

(1)The Father
(2) The Mother
(3) E, a child (by his Children’s Guardian

-and-

Aimee Dover

Case No: CA-2025-001859

DUE FOR PUBLICATION ON Tuesday 2nd DECEMBER 2025

PERMISSION TO APPEAL

1. This Judgment addressed permission to challenge decisions made by Ms Justice Henke in private law proceedings under the Children Act 1989. The proceedings relate to a child now aged 10. The applications concerned a fact-finding hearing during which the proposed appellant was a witness.
2. In short, the proposed appellant primarily challenged the Judgment of Mrs Justice Henke on the grounds that the findings about her were unfairly made and wrong and that publication would violate her Convention rights and she also challenged the decision to publish the judgment without anonymising Ms Dover.
3. The Grounds of appeal can be summarised as follows:
4. Ms Dover sought to appeal two issues and also requested an extension of time to challenge the findings of fact:

Appeal against Findings	Ground 1	Fairness Ground	Judge erred by making serious, professionally damaging findings without prior notice or opportunity to intervene and defend herself, violating Article 6 (relies on <i>Re W</i>).
Appeal against Findings	Ground 2	Merits Challenge	Judge failed to distinguish her role as a witness,

			made irrelevant findings, and imposed a disciplinary standard without basis or evidence.
Appeal against Naming	Ground 3	Article 8 Ground	Judge erred in balancing public interest (open justice) against Ms Dover's Article 8 rights (respect for private life), especially given the alleged unfair process (relies on <i>SW v UK</i>).
Appeal against Naming	Ground 4	Chilling Ground	Naming her is contrary to public interest as it risks a chilling effect on other therapists engaging with family court proceedings.

5. Permission to appeal was refused, and the reporting restriction was discharged.

FACTS

6. Children Proceedings had been initiated by the child's father in October 2020. A FFH Hearing was held in October 2024.
7. Aimee Dover is a psychotherapist. She was a witness for the mother and gave evidence at the fact-finding hearing, during which she was cross-examined.
8. The fact-finding Judgment contains adverse findings of fact and significant professional criticisms about Ms Dover, particularly concerning her work with the father's daughter, who later killed herself. The criticisms are detailed in the Fact-Finding Judgment. The judgment names her.

COURT OF APPEAL'S DETERMINATION IN RELATION TO GROUNDS OF APPEAL

The court dismissed all grounds, with key findings being:

- **Fairness and Article 8 Grounds (1 & 3):**
 - **Article 6** (right to a fair trial) is **misplaced** as the judgment did not determine Ms Dover's civil rights or obligations.
 - Although adverse findings can interfere with **Article 8**, Ms Dover **failed to raise any complaint of procedural unfairness** or challenge the findings at the hearing below (June 2025), despite being legally represented. Her written submissions implicitly **accepted the findings** by only offering "contextualisation."
 - The court found it would be **unfair to the respondents** to allow these new points to be raised for the first time on appeal (***Notting Hill Finance v Sheikh***).
 - The case of ***Re W*** is **distinguishable**. In ***Re W***, the adverse findings "came out of the blue" for the first time in the judgment. Here, **all the points on which the judge found against Ms Dover were put to her in cross-examination** over two days. The procedure adopted was **not** a "wholly unfair process."
- **Merits Challenge (Ground 2):**
 - This is a challenge to fact-findings, which the court **doubts it has jurisdiction** to entertain from a witness absent a finding of wholly unfair process.
 - It is **well out of time** (appeal filed July 29, 2025, against judgment handed down May 2, 2025). The court found **no basis in the interests of justice to extend time** (***Denton*** principles)
 - The court found the criticisms were relevant, as there was a **clear, direct, and sufficient connection** between Ms Dover's professional conduct and the welfare issues before the judge.
- **Chilling Ground (Ground 4):**
 - This was another **new point** not raised below, making it unfair to the respondents.

The argument lacked **arguable merit**, requiring "compelling evidence and arguments" for such a broad "class claim" (citing ***Re Ward (A Child)* [2010] EWHC 16 (Fam), [2010] 1 FLR 1497** endorsed by ***Abbasi v Newcastle upon Tyne NHS Trust* [2025]**). No such evidence was provided.

KEY OUTCOME

The court emphasised the **exceptional nature of *Re W*** and confirmed that:

"A witness of fact will generally have **no legitimate ground of appeal** in respect of adverse findings contained in a judgment, **provided the criticisms have been fairly put to the witness in cross examination** for comment or response before the findings are made. A witness who is at risk of adverse findings **does not, for that reason, have any right to intervene or to have legal representation.**"

SIGNIFICANCE OF OUTCOME

The New Standard for Witness Criticism

This judgment clarifies the scope of **judicial criticism** against any individual witness, whether a lay person or a professional, within family court proceedings.

The key message is that a court is fully entitled to make **adverse findings** and significant criticisms against a witness, provided that the criticisms and the factual basis for them were **fairly and properly put to the witness during cross-examination.**

Contrast with *Re W*

This ruling reaffirms that the exceptional outcome in ***Re W (A Child)*** was strictly limited to its highly unusual facts.

In ***Ms Dover's case***, the court found that because she was challenged extensively on her conduct and had a **fair opportunity to respond** during the trial, the adverse findings were legitimate.

Conversely, the procedure in ***Re W*** was deemed fundamentally unfair because the adverse findings were made entirely **without prior notice**—they "came out of the blue," only surfacing in the final written judgment.

Therefore, the principle established is: **Fair process validates judicial criticism; surprise invalidates it.**