid Solicitors) for
the first Respondent**

**Joanne Hannigan KC & Lauren MacAllister (instructed by Andrew Russell & Co
Solicitors) for the second Respondent**

**Louise Murphy KC & Victoria Ross (instructed by McNulty Fitzgerald) for the Children's
Court Guardian**

HUMPHREYS J

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

Introduction

[1] The applicant Trust has commenced proceedings for a care order and an order declaring a child, GM, free for adoption. These applications were previously listed

for hearing before the Family Care Centre but adjourned and transferred to this court following the identification of the issue which is the subject matter of this application.

[2] It became apparent that the proposed adopters, with whom GM had been placed, bore a surname which was very similar to GM's first name. This would mean that if the adoption were to proceed, it would result in an application to change his first name. The fact that such a name change would be sought was made known to the parents but not the specific reason for such change. Inadvertently, however, this was disclosed to the father's legal advisors.

[3] The Trust seeks a direction, pursuant to rule 4.15(2) of the Family Proceedings Rules (Northern Ireland) 1996 permitting it not to disclose to the respondent parents the specific reason for the proposed change to GM's first name. The Trust further seeks an ancillary order restraining the father's legal representatives from disclosing that information to their client. This is an unusual application and raises important questions concerning the circumstances in which evidence may properly be withheld from parties in public law children proceedings.

[4] The Trust contends that disclosure would create a real possibility of identification of the placement and consequent harm to the child.

Background

[5] GM has never lived with his parents. He was discharged directly from hospital to foster care and an Interim Care Order has been continuously in force since 10 December 2024.

[6] On 8 January 2026 the child was informally matched with dual approved foster carers and prospective adopters and moved to their placement in March 2026. It is apparent that the issue giving rise to this application was identified at an early stage. During the initial home visit to the prospective carers in November 2025 social workers noted that the child's forename was substantially similar to the carers' surname. At the informal matching panel in January 2026 discussion took place around the desirability of a future forename change. The child was known within the placement by an alternative name until 6 May 2026.

[7] The Trust now accepts that this important issue was not disclosed either to the parents or to the court, before the placement move occurred. It only came to the attention of the Guardian when she first visited GM in his new placement. It also accepts that the use of the alternative name ought not to have occurred and was a decision taken by individuals without parental responsibility. No blame attaches to the potential adopters for this course of action since they were encouraged in this endeavour by the Trust.

The legal principles

[8] The starting point is the fundamental principle that parties are entitled to disclosure of material which may be taken into account by the court when reaching a decision adverse to them. This principle applies with particular force in proceedings concerning adoption and the permanent severance of family ties (see my judgment in *AM and A Health and Social Care Trust and BM* [2025] NIFam 17). The authorities emphasise repeatedly that any non-disclosure must be justified by exceptional reasons.

[9] In *Re T (Children: Non-Disclosure)* [2024] EWCA Civ 241, the Court of Appeal in England and Wales summarised the considerations to be applied in such an application:

- “(1) Is the material relevant to the issues, or can it be excluded as being irrelevant or insufficiently relevant to them?
- (2) Would disclosure of the material involve a real possibility of significant harm to the child and, if so, of what nature and degree of probability?
- (3) Can the feared harm be addressed by measures to reduce its probability or likely impact?
- (4) Taking account of the importance of the material to the issues in the case, what are the overall welfare advantages and disadvantages to the child from disclosure or non-disclosure?
- (5) Where the child’s interests point towards non-disclosure, do those interests so compellingly outweigh the rights of the party deprived of disclosure that any non-disclosure is strictly necessary, giving proper weight to the consequences for that party in the particular circumstances?
- (6) Finally, if non-disclosure is appropriate, can it be limited in scope or duration so that the interference with the rights of others and the effect on the administration of justice is not disproportionate to the feared harm?”

[10] The burden rests squarely upon the party seeking non-disclosure to satisfy the court not merely that disclosure carries risk but that withholding relevant information

is strictly necessary and proportionate. The need for a fair hearing will ordinarily require disclosure unless the contrary is convincingly demonstrated.

Consideration

(i) Relevance

[11] The Trust submits that while the proposed change of forename is relevant, the reason for that change is not. That proposition does not hold water. The identity of a child is a matter of profound importance. A surname will ordinarily change following adoption. A forename generally will not. The fact that the child was named after his father is not disputed and plainly forms part of his identity and his connection to his birth family.

[12] It follows that where a prospective adopter seeks a change to a child's forename, the reason for doing so invariably forms part of the context in which the welfare decision must be considered.

(ii) Risk of harm

[13] The Trust says that such risk arises from the possibility that disclosure of the reason for the name change, and consequent revelation of the adopters' surname, could lead to identification of the placement. The possibility of facilitating identification does not of itself establish a real possibility of significant harm. The Trust must demonstrate, by reference to the particular facts of this case, why such identification would be likely to generate harmful consequences.

[14] It is normally the case that adoptive surnames are not disclosed to the birth parents, and the expressed concern about identification is both legitimate and genuine. Knowledge of the surname would clearly make this process easier.

[15] However, in this case, it is proposed that the child will enjoy post-adoption contact with his parents and the fact that his birth father will have a name very similar to the child's own surname must make it likely, if not inevitable, that this matter will be disclosed in the course of contact in any event. There is a realistic possibility that during future direct contact the child may himself refer to, or otherwise reveal, the surname by which he has become known. For this reason, the Guardian characterises this an application to delay rather than prevent disclosure.

[16] Even when a risk is established, the court must consider the degree and likelihood of harm. The evidence before me demonstrates that whilst both birth parents have had their difficulties, particularly in relation to substance misuse, there is no instance in which either parent has attempted to identify, locate or undermine the foster placement. Indeed, the disclosure reveals that relations have been good and the birth parents speak warmly of the prospective adopters. By May 2026 the

Guardian had observed direct and positive interaction between the father and the carers.

[17] For these reasons, I cannot be satisfied that the Trust has established to the requisite standard that there is a real possibility of significant harm to the child in the event of the information being disclosed.

(iii) Mitigation

[18] The Guardian has identified a number of possible measures which may reduce any risk arising from disclosure. These include the use of contracts of expectations whereby the birth parents would undertake not to take any steps to identify the placement or, in extremis, the use of injunctive relief.

(iv) Welfare balance

[19] I fully accept that placement security is an important welfare consideration, but on the evidence before the court the speculative possibility of future identification carries less weight than the detriment flowing from continued secrecy in the circumstances of this case.

[20] Non-disclosure has already created suspicion and mistrust where the birth parents know that information is being withheld from them in relation to a very important matter. This could only be exacerbated by a court order preventing disclosure from ever taking place and could serve to undermine the good relations established, and the prospects of successful long-term contact arrangements.

[21] GM bears his father's first name. If adopted by the proposed family, and if post-adoption contact occurs over many years as planned, it is difficult to see how the connection between the father's first name and the adoptive surname could realistically remain unknown indefinitely.

[22] The previous observation about this being an application to delay rather than prevent disclosure is also relevant in the welfare balance since it seems likely that, at some stage, the information will become known in a less controlled environment.

(v) Strict necessity

[23] The bar for the Trust to surmount is a high one. It must be shown that the interests of the child in non-disclosure compellingly outweigh the fair trial and hearing rights of the other party so as to make non-disclosure strictly necessary.

[24] In this case, that threshold is simply not met. There is no evidence of any real possibility of significant harm, save for the generic point that placement identification can be a destabilising event. There is nothing in the evidence before the court that

begins to suggest that these birth parents will take any step to interfere with the placement or to cause any harm to GM.

[25] The confidentiality sought is unlikely, on the evidence before me, to be maintainable throughout the child's minority if direct contact continues.

[26] It is also apparent that there are identifiable welfare advantages in disclosure.

(vi) Limiting the scope

[27] The Trust has proposed that the birth parents could be told that there was a "genuine family reason" for the change of first name. This, it is said, could assuage concerns in relation to the adopters' motivation for the course of action. However, it would still leave much room for suspicion and concern.

Convention rights

[28] The court must also take into account the article 8 rights of all the parties involved in these proceedings. The prospective adopters enjoy a right to privacy which they would seek to protect by promoting non-disclosure. They may also have rights to respect for family life arising from their settled relationship with GM. The birth parents undeniably have article 8 family life rights, as does GM himself.

[29] The birth parents also enjoy article 6 rights which ordinarily require disclosure of material relevant to issues before the court.

[30] In this case, I am not satisfied that the balance of rights comes down in favour of the prospective adopters. The interference with their article 8 rights occasioned by disclosure is limited, necessary and proportionate.

[31] For all these reasons, the Trust's primary application must fail.

The ancillary application

[32] The court does have jurisdiction to grant ancillary orders of the nature sought in support of a valid non-disclosure order. However, once the primary application fails there can be no basis for the making of any further order.

Conclusion

[33] The court recognises and accepts the legitimate concerns expressed by the prospective adopters in this case. However, the making of a non-disclosure order by a court in family proceedings remains an exceptional step.

[34] Applying the principles in the authorities, and balancing the respective rights of the parties, non-disclosure in this case is not strictly necessary or proportionate.

[35] I, therefore, dismiss the Trust's application. It will be necessary for consideration to be given to the method and mode of communication of the information in question. I will hear the parties in relation to directions to the conclusion of the care and freeing proceedings.